



PNA LEGAL UPDATE

LEGAL AND LEGISLATIVE ISSUES AFFECTING THE NEWS INDUSTRY

EDITORIAL ROUNDUP

Daily American (Somerset) – Public interest (why public access to mug shots serves the public interest)

The Times-Tribune (Scranton) – Don't dilute public records law; fund the process

Hazleton Standard-Speaker – Open wallets for open government

Pittsburgh Post-Gazette – The secrets of meat: Pennsylvania should support investigations of abusive farms

LEGISLATIVE UPDATE

We're pleased to report that none of the bills that would have a negative impact on newspaper operations or First Amendment values have been moved out of their committees of origin. That's not to say that we're supportive of everything moving through the capitol, of course, and we continue to monitor a host of bills on our legislative tracking system. You can track the progress of the bills that we are tracking by clicking on "Bill Tracker" on [this page](#).

LEGAL ISSUES FROM AROUND THE COMMONWEALTH

Philadelphia courts consider cell phone ban

The Philadelphia District Attorney's office is supporting a proposed ban on all cell phones in courtrooms to combat witness intimidation. Assistant District Attorney Bill Davis cited examples of members of the public who took photos of witnesses on the stand and posted them online. President Judge Pamela Dembe confirmed that the court is considering the ban but noted that there would be no action without proper research. She also noted that such bans have not worked well in other jurisdictions. Read more from [Newsworks](#).

DCNR excludes public from gas drilling meeting

The Department of Conservation and Natural Resources (DCNR) held a private meeting with local government agencies and invited "stakeholders" to discuss proposed natural gas drilling on thousands of acres of state forest land in Lycoming County. DCNR spokeswoman Christine Novak said that DCNR wanted to keep the meeting small so that the agency could have a conversation about the issue. DCNR Secretary Richard J. Allen added that DCNR has no intention of holding public meetings on the issue in the future. Several local agencies had quorums in attendance, including the Lycoming County Commissioners. Read more from the [Williamsport Sun-Gazette](#).

PNA note: Under the Sunshine Act, any time a quorum of an agency deliberates agency business, it must do so at a properly advertised public meeting, unless an exception applies. Whether an agency is deliberating agency business at a meeting such as this would depend on the actions taken by specific agency members at the meeting and would be highly fact-specific.

Right to Know Law bill may be on the horizon

Senator Dominic Pileggi has been working on a bill to amend the Right to Know Law, and formal introduction of the bill may be approaching. The anticipated bill is expected to address several issues, including access to contractor records, fees, time limits, burdensome requests and format issues. Read more from [The Times-Tribune \(Scranton\)](#).

PNA note: PNA is actively involved in legislative efforts relating to the Right to Know Law and the need to maintain and enhance public access, and will keep members informed as any legislation progresses.

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FROM THE LEGAL HOTLINE: CAN A STANLEY CUP PHOTO BE USED IN AN AD?

DO YOU HAVE A QUESTION FOR THE LEGAL HOTLINE?

CONTACT 717-703-3080





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Philly's power players bombard city newspapers with libel suits

Daniel Denvir of the Philadelphia City Paper lays out what he calls the "deluge" of libel suits filed by prominent Philadelphians against the city's daily newspapers [here](#).

Borough officials dispute Sunshine Act charges

Members of the Danville Borough Council have entered not guilty pleas in a criminal proceeding arising from allegations that the borough failed to properly advertise meetings. The case is scheduled to be heard by Magisterial District Judge Marvin Shrawder in April. Read more from the [Danville News](#).

PNA note: the Sunshine Act contains civil and criminal penalties for violations of the act. It is a summary offense, punishable by up to a \$1000 fine plus court costs for a first offense, and up to a \$2000 fine plus court costs for second and subsequent offenses. In a civil context, if a court finds that a violation occurred, the judge can issue an injunction, invalidate any official action taken and take other remedial action to remedy a violation. You can read section 714, the penalty provision of the Sunshine Act, [here](#).

City cancels private audit discussion

The city of Hazelton planned to discuss a 2011 audit during an executive session, but scrapped the plans after a council member questioned the legality of the meeting. City council president James Perry said that audits have historically been discussed during private sessions. Read more from the [Hazelton Standard-Speaker](#).

