



A Reporter's Guide to the Law



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PENNSYLVANIA BAR ASSOCIATION

The Pennsylvania Bar Association is a nonprofit organization that represents the interests of Pennsylvania lawyers. Incorporated in 1895, the mission of the Pennsylvania Bar Association is:

- *to advance the science of jurisprudence;*
- *to promote the administration of justice;*
- *to see that no one, on account of poverty, is denied his or her legal rights;*
- *to secure proper legislation;*
- *to encourage thorough legal education;*
- *to uphold the honor and dignity of the Bar;*
- *to cultivate cordial relations among lawyers in Pennsylvania; and*
- *to perpetuate the history of the profession and the memory of its members.*

Any lawyer in good standing who is admitted to practice law in Pennsylvania is eligible to be a member of the Pennsylvania Bar Association.

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FEDERAL COURT SYSTEM

Introduction

The Founding Fathers of the United States considered an independent federal judiciary essential to ensure fairness and equal justice for all citizens of the United States. As such, the Constitution was drafted to promote judicial independence in two major ways. First, federal judges are appointed for life, and they only may be removed from office through impeachment and conviction by Congress of “Treason, Bribery, or other High Crimes and Misdemeanors.” Second, the Constitution provides that the compensation of federal judges “shall not be diminished during their Continuance in Office,” which means that neither the president nor Congress can reduce the salary of a federal judge. These two protections allow an independent judiciary to decide cases free from popular passion and political influence.

Article III of the Constitution gives Congress the power to create federal courts other than the Supreme Court and to determine their jurisdiction. It is Congress, not the judiciary, that controls the type of cases addressed in the federal courts. Congress has three basic responsibilities that determine how the courts will operate. First, it decides how many judges there should be and where they will work. Second, through the confirmation process, Congress determines which of the president’s judicial nominees ultimately become federal judges. Third, Congress approves the federal courts’ budgets and appropriates money for the judiciary to operate. The judiciary’s budget is a very small part (substantially less than one percent) of the entire federal budget.

Under the Constitution, the president appoints federal judges with the “advice and consent” of the Senate. The president usually consults senators or other elected officials concerning candidates for vacancies in the federal courts. The president’s power to appoint new federal judges is not the judiciary’s only interaction with the executive branch. The Department of Justice, which is responsible for prosecuting federal crimes and for representing the government in civil cases, is the most frequent litigator in the federal court system. Several other executive branch agencies affect the operations of the courts as well. The United States Marshal Service, for example, provides security for federal courthouses and judges, and the General Services

Administration builds and maintains federal courthouses.

Within the executive branch there are some specialized subject matter courts, and numerous federal administrative agencies that adjudicate disputes involving specific federal laws and benefits programs. These courts include the United States Tax Court, the United States Court of Military Appeals and the United States Court of Veterans Appeals. Although these courts and agencies are not part of the judiciary established under Article III of the Constitution, appeals of their decisions typically may be taken to Article III courts.

With very limited exceptions, each step of the federal judicial process is open to the public. An individual who wishes to observe a court in session may do so. Anyone may review the pleadings and other papers filed in a case by going to the clerk of court’s office and asking for the appropriate case file. Unlike most of the state courts, however, the federal courts generally do not permit television or radio coverage of trial court proceedings.

Breakdown of the Federal Courts

The United States Supreme Court is the highest court in the federal judiciary. The Supreme Court consists of the Chief Justice of the United States and eight associate justices. At its discretion, and within certain guidelines established by Congress, the Supreme Court each year hears a limited number of the cases on which it is asked to rule. Those cases may begin in the federal or state courts and usually involve important questions regarding the Constitution or federal law. In recent years, the Supreme Court has heard fewer cases, allowing more decisions of the lower federal courts to stand as the law.

Congress has established two levels of federal courts under the Supreme Court: the trial courts and the appellate courts. The United States District Courts are the trial courts of the federal court system. Within limits set by Congress and the Constitution, the U.S. District Courts have jurisdiction to hear nearly all categories of federal cases, including both civil and criminal matters. There are 94 federal judicial districts, including at least one district in each state, the District of Columbia and Puerto Rico. Each district includes a United States

Bankruptcy Court as a unit of the District Court. Three territories of the United States -- the Virgin Islands, Guam and the Northern Mariana Islands -- have District Courts that hear federal cases, including bankruptcy cases.

There are two special trial courts with nationwide jurisdiction over certain types of cases: the Court of International Trade, which addresses cases involving international trade and customs issues; and the United States Court of Federal Claims, which has jurisdiction over most claims for money damages and, in cases against the United States, disputes over federal contracts, unlawful “takings” of private property by the federal government and a variety of other claims.

The 94 judicial districts are organized into 13 United States Circuit Courts. Twelve of the Circuit Courts are organized regionally, each of which has a United States Court of Appeals. The Courts of Appeals hear appeals from the District Courts located within its circuit, as well as appeals from decisions of federal administrative agencies. In addition, the 13th Circuit Court, the Court of Appeals for the federal circuit, has nationwide jurisdiction to hear appeals in specialized cases, such as those involving patent laws and cases decided by the Court of International Trade and the Court of Federal Claims.

Pennsylvania is located in the Third Circuit Court of Appeals, which also includes Delaware, New Jersey and the Virgin Islands. The Third Circuit is based in Philadelphia and has 14 authorized judgeships. Within Pennsylvania, there are three United States District Courts: the eastern district with 22 authorized judgeships located in Philadelphia; the middle district with six authorized judgeships located in Scranton; and the western district with 10 authorized judgeships located in Pittsburgh.

Types of Federal Cases

Before a federal court can hear a case or “exercise its jurisdiction,” certain conditions must be met. First, under the Constitution, federal courts may only exercise “judicial” powers. This means that federal judges may interpret the law only through the resolution of actual legal disputes, referred to in Article III of the Constitution as “Cases or Controversies.” A court cannot attempt to correct a problem on its own initiative or answer a hypothetical legal question. Second, the plaintiff in a federal lawsuit also must have legal “standing” to ask the

court for a decision. This means the plaintiff must have been aggrieved or legally harmed in some way by the defendant. Third, the case must present a category of dispute that the law in question was designed to address. It also must be a complaint that the court is authorized, under the Constitution or federal law, to hear and grant appropriate relief to the plaintiff. Finally, the case cannot be “moot.” The case must present an ongoing problem for the court to resolve. The federal courts are courts of limited jurisdiction because they only may decide certain types of cases as provided by Congress or as identified in the Constitution.

