



Journalist's Guide to Maryland's Legal System

Third Edition

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Foreword to the Third Edition

It is with great pleasure and pride that we present this third edition of *The Journalist's Guide to Maryland's Legal System*.

Just as technology has vastly altered the news landscape since our second edition was issued fifteen years ago, there have been significant changes in Maryland law, practice and procedure. We have updated this edition accordingly. “Out” are the references to pagers and payphones and “in” are the many resources now available on the internet, including our favorite, the [Maryland Judiciary Case Search](#). We have also enhanced our coverage of the Maryland Public Information and Open Meetings Acts, which are far more active areas of the law than they have ever been. What hasn't changed since the last edition is our goal of providing an overview of how our system works and your rights as a journalist under it.

This updated *Guide* exists because of the assistance of the Maryland Judicial Council's Court Access and Community Relations Committee and our many attorney and journalist contributors—some of whom first authored their sections when our first edition appeared two decades ago. You will find the names of many of those who rendered valuable service to this project at the back of the *Guide*, but we readily acknowledge that this project also depended on the efforts of many nameless others.

These are busy, competitive and stressful times in journalism, with a never-ending news cycle and an appetite for information that never ends. While the *Guide* provides legal methods for covering the litigation process and the courts, you may find on occasion that what is legal might not necessarily be correct. To help you balance these competing forces, we have included ethical insight and guidance from two recognized authorities: the Society of Professional Journalists (www.spj.org) and the Radio Television Digital News Association (www.rtdna.org). Their Codes of Ethics can be found at the end of the *Guide*.

Whether you are new to reporting on Maryland's legal system or you are more experienced, we hope this *Guide* enhances the quality of your work and furthers the understanding of your audience.

Comments, suggestions, corrections and other feedback concerning the *Guide* are always encouraged. You may send them to the editors:

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**A Message from Mary Ellen Barbera,
Chief Judge of the Maryland Court of Appeals**

The public relies upon the press for information about court proceedings and services. Accurate reporting best educates members of the public about the work of the Maryland judicial branch. Given the media report on at least one aspect of the legal system every day, it is essential that journalists have the tools they need to provide accurate and thorough coverage. I am therefore pleased to present this, the third edition of the *Journalist's Guide to Maryland's Legal System*.

Intended as a resource for journalists who report on Maryland's courts, the *Journalist's Guide* has served reporters for almost two decades and has been well-received by journalists, judges, and court staff, as well as earned praise from court and media professionals in other states. This new edition has been both thoroughly reviewed and updated to reflect changes in the Judiciary and the media. Like the previous editions, it is intended to be a valuable resource to new and experienced journalists alike.

The Maryland Judiciary strives to improve public awareness and understanding of the court system and its role in resolving conflicts, providing justice, and upholding the rule of law. In order to achieve its goal of communicating effectively to help assure access to justice, the Maryland Judiciary provides public information to journalists, as well as facilitates educational programs and activities for Marylanders.

The chair of the Community Relations Subcommittee, the Hon. Pamela J. Brown, District 10 Administrative Judge, led the workgroup composed of former journalists and representatives from the Maryland State Bar Association. The contributors to this edition of the *Journalist's Guide* worked assiduously to examine the Guide and provide corrections and updates for this edition. This project would not have been possible without their dedication and diligence, and, to them, I extend the gratitude of the Judiciary.

**A Message from the Hon. Keith R. Truffer,
President of the Maryland State Bar Association**

The freedom of the press, as outlined in the First Amendment of our Bill of Rights, is a cornerstone of our democracy, ensuring government accountability to the American people. Although media formats continue to evolve at a near-unprecedented pace, all remain grounded in this fundamental liberty.

Sound and knowledgeable legal reporting is critical to the accurate reporting of nuanced information to all citizens, irrespective of education. From lone bloggers to the White House Press Corps, it is incumbent upon journalists to have a solid understanding of the basic tenets of our justice system as well as fundamental legal terminology. *The Journalist's Guide to Maryland's Legal System* - a collaborative effort between the Maryland Judiciary, the Society of Professional Journalists, and the Maryland State Bar Association - was created to help you communicate more effectively with your audience and, in doing so, help you to best fulfill your role in fostering an informed public.

The Maryland State Bar Association is proud to co-sponsor *The Journalist's Guide to Maryland's Legal System*. Working together, we can help to fulfill the promise imbued in our Constitution.

Your local courthouse is a treasure trove of public records and public happenings. You can walk right in and observe virtually any proceeding and examine the documents in practically every court file. Unfortunately, there may be some in your courthouse who may not know that reporters, like all other members of the public, are entitled to see all public documents.

First, you should know that you don't always need to go to the courthouse to start covering a case. The Maryland Judiciary's "Case Search" (casesearch.courts.state.md.us) offers an indispensable resource to help fill in your "five W's" and plan your coverage by providing enough information about the parties, locations, motions, court orders and future and past proceedings. (Be aware, however, the site itself notes its information "may not always reflect the information contained within the official case file.") When you go to court, it is, with a few exceptions, including some juvenile proceedings, your right to be present and to take notes during court proceedings, including trials and hearings. In fact, many Circuit Courts reserve rows close to the front for attorneys, families of litigants and the media. Just ask if you are not sure where to sit. You have no obligation to explain to a questioning sheriff's deputy why you are in a particular courtroom, unless the hearing is restricted or closed. However, the law does not allow you to record the sound or photograph or take video without special permission of a judge. [Maryland law prohibits the use of cameras in courtrooms in all criminal cases; in civil cases, it provides for a judge to permit one pool television camera, and one still camera, at the judge's discretion. See the chapter on Cameras and Microphones in the Courtroom.] Courtroom sketch artists are also permitted in court.

You also have the right to be present during jury selection. Some deputies are not aware of this and, because of courtroom space constraints or the practices of some judges, will occasionally order out all but potential jurors. If you want to cover jury selection, tell the deputy and judge it is your right to be there, and you should be allowed in. If they still refuse to allow your presence, immediately contact the administrative judge of the Circuit Court in which the trial is being held.

Court Records

Court records include documents, information, exhibits and other things the court maintains in connection with a case. These records are organized into a case file. The files are maintained by a clerk's office at each courthouse. Court records are generally open to the public but there are several exceptions to this general rule. Additionally, all cases are assigned case numbers so keep handy the numbers of the cases you are following. This section describes how to access court records, as well as some considerations to keep in mind.

If you're going to cover a particular court, familiarize yourself with its administrative structure and docketing practices. You should also find out whether the court is in a Maryland Electronic Court (MDEC) jurisdiction (pronounced M-Deck).

MDEC is a Judiciary-wide integrated case management system that will soon be used by all state courts. Court records are filed, processed, and stored electronically. To determine whether the courthouse you are visiting has MDEC, call the clerk's office before visiting.

Maryland Electronic Courts (MDEC)

The Judiciary has been phasing in the Maryland Electronic Court, known as "MDEC", intended to modernize court administration into a near paperless system. At the time of printing this *Guide*, 21 of the state's 24 jurisdictions require electronic filing of case documents, which are then stored and processed by the court which can instantly access them. The system will be fully implemented when Baltimore City courts come onboard in 2021. The official court record will be maintained electronically on the court's servers.

MDEC provides self-represented litigants and attorneys greater access to courts with the ability to quickly and easily e-file and e-serve court documents 24 hours a day, 7 days a week, from anywhere with an internet connection.

The Judiciary is working with the Maryland Archives to save paper court records in which journalists and researchers in particular may have interest. Unlike the public Case Search database, access to the MDEC database is restricted to official users by Maryland rules, however, journalists will be able to request paper copies of the same court records they currently have access to through the clerks' offices.

Accessing Records in Non-MDEC Courts

Become familiar with the public access computers that are available in most if not all courthouses. They tell you what kinds of documents you'll find in the file, give you a quick chronology of the case, and provide the names and addresses of parties and attorneys. If you can't understand some of the abbreviations or codes, the clerk should be able to translate them for you. Please be mindful in this day and age of increased victim and witness intimidation to treat any personal information with great discretion. Be aware that the information in the computer may be incomplete or incorrect.

Court files are public-except for the envelopes that are sealed, because they may contain psychiatric, juvenile and related information, medical or financial information or other details a court believes should be off-limits to the public, including reporters. The files can be viewed at the clerk's office, depending on the type of case. If you are interested in a case, you should physically review the file periodically to read new documents, or at the very least check the latest computerized docket entries.

Court clerks' offices routinely charge for photocopies of desired material. It is not always inexpensive. As a courtesy, clerks may copy reasonable amounts of material but don't abuse this kindness. You can also contact a party's attorney who might provide a copy of what you need. In

any event, never, ever remove anything from a court file, never remove a file without permission, and never open a sealed document.

Accessing Records in MDEC Courts

In MDEC courts all case records can be accessed through public kiosk computers in the clerk's offices and law libraries. All case records, including documents, are available on the kiosk computers. This means you do not have to ask a clerk to get a file for you. As long as you have the case number you can view all public documents in a case at the click of a mouse. Preliminary research can still be done by reviewing docket entries on Case Search, but to view documents you will still need to visit the courthouse.

One additional benefit of MDEC is that cases can be viewed from across the state. That is, if you are using a courthouse kiosk computer in Allegany County you can view documents from cases in Wicomico County. Documents can be printed for a fee.

Recordings

You generally have options for obtaining a record of what went on in court: ordering a transcript from the court reporter who was present, watching or purchasing a video recording if the courtroom was equipped with fixed cameras, or, if the case was in the District Court, listening to or purchasing a digital audio recording. Take note that the audio and video quality of the court recordings are not broadcast quality.

Sooner or later, you should be able to get access to a record of what happened in court. But, the best and quickest way, of course, is to be there.

Don't just use the court records for court stories. The courthouse is an excellent source of material and people on virtually any subject.

Criminal Files

In criminal cases set for the Circuit Court, you'll typically find a copy of the indictment that lists the formal charges, the victim, the defendant, and names of witnesses expected to testify. In District Court, you'll find the statement of charges, which is essentially the police narrative of what happened. As the case progresses, you will find bail information, the person's date of birth and address, subpoenas for witnesses, police documents, evidentiary challenges, etc. You may also see letters from experts hired by the defense, information from the defendant's relatives, etc. Victim notification forms go into the file, too, and they have addresses and phone numbers. (Discretion is recommended. See the Codes of Ethics at the end of the *Guide*.) If a case starts in District Court and is then indicted as a felony (and so moved up to Circuit Court), you should find the statement of charges in the Circuit Court file. But, if the case started as a grand jury investigation, you won't find any account of the facts in the file, and will have to go to the investigators – and to the witnesses listed on the indictment – to piece together what happened. Grand jury proceedings and transcripts are secret in Maryland, though occasionally transcripts later become part of the public record at an attorney's request.

Civil Files

In civil cases, the key document is usually the lawsuit, called “the Complaint” or “Petition.” In essence, the Complaint lays out the heart of the case, although it does so in very legalistic and often antiquated language. Always remember these are allegations, not proven facts. The Complaint will include the names and addresses of the parties in the case: the person or entity bringing the case is “the Plaintiff” or “Petitioner” and the person or entity against whom the case is brought is the “Defendant” or “Respondent.” Many people hire lawyers, so the plaintiff’s attorney’s name and contact information will be in there, too. From the “Answer” to the Complaint or any motions, you will get the name of the defendant’s attorney and, possibly, the theory of the defense.

The file may also contain cross-claims, counter-claims or third-party claims in which some of the parties to the original case sue other parties already in the case or others who are not yet in it. Divorce files, located in Circuit Courts, often contain vast amounts of financial and personal information. The file will also contain notices of service that various documents were mailed from one party to the other. It should also include a notice stating the date, time and location of any pending hearings, a court order relating to any hearings already held, and a scheduling order setting forth various deadlines and the date of the settlement conference and trial, if the case doesn’t settle.

Motions filed in the case can normally be found in the court file. Often, these are technical in nature but may be important, so they should be reviewed carefully. Be sure to see if the motion has been ruled upon. If so, a copy of the ruling should be in the file.

Juvenile Cases

The rules on juvenile cases have significantly changed. See the chapter on Juvenile Court.

Exhibits

Once entered into evidence, exhibits normally become public. However, sensitive information may require the court’s permission before it can be reproduced. These may include autopsy reports, photos, audio of wiretapped conversations, and anything else a jury is allowed to review in making its decision.

Lists of the jurors selected to hear a trial also are only made part of the public file in very limited circumstances.

Sealed Records/Files

A final word of caution: be aware of sealed records within the court file. Opening taped envelopes without the judge's permission can be hazardous to your reputation and career.

Practical Tips for Covering the Courts

- Watch what you say around jurors and witnesses. It is natural to talk about what just went on in court but during courtroom breaks, reporters, jurors and witnesses sometimes share the same hallway, elevators, restrooms and cafeterias. If jurors or witnesses overhear your conversations, a mistrial could result.
- While court is in session you must abide by the judge's rules. Some will prohibit anyone from leaving the courtroom until and unless there is a recess. Others will allow reporters and the public in and out of the courtroom as needed. Whatever the guidelines – and this includes where reporters/artists sit – you must abide by them. Any significant problems can be directed to the court's administrative judge.
- If permitted to bring them in, don't let your electronic devices sound in court. This rule is rigorously enforced by the deputies and bailiffs and if you violate the rule you may end up having to pick up your device at the end of the court day. Try to determine the rules of the court before you get there – whether you can use an electronic device to take notes and where you must sit and whether you can even use a device in court hallways. Courts are more anxious about the use of electronic equipment in and around their buildings than they have ever been. See Maryland Rule 16-208 for the latest Maryland court policy on the possession and use of electronic devices in court buildings and courtrooms.
- Do not conduct interviews in any part of the courtroom while court is in session.
- Never take photographs in the courtroom or even in the courthouse without permission.
- The courthouse is a public building and the hallways are public areas. You have the right to request interviews, and participants in a trial have a right to refuse them.
- You are permitted to read public documents relating to the case you are covering and may request them from the court clerk during a break in the trial.
- Introduce yourself to the attorneys and check with them periodically on the status of any motions and the trial itself (e.g., the number of witnesses they plan to present, length of their presentations, the trial and hearing schedules).
- There is no substitute for personal contact with the attorneys and parties prior to, during or even after the trial.
- Dates, times and locations of proceedings constantly change and such changes may not be reflected in the online dockets. Confirm the proceedings with the attorneys, the court clerk or the judge before you head to the courthouse.
- Courtroom personnel can help you do your job and will appreciate your courtesy. (This rule can't be stressed enough!)

- Remember that for all the lawyers in the state, the legal profession is still a small one. For better or worse, your name and reputation will get around quickly.
- Trying to get in touch with an attorney? If necessary, leave a message that says what you want and what your deadline is.
- You will have to pass through security in every courthouse, perhaps at the same time as jurors and others who have no interest in whether you are in a rush. Plan accordingly.
- If you don't understand a term, procedure or proceeding, lawyers, clerks and judges should be willing to explain. You can also refer to the glossary in the back of this *Guide* or type "legal dictionary" in your search engine and you will find many helpful sites.
- An annual "State of the Judiciary" report is issued by the Chief Judge of the Court of Appeals and should have the latest facts, figures and changes involving Maryland courts. You can also call the Maryland Judiciary's Government Relations and Public Affairs Division for this and much more information.
- Need to find a particular lawyer? The Maryland Lawyers' Manual issued by the Maryland State Bar Association is available online at msba.org and lists its lawyer members according to name, county and practice area. The Maryland Judiciary maintains online a searchable list of attorney addresses and phone numbers, which are available online at www.mdcourts.gov/lawyers/attylist.
- Looking for a lawyer-expert? Try the law schools, the Maryland State Bar Association, or the local and specialty/minority bar associations. Their contact information can also be found at www.msba.org.
- Awaiting a Maryland appellate opinion? You can get it immediately upon release at the Maryland judiciary's website www.mdcourts.gov/opinions/opinions.

Government Relations and Public Affairs Division

The Government Relations and Public Affairs (GRPA) Division of the Maryland Judiciary protects and promotes the Judiciary's interests regarding new laws and initiatives. The Division is the primary liaison between the courts and state and local governments, advocacy groups, the media and the public. The Division focuses on developing programs and activities to increase public awareness of the court's role in the community. Its many activities include internal and external communications programs that reach all Judiciary personnel and the millions of people who rely on Maryland's courts, helping to build public trust and confidence in the justice system. Its website includes press releases, appellate opinions, statistical reports and other publications and reports that journalists may find useful. Division staff can provide background information on a variety of issues and can assist journalists in getting access to useful sources of information. Any requests for interviews with court personnel including judges, should go to the GRPA. This office also assists in coordinating coverage of high profile trials throughout the state and is the media's point of contact for those trials.

GRPA can be reached by phone at 410-260-1488 or through e-mail at communications@mdcourts.gov. The Maryland Judiciary's website is www.mdcourts.gov.

Even if the content of news reports is fair and accurate, a journalist's newsgathering methods can land them in legal trouble. Obviously, a journalist, like every citizen, must not violate criminal laws to obtain information, but the line between criminal and non-criminal behavior is not always distinct. Even the total avoidance of criminal behavior in newsgathering might not immunize a journalist from legal challenge.

While the law does not set clear boundaries between permissible and impermissible newsgathering practices, it does provide general guidelines to help you steer clear of most legal problems without sacrificing the assertiveness necessary for strong reporting. This brief section examines access to non-governmental places, both public and private, and discusses some problem areas of newsgathering, including impersonation, misrepresentation, and receipt of confidential documents.

Access to non-governmental places

The extent to which a journalist may permissibly engage in reporting or surveillance largely depends on the location. Generally, restrictions on newsgathering in private homes and private places are stricter than those for public lands or traditionally public areas. One of the first things you should do if you are denied access by government officials or owners of private property is assess your forum.

Public Places

A journalist is essentially free to gather news on public streets and in public parks, and anything that can be seen (and photographed) or heard on or from a public street is fair game. For example, a Maryland court has found taking a woman's photograph from the street as she stood in plain view at her bedroom window does not constitute an invasion of privacy. However, the paparazzi-esque pursuit of particular subjects, even on public streets, has landed a few journalists in legal trouble, especially where the newsgathering implicates the privacy of children.

The right to engage in newsgathering on public streets has usually been extended to other places where the public is traditionally welcome – such as airport terminals, flea market booths, and professional sporting events – but this right sometimes has not applied to private parties held in otherwise “public” places.

Crime and Disaster Scenes

The freedom to gather news in public places has extended to crime and disaster scenes in most cases. For example, a journalist may permissibly record an arrest on a public street, or in a courthouse or police station. This freedom may be limited if a law enforcement investigation or other official activity is still in progress.

Where the crime or disaster scene is not a public place, the law is much less clear. A community's custom or common practice, to the extent it can be determined, can be relevant to the analysis of whether a journalist may incur liability for a particular newsgathering practice. Maryland law is sparse on the subject of "implied consent by custom and usage;" probably the best source of information on the accepted newsgathering practices in the state will be experienced journalists.

Like public places, newsgathering activities in private places may be limited if a law enforcement investigation or other official activity is underway, especially if the media's activities could realistically compromise the safety of the law enforcement officers and the success of their mission. For example, one federal court has held the media has a duty not to interfere with a law enforcement officer's official activities and may be found liable for breach of that duty, even if the interference comes in the course of newsgathering.

With today's prevalence of cell phones, police are finding themselves on camera more often than they might like when conducting law enforcement activity. In some prominent cases, police have ordered journalists and other citizens to stop filming, or even confiscated video equipment and arrested the operator, although this action may be of dubious legality.

Although the authorities have cited electronic surveillance laws to claim their consent is required before filming, this is not accurate. As long as you are not interfering with police activity, jeopardizing an investigation, or endangering others, you are free to observe, photograph or record police officers working on premises open to the public.

Sometimes law enforcement officials permit journalists to accompany them on "ride-alongs" as they conduct searches, investigate crimes, or execute arrests. However, the express consent of law enforcement officials to newsgathering is no guarantee a journalist will escape legal trouble.

A few courts have found journalists may be held liable for damages when they enter a private home without the consent of the owners, even if they are on a police-approved "ride-along." In fact, law enforcement may not legally permit the media to enter a private home when executing search warrants, as the U.S. Supreme Court held the additional intrusion of the media violates the Fourth Amendment protection for criminal suspects against unreasonable searches.

Private homes

Gathering news in a private home without consent of the owner is an extremely risky proposition. Courts have found the media liable for invasion of privacy, trespass, and intentional infliction of emotional distress both where the journalist used surreptitious means and where they gathered news in plain view but without the consent of the homeowner. When the home is a crime or disaster scene, a journalist may have a greater right to gather news, particularly if the custom of the community dictates or a government official has provided consent. But generally, a journalist can face serious liability if the journalist engages in newsgathering in a private home

without the owner's consent or, even worse, after the owner has expressed a desire for the journalist to leave.

Public institutions

Journalists are not entirely free to gather news in public and private mental health facilities, drug treatment centers, schools, etc., without consent. Though the subject of a report will rarely succeed on an invasion of privacy claim, successful trespass claims by the owner or protector of the institution are more common.

Restaurants and bars

Bars and restaurants are, of course, open to the public, and journalists are traditionally granted the same freedom as ordinary citizens to enter the public areas of such businesses. However, this freedom does not mean journalists may do as they please in the name of newsgathering. If a journalist ignores a patron's objection to the newsgathering, that journalist may be subjected to liability just as if they had entered a private home. In addition, reporters have not been immune when gathering news in the private parts of otherwise public businesses. In other words, a restaurant kitchen is likely off-limits without the owner's consent.

Other private businesses

The public areas of other private businesses are generally considered open to the media as well. Nonetheless, some businesses may object to the use of video cameras on their premises and, unlike public buildings, their owners do have the right to exclude them. As a practical matter, it is often easier to ask for forgiveness than for permission. In most cases, journalists may safely assume they may access areas other private citizens may freely enter. However, those who gather private facts about individuals or recount private activities may nonetheless be subject to invasion of privacy claims.

In private parts of private businesses, the media's liability for newsgathering may vary depending on the means by which the journalist gained access, the methods used to gather news, the sensitivity of the material obtained, or countless other factors. Generally, journalists using either hidden cameras or ambush tactics risk trespass and possibly fraud lawsuits, and if the material obtained and published is highly personal or offensive, the journalist flirts with liability for invasion of privacy. Such tactics should be used only if more traditional newsgathering techniques are unavailable or impractical.

Misrepresentation and Impersonation

For journalists, whose livelihood depends on gaining access to places they are not welcome and information not meant for their eyes, a little bit of trickery is a useful tool of the trade. Fortunately, the legal system recognizes this and gives journalists some leeway in the name of the First Amendment.

Misrepresentation

Misrepresentation is the act of making a false representation for the purpose of deceiving, or causing another to rely on it detrimentally. A misrepresentation can be made in words, by conduct, and even by concealment or failure to disclose a relevant fact. Examples might range from telling a potential interviewee you have already interviewed their friend when you have not, to using a fictitious name to obtain credit information about a subject. Typically, those who feel they have been damaged by a misrepresentation will allege fraud and/or intrusion, one type of invasion of privacy.

In practice, though, these misrepresentation claims do not often succeed. To establish a claim for fraud in connection with newsgathering, a plaintiff must typically show the reporter's behavior was beyond what a person with a reasonable degree of skepticism toward journalistic methods might anticipate, and the reporter had an ulterior purpose beyond uncovering the story. In addition, the plaintiff must establish an injury as a result of reliance on the alleged misrepresentation. Plaintiffs have been similarly unsuccessful in maintaining claims for intrusion, because intrusion usually requires a violation of someone's physical solitude or seclusion. Essentially, you will likely avoid liability if you steer clear of particularly egregious behavior or a pattern of misrepresentations. Of course, you can prevent lawsuits in general by keeping the white lies to a minimum.

