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# Understanding the Laws on Journalistic Sources In Ghana





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# Introduction

This Guide provides journalists with a practical understanding of the legal frameworks on news sources in Ghana. This awareness will empower journalists to understand their rights and obligations and continue to report on issues of vital public interest. The Guide assesses the recognition of news sources in law, the protection of news sources, as well as search and seizure relating to journalists' gadgets and information.

## 1. What is defined as a journalistic source?

There is no specific legal definition of journalistic sources in Ghana. However, it can be inferred that a journalistic source is any individual or entity that provides information to journalists. Sources also include documents that contain relevant information for journalistic work.

## 2. Which law protects journalistic sources?

The [Constitution](#) of Ghana protects media freedom, freedom of expression and the right to privacy. It does not, however, explicitly protect journalistic sources although the protection of the media from state interference means sources are implicitly protected. A number of other laws such as the [Whistleblower Act, 2006](#), [Witness Protection Act, 2018](#), and [Right to Information Act, 2019](#) protect sources of information. The Constitution establishes the National Media Commission which is expected to promote and ensure the freedom and independence of the media.<sup>1</sup>

The [Ghana Journalists Association \(GJA\) Code of Ethics](#) requires journalists to protect confidential sources of information.

## 3. Does the law protect me from revealing my sources? In what instances might I be required to reveal a source?

Journalists have the duty to protect confidential sources of information.<sup>2</sup> The courts have also indicated that forcing a journalist to reveal their source violates press freedom unless it is shown that the revelation is of great public interest.<sup>3</sup>

### ● [\*Ghana Independent Broadcasters Association v. Attorney General and National Media Commission\*](#)

The plaintiff challenged the constitutionality of certain provisions within the National Media Commission (Content Standards) Regulations, 2015. These regulations required media operators to obtain content authorisation from the Commission, which amounted to censorship and control over media content, contrary to the freedoms guaranteed under the Constitution. The Supreme Court of Ghana ultimately struck down the contested regulations as unconstitutional reiterating the importance of protecting journalistic sources to safeguard the independence of the media.

In some instances, courts may order journalists to disclose sources where the disclosure serves public interest. This is common in cases involving criminal investigations or national security.

1 Article 166, [Constitution](#)

2 [Ghana Journalists Association \(GJA\) Code of Ethics](#)

3 [Ghana Independent Broadcasters Association v Attorney General and National Media Commission](#)



## 4. What rights does a source have?

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Journalistic sources do not enjoy any special protection. However, the [Constitution](#) guarantees an individual's right to privacy and protection from interference in communications. In addition, the [Whistleblower Act, 2006](#), [Witness Protection Act, 2018](#), and [Right to Information Act, 2019](#) protect sources of information even though these are not specifically for journalistic purposes.

## 5. What should I be wary of when dealing with a journalistic source?

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There are no specific laws in Ghana that govern the relationship between a journalist and their sources. Nonetheless, the GJA Code of Ethics states that journalists have a professional duty to protect their confidential sources. For example, a journalist is expected to respect a source's request not to be identified or named in a story. In addition, journalists have a professional obligation to respect people's privacy and are prohibited from intruding in anybody's private life, grief or distress unless justified by overriding considerations of public interest. Journalists may not identify victims of sexual assault and should protect the rights of minors, including getting the consent of parents or guardians, before interviewing or photographing them.



In addition, there is a professional obligation to respect embargoes/restrictions issued by sources for the information provided.

Aside from the professional obligations, journalists should also observe the following data protection principles when it comes to sources as stipulated in section 64 of the [Data Protection Act](#):

- (a) **Lawful processing:** a lawful reason for collection of data. This could be where a source gives consent or where the data processing is in the public interest.
- (b) **Data minimisation:** data should be collected only to the extent necessary to achieve the objective. This means that journalists should collect the minimum amount of personal data required for the story. They should also avoid collecting sensitive or unnecessary data.
- (c) **Further processing:** journalists should use personal data for no other purpose other than which it was collected for example selling or sharing with third parties. Should they use the personal data further, it should align with the original purpose.
- (d) **Information quality:** personal data should be accurate, complete, and up-to-date. Journalists should verify the accuracy of personal data before publishing.
- (e) **Security safeguards:** personal data should be protected against unauthorised or unlawful processing, accidental loss, destruction, or damage. Journalists should establish mechanisms to protect personal data which may include encryption or secure storage. Journalists should also ensure personal data is transmitted securely. They should also have procedures in place to respond to data breaches and notify affected individuals and authorities as required.

Aside from data protection, there are also confidentiality agreements which prevent people from sharing information with third parties. Journalists should always confirm whether sources have signed non-disclosure agreements (NDAs). If potential sources have signed NDAs, journalists should be aware that their potential sources may not disclose certain information to them. If they do, they will breach their contracts, and the potential sources could be sued. In such a scenario, journalists may seek alternative sources who are not bound by NDA and who can provide similar information.

## 6. Can I face legal action in my interactions with a source, and in what circumstances?

Journalists can face legal action if they violate the privacy of their sources or breach the data protection principles discussed above. They may also be reported to the National Media Commission for breach of their professional obligations outlined above.



## 7. In what instances can I record a source?

As a general rule, journalists should record sources with their consent. The GJA Code of Ethics obligates journalists to obtain information, videos, data, photographs and illustrations only by honest, straightforward, fair and open means. However, they may record without consent if there are public interest considerations.

