



PNA LEGAL UPDATE

LEGAL AND LEGISLATIVE ISSUES AFFECTING THE NEWS INDUSTRY

A supplement to Headlines & Deadlines

Editorials

PennLive/The Patriot-News (Harrisburg)

You might have missed it, but PA Senator's obscene tweet made an important point

York Dispatch

Civil forfeiture bill deserves to become law

Legislative Update

The Senate and House Appropriations Committees will begin hearings next week on Governor Tom Wolf's **2017-18 budget proposal**. The House returns to session March 13th (Sunshine Week). Representative Robert Matzie (D-Allegheny, Beaver) circulated a **co-sponsorship memo** to introduce a House resolution for Sunshine Week, which was established in 2005 to spark discussion about the importance of open government and public access to government documents and meetings.

Senator John Eichelberger (R-Blair) introduced **Senate Bill 374**, which would modify Section 106 of the Public School Code to allow school districts to avoid public requirements. He has also circulated a **co-sponsorship memo** for a bill that would create a statewide database of public notices and eliminate notices in newspapers. On the House side, Rep. Hill-Evans has circulated a **co-sponsorship memo** that would allow local governments to publish notices on their own websites, instead of newspapers.

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Legal Hotline

Do you have a question for the Legal Hotline?

Contact 717-703-3080



LEGAL QUESTION?
CALL
717-703-3080

The Legal Hotline is not meant to be legal advice.

Legal Update PDF

Visit the PNA website for a **printable PDF** of this week's Legal Update.

Legal Issues from Around the Commonwealth

Commonwealth Court holds addresses not automatically exempt, orders OOR review

In a split decision, the Commonwealth Court ruled that addresses of home-care workers are not exempt from disclosure under the state's Right to Know Law. The Court also held that state officials must further evaluate whether to release the information in light of the recent PSEA decision, which requires agencies to balance the public interest in disclosure against any privacy interest before disclosing home addresses. The state Department of Human Services had argued that the addresses were exempt as a matter of law. The Court remanded the case to the OOR for further proceedings. Find the opinion [here](#) and read more [here](#).

OOOR rules in favor of newspaper

The OOR has ruled in favor of Allied News (Grove City) by ordering Stoneboro officials to release records related to a former police chief. The newspaper requested copies of resignation and termination letters, as well as any separation agreement between the borough and the former chief. Read more [here](#)

Borough officials meet privately to discuss vacant council seat

A quorum of New Kensington officials met privately to discuss candidates seeking to fill a vacant seat on council. When questioned by journalists, council members argued that they were only gathering information, not deliberating or taking official action. Read more from [Valley News Dispatch \(Tarentum\)](#)

Convictions in Sunshine Act case

Three Honesdale Borough councilmen were acquitted of two counts of violating the Sunshine Act, but convicted on a third charge, after a summary trial held yesterday. The conviction resulted from the borough's failure to notify an employee that he would be discussed during an executive session. Read more from the [Wayne Independent \(Honesdale\)](#)

Newspaper explores increase in RTKL appeals

The Bucks County Courier Times (Levittown) explores appeal statistics from the OOR that show an increase in RTKL appeals. Read more [here](#)

Beyond PA

Newspaper threatens lawsuit after Co. lawmaker calls them "fake news"

Colorado state Sen. Ray Scott last week accused his local newspaper of publishing "fake news" about him after the newspaper ran an editorial about increasing access to public records. Now, the Grand Junction Daily Sentinel is threatening him with a defamation lawsuit. Read more [here](#)

Other Resources

Check in with the attorneys of [Nauman Smith](#) for information on access to home addresses under the [RTKL](#) and [FLSA overtime rule](#).

From the Hotline

Q: What are the Federal Aviation Administration (FAA) rules for using drones, and how will they impact newsgathering?

A: On June 21, 2016, the [FAA announced](#) rules governing commercial use of drones weighing under 55 pounds. The agency takes the position that the use of drones for non-hobby, i.e. commercial purposes, is illegal without FAA permission. The FAA includes newsgathering in its definition of commercial purposes, and news organization wishing to use drone technology as a newsgathering tool must obtain FAA permission under [regulations](#), that went into effect on August 20, 2016.

The primary goal of the FAA regulations is to minimize risk to other aircraft, as well as people and property on the ground. The regulations apply to drones weighing under 55 pounds used for non-hobby (commercial) purposes. Drone operators must be at least 16 years old and possess a remote pilot certification with a small UAS rating, or be directly supervised by a person holding such a certificate. In order to obtain a remote pilot certification, prospective drone operators must pass an initial aeronautical knowledge test at an FAA-approved knowledge testing center, and all applicants are subject to a security background check by the Transportation Safety Administration.

Once an operator is licensed, news organization drones may only be operated during daylight, unless the drone has anti-collision lights, which would allow operation during twilight. Drones may not be flown at night or over people not connected to the drone, and must be kept in the operator's line of sight at all times, but news organizations can apply for a waiver of these prohibitions if they can show the proposed flights are safe. Drones must fly at less than 400 feet or 100 feet in airspace reserved for manned flight. Drone operators will also be required to perform a preflight visual and operational check to ensure that safety-pertinent systems are functioning properly, including the communications link between the control station and the drone.

State and local governments have also proposed laws that affect drone use, although there are currently no PA laws that impact drone use by news organizations. News organizations should

determine if their local communities have enacted any rules that could affect newsgathering via drones.

Newspapers should also consider **invasion of privacy** when evaluating whether to use drones to gather news and whether to publish information gathered via drone technology. Some issues to consider are whether there is a reasonable expectation of privacy, whether the content is newsworthy, and whether the content could be considered "highly offensive to a reasonable person."

The PNA Foundation will offer a training session on drones, newsgathering and the FAA registration process on February 22, 2017. You can learn more about the training and register [here](#).

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

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