Maryland has statutes designed to prevent unauthorized access to medical and certain government records. One statute provides that persons who obtain certain government records by false pretenses, bribery, or theft are guilty of a misdemeanor and subject to a fine. Another states that persons who obtain another's medical records under false pretenses are guilty of a misdemeanor and subject to a fine and possible civil damages.

Impersonation

Impersonation is the assumption of a false identity for the purpose of gaining access to sources and information. Though it often involves a grander scheme than misrepresentation, impersonation also rarely leads to liability for the journalist. Courts typically find in favor of journalists on trespass claims that arise out of impersonation because the journalist is not interfering with the ownership or possession of land. Fraud and intrusion claims are difficult to maintain for all of the reasons mentioned in the above section. Once again, impersonation may land you in a lawsuit and should be avoided, but it is unlikely your employer will be forced to pay damages unless the impersonation is especially outrageous (e.g., brandishing a knife while posing as an alcohol rehabilitation patient).

Receipt of documents

Requesting and receiving documents are daily tasks for journalists and are also an essential part of newsgathering. It probably goes without saying you have a good chance of being sued for invasion of privacy or "conversion" – essentially, stealing another's property – if you obtain documents unlawfully. Conversely, if a journalist lawfully obtains truthful information about a

matter of public significance, state officials may not punish the publication of the information absent a state interest of the highest order. This rule has been extended to shield journalists from civil liability, such as damages owed to the subject of the publication.

But what about the middle ground, for example, when you receive documents lawfully, but they were unlawfully obtained by your source? Does it make a difference whether you knew? You are probably “in the clear” when receiving unlawfully obtained documents even if you know how your source obtained them as long as you did not participate in or authorize their theft. For instance, in one Maryland case, the judge determined a newspaper could not be punished for receiving and publishing confidential university records of student-athletes that had been provided to the reporters gratuitously.

Maryland law criminalizes the receipt of stolen property, and a similar statute has been applied in at least one other state to a newspaper’s receipt of a stolen document. However, such an application seems highly unlikely after a decision by the Supreme Court in which the Court held a journalist could not be held liable for broadcasting the contents of an illegally intercepted telephone conversation that was given anonymously to the journalist, even though the journalist had reason to believe the tape was obtained illegally.

Some Practical Newsgathering Tips

Obtain consent

When you are seeking access to private places or documents, the only way to shield yourself totally from newsgathering liability is to present yourself truthfully and obtain consent from the owner or another person authorized to give consent. If the owner is unavailable, consent from a government official usually will suffice where there is an established custom of press access. At the very least, governmental consent will strengthen a defense against lawsuits. Of course, strict adherence to these rules is not possible in the real world, and would limit your ability to gather news effectively. But to the greatest extent possible, consent is the best course.

Seek legal advice

If you are planning to carry out a course of newsgathering you sense is less than kosher, get the advice of your publication’s or station’s lawyer. Newsgathering law is varied and fact-specific. Different states have reached different results on very similar issues, and Maryland courts have issued very few decisions to guide you. A good First Amendment lawyer should be able to assess the hazards of your intended course of action and offer particularized suggestions to minimize the risk of liability for fraud, trespass, or invasion of privacy. You may well pay less asking for advice in advance than you might pay in settling a lawsuit.

Develop a plan

It is hard to deal with access problems in the middle of breaking news, so your news organization should set the groundwork for addressing such situations before they come up. Develop a strong working relationship with police and other officials on your beat. If law enforcement officials in

your jurisdiction permit access only to those who hold press passes, obtain one; if your area does not have such a system, keep handy a list of government contacts who may facilitate access when news occurs. Meet with your editors and legal advisers to formulate a general plan in the event you are denied access by police or property owners – whether you should leave, or stay and risk arrest or a lawsuit, and upon what factors your decision will depend.

The Maryland Shield Law

The Maryland Shield Law, the nation's oldest such protection for journalists, states anyone employed by the news media in any newsgathering or disseminating capacity cannot be forced to disclose the source of news or information obtained in the course of their work. This privilege may be asserted whether or not the source has been promised confidentiality. The law protects journalists from waiving its protections, such as by previously reporting or sharing the name of the source or the name of one source but not others. However, Maryland's Court of Appeals has ruled the Shield Law does not apply to a reporter (or other person otherwise covered) actually witnessing an event or hearing a party make a statement about an issue relevant to a proceeding, if the journalist reports what they saw or heard. In that case, the individual can be compelled to testify because they are also a witness. Also, when reporters are being questioned about their reporting, particularly by someone else's attorney, they should stop the conversation until they have had the chance to consult their own attorney, lest they end up waiving the privilege.

The law's reach is broad, covering those employed by newspapers, magazines, journals, press associations, news agencies, wire services, radio and television and any other printed, photographic, mechanical or electronic means of reporting news, and an independent contractor acting within the scope of a contract, or certain students who cover news.

The Shield Law provides some, but more limited protection for news or information such as notes, video or audio outtakes and unpublished photographs or photographic negatives. A journalist may be compelled to produce these items if the party seeking them proves by clear and convincing evidence: 1) the news or information is relevant to a significant legal issue before a body that has the power to issue a subpoena; 2) the news or information could not, with due diligence, be obtained by any alternative means; and 3) there is an overriding public interest in disclosure. The more limited protection afforded to unpublished information and items may be waived if the journalist discloses unpublished information outside the performance of professional responsibilities, e.g., in social conversation.

The privilege applies in any state or local judicial, legislative or administrative forum in Maryland, but does not protect a journalist subpoenaed to testify before a federal court in Maryland. In federal court, the First Amendment to the U.S. Constitution may protect the journalist, although there is no federal Shield Law.

Questions often arise on the nature and extent of protection relating to online publications. Although the Shield Law covers newsgathering regardless of the particular medium used to deliver news, the language of the statute does not currently seem to protect self-employed or amateur bloggers. The scope of persons protected under the Shield Law may ultimately be decided by the courts.

The Maryland Shield Law ("News media privilege") can be found in the Annotated Code of Maryland, Courts and Judicial Proceedings Article, Section 9-112.

Cameras in Maryland Courtrooms

By law, the public may not record or broadcast a criminal matter in a trial courtroom.

In civil cases and at the appellate level, Maryland court rules require requests for permission to use cameras and microphones be made to the Clerk of the Court in writing, at least five days before the proceeding is scheduled to begin. A court may honor a request that gives fewer than five days notice if “good cause” exists; this good cause should be identified in your request. You must specifically identify the case you wish to cover. The court is under no obligation to grant your request and consent of all parties to the case is normally needed. However, consent of a party is implied if the party is the federal, state or local government, any of their agencies or an individual sued or suing in an official governmental capacity. Consent of a party is also not needed in the appeals courts. Once consent has been given, it may not be withdrawn although any party, at any time, may ask the judge to limit or terminate coverage.

Coverage is not permitted if the proceeding is closed to the public by law or by the judge. Audio coverage is prohibited of private conferences, bench conferences and conferences at counsel tables.

Even when allowed, recording or broadcasting must be limited or terminated during the testimony of a crime victim at the request of the victim. Coverage may also be prohibited, terminated or limited at the request of a party, witness, judge or juror where the judge finds a “reasonable probability” of unfairness, danger to a person, undue embarrassment or hindrance of proper law enforcement. A request to prohibit, limit or terminate coverage is presumed valid in cases involving domestic violence, custody of or visitation with a child, minors, police informants, undercover agents, relocated witnesses, trade secrets and so forth. A presiding judge is given broad discretion.

State law also calls for pooling arrangements when permission is given for video, still photos and microphones. It is not the responsibility of the court to coordinate pool arrangements. Media wanting to cover such trials must work out among themselves the logistics of this coverage. Where proceedings are continued other than for normal or routine recesses, weekends, or holidays, it is the media’s responsibility to make a brand new request for additional coverage. Generally, cameras and broadcast equipment are permitted in the courthouse for judicial investitures or other ceremonial proceedings, with the advance permission of the court.

Many Maryland courtrooms no longer use court reporters, but digitally record all of the proceedings and then use the recording as the official court record. This practice has implications for the media’s access to that record. While the Rules provide that a party to the case or their attorney may obtain a copy of the proceedings, it is forbidden for that party or attorney to make a copy for others (including reporters) without court permission. Others, such as media

representatives, may directly request a copy of the recording from the court, which then has obligations to fulfill before providing it. This may include waiting until all appeals are first concluded.

Since 2006, the Maryland Court of Appeals has made available online all arguments of cases before that Court. The Court indicates the recordings are made available for informational purposes only and are not an official record of the proceeding. Rebroadcast is prohibited without the express permission of the Court which can be obtained through its Government Relations and Public Affairs Division.

Hearings before Administrative Law Judges who administer disputes involving rules and regulations are also open to the public including, of course, the media. The ability of the media to record these proceedings is much broader than in the district and Circuit Courts. Audio and video recording equipment and cameras are allowed in the hearing room unless prohibited by law, or unless, in the determination of the judge, their use “may impede the orderly progress of the hearing or otherwise interfere with the hearing process.”

Maryland Rule 16-601 to 16-108 governs cameras and taping in Maryland courtrooms.

Title 28 Subtitle 02 of the Code of Maryland Regulations governs cameras and taping in Administrative Law hearing rooms.

Maryland Code, Criminal Procedure, § 1-201 prohibits the recording or broadcasting of criminal proceedings.

Overview

As Robert Bell, former Chief Judge of the Court of Appeals once said, “there is no justice in Maryland”: a subtle reminder there is no member of the state’s judiciary with the title “Justice.” They are all called “judge.”

Maryland has a four-tiered court system of trial courts and appellate courts. The trial courts are the District Court of Maryland and the Circuit Courts for each county and Baltimore City. The appellate courts are the Court of Special Appeals, in which a panel of three judges reviews each case, and the Court of Appeals, the highest court in the state.

Judges generally wear black robes except for the judges of the Court of Appeals, who wear scarlet robes.

District Court

Each county and the city of Baltimore has at least one District Court location. The District Court is a unified state court with a chief judge and chief clerk.

Generally speaking, the District Court has jurisdiction over all misdemeanors and the Circuit Court has jurisdiction over all felonies, although some felonies and some misdemeanors are within the concurrent jurisdiction of either the District Court or Circuit Court. For example, misdemeanors for which the potential sentence can be up to three years of confinement or a fine of \$2,500 or more can be heard by either the district or Circuit Court.

In the civil area, the District Court has exclusive jurisdiction over landlord-tenant cases. It also has jurisdiction over small claims cases which involve amounts of \$5,000 and below. It shares jurisdiction with Circuit Court for domestic violence and civil cases that involve claims between \$5,000 and up to \$30,000.

A District Court case is tried before a judge only, and an entire trial rarely goes more than two hours.

Because there are no jury trials in District Court, a person must request one in a timely fashion if they are entitled to a jury trial for a criminal or civil case. If a party requests a jury trial, the case is moved to Circuit Court.

Court Commissioners issue arrest warrants and conduct bail reviews around-the-clock and may issue peace and protective orders. They are part of the District Court as well.

Orphans' Court

This specialized court has jurisdiction over probate and the administration of estates of the deceased. The Register of Wills, an elected official, is the clerk of the Orphans' Court.

Circuit Court

Each county and the City of Baltimore has a Circuit Court. These courts have broad jurisdiction. They handle larger civil cases and cases in which a party is entitled to (and has requested) a jury trial, divorces, and more serious felony criminal cases. Circuit Courts also hear appeals from District Court, from most Orphans' Courts, and from certain administrative agencies.

Most Circuit Court civil cases are settled before trial, and most felony criminal cases are resolved by a defendant pleading guilty to one or more charges as part of an agreement (a "plea bargain"). Not all Circuit Court trials involve juries – some civil and criminal cases are heard by a judge alone ("bench trials").

Family Division (Circuit Court)

Family law cases make up about half of all civil lawsuits filed in Maryland each year. The five largest jurisdictions in the state – Anne Arundel, Baltimore, Montgomery and Prince George's counties as well as Baltimore City – maintain a separate Family Division within their Circuit Court. Each Circuit Court regardless of size has a family services coordinator who arranges and provides a range of services in family law cases.

Family divisions hear juvenile cases and cases of divorce, child custody, alimony, termination of parental rights, involuntary admission to state psychiatric hospitals, and requests to withhold or withdraw life-sustaining medical procedures. In some jurisdictions, magistrate judges will routinely hear juvenile, family and equity matters, and in other jurisdictions these cases are handled in the Circuit Court. The best practice would be to check with the clerk of the respective court.

Magistrates are authorized by Maryland law to hear certain cases, as assigned by a Circuit Court. Most typical are family law, child in need of assistance (*CINA* cases) and juvenile delinquency cases. Magistrate determinations are made as recommendations for adoption by a judge. If a party disagrees with the Magistrate's recommendations, written exceptions are filed for consideration by a judge, after opportunity for a hearing. The judge may issue a ruling consistent with their independent consideration of the Magistrate's recommendations.

Juvenile Court

Juvenile cases involve children under the age of 18 years, and when Circuit Courts hear cases involving juveniles, they sit as a Juvenile Court. Juvenile Court matters include some

delinquency matters (many are taken care of within the Department of Juvenile Services) and child abuse and neglect matters that require an order from a court.

Juvenile proceedings in Maryland are open, unless there is a request to close the hearing, but Juvenile Court files are sealed. The terminology used in Juvenile Court is much different from that used in adult court. See the section on Juvenile Court.

Court of Special Appeals

The Court of Special Appeals, located in the Robert C. Murphy Courts of Appeal Building in Annapolis, is the state's second highest court. It is the court of general appellate jurisdiction – appeals from Circuit Courts are heard here unless the state's highest court, the Court of Appeals, grants a petition to hear the case. The Court of Special Appeals has 15 active judges. This Court is not a fact-finding body but only hears arguments about decisions made by the court below.

Appeals begin with a Notice of Appeal, which must be filed in the Circuit Court within 30 days of the order or judgment being appealed. The party challenging a Circuit Court decision is the *appellant* and the party defending the Circuit Court decision is the *appellee*; the appellee also can cross-appeal aspects of the Circuit Court decision with which they disagree.

Once an appeal has been initiated, the court's Clerk's Office sets a briefing schedule. The appellant files a brief first, then the appellee; the appellant may file a reply brief that responds to the appellee's arguments. Briefs are documents in which the parties argue their positions to the court – appellants explain why the Circuit Court was wrong, appellees explain why the decision was correct. Appellants also must prepare and file a Record Extract, which is a collection of the most important documents and transcripts from the Circuit Court. Briefs and record extracts are filed well in advance of oral arguments. Reporters may wish to read the briefs or talk to the lawyers before attending arguments. It will be excellent background. The Clerk's Office can provide the name and contact information of the attorneys involved.

Each case is decided by a panel of three judges. The Court hears oral arguments in about half of its cases, and the remainder are submitted and decided based on the briefs. The briefing schedule will establish the month the case will be considered submitted, and the court's website publishes a list of the cases being argued each month. Oral arguments generally last 20 minutes for each side and consist of legal arguments made entirely by lawyers, with no witnesses or juries. The judges can, and usually do, ask questions.

Cases are decided in written opinions the Court issues sometime after argument. With the exception of certain cases involving children and appeals from suppression motions, there are no fixed deadlines for when the Court must decide a case. Cases are decided by a vote of the three judges; a judge who disagrees with the majority may write a separate dissenting opinion, and a judge who agrees with the result but for a different reason may write a separate concurring opinion. Most opinions are unreported, which means they apply only to the parties in that case and may not be cited as binding precedent in other cases. Reported opinions are binding

precedent. The Court as a whole decides which opinions to report. On very rare occasions, the Court may decide to hear or re-hear a case *en banc*, which means all 15 active judges will sit and decide the case together. The Court makes its reported and unreported opinions available on the Maryland Judiciary website.

Court of Appeals

The Court of Appeals is the highest court in Maryland. It is known in other states except New York as the Supreme Court. Similar to the Court of Special Appeals, it sits in Annapolis. Unlike the lower court, it chooses which cases it will hear and decide. Parties who wish to have the Court of Appeals hear their case must file a petition asking for a *writ of certiorari*; the Court of Appeals issues the writ, and decides to hear the case. The Court of Appeals may also decide to grant certiorari before the case is heard in the Court of Special Appeals, but more commonly awaits a decision from that court before deciding to take a case.

The Court of Appeals consists of seven judges, one each from the seven appellate judicial circuits in the state. The Court hears all cases *en banc*, which means all seven judges hear and decide each case. As in the Court of Special Appeals, the Court of Appeals establishes a briefing schedule for each case, then schedules oral arguments, typically 30 minutes per side. As in the Court of Special Appeals, briefs and record extracts are filed well in advance of argument, and reporters may wish to contact the Clerk's office to obtain copies or contact information for the attorneys involved.

The Court of Appeals also decides each case through written opinions which are available on its website as soon as they are issued. Court of Appeals opinions are almost always reported, and thus serve as binding precedent on other cases. Cases are decided by a vote of the seven judges; judges who disagree with the majority may write separate dissenting opinions, and judges who agree with the result but for different reasons may write separate concurring opinions.

The Court of Appeals only hears cases that have broad public significance and legal importance in both criminal and civil matters. Like the Court of Special Appeals, the Court of Appeals does not re-litigate the facts of a case. Instead, it determines whether trial courts applied the correct principles of law and whether the trial court proceedings were conducted properly and fairly. The Court livestreams its arguments, which then are archived and remain online for viewing at your convenience.

Twice a year, the Court of Appeals admits lawyers to practice in Maryland. The Court of Appeals also disciplines lawyers and judges who violate the governing rules of professional conduct, and adopts rules governing practice and administration for all courts in the state.

The Court of Appeals and the Court of Special Appeals opinions can be found online at <https://www.mdcourts.gov/opinions/opinions>.

Judges' Qualifications and Terms in Office

For all judges other than Orphans' Court judges, the qualifications are legal and professional: Maryland citizenship; Maryland residency for five years and in the appropriate circuit, district, or county for at least six months preceding the appointment; registration as a qualified voter, admission to practice law in Maryland, and 30 years of age at the time of appointment. The Maryland Constitution provides that those selected for judgeships shall be lawyers "most distinguished for integrity, wisdom and sound legal knowledge." (The Constitution also requires the retirement of judges at the age of 70, although they can continue to serve in a limited capacity.)

Orphans' Court

Judges are elected to four-year term (except in Harford and Montgomery counties, where Circuit Court judges sit as Orphans' Court judges). The Governor fills vacancies, with advice and consent of the Senate.

District Court

District Court judges are appointed by the Governor upon recommendation of a local judicial nominating commission comprised of lawyers and non-lawyers, and confirmed by the State Senate. They do not stand for election. They must be confirmed by the Senate every 10 years (assuming the judge is re-appointed by the Governor, which they typically are). A District Court judge who is not confirmed is removed from office. The Chief Judge of the Court of Appeals appoints the Chief Judge of the District Court.

Circuit Court

Judges generally are appointed by the Governor to fill vacancies upon recommendation of a local judicial nominating commission after completing a lengthy application and interview process. Judges may also run for election without going through that process. Judges appointed to fill vacancies must stand for election in the first general election after appointment, and interested candidates may run against them. Circuit Court judges serve 15-year terms and must stand for re-election when their terms end.

Court of Special Appeals/Court of Appeals

Judges are appointed by the Governor, based on recommendations from a state-wide appellate judicial nominating commission, and must be confirmed by the State Senate. They must stand for a retention (yes or no vote) election, for a 10-year term, in the first general election after appointment. Unlike Circuit Court judges, no one is permitted to file against appellate judges in the election. If an incumbent is rejected by voters, the post goes vacant and the Governor makes a new appointment. The Governor chooses the chief judge of each of these courts; the Chief Judge of the Court of Appeals serves as the administrative head of the state's judicial system.

Commission on Judicial Disabilities

The Maryland Commission on Judicial Disabilities is a constitutionally mandated body of the Maryland State Government. Its primary mission is to investigate allegations of misconduct or disability against Maryland judges, and is the primary disciplinary body for the Maryland judiciary. Under certain circumstances, judges may also be subject to disciplinary action by the Governor and the Maryland legislature. The Commission has no authority to change a decision made by a Maryland judge, nor can it direct a judge as to how to decide a case. Parties who disagree with the judge's ruling must seek redress either with the original court or through the appellate process.

The Commission conducts public hearings and may take formal or informal action after affording the judge proper notice and an opportunity to be heard. If, as a result of the hearing, the Commission by a majority vote decides a judge should be retired, removed, censured, or publicly reprimanded, it recommends that course of action to the Court of Appeals, which may order a more severe sanction than the Commission recommends.

To file a complaint with the Commission on Judicial Disabilities, a complainant must make a sworn written statement. Complaints and investigations are confidential unless the Commission votes to take a public action. The Commission may, under certain circumstances, issue an explanatory statement about decisions it makes. The Commission is comprised of 11 members: three judges, three lawyers, and five public members who are neither judges nor lawyers. Members are appointed by the Governor, subject to approval by the Maryland Senate, for a period of four years. The Commission publishes its findings and an annual report online at www.mdcourts.gov/cjd.

Attorney Grievance Commission

The Attorney Grievance Commission investigates and prosecutes violations of the Rules of Professional Conduct by Maryland lawyers, and anyone practicing law in Maryland without a license. Unlike the Commission on Judicial Disabilities, the Attorney Grievance Commission does not conduct public proceedings of its own. Instead, when the Commission decides a public complaint is appropriate, it initiates proceedings in the Court of Appeals, which may delegate the case to a Circuit Court for fact-finding and a recommended disposition. The Court of Appeals makes the final decision on whether and how to discipline attorneys. Sanctions include disbarments, suspensions, and reprimands. The Commission publishes the names of all sanctioned attorneys online, and an annual report at www.mdcourts.gov/attygrievance.

Maryland Tax Court

Although the Maryland Tax Court is called a "court," it is an administrative agency. The Tax Court hears appeals from decisions by the state Comptroller's office, the state Department of Assessments and Taxation and other final assessing or taxing authorities regarding the valuation, assessment or classification of property, the levy of a tax abatement, reduction or revision, or any assessment, or tax or exemption from tax. The Court consists of five judges appointed by the Governor. No more than three may be of the same political party. All must be qualified voters of

Maryland. At least two, including the Chief Judge, must be members of the Maryland Bar. The Maryland Tax Court can be reached at www.taxcourt.maryland.gov.

Office of Administrative Hearings

Created in 1990, the Office of Administrative Hearings hears challenges to actions of state agencies, such as appeals of teacher firings by local school boards. It falls within the state's Executive Department.

An administrative law judge, who was an attorney before their appointment, hears the facts and makes a determination. Depending on the agency and law involved, the judge's decision may serve as a recommendation to the agency or as a final decision. Depending on the law and issue, losing parties may be able to seek judicial review of the decision in the Circuit Court and the appellate courts. The Office of Administrative Hearings (OAH) can be reached at www.oah.maryland.gov.

A judge's interaction with the media is governed by many different factors of which a reporter should be aware.

Most important are the serious ethical restrictions imposed on judges by court rules. These prevent the judge from engaging in *ex parte* (i.e. one-sided) or certain other communications concerning a proceeding to which the judge is assigned. The Maryland Code of Judicial Conduct requires a judge to abstain from public comment about a pending or impending proceeding in any court. The judge is, however, permitted to make limited public statements in the course of the judge's official duties, and may explain court procedures.

Like everything else in the law, ethics rules are subject to interpretation. Some judges take a strict view and engage in no discussions about a case. These judges' remarks are confined to open court in formal, recorded proceedings or by written order filed with the clerk's office. Less strict judges are willing to informally discuss the case or explain court procedures.

