



# PNA LEGAL UPDATE

LEGAL AND LEGISLATIVE ISSUES AFFECTING THE NEWS INDUSTRY

## EDITORIAL ROUNDUP

[The Evening Sun](#) (Hanover) – Let the sunshine in this week

[Centre Daily Times](#) (State College) – Sunshine Week: Government puts up roadblocks to access public records

[PennLive/The Patriot-News](#) (Harrisburg) – During Sunshine Week, help us make government work better for you: Corinna Vecsey Wilson

[PennLive/The Patriot-News](#) (Harrisburg) Here's what Hillary doesn't get about her emails – she's erased history for her own convenience

[Pittsburgh Post-Gazette](#) - Let the sun shine: Gaining access to public records is not easy or cheap

[Reading Eagle](#) – Governed works best when governed fully involved

[Erie Times-News](#) – Our view: Government must not operate in secret

[Beaver County Times](#) – Sunshine week timely in wake of Clinton's email debate

[The Times-Tribune](#) (Scranton) - Chris Kelly: Scranton School Board dims Sunshine Week

[The Times-Tribune](#) (Scranton) – Secrecy clouds Sunshine Week

[The Times-Tribune](#) (Scranton) – You can help let sunshine in

[The Times-Tribune](#) (Scranton) – Transparency, just for thee

[The Times-Tribune](#) (Scranton) – White House draws curtain

[The Philadelphia Inquirer](#) – Sunshine creeps into dark corners of Harrisburg

[The Philadelphia Inquirer](#) – A lesson on free speech

[Citizens' Voice](#) (Wilkes-Barre) – Transparency more often an ideal instead of a practice

[York Dispatch](#) – Public records belong to you

[York Dispatch](#) - Shining a light on public access

[LNP](#) (Lancaster) – Working together to make government accountable

[LNP](#) (Lancaster) – Without transparency, democracy doesn't work

[LNP](#) (Lancaster) – Sunshine Act admission a good start for Hempfield School Board

[Delaware County Times](#) - A hero for Freedom of Information

[The Sentinel](#) (Carlisle) – Posting FOIA releases online saves agencies time and money

[The News Item](#) (Shamokin) – Emails, Hillary's and others, among dark spots

[The Mercury](#) (Pottstown) – Open-records office should remain above political fray

[The Mercury](#) – Pottstown Borough Authority produces lesson for Sunshine Week

[Williamsport Sun-Gazette](#) - Release candidates list: County must heed public's right-to-know

[The Daily Item](#) (Sunbury) – It is time for answers

[The Daily Item](#) (Sunbury) – Belated meeting clears the air

[The Intelligencer](#) (Doylestown) - Speech is free even if it offends

[York Daily Record](#) - Let the eagle cam embed fly free

## IN THIS ISSUE



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ROUNDUP**



**LEGISLATIVE  
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**LEGAL ISSUES  
FROM AROUND THE  
COMMONWEALTH**



**LEGAL HOTLINE:  
SUNSHINE ACT  
VIOLATION  
PENALTIES**

DO YOU HAVE A  
QUESTION FOR THE  
LEGAL HOTLINE?

CONTACT 717-703-3080



PENNSYLVANIA  
**NewsMedia**  
ASSOCIATION



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## LEGISLATIVE UPDATE:

Legislators continue holding budget hearings in Harrisburg this week, including appearances by the Attorney General, Auditor General and Judiciary. In next week's budget hearings, the Office of Open Records is slated to present testimony on Wednesday.

## LEGAL ISSUES FROM AROUND THE COMMONWEALTH:

### Sunshine Week Recap

Sunshine Week in Pennsylvania featured a call-in program with the first Office of Open Records executive director, Terry Mutchler. Listen to the [call-in program on WITF](#).

Also during Sunshine Week, PNA members looked at the state of open records in Pennsylvania:

- [AP wrap-up](#) of proposed legislation to amend Right to Know Law.
- [The Sentinel](#) (Carlisle) reviews Cumberland County practices and frequency of Right to Know requests.
- [McKeesport Daily News'](#) local take.
- [Centre Daily Times'](#) wrap-up of local RTK issues.

### Teacher home address injunction remains in place

This week, the Commonwealth Court issued an injunction prohibiting the release of school district employees' home addresses until the PA Supreme Court makes its own decision about the issue. The case has been in litigation for years, with the Commonwealth Court most recently holding that home addresses for school employees should not be released under the state Right to Know Law. Read more in the [Pittsburgh Post-Gazette](#).