There are two main sources of the cases coming before the federal courts: federal question jurisdiction and diversity jurisdiction. A case that raises a federal question may be filed in federal court. Examples of such cases might include a claim by an individual for entitlement to money under a federal government program such as Social Security, a claim by the government that someone has violated federal laws or a challenge to actions taken by a federal agency. A case also may be filed in federal court based on the “diversity of citizenship” of the litigants, such as between citizens of different states or between United States citizens and those of another country. To ensure fairness to out-of-state litigants, the Constitution provides that such cases may be heard in federal court. An important limit to diversity jurisdiction is that only cases involving more than \$75,000 in potential damages may be filed in a federal court. Moreover, any diversity jurisdiction case regardless of the amount of money involved may be brought before a state court rather than a federal court.

Federal courts also have jurisdiction over all bankruptcy matters, which Congress has determined should be addressed in federal courts rather than the state courts. Through the bankruptcy process, individuals or businesses that can no longer pay their creditors, may either seek a court-supervised liquidation of their assets or may reorganize their financial affairs and work out a plan to pay off their debts.

PENNSYLVANIA COURT SYSTEM

Introduction

The judicial system of the Commonwealth of Pennsylvania is defined and governed by Article V of the Pennsylvania Constitution, as amended in 1968, and by the Judicial Code of July 9, 1976, as amended. The judicial power of the commonwealth is vested in a unified judicial system consisting of the Supreme Court, the Superior Court, the Commonwealth Court, Courts of Common Pleas, Municipal and Traffic Courts in the City of Philadelphia, District Courts and any other courts as may be provided by law. The Supreme Court is the highest court of the commonwealth and holds the supreme judicial power. The Superior Court is a statewide intermediate appellate court consisting of not less than 15 judges. The Commonwealth Court is another statewide intermediate appellate court, which hears matters primarily involved with administrative law, such as workers' compensation. The Courts of Common Pleas are the general trial courts of the commonwealth.

Supreme Court

The Supreme Court is Pennsylvania's highest judicial authority. The Supreme Court, which meets in Philadelphia, Harrisburg and Pittsburgh, consists of seven justices who serve 10-year terms. The Supreme Court exercises general supervisory and administrative authority over all courts and district justices. The Supreme Court has the power to prescribe general rules governing practice, procedure and conduct of all courts, district justices and officers serving process or enforcing orders. The Supreme Court has exclusive jurisdiction of appeals from final orders of the Courts of Common Pleas in eight specified classes of cases. As a general rule, the Supreme Court has exclusive jurisdiction of appeals from final orders of the Commonwealth Court entered in any matter that originally was commenced in the Commonwealth Court. Upon petition of any party to a matter, final orders of the Superior Court also may be reviewed for possible consideration by the entire Supreme Court by any two of Court's justices. It is called a certiorari system, similar to the one used by the United States Supreme Court. Under a certiorari system, the Supreme Court may grant such petitions in cases involving matters of statewide importance where issues are undecided or have conflicting opinions of

lower courts. In any matter pending before any court involving an issue of immediate public importance, the Supreme Court may, on its own motion or upon the petition of any party to the matter, assume plenary (full and complete) jurisdiction and hear the matter.

Superior Court

The Superior Court is a statewide intermediate appellate court that hears all appeals from the Courts of Common Pleas unless they have been assigned by law to the Commonwealth Court or chosen to be heard by the Supreme Court. The Superior Court consists of 15 judges who are elected to 10-year terms. The court meets in Philadelphia, Harrisburg and Pittsburgh. One of its judges is elected president judge by the others on the court. The Superior Court has exclusive appellate jurisdiction of all appeals from final orders of the Courts of Common Pleas, without regard to the nature of the controversy or the amount involved, except where the appeals are within the exclusive jurisdiction of the Supreme or Commonwealth courts. The judges generally sit in panels of three, although the court occasionally sits in a panel of seven or more.

Commonwealth Court

The Commonwealth Court is another statewide intermediate appellate court that was formed by Article V, Section 4 of the Constitution of 1968. Nine judges, who are elected to 10-year terms, serve on the Commonwealth Court. The court meets in Philadelphia, Harrisburg and Pittsburgh and its president judge is elected by the other judges on the court. Appeals to the Commonwealth Court generally consist of civil actions involving municipalities or state administrative agencies and all eminent domain proceedings. Appeals heard by the Commonwealth Court include workers' compensation appeals from the Workers Compensation Appeal Board and employment compensation appeals from the Unemployment Board of Review.

Courts of Common Pleas

The Courts of Common Pleas are divided geographically into 60 judicial districts. The Pennsylvania Legislature determines how the districts are geographically aligned and the number of judges for each Court of Common Pleas, which can range from one to 95. Each judge is elected to

a 10-year term. The Court of Common Pleas has unlimited original jurisdiction in all cases except as otherwise provided by law. These exceptions are limited to original jurisdiction of the Supreme, Superior or Commonwealth courts. Divisions within a Court of Common Pleas include Criminal, Civil, Juvenile, Family and Orphan's courts. The Orphan's Courts are courts of probate jurisdiction, which typically handle matters such as adoptions, decedents estates, trusts, legacies, birth records, marriage licenses and minors' estates.

District Courts

The Constitution provides for one magisterial judge in each judicial district (other than the City of Philadelphia). Magisterial judges are elected to six-year terms. In criminal cases involving misdemeanors or felonies, magisterial judges conduct preliminary arraignments and hearings and set bail. In prosecutions for summary offenses, magisterial judges conduct trials and impose sentences for summary convictions. Appeals from convictions for summary offenses are to the Court of Common Pleas, which hears the case *de novo*.

In civil cases, magisterial judges have jurisdiction over cases where the amount in controversy does not exceed \$12,000, exclusive of interest and costs. Additionally, magisterial judges have jurisdiction over cases arising under the Landlord and Tenant Act of 1991, as amended. Any party aggrieved by the decision of a magisterial judge may appeal to the Court of Common Pleas for a hearing or trial *de novo*.

Philadelphia Municipal Court

Philadelphia County is unique in that it has its own Municipal Court. The Philadelphia Municipal Court, which the Pennsylvania Legislature established in 1968 as a court of limited jurisdiction, has 25 commissioned judges and several senior judges. Unlike district justices, Municipal Court judges must be attorneys. They are elected to six-year terms and stand for retention every six years. While there are no jury trials within the Municipal Court system, there is a right to appeal to the Court of Common Pleas for a trial *de novo*, which includes the right to a jury trial.

In civil actions and actions for fines and penalties by government agencies (e.g. fire, health and zoning code violations, license fees and business taxes), the court's jurisdiction is limited to claims not greater than \$10,000, exclusive of interest and

costs. The limit is \$15,000 for real estate and school taxes demanded by the City of Philadelphia. The civil division has original jurisdiction with no money limit in residential and commercial matters arising under the Pennsylvania Landlord and Tenant Act of 1951. In addition, the Pennsylvania Legislature has authorized the court to enjoin specified types of nuisances. A Municipal Court judge has the same contempt power as a Court of Common Pleas judge.

