

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

[204 PA. CODE CH. 213]

Proposed Public Access Policy Concerning Case Records of the Appellate and Trial Courts

The Administrative Office of Pennsylvania Courts is planning to recommend that the Supreme Court of Pennsylvania adopt this proposed public access policy concerning official case records of the appellate and trial courts. At my direction, a working group comprised of judges, attorneys, filing office and administrative personnel developed this proposed policy that is being published for public comment. The proposed policy covers official case record information that would be accessible by the public, how requests for access are to be handled, applicable fees, and other pertinent recommendations.

Balancing the public's right of access to official records with an individual's privacy interests is an important public policy issue. This proposal builds upon existing UJS policies governing access to magisterial district court case records, electronic case records and financial records.

The Explanatory Report highlights the working group's considerations in formulating this proposed policy. I request that interested persons submit suggestions, comments, or objections concerning this proposal to the working group through

Administrative Office of Pennsylvania Courts
ATTN: Public Access Comments
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no later than April 8, 2015.

ZYGMONT A. PINES,
Court Administrator of Pennsylvania

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

CHAPTER 213. COURT RECORDS POLICIES

Subchap.

D. PUBLIC ACCESS POLICY OF THE UNIFIED JUDICIAL
SYSTEM OF PENNSYLVANIA: CASE RECORDS OF THE
APPELLATE AND TRIAL COURTS

Subchapter D. PUBLIC ACCESS POLICY OF THE UNIFIED JUDICIAL SYSTEM OF PENNSYLVANIA: CASE RECORDS OF THE APPELLATE AND TRIAL COURTS

Sec.

213.81. Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

§ 213.81. Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

Section 1.0. Definitions.

A. "Abuse Victim" is a person for whom a protection order has been granted by a court pursuant to Pa.R.C.P. No. 1901 et seq. and 23 Pa.C.S. § 6101 et seq. or 42 Pa.C.S. § 62A01 et seq.

B. "Case Records" are (1) pleadings, documents and other legal papers for any unique case filed with and maintained by the applicable court or custodian; (2) dockets, orders, opinions, judgments, decrees, and other legal papers for any particular case created and maintained by the applicable court or custodian. This term does not include notes, memoranda, correspondence, drafts and work product of judges or court personnel. Unless otherwise provided, this definition applies equally to case records maintained in paper and electronic formats.

C. "Court" includes the Supreme Court, Superior Court, Commonwealth Court, Courts of Common Pleas, and Philadelphia Municipal Court, excluding the Traffic Division of Philadelphia Municipal Court.

D. "Court Facility" is the location or locations where case records are filed or maintained.

E. "Custodian" is any person responsible for maintaining case records or for processing public requests for access to case records.

F. "Docket" is a chronological index of filings, actions, and events in a particular case, which may include identifying information of the parties and counsel, and a brief description or summary of the filings, actions, and events.

G. "Financial Account Numbers" are financial institution account numbers, debit and credit card numbers, and methods of authentication used to secure accounts such as personal identification numbers, user names and passwords.

H. "Financial Source Documents" are:

1. Tax returns;
2. W-2 forms and schedules;
3. Wage stubs, earning statements, or other similar documents;
4. Credit card statements;
5. Financial institution statements;
6. Check registers;
7. Checks or equivalent; and
8. Loan application documents.

I. "Minor" is a person under the age of eighteen.

J. "Party" is one who commences an action or against whom relief is sought in a matter.

K. "Public" is any person, member of the media, business, non-profit entity, organization or association. The term does not include a party to a case; the attorney(s) of record in a case; Unified Judicial System officials or employees if acting in their official capacities; or any federal, state, or local government entity, and employees or officials of such an entity if acting in their official capacities.

L. "Remote Access" is the ability to electronically search, inspect, print or copy information in a case record without the need to physically visit the court facility.

Commentary

Regarding Subsection J, *amicus curiae* are not parties. See Pa.R.A.P. 531.

Regarding Subsection K, Unified Judicial System officials or employees include: judicial officers and their personal staff, administrative staff and other central staff, prothonotaries, clerks of the courts, clerks of the orphans' court division, sheriffs, prison and correctional officials, and personnel of all the above.

Section 2.0. Statement of General Policy.

A. This policy shall govern access by the public to case records.

B. Security, possession, custody, and control of case records shall generally be the responsibility of the proper custodian and designated staff.

C. Facilitating access by the public shall not substantially impede the orderly conduct of court business.

D. A court or custodian may not adopt more restrictive or expansive access protocols than provided for in this policy. Nothing in this policy requires a court or custodian to provide remote access to case records. However, if a court or custodian chooses to provide remote access to any of its case records, access shall be provided in accordance with Section 10.0.

E. This policy shall apply to all case records created on or after the effective date of this policy.

Commentary

The Supreme Court of Pennsylvania has adopted other policies governing public access to Unified Judicial System case records: the *Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania* that provides for access to the statewide case management systems' web docket sheets and requests for bulk data and the *Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts* that provides for access to case records of the magisterial district courts maintained in a paper format.

Section 3.0. Access to Case Records.

All case records shall be open to the public in accordance with this policy.

Section 4.0. Requesting Access to Case Records.

A. Any person desiring to inspect or copy case records shall make an oral or written request to the proper custodian, unless otherwise provided by court order or rule. If the request is oral, the custodian may require a written request.

B. Written requests shall be substantially in the format designed and published by the Administrative Office of Pennsylvania Courts.

C. Requests shall identify or describe the records sought with specificity to enable the custodian to ascertain which records are being requested.

Commentary

Public access requests to the courts and custodians are routinely straightforward and often involve a limited number of records. Therefore, artificial administrative barriers should not be erected so as to inhibit fulfilling these requests in an efficient manner.

Nonetheless, Subsection A provides a custodian with the flexibility to require that a more complex request be submitted in writing to avoid misunderstandings and errors that can often result in more time being expended to provide the requested information than is necessary. This approach is not novel; submission of a written request form has been a longstanding practice under the Unified Judicial System's *Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania* and *Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts*.

Subsection C does not require a requestor to identify a case by party or case number in order to have access to the files, but the request shall clearly identify or describe the records requested so that court personnel can fulfill the request.

Section 5.0. Responding to Requests for Access to Case Records.

A. A custodian shall fulfill a request for access to case records as promptly as possible under the circumstances existing at the time of the request.

B. If a custodian cannot fulfill the request promptly or at all, the custodian shall inform the requestor of the specific reason(s) why access to the information is being delayed or denied.

C. If a custodian denies a written request for access, the denial shall be in writing.

Commentary

Given that most public access requests for case records are straightforward and usually involve a particular case or matter, custodians should process the same in an expeditious fashion.

There are a number of factors that can affect how quickly a custodian may respond to a request. For example, the custodian's response may be slowed if the request is vague, requires compilation of a large amount of information, or involves information that is stored off-site. Ultimately, the goal should be to respond timely to requests for case records.

In those unusual instances in which access to the case records cannot be granted in an expeditious fashion, the custodian shall inform the requestor of the specific reason(s) why access to the information is being delayed or denied, which may include:

- the request involves such voluminous amounts of information that the custodian is unable to fulfill the same without substantially impeding the orderly conduct of the court or custodian's office;
- records in closed cases are located at an off-site facility;
- a particular file is in use by a judge or court staff. If a judge or court staff needs the file for an extended period of time, special procedures should be considered, such as making a duplicate file that is always available for public inspection;
- the requestor failed to pay the appropriate fees, as established pursuant to Section 6.0 of this policy, associated with the request; and/or
- the requested information is restricted from access pursuant to applicable legal authority.

An aggrieved party may seek relief from a denial of a written request for access consistent with applicable legal

authority (for example, Pa.R.A.P. 123 and pertinent motion practice at the trial court level).

Section 6.0. Fees.

A. Reasonable fees may be imposed for providing public access to case records pursuant to this policy and in accordance with applicable legal authority.

B. Fees for duplication by photocopying or printing from electronic media or microfilm shall not exceed \$0.25 per page, except as provided by applicable legal authority.

C. A custodian shall establish a fee schedule that is (1) published in the *Pennsylvania Bulletin*, (2) posted in the court facility in an area accessible to the public, and (3) posted on the custodian's website.

Commentary

To the extent that the custodian is not the court, approval of the fee schedule by the court may be necessary.

An example of applicable legal authority setting forth photocopying fees is 42 Pa.C.S. § 1725(c)(1)(ii) that provides the clerk of Orphans' Court of the First Judicial District shall charge \$3 per page for a copy of any record. In addition, the copying fees for appellate records are \$1 per page if the appellate prothonotary's office transmits the document to the requestor, or \$0.50 per page if copies are provided to the requestor in person. See 204 Pa. Code § 155. However, copies of most appellate court opinions and orders are available for free on the Unified Judicial System's website, www.pacourts.us.

Subsection B is consistent with the fee structure provided for under the Pennsylvania Right To Know Law (65 P.S. § 67.1307) and promulgated by the Office of Open Records.

Section 7.0. Confidential Information.

A. Unless required by applicable legal authority or as provided in Subsection C, a party shall not set forth the following information in any pleading, document, or other legal paper that is to be filed with a court or custodian, except on a Confidential Information Form to be filed contemporaneously with the pleading, document, or other legal paper:

1. Social Security Numbers;
2. Financial Account Numbers, except an active financial account number may be identified by the last four digits when the financial account is the subject of the case and cannot otherwise be identified;
3. Driver License Numbers;
4. State Identification (SID) Numbers;
5. Minors' names and dates of birth except when a minor is charged as a defendant in a criminal matter (see 42 Pa.C.S. § 6355); and
6. Abuse victim's address and other contact information, including employer's name, address and work schedule, in family court actions as defined by Pa.R.C.P. No. 1931(a), except for victim's name.

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

B. The Administrative Office of Pennsylvania Courts shall design and publish the Confidential Information Form.

C. Instead of using the Confidential Information Form, a court may adopt a rule or order permitting the filing of

any pleading, document, or other legal paper in two versions, a "Redacted Version" and "Unredacted Version." The "Redacted Version" shall not include any information set forth in Subsection A, while the "Unredacted Version" shall include the information.

