



AOPC

# Public Access Policy of the Unified Judicial System of Pennsylvania

## Case Records of the Appellate and Trial Courts

December 6, 2017

Clip Art used with permission from Microsoft

## New Public Access Policy

- January 6, 2017 - Supreme Court adopted the policy governing access statewide to appellate and trial court case records
- **Effective January 6, 2018**
- For case records filed in and maintained by the appellate and trial courts
- The policy, explanatory report, and other policy related materials are posted at:  
<http://www.pacourts.us/public-records-policies>

# Roadmap

We will discuss:

- Privacy and court records
- What courts are currently doing to protect confidential information in court records
- Why now for the adoption of a new policy?
- What does the new policy provide?
- Ethical Concerns

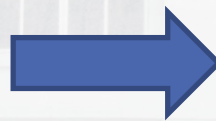
## Privacy in Public Records

Prior to the Internet age, court records fell under the protection of “practical obscurity”

United States Department of Justice v. Reporters Committee for Freedom of the Press,  
489 U.S. 749 (1989)



Public access to court records is changing from perusing paper case files for detailed information at the courthouse to obtaining records instantaneously online



## Privacy in Public Records

- The idea that you have privacy in your public records is no longer true
- Consider a web-scraping company that retrieves old mugshots and displays the same online, hoping to embarrass citizens into paying money to have their mugshot removed

# Privacy in Public Records

The screenshot shows a web browser window displaying a New York Times article. The browser's address bar shows the URL: <http://www.nytimes.com/2013/10/06/business/mugged-by-a-r>. The page features a navigation bar with 'SECTIONS', 'HOME', and 'SEARCH' options. The main headline is 'Mugged by a Mug Shot Online' by David Segal, dated October 5, 2013. The article includes a mugshot of a woman, April Z. Crawford, which is framed to look like a US dollar bill. The mugshot contains the following text: 'MINNEAPOLIS MINN PD 56389 JAN 24 07 HT 5 FT 4 WT 130 DOB 9 27 81 APRIL Z. CRAWFORD'. A black rectangular box is placed over the right side of the mugshot. A banner at the top of the article reads 'REMOVE ALL MUGSHOTS FAST' with the subtext 'Guaranteed removal of all mugshots. Get your arrests off the internet!'. The Windows taskbar at the bottom shows the system time as 4:35 PM on 8/26/2015.

http://www.nytimes.com/2013/10/06/business/mugged-by-a-r

File Edit View Favorites Tools Help

Logon page for AOPC Suggested Sites Adobe - Flash Player Free Hotmail Web Slice Gallery

SECTIONS HOME SEARCH The New York Times SUBSCRIBE NOW LOG IN


1. FRANK BRUNI Trump-ward, Christian Soldiers? 2. Tourists Have Landed in Queens. They're Staying. 3. OP.ED CONTRIBUTOR Too Many Law Students, Too... 4. THOMAS L. FRIEDMAN Bonfire of the Assets, With... 5. How Two Women Bring Portable Light to Disaster Zones 6. THE UPSHOT No, You Do Not Have to Drink &...

REMOVE ALL MUGSHOTS FAST  
Guaranteed removal of all mugshots. Get your arrests off the internet!

BUSINESS DAY

**Mugged by a Mug Shot Online**

By DAVID SEGAL OCT. 5, 2013



4:35 PM 8/26/2015

# Privacy in Public Records

The screenshot shows a web browser window with the address bar displaying <http://blogs.findlaw.com/injured/2014/01/online-mugshot-law>. The browser's menu bar includes File, Edit, View, Favorites, Tools, and Help. Below the menu bar, there are icons for Logon page for AOPC, Suggested Sites, Adobe - Flash Player, Free Hotmail, and Web Slice Gallery.

The main content area features the FindLaw logo and a navigation menu with links for Learn About the Law, Find a Lawyer, FindLaw Answers, Legal Forms, News, and Blogs. A search bar is located to the right of the menu.

The featured article is titled "INJURED" in large red letters, with the subtitle "The FindLaw Accident, Injury and Tort Law Blog" and a red circular icon of a person falling. The article title is "Online Mugshot Lawsuit: Settlement Reached" by Brett Snider, Esq., dated January 8, 2014 at 10:25 AM.

The article text states: "A federal lawsuit over three Ohio mugshots has resulted in a settlement with the owner of two major mugshot websites. The settlement between the parties was signed by a federal judge in late December. It calls for Citizens Information Associates LLC (the corporate owner of BustedMugshots.com and MugshotsOnline.com) to pay \$7,500 and remove the offending mugshots for free, a lawyer for the company told *The Plain Dealer*. This lawsuit is one of many against mugshot sites around the country, so how is this one different? 3 Mugshots Down, Millions to Go Three 'mugs' -- Debra Lashaway, Phillip Kaplan, and Otha Randall -- joined to sue several mugshot websites that had posted photos from when they were booked after arrest. Both Lashaway and Kaplan had never actually been convicted of the crimes for which they were arrested, but had to endure seeing their unflattering mugshots in ads all over the internet, reports the *Plain Dealer*. Their suit claimed that the websites were essentially profiting off these arrestees' mugshots and violating their rights to publicity. The suit also took issue with exorbitant 'takedown fees' (sometimes as much as \$500) to remove a mugshot from one of these sites. Attorney Scott Ciolek, who represented the plaintiffs, explained that the case was filed as 'an attempt to move ahead as a class action lawsuit,' but the potential costs of litigation narrowed the case to just three people, reports the *Plain Dealer*. This leaves the hundreds of thousands of mugshots in Ohio alone unaffected. A Victory Against Mugshot Websites? Despite the narrow scope of the settlement, Ciolek called the case a 'victory,' reports the *Plain Dealer*. Ciolek did manage to get his clients' mugshots taken down at no cost to them, as well as a few thousand dollars in settlement money. Interestingly, Joseph Centrich, an attorney for Citizens Information Associates LLC, noted that the company's sites already have agreed to stop charging to take down the photos, according to the *Plain Dealer*. While BustedMugshots.com has come to the light, other sites like mugshots.com are still in business, and may be the subject of future lawsuits. Related Resources:

On the right side of the page, there is a sidebar with a "SIMMONS HANLY CONROY" advertisement for Mesothelioma & Asbestos, featuring a toll-free number 877-780-7906 and a "Get help now" button. Below the ad is an "About Injured" section with social media icons and a "Popular Topics" list including California car accident, accidents damages, defamation, FDA injury lawsuit, liability, medical malpractice, negligence, New York personal injury, premises liability, product liability, products liability, settlement, wrongful death, and wrongful death lawsuit. At the bottom right, there is a "Search Injured" box and a "Recent Entries" list.

The Windows taskbar at the bottom shows the system tray with the time 9:52 AM on 8/21/2015.



# Privacy in Public Records

Could something similar happen with  
online court records?

Let's see . . .

# Privacy and Public Records

## **ID theft case reveals security weaknesses in Alabama court system**

BY [THE ASSOCIATED PRESS](#)

A man used Alabama's publicly accessible online court records to steal the identities of dozens of people, highlighting the system's vulnerability to identity thieves, federal prosecutors said.

Brian Colby Alexander is accused of obtaining names, birth dates and Social Security numbers of about 43 people from Alacourt.com, the state's website for trial court records.

People's Social Security numbers are listed in numerous publicly accessible court records in Alabama's online system.

Even former Alabama Gov. Robert Bentley's full Social Security number appears twice -- hand-written and also typed -- in a Tuesday court filing in a case in which he's charged with campaign violations.

Most states remove or cover those numbers before the court records go on line, an expert said.

Continued at: [http://www.al.com/news/index.ssf/2017/04/id\\_theft\\_case\\_reveals\\_security.html](http://www.al.com/news/index.ssf/2017/04/id_theft_case_reveals_security.html)

## Privacy in Public Records

What information could be contained in a Pennsylvania court record that could cause embarrassment or anxiety?

# Privacy in Public Records

SharpMX4111N@pacourts.us\_20150826\_162823.pdf - Adobe Reader

File Edit View Window Help

198%

Fill & Sign Comment

[Redacted] : FAMILY DIVISION  
 Plaintiff, : No. [Redacted]  
 v. :  
 [Redacted] :  
 Defendant. :

**RIDER**

TO: Red Lobster

A complete copy of all records of [Redacted] D/Birth: August [Redacted] Social Security Number [Redacted], including but not limited to the employment application, all personnel information, attendance records, benefit information, performance evaluations, disciplinary information, wage, salary and payment information, information regarding termination, all medical and health insurance records, all tax information, all computerized employment records, and any and all records constituting the complete employment file of Mr. [Redacted]

4:53 PM 8/26/2015

# Privacy in Public Records

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File Edit View Window Help

198%

Fill & Sign Comment

CIT Caseworker's Name \_\_\_\_\_ CIT Supervisor's Name \_\_\_\_\_

Regional Office \_\_\_\_\_ Caseworker's Phone Number \_\_\_\_\_ Supervisor's Phone Number \_\_\_\_\_

Judge or Hearing Officer Ordering Urine Screen: HERTZBERG

---

**III. URINE TO BE SCREENED FOR:**

COCAINE     THC     AMPHETAMINE     OPIATES     METHAMPHETAMINE

ALCOHOL     OTHER \_\_\_\_\_

---

**TO BE COMPLETED BY PERSON ADMINISTERING TEST:**

**TEST RESULTS:** (P) Positive (N) Negative (R) Refused

COCAINE     THC     AMPHETAMINES     OPIATES     METHAMPHETAMINES

ALCOHOL     OTHER \_\_\_\_\_

---

[Signature] \_\_\_\_\_ 7/31/05 \_\_\_\_\_  
 Signature of Person Administering Test                      Date

C                      (32)

