



PNA LEGAL UPDATE

LEGAL AND LEGISLATIVE ISSUES AFFECTING THE NEWS INDUSTRY

A supplement to Headlines & Deadlines

Friday, June 8, 2018

ANNOUNCEMENT

REGISTER FOR PNA'S 26TH ANNUAL MEDIA LAWYERS CONFERENCE TODAY!

Registration for PNA's 26th annual Media Lawyers Conference is now open! **The deadline to reserve hotel rooms at a reduced rate is June 9.** The conference will be held **Tuesday, July 10** at the Hershey Country Club from 8:30 a.m. -3:00 p.m. The conference will be interactive and cover topics affecting Pennsylvania media lawyers, including a litigation roundtable on the Right to Know Law and Sunshine Act, an update on defamation and invasion of privacy law, as well as sessions related to court access, the First Amendment and a legislative update. We are also pleased to welcome Executive Director of the Office of Open Records, Erik Arneson, who will answer questions and discuss proposed regulations and other topics that impact RTKL interpretation and practice before the OOR.

You can access a copy of the registration form [here](#) and review a copy of the tentative agenda [here](#).

LEGISLATIVE UPDATE

The Senate and House were in legislative session this week and return to session next week. Lieutenant Governor, Mike Stack, announced there will not be a special election to replace Senator Scott Wagner (R-York) who resigned his State Senate seat effective Monday, June 4. Wagner won the GOP primary to challenge Governor Tom Wolf for the state's top spot.

Three new House members were sworn in this week including State Representatives Tim O'Neal (R-Washington), Helen Tai (D-Bucks), and Clint Owlett (R-Tioga). O'Neal won the Special Election in the 48th District, a seat vacated by State Representative, now Washington County Judge, Brandon Neuman. State Representative Tai takes over the 178th District vacated by State Representative, now Executive Director of the Philadelphia Parking Authority, Scott Petri. Clint Owlett (R-Tioga, Potter, Bradford) won the the 68th District vacated by State Representative Matt Baker, who retired earlier this year for a Presidential appointment.

Sunshine Act Legislation

The House State Government Committee passed [HB 1531](#) (R-Christiana) by a vote of 23-2, requiring agencies to provide agendas in advance of meetings, so the public can attend and participate in issues that matter to them. PNA has advocated for and supports this legislation. See the [Beaver County Times](#) article.

Public School Executive Sessions

The House Education Committee voted on [House Bill 2327](#), sponsored by Rep. Fee, this week. The bill amends the Public School Code exempting public school entity discussions of security and emergency preparedness from open meetings requirements. PNA is recommending an amendment.

County Code Legislation

The House Local Government Committee held an informational meeting on [SB 1005](#), this week, which updates and consolidates the County Code and the Second Class County Code. PNA has several concerns related to the change in public access to Coroners records and public notice provisions of the bill. The Committee Chairs will introduce an amendment to the bill, which PNA supports to address our concerns.

Public notices relating to local government audits

The Senate voted on three public notice bills this week relating to local government audits. PNA worked extensively on the language contained in Senate Bills [771](#), [772](#) and [773](#) sponsored by Senator Tom

McGarrigle, and supports the bills. The bills now move to the House. Representative Kate Harper has companion bills in the House.

Records regarding volunteer emergency service organizations

The Senate voted a four-bill package this week. Senate Bills [801](#), [802](#), [803](#) and [804](#), sponsored by Senator Scott Hutchinson, permit municipal governments to purchase used equipment, vehicles, and other personal property from volunteer emergency service organizations without competitive bidding. This results in less access to the underlying deal details. Under these bills, the public would have no way to access details regarding the property because volunteer organizations are not expressly subject to the Right to Know Law. PNA is recommending an amendment. Representative Kate Harper has companion bills in the House. The House Local Government Committee has a meeting scheduled on these bills next Wednesday.

Public notices for municipal personal property

The Senate voted a three-bill package this week, [SB 947](#), [948](#) and [949](#), which increases the dollar threshold that triggers advertisement when selling municipal personal property from \$1,000 to \$2,000. PNA is fine with these bills.

Reporting unsafe school activities

[SB 1142](#), sponsored by Senator Pat Browne, passed the Senate this week, which establishes the Safe2Say Program providing for anonymous reporting concerning unsafe activities in schools. The confidentiality provisions of this bill go beyond general confidentiality and remove the information from the Right To Know Law generally. PNA is recommending an amendment.