The Municipal Court's Criminal Division processes every adult arrest in the City of Philadelphia. Courtrooms are in the Criminal Justice Center and in several police district buildings throughout Philadelphia. The criminal division handles preliminary arraignments, preliminary hearings for felony cases and trials for misdemeanor cases where the maximum prison sentence does not exceed five years. In addition, the Municipal Court tries all summary offenses, except summary vehicle code offenses that are within the jurisdiction of the Traffic Court of Philadelphia. Other Municipal Court departments include Private Criminal Complaints and Emergency Protection from Abuse.

ADMINISTRATIVE LAW JUDGES

Pennsylvania Labor Relations Board

The Pennsylvania Labor Relations Board (PLRB) was established in 1937 as the administrative agency that enforces the Pennsylvania Labor Relations Act (the commonwealth's equivalent of the National Labor Relations Act), the Police and Firemen's Collective Bargaining Law (Act 111) and the Public Employee Relations Act (Act 195). Most of the cases the PLRB hears involve public sector employees.

While the PLRB's functions are somewhat similar to the National Labor Relations Board, its operating procedures are different. Hearings are conducted before a PLRB hearing examiner that include representation and bargaining unit clarification proceedings initiated by petition. These hearings also include unfair labor practice proceedings initiated by the filing of a charge of unfair practices. The hearing examiner issues a "Proposed Decision and Order," which becomes final and binding, unless a party files exceptions to the ruling. Where exceptions are filed, the appointed members of the PLRB consider the case on the record created before the hearing examiner and render a final order sustaining and/or dismissing the exceptions. The PLRB's final order may be appealed to the Commonwealth Court or the Court of Common Pleas. If the commonwealth is the employer or the matter relates to Act 111, the final order is appealable directly to the Commonwealth Court. If the employer is a public employer other than the commonwealth and Act 195 is involved, the proper venue is the Court of Common Pleas in the county where the employer is located. In that instance, the Common Pleas Court order then may be appealed to the Commonwealth Court. Any party may request the Pennsylvania Supreme Court to hear an appeal from a Commonwealth Court decision.

Unemployment Compensation Board of Review

The Unemployment Compensation Board of Review (UCBR) was established in 1936 under the Unemployment Compensation Law and is an administrative board of the Department of Labor and Industry. It consists of three members who are appointed by the governor with the approval of the Senate for six-year terms. The UCBR appoints referees to take testimony and adjudicate

appeals coming from local offices of the Bureau of Unemployment Compensation Benefits and Allowances. Referees hear and decide disputes under the supervision, direction and administrative control of the UCBR. The referee may affirm, modify or reverse earlier findings of fact or determination by the local bureau office. The referee's decision is deemed final unless the UCBR acts on its own motion or upon application for a further review appeal brought before it. Decisions of the UCBR are final, unless an appeal is filed. A decision of the UCBR may be appealed to the Commonwealth Court. The Pennsylvania Supreme Court may take appeals on UCBR decisions on allowance from the Commonwealth Court.

Pennsylvania Human Relations Commission

The Pennsylvania Human Relations Commission (PHRC) was established in 1955 to be an administrative commission in the governor's office to enforce the Pennsylvania Human Relations Act (PHRA). The PHRC is composed of 11 commissioners who are appointed by the governor with Senate approval. Each commissioner serves a five-year term. The PHRC has the authority to initiate an investigative hearing whenever a discrimination issue arises. The hearing is held in the county where the problem exists. The PHRC also hears complaints relating to unlawful discrimination in employment-related matters (i.e. hiring, firing, promoting or transferring) where discrimination is alleged to have occurred on account of race, color, religion, sex, age, national origin and with respect to disability, housing or public accommodation matters. The PHRA applies to private sector employers with four or more employees, commonwealth and political subdivision employers, as well as to residential and commercial property transactions and other real estate matters.

In the event that the PHRC determines that the PHRA has been violated by an employer, the PHRC has the authority to request that the Commonwealth Court or the appropriate Court of Common Pleas enjoin the discriminatory conduct and order reinstatement or rehiring of employees and/or rewarding back pay or other legal or equitable relief. The PHRC also can impose civil penalties with respect to unlawful housing discrimination practices. The complainant, the Attorney General or the PHRC itself, may seek enforcement of a PHRC order or

other appropriate relief. Additionally, if the PHRC, after an investigation declines to pursue the cause itself, the complainant may institute a civil action in court.

Workers' Compensation Appeal Board

The Pennsylvania Workers' Compensation Appeal Board (WCAB), or its appointed Workers' Compensation Judge (formerly known as a referee), hears contested claims for compensation under the Pennsylvania Occupational Disease Act and Workers Compensation Act. The WCAB was established in 1929 and consists of members appointed by the governor. Workers' Compensation Judges are appointed by the secretary of the Department of Labor and Industry and make decisions on contested claims. The judges hear testimony and act as fact finders. An adjudication from a Workers' Compensation Judge may be appealed to the WCAB and from the WCAB to the Commonwealth Court.

Pennsylvania Public Utilities Commission

The Pennsylvania Public Utilities Commission (PUC), created in 1937, regulates and supervises intrastate rates and services of the commonwealth's public utilities including gas, electric, water, telephone and taxis and certain other common carriers. The PUC consists of five members who are appointed by the governor and approved by the Senate for five-year terms. The PUC has the authority to appoint administrative law judges from qualified candidates who have taken a civil service examination. Administrative law judges issue initial decisions, which become final unless the PUC takes action to modify them. Administrative law judges also issue recommended decisions, which require further action by the PUC to become final orders of the commission. Determinations made by the PUC are binding upon all parties, unless set aside, annulled or modified upon judicial review. Appeals from PUC determinations are to the Commonwealth Court.

Pennsylvania Liquor Control Board

The Pennsylvania Liquor Control Board (LCB), under the Liquor Code of 1951, regulates the sale and distribution of alcohol within the commonwealth on a wholesale and retail basis. The LCB consists of three members who are appointed by the governor and approved by the Senate. It approves licenses, which allow for the distribution of beer and for the importation of alcohol into Pennsylvania for vendors

to then sell the alcohol to the commonwealth to be resold to establishments and the public. A hearing examiner will hear any licensing questions and provide recommended decisions to the LCB, which then will make final decisions. An appeal of the LCB's decision in a licensing matter is appealed de novo to the Court of Common Pleas or, on rare occasions, to the Commonwealth Court. The LCB also has administrative law judges (ALJs), who are appointed by the governor from a list of candidates who have taken the civil service examination. The ALJs hear any citations alleging violation of the liquor code. Citations for violations issued by the State Police also are heard by ALJs. The ALJs are independent of the LCB. An appeal of an ALJ's decision first goes to the LCB. All following reviews go to the Court of Common Pleas de novo.