Regardless of their approach, nearly all judges will be conscious of the need to not only be impartial but to appear impartial. A judge's first duty is to the case they are adjudicating. The judge does not want some ill-chosen word or phrase shared with a reporter to compromise the case. At times, the judge will not address a reporter's needs and, to some degree, the public's right to know, in favor of reaching a fair result for the parties before them.

A reporter may have little difficulty getting answers to procedural questions, such as, "What motions will you be taking up at the hearing?" On the other hand, the reporter shouldn't be surprised if the judge has no interest in answering substantive questions, such as, "How will you rule on the motion to suppress?" In some cases, the judge's explanation of trial issues will have to wait until post-trial matters are resolved and the dust has settled, even though that might well be long after the public's interest in the case has died down.

Reporters will need to feel their way with each judge and see how receptive the judge is to discussions about legal issues in pending or upcoming cases since judges are aware jurors may not obey the order to refrain from seeking out information about the case during the trial. The judge might even be willing to suggest, for background and educational purposes only, and without a hint of how they might be resolved, what serious issues might develop in the trial, so the reporter can be better prepared. (Of course, the lawyers in the case might be better and more willing sources for much of this information). If a judge does not want to discuss a matter, they may designate a court administrator or the Judiciary's Public Information Officer to speak on behalf of the court. In high-profile cases, the Maryland Judiciary's Government Relations and Public Affairs (GRPA) Division will handle media issues.

Judges vary widely in how they respond to media inquiries. No single approach is right or wrong. Often, judges who were used to dealing with the media before going on the bench will be more comfortable with reporters and more open to discussion, while judges whose former law practice did not involve the public eye may be more close-lipped and guarded.

While individual judges are given some discretion when it comes to dealing with media inquiries, it may be useful to explore the subject with GRPA. The Division may suggest ways to meet the reporter's needs without compromising the judge's obligations to the case or their ethical code.

Finally, reporters should develop contacts among the bench and bar who might be willing to translate or clarify the "legalese" reporters will encounter as they cover court proceedings, and help them enter the courthouse with at least a rudimentary knowledge of the law and procedure. Area law schools may also direct reporters to a law professor who can be helpful in explaining laws or procedures.

For more information about the Maryland Code of Judicial Conduct, *consult the Maryland Rules, Title 18.*

Overview

When it comes to criminal trials in Maryland, nearly all felonies are tried in Circuit Court and misdemeanors in District Court. However, there are some charges that provide for jurisdiction in both courts (*concurrent jurisdiction*) and it is up to the State's Attorney's Office to decide, at least initially, in which court a case will be heard.

In the District Court, a defendant has the option to “pray” a jury trial – a legal term for requesting a jury trial in the Circuit Court. Cases that are eligible are those for which the penalties call for more than 90 days in jail and/or fines of \$2,500 or more. In some jurisdictions a defendant's jury trial request in the District Court results in a nearly immediate jury trial in the Circuit Court.

There is one overriding concern in Circuit Court criminal trials; the case be held within a 180-day period which begins at the earlier of one of two events: the defendant's initial appearance in Circuit Court or the entry of appearance by the defendant's attorney. However, upon a finding of “good cause” by the court, the case can be scheduled beyond a 180-day period.

The Process

Defendants are charged and tried on charging documents. The types of charging documents include indictment, information, citation and statement of charges.

Less serious criminal cases are charged in the District Court by either *citation* or *statement of charges*. The most common District Court charging mechanism is filing of a statement of charges, either caused by a police officer's arrest or by a citizen's complaint taken to a District Court commissioner. The filing of a statement of charges in District Court requires an accompanying affidavit stating a factual basis of the probable cause for criminal charges. The affidavit serves as one of the earliest summaries of the factual underpinnings of the state's case. It is at this time that the District Court commissioner must determine whether or not to issue a summons or an arrest warrant. If a summons is issued, no arrest is made. Instead, the person charged is simply given a copy of the charge and ordered to appear in court.

Statements of charges for crimes such as murder, rape and robbery can be filed in the District Court. While the District Court does not have jurisdiction to try such crimes, it does allow for someone to be held temporarily pending charges being filed in the Circuit Court.

Citations are issued directly by law enforcement officers. The citation commands the defendant's appearance in court when notified of the date. Citations are only available for petty

misdemeanors and when specifically authorized by statute. The most common citations are traffic and Maryland Transit Authority (MTA) citations.

Indictments require grand jury proceedings and are issued by the grand jury which determines if probable cause for a criminal charge exists. They apply only to Circuit Court cases. However, Circuit Court felonies may also be charged by what is called a *criminal information*. A criminal information may be filed when a preliminary hearing is held in the District Court resulting in a finding of probable cause or where the preliminary hearing is waived. It is authored solely by the State's Attorney. A grand jury is required for the issuance of an indictment and a preliminary hearing is required prior to charging by criminal information under the theory some review other than that of the prosecutor is needed before a person is put on trial for a serious offense. It is not uncommon for indictments to be filed on the eve of the preliminary hearing date when a statement of charges has been filed in the District Court – thus avoiding the need for a preliminary hearing to determine probable cause.

Within 24 hours of arrest, a defendant should be presented before a District Court judicial officer, usually a commissioner, where the defendant is advised of the charges and rights to counsel. If the charge is a felony under exclusive Circuit Court jurisdiction, the defendant shall be advised to a right to a preliminary hearing at which probable cause against him may be shown.

At this *initial appearance*, the first pretrial release or bail determination is made. While the primary consideration for bail or release is whether conditions can be fashioned which will reasonably ensure the appearance of the defendant at trial, the defendant's potential danger to the community if he were released is also a factor.

Trials in the District Court are generally simpler than those in the Circuit Court. The first trial date is usually scheduled much sooner. Postponements are far less frequent. There is less discovery and usually less preparation by the defense and prosecution. Cases in the District Court principally involve misdemeanors although there are some felonies for which the circuit and District Courts share jurisdiction. There are no jury trials in District Court. As mentioned earlier, defendants who qualify and want jury trials must pray a jury trial to have the case moved to the Circuit Court.

At the Circuit Court level, the first public event in the trial of a serious felony case is usually the initial appearance (formerly referred to as arraignment) which typically occurs within a month of a grand jury indictment. While an initial appearance may often be little more than a reading of the charges to the defendant by a court clerk, followed by the defendant's perfunctory plea and request for either a jury or bench trial, it may provide an opportunity for the beginning of plea negotiations. Also, at or near the time of the initial appearance, some amount of discovery is

disclosed by each side and various motions are exchanged covering a variety of potential issues which may arise.

Discovery and motions practice are significant and are often overlooked by the media. Through discovery and motions, both sides learn more about the other's presentation of its case. Motions to suppress statements and seized evidence are typical and usually give an opportunity for the police to show the strength of their testimony and the defense to probe for weakness. The court's rulings on motions often determine whether critical evidence will be admitted or excluded at trial.

Pleas and Verdicts

While extensive preparation is required for a criminal trial, it is negotiation rather than trial that is the more common method of resolving serious criminal cases. As many as 90 percent of felony cases end in some type of plea agreement or some other action short of a trial, including those listed below. That may entail a plea to a less serious charge or an agreement with respect to sentencing. In some cases, the plea agreement may be *binding*, meaning that the judge agrees to be bound by the agreement if they accept it. If rejected, the plea is void.

It is important to note that when a verdict is rendered either by a jury or judge - the actual decision is either *guilty* or *not guilty*. There is no finding of "innocent." However, a defendant, if found not guilty, can be described as having been *acquitted*. A finding of "not guilty" reflects the fact the prosecution failed to prove guilt beyond a reasonable doubt, not that the defendant is innocent.

Resolutions of criminal cases other than by findings of not guilty and guilty include:

Alford plea. This is a guilty plea in which the defendant maintains their innocence, but acknowledges the prosecution has sufficient evidence to convict.

Nolo contendere. Used rarely and made famous by former Maryland Governor and Vice President Spiro Agnew. It means "no contest." In this case, a defendant does not dispute the charges but also does not admit to guilt.

Nolle pros. The state opts to end the prosecution and dismisses the charge.

Stet. A suspension of the prosecution with the state given the opportunity to reopen the case without the need for the defendant to be recharged. The majority of stets result in no further prosecution. However, a significant number are reopened because of the defendant's arrest on additional charges or their failure to live up to some agreed-to-condition within a reasonable time after the entry of the stet.

Probation before judgment (PBJ). This is a common resolution in many district and Circuit Court trials. The defendant is found guilty or pleads guilty. However, the final entry of judgment

is technically suspended. This gives the defendant an opportunity to request expungement of their record upon successful completion of the conditions or probation.

Insanity Pleas. The correct full name of the result of a successful imposition of an insanity plea is a finding of guilty and the special verdict of “not criminally responsible by reason of insanity.” The point is insanity is not a *not guilty* verdict. Maryland law makes it very clear the state must first prove all elements of guilt or the defendant must plead guilty before the special verdict of insanity should be considered. The Rules provide the option for a bifurcated, or split, trial of guilt first, and then litigation of the insanity issue. If found not criminally responsible, the defendant is not sent to prison, but committed to a mental hospital unit until it is proved they are no longer dangerous as a result of their mental disorder. Release from the hospital can only be accomplished by order of the court and almost always is a conditional release with detailed outpatient requirements imposed on the defendant.

Insanity relates to the defendant’s state at the time of the alleged offense – whether when they committed the crime, they were, as a result of a mental disorder or retardation, unable to substantially appreciate the criminality of their conduct or conform their conduct to the requirements of law. Insanity is not the same as incompetency. A defendant who at the time of trial is presently unable to assist in their defense or understand the proceedings is incompetent to stand trial and, if dangerous, is committed to a mental hospital until they regain competency. Incompetency can be raised by the state, the court on its own, as well as by defense counsel or defendant. Insanity, however, requires a written plea by the defense. A finding of not criminally responsible by reason of insanity is not always desirable for even a fairly mentally ill client. The indefinite commitment possibilities may be less attractive than a fixed jail term. Thus, there is a requirement that a special written plea of insanity be filed by the defendant to show a clear desire to pursue this course. Comparatively, few defendants are found insane while many have special health conditions of probation or parole.

Orders for evaluation of mental condition by the Health Department or other doctors is one of many pretrial orders issued in the period from bail review to trial. Orders for preservation and further scientific testing of evidence are not infrequent as is the collection of medical records and the like. Postponements are inevitable. Discovery and evaluations are often not complete; witnesses are often unavailable and court and counsel calendars are jammed. However, postponements often serve as part of the negotiation process. Victims as well as defendants often need time to sort out the situation and to reassess their own expectations of the criminal justice system.

Jury Selection

Jury selection, or *voir dire* in Maryland is less elaborate than in many states and typically judges and litigants use the pattern jury instructions. The judge usually asks most of the questions and in a close-ended fashion. Much of the questioning is done of the group with jurors approaching the bench usually only for the more “personal” questions. Jurors with clear bias are struck *for cause*. The number of *peremptory challenges*, strikes for any reason (besides race and gender, which are

prohibited reasons), depends on the seriousness of the case. In most serious cases the defense gets 10 strikes while the state gets five. For cases where the defendant could get 20 years or more, the defense gets 20 strikes and the state gets 10 preemptory challenges. In the less serious cases, both sides get four strikes.

The Trial Process

The trial begins with opening statements from both sides.

The defense may wait until the beginning of its case but usually doesn't. The state goes first since it has the burden to prove beyond a reasonable doubt all elements of the offenses with which the defendant is charged.

In the presentation of its case, the state must put on evidence either in the form of witnesses, documents, scientific tests or stipulations (agreements between the parties as to facts) which are sufficient on their face to satisfy each requirement of each specific crime charged. At the end of the state's case, if sufficient evidence is not put on, the judge should grant the defense motion not to proceed further (*Motion for Judgment of Acquittal*) at least as to that particular charge. Similarly, at the close of trial, charges for which there is insufficient proof beyond a reasonable doubt are not to be submitted to the jury.

Frequently during trial, the lawyers approach the bench to argue evidentiary objections out of the presence of the jury. The jury shouldn't hear discussion of arguably prejudicial or irrelevant witness statements. These delays, however, are tedious for jurors and spectators. Making proper objections is critical. Appellate courts do not retry cases. They only review the record for alleged errors of the trial court in admitting or excluding evidence, instructing the jury and similar errors of law. The record must clearly reflect the alleged error and the party's objection to it. The lawyers have to be careful in preserving these errors for review by making timely objections for the record.

Movies and television programs often distort direct and cross-examination. The television lawyers often assume many facts not in evidence, use argumentative questions and elicit bombshell responses within one or two questions. The real world is different. Pretty mundane material often has to be brought out on direct examination. For example, time-consuming foundations for the admissibility of documentary and other tangible evidence must be laid before the evidence can be admitted. While there is less strictness in the form of questions than once existed, there are still requirements that direct examination questions be essentially non-leading (not suggesting the answer) and far more focused than the typical television movie argument-speech-question.

The general rule is judges, for the most part, should leave the tough questioning to the lawyers. Most judges do not jump into the fray and only sparingly ask some housekeeping questions of

the witnesses. In addition to making evidentiary rulings and managing the courtroom, a key judicial responsibility in criminal jury trials is instructing the jury. While the jurors are the sole judges of the facts, the weight of the evidence and credibility of the witnesses, it is the judge's job to explain the relevant law to be applied to the case. Instructions are subject to review by the appellate courts and frequently become a vehicle for new case law.

The last event before the jury retires to deliberate is the closing argument. The state with its burden of persuasion argues first with the defense going second. The state, however, is afforded time to rebut the defense.

Jury verdicts must be unanimous in criminal cases. All 12 jurors need to agree on a verdict of guilty or not guilty. When a jury reports it is hung and has not deliberated for an inordinate period of time, judges often give a so-called "Allen Charge" admonishing the jurors to work out their disagreements. However, if the jury remains deadlocked, eventually the judge will discharge the jury and the state may elect to retry the defendant at a new trial before a new jury.

When there is a guilty verdict, new trial motions are usually filed immediately by the defense, but those motions are rarely granted. The standard is very high for the trial court to set aside a jury verdict.

Sentencing

Sentencing practice in Maryland courts grant much discretion to the trial judge. Sentencing in District Court usually occurs immediately after the trial is concluded. In the Circuit Courts it is often held later. In serious cases, the judge usually first orders a pre-sentence report for criminal record and social-medical-psychiatric history. Sentencing considerations may include punishments, deterrents, and rehabilitation along with other factors. While the General Assembly has enacted some mandatory minimum sentences, most crimes require relatively high maximum sentences but no rigid minimums. Sentencing guidelines for Maryland courts are advisory only. While plea bargains can specify a particular sentence, absent such a binding plea, the sentencing judge usually has much latitude in imposing the sentence – from life without parole in first-degree murder to probation before judgment for many charges. If a motion is filed within 90 days of the sentence, a judge may also exercise revisory power over a sentence already imposed and change it. In criminal matters, the revisory power is in effect for five years from the date of sentencing.

Appeals

Of course, defendants who are convicted have a lengthy appeal process open to them. In District Court, cases which are appealed go to the Circuit Court *de novo*, that is, the case is re-tried as if it had never been heard; if that case is appealed from the Circuit Court, it would be within the discretion of the Court of Appeals to decide whether it will hear the appeal.

For cases originating in the Circuit Court, appeals begin in the Court of Special Appeals. The next level of appeals would be the Court of Appeals, the state's highest court, which has the discretion to determine which cases it will or will not hear. Once the Court of Appeals decides or declines to review a case, there is no further review within the state court system. Review by a federal court may be available, either directly or by appeal to the U.S. Supreme Court, or collaterally by action such as a *habeas corpus* petition in the U.S. District Court, if for example, a violation of federal constitutional law is alleged. Statutory provision and rules allow for certain post-conviction petitions.

For more information about criminal procedure, consult *Title 4 of the Maryland Rules and the Criminal Law and Criminal Procedure volumes of the Annotated Code of Maryland*.

Overview

In the area of criminal law, the responsibility of prosecuting all criminal cases generally rests with the State's Attorney for the jurisdiction in which the offense occurred. In Maryland, each political jurisdiction (the counties and Baltimore City) are served by an elected State's Attorney, who serves a four-year term. Aiding the State's Attorney in the performance of their duties are a number of Assistant State's Attorneys who are appointed by, and serve at the pleasure of, the State's Attorney. The number of Assistant State's Attorneys varies from county to county, depending on the population, caseload, and the appropriation of funds by the local government.

The size of the various State's Attorneys' offices in Maryland range from three prosecutors in smaller jurisdictions to hundreds in Baltimore City. Most offices have at least one deputy State's Attorney, who serves as second-in-command. Many offices aid law enforcement by giving advice on an investigation and by serving as the legal advisor to law enforcement. Several offices have civilian investigators hired by the State's Attorney.

Many larger offices have specialized units handling specific crimes – some are exclusive units and handle only specific types of cases. These units are typically narcotics, white-collar crime or fraud, and violent crime/homicide units. Additionally, larger offices are divided into divisions, based on where the case will be heard. In those offices you will find District Court, Circuit Court and Juvenile Court divisions.

Purpose: The two major functions of the Office of the State's Attorney are (1) to prosecute at trial all violations of Maryland law that have a criminal sanction, and (2) to investigate criminal activity within its jurisdiction. Prosecutors have several tools available to fulfill this function. The State's Attorney has the power to issue subpoenas to compel the release of records held within its jurisdiction. Further, the State's Attorney may request the issuance of a grand jury subpoena for records anywhere in Maryland. Additionally, the grand jury may summons an individual to appear before it and answer questions regarding matters under investigation by the State's Attorney.

All proceedings, summonses, subpoenas, and testimony before the grand jury are strictly confidential and may not be revealed by the prosecutor. This protects the target of the investigation from what may be unfounded allegations. Most prosecutors will answer any questions dealing with a matter before the grand jury with "no comment."

Powers: The office of the State's Attorney is prescribed by the Maryland Constitution and Maryland statutes. The powers of the State's Attorneys themselves are nowhere specifically enumerated and defined with the result the State's Attorneys are vested with the broadest discretion.

What has been described by Maryland's highest court as "the State's Attorney's most awesome discretionary power" is the power to determine whether to prosecute a particular case. Many factors are considered in exercising this power.

Probably the most important factor is whether there is sufficient evidence to prove the accused "guilty beyond a reasonable doubt." There may be cases where the State's Attorney believes personally a person is guilty, but the evidence is not legally sufficient to meet this standard of guilt. A simple example of this type of case is of a person who is found with illegal drugs in their possession, but those drugs were found as a result of an illegal search. Because the drugs were found illegally, the evidence cannot be used in court and the case must be dismissed.

Other factors used to decide whether to prosecute include:

Seriousness of the offense: There are times when not every case can be prosecuted because of a lack of prosecutors, judges, courtroom space, etc. For example, a murder case must be brought to trial today or it will be dismissed for lack of a speedy trial. On this same day, a minor assault, no-injury-to-victim case is also due to come to trial. Which case do you prosecute?

Interest of justice: For example, a parent is charged with violating the law concerning access to firearms by minors. In this case, a small child found the firearm and accidentally killed himself. Should the State's Attorney's office proceed with the prosecution of the parent who, if found guilty, receives only a fine and no jail time as the penalty?

Request of the victim: In some cases, the victim of a crime does not want to proceed with the case. It should be noted in any criminal case, the State of Maryland and the defendant are the parties in the case. The victim is only a witness. Therefore, a victim cannot actually decide to "drop" a case. The decision to prosecute or not is the State's Attorney's alone. It cannot be overruled by anyone – the Attorney General, the courts or the Governor.

Overview

The Maryland Public Defender's Office is responsible for handling the criminal defense of many low-income Marylanders charged with crimes carrying a possible jail sentence or fine greater than \$500. Under the provisions of the law, the Public Defender is to provide legal representation, including any necessary related services, for anyone meeting required income levels. Representation by the Public Defender covers criminal trials, appeals, juvenile cases, and post-conviction proceedings, as well as matters of probation and parole revocations, dispositions of detainees, and involuntary commitments to mental institutions. The office represents parents in abuse and neglect cases as well as "termination of parental rights" petitions.

All of the Assistant Public Defenders serve at the pleasure of the Public Defender, who oversees the entire system. The Public Defender Districts conform to the geographical boundaries of the District Court. In some cases, the Public Defender's office will "panel out" the matter to private attorneys who will be paid by the state to handle the case.

The office has nine statewide divisions.

In the area of "**appellate review**" concerning criminal cases on appeal, the Appellate Division of the Public Defender's office is responsible for the following:

Administration of all work in the appellate courts in conjunction with the District Public Defenders.

Qualification of applicants for appellate services.

Representation of clients in the Court of Special Appeals, Court of Appeals and the U.S. Supreme Court.

Establishment of approved panel attorney lists: assignment of cases to panel attorneys; authorization of fees to panel attorneys.

The **Post-Conviction Defender Division** is responsible for the following:

Advice and assistance to indigent inmates in Maryland correctional facilities regarding their criminal convictions.

Representation of indigent inmates in post-conviction, habeas corpus proceedings, parole violations and detainer matters.

The **Mental Health Division** is responsible for the following:

Provides assistance of counsel to every indigent person involuntarily confined to a facility under the jurisdiction of or licensed by the Maryland Department of Health.

Representation of indigent admittees to mental institutions.

Six month and annual reviews of individuals committed to mental institutions.

Representation of indigents seeking individual judicial release from mental institutions.

In **CINA (Child In Need of Assistance)** cases, the Parental Defense Division of the Public Defender's Office is responsible for the following:

Provides representation for parents and legal guardians in cases where allegations of abuse or neglect threaten the removal of their children by the state. The office also provides representation to parents in termination of parental rights cases.

Other Divisions include Parental, Forensics, Juvenile Protection, Major Crimes and Complex Litigation, Social Work and Training.

For more information, you can contact the *Office of the Maryland Public Defender* at www.opd.state.md.us.

The Attorney General is the chief legal officer of the state. The Attorney General's Office has general charge, supervision and direction of the legal business of the state, acting as legal advisors and representatives of the major agencies, various boards, commissions, officials and institutions of state government. The Office further represents the state in all cases pending in the appellate courts of the state, and in the U.S. Supreme Court and lower federal courts.

The Office is comprised of divisions and specialized units including:

- The **Antitrust Division** enforces the Maryland Antitrust Act in order to foster fair and honest competition in the state of Maryland. In addition, the Division may represent the state and all Maryland political subdivisions in damage actions brought under federal and state antitrust statutes.
- The **Civil Litigation Division** handles major litigation in which the state, its agencies, or officers, is a party. This includes defending the state and state employees in state and federal trial and appellate courts as well as filing suits on behalf of the state.
- The **Civil Rights Division** handles reviewing and responding to civil rights complaints from constituents that are directed to the Attorney General. This division also engages in community outreach activities to educate the public about civil rights. In addition, it reviews and evaluates possible civil rights violations based upon patterns or practices that have a significant impact in Maryland. The Office also partners with the Maryland Commission on Civil Rights as well as other organizations or government agencies on matters related to discrimination and injustice and monitors legislation and administrative rules that involve civil rights with a view toward making recommendations.
- The **Consumer Protection Division** provides a mediation and arbitration service to consumers to help resolve complaints against businesses and health insurance carriers; registers health clubs and new home builders; and produces a wide array of consumer education materials.
- The **Contract Litigation Division** represents state agencies in litigation over disputes relating to state contracts and the award of state contracts under the State General Procurement Law. The Division also provides advice regarding a variety of procurement issues.
- The **Correctional Litigation Division** provides legal representation for state officials and correctional employees who are sued by prisoners in federal and state courts for acts that rise within the scope of their performance of their duties.
- The **Courts & Judicial Affairs Division** represents and advises the judicial branch of state government. In addition, the Division represents select independent agencies, such as the Maryland Tax Court and the Office of Administrative Hearings.
- The **Criminal Appeals Division** represents the state in all criminal matters in the appellate courts of Maryland and in the federal courts at all levels. The Division also offers advice and counsel to the State's Attorneys offices in Maryland as well as other

state agencies, and reviews legislation relating to criminal law for constitutionality and legal sufficiency.