Civics Assessment

[House Bill 564](#) would require an assessment of civic knowledge be included in a school curriculum beginning with the 2020-2021 school year. Each school entity would be required to administer, at least once to students during grades seven through twelve, a locally developed assessment of United States history, government and civics. The bill will shortly be moving to the Governor's desk.

Urge Senator Casey to co-sponsor PRINT Act

United States Senator Pat Toomey joined a group of bi-partisan lawmakers cosponsoring the PRINT ACT, which protects our industry from extremely damaging newsprint tariffs. Newspapers in the Commonwealth cannot absorb the additional financial burden this proposed tariff is sure to create. Read the [press release](#). However, Senator Bob Casey currently opposes the legislation. PNA is sending a follow-up letter to Senator Casey urging his support.



LEGAL QUESTION?
CALL
717-703-3080
The Legal Hotline is not meant to be legal advice.

LEGAL ISSUES FROM AROUND THE COMMONWEALTH

COURT ORDERS RECORDS UNSEALED IN PENN STATE OFFICIALS' ROLE IN SANDUSKY CASE

A Pennsylvania appeals court on Monday ordered the release of documents sealed in the criminal case against former Penn State administrators over their handling of child sex abuse complaints about former assistant football coach Jerry Sandusky. The three-judge Superior Court panel's unanimous decision concerned many of the more than 200 records sealed in the case against former university president Graham Spanier, former vice president Gary Schultz and former athletic director Tim Curley. Read more from the [Associated Press](#).

TOWNSHIP PROHIBITS PUBLIC COMMENT ON NON-AGENDA ITEMS

More than a dozen Springdale Township residents walked out of a commissioners meeting in disgust Thursday after being told they would not be allowed to ask officials any questions. At the start of a public comment period at top of the meeting, commissioners' President Anthony Rozzano said residents would only be allowed to comment on agenda items, and not ask questions. Read more

from the [Valley News Dispatch](#) (Tarentum).

PNA NOTE: [section 710.1](#) of the Sunshine Act guarantees the public's right to "comment on matters of concern, official action or deliberation which are or may be before the board or council prior to taking official action." This section of the law allows public comment on matters that do not appear on an agenda as well as those that the agency plans to discuss, and any policy that prohibits public comment creates potential liability under the Sunshine Act. Residents and taxpayers have a right to bring issues to the attention of their elected officials and ask questions about agency business during public meetings. The law does not require elected officials to answer questions, but many do, when possible, to facilitate the free flow of information and avoid formal Right to Know Law requests.

RTKL RECORDS SHOW POLICE INTERACTION PRIOR TO POLICE SHOOTING

In the hours before Ryan Smith was shot by police outside a bank in Spring Grove last week, another police department had responded to four calls involving his residence, according to Northern York County Regional Police. 911 dispatch records obtained through a Right-to-Know-Law request show that authorities were dispatched to the home of Smith, 32, at 11:47 a.m. and 2:50 p.m. on May 30. Read more from [York Daily Record](#).

SCHOOL BOARD'S PRIVATE DISCUSSION ABOUT SCHOOL POLICE RAISES IRE

At a time when school security is a nationwide topic and some five dozen threats have been made locally since the Parkland, Fla., school shooting in February, a former Franklin Regional school board member believes the current school board is holding too many security discussions behind closed doors. "You've gotten no input from the public about this," said Dick Kearns of Murrysville, former school board president, about the board's recent vote to begin establishing an internal police force. "You deliberated about it privately, you come out and announce that you're going to establish a police force, and we're going to have to pay for it." Read more from [TribLive.com](#) (Murrysville).

CITY CANCELS SECOND PUBLIC MEETING IN A ROW AFTER ELECTED OFFICIALS ARE A NO-SHOW

For the second time within 12 days, Monessen council had to cancel a meeting because it did not have enough members for a quorum. Councilmen David Feehan and Anthony Orzechowski waited 15 minutes for city Mayor Matt Shorraw and Councilman Gilbert Coles to take their seats at a special meeting Monday evening, but when Shorraw and Coles failed to show up, Orzechowski had to call the meeting off. After the meeting was cancelled, a large group of angry residents lingered in city hall, wondering when council would resume official business. Read more from [Herald-Standard](#) (Uniontown).

RTKL EMAILS REVEAL STRUGGLE OVER NORTH ALLEGHENY SECURITY CONSULTANT'S FACEBOOK POSTS

Journalists with the Pittsburgh Post-Gazette obtained emails under the RTKL from North Allegheny School District about controversial social media posts by a school security consultant. As public outcry snowballed this spring over divisive and violent social media posts by the vendor then in charge of safety training in North Allegheny schools, district officials and school board members scrambled to avert a "PR nightmare," as one member put it. An image comparing Muslims to Nazis, a cartoon showing a child screaming as a man used a women's restroom and a link to a video of a person being shot in the head appeared on INPAX founder and CEO Sam Rosenberg's personal Facebook page — until parents raised concerns and a district spokeswoman showed him how to temporarily deactivate his account as officials debated how to respond. Read more from the [Pittsburgh Post-Gazette](#).