THE SUNSHINE ACT

The Sunshine Act, first passed as Pennsylvania's Open Meetings law in 1957, requires most deliberations and all official actions (votes) of governmental bodies to be conducted at public meetings. The original form of the Sunshine Act has been the subject of revisions through the years, most recently in 2021, but the basic premise of the Sunshine Act has remained the same through all its iterations: government agencies must discuss and act upon official business in public.

The Sunshine Act applies to agencies, and that term is defined expansively as:

"The body, and all committees thereof authorized by the body to take official action or render advice on matters of agency business, of all the following: the General Assembly, the executive branch of the government of this Commonwealth, including the Governor's Cabinet when meeting on official policymaking business, any board, council, authority or commission of the Commonwealth or of any political subdivision of the Commonwealth or any State, municipal, township or school authority, school board, school governing body, commission, the boards of trustees of all State-aided colleges and universities, the councils of trustees of all State-owned colleges and universities, the boards of trustees of all State-related universities and all community colleges or similar organizations created by or pursuant to a statute which declares in substance that the organization performs or has for its purpose the performance of an essential governmental function and through the joint action of its members exercises governmental authority and takes official action."

It is important to note that the definition of "agency" expressly includes any committee formed by one of the foregoing that is authorized to take official action or render advice on matters of agency business. Agencies cannot avoid the public access requirements of the law by delegating their function to a committee.

An agency must comply with the Sunshine Act when it meets to deliberate or take action upon official business. A "meeting" is defined as a pre-arranged gathering of at least a quorum of members who are meeting to deliberate agency business or to take official action. Stated simply, if there is a quorum of an agency discussing agency business or taking

official action, the Sunshine Act applies. The Act requires agencies to advertise their regular meeting schedule at least three days in advance of the first meeting of the year, and the advertisement must include the regular meetings' date, time and location. This public notice advertisement must appear in a newspaper of general circulation; announcements, news articles and press releases do not take the place of the public notice required under the Act. Any special or rescheduled meetings that are scheduled to take place outside the regular meeting schedule must be advertised at least 24 hours in advance in a newspaper of general circulation, including the date, time and location. Emergency meetings need not be advertised, however, they may be held only when an agency is dealing with a real or potential emergency involving a clear and present danger to life or property, such as during a natural disaster and they must be open to the public.

In 2021, the Sunshine Act was amended to require agencies to provide meeting agendas in advance of public meetings and to prohibit public officials from discussing or acting on matters that do not appear on the agenda. The law requires agencies to provide an agenda listing all issues to be discussed or acted upon at least 24 hours before the meeting. The agenda must be posted on the agency's website, if they have one, and posted at the agency's offices and at the meeting site. Copies of the agenda must also be available at the public meeting. The law does not expressly govern the amount of detail required on meeting agendas, but the purpose of the agenda requirement is providing enough information for the public to understand what will be discussed or acted on and participate if they are so inclined. The reasonable interpretation of this provision requires specificity.

An agency can change the agenda within the 24-hour threshold only if the changes are de minimis (very minor), involve no expenditure of funds, and don't entail entering into a contract or agreement. If an agenda is amended within 24 hours of a meeting, the reason for the change must be announced prior to any official action, including a vote, the amended agenda must be posted within 24 hours after the meeting, and the meeting minutes must reflect the changes made. It is important to note that agencies can act on real or potential emergencies involving a clear and present danger to life or property

regardless of whether the issue was listed on the agenda.

The Sunshine Act requires all deliberations about agency business to be conducted at a public meeting unless the subject matter of the deliberations falls within an exception to the Act. There are several limited exceptions to the public deliberation requirement, but the most often cited are the “executive session” exceptions. The Sunshine Act lists the following seven reasons for holding an executive session in which deliberations can, but are not required to be, held privately among the members of the agency:

1. To discuss personnel matters, including hiring, promoting, disciplining or dismissing specific public employees or officers, but does not include filling vacancies in any elective office;
2. To hold information, strategy and negotiation sessions related to collective bargaining agreements or arbitration;
3. To consider the purchase or lease of real estate;
4. To consult with an attorney regarding litigation or issues where identifiable complaints are expected to be filed;
5. To discuss agency business that would lead to disclosure of information recognized as confidential or privileged under law, including initiation and conduct of investigations of possible violations of the law and quasi-judicial deliberations;
6. For public colleges or universities to discuss matters of academic admission or standings; and
7. To discuss, plan or review matters and records that are deemed necessary for emergency preparedness, protection of public safety and security of all property in a manner that if disclosed would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection.

Although deliberations concerning these matters may be conducted privately, the Sunshine Act never requires an executive session, and any official action to be taken as a result of executive session deliberations must take place at a public meeting. There is no exception in the Act that allows official action (votes) to take place outside a public meeting. The most frequently cited reasons for holding executive sessions are discussions about personnel issues, collective bargaining negotiations

and legal matters. With regard to personnel matters, issues involving appointment and termination of employment, terms and conditions of employment, evaluation of performance, promotion or discipline of specific employees or appointees are all legitimate reasons for holding executive sessions. Discussions about general policies that impact employees are not appropriate for executive session. Likewise, deliberations about filling a vacancy in an elected office cannot be discussed during executive session.

The Sunshine Act recognizes that discussions regarding collective bargaining agreements are legitimate bases for an executive session. Among agency members, a body may obtain information and discuss negotiation strategy. Agency members and bargaining representatives may meet, discuss and negotiate bargaining agreements in executive sessions.

A local agency may need an executive session to meet with its attorney concerning pending litigation or identifiable complaints that are expected to be in litigation. As a practical matter, potential legal liability is everywhere. By requiring that only matters with expected “identifiable complaints” may be discussed, the Sunshine Act attempts to limit private discussions to only those matters that have a serious prospect of becoming litigation or are already pending in court.

Executive sessions are not required to be advertised, but the law requires agencies to announce the reason for holding an executive session at a public meeting either before the executive session takes place or at the next public meeting immediately following the executive session. When making the executive session announcement, the Act requires agencies to announce more than just a one-word or generic justification for executive session. For examples, agency announcements that simply cite “personnel” or “litigation” are insufficient. The executive session announcement must provide a real, discrete reason justifying the public’s exclusion so that the public can understand the agency’s legal basis and have a means to challenge it when appropriate. Regarding executive sessions for pending litigation, the Act requires agencies to announce, at a minimum, the party names, docket number and court in which the lawsuit is pending. With regard to threatened litigation executive sessions, the agency must announce the nature of the legal issue.

Recognizing the importance of dialogue and the public's right to comment on government business, the Sunshine Act also requires agencies to provide an opportunity for public participation during public meetings on all matters that are or may be before the board. This opportunity must be provided prior to the agency taking any official action. An agency may deliberate before allowing public comment, but it must allow public comment before taking a vote on any matter. The Act allows agencies to limit public comment to residents and taxpayers.