D. Parties and their attorneys shall be solely responsible for complying with the provisions of this section and shall certify their compliance to the court. The certification that shall accompany each filing shall be substantially in the following form: "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."

E. A court or custodian is not required to review any filing for compliance with this section. A party's or attorney's failure to comply with this section shall not affect access to case records that are otherwise accessible.

F. If a filing fails to comply with the requirements of this section, a court may, upon motion or its own initiative, order the filing sealed and/or redacted. A court may also impose appropriate sanctions, including costs necessary to prepare a compliant filing.

Commentary

There is legal authority requiring information listed in Subsection A to appear on certain court documents. For example, 23 Pa.C.S. § 6108(b) provides for the inclusion of a defendant's social security number on a protection from abuse order, and Pa.R.C.P. No. 1910.27 provides for inclusion of the plaintiff's and defendant's social security number on a complaint for support.

This section is not applicable to cases that are sealed or exempted from public access pursuant to applicable legal authority. For example, cases filed under the Juvenile Act that are already protected by 42 Pa.C.S. § 6307, Pa.Rs.J.C.P. 160 and 1160.

Unless constrained by applicable legal authority, court personnel and jurists are advised to refrain from inserting confidential information in court-generated documents (e.g., orders, notices) when inclusion of such information is not essential to the resolution of litigation, appropriate to further the establishment of precedent or the development of law, or necessary for administrative purposes. For example, if a court's opinion contains confidential information and, therefore, must be sealed or heavily redacted to avoid release of such information, this could impede the public's access to court records and ability to understand the court's decision.

It is recommended that when a redacted version of a document is prepared the drafter shall indicate where in the document confidential information has been omitted. For example, the drafter could insert minors' initials in the document, while listing full names on the Confidential Information Form. If more than one child has the same initials, a different moniker should be used (e.g. child one, child two, etc.).

While Pa.R.C.P. No. 1931 is suspended in most judicial districts, the reference to the rule is merely for definitional purposes.

With regard to Subsection D, the certification of compliance is required whether the documents are filed in paper form or via an e-filing system. Courts that permit e-filing should consider the development of a compliance "checkbox" whereby e-filers could indicate their compliance with this policy.

Any party may make a motion to the court to cure any defect(s) in any filing(s) that does not comport with this section.

Section 8.0. Confidential Documents.

A. Unless required by applicable legal authority, the following documents are confidential and shall be filed with a court or custodian under a cover sheet designated “Confidential Documents Form”:

1. Financial Source Documents;
2. Minors’ educational records;
3. Medical/Psychological records;
4. Children and Youth Services’ records; and
5. Marital Property Inventory pursuant to Pa.R.C.P. No. 1920.33.

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

B. The Administrative Office of Pennsylvania Courts shall design and publish the Confidential Documents Form.

C. Confidential documents submitted with the required cover sheet shall not be accessible to the public, except as ordered by a court. However, the cover sheet or a copy of it shall be accessible to the public.

D. Parties and their attorneys shall be solely responsible for complying with the provisions of this section and shall certify their compliance to the court. The certification that shall accompany each filing shall be substantially in the following form “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.”

E. A court or custodian is not required to review any pleading, document or other legal paper for compliance with this section. A party’s or attorney’s failure to comply with this section shall not affect access to case records that are otherwise accessible.

F. If confidential documents are not submitted with the required cover sheet, a court may, upon motion or its own initiative, order that any such documents be sealed. A court may also impose appropriate sanctions for failing to comply with this section.

Commentary

This section is not applicable to cases that are sealed or exempted from public access pursuant to applicable legal authority, such as Juvenile Act cases pursuant to 42 Pa.C.S. § 6307, Pa.Rs.J.C.P. 160 and 1160.

Unless constrained by applicable legal authority, court personnel and jurists are advised to refrain from inserting confidential information in court-generated documents (e.g., orders, notices) when inclusion of such information is not essential to the resolution of litigation, appropriate to further the establishment of precedent or the development of law, or necessary for administrative purposes. For example, if a court’s opinion contains confidential information and, therefore, must be sealed or heavily redacted to avoid release of such information, this could impede the public’s access to court records and ability to understand the court’s decision.

With regard to Subsection D, the certification of compliance is required whether the documents are filed in paper

form or via an e-filing system. Courts that permit e-filing should consider the development of a compliance “checkbox” whereby e-filers could indicate their compliance with this policy.

With regard to Subsection E, if the party or party’s attorney fails to use a cover sheet designated “Confidential Document Form” when filing the documents deemed confidential pursuant to this Section, documents which are otherwise inaccessible may be released to the public because they were not properly identified through the use of the Confidential Document Form.

Any party may make a motion to the court to cure any defect(s) in any filing(s) that does not comport with this section.

Section 9.0. Limits on Public Access to Case Records at a Court Facility.

The following information shall not be accessible by the public at a court facility:

A. Case records under 20 Pa.C.S. § 711(9), including but not limited to records of proceedings with regard to issues concerning recordation of birth and birth records, the alteration, amendment, or modification of such birth records, and the right to obtain a certified copy of the same, except for the docket and any court order or opinion;

B. Case records concerning incapacity proceedings filed pursuant to 20 Pa.C.S. §§ 5501—5555, except for the docket and any final decree adjudicating a person as incapacitated;

C. Transcripts in family court actions, as defined by Pa.R.C.P. No. 1931(a), lodged of record, excepting portions of transcripts when attached to a motion or other legal paper filed with the court;

D. Any Confidential Information Form or any Unredacted Version of any pleading, document, or other legal paper as set forth in Section 7.0;

E. Any document filed with a Confidential Document Form cover sheet as set forth in Section 8.0;

F. Information sealed or protected pursuant to court order;

G. Information to which access is otherwise restricted by federal law, state law, or state court rule; and

H. Information presenting a risk to personal security, personal privacy, or the fair, impartial and orderly administration of justice, as determined by the Court Administrator of Pennsylvania with the approval of the Chief Justice. The Court Administrator shall publish notification of such determinations in the *Pennsylvania Bulletin* and on the Unified Judicial System’s website.

Commentary

Unless constrained by applicable legal authority, court personnel and jurists are advised to refrain from inserting confidential information in court-generated documents (e.g., orders, notices) when inclusion of such information is not essential to the resolution of litigation, appropriate to further the establishment of precedent or the development of law, or necessary for administrative purposes. For example, if a court’s opinion contains confidential information and, therefore, must be sealed or heavily redacted to avoid release of such information, this could impede the public’s access to court records and ability to understand the court’s decision.

While Pa.R.C.P. No. 1931 is suspended in most judicial districts, the reference to the rule is merely for definitional purposes.

With respect to Subsection G, Pennsylvania Rule of Appellate Procedure 104(a), Pa.R.A.P. 104(a), provides that the appellate courts may make and amend rules of court governing their practice. The Administrative Office of Pennsylvania Courts shall from time to time publish a list of applicable legal authorities that restrict public access to court records or information. This list shall be published on the Unified Judicial System's website and in the *Pennsylvania Bulletin*. In addition, all custodians shall post this list in their respective court facilities in areas accessible to the public and on the custodians' websites.

With respect to Subsection H, the Administrative Office of Pennsylvania Courts shall include any such determinations in the list of applicable legal authorities referenced above.

Section 10.0. Limits on Remote Access to Case Records.

A. The following information shall not be remotely accessible by the public:

1. The information set forth in Section 9.0;
2. In criminal cases, information that either specifically identifies or from which the identity of jurors, witnesses (other than expert witnesses), or victims could be ascertained, including names, addresses and phone numbers;
3. Transcripts lodged of record, excepting portions of transcripts when attached to a motion or other legal paper filed with the court;
4. *In Forma Pauperis* petitions;
5. Case records in family court actions as defined in Pa.R.C.P. No. 1931(a), except for dockets, court orders and opinions;
6. Case records in actions governed by the Decedents, Estates and Fiduciaries Code, Adult Protective Services Act and the Older Adult Protective Services Act, except for dockets, court orders and opinions; and
7. Original and reproduced records filed in the Supreme Court, Superior Court or Commonwealth Court as set forth in Pa.R.A.P. 2151, 2152, and 2156.

B. With respect to Subsections A(5) and A(6), unless otherwise restricted pursuant to applicable legal authority, dockets available remotely shall contain only the following information:

1. A party's name;
2. The city, state, and ZIP code of a party's address;
3. Counsel of record's name and address;
4. Docket entries indicating generally what actions have been taken or are scheduled in a case; and
5. Court orders and opinions.

Commentary

Remote access to the electronic case record information residing in the Pennsylvania Appellate Court Case Management System (PACMS), the Common Pleas Criminal Court Case Management System (CPCMS) and/or the Magisterial District Judges System (MDJS) is provided via web dockets, available on <https://ujportal.pacourts.us/>, and is governed by the *Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania*.

Depending upon individual court resources, some courts have posted online docket information concerning civil matters. If a court elects to post online docket information concerning family court actions and actions governed by the Decedents, Estates and Fiduciaries Code, Adult Protective Services Act and the Older Adult Protective Services Act, the docket may only include the information set forth in Subsection B. This information will provide the public with an overview of the case its proceedings and other pertinent details, including the court's decision. Release of such information will enhance the public's trust and confidence in the courts by increasing awareness of the procedures utilized to adjudicate the claims before the courts as well as the material relied upon in reaching determinations. For more information on public access to court dockets, see *Hartford Courant Company v. Pelligrino*, 380 F.3d 83 (2nd Cir. 2004) and *Doe v. Public Citizen*, 749 F.3d 246 (4th Cir. 2014). This provision does not impact what information is maintained on the docket available at the court facility.

Access to portions of transcripts when attached to a motion or other legal paper filed with the court in family court actions is governed by Subsection A(5).

Section 11.0. Correcting Clerical Errors in Case Records.

A. A party, or the party's attorney, seeking to correct a clerical error in a case record may submit a written request for correction.

1. 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.

2. 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 proper custodian.