Rev 11/05 29

4:55 PM 8/26/2015

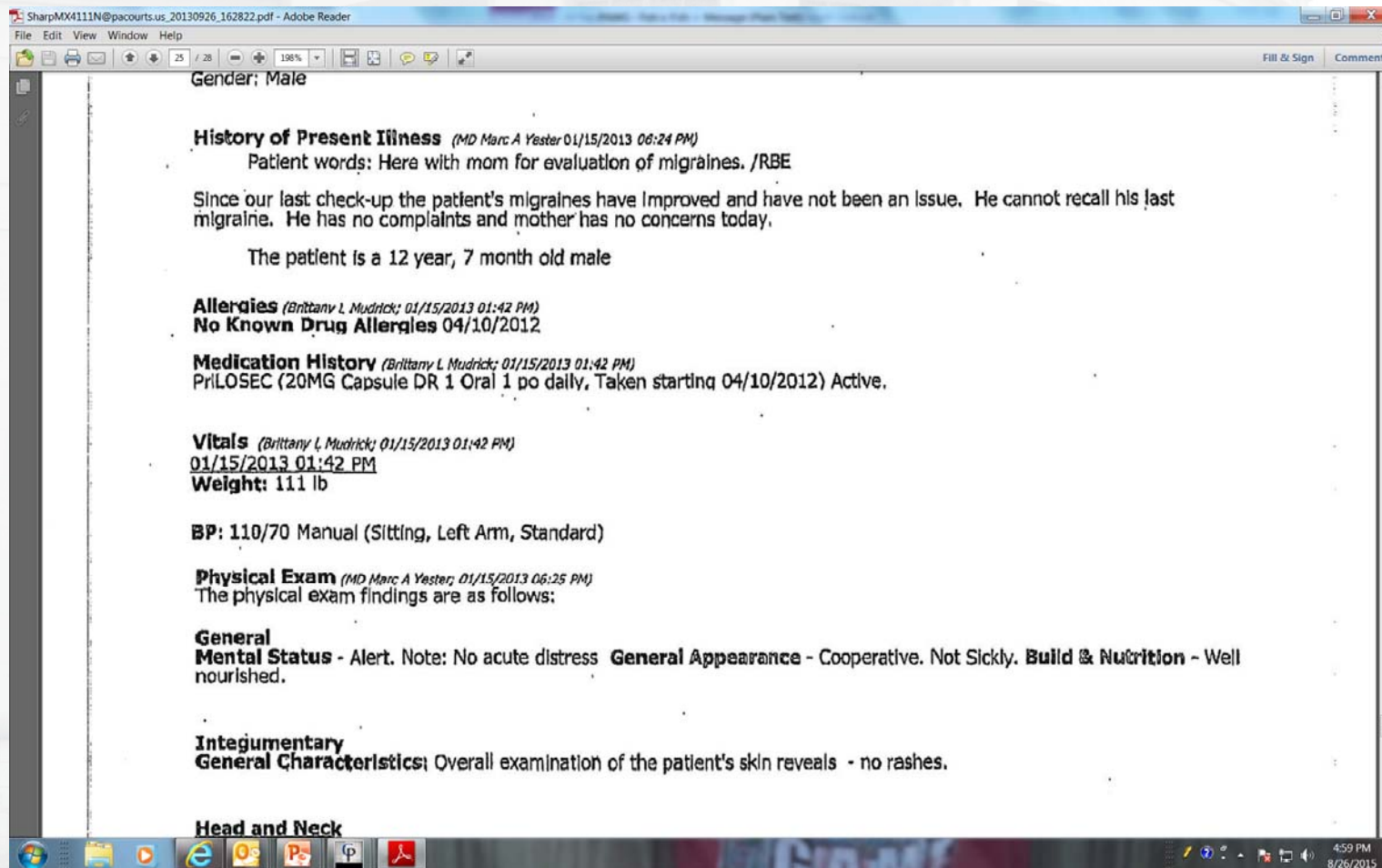
# Privacy and Public Records

SharpMX4111N@pacourts.us\_20130926\_162822.pdf - Adobe Reader

Pediatric Ophthalmology	103.52
Jefferson Hospital	32.01
Dr. Nlak, UPA Neurology	20.00
St. Clair Hospital	115.99
Northwestern Mutual Life	673.96
Best Buy	272.56
Discover	200.00
American Express	5,054.71
Listing for Time Shares	.900.00
Monies to Maintain Time Shares from Foreclosure	<u>1,400.00</u>
<b>Total Reimbursements Owed to Wife</b>	<b>\$9,165.56</b>

4:56 PM  
8/26/2015

# Privacy and Public Records



SharpMX4111N@pacourts.us\_20130926\_162822.pdf - Adobe Reader

File Edit View Window Help

25 / 28 198% Fill & Sign Comment

**Gender:** Male

**History of Present Illness** (MD Marc A Yester 01/15/2013 06:24 PM)  
Patient words: Here with mom for evaluation of migraines. /RBE

Since our last check-up the patient's migraines have improved and have not been an issue. He cannot recall his last migraine. He has no complaints and mother has no concerns today.

The patient is a 12 year, 7 month old male

**Allergies** (Brittany L Mudrick; 01/15/2013 01:42 PM)  
**No Known Drug Allergies** 04/10/2012

**Medication History** (Brittany L Mudrick; 01/15/2013 01:42 PM)  
PriLOSEC (20MG Capsule DR 1 Oral 1 po daily, Taken starting 04/10/2012) Active.

**Vitals** (Brittany L Mudrick; 01/15/2013 01:42 PM)  
01/15/2013 01:42 PM  
**Weight:** 111 lb

**BP:** 110/70 Manual (Sitting, Left Arm, Standard)

**Physical Exam** (MD Marc A Yester; 01/15/2013 06:25 PM)  
The physical exam findings are as follows:

**General**  
**Mental Status** - Alert. Note: No acute distress **General Appearance** - Cooperative. Not Sickly. **Build & Nutrition** - Well nourished.

**Integumentary**  
**General Characteristics:** Overall examination of the patient's skin reveals - no rashes.

**Head and Neck**

4:59 PM 8/26/2015

## Privacy and Public Records

- Prior to court records being available online, practical constraints implicitly protected privacy interests
- But how are those interests being protected now that more court records are online?





## Existing Legal Authorities

- Pennsylvania Rules of Juvenile Court Procedure 160-161
- Sections 6307-6308 of the Juvenile Act, 42 Pa. C.S. § 6307-08
- Section 5988(a) of the Judicial Code, 42 Pa. C.S. § 5988(a)
- Section 7.00 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts
- Not intended to be an exhaustive list. See *Limits on Public Access to Unified Judicial System Case Record of the Appellate and Trial Courts*, posted at: <http://www.pacourts.us/public-records/public-records-policies>

## Court Restrictions

- Courts and filing offices across the Commonwealth have answered this question differently – developing a system of public access by geography
- These ways include . . .

