

TIMELINE:

1. The journalist's privilege in Maryland originated in 1896, but has been substantially modified since then. Consequently, related case law on the privilege may no longer be applicable.

2. 1978: Section 9-112, Courts and Judicial Proceedings was plain, strict, and simple:

"For the purpose of prohibiting the compulsion of disclosure of any unpublished information or the source of any unpublished information obtained by a newspaper," the act gave the media:

"an absolute privilege of confidentiality as to any news or information or the source of any news or information that was obtained by the person for, and published or not published in, the newspaper or disseminated by the radio or television station where the person is engaged, connected with, or employed."

3. 1979: At Ch.484, Senate Bill 785, Section 9-112 was amended so that it only protected the sources of information, and not the information itself as it did before.

4. 1988: At Ch.113, Senate Bill 87, Section 9-112 was amended again, so that it partially brought back protections over the news/information itself. For the purpose of prohibiting the media "from being compelled to disclose the source of any news or information, or any news or information procured for communication to the public but which is not so communicated in whole or in part." The amendments also provided for specific circumstances allowing the courts to compel disclosure, and circumstances under which waiver of protections are prohibited.

It was the "intention of the General Assembly to grant the news media an unqualified privilege not to reveal sources of information, and a qualified privilege not to disclose information."

WAIVER OR LIMITED SCOPE? The statute states that if the media "disseminates a source of any news or information, or any portion of the news or information procured while pursuing professional activities, the protection from compelled disclosure under this section is not waived." This should be compared to the stated purpose and the language of relevant paragraph c2 which states that the scope of the privilege only extends to news or information procured "for communication to the public but which is not so communicated, in whole or in part." See ugly flow chart notes.

Source seems to mean people (c1), and protection of disclosing sources is greater than protection of disclosing news or information (c2) which includes notes, outtakes, video, film, and other data. In particular, there can never be waiver of the privilege upon source disclosure, but upon news disclosure the entire statute, including the no-waiver clause, may be inapplicable b/c of c2.