

this more severe standard applicable in a situation where the judge imposes the death penalty notwithstanding a contrary recommendation of the jury is indeed a limitation on the general proposition that the jury's recommendation is advisory only and that the actual sentence is to be determined by the trial judge. Accordingly, we believe that a Maryland trial judge should follow the standards articulated in Tedder v. State, in imposing the death sentence in the face of a jury recommendation for life imprisonment. Unlike the standards which should be followed by juries and judges under other circumstances, this would require him, we believe, to adhere to a "beyond a reasonable doubt" standard not only in determining the presence of aggravating circumstances but also in determining the absence of mitigating circumstances and ultimately weighing the two against each other.

6. You next ask how specific and detailed the jury's conclusions must be with respect to its findings of aggravating or mitigating circumstances if it recommends the death penalty. In particular, you inquire as to whether it must make specific findings as to each of the enumerated circumstances.

Section 413(e) explicitly requires any trial judge who imposes the death sentence to support his determination "by specific written findings of fact based upon the aggravating and mitigating circumstances and upon the records of the trial and the sentencing proceedings." No such requirement is placed upon a trial judge imposing a sentence of life imprisonment. In contrast to the specific requirement of written findings when the court imposes the death sentence, Section 413(c) simply requires the jury to "render an advisory sentence to the court, based upon" whether sufficient aggravating circumstances exist, whether sufficient mitigating circumstances exist to outweigh the aggravating circumstances and whether, based on these considerations, the defendant should be sentenced to life imprisonment or death. While it is obviously implicit in any recommendation of the death penalty which accords with the statute and proper instructions from the judge that the jury has found one or more aggravating circumstances and has found that they outweigh any mitigating circumstances, the statute simply does not contain a requirement that the jury express its conclusions in specific or detailed form, and in particular it does not require that the jury make specific findings as to each of the enumerated circumstances.

It is possible to argue that Section 413(c) at least requires the jury to make three general findings along the lines set forth in paragraph (1), (2) and (3) of subsection (c). While we do not believe the statute