- The **Criminal Investigations Division** investigates and prosecutes a broad range of criminal activity occurring against and within state government, including cases involving theft, fraudulent misappropriation by a fiduciary, misconduct in office, bribery, perjury, falsifications of public records, and criminal violations of the Maryland tax laws.
- In addition, the Division investigates and prosecutes white collar crime, health care fraud, gun trafficking, insurance fraud, and multi-jurisdictional crimes.
- The **Educational Affairs Division** is the legal advisor to all state educational institutions, boards and commissions.
- The **Securities Division** protects Maryland investors from investment fraud and misrepresentation.

Other specialized units of the Office include:

- The **Environmental Crimes Unit** comprised of criminal prosecutors from the Attorney General's Office and investigators from the Maryland State Police, which investigates and prosecutes environmental crimes.
- **Health Decisions Policy** develops resources for individuals and health care professionals concerning Maryland's Health Care Decisions Act and related law.
- The **Juvenile Justice Monitoring Unit** investigates the needs of children under the jurisdiction of the Department of Juvenile Services and determines whether their needs are being met in compliance with state law. This includes evaluating conditions of facilities housing youth, reporting on treatment of and services to youth, and investigating allegations of child abuse.
- The **Medicaid Fraud Control Unit** program investigates and prosecutes provider fraud in statewide Medicaid programs.
- **Opinions and Advice** gives legal opinions as to the construction or interpretation of the law as it affects various agencies of the state and gives legal opinions to local subdivisions on questions involving substantial statewide interest.
- The **People's Insurance Counsel Division** reviews homeowner's insurance matters and medical professional liability insurance matters pending before the Maryland Insurance Commissioner to determine the impact on consumers. The People's Insurance Counsel may intervene on behalf of consumers before the Commissioner and in court.

The Office also is the legal adviser to virtually every agency in each of the three branches of state government and can be reached at www.marylandattorneygeneral.gov.

The Office of the Maryland State Prosecutor was established by Constitutional Amendment in 1976. An independent unit within the Office of the Attorney General, the State Prosecutor's office began operation January 1977. Nominated by the State Prosecutor Selection and Disabilities Commission, the State Prosecutor is appointed to a six-year term by the Governor with the advice and consent of the Senate.

The State Prosecutor may investigate certain criminal offenses on their own initiative or at the request of the Governor, the Attorney General, the General Assembly, the State Ethics Commission, or a State's Attorney. These include:

- Violations of state elections law
- Public ethics
- Bribery involving public officials or employees
- Misconduct in office by public officials or employees
- Extortion, perjury, or obstruction of justice related to any of the above

At the request of the Governor, Attorney General, General Assembly, or a State's Attorney, the State Prosecutor also may investigate alleged crimes conducted partly in Maryland and partly in another jurisdiction, or in more than one political subdivision in the state. In investigating and prosecuting cases in which they are authorized to act, the State Prosecutor has all the powers and duties of a State's Attorney.

If a violation of the criminal law has occurred, the State Prosecutor makes a confidential report of these findings with recommendations for prosecution to the Attorney General and the State's Attorney having jurisdiction to prosecute the matter. Such a report need not be made to the State's Attorney, unless, the State Prosecutor's findings and recommendations contain allegations of offenses committed by the State's Attorney. If the State's Attorney to whom the report is given fails to file charges within 45 days in accordance with the State Prosecutor's recommendations, the State Prosecutor may proceed with the prosecution. The State Prosecutor may proceed immediately with the prosecution of offenses presented in a report if they are alleged to have been committed by a State's Attorney.

Where no violation of the criminal law has occurred, or prosecution is not recommended, the State Prosecutor reports their findings to the person requesting the investigation. This only occurs when the Governor, Attorney General, General Assembly, State Ethics Commission, or a State's Attorney requests the investigation. In all other cases, investigations by the State Prosecutor are conducted by their own initiative and no reports are required if there is no violation of law or no recommendation for prosecution. Only the person who is the subject of an investigation may request a report required by statute be made public.

The *Office of the Maryland State Prosecutor* can be reached at www.osp.maryland.gov.

The Juvenile Court handles cases involving youths who are under age 18. The court has jurisdiction even if the youth turns 18 before the case is adjudicated, and jurisdiction continues until the age of 21. Cases fall within these categories:

Child in Need of Assistance (CINA), involving a juvenile who has been physically, sexually, or emotionally abused or neglected by someone responsible for their care, or victims of sex trafficking.

Child in Need of Supervision (CINS), involving a juvenile who has committed such an offense as truancy, violation of curfew laws, running away, habitual disobedience or ungovernable behavior; citations which violate the alcoholic beverages laws, such as possessing liquor or misrepresenting one's age to obtain it, or drinking on school grounds; children who run away across state lines, either into or out of Maryland; violations of compulsory public school attendance; emergency medical treatment; termination of parental rights; and Department of Social Services adoptions.

Maryland's counties and Baltimore City have juvenile courts, which are part of each Circuit Court. The Juvenile Court also has jurisdiction over adults charged with contributing to conditions that cause a child to be delinquent or CINA.

The goal of Juvenile Court is to give children and parents the treatment and resources they need to stop cycles of delinquent behavior, end abuse and neglect and provide medical care so the children have the opportunity to become productive citizens, rather than graduate to adult criminal court or suffer chronic, life-threatening abuse and neglect. To shield juveniles from the "taint of criminality," delinquency proceedings are civil, not criminal; and special terms are used for the parties and phases of the proceeding:

Criminal Court	Juvenile Court
defendant	respondent
indictment	petition
trial	adjudicatory hearing
the defendant pleads guilty/not guilty	the juvenile may admit/deny

	involvement in offense
sentencing	disposition
a judge presides over the trial	a judge or magistrate may preside over the hearing, depending on the county where the case is heard

Magistrates are family law experts who conduct juvenile hearings. Magistrates make recommendations to a judge as to how the case should be decided. The judge may accept or reject those recommendations. For instance, in Montgomery County, judges rather than magistrates hear juvenile cases.

Magistrates are authorized by Maryland law to hear certain cases, as assigned by a Circuit Court. Most typical are family law, child in need of assistance and juvenile delinquency cases. Magistrate determinations are made as recommendations for adoption by a judge. If a party disagrees with the recommendations, written exceptions are filed for consideration by a judge, after opportunity for a hearing. The judge may issue a ruling consistent with the judge's independent consideration of the questioned recommendations of the magistrate.

Steps to Resolving a Case in Juvenile Court

Delinquency Cases

Delinquency cases usually start with the filing of a petition, which is the charging document, followed by an adjudicatory hearing. If the child is considered dangerous or is a runaway, proceedings in Juvenile Court begin with a detention hearing. The judge or magistrate may detain the juvenile in a secure facility pending the adjudicatory hearing, or more frequently supervise the youth in the community.

If the juvenile is not detained, the adjudicatory hearing must take place within 60 days after the youth was arraigned or counsel entered their appearance. Some counties, however, may require a hearing with counsel before adjudication to advise the child and their parents about their rights and about the charges as well as to make decisions about attorney representation. If it is found the child committed the alleged acts, a disposition hearing is held. This hearing determines two key issues: whether the child is in need of guidance, treatment or rehabilitation and, if so, whether the child is delinquent.

If the child is determined to be delinquent, the court determines the care, rehabilitation or treatment the child needs. The court may order the services of the Department of Juvenile

Services, Department of Social Services, and types of service providers appropriate for the youth's reform, safety and accountability.

For delinquency proceedings, adjudication and disposition are two separate hearings, with five days notice given after adjudication, before moving on disposition. Finally, a restitution hearing may be held to determine the amount and awarding of up to \$10,000 to victims who suffered damage directly resulting from a delinquent act. This stage is a separate, two-part proceeding against the child and their parents.

The state must prove the victim's personal property was stolen, damaged or destroyed as a direct result of the delinquent act and/or the victim had medical, dental, hospital or funeral expenses, and the youth/parent or guardian's ability to pay restitution. The Judgment Restitution Program enforces periodic payments to the victim from the juvenile and/or parents and collects court costs. Making restitution for their acts may also be a condition of the juvenile's probation.

Child in Need of Assistance

CINA cases generally begin with a shelter care hearing. A child may be placed in shelter care if the judge or magistrate determines it would be contrary to the welfare of the child to remain at home. After the shelter care hearing, the next phase is adjudication. The purpose of the adjudication hearing is to determine whether the allegations set forth in the CINA petition are true. If the judge or magistrate finds the allegations of abuse and/or neglect are true, the case moves into the disposition phase. At disposition, the court first determines if the child needs the court's assistance, and if so, finds the child to be CINA.

The court may return the child to a parent under a specific order, place the child in foster care, or award custody and guardianship to someone who can provide appropriate care. In CINA cases, adjudication and disposition hearings are held separately but usually on the same day.

If a child is in an out-of-home placement for a year or longer, the court must conduct a permanency planning hearing. At this hearing, the court can order the child be returned to a parent or guardian, or the permanency plan changed to placement for adoption or emancipated, or it can order any other course of action that will be in the child's best interest.

After both shelter and the initial permanency planning hearing, a similar hearing must be conducted every six months until the child is returned home, placed permanently, or parental rights are terminated.

Special Rules for Juvenile Court

The juvenile and their parents have a right to legal counsel at each stage of a juvenile court proceeding. Hearings are informal; there is no jury. However, the rules of evidence do apply.

Delinquency cases must be proven “beyond a reasonable doubt,” as in criminal cases. In CINA or CINS cases, the “preponderance of the evidence” standard is used. “Clear and convincing evidence” is the standard for termination of parental rights. Once a child is under the authority of Juvenile Court, the court keeps that authority until it is terminated, or until the child turns 21, whichever occurs first.

Cases involving certain offenses by juveniles go directly to criminal court, although a judge may waive (transfer) the case to juvenile court. Among the offenses:

- Children 14 or older who are charged with crimes which, if committed by an adult, are punishable by life in prison;
- Children 16 or older charged with robbery or attempted robbery with a dangerous or deadly weapon;
- Children 16 or older charged with non-jailable traffic/boating offenses.

Media Guidelines for Covering Juvenile Cases

The 1995 case, Baltimore Sun Co. v. State, has influenced how the media reports on juvenile cases. Guidelines include the following:

- Court records of juveniles are confidential, and may only be opened by a court order, or for “limited educational purposes.”
- To protect the privacy of the children involved, juvenile proceedings may be closed to the public.

While a court can reasonably restrict the media’s use of information obtained from confidential juvenile proceedings, it cannot control the media’s use of materials obtained from other sources. It also cannot condition the media’s access to juvenile hearings in the newspaper, magazine, etc., publishing only the information specified by the court. While a Juvenile Court may decide to exclude the media from a proceeding, there are constitutional limitations to that power.

Confidentiality of Juvenile Records

The confidentiality of juvenile court records is governed by Courts and Judicial Proceedings (CJP) § 3-827 (for child in need of assistance [CINA] proceedings) and by CJP § 3-8A-27 (for delinquency, CINS and citation cases). Both statutes are similar – the child’s court record is confidential and its contents may not be disclosed, by subpoena or otherwise, without a court order for good cause shown or as provided by that statute. §§ 3-827(a)(1); 3-8A-27(b)(1).

Juvenile Cases Open to the Public

If a juvenile is alleged to have committed an act that would be a felony if committed by an adult, then that case is open to the public. However, the court may choose to exclude the general public from a hearing if there are good reasons to keep the proceedings confidential. Adjudications and dispositions are normally announced in open court.

For more about juvenile justice, look in *Title 11 of the Maryland Rules*, and in the *Annotated Code of Maryland, Family Law and Courts and Judicial Proceedings Articles*.

Overview

Civil cases are filed either in the district or Circuit Court, usually depending on the type of case and/or the amount of money at issue. The county in which the case is filed (the *venue*) is governed by law and depends on various things, such as the type of case, where the plaintiff lives, where the defendant lives or does business, and strategic concerns of the attorneys.

The Complaint

The civil litigation process begins when at least one *plaintiff*, who is suing at least one *defendant*, files a *complaint* within the clerk's office. The complaint is an excellent starting place to determine the nature of the plaintiff's claims and the nature of relief sought, such as money or equitable relief where a court orders something to be done or not done. The complaint generally includes all theories of recovery, some of which appear to contradict each other and may make the complaint very confusing. Often, the money sought is far in excess of what the plaintiff actually hopes to recover and may be chosen for shock or publicity value. Many cases are now simply filed for an amount "in excess of \$75,000" without listing a specific amount sought. It is worth remembering, at this point, the statements in the complaint are only allegations. The complaint also lists the name and address of the plaintiff and defendant and contact information for the plaintiff's attorney. From time to time, the allegations, claims, and type of relief sought in the complaint may change, so look in the file for an *amended complaint*. The complaint and virtually all other documents filed are available for public viewing. Note the case number, which is assigned to every complaint, for ease in locating the case in the online Maryland Judiciary Case Search or viewing the documents online through Maryland Electronic Courts.

To keep cases moving through the system efficiently, Maryland courts have implemented an automated case management system, which schedules cases according to their complexity. To assist in this process, the plaintiff in Circuit Court must file a Case Information Report with the complaint, which sets forth some basic information as to the nature of the plaintiff's claim and requests a case management "track" (such as short, medium or complex). The court will then issue a *scheduling order*, which sets the deadlines in which the case proceeds, including discovery and motions deadlines, deadlines to name expert witnesses, a date for a pre-trial settlement conference and, sometimes, a trial date. These dates can, and often do, change.

The Response

Once the complaint is filed, the clerk issues a *writ of summons*, also referred to as *process*, and typically returns it to the plaintiff or the plaintiff's attorney, if there is one, for *service* of the complaint on the defendant. Service of the writ formally brings the defendant within the jurisdiction of the court. There are time limits and exact procedures as to how the summons and complaint are to be served. In the Circuit Court, once served, the defendant usually has 30 days to file an *answer* or a *motion to dismiss* in which a hearing may be requested. In the District Court, once served, the defendant usually has 15 days to file a *notice of intention to defend*.

In the Circuit Court, the answer does not provide much useful information to the public other than the name and contact information for the defense attorney. It is often a fairly standard document which may generally deny all liability. It often includes a wide range of defenses that might have little relevance to the particular case. This is done to ensure none of the possible defenses are waived.

In the District Court, the notice of intention to defend is similarly standard. It states only the defendant intends to be present in trial and it may set forth some type of defense.

Discovery (learning about the other side's case)

The point of *discovery* in a civil trial is that neither side is supposed to be surprised or ambushed in court by the claims, defenses or evidence put on by the other side. Therefore, parties are entitled to a broad exchange of information in which they can inquire about anything, such as a party's contentions or damages, so long as it is relevant or may lead to relevant information about some issue or defense in the case and as long as it is not privileged by law, such as information concerning discussions between attorney and client or protected by the attorney work-product doctrine which protects the attorney's thought processes. Disputes between the parties over discovery are very common and unless resolved by the parties themselves, may be resolved by the judge.

Written Discovery

When a plaintiff serves a complaint upon a defendant, the attorney will likely serve written requests for discovery upon the defendant at the same time or soon after. Similarly, when the defendant answers the complaint, the response is often accompanied by written discovery upon the plaintiff. Written discovery primarily includes documents known as *interrogatories* and *request for production of documents*. Interrogatories are written questions directed to the other parties regarding that party's contentions and knowledge of facts relevant to the case. The answers are to be made under oath. Interrogatories are available in both circuit and District Court cases. The request for production of documents requires the party to which the request is directed to produce documents relevant to the case such as medical records, records maintained in the course of business, insurance information, photographs and logs. Document production exists in both courts, but it is much broader in a Circuit Court case.

Another valuable form of written discovery, in the Circuit Court only, is called a *request for admissions*, in which a party will ask the opposing party to admit or deny certain facts or contentions in a case. The opposing party must respond within 30 days or all requests may be deemed admitted.

A party not receiving responses or believing the responses received to be incomplete may file a *motion to compel*, seeking an order of court to get the information. Likewise, a party seeking protection from another party's request, such as a request for privileged information, may file a motion for a *protective order*. Discovery disputes are common and may become quite contentious.

Unfortunately for today's inquiring reporters, written discovery requests and responses are not filed with the clerk of the court, so they cannot be found in the court file. The only paper filed is a *notice of service*, which certifies the various documents were served, that is, mailed or hand-delivered to the opposing party. To get the information they seek, reporters will need to contact the parties or their attorneys and request copies.

Non-Written Discovery

The primary form non-written discovery, usually available only in the Circuit Court, is the *deposition*. After the complaint is filed and answered by the defendant, the scheduling of depositions can begin. This allows attorneys for all sides to question a party, expert or other witness face-to-face in order to gather all information needed for the deposing party to effectively present a case and sometimes just to take stock of the other party and the witnesses. The deposition is under oath and a court reporter is present to transcribe all testimony. It is usually conducted in a lawyer's office and is not public, though portions of a transcript could be used in a party's motion or response to a motion. A deposition transcript is not filed with the clerk. Under certain circumstances, the deposition can be taken on video and audio record or via telephone and sometimes in response to written questions submitted in advance.

Throughout the preparation of a case, less formal modes of discovery also take place, such as talking to witnesses, photographing the scene, consulting experts on important issues in the case, researching the claim history of a particular company or individual or conducting surveillance.

Motions

A *motion* is a written paper submitted by a party to the court for a ruling on a particular request. Motions can take place in many forms. Before a complaint is even answered by a defendant, the defendant must raise some issues via a motion to dismiss, if they are to be raised at all. Otherwise, they are considered waived. Other issues may be raised by a motion at any time. Often, the issues are technical in nature and relate to whether the lawsuit was served in the proper court or county, was properly served upon the defendant or was served upon the proper defendant.

In Circuit Court, issues normally raised by pre-trial motion include the statute of limitations, lack of jurisdiction over the subject matter, failure to state a claim upon which relief can be granted, failure to join a party, and governmental immunity. One of the most valuable tools available to

any party (and perhaps the motion of most interest to journalists) is the *motion for summary judgment*, which often uses the facts and materials gathered during the investigation of the case and the sworn answers taken in discovery with interrogatories or depositions. Any party can file such a motion, asking the court to rule in its favor on the case or an issue “as a matter of law,” that is, the evidence is so clear a judge or jury hearing the case could only find for the party filing the motion. The public often expresses outrage at frivolous lawsuits and the motion for summary judgment may be an effective tool to end such litigation.

All motions must be filed with the clerk of the court and they are available for viewing in the case file. At the request of either party, a hearing may be held on the motion, including discovery motions, such as a motion to compel to make a party provide something, or a motion for protective order to prevent a party from having to provide something.

Occasionally, when the motions are pending, the court file will be sent to the judge for a ruling on the motion, so the file may be temporarily removed from the clerk’s office. The decision or order by the judge will also be in the file, sometimes accompanied by a written decision setting forth the basis for the court’s decision.

Alternative Dispute Resolution/Settlement

Maryland courts strongly support efforts to resolve cases before trial by mandating or referring cases and parties to alternative dispute resolution (ADR) procedures. While parties can agree among themselves to particular types of ADR, such as mediation or binding arbitration, a common type of ADR is a settlement conference, which is a meeting between counsel and parties, before an active or retired judge or lawyer to discuss the strengths and weaknesses of the case with an eye toward resolving it before trial. Settlement, however, does not need to take place at the courthouse as it can occur at any time. If a case is settled, the plaintiff will sign a *release* and dismiss the claims against the defendant. Some releases contain confidentiality clauses, which vary, but often include a provision that the party is not to disclose the amount of money for which the case was settled. Some governments do not enter into confidential settlements as a matter of policy, so their settlement terms may be available under the Maryland Public Information Act. Whether governments are permitted to shield some of the terms from public scrutiny or penalize the other party for speaking publicly about the settled case, is an open legal question. *For further information about ADR procedures, see Title 17 of the Maryland Rules.*

Trial

The trials of district and Circuit Court cases are somewhat similar procedurally, if not stylistically, although District Court judges, who never have a jury, usually dispense with opening arguments and go right to the witnesses. Judges hearing a case without a jury normally have neither the time nor interest to sit through the normal courtroom dramatics present in jury cases, nor would such dramatics likely sway a judge. Non-jury cases are also much faster to try

since there is no need for all the extra procedures. All cases but small-claims cases follow the rules of evidence.

Prior to the commencement of a Circuit Court trial, the attorneys will often meet with the judge to discuss preliminary matters, such as any outstanding *motions in limine*, which are pre-trial motions to exclude or limit certain evidence, to propose jury instructions, to make stipulations, and similar actions. Often at this point the judge will attempt one last time to settle the matter prior to trial.

In a jury trial, the attorneys then begin the process of jury selection. The civil jury consists of six individuals, unlike the 12 required in criminal trials, often with at least one alternate in the event a juror becomes unable to serve or is disqualified. In a process called *voir dire*, questions are posed to potential jurors to inquire into such matters as their knowledge of the parties and the facts of the case and their background and attitude toward relevant issues. The parties may propose additional questions directed to the particular facts of the case, but unlike other states, Maryland judges have much more control over what the potential jurors can be asked and what role the attorneys play in the questioning. The attorneys have a list of potential jurors, from which they may make four strikes, called *peremptory challenges*. A party may also challenge any juror *for cause*, such as if the juror would not be able to disregard feelings about a certain issue and render a fair and impartial verdict.

After *opening statements* (which preview expected evidence but which are not evidence themselves), each side presents witnesses, exhibits and other evidence. At the close of the plaintiff's case, the defendant may make a *motion for judgment* contending the plaintiff did not put on enough evidence to satisfy the plaintiff's burden of proof. If this is denied, the defendant puts on a case. After all the evidence is in, the judge, in a jury trial, instructs the jury as to the law the jury is expected to follow when reaching its verdict. The parties then present their *closing arguments* (which are not evidence but which discuss the presence or absence of the evidence presented) and the jury retires to the jury room to begin deliberations. The jury's verdict and decisions on monetary awards must be unanimous. A party on the losing side may, if they made a motion for judgment, make a motion for *judgment notwithstanding the verdict* (JNOV) asking the judge to set aside the jury's verdict and find for the side making the motion. The parties may also make motions asking the court to add to or reduce the size of the award.

Any dissatisfied party may, within certain time periods, file other motions such as a motion asking the court for a new trial. The parties also have a right to appeal the court's decision, normally within 30 days of the entry of judgment.

Burden of Proof

In the usual civil trial, the plaintiff is required to prove the defendant liable by a *preponderance of the evidence*. That is, the plaintiff must prove it is "more likely than not" that the defendant is

liable. If the fact finder (the jury or the judge) believes the evidence is evenly balanced or “in equipoise” (50-50), then the verdict must be against the plaintiff, who did not meet their burden of proof. If the balance tilts even slightly, such as 51 percent in favor of liability, then the plaintiff has met their burden.

In some cases, like fraud, the plaintiff must prove a case by *clear and convincing evidence*. This is a much tougher standard than a preponderance of the evidence though it is not as tough a standard as “beyond a reasonable doubt” which is the standard to convict a defendant on a criminal charge.

For more information about civil procedure in a Circuit Court trial, consult Title 2 of the Maryland Rules. District Court civil procedure can be found in Title 3 of the Maryland Rules.