PENNSYLVANIA JUDICIARY RELEASES NEW AND IMPROVED INTERACTIVE CASELOAD DATA

Pennsylvania's judiciary today unveiled six new data dashboards, the latest in a series of interactive, web-based data visuals that allow the public, court staff, reporters and researchers to quickly analyze and interpret caseload data. Read the court's press release and visit the new resources [here](#).

BEYOND PA

MANAFORT ARGUES AGAINST PRESS ACCESS TO COURT RECORDS

Indicted former Trump campaign manager Paul Manafort asked a federal court Monday evening to keep documents from one of his criminal cases kept off limits to a media coalition. In a 26-page filing, Manafort said his right to a fair trial would be in jeopardy if The New York Times, The Washington Post,

The Associated Press, CNN and Politico succeed in their motion to unseal confidential records in the case. The news organizations brought their request on April 25, eyeing materials in all seven criminal cases opened by special counsel Robert Mueller. In addition to search warrants, applications and their supporting affidavits in Manafort's case, the coalition seeks information about search warrants filed in the criminal case against Manafort in Virginia, plus a sealed transcript from a hearing in Washington, D.C., concerning his conditions of release. Read more [here](#).

OTHER RESOURCES

NEUMANN UNIVERSITY OFFERS RTKL RETROSPECTIVE AND TRAINING

Neumann University will offer "A Retrospective and Look Forward 10 Years after the Adoption of the Right to Know Law (Act 3 of 2008)" on Wednesday, June 13 from 10am – 1pm. Registration is free and open to all, with 3 CLE credits available for attorneys. Presenters and panelists include former Governor Ed Rendell, Judge (formerly Senator) Dominic Pileggi, Erik Erneson, Exec. Director of the Office of Open Records, John Baer, Philadelphia Daily News, as well as other distinguished presenters and panelists. Learn more and register [here](#).

THE FREE PRESS AND NATIONAL SECURITY: RENEWING THE CASE FOR A FEDERAL SHIELD LAW

First Amendment Law Review, Vol. 16, No. 2, 2018

Freedom of the press is a cherished freedom enshrined in the First Amendment and upheld in myriad contexts. However, under the prevailing case law and without a federal shield law, the executive branch may be able to "annex the journalistic profession as an investigative arm of government" to reveal its 'confidential' sources as aid to prosecution. This would serve to chill the freedom of the press and conflicts with the spirit of the First Amendment. Read more [here](#).

FROM THE HOTLINE

ESTATE NOTICE REQUIREMENTS

Q: An advertiser wants to run an estate notice and only include the name of the deceased and an address for the executor. Is that enough information?

A: No. Estate notices are required to have more information.

The Pennsylvania Probate Code, [20 Pa.C.S. § 3162](#), requires the personal representative of an estate, immediately after the "grant of letters," to place a notice in one newspaper of general circulation published at or near the place where the decedent lived, or in the case of a nonresident decedent, at or near the place where the letters were granted. Notice must also be placed in the designated county legal journal, if one exists. Both notices must run once a week for three successive weeks.

The law also requires estate notices to include the name and address of the personal representative, *and* the notice must request all persons having claims against the estate to notify the personal representative or his attorney, and anyone indebted to the decedent to make payment without delay. Estate notices also contain the name of the decedent and the general location where the decedent lived, typically the municipality and county of residence.

Estate notices typically follow this general template:

ESTATE NOTICE Estate of [name of decedent], late of [municipality of residence], County of [county of residence], Pennsylvania, Deceased. Letters of Administration on said Estate having been granted, and all persons indebted thereto are requested to make immediate payment, and those having claims or demands against the same will present them without delay for settlement to: [name and address of the personal representative and name and address of attorney, if any]

Estate notices containing only the name of the deceased and the executor's address do not comply with the Probate Code's requirements. Failing to comply with the notice requirements of the Probate Code could result in a legal challenge during estate administration.

Newspapers should not give legal advice to advertisers, and advertisers with questions about the probate process should be directed to an attorney or the local bar association for a referral.

As always, this is not intended to be, nor should it be construed as, legal advice. Please consult your newspaper's attorney or the Legal Hotline at (717) 730-3080 with questions.



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