### County Commissioners may turn to RTKL for information

Some Lehigh County Commissioners may turn to the Right to Know Law to obtain information from the County executive and director of administration. According to the commissioners, they have been unable to access basic financial information. Read more in the [Morning Call](#) (Allentown).

### Department of Corrections responds to RTKL appeal in Commonwealth Court

The Pennsylvania Department of Corrections (DOC) has filed a response to the Herald Standard's (Uniontown) attempt to enforce an Office of Open Records Final Determination in Commonwealth Court. Read more in the [Herald Standard](#).

### Centre County Judge issues order on RTKL requests

A Common Pleas judge in Centre County issued an order Monday restricting county officials from providing responses to Right to Know Law requests that related to county common pleas judges, magisterial district judges or the court in general. Read more in the [Centre Daily Times](#).

PNA reached out to the AOPC earlier this week, and we have just learned that the court has now [stayed](#) its previous order. We've been advised that discussions are ongoing at the county level, and we will provide updates to members as we receive them.

### Office of Open Records releases annual report

The Office of Open Records released its annual report on Monday, providing statistics about the number of appeals received by its office in 2014. Read more from [PennLive/The Patriot-News](#) (Harrisburg). The 2014 OOR report is available [here](#).

### County refuses to provide list of candidates' names

The Williamsport Sun-Gazette filed a Right to Know Law request with Lycoming County seeking names of individuals who had submitted their names for consideration for a vacant county commissioner seat. The county denied the request, and the newspaper appealed to the Office of Open Records, which ruled in favor of the newspaper. The county has indicated it is going to appeal to the Court of Common Pleas rather than disclose the list. Read more from the [Williamsport Sun-Gazette](#).

### School board admits Sunshine Act violation

A school board in Lancaster County has acknowledged that it violated the Sunshine Act by deliberating in executive session about candidates to replace a vacant school board seat. Read more from [LNP](#) (Lancaster).



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## LEGAL ISSUES FROM AROUND THE COMMONWEALTH (CONT.):

### Popular with media websites, eagle camera access code changed

The Pennsylvania Game Commission announced last week that it had changed the access code to keep websites from showing the eagle footage along with paid advertisements. Read more from [The Times News](#) (Lehighton).

### Exploration of risks of using trademarked term "March Madness"

The NCAA has trademarked the term "March Madness" and has been aggressive in enforcing its trademark, leading to risks for businesses that use the term in their advertising practices. Read more in the [Philadelphia Business Journal](#).

## LEGAL HOTLINE:

### Q: Our newspaper would like to pursue legal action against a local agency for Sunshine Act violations. Are there civil or criminal penalties for violating the act?

A: Both criminal and civil penalties are available under the Sunshine Act, but neither are frequently imposed by the courts.

It is a summary offense to intentionally violate the Sunshine Act, punishable by up to a \$1000 fine plus court costs for a first offense, and up to \$2,000 plus court costs for second and subsequent offenses. In order to pursue criminal charges, a person may file a private criminal complaint alleging a violation of the Sunshine Act. The procedure for filing a private criminal complaint differs throughout the state, but in most counties, the District Attorney and the Magisterial District Judges have complaint forms available to the public. In some counties, the District Attorney's Office will review the complaint and decide whether criminal charges are warranted. You do not need an attorney to file a private criminal complaint, but it is always advisable to keep your newspaper's attorney informed.

The Sunshine Act also permits civil remedies. These are more common, but still relatively rare. If a violation is shown, a court may invalidate any official action taken in violation of the Sunshine Act. It may also grant an injunction or fashion other appropriate relief to prevent future violations. In order to pursue civil remedies, one must file a civil lawsuit in the Court

of Common Pleas in the applicable county.

Newspapers should be aware that the Pennsylvania courts have allowed agencies to "cure" certain violations. In some circumstances, courts have found that a violation was 'cured,' after the agency held an open, advertised meeting, allowed public comment prior to re-voting on an item, and then ratified a prior action. It is not clear that "curing" works in all situations, but there are a number of cases in which the courts have allowed it.

In addition to criminal and civil remedies, section 710.1 of the Act allows the public to object formally to a perceived violation of the Sunshine Act at any time during a public meeting. Any such objection should be noted in the agency's minutes. Please see PNA's template for making a formal objection during a public meeting [here](#).

Finally, the law requires that legal action alleging a violation of the Sunshine Act must be filed within 30 days of a violation that occurred at an open meeting and 30 days from discovery of a violation that occurred at a closed meeting. In no event may an action be brought more than one year from the date of the alleged violation (regardless of whether the meeting was closed).

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 with any questions (717) 703-3080.