# Redaction by Filer



Proposed Local Rule 205.2(a) [Read-Only] [Compatibility Mode] - Microsoft Word

File Home Insert Page Layout References Mailings Review View

Clipboard Font Paragraph Styles Editing

Times New Rom 12 A Aa AaBbCcI AaBbCcI AaBbCcI AaBbCcI AaBbCcI AaBbCcI AaBbCcI AaBbCcI Find Replace Select

**\*205.2(a) REQUIRED REDACTION OF PLEADINGS AND OTHER PAPERS FILED WITH THE COURT**

Unless required by an applicable law or rule of court, or unless ordered by the court, any party or non-party making a paper or electronic filing must redact identifying information appearing in the filing, including any attachments thereto, as follows:

- (1) An individual's social security number or taxpayer identification number must be redacted, provided that the filing may include the last four digits of the social security number;
- (2) An individual's date of birth must be redacted, provided that the filing may include the year of an individual's birth;
- (3) With respect to any financial account number, including but not limited to any bank account, investment account, or credit card account, the account number must be redacted, as well as any PIN, password or other number used to secure such account, provided that the filing may include the last four digits of the account number;
- (4) The court may order, for good cause shown in a specific case, that additional information must be redacted from any filing, including but not limited to the home street address or driver's license number of a specified individual;
- (5) The court may order the person making a redacted filing to file, in addition, an unredacted copy under seal; and
- (6) Where the court has permitted a filing to be made under seal, the court may later unseal the filing and may order the filing party to redact the filing at that time.

The responsibility for redacting the identifying information rests with the party or non-party making the filing and his or her counsel. Documents will not be reviewed by the Prothonotary for compliance with this Rule.

Page: 1 of 1 Words: 284 100% 9:18 PM 8/26/2015

# Redaction by Court



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21 / 28 139%

Fill & Sign Comment

ATTACHMENT TO SUBPOENA

Copies of your complete files including but not limited to billing statements, explanations of benefits and claims paid or denied with respect to the health insurance policy issued to Scott [REDACTED] (SSN: [REDACTED]) relative to any and all treatment rendered to the following:

Mitchell [REDACTED]  
Date of Birth: April 17, [REDACTED]  
SSN: [REDACTED]

Justin [REDACTED]  
Date of Birth: May 18, [REDACTED]  
SSN: [REDACTED]

9:37 PM 8/26/2015

# Confidential Information Sheet

RulesCommittees@pacourts.us\_20140411\_132143.pdf - Adobe Reader

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Fill & Sign Comment

CONFIDENTIAL INFORMATION	
Name: _____ <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other: _____	Social Security Number _____
Name: _____ <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other: _____	Financial Information/Driver's License Number/VIN _____
Name: _____ <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other: _____	Social Security Number _____
Name: _____ <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other: _____	Financial Information/Driver's License Number/VIN _____

9:22 PM 8/26/2015

## Seal Certain Categories of Records

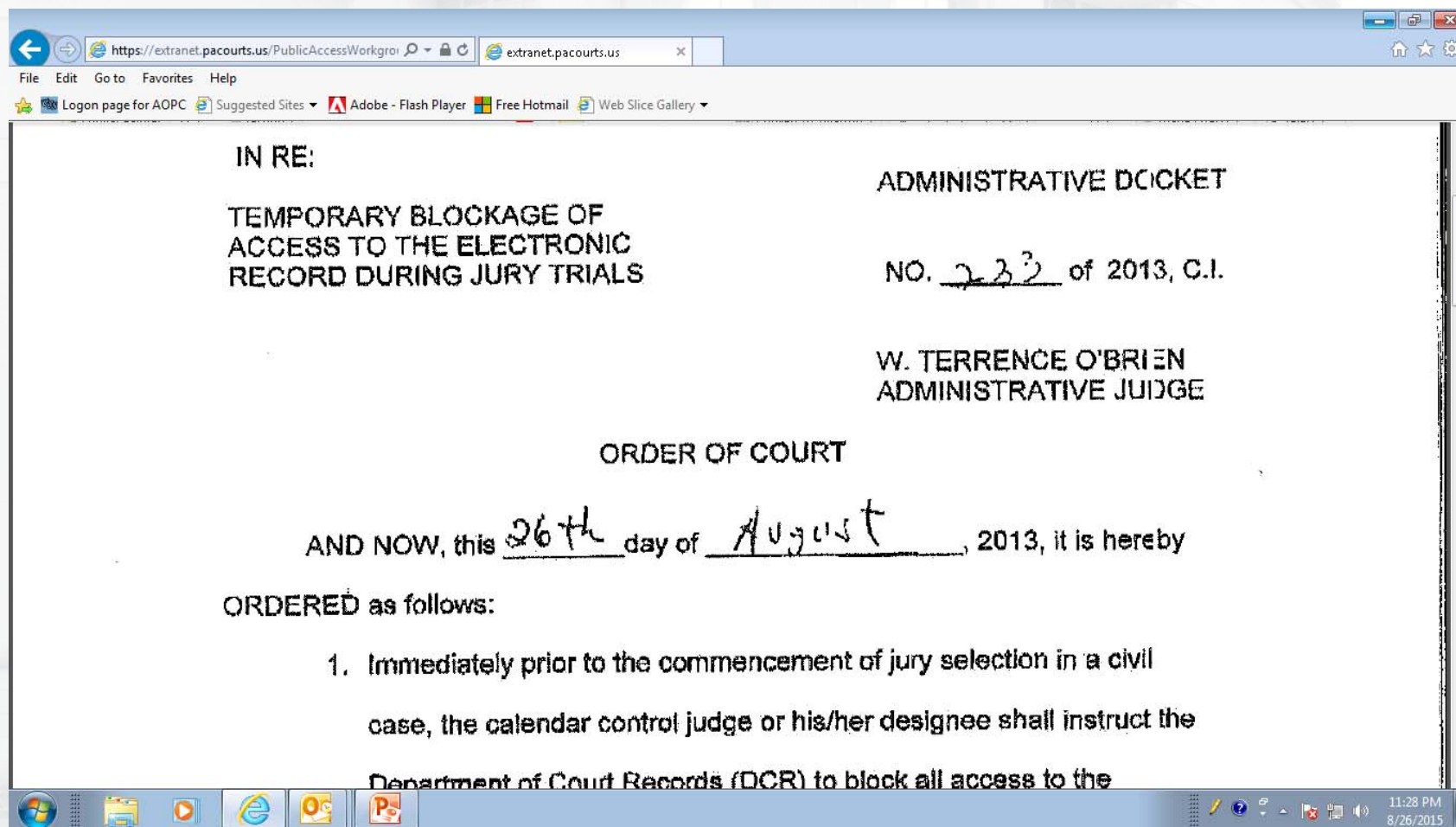
- Delaware County Local Rule 1920.90 –

In all divorce actions filed after December 31, 1939, the file shall be open to inspection by the parties or their attorneys of record without order of court. Inspection by others shall be only upon order of court for good cause shown. In all divorce actions filed before January 1, 1940, the file shall be open to the general public for inspection