PNA note: there are a number of limited exceptions to the Sunshine Act that allow private deliberation of agency business. The most commonly asserted exceptions are found in section 708 of the law, the executive session exceptions, which allow private deliberation of personnel issues, pending or threatened

litigation, collective bargaining, acquisition of property, and issues made confidential by law. Under Section 707, Boards of auditors may also conduct closed working sessions for the purpose of examining, analyzing, discussing and deliberating the various accounts and records with respect to which such boards are responsible, so long as official action of a board with respect to such records and accounts is taken at a meeting open to the public and subject to the provisions of this chapter. You can read the Law [here](#).

County council skirting Sunshine Act via email?

Luzerne County Council has allegedly been deliberating via email, raising Sunshine Act compliance issues. Republican candidate for county council, Kathy Dobash, reviewed several emails between current council members and accused them of violating the law during a recent public meeting. Council members suggested posting the emails as a means of complying with the law, but the agency's attorney disagreed and took the issue under advisement. Read more from the [Times-Tribune \(Scranton\)](#).

PNA note: There is no exception to the Sunshine Act that allows deliberation of agency business to occur via email.

Battle for PSU emails headed to court

A PSU alum is suing for access to PSU-related emails received by former Education Secretary Ron Tomalis between May 1 and July 31 of last year. The Department of Education denied the initial request, and the Office of Open Records affirmed the agency's denial. The case has been appealed to the Commonwealth Court, where the Governor's Office of General Counsel is handling the case and objecting to access. Read more from the [Pittsburgh Tribune-Review](#).

PNA note: emails sent to or received by government officials are subject to the Right to Know Law, although there are a number of exceptions that could apply to limit public access.

ISSUES BEYOND PENNSYLVANIA

Court delays decision on forcing journalist to unmask confidential source

Fox News reporter Jana Winter is facing the prospect of incarceration after refusing to identify confidential law enforcement sources. The unnamed sources provided information about a notebook kept by James Holmes, the man accused of murdering 12 people in an Aurora, Colorado movie theater. The judge delayed his decision, pending the court's decision on whether the notebook will be presented as evidence in the case against Holmes. Read more from the [Denver Post](#).

Patent trolls launched majority of U.S. patent cases in 2012

A [new study](#) has found that more than half of last year's patent litigation cases in the U.S. were filed by companies that license patents but don't have another business – also known as "patent trolls."



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FROM THE LEGAL HOTLINE

Q: An advertiser wants to use a picture of the Stanley Cup in an ad. Is that OK?

A: No, unless the advertiser has permission from the National Hockey League (NHL). The Stanley cup image and name are federally registered trademarks owned by the NHL.

A trademark is a word, phrase, symbol or design that identifies and distinguishes the source of the goods of one party from those of others. Trademark law provides the owner of the trademark a unique way of marketing itself, and the law also provides legal remedies for unauthorized use of a trademark. If the name of a product advertised in a newspaper is the same or confusingly similar to a trademark owned by someone who is not involved in placing the ad, the owner of the trademark can sue for an injunction against future printing.

The NHL owns trademarks to many words, symbols and phrases associated with the NHL. Any commercial use of these trademarks without permission raises trademark infringement issues.

Current NHL trademarks include: NHL, the NHL Shield, the

word mark and image of the Stanley Cup, Center Ice name and logo, NHL Conference logos, NHL Winter Classic, Vintage Hockey word mark and logo, Live Every Shift, Hot Off the Ice, The Game Lives Where You Do, NHL Power Play, NHL Winter Classic logo, NHL Heritage Classic name and logo, NHL GameCenter Live, NHL Network, NHL Mobile name and logo, NHL Radio, NHL Awards name and logo, Hockey Fights Cancer, NHL All-Access Vancouver name and logo, NHL Ice Time, Ice Time AnyTime, Ice Tracker and Questions Will Become Answers.

NHL team logos and marks are the property of the respective teams and may not be reproduced in advertising without prior written consent.

It is important to note that different rules apply to the use of these trademarks in news content and editorials.

As always, this is not intended to be, nor should it be construed as, legal advice. Please contact your newspaper's attorney or the PNA Legal Hotline at (717) 703-3080 with questions.