A Word about Trial Objections

Objections about procedure and evidence by attorneys and discussions about those objections can consume a significant amount of time during trial. Consequently, it may slow down and confuse the narrative quality of a witness’ testimony and the introduction of exhibits. Objections are necessary tools if an attorney (on behalf of the client) is to keep out certain evidence, have an error immediately corrected or if it is not corrected to preserve the issue for appeal. Sometimes attorneys may object for strategic purposes or to look in control or to shake-up the opposition. (This strategy can backfire if the jury believes the attorney is trying to hide something from them.)

The Maryland Rules governing trial procedure require objections to evidence be made when the evidence is offered, as soon as possible afterward or the objection is waived. Normally, the grounds for the objection need not be stated, so reporters may not fully understand the basis of the objection. Here are some of the objections commonly encountered at trial:

Objections to questions: Irrelevant; immaterial; privileged information; calls for a conclusion; hearsay; impermissibly leading; speculative; argumentative; beyond the scope of permissible questioning; calls for an impermissible opinion; compound question; calls for a conclusion; lack of foundation.

Objections to answers (which if granted are often followed by a Motion to Strike): Irrelevant; immaterial; privileged; conclusion; opinion; hearsay; unresponsive.

Objections to exhibits: Irrelevant; immaterial; no foundation or improper foundation (showing the exhibit is what it is purported to be), contains inadmissible material.

The judge normally rules on each objection as it comes, and will either *sustain* and uphold it, or *overrule* and reject it.

To find the Rules of Evidence, consult Title 5 of the Maryland Rules.

United States District Court

The United States District Court for the District of Maryland, not to be confused with the District Court of Maryland, is Maryland's federal court. Not every case can be brought here, as some can only be brought in the state courts. Generally, it is the forum for a variety of federal criminal matters arising out of violations of the laws of the United States and a wide range of civil disputes, including cases raising federal issues under the Constitution, laws of the United States or civil actions between residents of different states, including corporations, in which at least \$75,000 is in controversy. The court also includes the U.S. Bankruptcy Court, which maintains a separate clerk's office and docket.

The U.S. District Court in Maryland has two divisions: the Northern Division, which sits in Baltimore City, and the Southern Division, which sits in Greenbelt. In accordance with the U.S. Constitution, judges of the court are appointed by the President and must be confirmed by the U.S. Senate. They are appointed for life, but they can be removed through impeachment proceedings. These full-time federal District Court judges in Maryland preside over trials and hearings.

Assisting these "Article III" judges, named for the section of the Constitution authorizing their appointment, are "Magistrate Judges," who are permitted to handle a wide variety of criminal and civil matters and, with the consent of the parties, may preside over civil trials.

Decisions of the U.S. District Court for Maryland may be appealed to the U.S. Court of Appeals for the Fourth Circuit, which is based in Richmond. It often hears cases while sitting in the various federal courthouses in its jurisdiction. Fourth Circuit decisions may be appealed to the U.S. Supreme Court, though it is the rare appeal, which is taken up by the nine justices of the Supreme Court. The federal courts follow their own set of rules for civil, criminal and appellate courts.

Maryland federal District Court decisions are available at www.mdd.uscourts.gov (click on "Recent Opinions").

Decisions of the U.S. Court of Appeals for the Fourth Circuit are available at www.ca4.uscourts.gov (click on "Opinions").

Office of the United States Attorney

The U.S. Attorney for the District of Maryland serves as the federal government's lawyer in Maryland. U.S. Attorneys prosecute violations of the nation's criminal and civil laws, including

violent crime and narcotics, bank robberies, mail and wire fraud, tax fraud, firearms violations, environmental crime, white-collar crime, public corruption, and health care fraud, as well as civil and financial litigation. They also defend the federal government and its agencies in civil actions. The U.S. Attorney is appointed by the President and confirmed by the U.S. Senate.

Office of the Federal Public Defender

The Office of the Federal Public Defender was established in Maryland in 1974 as an agency within the judicial branch. The office is supervised by a Federal Public Defender appointed by the U.S. Court of Appeals for the Fourth Circuit. In addition to the Federal Public Defender, the office is staffed by many attorneys, an investigative staff, and a support staff.

The Federal Public Defender is responsible for providing legal defense services to indigent persons charged with federal criminal offenses. Representation is also provided for indigent defendants charged with committing certain misdemeanors on federal facilities such as Joint Base Andrews, Fort Meade, the National Institutes of Health, and the U.S. Naval Academy. A defendant's financial eligibility for representation and the appointment of counsel itself are made by the court. Defendants deemed financially eligible for appointed counsel are represented by the Federal Public Defender; other defendants are represented by private attorneys selected from a panel which is appointed by the federal court.

The Office of the Federal Public Defender is divided into two branches, serving each of the two federal court divisions in Maryland. Cases in Montgomery, Prince George's, Calvert, Charles, and St. Mary's counties are generally tried at the Southern Division Courthouse in Greenbelt. Cases in other counties generally are tried at the Northern Division Courthouse in Baltimore.

Open Meetings Act

Caution: The Open Meetings Act provisions change frequently with varying effective dates. This guide provides a quick reference to general principles of the Act. For the most current information regarding the provisions and nuances of the Act and the entities to which it applies, please refer to the website link listed at the end of this section.

Maryland's Open Meetings Act is a statute that requires many state and local public bodies to hold their meetings in public to give the public adequate notice of those meetings and to allow the public to inspect meetings minutes. The Act permits public bodies to discuss some topics confidentially. The Act's goals are to increase the public's faith in government, ensure the accountability of government to the public, and enhance the public's ability to participate effectively in our democracy.

A meeting will generally be subject to the Act if a quorum of the members of a public body has convened to conduct public business. The Act does not apply to a public body's performance of the judicial function (e.g. courts) and most quasi-judicial functions. However, it does apply to licensing, permitting, and many land use discussions. The Act applies only in a limited way to the performance of merely "administrative" functions. Some public bodies are governed by laws that impose more stringent requirements. If so, those requirements apply.

The Open Meetings Compliance Board issues advisory opinions in response to written complaints about violations of the Act. The Compliance Board is an independent state entity and its three members are appointed by the Governor. Although the Compliance Board is not part of the Office of the Attorney General, the office provides the board with administrative staff and legal advice. It also publishes its opinions and notices on the Office of Attorney General's website. The Compliance Board has no office or budget of its own and its members serve without compensation.

Procedures for meetings subject to the Open Meetings Act:

When a public body conducts a meeting that is subject to the Act, several actions must occur before, during, and after the meeting.

Before

- Give "reasonable advance notice" of the meeting to the general public which could be on a website if the body has one, or posting at an accessible location, and keep a copy of the notice.
- Make an agenda available when notice is posted, or, if not yet determined, as soon as practicable, but at least 24 hours before the meeting.
- Make arrangements for the public to attend and for minutes to be kept in writing or produced as live, archived, and streaming audio or video.
- Comply with the Act's training requirements.

During

- Please note: part of the meeting might be closed to the public.
 - Verify the topic to be discussed falls entirely within one or more of the 14 “exceptions” that allow the closed session.
 - Give notice of the open meeting that must be held right before the closed session, so the presiding officer can hold the required public vote to close the meeting.
 - Arrange for the presiding officer to prepare a written statement with the required disclosures.
 - Arrange for minutes to be kept and adopted as sealed minutes of the closed session.
 - Arrange for someone to ensure the closed session discussion will not go beyond the exceptions and topics cited on the written closing statement.
 - Arrange to disclose in the minutes of the next open meeting, the following: a statement of the time, place, and purpose of the closed meeting; a record of the vote to close the meeting and the authority to do so; and a listing of the topics discussed, the persons present, and the actions taken.
 - For a meeting recessed to hold a closed administrative session, arrange to disclose, in the minutes of the next open meeting, the following: date, time, and place, persons present, and subjects discussed.

After

- Prepare the minutes for adoption as soon as practicable (including summaries of any prior closed sessions).
- Post the open-session minutes online or make them available for inspection and arrange to keep them for at least 5 years.

Additional procedures for a closed session:

The Act lists 14 topics a public body may choose to discuss behind closed doors after the public body has met specific conditions. The topics, referred to as “exceptions,” include such subjects as personnel discussions about particular individuals, the receipt of legal advice from the public body’s attorney, and subjects that must be kept confidential under other laws.

The conditions are the presiding officer prepare a written statement, or “closing statement,” that cites the part of the Act that contains the applicable exception, lists the topics that will be discussed in the closed session, and gives the public body’s reason for excluding the public. The presiding officer also must conduct a recorded vote, in the open session, on a motion to close the session. A member of the public in attendance may object to the decision and also may inspect the closing statement.

When the public body meets in closed session, the members may not discuss topics other than those listed on the closing statement. Likewise, their discussion of the topics they did disclose must fall within the scope of the exception they claimed. After a public body has met in a closed session, it must disclose some details about the session in the minutes of its next open session.

The following information is available on the Maryland Attorney General's website at www.marylandattorneygeneral.gov/Pages/OpenGov/Openmeetings/default.aspx:

Text of Open Meetings Act

Open Meetings Act Manual

A Quick Guide to the Open Meetings Act

Forms and Checklists

Procedures and opinions of the Open Meetings Compliance Board

Maryland Public Information Act

Caution: The Public Information Act contains many nuances that may not appear in this summary. This guide provides a quick reference to general principles of the Act. For the most current information and details regarding the provisions and nuances of the Act and the entities to which it applies, please refer to the Open Government website maintained by the Maryland Attorney General at

www.marylandattorneygeneral.gov/Pages/OpenGov/pia.aspx

Title 16 of the Maryland Rules expressly controls access to court records and where a conflict occurs between the PIA statutes and those Rules, the Rules control.

Basic elements of the Public Information Act

The public's right to information about government activities lies at the heart of a democratic government. Maryland's Public Information Act (PIA) grants the people of this state a broad right of access to public records while protecting legitimate governmental interests and the privacy rights of individual citizens. Requests for public records always begin with a government agency (state, county, or municipal). See the General Information and FAQ's section of the Attorney General's website listed above for additional guidance.

The PIA gives the public the right to access government records without unnecessary cost and delay. The PIA applies to all three branches of Maryland state government as well as local government entities. The PIA is found in the General Provisions Article ("GP"), §§ 4-101 through 4-601, Annotated Code of Maryland. It is similar to the federal Freedom of Information Act, which applies to federal executive branch agencies and independent federal regulatory agencies.

The PIA grants you the right to review the available records that are disclosable and to obtain copies of those records. It does not require an agency to answer informational questions or to create a record to satisfy your request. A "public record" is defined as the original or copy of any documentary material in any form created or received by an agency in connection with the transaction of public business. Included in this definition are written materials, books, photographs, photocopies, films, microfilms, records, tapes, computerized records, maps, drawings, and other materials.

Anyone can submit a PIA request, but not all government records are available. The PIA attempts to balance the public's right to access government records with other policies that respect the privacy or confidentiality of certain information. For example, some public records are confidential under federal or state statutes, under court rules or under various common law privileges such as attorney-client privilege and executive privilege. The PIA itself also protects certain records from disclosure, including adoption records, personnel records, and certain personal information in Motor Vehicle Administration records. In addition, some information contained in public records must remain confidential, including an individual's medical

information, confidential commercial information, and trade secrets. In some cases, these protections may be waived.

Other records may be withheld if the agency decides disclosure of those records would be “contrary to the public interest.” Examples of records subject to discretionary disclosure include investigatory records, information related to academic, licensing, employment examinations, and documents of a pre-decisional and deliberative nature. In some instances, the PIA grants a “person in interest” a right to access certain records that are otherwise not available to the public under the PIA. A person in interest is usually the person who is the subject of the record.

There is no central agency that is responsible for PIA requests. You should contact the agency that has the type of record you are seeking. If you are uncertain about what agency would have the record, you might review the Attorney General’s website for a list of the PIA representatives for various state, county, and municipal bodies, which is available online at http://www.marylandattorneygeneral.gov/OpenGov%20Documents/Appendix_J.pdf. You can also check agency websites, the government’s website, or contact your local library where the reference staff might be able to help identify the agency that has the particular type of record. As for to whom to direct your request, check the agency’s website. It should have the relevant contact information.

Although there is no particular form to use to make a request, some agencies have created request forms to help them respond to PIA requests. Often, there are methods for submitting a request through the internet. In some cases, a telephone call to the appropriate person in a government agency may satisfy your request for a document. In other cases, you will need to submit your request in writing. Address your request to the individual the agency identifies as its PIA contact. If you do not know who that is, address your request to the agency’s public information officer or to the head of the agency.

It is important you specifically describe the records you seek so the agency can research your request. Sometimes discussions with agency personnel will clarify your request and help the agency find the records you are seeking.

In many instances, an agency will be able to respond to your request immediately. In fact, for some frequently requested records, an agency may already have records available on its website. For example, the State Department of Assessments and Taxation makes property assessment information publicly available through its website. Otherwise, an agency normally is expected to comply with a PIA request promptly and, in any case, within 30 days. There may be instances where an agency needs additional time to locate and review the requested records.

The PIA allows an agency to charge a “reasonable fee” for copies of public records. An agency may also charge a reasonable fee for searching for a public record – a charge that may include the time required for locating and reviewing the record. The first two hours of search time are free, but an extensive search may prove time-consuming and therefore expensive. Thus, it is in both your interest and the agency’s interest to ensure a PIA request clearly and accurately

describes the records sought. Sometimes discussing your request with agency staff is the best way to gain access to the records you seek promptly and at little or no cost. Actual fee schedules sometimes may be found in agency regulations. Agencies may choose to waive fees in particular cases.

If an agency denies all or part of your request, it must provide you with a written explanation that includes the reason for the denial, the legal authority justifying the denial, and your appeal rights. You have three options to pursue if you are dissatisfied with the agency's response: (1) You can go to court to challenge any aspect of the agency's decision and if you prevail, the court may award attorneys' fees and damages; (2) If the agency has charged you more than \$350 and you believe that fee to be unreasonable, you can file a complaint with the Public Information Act Compliance Board; and (3) You can initiate informal mediation of the dispute through the Public Access Ombudsman.

Public Access Ombudsman

The Office of the Public Access Ombudsman was created by state law in 2015 and operates independently of the Attorney General's Office. The Attorney General appoints the Ombudsman and provides office space and staff support for the Ombudsman.

The Public Access Ombudsman mediates disputes under the Public Information Act which a requester and a records custodian have been unable to resolve themselves. The Ombudsman does not accept PIA requests on behalf of agencies and cannot compel the parties to act in a particular way. The Ombudsman's duties focus solely on attempting to resolve disputes between a requester and a records custodian about a pending request for public information. The information discussed during the mediation remains confidential unless the parties consent to its disclosure.

Public Information Act Compliance Board (PIACB)

The PIACB is an independent state entity consisting of five members who are appointed by the Governor. The board hears and decides complaints involving allegations a government custodian has imposed an unreasonable fee of more than \$350 under the PIA. The board cannot decide any other issues that may arise between a requester and a custodian of records under the PIA. The Office of the Attorney General provides administrative staff and legal advice to the board and publishes the board's opinions and notices on the Attorney General website.

For more details regarding the Public Information Act

The Office of the Attorney General publishes a detailed legal analysis of the PIA in the Maryland Public Information Act Manual. The Manual also contains the text of the PIA, the PIA representatives for state and local governments and agencies, and sample request letter to help you make a PIA request. www.marylandattorneygeneral.gov/Pages/OpenGov/pia.aspx

Wiretapping and Electronic Surveillance

Maryland law prohibits listening to or recording certain conversations over the telephone, conversations across other electronic media, and certain face-to-face communications. It is permissible to listen to a telephone conversation with a speakerphone or an extension, both of which are excluded from the definition of an electronic device.

The law prohibits the use of a mechanical device, such as an audio recorder or wiretap, to intercept or divulge the contents of a wire or electronic communication, or a mere private, oral conversation. Law enforcement agencies may bypass the law under certain statutory circumstances or with a court order. [In 2016, Maryland Rule 5-803, Hearsay Exceptions, was updated to allow electronic recordings of a matter made by a body camera worn by a law enforcement person or by another type of recording device employed by a law enforcement agency to be admitted into evidence as long as certain conditions are met. The Rule also allows for the accused to offer the body camera recording as evidence.]

A journalist wishing to record a telephone conversation must obtain the consent of all parties to the conversation. For legal protection later, obtain consent in writing in advance if possible, or if you record routinely, at least confirm consent orally once recording has begun. Federal Communications Commission regulations require any broadcaster to obtain consent before recording or broadcasting a person. However, under Maryland law and FCC regulations, consent to record or broadcast may be implied, such as speaking in the presence of a microphone or calling into a live talk show.

The law's prohibition applies to any electronic communication, such as a telephone conversation, but not to every face-to-face communication. Recording a live oral conversation is prohibited only if any party to the conversation enjoys a reasonable expectation of privacy. Courts decide on a case-by-case basis whether a reasonable expectation of privacy exists. Two persons speaking in their home probably have a reasonable expectation their conversation will not be overheard, but the same pair having a normal conversation in a public subway car are not protected against eavesdroppers. In a case of police surveillance, a Maryland court found no expectation of privacy by a prison inmate speaking to an acquaintance wearing a wire.

A separate Maryland statute prohibits, in the absence of consent of an adult resident, the use of a hidden camera on private property for the purpose of observing a person inside a private residence. Cameras not hidden from view are permissible. Maryland also prohibits the use of visual surveillance in bathrooms in retail stores under most circumstances, as well as surveillance with "prurient intent" of persons in most other private arenas and places of public accommodation. A violator of these statutes is guilty of a misdemeanor and subject to a \$1,000 fine or up to six months' imprisonment.

Conviction under these statutes carry civil and/or criminal penalties.

Federal law also provides statutory protections against electronic surveillance and eavesdropping. Generally, those protections are no more than the state law, but they can result in additional liability for a violation.

The Maryland law on Wiretapping and Electronic Surveillance appears at Title 10 Subtitle 4 of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland.

Criminal laws regarding camera and visual surveillance appear in the Criminal Law Article, Title 3 Subtitle 9.

The Law of Libel and Invasion of Privacy

In reporting the news, journalists should strive for one goal above and beyond all others and that is accuracy. Reporting the facts accurately does not insulate journalists from facing the typically unpleasant experience of being sued. Indeed, libel and invasion of privacy lawsuits often are brought not because a newspaper, television or radio station or online news source misstated the facts, but because the subjects of those reports feel they were not treated fairly.

The law does not purport to serve as a useful guide on fairness and some may say that's better left to the ethics experts. But, the law does provide an extensive guide to determine whether you can be held liable for reporting false statements of fact or invading someone's privacy. This brief synopsis describes the fundamental elements of a libel or invasion of privacy lawsuit, the defense to such claims, and some practical suggestions to avoid trouble altogether.

Elements of Libel

What is libel? What is slander? Is there a difference? Generally speaking, libel is based on the printed word, slander on the spoken word. In Maryland, libel and slander are treated the same. So no matter what medium you use to publish your story, the law is the same. To simplify matters, only the term libel will be used.

So, what is libel? The general definition of libel is a false statement of fact about another that tends to harm his reputation in the eyes of the community. An inquiry into any libel lawsuit starts with the "elements" a plaintiff must prove to a judge or jury to establish a legal claim for libel. Those elements are as follows:

Publication: A plaintiff must show a statement was "published" to a third person. In the media context, this typically is easy to prove, because the plaintiff has a copy of an online article or a TV or radio broadcast that shows others have read, watched or heard what was being said about them.

But publication is not limited to just these forms of expression. For instance, a letter you send to a third person, a scribbled note to a news source, even verbal statements or questions you ask a source over a telephone can all constitute "publication" even though the statements were not disseminated to a wide audience.

False Statement of Fact. The readers or viewers of the publication, or radio or TV station must reasonably believe the statement made by one person about another person falsely stated a fact as opposed to expressing an opinion about the second person. A more detailed explanation of the fact/opinion dichotomy is described later.

Of and Concerning Another. The statement must reasonably be read or viewed as pertaining to a specific individual or company, not an observation about an unidentifiable person or large group of individuals. In other words, your statement must reasonably identify another person or company, though it is not necessary you actually identify them by name.

Defamatory Meaning. The statement must diminish an individual's (or company's) reputation in the community, for example, by exposing that individual (or company) to public scorn, ridicule,

hatred or contempt. Thus, if you misstate the color of the mayor's eyes (calling them blue when they are brown) this will not support a libel claim because, even though the statement is false, it would not tend to diminish the mayor's reputation in the mind of a reasonable person.

Fault. The maker of the statement (whether it be the reporter, the newspaper, the magazine, or the radio or television station- even if online) must have been at fault in making the statement, either by being negligent or acting with "actual malice." These standards are discussed in more detail later.

Damage. The statement must cause a provable "injury" in the form of specific monetary harm, such as lost wages, or more nebulous harm, such as impairment of reputation and standing in the community, personal humiliation, or mental anguish.

Defenses to a Claim for Libel

So, how do you respond to a charge of libel? As in all *tort* (civil wrong) actions, there are certain defenses, which shield you from liability. Those defenses are as follows:

Substantial truth. Libel lawsuits often begin and end with the concept of falsity. A libel plaintiff must prove a challenged statement is false. Look at your own work. Is any given statement undeniably true, as far as you know? Maybe yes, maybe no. The law of libel, consistent with the freedoms our founding fathers envisioned, provides protection so long as the statement you published or broadcast is "substantially true," that is, if the gist or "sting" of what you wrote or broadcast is true, then you cannot be held liable. If the error in a given statement is immaterial and the publication or broadcast would have the same effect on a reader or viewer, regardless of the error, then you cannot be held liable.

Opinion. Recall a plaintiff must prove the defendant published or broadcast a statement of fact about them. A common refrain to an allegation of libel is: "but that was just my opinion!" But, it's not that easy. It is true pure statements of opinion cannot form the basis for libel liability. So, for instance, a statement that "the City of Baltimore has confusing street signs" is just too nebulous to subject the speaker of the statement to liability. Statements that amount to rhetorical hyperbole (for example: "Candidate Alfred Jordan is full of malarkey," or "the architect of Camden Yards must have blinders on") likewise do not reasonably assert a statement of fact. Instead, they amount to subjective evaluations and, thus, are not actionable.

But, many statements fall into the gray zone. The test to determine whether a statement is one of fact or opinion is: (1) whether the challenged statement can reasonably be verified as being true or false; (2) whether the context in which the statement is published suggests it is a subjective evaluation.

Thus, saying in a sports column retired Baltimore Oriole Cal Ripken was a "sloppy" fielder at third base is the writer's subjective assessment of Cal's abilities and would not be actionable. Such a statement is not subject to objective verification, and the context in which it is published – a sports column – alerts the reader to expect the writer's opinion. But, saying in a news article a businessman is a "corrupt" lawyer who "has illegally shielded millions of dollars in assets to avoid tax liability" could be proved true or false, and thus could subject the maker of the statement to liability.

Anytime you do express an opinion, it is advisable to state the facts upon which you base that opinion and keep in mind the context in which a statement is published or broadcast does not necessarily insulate you from liability. Even in areas where a reader or viewer is expecting a speaker's opinion – such as an editorial, op-ed piece, book review or even a sports column – a false statement of fact can subject you to liability.

Fair Report Privilege

A “privileged” communication is one that would be libelous, under normal circumstances, but the occasion on which it is made allows the statement to be made without liability. The privilege is granted on the theory the interest of the individual being libeled is outweighed by the public interest in the proceeding or report in which the statement is made.

The privilege to report about government activities may be the strongest defense to any libel action because it can shield you from liability even if a statement is false and even if the false statement injured someone's reputation. This privilege, commonly known as the “*fair report privilege*,” provides any publication or radio/TV station (or a private person, for that matter) cannot be held liable for the publication of defamatory statements, if the published statements are a fair and accurate account of what occurred during an official proceeding or were made in an official report. The privilege applies to reports about judicial, legislative, and other official government proceedings. The privilege applies even if the underlying statements being reported upon are not true.