## Open to Certain Requestors

- Montgomery County Local Rule 1920.51\*(F)(5)  
–
- All records in divorce matters are sealed
- However, can be viewed by all members of the PA Bar, parties to the litigation and authorized governmental agencies

# Temporary Online Restrictions



The screenshot shows a web browser window with the address bar displaying <https://extranet.pacourts.us/PublicAccessWorkgroi>. The browser's menu bar includes File, Edit, Go to, Favorites, and Help. Below the menu bar, there are several icons for suggested sites: Logon page for AOPC, Suggested Sites, Adobe - Flash Player, Free Hotmail, and Web Slice Gallery.

The main content area of the browser displays a court order with the following text:

IN RE: ADMINISTRATIVE DOCKET  
TEMPORARY BLOCKAGE OF ACCESS TO THE ELECTRONIC RECORD DURING JURY TRIALS NO. 233 of 2013, C.I.  
W. TERRENCE O'BRIEN  
ADMINISTRATIVE JUDGE  
ORDER OF COURT  
AND NOW, this 26<sup>th</sup> day of August, 2013, it is hereby  
ORDERED as follows:  
1. Immediately prior to the commencement of jury selection in a civil case, the calendar control judge or his/her designee shall instruct the Department of Court Records (DCR) to block all access to the

The Windows taskbar at the bottom of the screenshot shows several application icons (Internet Explorer, Firefox, etc.) and the system tray on the right displays the time as 11:28 PM on 8/26/2015.



## Statewide Issues

- Public access by geography causes issues for the public, litigants and counsel
- Why is it that divorce records are open in some counties, open to only Pa Bar members (and select others) in other counties and completely sealed in yet other counties?
- How do attorneys with multi-county or statewide practices keep track of and comply with each court's requirements?

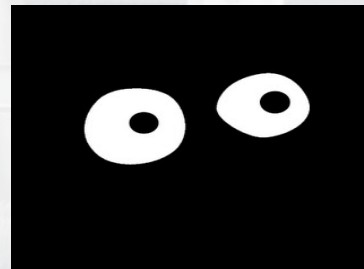
## Why Now?

Confluence of several factors:

- Proliferation of e-filing systems and related decisions to post records online on county by county basis
- Treatment of sensitive information in records varies amongst the judicial districts
- Statewide e-filing is here (for some courts)

## Why Now?

- Litigants and third parties, some of whom are pro se or are not voluntary participants in the judicial process, may be left in the dark as to whether their private, personal identifiers and intimate details of their lives will be released (online)



## UJS Public Access Policy: Case Records of the Appellate and Trial Courts

- February 7, 2015: proposed policy published for 60 day public comment period
- A wide range of opinions and comments were received
- Supreme Court adopted the Unified Judicial System policy on January 6, 2017
- Effective January 6, 2018

## UJS Public Access Policy: Case Records of the Appellate and Trial Courts

The policy governs:

- how records will be accessible by the public
- how requests for access are to be handled
- applicable fees
- how parties/counsel must file documents that are sensitive or contain information deemed confidential as defined in the policy

## UJS Public Access Policy: Case Records of the Appellate and Trial Courts

The policy builds upon existing statewide public access protocols for the UJS:

- Electronic Case Record Public Access Policy(2007)
- Rule 509 of the Pennsylvania Rules of Judicial Administration (Access to Financial Records)(2007)
- Policy Related to Official Case Records of the Magisterial District Courts (2010)

## UJS Public Access Policy: Case Records of the Appellate and Trial Courts

- The policy applies to:
  - All documents
  - Every case filed
- The policy does not apply to:
  - Register of Wills
- on or after the effective date of this policy

## UJS Public Access Policy: Case Records of the Appellate and Trial Courts

Certain cases, information and/or documents are safeguarded. There are four means of doing so:

1. Certain pieces of information not accessible (Section 7.0)
2. Certain documents are not accessible (Section 8.0)
3. Certain records are not accessible at the courthouse (Section 9.0)
4. Certain information not accessible online, but still available at the courthouse (Section 10)



## Section 7.0 – Confidential Information

- The following information is confidential and shall not be included in any document filed with a court or custodian except on Confidential Information Form (CIF) or if the court elects by requiring 2 versions of a document: redacted/unredacted
- CIF in place statewide for MDJ courts, some judicial districts via local rules and other states such as Arizona, Minnesota, and Washington

## Section 7.0 – Confidential Information

- Social Security Numbers
- Financial Account Numbers except last four digits of active account subject of case
- Driver License and State Identification (SID) Numbers
- Minor's name and date of birth except when charged as adult
- Abuse victim's address and other contact information in family court actions as defined by Rule 1931(a) of the Pennsylvania Rules of Civil Procedure

# Section 7.0 – Confidential Information

**CONFIDENTIAL  
INFORMATION  
FORM**



**APPELLATE/TRIAL COURT  
CASE RECORDS**

*Public Access Policy of the Unified Judicial System of Pennsylvania:  
Case Records of the Appellate and Trial Courts  
204 Pa. Code § 213.81  
[www.pacourts.us/public-record-policies](http://www.pacourts.us/public-record-policies)*

\_\_\_\_\_  
(Party name as displayed in case caption)

\_\_\_\_\_  
Docket/Case No.

