

**MARYLAND JUDICIAL CONFERENCE**  
**GOVERNMENT RELATIONS AND PUBLIC AFFAIRS**

Hon. Mary Ellen Barbera  
Chief Judge

187 Harry S. Truman Parkway  
Annapolis, MD 21401

**MEMORANDUM**

**TO:** House Judiciary Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** House Bill 1327  
Courts – Grand Jury Proceedings – Recordings and Transcripts  
**DATE:** February 19, 2020  
(2/26)  
**POSITION:** Oppose

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The Maryland Judiciary opposes House Bill 1327. House Bill 1327 amends § 8-416 of the Courts Article to require recording and transcribing of all grand jury proceedings except deliberations and voting sessions.

The primary effect of the bill would be to give a defendant and defendant's counsel automatic access to the record of grand jury proceedings (other than deliberations) on request from the court reporter. This would be a fundamental departure from current law under which grand jury proceedings are secret and are disclosed to a defendant only when required by the criminal discovery rules or as determined by a court. It should also be noted that in some counties grand jury proceedings are not recorded at all, or even convened at the courthouse.

The bill imposes a nondisclosure requirement on defendant's and defendant's counsel, unless a court determines that public disclosure is appropriate, but the automatic disclosure to defendants and defense counsel would likely weaken the secrecy principle.

Grand jury secrecy serves important purposes. It protects the privacy of suspects who are not indicted, and it encourages the cooperation and candor of witnesses before the grand jury. If witnesses knew that a suspect, or at least an indicted defendant, would have immediate and automatic access to the witness's grand jury testimony, cooperation likely would be affected negatively in some cases.

The Judiciary is concerned that a bill like this would have a chilling effect on witness testimony. Automatic disclosure of proceedings may concern many grand jurors who are often reluctant to begin with and could discourage active participation during the witness testimony.

In addition, this bill provides that the court may require an audio or video recording or a transcript to be released to the public, if the court finds that the release serves an important public interest. This provision further compromises the principle of secrecy in these proceedings and which is vital to the grand jury process.

cc. Hon. Sandy Bartlett  
Judicial Council  
Legislative Committee  
Kelley O'Connor