

West's Annotated Code of Maryland
Maryland Rules (Refs & Annos)
Title 4. Criminal Causes
Chapter 200. Pretrial Procedures (Refs & Annos)

MD Rules, Rule 4-262

RULE 4-262. DISCOVERY IN DISTRICT COURT

Currentness

(a) Applicability. This Rule governs discovery and inspection in the District Court. Discovery is available in the District Court in actions that are punishable by imprisonment.

Committee note: This Rule also governs discovery in actions transferred from District Court to circuit court upon a jury trial demand made in accordance with [Rule 4-301 \(b\)\(1\)\(B\)](#). See [Rule 4-301 \(c\)](#).

(b) Definitions. In this Rule, the terms “defense,” “defense witness,” “oral statement,” “provide,” “State's witness,” and “written statement” have the meanings stated in [Rule 4-263 \(b\)](#).

Cross reference: For the definition of “State's Attorney,” see [Rule 4-102 \(l\)](#).

(c) Obligations of the Parties.

(1) *Due Diligence.* The State's Attorney and defense shall exercise due diligence to identify all of the material and information that must be disclosed under this Rule.

(2) *Scope of Obligations.* The obligations of the State's Attorney and the defense extend to material and information that must be disclosed under this Rule and that are in the possession or control of the attorney, members of the attorney's staff, or any other person who either reports regularly to the attorney's office or has reported to the attorney's office in regard to the particular case.

Cross reference: For the obligations of the State's Attorney, see [State v. Williams, 392 Md. 194 \(2006\)](#).

(d) Disclosure by the State's Attorney.

(1) *Without Request.* Without the necessity of a request, the State's Attorney shall provide to the defense all material or information in any form, whether or not admissible, that tends to exculpate the defendant or negate or mitigate the defendant's guilt or punishment as to the offense charged and all material or information in any form, whether or not admissible, that tends to impeach a State's witness.

Cross reference: See [Brady v. Maryland, 373 U.S. 83 \(1963\)](#); [Kyles v. Whitley, 514 U.S. 419 \(1995\)](#); [Giglio v. U.S., 405 U.S. 150 \(1972\)](#); [U.S. v. Agurs, 427 U.S. 97 \(1976\)](#); [Thomas v. State, 372 Md. 342 \(2002\)](#); [Goldsmith v. State, 337 Md. 112 \(1995\)](#); and [Lyba v. State, 321 Md. 564 \(1991\)](#).

(2) *On Request.* On written request of the defense, the State's Attorney shall provide to the defense:

(A) *Statements of Defendant and Co-defendant.* All written and all oral statements of the defendant and of any co-defendant that relate to the offense charged and all material and information, including documents and recordings, that relate to the acquisition of such statements;

(B) *Written Statements, Identity, and Telephone Numbers of State's Witnesses.* As to each State's witness the State's Attorney intends to call to prove the State's case in chief or to rebut alibi testimony: (i) the name of the witness; (ii) except as provided under Code, [Criminal Procedure Article, § 11-205](#) or Rule 16-1009 (b), the address and, if known to the State's Attorney, the telephone number of the witness, and (iii) the statements of the witness relating to the offense charged that are in a writing signed or adopted by the witness or are in a police or investigative report;

(C) *Searches, Seizures, Surveillance, and Pretrial Identification.* All relevant material or information regarding:

(i) specific searches and seizures, eavesdropping, or electronic surveillance including wiretaps; and

(ii) pretrial identification of the defendant by a State's witness;

(D) *Reports or Statements of Experts.* As to each State's witness the State's Attorney intends to call to testify as an expert witness other than at a preliminary hearing:

(i) the expert's name and address, the subject matter on which the expert is expected to testify, the substance of the expert's findings and opinions, and a summary of the grounds for each opinion;

(ii) the opportunity to inspect and copy all written reports or statements made in connection with the action by the expert, including the results of any physical or mental examination, scientific test, experiment, or comparison; and

(iii) the substance of any oral report and conclusion by the expert;

(E) *Evidence for Use at Trial.* The opportunity to inspect, copy, and photograph all documents, computer-generated evidence as defined in Rule 2-504.3 (a), recordings, photographs, or other tangible things that the State's Attorney intends to use at a hearing or at trial; and

(F) *Property of the Defendant.* The opportunity to inspect, copy, and photograph all items obtained from or belonging to the defendant, whether or not the State's Attorney intends to use the item at a hearing or at trial.