B. The request shall be made on a form designed and published by the Administrative Office of Pennsylvania Courts.

C. The requestor shall specifically set forth on the request form the information that is alleged to be a clerical error and shall provide sufficient facts, including supporting documentation, that corroborate the requestor's allegation that the information in question is in error.

D. The requestor shall provide copies of the request to all parties to the case.

E. Within 10 business days of receipt of a request, the custodian shall respond in writing to the requestor and all parties to the case in one of the following manners:

1. The request does not contain sufficient information and facts to determine what information is alleged to be in error, and no further action will be taken on the request.

2. The request does not concern a case record that is covered by this policy, and no further action will be taken on the request.

3. A clerical error does exist in the case record and that the information in question has been corrected.

4. A clerical error does not exist in the case record.

5. The request has been received and an additional period not exceeding 30 business days is necessary to complete a review of the request.

F. A requestor may seek review of the custodian's response under Subsections E(1)—(4) within 10 business days of the mailing date of the response.

1. The request for review shall be submitted on a form that is designed and published by the Administrative Office of Pennsylvania Courts.

2. The request shall be reviewed by the judge(s) who presided over the case.

Commentary

Case records are as susceptible to clerical errors and omissions as any other public record. The power of the court to correct errors in its own records is inherent. E.g., *Jackson v. Hendrick*, 746 A.2d 574 (Pa. 2000). It is important to emphasize that this section does not provide a party who is dissatisfied with a court's decision, ruling or judgment a new avenue to appeal the same by merely alleging there is an error in the court's decision, ruling or judgment. Rather, this section permits a party to "fix" information that appears in a case record which is not, for one reason or another, correct.

Particularly in the context of Internet publication of court records, a streamlined process is appropriate for addressing clerical errors to allow for prompt resolution of oversights and omissions. For example, to the extent that a docket in a court's case management system incorrectly reflects a court's order, or a scanning error occurred with regard to an uploaded document, such clerical inaccuracies may be promptly corrected by the appropriate court staff, upon notification, without a court order. Since 2007, the *Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania* has provided a similar procedure for any errors maintained on the web docket sheets of the PACMS, CPCMS and MDJS. The procedure has successfully addressed clerical errors on docket entries in a timely and administratively simple manner.

A party or party's attorney is not required to utilize the procedures set forth in this section before making a formal motion for correction of a case record in the first instance. Alleged inaccuracies in orders and judgments themselves must be brought to the attention of the court in accordance with existing procedures.

This section is not intended to provide relief for a party's or attorney's failure to comply with Sections 7.0 and 8.0 of this policy. Sections 7.0 and 8.0 already provide for remedial action in the event that non-compliance occurs.

With respect to this section, a custodian includes, but is not limited to, the county prothonotaries, clerks of orphans' court, and clerks of the court.

A log of all corrections made pursuant to this section may be maintained by the proper appellate prothonotary or custodian, so that there is a record if an objection is made in the future. Such a log should remain confidential. It is suggested that custodians include a registry entry on the case docket when a request is received and a response is issued.

Section 12.0. Continuous Availability of Policy.

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

EXPLANATORY REPORT

Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts

General Introduction

Recognizing the importance of the public's access to the courts, the Administrative Office of Pennsylvania Courts

(AOPC) has developed statewide policies governing access to court records. With the Supreme Court's approval, protocols have been implemented for access to electronic case records in the Judiciary's statewide case management systems, magisterial district court case records, and financial records of the Unified Judicial System (UJS). In 2013, the AOPC embarked on the next phase of policy development designed to address access to case records of the trial and appellate courts.

This latest effort is necessitated by the confluence of several factors. The proliferation of e-filing systems and related decisions to post (or not post) case records online (as part of document imaging or e-filing systems) on a county-by-county basis has resulted in disjointed accessibility to the UJS's trial court case records. A county may post all divorce and custody records online for viewing, perhaps for free, and a neighboring county may not. Online posting of sensitive information contained in case records, such as social security numbers, currently depends upon geography. Surveys conducted by the AOPC also revealed the treatment of sensitive information contained in paper case records maintained by the filing offices varies widely. For example, whether a social security number is available to a member of the public who wishes to view the records of a particular case in a filing office depends upon local practices.

The ongoing initiative to implement e-filing in Pennsylvania's appellate courts—the PACFile project—is also a catalyst for policy development. While appellate court opinions, orders and dockets have been online via the UJS's website for over a decade, the e-filing of appellate briefs and related legal papers raises basic questions that should be considered when a court undertakes such a project, such as: What sensitive information must be redacted? Who is responsible for ensuring the appropriate information is redacted?

At the state and local level, the Judiciary is moving forward into the digital age, and it clearly needs to give thoughtful consideration to its systems and procedures to ensure equal access to the UJS's trial and appellate case records. Disparate filing and access protocols certainly impede the statewide practice of law in the Commonwealth. Litigants and third parties, some of whom are unrepresented 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) for public viewing.

Government and the private sector collect extensive amounts of personal data concerning individuals' finances, unique identifiers, and medical history and so on. Many of these types of data are relevant to the cases that are before the courts for decision, and some data is provided in court filings even though irrelevant to the matter before the court. Therefore, like other branches of government and the private sector, the courts are constantly considering issues regarding the need for openness and transparency and the concern for personal privacy and security.

With regard to the courts, however, the constitutional and common law presumption of openness has to be carefully weighed against relevant practical, administrative considerations when crafting solutions to avert breaches of privacy and security. Striking the right balance is not an easy task.

The public's right to access court proceedings and records is grounded in the First and Sixth Amendments of the U.S. Constitution, Article I §§ 7, 9, and 11 of the

Pennsylvania Constitution, and the common law. While there is overlap between the common law and constitutional analyses, there is a distinction between the two. Specifically, the constitutional provisions provide a greater right of access than the common law.¹ However, these constitutional and common law rights are not absolute and may be qualified by overriding interests. A more extensive discussion of the right to access is contained in the *Explanatory Report of the Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania*.²

Therefore, with the approval of the Supreme Court, the Court Administrator of Pennsylvania convened a working group to study and develop a proposed policy for public comment. Under the experienced and dedicated leadership of Commonwealth Court Judge Renée Cohn Jubelirer and Montgomery County Court of Common Pleas Judge Lois E. Murphy, the working group undertook its charge with an open mind and an aim to appropriately balance the competing interests at hand. The group consisted of judges, appellate court filing office personnel, local court personnel, two Prothonotaries/Clerks of Courts, one Register of Wills/Clerk of Orphans' Court, and representatives from the Pennsylvania Bar Association and the rules committees of the Supreme Court, as well as AOPC staff.

Before developing a proposed policy, the working group studied and discussed the different types of records pertaining to criminal, domestic relations, civil, juvenile, orphans' court and appellate matters filed in the courts. Tackling each case type individually, the working group considered existing legal restrictions and other jurisdictions' access policies on the release of data and documents. In formulating whether information and documents should be considered confidential, the group also determined how access would be limited. There are categories of information that are completely restricted, such as social security numbers, and categories that are restricted from online viewing by the public but remain available for public inspection at a court facility, such as original and reproduced records filed in the appellate courts.

In crafting its proposal, the group was guided at all times by the long-standing tradition of access to court records and the important interests it serves, as follows:

to assure the public that justice is done evenhandedly and fairly; to discourage perjury and the misconduct of participants; to prevent decisions based on secret bias or partiality; to prevent individuals from feeling that the law should be taken into the hands of private citizens; to satisfy the natural desire to see justice done; to provide for community catharsis; to promote public confidence in government and assurance that the system of judicial remedy does in fact work; to promote the stability of government by allowing access to its workings, thus assuring citizens that government and the courts are worthy of their continued loyalty and support; to promote an understanding of our system of government and courts.

Commonwealth v. Fenstermaker, 530 A.2d 414, 417 (Pa. 1987) (citing *Commonwealth v. Contankos*, 453 A.2d 578, 579-80 (Pa. 1982)).

However, the group also recognized that transparency of judicial records and proceedings must be balanced with

other considerations in this Internet age. The group endeavored to strike the appropriate balance between access and interests involving the administration of justice, personal privacy and security—particularly with regard to online records. Also essential to the group's evaluation were practical considerations, such as the methods of redaction to be implemented and identification of various "best practices" that should be instituted statewide.

The working group provides the following relevant commentary for the sections of the proposed policy.

Section 1

The definitions incorporate elements of those found in existing UJS public access policies and other legal authorities.

Case records of the Traffic Division of the Philadelphia Municipal Court are not governed by this policy. The working group recommends that the *Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts* (hereinafter referred to as "*MDC Paper Policy*") be amended to govern access to those records.

It is important to note how this proposed policy would intersect with existing UJS policies, namely the *Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania* (hereinafter referred to as "*Electronic Policy*") and *MDC Paper Policy*. The *Electronic Policy* governs access to the electronic case record information, excluding images of scanned documents, residing in the three statewide case management systems: Pennsylvania Appellate Courts Case Management System, Common Pleas Case Management System and the Magisterial District Judge System. Put simply, the *Electronic Policy* governs what information resides on the public web docket sheets accessible via the UJS web portal or is released to a member of the public requesting electronic case record information from one of the systems.

The *MDC Paper Policy* governs access to the paper case records on file in those courts.

This proposed policy governs access to (1) official paper case records of appellate courts, courts of common pleas, and Philadelphia Municipal Court, (2) images of scanned or e-filed documents residing in the three statewide case management systems, (3) images of scanned or e-filed documents residing in the case management systems of the judicial districts, and (4) case record information posted online by judicial districts via their own "local" case management systems. This proposal ensures a more equitable and systematic approach to the case records filed in and maintained for the trial and appellate courts.

The definition of "financial source document" is derived from the definition of "sealed financial source documents" used in Minnesota (Minn.G.R.Prac. Rule 11.01) and Washington (WA.R.Gen. Rule 22(b)).

Section 2

Section E provides that the policy applies to case records created on or after its effective date. The working group recognizes that there will be a period of transition prior to full implementation of this policy; that is, some cases commenced prior to the effective date of the policy will contain information that the policy restricts from public access. To expect full and complete implementation of the policy by applying it retroactively to existing records is impractical and burdensome.