The Sunshine Act also allows anyone attending a public meeting to record all the proceedings, and this right extends to audio and visual recording. The law allows agencies to enact reasonable rules governing the conduct of public meetings, but it does not permit agencies to create rules that unreasonably interfere with or prohibit the rights expressly granted by the Act.

The Sunshine Act requires written minutes of all public meetings. At a minimum, the minutes must include the date, time and place of the meeting, the names of the members present, the substance of all official actions, a record of all roll call votes and the names of all citizens who appeared officially at the meeting, along with the subjects of their testimonies. Each agency member must cast all votes publicly to ensure that the votes are contained within recorded minutes maintained by the agency.

With regard to violations of the Sunshine Act, the law allows anyone in attendance to object to a perceived violation at any point during a public meeting and have that objection noted in the minutes. The law also allows for the imposition of civil and criminal penalties. The Courts of Common Pleas have original jurisdiction over civil legal challenges involving local governments' alleged violations, and the Commonwealth Court has jurisdiction in cases involving state agencies. The courts can enforce the Sunshine Act through injunctions or other appropriate remedies. It also is within the discretion of the court to invalidate official actions or deliberations taken at a meeting that are in violation of the Sunshine Act. The official action is not automatically invalidated, however, since the court must look to the effect of the violation on the entire decision-making process.

With regard to the criminal sanctions authorized by the Act, it is a summary offense to violate the law, and individual public officials can be prosecuted

for alleged violations. Citizens alleging a criminal violation of the Act can submit a private criminal complaint to the District Attorney, who will review the allegations and determine whether criminal charges are appropriate. Summary offense cases are heard initially before the magisterial district courts. Sunshine Act criminal violations are punishable by a fine of \$100-\$1000 for a first offense, and up to \$2,000 for second and subsequent offenses, plus the costs of prosecution.

RIGHT-TO-KNOW LAW

Presumption of Openness

Pennsylvania's current Right to Know Law, passed as Act 3 of 2008 and codified as 65 P.S. §67.101, can be read in full [here](#). It starts with the presumption that government records are open.

This means requesters don't have to prove that a record is public. Instead, agencies covered by the act must prove any information they withhold either falls under one of act's exemptions, is forbidden to be released by state or federal law, or falls under a confidentiality privilege, such as the attorney-client or doctor-patient privilege.

Records can be closed by judicial order. However, settlement agreements by government agencies, including those paid by their insurance companies, are public even if there is a confidentiality clause in the settlement agreement, unless a court specifically rules the agreement is confidential.

When in doubt, the new law favors releasing information.

The new Right to Know Law went into full effect on Jan. 1, 2009, but it applies to government records created before that date.

Agencies Subject to the Right-to-Know Law

- Commonwealth agencies, which include everything in the executive branch, such as the Governor's Office, the Office of the Attorney General, the Department of the Auditor General and the Treasury Department, along with any other office, department, authority, board, multistate agency and commission of the executive branch, plus all state affiliated agencies.
- Universities that receive state money. Those that are part of the State System — Bloomsburg, California, Cheyney, Clarion, East Stroudsburg, Edinboro, Indiana, Kutztown, Lock Haven, Mansfield, Millersville, Shippensburg, Slippery Rock and West Chester — are Commonwealth agencies subject to the full requirements of the RTKL, and they must release the salaries of all their employees upon request, along with all other information that doesn't fall under the list of exemptions or isn't

deemed private by other laws. State-related universities, however — Lincoln University, Penn State, the University of Pittsburgh and Temple University — merely have to file an annual report and post it on their websites by May 30 each year. That report must include any information required by the IRS' form 990 — even if the institution isn't required to file the form — as well as the salaries of all officers and directors, and the highest 25 salaries. Details about the state-related institutions are in Chapter 15 of the Right to Know Law, which you can find [here](#).

- Local Agencies: Townships, boroughs, cities, counties, school districts, sewer authorities, regional planning commissions and any other organization established by the state constitution, a statute, or an executive order that is meant to perform an essential executive branch governmental function.

Whether volunteer fire companies and private organizations that do work on behalf of government agencies also fall under the law is still up in the air. The Office of Open Records has held they must follow the Right to Know Law. However, that decision was overruled by Courts of Common Pleas in Blair, Butler, Columbia, Tioga and York counties, so in those counties, volunteer fire companies are not local agencies subject to the law, although their records may be subject to access under the contractor provision of the law.

Associations whose members are local agencies, such as the Pennsylvania School Board Association and the Pennsylvania Boroughs Association, are not covered by the act.

- Legislative Agencies: The Senate, the House of Representatives, The Capitol Preservation Committee, The Center for Rural Pennsylvania, The Joint Legislative Air and Water Pollution Control and Conservation Committee, The Joint State Government Commission, The Legislative Budget and Finance Committee, The Legislative Data Processing Committee, The

Independent Regulatory Review Commission, The Legislative Reference Bureau, The Local Government Commission, The Pennsylvania Commission on Sentencing, The Legislative Reapportionment Commission, The Legislative Office of Research Liaison and The Legislative Audit Advisory Commission. However, the law only reaches “legislative records” as that term is defined in the law, and communications between constituents and legislators are exempt.

- **Judicial Agencies:** Financial records pertaining to any part of the state’s Unified Judicial System, from district judges to the Pennsylvania Supreme Court. Those financial records include accounts, contracts, invoices or similar documents dealing with the receipt or expenditure of funds and anything purchased through funds appropriated by the judicial system. The Unified Judicial System has implemented its own public access requirements for financial records under Pa Rule of Judicial Administration 509.

However, the Right to Know Law does not cover the records pertaining to cases before the courts. Docket information, affidavits, sentences, warrants and similar case-related information are generally public, but they fall under the rules set forth by the Case Records of Public Access Policy of the Unified Judicial System of Pennsylvania, which you can find [here](#), as well as the constitutional and common law requirements for open courts.

Records Covered by the Right-to-Know Law

Records include anything documenting an agency’s transactions or activities, and that is created, received or kept as part of the agency’s business. They’re all public, as long as they don’t fall under one of the listed exemptions, aren’t forbidden to be released by state or federal law and aren’t protected by a confidentiality privilege (such as attorney-client privilege.).

Fiscal records, showing how the government spends its money, are public. That includes accounts, vouchers, contracts, salaries, audits and other records that show the receipt or disbursement of public funds.

It also covers legislative records including resolutions, fiscal notes, chamber journals, rules of the chamber, transcripts of public hearings, minutes of public hearings, audit reports, final and annual reports, and a host of others. You can find the full definition [here](#).

The law includes 9-1-1 response time logs, which, at a minimum, must include the time of calls, location of the emergency, organizations dispatched, when each is dispatched and when they arrive.