With that being the case, you may report the content of police logs and city council minutes without fear of liability, provided your account is fair, accurate, and impartial. This same principal applies to reports about judicial proceedings and meetings of various legislative and other governmental bodies. Accounts of such reports and proceedings do not need to be verbatim accounts, but they should represent the various views expressed, assuming the views are contradictory. Take care to provide a balanced account of what you've read in a report or heard at a government meeting and avoid taking sides. For instance, if a council proceeding includes accusations of embezzlement against the mayor, but the mayor directly refutes the charges, a “fair and accurate” account of that meeting would reflect all the various views given and not just the as-of-yet unproved allegations.

Under current Maryland law, the fair report privilege also can be lost by reporters who (1) know the statement made in a government report or proceeding is false or (2) entertain serious doubts as to its truth.

The Fault Standards: Negligence or Actual Malice

We all know the President of the United States, the Governor of Maryland, and even a member of the County Council must prove something extra in order to prevail in a libel lawsuit. But, what is that “something extra” and what is the higher standard of proof?

There are three categories of plaintiffs: *public officials*, *public figures* and *private figures*. Both public officials and public figures must prove a media defendant published a false statement of fact with *actual malice*, that is, with knowledge a statement was false or with reckless disregard as to the statement's truth or falsity. This can be a difficult standard for a plaintiff to meet. Unfortunately, the term "actual malice" is confusing and often misunderstood. The term does not mean a reporter acted against a news subject with spite or ill will. Rather, in the land of libel law, the term "actual malice" means a publisher or broadcaster entertained serious doubts as to a statement's truth or falsity, or consciously disregarded the truth, for instance, by ignoring a reliable source's statement that what was about to be published was false.

Private individuals, on the other hand, merely have to prove "negligence," that is, proving the media failed to exercise ordinary care expected of competent journalists prior to publishing or broadcasting a false and defamatory statement about the individual. This is a lower, much easier standard for a plaintiff to meet than the "actual malice" required of public officials and public figures. It's hard to say how much "negligence" is too much. This decision typically is made on a case-by-case basis by a jury.

So, who is "public" and who is "private"?

Public officials include all of your elected officials, from the governor to the local county supervisor, but it extends beyond that. City managers, judges, school superintendents and other high level government workers typically will be considered public officials for the purposes of libel action, provided the article or broadcast report relates in some way to their official duties. Other government officials – such as public high school teachers and mid-level bureaucrats – may similarly be treated as public officials if the stories relate to their official duties. But, low-level government workers, in most cases, will be considered private individuals for libel purposes.

Public figures – as opposed to public officials – are a separate category that is further broken up into two parts. First are "general purpose" public figures. They are famous people who are constantly in the public eye, such as Chris Rock, any of the Kardashians, Kanye West, and Taylor Swift, and Under Armour founder and CEO Kevin Plank.

The more common public figure in libel cases is the "limited purpose" public figure, an individual who otherwise may be fairly private – or unknown to the community at large – except for the limited purpose of getting deeply involved in some type of community controversy that becomes worthy of media attention. If, for instance, the county council is considering a proposal to build a new highway extension through a neighborhood and one Patti Peters leads the opposition among local activists, then Ms. Peters probably would be considered a limited purpose public figure in a lawsuit challenging the accuracy of statements made about her in a newspaper account about the highway controversy. Ms. Peters, however, would not be a public figure regarding a story that pertains to her private life; only when the news account concerns the particular controversy in question would Ms. Peters be considered a public figure.

Typically, reporters should not worry about who is a public official, public figure or private individual. Presumably, the goal is the same at all times: Get the story right, regardless of who the story is about. Nevertheless, there is a simple test to help determine whether the subject is a limited purpose public figure: (1) Does the person have access to the media to rebut accusations made about them? (2) Has the person become voluntarily associated with the controversy? (3) Did the controversy exist before the media began reporting it?

If the answers are yes, the individual is more likely to be a public figure. This stands in contrast to gossip-mongering in a more private neighborly dispute, where speculative accusations should be treated gingerly unless corroborated by additional sources or the police.

Invasion of Privacy

Generally speaking, the phrase “invasion of privacy” has been defined as the “right to be left alone.” Legally speaking, this tort is broken up into four separate and distinct claims:

False Light. This type of invasion of privacy is closely akin to libel, in that it constitutes a cause of action for depicting a person in a false manner. It commonly occurs where a reporter seeks to illustrate a particular event – say, a story about taxicab drivers who charge excessive fees – by showing an innocent driver legally plying his trade. The photo of the driver itself may not falsely state any facts about them, but when coupled with a story about passengers getting ripped off, it falsely links them to the scoundrels in the cab world.

Publication of Embarrassing Private Facts. This is a more common – though often more difficult to prove – type of invasion of privacy. It involves publicizing private facts about an individual which would offend an ordinary reader, viewer or listener’s sensibilities. A press report or photograph about an event that occurs in public almost never can form the basis of a successful tort claim, yet many people still sue for it. The press cannot be held liable, for instance, for publishing a photograph of two people kissing (unmarried or married, but not to each other) engaging in a rapturous embrace at a public event. On the other hand, people do have a right not to be photographed (without consent) inside their hospital rooms or other places where they expect privacy. And, people do have a right not to have intimate details about their private life – such as their health, family or financial problems – made known to the community at large unless there is a reasonable basis to make such information public (such as for political candidates).

Intrusion. In simple terms, this type of invasion of privacy is akin to trespass. It occurs where one intrudes, physically or otherwise, upon the seclusion of another, such as by illegally entering private property or wrongfully using recording or eavesdropping devices to record a person’s private activities or conversations. It is most common where a reporter misrepresents his identity in order to gain access to a place where a member of the general public typically is not invited to go.

Misappropriation. In the media field, this is the least prevalent type of invasion of privacy. Generally, the law of misappropriation provides one may not use the name or picture of a person without their consent for advertising or trade purposes. For instance, you cannot sell a new pair of newfangled athletic shoes by showing a picture of former Baltimore Raven Ray Lewis endorsing such shoes unless Lewis has given you permission. In the news context, pictures of

Lewis or other professional athletes or public figures and the like are not published or broadcast for “advertising” or “trade” purposes, and thus the media is rarely called to task for publishing their likenesses. Provided the use of these photos is even remotely related to some type of news report, liability cannot result.

Defenses to Invasion of Privacy

Consent. When planning to publish or broadcast private facts about a private individual, such as an individual’s contraction of a hideous medical disease or details of an individual’s personal financial woes, you will be free from liability if that person consents to the publication of your story. However, keep in mind such consent can be withdrawn, revoked, or made subject to certain conditions, such as that person not be photographed or mentioned by name. In most circumstances, however, explicit consent from a news subject is not feasible, and thus is not legally required. It would be difficult, and highly impractical, for instance, to obtain consent from news subjects who are involved in accidents, riots and other public events. In these circumstances, consent is implied by virtue of the event taking place.

Newsworthiness. The names, faces and activities of public officials and public figures almost always will be newsworthy, and thus a publisher or broadcaster cannot be held liable for sharing these images and activities with the general public. Where private individuals are involved, the law of privacy recognizes a defense whenever a publication concerns a matter of “public interest.” Thus, even an unwilling participant in a newsworthy event – such as a surviving victim of a plane crash – cannot hold you liable for publishing their image or a story about the harrowing ordeal. Even family members grieving in public over some tragedy cannot successfully maintain an invasion of privacy lawsuit. And if otherwise private information was legally gathered from a public record – for instance, publishing the identity of a rape victim gleaned from a police report – then no liability can ensue.

Some Practical Tips

Pre-publication review. Having a lawyer pore over your copy prior to publication or broadcast will not make your story libel-proof, but it can help. Good First Amendment lawyers are trained to spot discrepancies in a reporter’s news gathering efforts and can refine language to present the intended meaning of a phrase or sentence without running a risk of liability for libel.

Nevertheless, most libel lawsuits do not stem from the lengthy, investigative pieces, which are the types of stories that are most often shared with lawyers prior to publication. Rather, they stem from the everyday, routine stories – stories about crime, children, or professionals (such as teachers, doctors and lawyers who trade on their reputation).

Combined with a 24-hour news cycle in which news organizations rush to publish stories online, the questionable veracity of many online sources has increased the risk of libel actions. In the rush to post their stories online, competitive journalists must exercise discipline to ensure the accuracy of their reports. Often, a libelous report results from negligence rather than an intent to defame. The cautionary tales include headlines or cutlines that do not match the story, or stem from revisions or summaries prepared by those who were not involved in the fact-gathering process.

To avoid these pitfalls, the frontline reporter should carefully check the facts before publication and the editor should provide a second layer of pre-publication review. On sensitive stories, having a lawyer review the copy may be the best way to avoid time-consuming and expensive litigation.

Thus, regardless of the need for speed in today's newsrooms, responsible journalists recognize the importance of taking the time to review the accuracy of every story before posting it to the public.

Handling retractions. Most media outlets have a straightforward rule: if you publish or broadcast an error and subsequently learn of your mistake, you correct it. This is a sound journalistic policy, though it is not a complete defense to a libel claim. If you called Charlie Clayson a thief yesterday, apologizing today will not undo all the harm it has caused to his reputation.

In Maryland, there is no statute regarding retractions, though the courts have held a retraction can be considered in determining the damages a plaintiff has suffered. Further, such retractions should be drafted carefully, especially where the original false report has hurt someone's reputation. To the extent possible, a publisher or broadcaster should try to avoid repeating the libelous statement and just set the record straight. A well-meaning correction may inadvertently compound the damage to a plaintiff or, worse, admit the publisher or broadcaster was negligent in making the statement at issue, when in fact, a reporter had sound justification for the original story. It is advisable to consult with an attorney when preparing such corrections.

Record retention. There is great disagreement among journalists and First Amendment attorneys about whether reporters should save their notes. Reporters are often shocked when they learn, after being sued, their notes (and recordings and unused video) in most cases will have to be turned over to the plaintiff's lawyer. The most common exception is where a confidential source would be revealed. A policy on record retention is best left to each individual publisher or broadcaster. But, whatever your policy (keep all notes, throw them all away, or keep them under certain circumstances), it is best to adhere to that policy. A plaintiff's lawyer will have a field day in court if your company's policy is to retain all notes and you just happened to throw away the only pieces of paper containing an interview with a critical news source who supports your story.

Promises of Confidentiality. Reporters and editors must be careful what they promise sources. The First Amendment does not prevent a source from suing when a publication or radio/TV station breaks its reporter's promise of confidentiality to that source. Absolute confidentiality is just one example of the types of promises that could spark a legal fire. If a reporter agrees a source's statements are "off the record," publishing those statements and the identity of the source who made them could provoke a lawsuit. Promising a favorable article or promising to let the source review their quotes prior to publication and failing to follow through may lead a disgruntled source to sue.

If a source does insist on conditions before granting an interview, be precise as to what those conditions are. Get them in writing, if possible, or record their consent and those conditions. At the very least, such precautions can help avoid the inevitable dispute between the reporter and

the source as to what was said. Also, be aware of who is granting consent to be interviewed and photographed. For example, a nurse or doctor generally does not have the authority to permit you to take pictures of patients in their hospital rooms and a child may not have the authority to let you into their home to photograph their parents' cache of weapons and drugs.

Policies. Media outlets are well advised to form a coherent policy detailing the appropriate procedures to follow in permitting confidentiality or other promises to sources. The policy should state who may make promises and under what circumstances. Finally, media managers should define, and reporters should reveal to sources, precisely what they mean when using the terms such as confidentiality, not for attribution, and off the record as a source may define these terms differently than a reporter.

A Brief Look at Copyright Law

Copyright, like freedom of speech, derives from the Constitution, which affords Congress the power to protect the writings of authors against piracy. Copyrights are generally recognized internationally pursuant to treaty and foreign laws.

Copyright protects “original works of authorship fixed in any tangible medium of expression,” which includes literature, music, drama, choreography, motion pictures, audio recordings, and even software and architectural works. “Copyright,” which protects fixed expressions, should be distinguished from “trademark,” which protects the good faith between a company and its customers, and “patent,” which protects invented processes. However, like trademarks and patents, copyrights are property, so they may be bought, sold, assigned, or licensed.

Copyright protects expressions of information, not mere ideas, and not mere facts; some element of original composition is required. Thus, a sportscaster who gives the score of a big game being carried on another station does not infringe on the other station’s broadcast copyright, but using excerpts from the other station’s coverage could infringe a copyright.

As a general rule, the creator of a work owns the copyright. An outright transfer must be in writing. But, an important exception is for “works made for hire,” when the creator’s employer owns the copyright. A list of “work made for hire” factors determines if the work was created within the scope of employment, including the control over the project, relationship with the hired party, how the hired party is compensated, and how the work is created.

For works not made for hire that secured copyright protection on or after Jan. 1, 1978, protection lasts for the life of the creator plus 70 years. For works made for hire copyrighted in that time, protection lasts 95 years from first publication or 120 years from time of creation, whichever comes first, then through the end of the calendar year. Different statutory durations pertain to works copyrighted prior to 1978, and other changes may be legislated, so consult an attorney if duration is an issue.

There are two important ways copyrighted materials of another may be used lawfully. One way is with the consent of the copyright holder. Consent must be clear and obtaining it in writing can help avoid legal problems. Merely giving credit to the copyright holder is not consent. The second way is to rely on your use being a “fair use” for which consent is not required. “Fair use,” which is merely a defense to an infringement claim, might be available, for example, in news reporting, commentary, and scholarship. The answers to four questions help define whether “fair use” applies to a situation.

- (1) What is the purpose and character of the use? Pure political commentary is more likely to contain fair use than commercial expression.

- (2) What is the nature of the copyrighted work? The copyright of highly factual material, such as listing of historical facts, is less easily infringed on than the more creative work.
- (3) How much of the copyrighted work is used? No more of the original may be used than is reasonably necessary.
- (4) What is the potential effect of the use on the market for the original? A use may make money, but it is probably not fair if consumers are willing to accept the use in lieu of the original.

In cases of a “parody,” a modified fair use analysis applies. A court will also ask whether readers, viewers or listeners will understand the work as a parody and whether the use exceeded that which was necessary to “conjure up” recognition of the original.

Works existing on the internet or provided digitally through software or apps are protectable by copyright law. Just because a work is readily available or created and made available by individual citizens does not diminish the right of the author to control use of the work. Often a website or other source of materials, or the site or app through which the work is posted, will include the terms under which work can be used.

Since March 1, 1989, it is not necessary for a creator to label works with a copyright symbol (e.g., ©, year, and name), nor to formally register work with the U.S. Copyright Office to obtain the copyright protections of federal and international law. Copyright exists simply upon creation. Copyright is easier to prove and protect, though, if notice is given and registration made.

Copyright law is contained in Title 17 of the United States Code.

In most cases, you can call your local friendly lawyer or law librarian and ask for information on Maryland law. Otherwise, you can look up the law itself. Teaching how to research Maryland law is a long, complex process, beyond the scope of this Guide. For the basics of finding what you need, we refer you to the following resources, which are available in well-stocked public libraries, all courthouse libraries, law schools, and on the internet.

Annotated Code of Maryland

The main body of Maryland law, the “Maryland Code” or “Annotated Code of Maryland” contains the *statutes* passed by the Maryland General Assembly and signed by the Governor. The statutes are organized by single subjects (known as “Articles”) from Agriculture to Transportation. In print, the volumes are regularly brought up-to-date by supplements found in the rear of each book and in other updates found on the library shelf near the Code. The Code has a multi-volume index as well as Article-specific indexes at the end of each Article. The Code is widely available in reliable online format through the Maryland State Law Library’s webpage, *Gateway to Maryland Law* at www.lawlib.state.md.us/researchtools/sourcesmdlaw.html.

The Code is called “annotated” because in its full print or fee-based online format, it contains brief citations, or annotations, of cases applying in some fashion to the statute. The cases can be further researched in the corresponding tan Maryland Reports (for Court of Appeals cases) or green Maryland Appellate Reports (for Court of Special Appeals cases).

Maryland Rules

This resource is of particular importance to those interested in how judicial processes work. Maryland Rules govern legal procedure in the courts. This resource contains rules for criminal and civil proceedings, as well as for the handling of juvenile matters, how appeals are processed, family law, and evidence. In addition, it contains the Rules of Professional Conduct regulating Maryland lawyers and the Code of Judicial Conduct regulating Maryland judges. The Rules are organized topically by Title, with a general index. Title 2 of the Maryland Rules contains Circuit Court civil rules. Title 3 contains District Court civil rules. Title 4 contains criminal rules. Title 5 contains the Maryland Rules of Evidence. Like the Code above, the Rules are available through the Maryland State Law Library’s *Gateway* webpage.

Maryland Reports/Maryland Appellate Reports

Reports are volumes containing cases decided by the Court of Appeals and Court of Special Appeals. The cases are arranged chronologically. To be used effectively, you need to know the title of the case you are seeking and its corresponding volume and pages, which you can get from the citations included in the Annotated Code or the Maryland Law Encyclopedia annotations. For example, the case of *State v. McKay* in which the Court of Appeals allowed criminal defendants to waive the right to a unanimous jury verdict can be found at 280 Md. 558 (1977), which is Volume 280 of the Maryland Reports at page 558. The case was decided in 1977. By the way, each case lists the names of the lawyers who handled the case who can be contacted to discuss it.

Cases are available in numerous locations in online format. In addition to multiple fee-based services, cases can be easily searched and viewed for free via Google Scholar (<http://scholar.google.com>), as well as through the Court's website.

Opinions issued by the Court of Appeals and Court of Special Appeals are often newsworthy for the legal developments they announce so it may be a good practice to daily check the Court's website for new opinions at www.mdcourts.gov/opinions/opinions.

Code of Maryland Regulations (COMAR)

COMAR contains the regulations of Maryland agencies, except emergency regulations which are published only in the Maryland Register. Each regulation is identified by its own number, a series of four two-digit numbers (e.g., 00.00.00.00). Each department and many agencies have persons who are particularly knowledgeable about current and future regulations. COMAR is arranged by department and agency and has a table of contents for each title. The full text is available on the Maryland Division of State Documents website (www.dsd.state.md.us). A general index to COMAR is available in law libraries and on the Maryland Division of State Documents website.

People's Law Library of Maryland (People's Law)

People's Law (www.peoples-law.org) is a free, plain-language legal information website maintained by the Maryland State Law Library. It includes a collection of hundreds of articles about the types of civil legal issues most common among self-represented litigants in Maryland state courts. People's Law articles address specific questions about legal topics like domestic violence, child support, consumer credit, residential leases, wills and estates, and guardianship. People's Law also provides plain-language explanations of court procedure and mediation; legal forms; a county-by-county calendar of free legal clinics; and a searchable directory of local and statewide legal service providers. People's Law is an excellent tool when a topic is new or unfamiliar.

Maryland Law Encyclopedia (MLE)

As you might easily deduce, the MLE is an encyclopedia containing summaries on a broad range of Maryland law topics with citations to statutes, regulations, and cases supporting the propositions stated. Once you identify a statute, regulation, or case citation, you can easily look it up. The MLE is available only via fee-based Westlaw subscriptions or for free at any public law library.

TELEPHONE NUMBERS/ADDRESSES

Maryland Judiciary Government Relations and Public Affairs Division

580 Taylor Ave.

Annapolis, Maryland 21401

410-260-1488

www.mdcourts.gov/communications

communications@mdcourts.gov

Maryland Administrative Office of the Courts (AOC)

580 Taylor Avenue

Annapolis, Maryland 21401

410-260-1400

www.mdcourts.gov/aoc

Maryland Judiciary Case Search

<http://mdcourts.gov/casesearch>

Maryland State Bar Association*

Maryland Bar Center

520 W. Fayette Street

Baltimore, Maryland 21201

410-685-7878

800-492-1964

www.msba.org

msba@msba.org

*For numbers of county, minority and other specialty attorney organizations, contact the Maryland State Bar Association

Maryland State's Attorneys' Association

3300 North Ridge Road, Suite 185

Ellicott City, Maryland 21043

410-203-9881

www.mdsaa.org

Office of the Maryland Public Defender

Office of Administration

William Donald Schaefer Tower

6 Saint Paul St., Suite 1400

Baltimore, MD 21202

410-767-8460

Toll free: 1-877-420-5187

www.opd.state.md.us

Office of the Maryland Attorney General

General Information

200 St. Paul Place
Baltimore, MD 21202

410-576-6300

888-743-0023

www.marylandattorneygeneral.gov

press@oag.state.md.us

Communications Director and Public Information Officer

410-576-6357

Office of Administrative Hearings

11101 Gilroy Rd.

Hunt Valley, MD 21031

410-229-4100

www.oah.maryland.gov

Maryland Client Protection Fund (Client Protection Fund of the Bar of Maryland)

200 Harry S. Truman Parkway

Suite 350

Annapolis, MD 21401

410-630-8140

www.mdcourts.gov/cpf

Maryland Department of Public Safety and Correctional Services

300 East Joppa Rd.

Suite 1000

Towson, MD 21286

410-339-5000

<http://news.maryland.gov/dpscs/home>

Office of the Maryland State Prosecutor

Hampton Plaza

300 East Joppa Road, Suite 410

Towson, MD 21286

410-321-4076

800-695-4058

<http://osp.maryland.gov>

Maryland Manual On-Line (A guide to Maryland & Its Government)

<http://msa.maryland.gov/msa/mdmanual/html/mmtoc.html>

Maryland Commission on Judicial Disabilities

P.O. Box 340

Linthicum Heights, MD 21090

410-694-9380

www.mdcourts.gov/cjd

Attorney Grievance Commission of Maryland

200 Harry S. Truman Parkway

Suite 300

Annapolis, MD 21401

410-514-7051

www.mdcourts.gov/attygrievance

Maryland Department of Legislative Reference

Maryland General Assembly

Legislative Services Building

90 State Circle

Annapolis, MD 21401

410-946-5400

301-970-5400

800-492-7122 ext. 5400

<http://dls.maryland.gov/library/reference-services>

Office of the United States Attorney

Executive Office for United States Attorneys

United States Department of Justice

950 Pennsylvania Avenue, NW, Room 2242

Washington, DC 20530

202-514-2000

www.justice.gov/usao

Office of the United States Attorney, District of Maryland

www.justice.gov/usao-md

Office of the United States Attorney, District of Maryland, Northern Division

36 South Charles Street, Fourth Floor

Baltimore, MD 21201

410-209-4800

Office of the United States Attorney, District of Maryland, Southern Division

6406 Ivy Lane, Suite 800

Greenbelt, MD 20770

301-344-4433

Office of the Federal Public Defender, District of Maryland

<https://md.fd.org/>

Office of the Federal Public Defender, District of Maryland, Northern Division

BankAmerica Tower II

100 S. Charles St. Suite 900
Baltimore, MD 21201
410-962-3962

Office of the Federal Public Defender, District of Maryland, Southern Division

6411 Ivy Lane, Suite 710
Greenbelt, MD 20770
301-344-0600

Supreme Court of the United States

1 First St, NE, Washington, DC 20543
Washington, D.C. 20543
202-479-3000

www.supremecourt.gov

United States Court of Appeals for the Fourth Circuit

Lewis F. Powell Jr. Courthouse & Annex
1100 East Main Street, Suite 501
Richmond, VA 23219
804-916-2700

www.ca4.uscourts.gov

United States District Court for the District of Maryland

U.S. Court House
101 West Lombard Street
Baltimore, MD 21201
410-962-2600

www.mdd.uscourts.gov

Electronic Case Information: ecf.mdd.uscourts.gov

PACER Information: www.pacer.gov or 800-676-6856 (PACER- Public Access to Court Electronic Records is an electronic public access service that allows users to obtain case and docket information online from federal appellate, district, and bankruptcy courts. There is a charge for this service.)