¹ See *Commonwealth v. Long*, 922 A.2d 892 (Pa. 2007).

² Explanatory Report is found at: <http://www.pacourts.us/assets/files/page-381/file-833.pdf?cb=1413983484884>

The working group anticipates recommending a delayed implementation date when it submits the proposal to the Supreme Court for approval. This will afford the time necessary for court personnel, attorneys, and members of the public to familiarize themselves with the policy's provisions and make necessary adjustments to existing forms, protocols and systems. A similar approach was taken when the Supreme Court adopted the public access policy for magisterial district courts. The group will also recommend that the AOPC, perhaps in partnership with bar associations and other stakeholders, develop educational tools so that litigants, attorneys, court personnel, vendors, and members of the general public can be made aware of the policy's provisions. This would include Commonwealth agencies that conduct administrative proceedings to ensure that the agency's record on appeal can be filed without delay.

Notice to litigants can be an important tool for educational purposes. The public, and litigants in particular, may assume some or all of the information in court records is private. A notice about the existence of this policy may serve to educate litigants so that when they file pleadings and legal documents, they will be acting with knowledge, and in turn they can make informed decisions about what to include in their filings with the court. By way of example, Commonwealth Court provides the following notice to unrepresented parties in appeals from Commonwealth agencies:

Unless sealed by statute or court order, all dockets, filings and orders and opinions of the Court in your case will be public records and subject to public inspection. The Court's public dockets are available on the Court's website and are searchable on-line. The Court's opinions, which generally include a summary of the case including the identity of the parties and the relevant factual background, also are available on the Court's website and searchable on-line. Generally, the Court will seal or restrict public access to dockets or opinions only upon motion and only for good cause.

Additionally, upon adoption of the *MDC Paper Policy*, the AOPC revised its criminal, civil and landlord-tenant complaint forms to include notice as to the policy's general prohibition on inclusion of social security numbers and financial information. 204 Pa. Code §§ 213.1—213.7.

The working group notes that this section's provisions are similar to those contained in the *MDC Paper Policy*, which have been successfully implemented.

Section 4

The working group acknowledges that requestors may be unable to complete a written request, if required by a court. In such circumstances, access should not be denied but may be delayed until the custodian or designated staff is available to assist the requestor. If the request is granted, it may be necessary for the custodian or designated staff to sit with the requestor and monitor the use of the file to ensure its integrity. This is consistent with the responsibility placed upon the custodian and designated staff for the security, possession, custody and control of case records in Section 2.0(B). Such a practice is also consistent with the requirement that addressing requests for access cannot impede upon the administration of justice or the orderly operation of a court, pursuant to Section 2.0(C).

The working group notes that this section's provisions are similar to those contained in the *MDC Paper Policy*, which have been successfully implemented.

Section 5

While implementing the provisions of this policy should not unduly burden the courts and custodians or impinge upon the delivery of justice, it is reasonable for the public to expect that courts and custodians shall respond to requests for access in a consistent fashion. This section brings uniformity, in general, as to when and how courts and custodians shall respond to requests. Similar sections are found in the *Electronic Policy* and *MDC Paper Policy*.

Section 6

The surveys conducted by the working group regarding the public access protocols of the judicial districts revealed different approaches to imposition of fees, especially with regard to remote access to court records. Some impose a fee for providing remote access because the costs associated with building and maintaining such systems are often substantial. Given that remote access is a value-added service, not a requirement, it is thought that those who avail themselves of this service should be charged for the convenience of maintaining these systems.

Others do not impose fees for remote access because providing this service reduces the "foot traffic" in the filing offices for public access requests. This, in turn, frees staff to attend to other business matters, resulting in a financial benefit by reducing costs associated with dealing with the requests over the counter. The AOPC has provided "free" online access to public web docket sheets for cases filed in the appellate courts, criminal divisions of the courts of common pleas and Philadelphia Municipal Court, as well as the magisterial district courts for years. In 2014, 59 million of those web dockets sheets were accessed online.

The working group recognizes that local factors play a part in these decisions; however, it is interesting to note that the two largest judicial districts in the Commonwealth are at opposite ends of the spectrum (i.e. one has posted virtually all dockets and documents for free, and the other posts some dockets for free but not documents). While the working group recognizes that other factors play into these determinations (such as, technological capabilities, statutorily mandated fees) and the simple distinction drawn above requires further study, the working group questions if the public would benefit from some standardization in this area to ensure that fees do not become a financial barrier to access.

The working group notes that Section 6's provisions are similar to those contained in the *MDC Paper Policy*.

Section 7

The working group observes that the concept of restricting access to particular, sensitive identifiers is not novel. The *Electronic Policy* and *MDC Paper Policy* restrict access to social security numbers and financial account numbers, for example. The federal courts, and many state court systems, have restricted access to the types of identifiers that are listed in Section 7.0.

At the outset, the working group noted that *Electronic Policy* and *MDC Paper Policy* provide that access to social security numbers is shielded from release. Moreover, there are scores of authorities at both the federal and state level that protect the release of this information. While some of these authorities are not applicable to court records, they require access to this information in government records be limited or wholly restricted. For example: 65 P. S. § 67.708(b)(6)(i)(A), 74 P. S. § 201, 42 U.S.C.A. § 405(c)(2)(C)(viii), F.R.Civ.P. 5.2(a)(1), F.R.Crim.P. 49.1(a)(1), Alaska (AK R Admin Rule

37.8(a)(3)), Arizona (AZ ST S CT Rule 123(c)(3)), Arkansas (Sup. Ct. Admin. Order 19(VII)(a)(4)), Florida (FL ST J ADMIN Rule 2.420(d)(1)(B)(iii)), Idaho (ID R Admin Rule 32(e)(2)), Indiana (Ind. St. Admin. Rule 9(G)(1)(d)), Maryland (MD. Rules 16-1007), Michigan (Administrative Order 2006-2), Minnesota (Minn.Gen.R.Prac. Rule 11.01(a)), Mississippi (Administrative Order dated August 27, 2008 paragraph 8), Nebraska (Neb Ct R § 1-808(a) and Neb. Rev. Stat § 84-712.05(17)), New Jersey (NJ R GEN APPLICATION Rule 1:38-7(a)), North Dakota (N.D.R.Ct. Rule 3.4(a)(1) and A.R. 41(5)(B)(10)(a)), Ohio (OH ST Sup Rules 44(h) and 45(d)), South Dakota (SDCL § 15-15A-8), Texas (TX ST J ADMIN Rule 12.5(d)), Utah (UT R J ADMIN Rules 4-202.02(4)(i) and 4-202-03(3)), Vermont (VT R PUB ACC CT REC § 6(b)(29)), Washington (WA. R. Gen. Rule 31(3)(1)(a)) and West Virginia (WV R RAP Rule 40(e)(3)).

With regard to financial account numbers, the working group noted that *Electronic Policy* and *MDC Paper Policy* provide that access to this information should not be accessible. Many other jurisdictions have taken a similar approach. For example: F.R.Civ.P. 5.2(a)(1), F.R.Crim.P. 49.1(a)(1), Alaska (AK R Admin Rule 37.8(a)(5)), Arizona (AZ ST S CT Rule 123(c)(3)), Arkansas (Sup. Ct. Admin. Order 19(VII)(a)(4)), Florida (FL ST J ADMIN Rule 2.420(d)(1)(B)(iii)), Idaho (ID R Admin Rule 32(e)(2)), Indiana (Ind. St. Admin. Rule 9(G)(1)(f)), Minnesota (Minn.Gen.R.Prac. Rule 11.01(a)), Nebraska (Neb Ct R § 1-808(a) and Neb. Rev. Stat § 84-712.05(17)), New Jersey (NJ R GEN APPLICATION Rule 1:38-7(a)), North Dakota (N.D.R.Ct. Rule 3.4(a)(1) and A.R. 41(5)(B)(10)(a)), Ohio (OH ST Sup Rules 44(h) and 45(d)), South Dakota (SDCL § 15-15A-8), Vermont (VT R PUB ACC CT REC § 6(b)(29)), Washington (WA. R. Gen. Rule 31(3)(1)(b)) and West Virginia (WV R RAP Rule 40(e)(4)).

Concerning driver license numbers, the working group noted that *Electronic Policy* provides that driver license numbers should be protected. Moreover, there are many authorities at both the federal and state level that protect the release of this information. While some of these authorities are not applicable to court records, they require access to this information in government records be limited or wholly restricted. For example: 65 P.S. § 67.708(b)(6)(i)(A), 18 U.S.C. § 2721—2725, 75 Pa.C.S. § 6114, Alaska (AK R Admin Rule 37.8(a)(4)), Idaho (ID R Admin Rule 32(e)(2)), New Jersey (NJ R GEN APPLICATION Rule 1:38-7(a)), Utah (UT R J ADMIN Rules 4-202.02(4)(i) and 4-202-03(3)), Vermont (VT R PUB ACC CT REC § 6(b)(29)) and Washington (WA. R. Gen. Rule 31(3)(1)(c)).

State Identification Numbers (“SID”) have been defined as “[a] unique number assigned to each individual whose fingerprints are placed into the Central Repository of the State Police. The SID is used to track individuals for crimes which they commit, no matter how many subsequent fingerprint cards are submitted.” See 37 Pa. Code § 58.1. The *Electronic Policy* prohibits the release of these numbers. Furthermore, in *Warrington Crew v. Pa. Dept. of Corrections*, 1006 C.D. 2010, the Commonwealth Court upheld a ruling by the Office of Open Records that a SID number is exempt from disclosure through a right-to-know request because such numbers qualify as a confidential personal identification number (opinion unreported).

The working group noted that other jurisdictions also provide similar protections to minors’ names and/or dates of births. For example: F.R.Civ.P. 5.2(a)(1), F.R.Crim.P. 49.1(a)(1), Alaska (AK R Admin Rule 37.8(a)(6)), North

Dakota (N.D.R.Ct. Rule 3.4(a)(3) and A.R. 41(5)(B)(10)(c)), Utah (UT R J ADMIN Rules 4-202.02(4)(l) and 4-202-03(3)) and West Virginia (WV R RAP Rule 40(e)(1)).