The courts have also affirmed the general rule that journalists should not record sources without their consent as below:

### ● *Ibrahim Sannie Daara v. Anas Aremeyaw Anas (2020)*

The Court justified the secret recording and broadcasting of a conversation about a public entity by an undercover journalist. The court determined that these actions did not violate the right to privacy, as the discussions concerned a public institution and the matters discussed were of public interest. The discussions in question were also not private.

As such, public interest is an exception to the general rule to obtain the consent of the source before recording.

### ● *Raphael Cubagee v. Michael Yeboah & Others (2018)*

The plaintiff, Raphael Cubagee, sought to introduce an audio recording of a telephone conversation as evidence in a land dispute case. The conversation was between Cubagee and John Felix Yeboah, a Superintendent Minister representing the third defendant, the Assembly of God Church. The recording was made secretly without Yeboah's consent, so it was challenged for violation of the right to privacy under Article 18(2) of the 1992 Constitution. The Magistrate referred the matter to the Supreme Court for interpretation of the constitutional provision regarding privacy and admissibility of evidence obtained through secret recording. The Supreme Court ruled that the recording violated the right to privacy and that the recording should be excluded from evidence.

### ● *Abena Opoku Ackah v. Agricultural Development Bank (2017)*

Mrs. Abena Pokua Ackah, an employee of the Agricultural Development Bank, was dismissed after a secretly recorded telephone conversation with a journalist, Nana Yaw Yeboah, was used against her by the bank. In the conversation, she criticized the bank's restructuring and the Managing Director's bonus, prompting disciplinary action for alleged gross misconduct. She challenged her dismissal in court, arguing violations of her constitutional right to privacy and free speech. The case progressed through the High Court and Court of Appeal, ultimately reaching the Supreme Court, which decided that her right to privacy had been violated and she was awarded damages.

## 8. Can the police confiscate my documents/gadgets for investigation? In what instances can they do so?

The police have the power to search and seize documents belonging to journalists in certain circumstances. Where journalists have been arrested, the police are permitted to search them, as with anyone who is under arrest, and safely store any items they find on the arrested person.<sup>4</sup>

Where no arrest has been effected and the police seek to search a person or place, the police are required to obtain a search warrant from a District Court before they can conduct this search. The District Court will only grant a search warrant if there is evidence on oath that there are reasonable grounds for believing that the content is intended to be used to commit a crime or the content can be used as evidence of the commission of a crime or the content has been used to commit a crime.<sup>5</sup>

The police may also conduct a search and seizure under the [Anti-terrorism Act, 2008](#).<sup>6</sup>

4 See section 8, [Criminal and Other Offences \(Procedure\) Act, 1960 \(Act 30\)](#)

5 Section 88, [Criminal and Other Offences \(Procedure\) Act, 1960 \(Act 30\)](#)

6 Section 24 and 26





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## 9. Can the police confiscate my documents online? Can the police intercept my communications with sources, including via secure/encrypted platforms?

As discussed above, the police can search and seize documents of any Ghanaian, including journalists. Where a search is happening outside the context of an arrest, the police must obtain a search warrant.

Law enforcement authorities may also intercept a journalist's communication.<sup>7</sup> However, any interference in the digital communication of a journalist must be approved by a High Court in Ghana. For the High Court to issue an interception order, the officer making the application must demonstrate that:

- (a) the information involved or the persons holding that information are under investigation for a serious offence,
- (b) the information is in the interest of national security or the economic wellbeing of the citizenry in a way that affects national security or
- (c) the information is required to give effect to a mutual legal assistance request from another state.<sup>8</sup>

| 7 Section 73(1), [Cybersecurity Act, 2020](#)

| 8 Section 73(2), [Cybersecurity Act, 2020](#)



The High Court also has to consider other safeguards before issuing interception orders such as:

- (a) the interception is proportionate and necessary for what they aim to achieve,
- (b) measures are taken to ensure privacy of other users, customers and third parties and without the disclosure of information and data of any party that is not part of the investigation and
- (c) the investigation may be frustrated or seriously prejudiced unless the interception is permitted.

The President may, by executive instrument, make written requests and issue orders to operators or providers of electronic communication networks to intercept communications or provide any user information to aid law enforcement or national security.<sup>9</sup>



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Through a rigorous deployment of data journalism, storytelling and policy advocacy tools, iWatch Africa is shaping the national and regional discourse to deepen transparency and accountability, as well as to encourage citizen participation in the governance process in Africa.

## Acknowledgements & Disclaimer

The Thomson Reuters Foundation and iWatch Africa would like to acknowledge and extend their gratitude to the legal team at Bentsi-Enchill, Letsa and Ankomah, who contributed their time and expertise on a pro bono basis to make this Guide possible. This Guide is offered for information purposes only. It is not legal advice. Readers are urged to seek advice from qualified legal counsel in relation to their specific circumstances. We intend the Guide's contents to be correct and up to date at the time of publication, but we do not guarantee their accuracy or completeness, particularly as circumstances may change after publication. Bentsi-Enchill, Letsa and Ankomah and the Thomson Reuters Foundation accept no liability or responsibility for actions taken or not taken or any losses arising from reliance on this Guide or any inaccuracies herein.



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