

Rule 36-I. Recording of Court Proceedings; Release of Transcripts

(a) All Proceedings Recorded. All proceedings must be recorded by a court reporter or by a suitable recording device.

(b) Ordering Transcripts.

(1) Any person who has made suitable arrangements to pay the appropriate fee is entitled to obtain a transcript of all or any part of any recorded proceedings in open court.

(2) In a case tried to a jury, any party to the proceedings who has made suitable arrangements to pay the fee specified, or any judge of the District of Columbia Court of Appeals or any judge or magistrate judge, is entitled to obtain a transcript of any part of the recorded proceedings, whether or not held in open court.

(3) In a case tried to a jury, prior to rendition of a verdict or discharge of the jury, any person other than a party to the proceedings must apply to the judge presiding over the trial for permission to obtain a transcript of any part of the recorded proceedings not held in open court. In determining whether such an application should be granted in whole or in part, the judge must consider the parties' right to a fair trial and the public's interest in a free press. The judge may condition the granting of such application upon such terms as may be appropriate, may sequester the jury, or may take such other approved procedures as seem necessary to insure a fair trial in the case.

(4) As used in this rule, "proceedings in open court" means:

(A) all recorded judicial proceedings in a non-jury case; or

(B) in a case tried by a jury, all recorded judicial proceedings except pretrial hearings on the admissibility of evidence, discussions in chambers, bench conferences or other recorded proceedings in which the jury does not participate. After rendition of a verdict or discharge of the jury, however, all recorded proceedings of a case tried to a jury will be treated as proceedings in open court.

(c) Endorsement on Transcript. Each transcript obtained in accordance with this rule must bear the following endorsement upon its cover page: "This transcript represents the product of an official reporter, engaged by the court, who has personally certified that it represents the testimony and proceedings of the case as recorded."

(d) Transcript on Appeal. Upon the completion of any transcript in a matter to be brought before the appellate court, the reporter or transcriber must notify the trial court and counsel that the transcript has been completed and will be forwarded to the Court of Appeals 5 days hence. The notice must inform counsel that any objections to the transcript must be presented to the trial court and served on opposing counsel within the 5 day period in the manner prescribed in Superior Court Rule of Civil Procedure 5. The court will make known to the parties any objections which it raises sua sponte and will give the parties an opportunity to make representations to the court before the objections are resolved. All objections must be resolved by the trial court on the basis of the best available evidence as to what actually occurred in the proceedings.

(e) Security of Original Transcript. In any case in which a transcript is ordered by any person, the reporter or transcriber must deliver to the person a copy or copies of any transcript prepared. The original transcript, bearing the required certificate, must be filed by the reporter or transcriber with the clerk of the court and may not be changed in any respect except pursuant to rule of court.

(f) Private Reporters. Except as provided in Rule 36-1(g), only a court reporter who is a court employee, or who is under contract to the court to provide reporting services, is permitted to record proceedings held before a judge or magistrate judge.

(g) Restriction on the Use of Electronic Recording Devices. No electronic recording equipment, other than that in the custody and control of official court reporters or court personnel in the performance of their official duties, may be used to record proceedings held before a judge or magistrate judge.

COMMENT TO 2016 AMENDMENTS

This rule, retained from the former rule, has no federal counterpart. In keeping with general stylistic changes made to the federal rules, the rule has been redrafted to make it more easily understood and to maintain consistency throughout the rules.

The former version of paragraph (a) allowed for the recordation of proceedings by electronic sound recording device “when permitted by rule of court.” *Federal Rules 5.1(g), 6(e)(1), 11(g), 12(f), 32.1(b)(1)(B), 41(d)(2)(C), (d)(3)(D), and 58(e)* added new provisions or revised former provisions by stating that proceedings must be recorded “by a court reporter or by a suitable recording device.” Paragraph (a) of this rule was amended to track the federal rules’ language. Accordingly, all proceedings in the Criminal Division of the Superior Court must be recorded “by a court reporter or by a suitable recording device.”

Due to the revision of paragraph (a), former paragraph (g), regarding electronic recording devices, was deleted as unnecessary.