With regard to abuse victims’ address and other contact information, Pennsylvania through the enactment of various statutes has recognized the privacy and security needs of victims of abuse. For example, Pennsylvania’s Domestic and Sexual Violence Victim Address Confidentiality Act (23 Pa.C.S. §§ 6701—6713) provides a mechanism wherein victims of domestic and sexual violence can shield their physical address (even in court documents) and hence protect their ability to remain free from abuse. The Pennsylvania Right To Know Law (65 P.S. §§ 67.101—67.1304) recognizes the potential risk of harm which can be caused by the disclosure by the government of certain personal information. For example, 65 P.S. § 67.708(b)(1)(ii) prohibits the disclosure that “would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual.” Moreover, 23 Pa.C.S. § 5336(b) prohibits the disclosure of the address of a victim of abuse in a custody matter to the other parent or party. 23 Pa.C.S. § 4305(a)(10)(ii) and (iii) provides that the domestic relations section shall have the power and duty to:

“implement safeguards applicable to all confidential information received by the domestic relations section in order to protect the privacy rights of the parties, including: prohibitions against the release of information on the whereabouts of one party or the child to another party against whom a protective order with respect to the former party or the child has been entered; and prohibitions against the release of information on the whereabouts of one party or the child to another person if the domestic relations section has reason to believe that the release of the information may result in the physical or emotional harm to the party or the child.”

In addition, other jurisdictions have taken a measure to protect similarly situated individuals, such as: Alaska (AK R Admin Rule 37.8(a)(2)), Florida (FL ST J ADMIN Rule 2.420(d)(1)(B)(iii)), Indiana (Ind. St. Admin. Rule 9(G)(1)(e)(i)), New Jersey (NJ R GEN APPLICATION Rule 1:38-3(c)(12)), and Utah (UT R J ADMIN Rules 4-202.02(8)(E)(i) and 4-202-03(7)).

The working group proposes two approaches to maintaining the confidentiality of the information listed in subsection (A). Parties and their attorneys can set forth the listed information on a Confidential Information Form, designed and published by the AOPC. This is akin to the procedure set forth in the *MDC Paper Policy*; the Confidential Information Form used by that policy is posted on the UJS’s website at www.pacourts.us.

The alternative approach identified by the working group is for litigants and attorneys to file two versions of each document with the court/custodian—one with sensitive information redacted (“redacted copy”) and the other with no information redacted (“unredacted copy”). The redacted copy shall omit any information not accessible under this policy and be available for public inspection. The unredacted copy shall not be accessible by the public. At least one other jurisdiction has implemented a similar approach. See WA. R. Gen. R. 22(e)(2) (Washington). Some contend that a redacted copy of a document will be more readable than an unredacted copy containing monikers as placeholders for sensitive information not included in the document. This approach may have merit particularly in an e-filing context and was identified as a more amenable solution given the current design of the PACfile project.

While a court or custodian is not required to review any pleading, document, or other legal paper for compliance with this section, such activity is not prohibited. If a court or custodian wishes to accept the burden of reviewing such documents and redacting the same, such a process must be applied uniformly across all documents or cases.

Section 8

The protocol of submitting to a court or custodian certain documents under a cover sheet so that the documents are not accessible to the public has been instituted in other jurisdictions, such as Minnesota (Minn.G.R.Prac. Rule 11.03), South Dakota (SDCL § 15-15A-8), and Washington (WA.R.Gen. Rule 22(b)(8) and (g)). The working group noted with favor, these protocols and incorporated that concept into this policy. One manner in which to implement this protocol (e.g. the need to separate a confidential document within a file accessible to the public) is to maintain a confidential electronic folder or confidential documents file within the case file, thus ensuring that the file folder with the non-public information can be easily separated from the public case file, when access is requested.

Concerning financial source documents, other jurisdictions have similar provisions regarding such documents including Minnesota (Minn.G.R.Prac. Rule 11.03), South Dakota (SDCL § 15-15A-8), and Washington (WA.R.Gen. Rule 22(b)(8) and (g)).

Similar protocols with regard to minors' education records are found in other jurisdictions, such as Nebraska (Neb Ct R § 1-808(a) and Neb. Rev. Stat § 84-712.05(1)) and Wyoming (WY R Gov Access Ct Rule 6(a) and WY ST § 16-4-203(d)(viii)).

With regard to medical records, the working group noted that other jurisdictions have similar provisions including Indiana (Ind. St. Admin. Rule 9(G)(1)(b)(xi)), Maryland (MD. Rules 16-1006(i)), Nebraska (Neb Ct R § 1-808(a) and Neb. Rev. Stat § 84-712.05(2)), Utah (UT R J ADMIN Rules 4-202.02(4)(k) and 4-202-03(3)), Vermont (VT R PUB ACC CT REC § 6(b)(17)), West Virginia (WV R RAP Rule 40(e)(1)) and Wyoming (WY R Gov Access Ct Rule 6(t)).

Section 7111 of the Mental Health Procedures Act, 50 P. S. § 7111 provides that all documentation concerning an individual's mental health treatment is to be kept confidential and may not be released or disclosed to anyone, absent the patient's written consent, with certain exceptions including a court's review in the course of legal proceedings authorized under the Mental Health Procedures Act (50 P. S. § 7101). While it is unclear if this provision is applicable to the public accessing an individual mental health treatment records in the court's possession, the working group believes this provision provides guidance on the subject. Thus, such records should not be available to the public except pursuant to a court order. See *Zane v. Friends Hospital et al*, 575 Pa. 236, 836 A.2d 25 (2003). Other jurisdictions have similar protocols, such as Maryland (MD. Rules 16-1006(i)), New Mexico (NMRA Rule 1-079(c)(5)), Utah (UT R J ADMIN Rules 4-202.02(4)(k) and 4-202-03(3)), Vermont (VT R PUB ACC CT REC § 6(b)(17)) and Wyoming (WY R Gov Access Ct Rule 6(p)).

Children and Youth Services' records introduced in juvenile dependency or delinquency matters are not open to public inspection. See 42 Pa.C.S. § 6307 as well as Pa.Rs.J.C.P. 160 and 1160. Introduction of such records in a different proceeding (e.g., a custody matter) should not change the confidentiality of these records; thus, the

records should be treated similarly. These records are treated similarly by other jurisdictions, such as Florida (FL ST J ADMIN Rule 2.420(d)(1)(B)(i)), Indiana (Ind. St. Admin. Rule 9(G)(1)(b)(iii)) and New Jersey (NJ R GEN APPLICATION Rule 1:38-3(d)(12) and (15)).

As required by Pa.R.C.P. No. 1920.33, a marital property inventory includes "a specific description of all marital property in which either or both have a legal or equitable interest individually or with any other person and the name of such other person; and a specific description of all property in which a spouse has a legal or equitable interest which is claimed to be excluded from marital property and the basis for such exclusion." The extent of the financially sensitive information required to be listed on this document rivals that of the information contained in a financial source document. Therefore, this document should also be treated as confidential. The working group notes that a similar protocol is found in Vermont (VT R PUB ACC CT REC § 6(b)(33) and 15 V.S.A. § 662).

Section 9

This section safeguards certain sensitive information that is already protected by existing legal authority or was deemed to require protection by the working group from access at the court facility. The latter category included three specific types of records: birth records, incapacity proceeding records and family court transcripts except portions of transcripts when attached to a motion or other legal paper filed with the court.

The working group noted that access to a birth certificate from the Department of Health, particularly an amended birth certificate, such as in an adoption case, is limited pursuant to various statutes. 35 P. S. §§ 450.603, 2915 and 2931. The working group was concerned that unrestricted access to records filed in proceedings about birth records could have the unintended effect of circumventing the purposes of the confidentiality provisions of the above statutory framework. Moreover, at least one jurisdiction, Florida (FL ST J ADMIN Rule 2.420(d)(1)(B)(vi)), provides similar protections to these records. However, concerned that the lack of transparency may erode the public's trust and confidence, the working group proposes the release of dockets and any court order, decree or judgment. Releasing the dockets as well as any order, decree or judgment disposing of the case is believed to strike the appropriate balance between access to the court's decision, and hence the public's understanding of the judicial function, and personal privacy, or the intimate details of a person's ability to function.

Given the extent of financial and sensitive information that is provided in order that a court may determine whether a person is incapacitated and, if so, that must subsequently be reported in a guardian's report, the working group opined that these records should not be accessible. The working group noted that similar provisions are found in many other jurisdictions including: California (Cal. Rules of Court, Rule 2.503(c)(3)), Florida (F.S.A. §§ 744.1076 and 744.3701), Georgia (Ga. Code Ann. § 29-9-18), Idaho (ID. R. Admin. Rule 32), Maryland (MD. Rules 16-1006), New Jersey (NJ R GEN APPLICATION Rule 1:38-3(e)), New Mexico (NMRA Rule 1-079(c)(7)), South Dakota (SDCL § 15-15A-7(3)(m)), Utah (UT R J Admin. Rule 4-202.02(4)(L)(ii)), Washington (WA.R.Gen. Rule 22(e)) and Wyoming (WY R Gov Access Ct Rule 6(g)). For the reasons of transparency, the working group proposes that the case docket and any court order, decree or judgment be accessible for these cases.

The provisions of Subsection H are consistent with those contained in the *Electronic Policy, MDC Paper Policy* and Rule of Judicial Administration 509. The Judiciary's commitment to the principle of open and accessible case records is reflected in the inclusion of a publication requirement.

Section 10

Any information to which access is limited pursuant to Sections 7, 8 or 9 is also not accessible remotely pursuant to Subsection A(1). As to Subsections A(2) through A(7), it is important to note that this information will remain available at the courthouse or court facility wherein access has been traditionally afforded. The working group believes there is a difference between maintaining "public" records for viewing/copying at the courthouse and "publishing" records on the Internet. Thus, there is certain information for which at the present time courthouse access remains the appropriate forum.