Officials can also choose to release more details when it serves the public interest, even if they are not required to do so, as long as no other law or court order requires confidentiality.

It doesn’t matter what the form the document takes. The act says public records include paper documents, letters, maps, books, tapes, photographs, recordings, microfilm and email. The law does not elevate form over content; content will always be the determinative factor.

If a document contains both public information and information that falls under the exceptions, the agency is required to redact the section that isn’t public, but then turn the rest of the document over to the requester.

The Right to Know Law covers existing records only. Agencies are not required to create a new record to cover a request, nor do they have to answer questions, although they can if they choose.

How to File a Request under the Right-to-Know Law

It is important to note at the outset that the Right to Know Law does not require formal, written requests for access. Agencies and requesters can operate informally, and this is often the best course of action when the records being requested are clearly public because it saves time and resources that are expended as part of the formal request process. Not all agencies will agree to answer informal requests, and in those cases, the Right-to-Know Law imposes legal duties on agencies and grants rights to requesters.

In order to pursue rights under the law, requesters must submit a formal, written request for access to the agency’s appointed Right-to-Know Law official. Agencies are required to post their Right-to-Know Law officer’s contact information, including name, address, fax and email address on their website, if

they have one, and at their offices. This information is often inaccurate or missing from agency websites, and it is a best practice to call the agency to confirm Right-to-Know Law contact information prior to submission.

Some agencies have created their own Right-to-Know Law request forms, and the Office of Open Records has created a uniform request form. If an agency has created its own agency-specific Right-to-Know Law request form, requests can be submitted using that form. It is advisable to use the Office of Open Records's uniform request form whenever possible because the law requires all local and commonwealth agencies to accept requests made on this form, even if they have their own agency-specific Right-to-Know Law form. Requests that do not use an agency's or the Office of Open Records's uniform request form could be denied or returned to the requester, causing unnecessary delays.

Written requests must be "sufficiently specific" and ideally, they should include a time frame, party names or document type and subject matter. All three categories are not required in all cases, but denials based on a lack of specificity are less likely when requesters include all three. Requests must also include the name and address to which the agency should address its response. It is also a good idea to include additional information such as a phone number and email address so the agency can contact the requester if the Right-to-Know Law officer has questions about the request. Good communication with an agency can avoid unnecessary delays and denials.

A written request need not include any explanation of the requester's reason for requesting or intended use of the records, and agencies cannot deny requests for refusing to provide this information. Additionally, requests should always indicate the desired format of the records. The Right-to-Know Law requires agencies to provide records in the format requested, if they already exist in that format. If a requester wants records in electronic format, the request must specifically ask for records in electronic format. If a request does not indicate a desired format, agencies often default to providing paper copies, which can result in higher fees than electronic copies.

Right-to-Know Law requests can be submitted in person, via fax, mail, email or other electronic means, such as a Right-to-Know Request portal, if

an agency has a policy allowing for such electronic submission. It is a best practice to submit Right-to-Know Law requests via email directly to the agency's designated Right-to-Know Law officer because the time limits imposed on agencies do not begin to run until the Right-to-Know Law officer actually receives the request. Email removes some of the uncertainty about an agency's internal processing time and provides written evidence of submission in the event an appeal is necessary.

What to Expect from the Agency after a Request is Filed

The Right-to-Know Law requires agencies to respond, in writing, to written requests as promptly as possible, but not exceeding 5 business days. Within that initial timeframe, the agency must either hand over the records, deny the request in whole or in part while giving the reason for the denial, or inform the requestor that it is taking an additional 30 calendar days to determine its response. The agency can take those extra 30 days only in limited circumstances.

If an agency fails to respond, in writing, within 5 business days of the request, the request is deemed denied and the requester has the right to pursue an appeal.

If an agency grants access, the agency will typically provide a fee estimate, make a request for payment and inform the requester how to claim the records.

If an agency denies access, the denial letter must include:

1. A description of the record requested.
2. The specific reasons for the denial, including a citation of supporting legal authority.
3. The typed or printed name, title, business address, business telephone number and signature of the open-records officer on whose authority the denial is issued.
4. Date of the response.
5. The procedure to appeal the denial of access under this act.

The law also allows agencies to claim up to an additional 30 calendar days in the following circumstances:

- The request for access requires redaction of a record in accordance with Section 706.
- The request for access requires the retrieval of a record stored in a remote location;
- A timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations;
- A legal review is necessary to determine whether the record is a record subject to access;
- The requester has not complied with the agency's policies regarding access to records;
- The requester refuses to pay applicable fees; or
- The extent or nature of the request precludes a response within the required time period.

If an agency takes an extension based on one of the extension provisions, it must respond, in writing, and include a statement notifying the requester of the following:

1. that the request for access is being reviewed,
2. the reason for the review,
3. a reasonable date that a response is expected to be provided, and
4. an estimate of applicable fees owed when the record becomes available.

The law allows agencies to take up to 30 calendar days, without permission from the requester, if one of the conditions above exist. Any time in addition to 30 calendar days must be granted by the requester. If a requester agrees to extend the deadline past 30 calendar days, the extension must be in writing to preserve the requester's appeal window. If an agency fails to respond within 30 calendar days or within any agreed-upon additional extension, the request is deemed denied and the requester can pursue an appeal.

Appeals

If an agency does not at least acknowledge receipt

of an open records request within 5 business days, the agency is "deemed" to have denied the request, and the requester can appeal to the Office of Open Records.

Important things to know:

- Do not file an appeal before that time has elapsed; it will be rejected.
- Make sure to file your appeal *no later than* the 15th business day after the mailing date of the agency's response. If you miss the deadline, your appeal will be rejected.
- If an agency claims the 30-day extension in order to respond to a request, do not file an appeal before that 30 days is up; it will be rejected.
- If an agency refuses, in whole or part, to release requested records, the requester can appeal its decision to withhold records.
- Redactions are treated as a denial and can be appealed.
- The Office of Open Records suggests you use its online form. You can also simply write a letter explaining that you are appealing and why.
- Always include a copy of the request itself; a copy of the agency's written response (or a note that you didn't get a response at all); an explanation of why you believe the records are public (cite relevant Office of Open Records decisions and/or case law); and your response to the agency's reasons for denying the request.
- The Office of Open Records officer assigned to the case will notify the parties of the appeal and any instructions for the parties. The appeals officer may invite parties to submit additional material relevant to the appeal.
- The Office of Open Records officer may require an agency to provide records for in camera (confidential) review. You or the agency can also ask the officer to conduct an in-camera review.

- The Office of Open Records appeals officer's decision will be binding but may be appealed to the court of common pleas in the county where the request originated, if the request concerns a county agency. If the request was to a state agency, the appeal goes to Commonwealth Court.
- If an agency has not complied with a court's order to release documents after 30 days, you can ask a court to enforce the order.