Vs.

\_\_\_\_\_  
(Party name as displayed in case caption)

\_\_\_\_\_  
Court

This form is associated with the pleading titled \_\_\_\_\_, dated \_\_\_\_\_.

Pursuant to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*, the Confidential Information Form shall accompany a filing where confidential information is required by law, ordered by the court, or otherwise necessary to effect the disposition of a matter. This form, and any additional pages, shall remain confidential, except that it shall be available to the parties, counsel of record, the court, and the custodian. This form, and any additional pages, must be served on all unrepresented parties and counsel of record.

This Information Pertains to:	Confidential Information:	References in Filing:
_____ (full name of adult) OR This information pertains to a minor with the initials of _____ and the full name of _____ _____ (full name of minor) and date of birth: _____	Social Security Number (SSN): _____	Alternative Reference: SSN 1
	Financial Account Number (FAN): _____	Alternative Reference: FAN 1
	Driver's License Number (DLN): _____	Alternative Reference: DLN 1
	State of Issuance: _____	
_____ (full name of adult) OR This information pertains to a minor with the initials of _____ and the full name of _____ _____ (full name of minor) and date of birth: _____	State Identification Number (SID): _____	Alternative Reference: SID 1
	Social Security Number (SSN): _____	Alternative Reference: SSN 2
	Financial Account Number (FAN): _____	Alternative Reference: FAN 2
	Driver's License Number (DLN): _____	Alternative Reference: DLN 2
	State of Issuance: _____	
	State Identification Number (SID): _____	Alternative Reference: SID 2

## Section 7.0 Confidential Information

- Appellate Courts – redacted/unredacted filings
- Trial Courts – a mix;
- See [www.pacourts.us/public-records](http://www.pacourts.us/public-records) - Click on “Policy” for listing of judicial districts, method for filing, hyperlink to local rule
- This section is not applicable to cases that are sealed or exempted from public access pursuant to applicable authority

### Examples:

- juvenile cases
- adoption cases

## Section 7.0 Confidential Information

- Parties and attorneys are:
  - Solely responsible for complying with the policy
  - Required to certify their compliance to the court

The following certification shall accompany each filing:

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

## Section 7.0 Confidential Information

- A court or custodian is not required to review filings for compliance
- A party's or attorney's failure to comply with the policy will not affect access to case records that are otherwise accessible
- Court may order a noncompliant filing sealed or redacted and impose sanctions
- Examples of sanctions imposed by a federal district court...

## Engeseth v. County of Isanti, Minnesota

665 F.Supp. 2d 1047 (D. Minn. 2009)

- Counsel violated rule requiring that electronic or paper filing with court containing individual's SSN include only the last four digits of the number and year of individual's birth
- Court required counsel to notify all 179 individuals whose full Social Security numbers and birth dates were contained in a filing and pay \$5,000 to a local food bank

## Allstate Insurance Co. vs. Linea Latina Da Accidentes

2010 WL 5014386 (D. Minn. 2010)

- Counsel filed with complaint numerous exhibits that contained birth dates, names of minors, financial account numbers, and social security number(s) in violation of Federal Rule of Civil Procedure 5.2
  - Counsel was ordered to:
    - notify, in writing, the individuals whose social security numbers, birth dates and names were disclosed of the violation
    - acquire credit monitoring for those whose social security numbers were disclosed
    - make a donation of \$300 to Second Harvest Heartland



## Section 8.0 – Confidential Documents

- Certain types of documents that routinely contain confidential types of information shall be filed as Confidential Documents, accompanied by a Confidential Document Form.
- These documents shall become part of the Case Record but shall not be released to the public, either at the counter or remotely

## Section 8.0 – Confidential Documents


- Financial Source Documents, defined in Section 1.0 as including “Tax returns and schedules; W-2 forms and schedules including 1099 forms or similar documents; wage stubs, earning statements, or other similar documents; credit card statements; financial institution statements; check registers; checks or equivalent; and loan application documents.”
- Medical/Psychological Records, defined in Section 1.0 as including includes “records relating to the past, present, or future physical or mental health or condition of an individual.”

## Section 8.0 – Confidential Documents

- Children and Youth Services Records
- Minor's Educational Records
- Marital Property Inventory and Pre-Trial Statement (Pa.R.C.P. No. 1920.33)
- Income and Expense Statements (Pa.R.C.P. No. 1910.27(c))
- Agreements between the parties (23 Pa.C.S. § 3105)

# Section 8.0 – Confidential Documents

**CONFIDENTIAL DOCUMENT FORM**



**APPELLATE/TRIAL COURT CASE RECORDS**

*Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts, 204 Pa. Code § 213.81*  
[www.pacourts.us/public-record-policies](http://www.pacourts.us/public-record-policies)

\_\_\_\_\_

(Party name as displayed in case caption)

\_\_\_\_\_

Docket/Case No.

Vs.

\_\_\_\_\_

(Party name as displayed in case caption)

\_\_\_\_\_

Court

This form is associated with the pleading titled \_\_\_\_\_ dated \_\_\_\_\_

Pursuant to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*, the Confidential Document Form shall accompany a filing where a confidential document is required by law, ordered by the court, or is otherwise necessary to effect the disposition of a matter. This form shall be accessible to the public, however the documents attached will not be publicly accessible, except as ordered by a court. The documents attached will be available to the parties, counsel of record, the court, and the custodian. Please only attach documents necessary for the purposes of this case. Complete the entire form and check all that apply. This form and any additional pages must be served on all unrepresented parties and counsel of record.