Concerning Subsection A(2)'s restriction on remote access to information that identifies jurors, witnesses, and victims in criminal cases, similar provisions have been implemented by other jurisdictions, including Alaska (AK R ADMIN Rule 37.8(a)(1) and (2)), Indiana (Ind. St. Admin. Rule 9(G)(1)(e)), Mississippi (Administrative Order dated August 27, 2008 paragraph 8), Nebraska (NE R CT § 1-808(b)(3)), Texas (TX ST J ADMIN Rule 12.5(d)) and Utah (UT R J ADMIN Rules 4-202.02(8)(e) and 4-202-03(7)).

As pertains to Subsection A(5), in considering family court records (i.e. divorce, custody, and support), the working group is cognizant that individual courts have implemented protocols to shield some of these records from access. Some suggest that these cases are essentially private matters involving painful recollections of failed family relationships and hence are "nobody's business." Sensitive to these concerns, the working group believes that prohibiting online posting of any family court records (save for a docket, court orders and opinions), along with the requirements that certain information and documents filed with the court or custodian be shielded from access via the use of a Confidential Information Form, redacted filings and/or a Confidential Document Form, removes a significant amount of the personal, sensitive information from access, while allowing public access to ensure accountability and transparency of the judicial system.

With regard to Subsection A(6), the working group noted that New Mexico has a similar protocol protecting Older Adult Protective Services Act matters (NMRA Rule 1-079(c)(4)). For the reasons expressed above, the working group proposes remote access to dockets, court orders and opinions in these cases, to the extent that the judicial districts have developed systems and procedures that facilitate such access.

It is essential that courts and/or custodians in designing systems, such as those for document imaging and/or e-filing, give ample consideration to the requirements of this policy and ensure such systems are in compliance. This is imperative as the Judiciary moves toward statewide e-filing for all levels of courts.

As for systems currently in existence, the working group recognizes that this policy may require changes to current protocols and processes. Thus, as noted earlier, a delayed implementation date will be recommended to allow for necessary adjustments.

Section 11

The working group noted with favor a similar provision included in the *Electronic Policy*. The working group

proposes that this policy should also delineate a procedure by which an individual may correct a clerical error that appears in a case record accessible remotely. As noted in the *Explanatory Report* to the *Electronic Policy*, these provisions borrow heavily from the correction provisions in the Criminal History Record Information Act. The working group was persuaded, for the same reason outlined in the *Explanatory Report*, that a similar protocol should be included in this policy.

Other Comments

During the course of its deliberations, the working group identified various ancillary recommendations that merit consideration. Some are directly related to the policy provisions, while others may be categorized as "best practices" that should be considered by the courts and practitioners. Overall, these recommendations are intended to promote the successful implementation of this proposed policy.

1. The working group recommends the establishment of an *ad hoc* committee to monitor the implementation of this policy and to propose revisions to the policy necessitated by legal, technological and administrative changes.

2. The working group recommends that the Civil Procedural and Minor Court Rules Committees consider amending the rules setting forth the requirements for *in forma pauperis* petitions to remove the requirement that children's full names appear on petitions and only require the minors' initials on the forms. This will ensure compliance with the restriction of Section 7.0(A)(5). The relevant rules are Pa.R.C.P. 240(h) and Pa.R.C.P.M.D.J. No. 206(E)(vi).

3. The working group recommends that the Appellate Procedural Rules Committee consider a protocol permitting the extension of a protective order issued by a lower court during the pendency of an appeal. For example, parties may be granted a certain time period within which to file a new application for protective order; such a protocol may also address whether certain court personnel are exempted, perhaps at the discretion of the court. In addition, instituting a methodology, automated or otherwise, by which the lower court signals to the appellate court that it issued an order to seal, is also recommended. *See also* MI R ADMIN Rule 8.119(D) (Michigan).

4. The working group recommends that the courts, AOPC and rules committees remain cognizant of this policy as they develop e-filing and case management systems, procedures and forms in the future. It may be helpful to litigants and practitioners to include mention of this policy on pertinent forms, as was done by the AOPC for the criminal, civil and landlord-tenant complaint forms when the *MDC Paper Policy* was adopted. In addition, the following "best practices" should be considered as courts develop systems for e-filing:

a. Access to the courts should be promoted by the e-filing processes;

b. Court control over its own records should be preserved;

c. Systems should have consistent functionality, compatible protocols and rules to facilitate statewide practice;

d. Processes for *pro se* litigants should be defined to provide equal and secure access to the system;

e. Issues involving public access to e-documents, and the sensitive data that may be contained therein, should be fully studied before the e-filing system is developed;

f. Payment of any required filing fees should be accomplished via electronic methods;

g. Bi-directional exchange of data should be facilitated between e-filing and case management systems; and

h. Maximum flexibility in the design of a system should be sought to accommodate future evolutions of technology.

5. In order to facilitate online access to case records, courts and custodians should procure software to ensure sensitive data is appropriately redacted. While this proposed policy puts the onus on parties and their attorneys for redacting specified information, the working group considers implementation of redaction software to be a “best practice” and perhaps a necessity for those courts and custodians that intend to post records online, especially those records that pre-date the policy’s effective date. This best practice has already been adopted by a number of judicial districts and further safeguards the publication of sensitive data, like that outlined in Section 7.0.

6. As previously expressed, the working group regards education as an essential component to the successful implementation of this policy. As officers of the court, attorneys must familiarize themselves with and heed the UJS’s public access policies, particularly given the certification of compliance required by Sections 7.0(D) and 8.0(D). The working group noted the amendments to the commentary to Rule of Professional Conduct 1.1 pertaining to technology:

To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and

its practice, *including the benefits and risks associated with relevant technology*, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject (emphasis added).

It may be advisable for the Rules of Professional Conduct to provide additional guidance to attorneys regarding their special responsibility in protecting their clients’ sensitive information and documents, in addition to being informed about other technological matters, such as meta-data in e-filed documents.

7. The working group advises that technology and internal procedures may assist the courts and custodians with complying with this proposed policy and the Judiciary’s commitment to open records.

a. It is recommended that application of “optical character recognition” (OCR) software be employed. OCR software facilitates the search and retrieval of documents, as well as “copy and paste” of text that may be helpful for attorneys.

b. It is recommended that exhibits should be separately e-filed from pleadings and other legal papers to easily safeguard those that are restricted pursuant to policy or subject to an order to seal from public view. Relatedly, as pertains to the preparation of a transcript, it is recommended that the Rules of Judicial Administration require that a list of exhibits appear at the beginning of the transcript.

c. Due consideration and routine review should be given to the standards for record retention as applied to those in paper form and electronic form by records custodians.

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

<i>Subject Area</i>	<i>Record Description</i>	<i>Accessibility</i>	<i>Authority</i>
Criminal	Juror’s Address.	No Public Access.	<i>Commonwealth v. Long</i> , 922 A.2d 892 (Pa. 2007).
Criminal	Sealed affidavit of probable cause for a search warrant.	No Public Access while sealed. The affidavit may not be sealed for more than 60 days unless an extension is received. Extensions may not be longer than 30 days, but an unlimited number of extensions are available. Public may access the affidavit after it has been unsealed.	Pa.R.Crim.P. 211.
Criminal	Unexecuted Search Warrant.	No Public Access until warrant is executed.	Pa.R.Crim.P. 212(A).
Criminal	Arrest Warrant Information.	A court may delay public access for good cause for up to 72 hours. In addition, a court may seal arrest warrant information for a longer period of time.	Pa.R.Crim.P. 513(C), Pa.R.Crim.P. 513.1.
Criminal	Motion filed by attorney for the Commonwealth to present the matter to an indicting grand jury and subsequent order.	No Public Access—the motion and order are sealed.	Pa.R.Crim.P. 556.2.

<i>Subject Area</i>	<i>Record Description</i>	<i>Accessibility</i>	<i>Authority</i>
Criminal	All indicting grand jury proceedings and related documents.	No Public Access. Disclosure may be granted to attorney for the Commonwealth, defendant in a criminal case, witnesses, law enforcement personnel, and upon motion when necessary.	Pa.R.Crim.P. 556.10.
Criminal	Sealed indictments.	No Public Access.	Pa.R.Crim.P. 556.11(E).
Criminal	Sealed records concerning non-compliance with mental health experts.	No Public Access.	Pa.R.Crim.P. 569.
Criminal	Sealed written statements pertaining to protective orders.	No Public Access. The entire text of the statement shall be sealed and preserved in the records of the court to be made available to the appellate court(s) in the event of an appeal.	Pa.R.Crim.P. 573(F).
Criminal	Sealed plea agreement.	No Public Access.	Pa.R.Crim.P. 590.
Criminal	Juror qualification forms.	No Public Access.	Pa.R.Crim.P. 630(A)(3).
Criminal	Juror information questionnaires.	No Public Access. Questionnaires are retained in a sealed file and shall be destroyed upon completion of the jurors' service, unless otherwise ordered by the trial judge.	Pa.R.Crim.P. 632(B), (C), (F), (G).
Criminal	Sealed verdict.	No Public Access.	Pa.R.Crim.P. 649.
Criminal	Notes taken by jurors.	No Public Access.	Pa.R.Crim.P. 644(B)(7).
Criminal	Pre-sentence reports and related psychiatric psychological reports.	No Public Access.	Pa.R.Crim.P. 703(A).
Criminal	Records revealing the names of human trafficking victims.	No Public Access, unless otherwise ordered by a court in a prosecution involving a victim of human trafficking.	18 Pa.C.S. § 3019(a).
Criminal	Wiretap applications, final reports and orders.	No Public Access except upon showing of good cause before a court of competent jurisdiction.	18 Pa.C.S. § 5715.
Criminal	Names of minor victims of sexual or physical abuse.	No Public Access. Records revealing a victim's name are sealed. A minor victim who is 18 years of age or older at the time of the commencement of the prosecution may waive this protection and allow the court to release the name of the minor victim.	42 Pa.C.S. § 5988.
Civil	Jurors Notes.	No Public Access. Collected and destroyed post-trial.	Pa.R.C.P. 223.2.
Domestic Relations	Information regarding the registration, filing of a petition for, or issuance of a protection from abuse in either the issuing or enforcing State.	No Public Access via internet publication, if such publication would be likely to publically reveal the identity or location of the protected party.	18 U.S.C. § 2265(d)(3).
Domestic Relations	Social security number of any individual subject to a divorce decree, support order, paternity determination, or acknowledgement of paternity, which is required in all records of those matters.	No Public Access.	23 Pa.C.S. § 4304.1(a)(3).