Mediation

The Office of Open Records appeals officer may also offer mediation to the parties. Important things to know:

- Both parties must accept mediation in order for the appeal to proceed to mediation.
- An Office of Open Records mediator will conduct mediation sessions. It is expected that the parties will work in good faith toward a solution.
- If a solution is reached, you agree to formally withdraw your open records request, and Office of Open Records will not separately rule on it.
- If a solution is not reached, you retain your appeal rights, and the Office of Open Records will proceed to rule on your appeal.
- Anything created for the mediation process, including discussions and materials, are confidential.

Fees

Requesters can also appeal fees charged by an agency. Important things to know about fees:

- The Office of Open Records has established a fee schedule.
- Agencies may not charge to review a record; for staff time, for redaction; for delivery of records by email, or if a requester wishes to photograph a record.
- Agencies may waive fees.

- Agencies can charge a market-based fee for complex records such as GIS databases. However, such fees must be approved by the Office of Open Records and journalists are exempt from those charges.

Penalties/Attorney's Fees

If an agency is deemed to have denied access to records in bad faith, it can be penalized up to \$1,500, and up to \$500 per day if it does not comply with a court order to make the records available.

A court that hears an appeal can require an agency to pay attorneys' fees if it determines the request was denied in bad faith or because of an unreasonable interpretation of law.

A court that hears an appeal it deems frivolous can require the requester or the agency to pay attorneys' fees.

Exceptions

Pennsylvania's Right-to-Know Law contains exceptions for 30 categories of records.

Many of the exemptions summarized below do not apply to financial records and aggregated data, although an agency may redact portions of those types of records in certain limited circumstances.

A summary of the 30 exceptions, plus representative cases, follows:

1. **LOSS OF FUNDS/PERSONAL SECURITY (65 P.S. §67.708(b)(1)):** Records that, if disclosed, would result in the loss of federal or state funds. Also, records whose release would be reasonably likely to result in a substantial and demonstrable risk of physical harm to a person or to his or her personal security.

Butler Area School District v. Pennsylvanians for Union Reform, 172 A.3d 1173 (Pa. Commw. 2017).

The court ruled that property addresses contained in property tax assessment records were public under 53 Pa. C.S. §8841(d) and case law. These addresses are not sufficiently personal in nature to trigger the home address balancing test under Article I, §1 of the Pennsylvania Constitution, the court decided.

State Employees' Retirement System v. Campbell, 155 A.3d 1153 (Pa. Commw. 2017)

The court ruled that the home addresses of person who made a Right-to-Know request and the addresses of certain retirees are not public unless a balancing test found there was a public benefit served by disclosure that would outweigh the privacy interests of those whose addresses would be revealed.

Pennsylvania State Education Assn. v. Commonwealth of Pennsylvania, Office of Open Records, et al., 148 A.3d 142 (Pa. 2018)

The Pennsylvania Supreme Court held that the Pennsylvania Constitution includes a right to privacy in personal information. The court did not define what constitutes "personal information," but the case dealt with public access to public school employees' home addresses. The court held that when "personal information" is requested, agencies, appeal officers and court must conduct a balancing test that weighs the public interest in disclosure versus the interest in privacy. Access will be granted where the public interest outweighs the interest in privacy.

Carey v. Department of Corrections, 61 A.3d 367 (Pa. Commw. 2013).

Records identifying those who authorized the mass transfer of inmates to Michigan were ruled exempt because prisoners who opposed the transfer could potentially retaliate against DOC officials who nominated inmates for, or authorized, such transfers. As such, release of the requested information posed a substantial and demonstrable risk to personal security.

Governor's Office v. Purcell, 35 A.3d 811 (Pa. Commw 2011)

The court ruled the months and dates of birth of almost 70,000 state employees were exempt because there was a reasonable likelihood of substantial and demonstrable risk to their security due to issues such as identity theft.

Pennsylvania State Troopers Association v. Scolforo, 18 A.3d 435 (Pa. Commw. 2011)

Pennsylvania State Troopers records requested by a reporter were not exempt from disclosure under the personal security exemption because the agency could quell any threat to their safety by redacting their home addresses and the location and scheduling information of their off-duty employment.

Delaware County v. Wheeler, 23 Pa. D&C.5th 173 (Delaware County Court of Common Pleas, 2011)

Personnel records of a police officer were ruled exempt because disclosure of the records would have put the officer at a clear and demonstrable risk to his personal safety.

2. PUBLIC SAFETY (65 P.S. §67.708(b)(2)): Records maintained by an agency in connection with the military, homeland security, national defense, law enforcement or other public safety activity that, if disclosed, would be reasonably likely to jeopardize or threaten homeland security or public safety or preparedness.

Adams v. Pennsylvania State Police, 51 A.3d 322 (Pa. Commw. 2012)

The court ruled the State Police policy regarding the use of confidential informants was exempt because its disclosure would prevent confidential informants from coming forward, substantially alter the police's investigative process and jeopardize the personal safety of many individuals.

Woods v. Office of Open Records, 998 A.2d 665 (Pa. Commw. 2010)

The court ruled that the Office of Open Records properly redacted the "supervision strategies" section of a Pennsylvania Board of Probation and Parole's sex offender manual requested by a sex offender because disclosure could threaten public safety.

3. INFRASTRUCTURE SECURITY (65 P.S. §67.708(b)(3)): Records that, if disclosed, would be reasonably likely to endanger the safety or security of a building, public utility, resource, infrastructure, facility or information storage system.

SEPTA v. Crockett, No. 1375, No. 1708, No. 2148, 2012 Phila. Court of Common Pleas LEXIS 326 (Philadelphia County Court of Common Pleas 2012) (unpublished)

The court opined that maintenance records of a railroad transportation authority were exempt from disclosure because they were reasonably likely to endanger the safety or physical security of the railway system.

Bowling v. Office of Open Records, 990 A.2d 813 (Pa. Commw. 2010), appealed on other grounds and affirmed, 75 A.3d 453 (Pa. 2013)

The names of recipients of goods and services bought by the Pennsylvania Emergency Management Agency with U.S. Department of Homeland Security grant funds are public unless that information endangers public safety or the security of facilities. The court also held that blanket redaction based on generalized assertion of risk is not permitted under the Right-to-Know Law. Agencies are required to justify each redaction. For example, releasing the names of those who received bungee cords does not pose a risk, while knowledge of the location of computer servers could endanger an information storage system.

4. COMPUTER SECURITY (65 P.S. §67.708(b)(4)): Records regarding computer hardware, software and networks that, if disclosed, would be reasonably likely to jeopardize computer security.
5. HEALTH RECORDS (65 P.S. §67.708(b)(5)): Medical, psychiatric, psychological, disability and related records that contain “individually identifiable health information.”