Type of Confidential Document	Paragraph, page, etc. where the confidential document is referenced in the filing:
<input type="checkbox"/> Financial Source Documents	
<input type="checkbox"/> Tax Returns and schedules	
<input type="checkbox"/> W-2 forms and schedules including 1099 forms or similar documents	
<input type="checkbox"/> Wage stubs, earning statements, or other similar documents	
<input type="checkbox"/> Credit card statements	
<input type="checkbox"/> Financial institution statements (e.g., investment/bank statements)	
<input type="checkbox"/> Check registers	
<input type="checkbox"/> Checks or equivalent	
<input type="checkbox"/> Loan application documents	
<input type="checkbox"/> Minors' educational records	
<input type="checkbox"/> Medical/Psychological records	
<input type="checkbox"/> Children and Youth Services' records	
<input type="checkbox"/> Marital Property Inventory and Pre-Trial Statement as provided in Pa.R.C.P. No. 1920.33	
<input type="checkbox"/> Income and Expense Statement as provided in Pa.R.C.P. No. 1910.27(c)	
<input type="checkbox"/> Agreements between the parties as used in 23 Pa.C.S. §3105	

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

\_\_\_\_\_

Signature of Attorney of Unrepresented Party

\_\_\_\_\_

Date

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Attorney Number: (if applicable) \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

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## Section 8.0 – Confidential Documents

This section is not applicable to cases that are sealed or exempted from public access pursuant to applicable authority

Examples:

- juvenile cases
- adoption cases

## Section 8.0 Confidential Documents

- Parties and attorneys are:
  - Solely responsible for complying with the policy
  - Required to certify their compliance to the court

The following certification shall accompany each filing:

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

## Section 8.0 Confidential Documents

- A court or custodian is not required to review filed document for compliance
- A party's or attorney's failure to comply with the policy will not affect access to case records that are otherwise accessible
- Court may order a noncompliant filing sealed or redacted and impose sanctions
- Used in other states such as Minnesota and South Dakota

# Certification of Compliance

- Sections 7 & 8 require certification to accompany each filing
- Sample certification form developed by AOPC



# Certification of Compliance

## CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Attorney No. (if applicable): \_\_\_\_\_

# Poster Notice

- The AOPC designed posters concerning Sections 7 and 8 restrictions that a court or custodian can use to advise the public

## Section 9.0 – Limits at the Courthouse

- Applies to the public which does not include parties and their attorneys. See Section 1.0
- Cases under 20 Pa.C.S. § 711(9) – birth records except docket and any court order/opinion
- Incapacity proceedings filed pursuant to 20 Pa.C.S. §§ 5501 – 5555 except docket and any decree adjudicating a person as incapacitated
- Confidential Information Form/Unredacted Version of Document (Section 7.0)
- Any document filed with a Confidential Document Form (Section 8.0)

## Section 9.0 – Limits at the Courthouse

- Information sealed or protected pursuant to court order
- Information determined by the Court Administrator of Pennsylvania with approval of the Chief Justice of Pennsylvania
- Information to which access is otherwise restricted by federal law, state law, or state court rule

# Section 9.0 – Limits on Case Records

http://www.pacourts.us/assets/files/page-381/file-5858.pdf?cb pacourts.us

File Edit Go to Favorites Help

**LIMITS ON PUBLIC ACCESS TO UNIFIED JUDICIAL SYSTEM CASE RECORD  
OF THE APPELLATE AND TRIAL COURTS**

Subject Area	Record Description	Accessibility	Authority
Domestic Relations	List of weapons ordered to be relinquished by the defendant in an action for protection from abuse.	No Public Access, except (A) upon an order of the court granted upon cause shown; (B) as necessary, by law enforcement and court personnel; or (C) after redaction of information listing any firearm, other weapon or ammunition.	23 Pa.C.S. § 6108(a)(7)(v).
Domestic Relations	All records pertaining to a confidential address for individuals participating in the Office of Victim Advocate's Address Confidentiality Program.	No Public Access, except for the substitute address provided by the Office of Victim Advocates.	23 Pa.C.S. § 6703(d); see also 23 Pa.C.S. § 5336(b)(1).
Juvenile Court	Juvenile Dependency and Delinquency records.	No Public Access; except as set forth in 42 Pa.C.S. § 6307, Pa.Rs.J.C.P. 160 and/or 1160, including with leave of court.	42 Pa.C.S. § 6307; Pa.Rs.J.C.P. 160, 1160.
Orphans' Court	Proceedings related to appointment of guardianship for incapacitated persons.	Shall be closed to the public upon request of the alleged incapacitated person or his counsel. After the individual's death his/her estate may access the record of the guardianship proceedings.	20 Pa.C.S. § 5511(a); <i>In re Estate of duPont</i> , 2 A.3d 516 (Pa. 2010).
Orphans' Court	Records required for foreign adoption decrees.	No Public Access unless a court order is granted upon good cause.	23 Pa.C.S. § 2908(F); Pa.O.C.R. 15.7.

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## Section 10.0 - Limits on Remote Access

- Prospective, not retrospective
- Any information restricted at the courthouse (Section 9.0)
- Juror, witness or victim information in criminal cases
- Transcripts lodged of record except attached to motion or filing
- IFP petitions
- Original and reproduced records filed in the appellate courts



## Section 10.0 – Limits on Remote Access

- Family Court records except for dockets, court orders, and opinions
- Case records in actions governed by the Decedents, Estates and Fiduciaries Code, Adult Protective Services Act and the Older Adult Protective Act, except for dockets, court orders and opinions

## Section 10.0 – Limits on Remote Access

- Dockets available remotely in family and decedents, etc. cases shall contain only:
  - A party's name
  - City, state and ZIP code of a party's address
  - Counsel of record's name and address
  - Docket number
  - Docket entries indicating generally what actions have been taken or are scheduled in a case
  - Court orders and opinions, and
  - Filing date of the case as well as case type