United States District Court for the District of Maryland - Northern Division

Garmatz Federal Courthouse
101 West Lombard Street
Suite 8515
Baltimore, MD 21201
410-962-2600

United States District Court for the District of Maryland - Southern Division

6500 Cherrywood Ln.
Greenbelt, MD 20770
301-344-0660

United States Bankruptcy for the District of Maryland

www.mdb.uscourts.gov

United States Bankruptcy for the District of Maryland - Northern Division

101 W Lombard St., Room 8530
Baltimore, MD 21202
410-962-2688

United States Bankruptcy for the District of Maryland - Southern Division

6500 Cherrywood Ln.
Greenbelt, MD 20770
301-344-8018

United States Marshals Service

6th floor Garmatz Federal Courthouse
101 West Lombard Street
Baltimore, MD 21201
410-962-2220
www.usmarshals.gov/district/md/locations/index.html

Federal Bureau of Investigation

www.fbi.gov

Federal Bureau of Investigation – Baltimore Field Office

2600 Lord Baltimore Drive
Baltimore, MD 21244
410-265-8080
www.fbi.gov/contact-us/field-offices/baltimore

Library of Congress

101 Independence Ave SE,
Washington, DC 20540
202-707-5000
www.loc.gov

MARYLAND APPELLATE COURTS

Court of Appeals of Maryland
Robert C. Murphy Courts of Appeal Bldg.
361 Rowe Boulevard, 4th Floor
Annapolis, MD 21401-1699
www.mdcourts.gov/coappeals
410-260-1500

Court of Special Appeals of Maryland
Robert C. Murphy Courts of Appeal Bldg.
361 Rowe Boulevard, 2nd Floor
Annapolis, MD 21401-1699
www.mdcourts.gov/cosappeals

410-260-1450

CIRCUIT COURTS OF MARYLAND

Allegany County Circuit Court
Court House
30 Washington Street
Cumberland, MD 21502
301-777-5925

Anne Arundel County Circuit Court
8 Church Circle
P.O. Box 71
Annapolis, MD 21401
410-222-1397

Baltimore City Circuit Court
100 N. Calvert Street
and 111 N. Calvert Street
Baltimore, MD 21202
410-396-5188

Baltimore County Circuit Court
County Court Bldg.
401 Bosley Avenue
Towson, MD 21204
410-887-2601

Calvert County Circuit Court
175 Main Street
Prince Frederick, MD 20678
410-535-1660

Caroline County Circuit Court
Court House
109 Market Street
Denton, MD 21269
410-479-1811

Carroll County Circuit Court
55 N. Court Street
Westminster, MD 21157
410-386-8710

Cecil County Circuit Court
129 E. Main Street
Elkton, MD 21921
410-996-3019

Charles County Circuit Court
200 Charles Street
La Plata, MD 20646
301-932-3201

Dorchester County Circuit Court
206 High Street
P.O. Box 150
Cambridge, MD 21613
410-228-0481

Frederick County Circuit Court
100 West Patrick Street
Frederick, MD 21701
301-600-1976

Garrett County Circuit Court
203 S. 4th Street, Room 209
P.O. Box 447
Oakland, MD 21550
301-334-1937

Harford County Circuit Court
20 W. Courtland Street
Bel Air, MD 21014
410-838-4952

Howard County Circuit Court
8360 Court Avenue
Ellicott City, MD 21043
410-313-2111

Kent County Circuit Court
103 N. Cross Street
Chestertown, MD 21620
410-778-7460

Montgomery County Circuit Court
50 Maryland Avenue
Rockville, MD 20850
240-777-9400

Prince George's County Circuit Court
14735 Main Street
Upper Marlboro, MD 20772
301-952-3318

Queen Anne's County Circuit Court
100 Court House Square
Centreville, MD 21617
410-758-1773

St. Mary's County Circuit Court
41605 Courthouse Drive
Leonardtown, MD 20650
301-475-7844

Somerset County Circuit Court
30512 Prince William Street
Princess Anne, MD 21853
410-845-4840

Talbot County Circuit Court
11 N. Washington St.
Easton, MD 21601
410-822-2611

Washington County Circuit Court
24 Summit Avenue
Hagerstown, MD 21740
301-733-8660

Wicomico County Circuit Court
Court Building
101 North Division Street
P.O. Box 198
Salisbury, MD 21803
410-543-6551

Worcester County Circuit Court
Court House, Room 104
1 W. Market Street
Snow Hill, MD 21863
410-632-5500

DISTRICT COURTS OF MARYLAND

District 1 – Baltimore City

District Court for Baltimore City (01-01)
Borgerding District Court Bldg.
5800 Wabash Avenue
Baltimore, MD 21215
410-878-8000

District Court for Baltimore City (01-04)
Civil Division
501 E. Fayette Street
Baltimore, MD 21202
410-878-8900

District Court for Baltimore City (01-03)
Eastside District Court Bldg.
1400 East North Avenue
Baltimore, MD 21213
410-878-8500

District Court for Baltimore City (01-02)
John R. Hargrove, Sr. Building
700 E. Patapsco Avenue
Baltimore, MD 21225-1900
410-878-8300

District 2 – Dorchester, Somerset, Wicomico and Worcester Counties

District Court for Dorchester County (02-01)
310 Gay Street, P.O. Box 547
Cambridge, MD 21613
410-901-1420

District Court for Somerset County (02-02)
12155 Elm St. Ste C
Princess Anne, MD 21853
410-845-4700

District Court for Wicomico County (02-03)
201 Baptist Street
Salisbury, MD 21801
410-713-3500

District Court for Worcester County (02-04)
301 Commerce Street
Snow Hill, MD 21863
410-219-7830

District Court for Worcester County (02-05)
6505 Coastal Highway
Ocean City, MD 21842
410-723-6935

**District 3 - Caroline, Cecil, Kent, Queen
Anne's and Talbot Counties**

District Court for Caroline County (03-06)
State Multi-Service Center
207 S. Third Street
Denton, MD 21629
410-819-4600

District Court for Cecil County (03-02)
170 East Main Street
Elkton, MD 21921
410-996-2700

District Court for Kent County (03-03)
103 N. Cross Street
Chestertown, MD 21620
410-810-3360

District Court for Queen Anne's County (03-
04)
120 Broadway, Suite #1
Centreville, MD 21617
410-819-4000

District Court for Talbot County (03-05)
108 W. Dover Street
Easton, MD 21601
410-819-5850

District 4 - Calvert, Charles and St. Mary's Counties

District Court for Calvert County (04-01)
Louis Goldstein Multi-Service Center
200 Duke Street, Room 2200
Prince Frederick, MD 20678
443-550-6700

District Court for Charles County (04-02)
11 Washington Avenue
P.O. Box 3070
La Plata, MD 20646
301-934-5110

District Court for St. Mary's County (04-03)
23110 Leonard Hall Drive,
Leonardtown, MD 20650
301-880-2700

District 5 - Prince George's County

District Court for Prince George's County (05-02)
14735 Main Street, Room 173B
Upper Marlboro, MD 20772
301-298-4000

District Court for Prince George's County (05-01)
County Service Building
4990 Rhode Island Avenue
Hyattsville, MD 20781
301-298-4200

District 6 - Montgomery County

District Court for Montgomery County (06-01)
191 East Jefferson Street
Rockville, MD 20850
301-563-8800

District Court for Montgomery County (06-02)
8552 Second Avenue
Silver Spring, MD 20910
301-563-8500

District 7 - Anne Arundel County

District Court for Anne Arundel County (07-01)
Robert F. Sweeney Building
251 Rowe Boulevard
Annapolis, MD 21401
410-260-1370

District Court for Anne Arundel County (07-02)
George M. Taylor Multi-Service Center
7500 Gov. Ritchie Highway
Glen Burnie, MD 21061
410-260-1800

District 8 - Baltimore County

District Court for Baltimore County (08-01)
900 Walker Avenue
Catonsville, MD 21228
410-512-2500

District Court for Baltimore County (08-05)
8914 Kelso Drive
Essex, MD 21221
410-512-2300

District Court for Baltimore County (08-04)
120 E. Chesapeake Avenue
Towson, MD 21286
410-512-2000

District 9 - Harford County

District Court for Harford County (09-01)
2 South Bond Street, Suite 100
Bel Air, MD 21014
410-836-4545

District 10 – Carroll & Howard Counties

District Court for Howard County (10-01)
3451 Courthouse Drive
Ellicott City, MD 21043
410-480-7700

District Court for Carroll County (10-02)
101 N. Court Street
Westminster, MD 21157
410-871-3500

District 11 – Frederick & Washington Counties

District Court for Frederick County (11-01)

100 W. Patrick Street
Frederick, MD 21701
301-600-2000

District Court for Washington County (11-02)
36 West Antietam Street
Hagerstown, MD 21740
240-420-4600

District 12 – Allegany & Garrett Counties

District Court for Allegany County (12-01)
123 South Liberty Street, 2nd Floor
Cumberland, MD 21502
301-723-3100

District Court for Garrett County (12-02)
205 S. Third Street
Oakland, MD 21550
301-334-8020

LAW LIBRARIES

University of Baltimore School of Law
Library
1401 North Charles Street
Baltimore, MD 21201
www.law.ubalt.edu/lawlib
410-837-4554

University of Maryland Thurgood Marshall
Law Library
(Francis King Carey School of Law)
500 West Baltimore Street
Baltimore, MD 21201
www.law.umaryland.edu/marshall
410-706-6502

Baltimore Bar Library
100 N. Calvert St., Room 618
Baltimore, MD 21202
www.barlib.org
410-727-0280

Maryland State Law Library
Robert C. Murphy Courts of Appeal
Building
361 Rowe Boulevard
Annapolis, MD 21401-1697
410-260-1430
Toll Free from MD: 888-216-8156
Fax: (410) 974-2063
Voice/TT MD Relay Service: 800-735-2258
www.mdcourts.gov/lawlib

People's Law Library of Maryland
www.peoples-law.org

SELECTED MARYLAND CIRCUIT COURT LAW LIBRARIES

Maryland Law Libraries Directory
www.lawlib.state.md.us/researchtools/otherlibraries.html

Anne Arundel
County Circuit Court, Room 303
8 Church Circle
Annapolis, MD 21401
410-222-1387
AALawLibrarian@mdcourts.gov

Baltimore County
County Courts Building
401 Bosley Avenue
Towson, MD 21204
410-887-3086

Carroll County
200 Willis Street
Westminster, MD 21157
410-386-2672
lawlib@ccg.carr.org

Charles County
200 Charles Street
La Plata, MD 20646
301-932-3322
ccpll@mdcourts.gov

Howard County
8360 Court Avenue
Ellicott City, MD 21043
410-313-2135

howardcircuitinfo@mdcourts.gov

Montgomery County
50 Maryland Ave, Room N-3420
Rockville, MD 20850
240-777-9120
lawlib@mcccourt.com

Prince George's County
14375 Main Street, Room M1400
Upper Marlboro, MD 20772

301-952-3438
lawlibrary@co.pg.md.us

MARYLAND STATE'S ATTORNEYS' OFFICES

Allegany County
59 Prospect Square, Suite 111
Cumberland, MD 21502
301-777-5962

Anne Arundel County
8 Church Circle, Suite 200
Annapolis, MD 21401
410-222-1740
aacsao@aacounty.org

Baltimore City
120 East Baltimore Street, 9th Floor
Baltimore, MD 21202
410-984-6000
mail@stattorney.org

Baltimore County
County Courts Building
401 Bosley Avenue, Room 511
Towson, MD 21204
410-887-6600
statesattorney@baltimorecountymd.gov

Calvert County
175 Main St.
Prince Frederick, MD 20678
410-535-1600 ext. 2369

Caroline County
109 Market St. Room 208
Denton, MD 21629
410-479-0255
saoinfo@carolinemd.org

Carroll County
Court Annex, Suite 100
55 North Court Street
Westminster, MD 21157
410-386-2671
ccstatesattorney@ccg.carr.org

Cecil County
129 East Main St.
Elkton, MD 21921
410-996-5335

Charles County
P.O. Box 3065
La Plata, MD 20646
301-932-3350

Dorchester County
501 Court Lane, Suite 211
Cambridge, MD 21613
410-228-3611

Frederick County
100 West Patrick
Frederick, MD 21701
301-600-1523

Garrett County
313 East Alder Street, Room 200
Oakland, MD 21550
301-334-1974

Harford County
20 W. Courtland Street
Bel Air, MD 21014
410-638-3500

Howard County
3450 Courthouse Drive
Ellicott City, MD 21043
410-313-2108

Kent County
205 Cannon Street, Suite 2
Chestertown, MD 21620
410-778-7450
kentcountysao@kentgov.org

Montgomery County
50 Maryland Avenue, 5th floor
Rockville, MD 20850
240-777-7300
States.Attorney@montgomerycountymd.gov

Prince George's County
14735 Main Street, Room M3403
Upper Marlboro, MD 20772
301-952-3500

Queen Anne's County
107 N. Liberty Street
Centreville, MD 21617
410-758-2264

St. Mary's County
41605 Courthouse Drive
P.O. Box 1755
Leonardtown, MD 20650
301-475-7844 ext.4500

Somerset County
30500 Prince William Street
Princess Anne, MD 21853
410-651-3333

Talbot County
20 N. West Street, Suite 1
Easton, MD 21601
410-770-8060

Washington County
33 W. Washington Street, Room 302
Hagerstown, MD 21740
301-313-2000
sao@washco-md.net

Wicomico County
309 East Main Street
Salisbury, MD 21803
410-548-4880

Worcester County
106 Franklin Street #3
Snow Hill, MD 21863
410-632-2166

OTHER GENERAL SITES

American Bar Association (ABA)
<https://www.americanbar.org/aba.html>

Bureau of Justice Statistics
www.bjs.gov

**Cornell Law School Legal Information
Institute**
www.law.cornell.edu

FBI Crime Reports
<https://ucr.fbi.gov/>

Federal Laws and Regulations

www.usa.gov/laws-and-regulations

FindLaw

www.findlaw.com

Maryland State's Attorneys

<https://criminal.findlaw.com/criminal-legal-help/maryland-district-attorneys.html>

National Attorney Listings

www.martindale.com

Sourcebook of Criminal Justice Statistics

www.albany.edu/sourcebook

U.S. Attorneys

www.justice.gov/usao/us-attorneys-listing

U.S. Attorney's Manual

www.justice.gov/usam/united-states-attorneys-manual

HELPFUL MEDIA ORGANIZATIONS

Student Press Law Center (SPLC)

1608 Rhode Island Ave., NW, #211
Washington, DC 20036
202-785-5450
www.splc.org

“The Student Press Law Center is an advocate for student First Amendment rights, for freedom of online speech, and for open government on campus. The SPLC provides information, training and legal assistance at no charge to student journalists and the educators who work with them.”

RTDNA (Radio Television Digital News Association)

The National Press Building
529 14th Street, NW, # 1240
Washington, DC 20045
212-246-0398
www.rtdna.org

“Visibility, Advocacy, Training, Resources, Networking and Awards for Broadcast and Digital Journalists.”

Reporters Committee for Freedom of the Press

1156 15th Street, NW, #1250
Washington, DC 20005
800-336-4243 or 202-795-9300
www.rcfp.org

“A 501(c)(3) nonprofit association dedicated to assisting journalists since 1970”

Society of Professional Journalists

Eugene S. Pulliam National Journalism Center
3909 N. Meridian St.
Indianapolis, IN 46208
317-927-8000
www.spj.org

“Dedicated to encouraging a climate in which journalism can be practiced more freely and fully, stimulating high standards and ethical behavior in the practice of journalism and perpetuating a free press.”

The following is an abbreviated glossary intended to assist with some of the most frequent and basic legal terms. There are many other useful resources such as Black's Law Dictionary or the Internet. Type in "legal dictionary" and you'll come up with a variety of sites. Some of the best we've checked out include:

www.dictionary.law.com

www.thelawdictionary.org

Acquittal: The finding of a judge or jury that the evidence is insufficient to support a conviction, or a verdict that the accused is not guilty.

Adjudication: A judgment or decision of a court or jury regarding a case.

Admission: Statements acknowledging the existence of a fact relevant to the cause of the opposing party. In the criminal arena, an admission is short of a confession of guilt if not acknowledging all facts or elements of a charge (compare "Confession").

Affidavit: A written statement the contents of which are affirmed under the penalties of perjury to be true.

Affirmed (Judgment): A decision by an appellate court finding the judgment of a lower court is correct and should stand.

Agreed statement of facts: A statement of all important facts, which all the parties agree is true and correct, which is submitted to a court for ruling.

Alford Plea: A special type of guilty plea by which a defendant does not admit guilt but concedes the state has sufficient evidence to convict, normally made to avoid the threat of greater punishment. This is a guilty plea in which the defendant maintains their innocence, but acknowledges the prosecution has sufficient evidence to convict.

Allocution: A defendant's statement in mitigation of punishment.

Annotation: A case summary or commentary on the law cases, statutes, and the rules illustrating its interpretation.

Appearance: A coming into the court in person or by filing a paper, as plaintiff, defendant or legal representative.

Appellant: A party who appeals a judgment of a court.

Appellate Court: A court having jurisdiction to review the judgment or order of a lower court.

Appellee: A party against whom an appeal is taken.

Attorney of Record: An attorney who represents a party and has entered an appearance in an action (see "Counsel").

Bail Bond: A written obligation of a defendant, with or without a surety or collateral security, conditioned on the appearance of a defendant as required and providing for the payment of a penalty sum according to its terms; includes a surety bond posted by a surety insurer or bail bondsman and backed by the insurer's pledge; a cash bond secured by deposited cash; a

property bond secured by pledged personal property or a lien on real property; and an unsecured bond.

Battery: An unlawful application of physical force to, or offensive touching of, another without their consent.

Bench conference: A meeting either on or off the record at the judge's bench between the judge, counsel and sometimes the defendant, out of the hearing of the jury.

Bench Warrant: A warrant issued by a judge for the arrest of a defendant for failure to appear in court as required.

Bifurcate: To try issues separately, such as guilt and criminal responsibility in a criminal proceeding or liability and damages in a civil action.

Bill of Particulars: A demand by a defendant in writing, unless otherwise ordered by the court, seeking specific factual details about a civil complaint or criminal charge. In a criminal case, the purpose of the bill of particulars is to guard against the taking of an accused by surprise, by limiting the scope of the proof.

Body Attachment: A written order issued by a court directing a sheriff or peace officer to take custody of and bring before the court:

1. A witness who fails to comply with a subpoena.
2. A party who fails to comply with a court order in a civil action.
3. A material witness in a criminal case.

Burden of Proof: The necessity of proving facts at issue; in Maryland, the criminal burden of proof is "beyond a reasonable doubt"; the civil burden of proof is "by a preponderance of the evidence" or, sometimes, "by clear and convincing evidence."

Capital Case: A criminal case in which the allowable punishment includes death.

Case Law: Decisions of federal and state courts interpreting and applying laws in specific fact situations. Opinions are reported in various volumes.

Certiorari (Writ of): The discretionary process (order) by which a higher court calls for review of the records of a lower court; in Maryland, the process used by the Court of Appeals to review decisions of, or to take cases pending in, the Court of Special Appeals or Circuit Court.

Chain of Custody: An accounting for the continuous possession of evidence, such as narcotics in a drug trial, to ensure no substitution, tampering, or improper handling affects the credibility of the evidence.

Change of Venue: A transfer or removal of a civil or criminal case from one judicial district to another (compare "Removal").

Charging Document: A written accusation alleging a defendant has committed an offense includes a citation, an indictment, information, and statement of charges.

Citation: A charging document, other than an indictment, information, or statement of charges, that is issued to a defendant by a peace officer or other person authorized by law to do so.

Collateral Attack: An attack on a judgment other than a direct appeal to a higher court.

Common Law: The case law developed by the Courts of England as it existed on July 4, 1776, except to the extent inconsistent with the Maryland Constitution and subject to being changed by statute. Also called “case law.”

Commitment Order: A court order directing an individual be kept in custody, usually in a penal or mental facility.

Complaint: A civil lawsuit, filed in the district or Circuit Courts.

Concurrent Jurisdiction: Jurisdiction held by two courts over the same type of case (compare “Exclusive Jurisdiction”).

Concurrent Sentences: Sentences served at the same time (compare “Consecutive Sentences”).

Confession: A statement by an individual, either oral or written, admitting they committed a certain offense (compare “Admission”).

Consecutive Sentences: Two or more sentences served continuously, one right after the other (compare “Concurrent Sentences”).

Contempt (Civil): Noncompliance with a court order or rule that affects another person and that is punished to compel compliance.

Contempt (Criminal): An act or omission that obstructs the orderly administration of justice or impairs the dignity, respect, or authority of the court and is punished to vindicate the honor of the court.

Continuance: A postponement or delay in a court proceeding granted by a court on either oral or written motion.

Costs: Fees and charges required by law to be paid to the court, the amount of which is set by statute or court rule or by an administrator authorized by law to do so.

Count: A separate charge in a charging document or separate cause of action in a civil complaint.

Court of Appeals: Maryland’s highest appellate court, where it is the Court’s discretion whether to hear the case on appeal.

Court of Special Appeals: Maryland’s intermediate appellate court wherein review is ordinarily a matter of right and is not up to the Court’s discretion.

Declaratory judgment: One which declares the rights of the parties or expresses the opinion of the court on a question of law, without ordering anything to be done.

Default: Occurs when a defendant fails to file a response to a lawsuit within the time allowed, or fails to appear at the trial.

De Novo: Translated from Latin “for new,” trying a matter anew as if it had not been heard before. In Maryland, most criminal charges are heard de novo when appealed from the District Court to a Circuit Court. Retrial of a case.

Defendant: A person against whom a civil suit is filed or, in a criminal action, a person who has been charged with a violation of the law or criminal wrongdoing.

Deposition: Pretrial examination of a witness on written or oral questions answered under oath, used to discover the witness' testimony in preparation for trial, and admissible at trial in lieu of live testimony if the witness is unavailable or refuses to testify.

Detainer: A notice, usually a warrant, that an inmate is wanted to face charges in another jurisdiction.

Directed Verdict: See "Motion for Judgment."

Discovery: Procedures used to obtain disclosure of evidence before trial, such as: depositions, by oral examination or written questions; written interrogatories; requests for production or inspection of documents; orders for mental or physical examinations; and requests for admissions of fact and genuineness of documents.

District Court: Maryland's lowest trial court, a court of limited jurisdiction.

Docket Number: The designation assigned to each case filed in a (a.k.a. case number) particular court.

Docket: A list of cases to be heard in court (trial docket); a list of pleadings, papers, orders, etc., filed in a particular case (docket entries).

Double Jeopardy: Constitutional prohibition against trying a person twice for the same crime. Does not normally prohibit individual from being tried in a state court and a federal court for the same or similar crime since they are considered different "sovereigns."

En banc Review: See "In Banc Review."

Enjoin: To require a person to perform or to abstain or desist from some act.

Evanescence evidence: Evidence which can disappear relatively quickly, such as the amount of alcohol in a person's blood.

Exculpatory evidence: Evidence which tends to indicate a defendant did not commit the crime alleged.

Ex Parte: On or from one side or party only, commonly used in civil proceedings to refer to proof of damages by a plaintiff after default judgment has been entered against a defendant for failure to answer or to refer to communications by one party with a court without notice to the other party.

Exception: A formal objection to an action of a court during trial, evidencing an objecting party's disagreement with the court's ruling and preserving the matter for review on appeal.

Exclusive Jurisdiction: Jurisdiction held by only one court over the type of case (compare "concurrent jurisdiction").

Expungement: The effective removal from public inspection of police and court records.