<i>Subject Area</i>	<i>Record Description</i>	<i>Accessibility</i>	<i>Authority</i>
Domestic Relations	(a) Subject to any inconsistent general rules and to the supervision and direction of the court, the domestic relations section shall have the power and duty to: . . . (10) Implement safeguards applicable to all confidential information received by the domestic relations section in order to protect the privacy rights of the parties, including: . . . (ii) prohibitions against the release of information on the whereabouts of one party or the child to another party against whom a protective order with respect to the former party or the child has been entered; and (iii) prohibitions against the release of information on the whereabouts of one party or the child to another person if the domestic relations section has reason to believe that the release of the information on the whereabouts of one party or the child to another person if the domestic relations section has reason to believe that the release of the information may result in physical or emotional harm to the party or the child.	No Public Access.	23 Pa.C.S. § 4305 (a)(10)(i)—(iii).
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); <i>see also</i> 23 Pa.C.S. § 5336(b)(2).
General	Records concerning persons in treatment under the Mental Health Procedures Act.	Limited Public Access in compliance with the Mental Health Procedures Act and controlling case law.	50 P. S. § 7111.
General	Court documents, rules, or orders in Gaming Law proceedings.	Any party may request proceeding and record to be sealed if in best interest of any person or Commonwealth.	4 Pa.C.S. § 1518.2(b).
General	Proceedings and records involving juveniles charged with a summary offense before the minor judiciary, the Philadelphia Municipal Court or a Court of Common Pleas.	No Public Access.	42 Pa.C.S. §§ 6303(c), 6307(c), and 6336(g).
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	Records concerning court proceedings under the Abortion Control Act.	No Public Access.	18 Pa.C.S. § 3206(f); Pa.OC.R. 16.2 and 16.6. Note also Pa.R.J.A. No. 2157.

<i>Subject Area</i>	<i>Record Description</i>	<i>Accessibility</i>	<i>Authority</i>
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.
Orphans' Court	Adoption records.	No Public Access unless otherwise ordered.	23 Pa.C.S. § 2915; <i>see also</i> 23 Pa.C.S. § 2906; Pa.O.C.R. 15.7.
Orphans' Court (Family Court in Philadelphia County or Juvenile Court Section of Family Division in Allegheny County Pa.R.J.A. 2157)	Applications of a minor for judicial approval of decision to have an abortion, under the Abortion Control Act, as well as proceedings and the name of the minor.	No Public Access; sealed dockets, and documents shall be maintained in a closed file marked "confidential" and identified by case number only.	Supreme Court Orphan's Court Rule 16.6.
Commonwealth Court	Child Line Registry Cases.	No Public Access to documents in the case except Orders and Opinions wherein the court shall use initials of the minor child involved rather than full name.	Admin. Order No. 126 Misc. Docket No. 3 (February 8, 2013).

* Note this may not be a complete listing; the public and court staff are directed to consult federal and state statutes, court rules or case law.

[Pa.B. Doc. No. 15-222. Filed for public inspection February 6, 2015, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 7]

Proposed Amendments to Pa.R.Crim.P. 701

The Criminal Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Rule 701 (Pleas of Guilty to Multiple Offenses), for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Jeffrey M. Wasileski, Counsel
 Supreme Court of Pennsylvania
 Criminal Procedural Rules Committee
 601 Commonwealth Avenue, Suite 6200
 Harrisburg, PA 17106-2635
 fax: (717) 231-9521
 e-mail: criminalrules@pacourts.us

All communications in reference to the proposal should be received by Friday, March 6, 2015. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Criminal Procedural Rules Committee

PAUL M. YATRON,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 7. POST-TRIAL PROCEDURES IN COURT CASES

PART A. Sentencing Procedures

Rule 701. Pleas of Guilty to Multiple Offenses.

(A) Before the imposition of sentence, **with the agreement of the attorney for the Commonwealth**, the defendant may plead guilty to other offenses that the defendant committed within the jurisdiction of the sentencing court.

* * * * *

Official Note: Rule 1402 adopted July 23, 1973, effective 90 days hence; renumbered Rule 701 and amended March 1, 2000, effective April 1, 2001; Comment revised March 15, 2013, effective May 1, 2013; **amended** , **2015, effective** , **2015.**

Committee Explanatory Reports:

* * * * *

Report explaining the proposed amendment of paragraph to require the Commonwealth's agreement published for comment at 45 Pa.B. 676 (February 7, 2015).

REPORT

Proposed Amendments to Pa.R.Crim.P. 701

Commonwealth Agreement to Pleas Entered Pursuant to Rule 701

It has been suggested to the Committee that in some of the larger judicial districts, primarily Philadelphia, there is a problem with some defendants using Rule 701 as a means of "judge-shopping" to have more serious cases pled and sentenced by the judge who is perceived as more lenient.

Most jurisdictions have established procedures for ensuring the assignment of new cases against a particular defendant are assigned to the same judge as existing cases. In Philadelphia, however, due to the large case load, new cases are assigned by a more random procedure. As a result, under Rule 701, any defendant, who is facing more than one case, can unilaterally choose his sentencing judge simply by going to trial and being found guilty, or pleading guilty or *nolo contendere*, before the judge of his choosing, then using Rule 701 to bring all his other cases to that judge for plea and sentencing. This is accomplished without any input from the prosecution or other assigned judges. The practice appears to be most common in multiple DUI cases or cases that carry a mandatory sentence.

Background

When Rule 701 was adopted in 1973 (as then-Rule 1401), the Committee noted that the rule reflected sound sentencing policy, and that this is consistent with the positions of the American Bar Association, the Pennsylvania Bar Association, and the Task Force on Corrections of the National Advisory Commission on Criminal Justice Standards and Goals. For example, the benefits of such a policy are stated in the ABA Standards for Criminal Justice, Chapter 14—Pleas of Guilty, Standard 14.1.2 (1999) Commentary:

Allowing for consolidated guilty pleas enables a defendant to be sentenced simultaneously on all charges that he or she is facing in that government's courts. This reduces the governmental resources that must be devoted to the cases, while also allowing the defendant to take full advantage of any concurrent sentencing options that may be available. By pleading to all offenses simultaneously, the defendant can complete his or her sentence without facing these additional charges, and can avoid the risk of having a detainer filed against the defendant on these other charges while serving his or her sentence.

One of the few appellate decisions interpreting this rule, *Commonwealth v. Kepner*, 34 A.3d 162 (Pa. Super. 2011), stated that "the purpose of Rule 701 is to allow a defendant the opportunity to be sentenced one time on all charges within a particular jurisdiction" but the trial court is not required to sentence a defendant on each count to which he or she pleads guilty. The Superior Court therefore concluded that the trial court did not create an illegal sentence in sentencing the defendant,

who pled *nolo contendere* to burglary and criminal trespass, on only the criminal trespass count. A dissenting opinion by Judge Shogan argues that the case should be remanded for sentencing on the burglary charge, otherwise, the case would have a charge upon which there was a conviction to have no sentence.

The Comment to Rule 701 was revised in 2013,¹ as a part of an amendment package, to clarify that the rule was applicable to a defendant being sentenced for violation of probation or intermediate punishment or being recommitted for a parole violation. Additionally, the Comment was revised to provide for a delay in sentencing in this situation when one of the offenses involves a victim. This change was made to permit time to obtain the victim's statements on the sentence or to obtain a victim impact statement in accordance with the Crime Victims' Act, 18 P. S. § 11.201.

Discussion

Based on this history, the Committee has concluded that the right of a defendant to consolidate his or her cases is not constitutionally based but rather defined by rule. Limitations, therefore, may be incorporated into the rule to address inequities. For example, the 2013 change noted above added a limitation to the defendant's right to consolidate pleas and sentencing under this rule by adding a delay so that the prosecution may effectuate a victim's rights in a case. With the 2013 change, the rule already contemplates a limitation on the defendant's right to consolidate to provide for prosecution-raised objections in certain cases. The Committee considers that the proposed change would similarly provide for prosecution input to prevent "judge-shopping."

The proposed changes would not deprive the defendant of the right to plead guilty to all or some of his outstanding cases. It would simply put a limitation on the unilateral ability to choose the sentencing forum for all of his or her outstanding cases. Currently under Rule 701 only the defendant has the ability to consolidate cases, an ability which has been used in certain jurisdictions as a means of selecting a sentencing judge of choice. In providing for the prosecution to object to such consolidation, the Committee analogized to the mutual right to jury trial. The proposed amendments are intended to provide a more equitable "playing field" in this area.

[Pa.B. Doc. No. 15-223. Filed for public inspection February 6, 2015, 9:00 a.m.]

Title 255—LOCAL COURT RULES

ARMSTRONG COUNTY

Adoption of New Local Rules of Court—2002; No. CP-03-AD-0000189-2002

Amended Order of Court

And Now, this 15th day of January, 2015, it is hereby *Ordered* as follows:

1. Local Rule of Judicial Administration Numbered 1901(a) is hereby amended to read as follows:

(a) The prothonotary shall list for the general call on the first Monday in November of each year all civil

¹ See Final Report, 43 Pa.B. 1702 (March 30, 2013).

matters in which no steps or proceedings have been taken for two years or more prior thereto and shall give notice thereof to counsel of record, and to the parties for whom no appearance has been entered, as provided by Pa.R.J.A. No. 1901(c). If no action is taken or no written objection is docketed in such a matter prior to the commencement of the general call, the prothonotary shall strike the matter from the list and enter an order as of course dismissing the matter with prejudice for failure to prosecute, under the provisions of this rule. If no good cause for continuing a matter is shown at the general call, an order shall be entered forthwith by the court for dismissal. The objecting party or counsel of record must appear at the general call.