(e) Disclosure by Defense. On written request of the State's Attorney, the defense shall provide to the State's Attorney:

(1) *Reports or Statements of Experts.* As to each defense witness the defense intends to call to testify as an expert witness:

(A) the expert's name and address, the subject matter on which the expert is expected to testify, the substance of the findings and the opinions to which the expert is expected to testify, and a summary of the grounds for each opinion;

(B) the opportunity to inspect and copy all written reports or statements made in connection with the action by the expert, including the results of any physical or mental examination, scientific test, experiment, or comparison; and

(C) the substance of any oral report and conclusion by the expert; and

(2) *Documents, Computer-Generated Evidence, and Other Things.* The opportunity to inspect, copy, and photograph any documents, computer-generated evidence as defined in Rule 2-504.3 (a), recordings, photographs, or other tangible things that the defense intends to use at a hearing or at trial.

(f) Person of the Defendant.

(1) *On Request.* On written request of the State's Attorney that includes reasonable notice of the time and place, the defendant shall appear for the purpose of:

(A) providing fingerprints, photographs, handwriting exemplars, or voice exemplars;

(B) appearing, moving, or speaking for identification in a lineup; or

(C) trying on clothing or other articles.

(2) *On Motion.* On motion filed by the State's Attorney, with reasonable notice to the defense, the court, for good cause shown, shall order the defendant to appear and (A) permit the taking of buccal samples, samples of other materials of the body, or specimens of blood, urine, saliva, breath, hair, nails, or material under the nails or (B) submit to a reasonable physical or mental examination.

(g) Matters Not Discoverable.

(1) *By Any Party.* Notwithstanding any other provision of this Rule, neither the State's Attorney nor the defense is required to disclose (A) the mental impressions, trial strategy, personal beliefs, or other privileged attorney work product or (B) any other material or information if the court finds that its disclosure is not constitutionally required and would entail a substantial risk of harm to any person that outweighs the interest in disclosure.

(2) *By the Defense.* The State's Attorney is not required to disclose the identity of a confidential informant unless the State's Attorney intends to call the informant as a State's witness or unless the failure to disclose the informant's identity would infringe a constitutional right of the defendant.

(h) Continuing Duty to Disclose. Each party is under a continuing obligation to produce discoverable material and information to the other side. A party who has responded to a request or order for discovery and who obtains further material information shall supplement the response promptly.

(i) Procedure. To the extent practicable, the discovery and inspection required or permitted by this Rule shall be completed before the hearing or trial. If a request was made before the date of the hearing or trial and the request was refused or denied, or pretrial compliance was impracticable, the court may grant a delay or continuance in the hearing or trial to permit the inspection or discovery.

(j) Requests, Motions, and Responses to Be Filed With the Court. Requests for discovery, motions for discovery, and any responses to the requests or motions shall be filed with the court.

(k) Discovery Material Not to Be Filed With the Court. Except as otherwise provided in these Rules or by order of court, discovery material shall not be filed with the court. This section does not preclude the use of discovery material at trial or as an exhibit to support or oppose a motion.

(l) Retention; Inspection of Original. The party generating discovery material shall retain the original until the expiration of any sentence imposed on the defendant and, on request, shall make the original available for inspection and copying by the other party.

(m) Protective Orders. On motion of a party, a person from whom discovery is sought, or a person named or depicted in an item sought to be discovered, the court, for good cause shown, may order that specified disclosures be denied or restricted in any manner that justice requires.

(n) Failure to Comply With Discovery Obligation. The failure of a party to comply with a discovery obligation in this Rule does not automatically disqualify a witness from testifying. If a motion is filed to disqualify the witness's testimony, disqualification is within the discretion of the court.

Source: This Rule is new.

Credits

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[Notes of Decisions \(2\)](#)

MD Rules, Rule 4-262, MD R CR Rule 4-262
Current with amendments received through August 1, 2015