Extradition: The formal process of delivering an individual apprehended in one jurisdiction (e.g., a state or country) to the authorities of another jurisdiction in which that individual has been accused or convicted of a crime.

Felony: The more serious of two categories to which criminal offenses are assigned (compare "Misdemeanor").

Felony-murder: A murder committed during the commission of a felony such as robbery, burglary, or kidnapping.

Forfeiture: The loss of money or property resulting from failure to meet a legal obligation or from the illegal nature or use of the money or property.

Grand Jury: A jury composed of 23 individuals who receive and hear evidence to determine whether probable cause exists a crime has been committed and to determine whether an indictment should be re-turned (compare “Petit Jury”).

Habeas Corpus: Translated: “you have the body”, a writ to bring a prisoner before a court for its determination whether the prisoner is being held lawfully.

Hearsay: Evidence offered by a witness based on what others have said.

Hicks Waiver: A waiver of a defendant’s right to a speedy trial, which under Maryland law is 180 days from the defendant’s initial appearance in person or by attorney.

Home monitoring: An alternative to incarceration where an individual is confined to their home and monitored electronically.

Hospital Warrant: A warrant a court issues under Health-General Article § 12-120 after a probable cause determination the named defendant has violated a conditional release under Title 12 of the Health-General Article.

Hung Jury: A jury that is unable to agree on a verdict after a suitable period of deliberation.

Immunity from Prosecution: Protection from prosecution in exchange for testimony that might not otherwise be forthcoming.

Impeach: To discredit a person or thing, especially by showing a witness is not telling the truth.

In Banc Review: A review of a trial court’s rulings or judgment by a panel of three Circuit Court judges, sometimes referred to as a “poor man’s appeal.”

In Camera: In chambers; in private.

In Forma Pauperis: A term used in federal courts relative to permission given to a poor person to proceed without liability for court costs or fees and frequently used by inmates filing papers in state courts for which they are seeking waiver of prepayment of filing fees.

In Propria Persona: “Pro se” Translated from Latin, “in one’s own proper person;” self-representation, generally without benefit of an attorney although a court may appoint standby counsel.

Incarcerate: To confine to a jail or correctional institution.

Incompetency: Lack of capacity to understand the nature and object of the proceedings, to consult with counsel, and to assist in preparing a defense.

Indictment: A charging document returned by a grand jury and filed in a Circuit Court.

Indigent: Unable by reason of poverty or insufficient financial means to pay.

Information: A charging document presented by a State’s attorney, instead of a grand jury, and filed in a Circuit Court.

Initial Appearance: The first appearance of a defendant before a judicial officer by reason of execution of a warrant or before the court, in person or by an attorney, in response to a summons.

Insanity Plea: A claim by a defendant that they are not criminally responsible (NCR) for a criminal act due to insanity.

Interstate Detainer: An arrest warrant issued on a charging document in another state and lodged with a Maryland correctional institution where a defendant is detained, to ensure continued detention until delivery to the custody of the other state for prosecution on the pending charges.

Intrastate Detainer: An arrest warrant issued on a Maryland charging document and lodged with a Maryland correctional institution where a defendant is in custody for the same or another offense, to ensure continued detention until processing on the charges underlying the warrant.

Jointly and Severally: Acting together or separately; anyone so liable can sue or be sued with or without others joining in the action.

Judgment: The final order of a court; in a criminal case, the conviction and sentence constitute the judgment, so there is no judgment until sentence is imposed.

Judgment of Acquittal: A judgment entered by a court on a determination the state's evidence is insufficient to support a conviction and, thus, insufficient to go to the jury.

Judicial notice: A court's recognition of the truth of basic facts without formal evidence.

Jurisdiction: The authority by which courts receive and decide cases.

Appellate Jurisdiction: the authority a higher court has to review cases decided or pending in a lower court; in Maryland, the Court of Appeals, the Court of Special Appeals, and the Circuit Courts.

General Jurisdiction: the unlimited authority over cases brought before the court to decide rights and grant remedies available under the law in Maryland, the Circuit Courts.

Limited Jurisdiction: the authority over only particular types of cases or cases under a prescribed amount in controversy or seeking only certain types of relief, in Maryland the District Court and Orphans' Courts.

Juvenile Waiver: A procedure by which a charge(s) against a minor is transferred from a juvenile to adult court (compare "reverse waiver").

Lesser Included Offense: A crime composed of some, but not all of the elements of a greater crime; commission of the greater crime automatically includes commission of the lesser included offense.

Mandamus: A court order compelling an individual to fulfill an official ministerial duty.

Mandate: A judgment issued on the decision of an appellate court.

Master: An attorney who is appointed by the judges of a Circuit Court with the approval of the Chief Judge of the Court of Appeals, to conduct hearings and to make finding of facts, conclusions of law, and recommendations as to an appropriate order.

Mens rea: Criminal intent.

Merger: Incorporation of a lesser crime into a greater crime.

Merits: Strict legal rights of the parties; a decision “on the merits” is one that reaches the right(s) of a party, as distinguished from disposition of a case on a ground not reaching the right(s) raised in an action; for example, entry of nolle prosequi before a criminal trial begins is a disposition other than on the merits, allowing trial on those charges at a later time without double jeopardy attaching; similarly, dismissal of a civil action on a preliminary motion raising a technicality, such as improper service of process, does not result in res judicata of an issue.

Misdemeanor: The less serious of two categories to which criminal offenses assigned (compare “felony”).

Mistrial: A trial that has been terminated and declared void due to prejudicial error in the proceedings or other extraordinary circumstances.

Mitigation: Circumstances suggesting a lesser sentence is appropriate.

Moot: Adjective: No longer presenting controversy capable of adjudication because the issue has ceased to exist and is unlikely to recur; debatable.

Motion for Judgment: A judge’s decision to enter judgment on a claim or claims in favor of defendant, before defendant puts on a case. Granted if the judge decides there is insufficient evidence to allow a plaintiff to win, such as if plaintiff puts on no evidence legally sufficient to prove defendant caused their injuries.

Negligence: The omission to do something, which a reasonable person, guided by ordinary consideration, would do; or the doing of something which a reasonable and prudent person would not do.

Nolle Prosequi or “Nol pros”: Translated: “will not further prosecute”; termination of prosecution and dismissal of a charge by a State’s Attorney on the record in open court. A defendant need not be present in court when a nol pros is entered, but, in that event, the clerk of court must send notice to the defendant, if the defendant’s whereabouts are known, and to the defendant’s attorney of record.

Nolo Contendere: Translated: “I will not contest;” a plea that has the effect of a guilty plea, although guilt is neither admitted nor denied, which plea may be used as an admission of guilt in a civil suit for the same offense. A defendant may plead nolo contendere only with the consent of the court.

Non Est (inventus): Translated: “not to be found,” a sheriff’s return of process when service is not made because the person to be served was not found.

Non-Capital Case: A criminal case in which the allowable penalty does not include death.

Nunc Pro Tunc: Translated from Latin: “now for then;” the phrase used when an order is issued on one date but is effective as if issued on an earlier date when it ought to have been issued.

Original Jurisdiction: The jurisdiction of the first court to hear a case.

Parole: A conditional release from imprisonment that is made by a parole board and entitles a defendant to serve the remainder of a sentence outside of prison as long as all of the conditions of release are met (compare “probation”).

Peremptory Challenge: The mechanism by which either the defense or prosecution (or either party in a civil case) strikes a potential juror from the jury list without cause; cannot be used for an unconstitutional reason such as race or gender.

Personal Recognizance: A guarantee of a defendant’s appearance in court (a.k.a. “own recognizance”) based solely on their signed promise (no bail bond required).

Petit Jury: An ordinary jury for the trial of an action in Maryland, generally 12 for criminal trials and 6 for civil trials, not including alternates (Compare “Grand Jury”).

Petty Offense: An offense for which the authorized penalty does not exceed imprisonment for 3 months or a fine of \$500.

Plea: An answer to a criminal charge including: not guilty, guilty, nolo contendere, not criminally responsible by reason of insanity.

Post-conviction: A procedure by which a convicted defendant challenges the conviction and/or sentence on the basis of some alleged violation or error.

Pre-sentence Investigation: A confidential report ordered by the Report (PSI) judge and produced by the Division of Parole and Probation, prior to sentencing, to provide background information (job, finances, family status, community ties, etc.) and prior criminal record of a defendant and, in certain cases, a victim impact statement.

Preliminary Hearing: A hearing held in the District Court, unless waived by defendant, to determine whether there is probable cause to believe the defendant committed an offense(s); available when the offense(s) charged is not within the exclusive jurisdiction of the District Court.

Presumption: An inference of the truth or falsity of a proposition or fact, that stands until rebutted by evidence to the contrary.

Prima Facie: Translated: “on the first appearance;” sufficient on its face to prevail until contradicted and overcome by other evidence.

Privilege: A person’s right not to testify on a matter or communication protected by law.

Probable Cause: Reasonable grounds for belief in the existence of facts that support a charge; the basis for issuing a charging document or search warrant.

Probation: A conditional avoidance of some or all imprisonment granted by a judge after conviction of a defendant and before or as part of imposition of sentence.

Probation Before Judgment (PBJ): A conditional avoidance of imposition of sentence after conviction; failure to satisfy the conditions may cause imposition of sentence after a finding of violation of probation.

Procedural Law: The method, established normally by rules, to be followed in a case; the formal steps in a judicial proceeding.

Proffer: An offer of proof as to what the evidence would be if a witness were called to testify or answer a question.

Purge: To clean or clear, such as eliminating inactive records from court files; with respect to civil contempt, to cure the noncompliance that caused the contempt finding.

Quash: To set aside or to make void; with respect to process, such as a summons or subpoena, to void on motion of the person served.

Rebuttal: The act of contradicting or overcoming the effect of a presumption of evidence.

Recall: Cancellation by a court of a warrant before its execution by the arrest of a defendant; also, a process by which a retired judge may be asked to sit on a particular case.

Remand: The return of a case by an Appellate Court to the trial court or agency for further proceedings.

Removal: The change of location (venue) of a case on the grounds a party cannot receive a fair and impartial trial in the jurisdiction where the action is pending.

Res Judicata: The matter already has been finally decided; a rule against relitigation of issues.

Sequester: To separate or isolate; for example, to separate witnesses from each other, to isolate jurors from the public, to separate property from a party and place it in the custody of the court or a third person.

Service of Process: The act of delivering an order, subpoena, summons, or other writ to person named.

Show Cause: An order requiring a person to appear in court and present reasons why a certain order; judgment or decree should not be issued.

Speedy Trial: The right of an accused to a speedy trial as guaranteed by the 6th Amendment of the U.S. Constitution; in Maryland, the right to be tried within 180 days after initial appearance, unless waived.

Stare Decisis: Translated: “to stand by a decision;” the practice in which decisions of lower courts are guided and bound by the rulings made by the higher, appellate courts. For example, Maryland Court of Appeals decisions bind the state’s lower courts in cases of identical or similar circumstances.

Statement of Charges: A charging document, other than a citation, filed in the District Court by a peace officer or a judicial officer.

Stet: Translated: “to stand;” a conditional, indefinite stay of all further proceedings on a charge, allowed by a court on motion of a State’s Attorney and marked “stet” on the docket, Maryland Rule 4-248 requires, when a charge is steted and unless the court orders otherwise, the clerk

of court must act to recall or revoke any outstanding warrant or detainer that could lead to arrest or detention of the defendant because of the charge.

Stipulation: An agreement between counsel on certain facts so those facts need not be proven, or on an issue so the issue need not be litigated.

Sua Sponte: Translated from Latin: “of its own will;” commonly used when a judge does something in a case without being asked to do so by a party.

Sub Curia: Translated: “under the law;” the holding of a case by a court under consideration, sometimes to await the filing of a document, such as a pre-sentence investigation report or memorandum of law, or to write an opinion.

Subpoena: A writ issued by a governmental entity to compel a person to appear and to give testimony at a specified time and place.

Subpoena Duces Tecum: Translated: “an order to bring it with him”; a writ issued by a governmental entity to compel a person to appear at a specified time and place with documents, records or paper.

Summons: A writ notifying the person named an action has been filed against the person and in a criminal action, failure to appear may result in a bench warrant being issued for the person’s arrest; in a civil action, failure to answer may result in entry of a judgment against that person.

Suppress: To stop, prohibit, prevent, subdue; with respect to evidence, to prevent its use by showing it was obtained illegally or is irrelevant.

Tracking Number: A 12-digit number assigned to allow a defendant and incident to be followed throughout criminal proceedings, by identification of the year (first 2 digits), the origin of the charging document (next 4 digits) and the place of the charge(s) within the sequence of charges issued that year (last 6 digits).

Trial De Novo: See “De Novo.”

True Test Copy: A copy of a court document given under the clerk’s seal, but not certified.

Venue: The county or other geographical area in which an action may be filed

Victim impact statement: A statement during sentencing which informs the sentencer of the impact of the crime on the victim or the victim’s family.

Voir Dire: Translated: “to speak the truth;” the preliminary examination of a prospective juror or witness (including an interpreter) to determine whether the person is competent, impartial, and unprejudiced.

Waive: Relinquish; in Maryland, used commonly to refer to the giving up of a legal right voluntarily, intentionally and with full knowledge of the consequences.

Without Prejudice: A dismissal “without prejudice” allows a new suit to be brought on the same cause of action.

Writ: An order of court commanding performance of a specified act or granting authority to have the act done; for example, see “Certiorari,” Habeas Corpus,” Mandamus,” Subpoena,” Summons,” and “Warrant.”

Society of Professional Journalists

CODE of ETHICS

PREAMBLE

Members of the Society of Professional Journalists believe that public enlightenment is the forerunner of justice and the foundation of democracy. Ethical journalism strives to ensure the free exchange of information that is accurate, fair and thorough. An ethical journalist acts with integrity. The Society declares these four principles as the foundation of ethical journalism and encourages their use in its practice by all people in all media.

SEEK TRUTH AND REPORT IT

Ethical journalism should be accurate and fair. Journalists should be honest and courageous in gathering, reporting and interpreting information.

Journalists should:

- ▶ Take responsibility for the accuracy of their work. Verify information before releasing it. Use original sources whenever possible.
- ▶ Remember that neither speed nor format excuses inaccuracy.
- ▶ Provide context. Take special care not to misrepresent or oversimplify in promoting, previewing or summarizing a story.
- ▶ Gather, update and correct information throughout the life of a news story.
- ▶ Be cautious when making promises, but keep the promises they make.
- ▶ Identify sources clearly. The public is entitled to as much information as possible to judge the reliability and motivations of sources.
- ▶ Consider sources' motives before promising anonymity. Reserve anonymity for sources who may face danger, retribution or other harm, and have information that cannot be obtained elsewhere. Explain why anonymity was granted.
- ▶ Diligently seek subjects of news coverage to allow them to respond to criticism or allegations of wrongdoing.
- ▶ Avoid undercover or other surreptitious methods of gathering information unless traditional, open methods will not yield information vital to the public.
- ▶ Be vigilant and courageous about holding those with power accountable. Give voice to the voiceless.
- ▶ Support the open and civil exchange of views, even views they find repugnant.
- ▶ Recognize a special obligation to serve as watchdogs over public affairs and government. Seek to ensure that the public's business is conducted in the open, and that public records are open to all.
- ▶ Provide access to source material when it is relevant and appropriate.
- ▶ Boldly tell the story of the diversity and magnitude of the human experience. Seek sources whose voices we seldom hear.
- ▶ Avoid stereotyping. Journalists should examine the ways their values and experiences may shape their reporting.
- ▶ Label advocacy and commentary.
- ▶ Never deliberately distort facts or context, including visual information. Clearly label illustrations and re-enactments.
- ▶ Never plagiarize. Always attribute.

MINIMIZE HARM

Ethical journalism treats sources, subjects, colleagues and members of the public as human beings deserving of respect.

Journalists should:

- ▶ Balance the public's need for information against potential harm or discomfort. Pursuit of the news is not a license for arrogance or undue intrusiveness.

- ▶ Show compassion for those who may be affected by news coverage. Use heightened sensitivity when dealing with juveniles, victims of sex crimes, and sources or subjects who are inexperienced or unable to give consent. Consider cultural differences in approach and treatment.
- ▶ Recognize that legal access to information differs from an ethical justification to publish or broadcast.
- ▶ Realize that private people have a greater right to control information about themselves than public figures and others who seek power, influence or attention. Weigh the consequences of publishing or broadcasting personal information.
- ▶ Avoid pandering to lurid curiosity, even if others do.
- ▶ Balance a suspect's right to a fair trial with the public's right to know. Consider the implications of identifying criminal suspects before they face legal charges.
- ▶ Consider the long-term implications of the extended reach and permanence of publication. Provide updated and more complete information as appropriate.

ACT INDEPENDENTLY

The highest and primary obligation of ethical journalism is to serve the public.

Journalists should:

- ▶ Avoid conflicts of interest, real or perceived. Disclose unavoidable conflicts.
- ▶ Refuse gifts, favors, fees, free travel and special treatment, and avoid political and other outside activities that may compromise integrity or impartiality, or may damage credibility.
- ▶ Be wary of sources offering information for favors or money; do not pay for access to news. Identify content provided by outside sources, whether paid or not.
- ▶ Deny favored treatment to advertisers, donors or any other special interests, and resist internal and external pressure to influence coverage.
- ▶ Distinguish news from advertising and shun hybrids that blur the lines between the two. Prominently label sponsored content.

BE ACCOUNTABLE AND TRANSPARENT

Ethical journalism means taking responsibility for one's work and explaining one's decisions to the public.

Journalists should:

- ▶ Explain ethical choices and processes to audiences. Encourage a civil dialogue with the public about journalistic practices, coverage and news content.
- ▶ Respond quickly to questions about accuracy, clarity and fairness.
- ▶ Acknowledge mistakes and correct them promptly and prominently. Explain corrections and clarifications carefully and clearly.
- ▶ Expose unethical conduct in journalism, including within their organizations.
- ▶ Abide by the same high standards they expect of others.

The SPJ Code of Ethics is a statement of abiding principles supported by additional explanations and position papers (at spj.org) that address changing journalistic practices. It is not a set of rules, rather a guide that encourages all who engage in journalism to take responsibility for the information they provide, regardless of medium. The code should be read as a whole; individual principles should not be taken out of context. It is not, nor can it be under the First Amendment, legally enforceable.

Guiding Principles:

Journalism's obligation is to the public. Journalism places the public's interests ahead of commercial, political and personal interests. Journalism empowers viewers, listeners and readers to make more informed decisions for themselves; it does not tell people what to believe or how to feel. Ethical decision-making should occur at every step of the journalistic process, including story selection, news-gathering, production, presentation and delivery. Practitioners of ethical journalism seek diverse and even opposing opinions in order to reach better conclusions that can be clearly explained and effectively defended or, when appropriate, revisited and revised. Ethical decision-making – like writing, photography, design or anchoring – requires skills that improve with study, diligence and practice. The RTDNA Code of Ethics does not dictate what journalists should do in every ethical predicament; rather it offers resources to help journalists make better ethical decisions – on and off the job – for themselves and for the communities they serve.



Journalism is distinguished from other forms of content by these guiding principles:

Truth and accuracy above all

- The facts *should* get in the way of a good story. Journalism requires more than merely reporting remarks, claims or comments. Journalism verifies, provides relevant context, tells the rest of the story and acknowledges the absence of important additional information.
- For every story of significance, there are always more than two sides. While they may not all fit into every account, responsible reporting is clear about what it omits, as well as what it includes.
- Scarce resources, deadline pressure and relentless competition do not excuse cutting corners factually or oversimplifying complex issues.
- “Trending,” “going viral” or “exploding on social media” may increase urgency, but these phenomena only heighten the need for strict standards of accuracy.
- Facts change over time. Responsible reporting includes updating stories and amending archival versions to make them more accurate and to avoid misinforming those who, through search, stumble upon outdated material.
- Deception in newsgathering, including surreptitious recording, conflicts with journalism's commitment to truth. Similarly, anonymity of sources deprives the audience of important, relevant information. Staging, dramatization and other alterations – even when labeled as such – can confuse or fool viewers, listeners and readers. These tactics are justified only when stories of great significance cannot be adequately told without distortion, and when any creative liberties taken are clearly explained.
- Journalism challenges assumptions, rejects stereotypes and illuminates – even where it cannot eliminate – ignorance.
- Ethical journalism resists false dichotomies – either/or, always/never, black/white thinking – and considers a range of alternatives between the extremes.

Independence and transparency

- Editorial independence may be a more ambitious goal today than ever before. Media companies, even if not-for-profit, have commercial, competitive and other interests – both internal and external -- from which the journalists they employ cannot be entirely shielded. Still, independence from influences that conflict with public interest remains an essential ideal of journalism. Transparency provides the public with the means to assess credibility and to determine who deserves trust.
- Acknowledging sponsor-provided content, commercial concerns or political relationships is essential, but transparency alone is not adequate. It does not entitle journalists to lower their standards of fairness or truth.
- Disclosure, while critical, does not justify the exclusion of perspectives and information that are important to the audience's understanding of issues.
- Journalism's proud tradition of holding the powerful accountable provides no exception for powerful journalists or the powerful organizations that employ them. To profit from reporting on the activities of others while operating in secrecy is hypocrisy.
- Effectively explaining editorial decisions and processes does not mean making excuses. Transparency requires reflection, reconsideration and honest openness to the possibility that an action, however well intended, was wrong.
- Ethical journalism requires owning errors, correcting them promptly and giving corrections as much prominence as the error itself had.
- Commercial endorsements are incompatible with journalism because they compromise credibility. In journalism, content is gathered, selected and produced in the best interests of viewers, listeners and readers – not in the interests of somebody who paid to have a product or position promoted and associated with a familiar face, voice or name.
- Similarly, political activity and active advocacy can undercut the real or perceived independence of those who practice journalism. Journalists do not give up the rights of citizenship, but their public exercise of those rights can call into question their impartiality.
- The acceptance of gifts or special treatment of any kind not available to the general public creates conflicts of interest and erodes independence. This does not include the access to events or areas traditionally granted to working journalists in order to facilitate their coverage. It does include “professional courtesy” admission, discounts and “freebies” provided to journalists by those who might someday be the subject of coverage. Such goods and services are often offered as enticements to report favorably on the giver or rewards for doing so; even where that is not the intent, it is the reasonable perception of a justifiably suspicious public.
- Commercial and political activities, as well as the acceptance of gifts or special treatment, cause harm even when the journalists involved are “off duty” or “on their own time.”
- Attribution is essential. It adds important information that helps the audience evaluate content and it acknowledges those who contribute to coverage. Using someone else's work without attribution or permission is plagiarism.

Accountability for consequences

- Journalism accepts responsibility, articulates its reasons and opens its processes to public scrutiny.
- Journalism provides enormous benefits to self-governing societies. In the process, it can create inconvenience, discomfort and even distress. Minimizing harm, particularly to vulnerable individuals, should be a consideration in every editorial and ethical decision.
- Responsible reporting means considering the consequences of both the newsgathering – even if the information is never made public – and of the material's potential dissemination. Certain stakeholders deserve special consideration; these include children, victims, vulnerable adults and others inexperienced with American media.
- Preserving privacy and protecting the right to a fair trial are not the primary mission of journalism; still, these critical concerns deserve consideration and to be balanced against the importance or urgency of reporting.
- The right to broadcast, publish or otherwise share information does not mean it is always right to do so. However, journalism's obligation is to pursue truth and report, not withhold it. Shying away from difficult cases is not necessarily more ethical than taking on the challenge of reporting them. Leaving tough or sensitive stories to non-journalists can be a disservice to the public.

A growing collection of coverage guidelines for use on a range of ethical issues is available on the RTDNA website – www.rtdna.org

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