2. The Court Administrator shall take all steps required by Pa.J.A. No. 103(c) for the publication, distribution and dissemination of the amendments and supplements provided for herein.

3. This Order shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

KENNETH G. VALASEK,
President Judge

[Pa.B. Doc. No. 15-224. Filed for public inspection February 6, 2015, 9:00 a.m.]

BUCKS COUNTY

Justice Center Weapons Policy; Administrative Order No. 74

Order

And Now this 16th day of January, 2015, pursuant to 18 Pa.C.S. § 913, it is hereby *Ordered* and *Decreed* that the following policy shall be strictly observed by all law enforcement officials regarding the carrying of firearms entering the Bucks County Justice Center:

1. All law enforcement officers on official police business who enter the Justice Center wearing their uniform and producing appropriate identification are permitted to carry their firearm, provided that the firearm is secured in a holster with Level III security.

2. Law enforcement officers not in uniform may not carry firearms in the Justice Center unless responding to an incident call. This provision shall not apply to the Bucks County Sheriff and his or her deputies, and Detectives and Security Officers employed by Bucks County.

3. No law enforcement officers, in uniform or not, may enter the Justice Center with a firearm in order to conduct personal business or to attend court proceedings in which he or she is a litigant or otherwise not on duty.

4. No other individual may enter the Justice Center with a firearm under any circumstance, except as authorized above or as specially authorized by the Sheriff of Bucks County and the President Judge;

5. The privileges previously granted shall not infringe on the right of any judge to bar weapons from the courtroom at that judge's discretion.

6. Any breach of this policy may subject the violator to contempt proceedings in addition to any department discipline that may be levied by the violator's employer.

This Order shall become effective on January 16, 2015.

By the Court

JEFFREY L. FINLEY,
President Judge

[Pa.B. Doc. No. 15-225. Filed for public inspection February 6, 2015, 9:00 a.m.]

CARBON COUNTY

Amendment of Local Rule of Judicial Administration 1901—Prompt Disposition of Matters; Termination of Inactive Cases; 15-0149; CP-13-AD-000003-2015; 15-9033

Administrative Order No. 6-2015

And Now, this 23rd day of January, 2015, it is hereby

Ordered and *Decreed* that, effective March 1, 2015, Carbon County *Amends* Local Rule of Judicial Administration 1901 governing the prompt disposition of matters and termination of inactive cases.

The Carbon County District Court Administrator is *Ordered* and *Directed* to

1. File one (1) certified copy of this Administrative Order with the Administrative Office of Pennsylvania Courts.

2. File two (2) certified copies and one (1) computer diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. Forward one (1) copy for publication in the *Carbon County Law Journal*.

4. Forward one (1) copy to the Carbon County Law Library.

5. Keep continuously available for public inspection copies of the Administrative Order in the Prothonotary's Office, Clerk of Court Office and Register of Wills/Orphans Court Office.

By the Court

ROGER N. NANOVIC,
President Judge

Rule 1901. Prompt Disposition of Matters; Termination of Inactive Cases.

The Prothonotary, Register of Wills/Clerk of Orphans Court, and Clerk of Courts shall prepare and forward to the District Court Administrator a list of all cases in which no steps or proceedings have been taken for two years or more by the 15th day of September for call on the first Monday of December of each year, or, on such other date as the Court by special order may direct. As provided by Pa.R.J.A. 1901(c), notice shall be given to all parties and/or attorneys. If no action is taken or written objection filed and, if no good cause is shown, the Court shall enter an order dismissing the proceedings.

The Magisterial District Courts shall comply with the following:

A. *Traffic Cases*—Summary traffic violations or parking violations whereby a warrant has been issued pursuant to Pa.R.Crim.P. 430(A), Rule 430(B)(1)(a) or Rule 430(B)(2).

1. On or before the 15th day of November of each year, each Magisterial District Court shall:

a. Dismiss any summary citation or ticket filed under Title 75 (relating to vehicles) or under local ordinance pertaining to overtime parking which was issued three years prior to November 15th of each respective year.

b. Vacate any active warrant issued on the dismissed summary citation or ticket and promptly remove the warrant from MDJS database.

c. Forward notice to the Pennsylvania Department of Transportation that the citation/ticket has been dismissed and request withdrawal of the defendant's license suspension, if applicable, pursuant to Pa.R.Crim.P. 470.

2. Each Magisterial District Court shall promptly provide a list of those cases being dismissed to the District Court Administrator.

B. *Non-Traffic Cases*

1. On or before the 15th day of November of each year, each Magisterial District Court shall:

2. Identify all non-traffic summary cases where no plea has been entered and there is no evidence of activity in the three years prior to November 15th of each respective year.

3. Compile a list for all cases identified in number 2 above and attach a secure docket sheet that indicates the name of the affiant, the name of the defendant, the docket number and the charge(s) associated with the docket number.

4. Forward this list with attachments to the District Court Administrator.

C. Upon receipt of the lists, the District Court Administrator shall:

1. Publish the lists in the *Carbon County Law Journal*.

2. Provide a copy of the lists to the Carbon County District Attorney.

D. The publication shall include a notice that the matters listed shall be terminated after thirty (30) days of publication unless a party to the proceeding requests a hearing from the appropriate Magisterial District Court.

1. If the defendant requests a hearing, the matter shall promptly be scheduled for such hearing or other disposition pursuant to the Rules of Criminal Procedure.

2. If the Commonwealth requests a hearing to oppose termination, the matter shall promptly be scheduled to determine if termination is appropriate.

3. Disposition of any hearing, including hearings where a citation or ticket is dismissed over the objection of the Commonwealth shall be filed of record in the MDJS.

4. The Commonwealth shall have the right to appeal any determination to the Court of Common Pleas within the time period for Summary Appeals pursuant to the Rules of Criminal Procedure.

E. In the event a hearing is not requested within thirty (30) days of publication, the Magisterial District Judge shall:

a. Dismiss any summary citation or ticket filed which was issued three years prior to November 15th of each respective year.

b. Vacate any active warrant issued for the dismissed summary citation or ticket and promptly remove the warrant from MDJS.

c. Forward notice to the Pennsylvania Department of Transportation that the citation or ticket has been dismissed and request withdrawal of the defendant's license suspension, if applicable, pursuant to Pa.R.Crim.P. 470.

[Pa.B. Doc. No. 15-226. Filed for public inspection February 6, 2015, 9:00 a.m.]

SOMERSET COUNTY

Consolidated Rules of Court; No. 4 Misc. 2015

Adopting Order

Now, this 13th day of January, 2015, it is hereby Ordered:

1. Som.R.Crim.P. 0310, which follows, is hereby adopted as Som.R.Crim.P. 0310 and is effective thirty (30) days after publication in the *Pennsylvania Bulletin* and on the Unified Judicial System Portal.

2. The Somerset County Court Administrator is directed to:

A. File one (1) certified copy of this Order and the following local Rule with the Administrative Office of Pennsylvania Courts.

B. Distribute two (2) certified copies of this Order along with electronic copy to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

C. File one (1) certified copy of this Order with the Pennsylvania Criminal Procedural Rule Committee.

D. File proof of compliance with this Order in the docket for this Order, which shall include a copy of each transmittal letter.

JOHN M. CASCIO,
President Judge

Som.R.Crim.P. 310. Accelerated Rehabilitative Disposition. Motions and Criteria.

A. A separate written motion shall be prepared for each docketed case for which ARD disposition is recommended. After filing in the office of the Clerk of Courts, the motions shall be [**presented to the Administrative Judge of the Criminal Division of the court prior to scheduling the case for ARD hearing**] **scheduled for hearing and disposition according to prevailing practice.**

B. Motions for ARD disposition shall contain the following:

1. A [**statement of all offenses with which defendant is presently charged in this court; and**] **copy of the Information; and**

[**2. A statement of all offenses with which defendant is presently charged in any other jurisdiction which are known; and**

3. Written statements of the criminal and motor vehicle records of the accused, if any, and if none, so stating, certified respectively by the appropriate official of the Department of Transportation, and the Clerk of Courts or other public official or

authorized deputy having official custody of defendant's records, provided that in lieu of attaching such written statements to the motion, the same may be retained in the District Attorney's file and furnished to court when requested;]

[4.] 2. Any other facts considered relevant to consideration of the motion.

[C. ARD motions will be reviewed ex parte by the Administrative Judge to determine whether the motion complies with these rules and warrants hearing.

1. If it appears from the face of the motion that the motion complies with these rules and warrants hearing, the Administrative Judge will by endorsement thereon approve the same for scheduling and return it to the Office of the District Attorney for Scheduling.

2. If additional facts are necessary to make the determination, the District Attorney and defense counsel shall furnish a written statement, if requested, containing such additional facts as the court may request.

3. If the Administrative Judge determines that the motion does not comply with these rules and does not warrant hearing, he or she shall disapprove the motion for scheduling unless there are exceptional and compelling reasons set forth in the motion or in supplemental statements provided by the District Attorney and defense counsel.

4. ARD motions disapproved for scheduling shall be so endorsed by the Administrative Judge and returned to the Office of the District Attorney.]

[Pa.B. Doc. No. 15-227. Filed for public inspection February 6, 2015, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Lois Anne Wood (# 37771), having been disbarred by consent from the practice of law by Order of the Supreme Court of New Jersey dated August 7, 2014, the Supreme Court of Pennsylvania issued an Order on January 16, 2015, disbaring Lois Anne Wood from the Bar of this Commonwealth, effective February 15, 2015. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,

Secretary

*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 15-228. Filed for public inspection February 6, 2015, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that Gary Leigh Shaffer (# 30952) having been suspended for five months from the practice of patent, trademark and other non-patent law by Order of the United States Patent and Trademark Office dated July 31, 2014, the Supreme Court of Pennsylvania issued an Order dated January 16, 2015 suspending Gary Leigh Shaffer from the practice of law in this Commonwealth for a period of five months, effective February 15, 2015. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,

Secretary

*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 15-229. Filed for public inspection February 6, 2015, 9:00 a.m.]