



Media reports provide transparency that ensures the integrity of court proceedings. In some cases, it is necessary to limit publication of information to protect the safety and privacy of a victim, the identity of a child, or the fairness of a trial.

## What journalists need to know

The law may permit a judge, or even require them, to impose a ban on publication of information.

Every journalist covering a court case must be alert to the possibility that a publication ban is in effect. This is particularly important when you are sending social media posts from a courtroom without much opportunity for review before publishing.

When a ban exists, it is also important to check specific statutory provisions for the exact wording of the ban, and to get legal advice when there is a question about whether publication is permitted.

Breaching a publication ban could be an offence under legislation or it could constitute contempt of court. The penalty could be a fine, a conditional discharge or probation order, or possibly even jail.

## Types of publication bans

### Automatic bans

These are created by operation of a law and not triggered by any court order or application by a party. A law simply bans publication. Journalists need to know what these statutory bans are.

### Mandatory bans

A judicial officer must order a mandatory ban if a party requests it. For example, if the accused person asks for a publication ban at a bail hearing, the judge has no choice. Section 517 of the *Criminal Code* says they must order it.

## **Discretionary bans**

These may be ordered if a party requests them. These are the only types of bans where a judge can decide whether a ban should be made. When deciding whether to make a discretionary ban, a judge will weigh the public's right to know against the impact of publication on trial fairness, or on the safety and privacy of a victim or witness. If a ban is ordered, they will limit it as much as possible.

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