## Section 2.0 – Statement of General Policy

- The policy governs access by the public to case records and a court or custodian may not adopt more restrictive or expansive access protocols than provided in the policy
- Security, possession, custody and control of the case records shall generally be the responsibility of applicable custodian or staff
- Facilitating access shall not impede the orderly conduct of court business

## Section 3.0 – Access to Case Records

- All case records shall be open in accordance with this policy

## Section 4.0 – Requesting Access

- A request by the public can be oral, but a custodian may require a written request
- The request shall identify or describe the records sought with specificity to enable the custodian to ascertain which records are being requested
- Written request should be substantially in format designed/published by AOPC
- AOPC developed a written request form

# Section 4.0 – Requesting Access

REQUEST FOR ACCESS FORM



APPELLATE/TRIAL CASE RECORDS

*Public Access Policy of the Unified Judicial System of Pennsylvania:  
Case Records of the Appellate and Trial Courts  
204 Pa. Code § 213.81  
[www.pacourts.us/public-record-policies](http://www.pacourts.us/public-record-policies)*

DATE OF REQUEST: \_\_\_\_\_

REQUESTOR INFORMATION:

NAME: \_\_\_\_\_ DAYTIME TELEPHONE NUMBER: (\_\_\_\_) \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_ FAX NUMBER: (\_\_\_\_) \_\_\_\_\_

REQUESTING CASE RECORD FROM:

<input type="checkbox"/> Supreme Court	<input type="checkbox"/> Superior Court	<input type="checkbox"/> Commonwealth Court
<input type="checkbox"/> Court of Common Pleas	<input type="checkbox"/> Philadelphia Municipal Court (excluding Traffic Division)	

DESCRIBE INFORMATION REQUESTED: (See instructions on following page)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Official Use Only	CHARGE	Comments
Date Received _____	_____	
Tracking Number (if applicable) _____	Total Cost _____	

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## Section 5.0 – Responding to a Request

- A custodian shall fulfill the request as promptly as possible under the circumstances existing at the time of the request
- Otherwise, the custodian shall inform the requestor of the specific reason(s) why access to the request is being delayed or denied
- Failure to pay fees is valid reason for denying access BUT there can be no fees for viewing records stored at court facility
- Denial shall be in writing – if the request was
- Review - File motion with applicable court for which the custodian maintains the records

## Section 6.0 – Fees

- Photocopying fee shall not exceed \$0.25 per page unless provided by applicable authority
- Each custodian shall establish a fee schedule that is: (1) posted in the county facility in an area accessible to the public, and (2) posted on the custodian's website

## Section 11.0 – Correcting Clerical Errors

- This section details a procedure for a party or the party's attorney to seek correction of a clerical error in a case records
- AOPC developed a request form
- Clerical Errors are "errors or omissions appearing in the case record that are patently evident, as a result of court personnel's action or inaction." See Section 1.0

# Section 11.0 – Correcting Clerical Errors

**REQUEST FOR CORRECTION  
OF CLERICAL ERRORS**



**APPELLATE/TRIAL COURT  
CASE RECORDS**

*Public Access Policy of the Unified Judicial System of Pennsylvania:  
Case Records of the Appellate and Trial Courts  
204 Pa. Code § 213.81  
[www.pacourts.us/public-record-policies](http://www.pacourts.us/public-record-policies)*

**Requestor Information:**

Name:

Attorney No. (if applicable):

Address:

Phone Number:

Email Address:

Fax Number:

I am:  A party to the case.

An attorney for a party to the case.

Case caption of the case record:

Docket number of the case record:

Set forth in specificity the information that is alleged to be a clerical error, as defined in the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. Attach additional sheets if necessary.

Set forth in specificity sufficient facts, including supporting documentation, that corroborates your allegation. Attach additional sheets if necessary.

I, , verify that the facts set forth in this form are true and correct to the best of my knowledge, information and belief. This statement is subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S. § 4904) relating to unsworn falsification to authorities.

Signature of Requestor:

Date:

**NOTE:** A request to correct a clerical error in a case record of the Supreme Court, Superior Court or Commonwealth Court shall be submitted to the prothonotary of the proper appellate court. A request to correct a clerical error in a case record of a court of common pleas or Philadelphia Municipal Court shall be submitted to the applicable custodian. You shall provide a copy of this completed form to all parties to the case.



## Section 12.0 – Continuous Availability

- A copy of this policy shall be continuously available for public inspection in every court and custodian's office and posted on the Unified Judicial System's website

## Statewide Rules of Procedure

- Supreme Court's procedural rules committees published for public comment proposed changes to various rules to reference this policy as well as any corollary changes necessary
- This should ensure consistency

# Ethical Considerations Regarding Public Access

- **Rule 1.1 (Comment 8)**
  - The Disciplinary Board of the Supreme Court of Pennsylvania published for public comment, the following amendment to Comment 8.
  - Comment 8 –To provide competent representation, a lawyer should be familiar with the policies of the courts in which the lawyer practices, which include the Public Access Policy of the Unified Judicial System.

# Ethical Considerations Regarding Public Access

- **Rule 1.6 (Comment 25)**
  - The Disciplinary Board of the Supreme Court of Pennsylvania published for public comment, the following amendment to Comment 25.
  - Comment 25 –Pursuant to paragraph (d), a lawyer should act in accordance with court policies governing disclosure of sensitive or confidential information including the Public Access Policy of the Unified Judicial System.

## Conclusion

- Policy is effective **January 6, 2018**
- The policy, explanatory report, and other policy related materials are posted at:  
<http://www.pacourts.us/public-records-policies>
- Watch website for statewide forms and more information about the policy

## Presenters

- **Andrea B. Tuominen, Esq.**
  - Assistant Court Administrator of Pennsylvania
- **David S. Price, Esq.**
  - Senior Legal Counsel, Administrative Office of Pennsylvania Courts

# Questions?