Department of Corrections v. St. Hilaire and ABC 27 News, 128 A.3d 859 (Pa. Commw. 2015)

Records documenting inmate injuries for a specific, limited time period were not exempt because the requester did not seek medical records or any other individually identifiable health information, and any such information could be redacted.

6. PERSONAL IDENTIFICATION (65 P.S. §67.708(b)(6)): Records containing all or part of a person’s Social Security number; driver’s license number, personal financial information; home, cellular or personal telephone numbers; personal e-mail addresses; employee numbers or other confidential personal identification numbers; a spouse’s name, marital status, beneficiary or dependent information. Also, records containing home addresses of law enforcement officers and judges.

Delaware County v. Schaefer, 45 A.3d 1149 (2012)

The Commonwealth Court defined “personal identification” as “information that is unique to a particular individual or which may be used to identify or isolate an individual from the general population. It is information, which is specific to the individual, not shared in common with others; that which makes the individual distinguishable from another.”

Office of Lieutenant Governor v. Mohn, 67 A.3d 123 (Pa. Commw. 2013)

The Lieutenant Governor’s secondary, government-issued e-mail addresses were ruled exempt even though they were used to conduct agency business, as they were personal to the Lieutenant Governor. The requester could request e-mails from that account if they were not otherwise exempt from disclosure.

Allegheny County Department of Administrative Services v. Parsons and WTAE-TV, 61 A.3d 336 (Pa. Commw. 2013)

Dates of birth are not categorically exempt. *But see Purcell*, 35 A.3d 811 (Pa. Commw. 2011) above, under exemption 1.

Office of the Governor v. Raffle, 65 A.3d 1105 (Pa. Commw. 2013), overruled on other grounds by *Pennsylvania State Education Association v. Commonwealth*, 148 A.3d 142 (Pa. 2016)

Government-issued cellular and personal telephone numbers of Pennsylvania Governor’s Office employees were exempt from disclosure. The fact that government business might be discussed over those numbers did not make them any less personal.

Department of Conservation and Natural Resources v. Office of Open Records, 1 A.3d 929 (Pa. Commw. 2010)

Social Security numbers can be redacted from financial records.

7. PERSONNEL RECORDS (65 P.S. §67.708(b)(7)): Letters of reference or recommendation, unless they involve an appointment to fill a vacancy in an elected office or an appointed office that requires confirmation by the State Senate. Also, performance ratings or reviews; academic transcripts; state civil-service test results and certain

local test results; applications of job applicants who are not hired; workplace support services program information; written criticism about a public employee; grievance material, including documents relating to discrimination or sexual harassment; information about discipline, demotion or discharge contained in a personnel file, unless it involves final action by an agency that results in demotion or discharge.

Silver v. Borough of Wilkesburg, 58 A.3d 125 (Pa. Commw. 2012)

Boroughs must release employment termination letters but can redact all information except the termination language itself and language evidencing that the employee was given notice of such termination.

Johnson v. Pennsylvania Convention Center Authority, 49 A.3d 920 (Pa. Commw. 2012)

Agency records relating to disputes between trade unions that supplied services to the agency and a "labor supplier" that cOffice of Open Recordsdinated the activities among the unions were not exempt because they did not relate to the criticism, demotion, discipline, or discharge of any of the agency's employees.

Department of Labor & Industry v. Rudberg, 32 A.3d 877 (Pa. Commw. 2011)

Performance reviews for agency employees are exempt, but reviews of unsuccessful applicants who were private sector employees attempting to move into state government would not be exempt.

Lutz v. City of Philadelphia, 6 A.3d 669 (Pa. Commw. 2010)

Police grievance arbitration awards are public, even if they are in an employee's personnel file, because final arbitration awards and orders are specifically accessible under (b)(8)).

8. COLLECTIVE BARGAINING (65 P.S. §67.708(b)(8)): Records related to collective-bargaining strategy or negotiations and exhibits and transcripts in arbitration cases involving collective-bargaining disputes or grievances. Final or executed collective bargaining contracts or agreements and final arbitration awards and orders are public.

Johnson v. Pennsylvania Convention Center Authority, 49 A.3d 920 (Pa. Commw. 2012)

Grievance materials relating to individual or personal grievances or agency employees are exempt under the personnel record's exemption. However, information pertaining to union or policy type grievances initiated by the union on behalf of workers which involve a grievance over basic contract principles such as seniority or vacation time is public.

9. DRAFTS (65 P.S. §67.708(b)(9)): Drafts of bills, resolutions, regulations, statements of policy, management directives, ordinances and amendments thereto.

Philadelphia Public School Notebook v. School District of Philadelphia, 49 A.3d 445 (Pa. Commw. 2012)

Resolutions a school district presented during a public meeting of a school reform commission were not exempt from disclosure because they were no longer drafts once the school district placed them on the agenda for discussion in a public venue.

10. DELIBERATIONS (65 P.S. §67.708(b)(10)): Records reflecting internal, predecisional deliberations of agencies, such as a budget recommendation, a legislative proposal, legislative amendment, or the strategy used to develop or achieve successful adoption of a budget, legislative proposal or regulation. Written or Internet applications or documents submitted to request Commonwealth funds are public, as are the results of public-opinion surveys, polls, focus groups, marketing research and similar efforts designed to measure public opinion. Also, public are documents presented to a quorum of a public board for deliberation - such as the packets board members routinely receive - so long as they are not otherwise exempt under the law.

Office of the Governor v. Scolforo, 65 A.3d 1095 (Pa. Commw. 2013)

The court ruled that the governor's calendar entries might be exempt from disclosure because "[c]

alendars may contain the topic of the meeting, along with specific points that are to be discussed, or proposed actions, along with a list of the individuals scheduled to attend the meeting.” However, because the affidavit provided by the Governor’s Office fighting the request was conclusory and not detailed, it was insufficient to prove that the entries were exempt from disclosure, and the unredacted calendars were ordered to be disclosed.

Philadelphia Public School Notebook v. School District of Philadelphia, 49 A.3d 445 (Pa. Commw. 2012)

Resolutions presented to a school board are no longer “internal” deliberations once they are presented to the commission for public consideration and comment at its public planning meeting and are therefore not exempt.

Kaplin v. Lower Merion Township, 19 A.3d 1209 (Pa. Commw. 2011)

Correspondence of members of Board of Commissioners relating to particular property prior to a vote on a subdivision application was ruled exempt as deliberative, even where correspondence was between board members and township staff, because it could be construed as predecisional deliberations between agency members and employees of another agency.

11. TRADE SECRETS (65 P.S. §67.708(b)(11)): Records that reveal trade secrets or other confidential proprietary information.

Department of Public Welfare v. Eiseman, 125 A.3d 19 (Pa. 2015)

Rates managed care organizations charged the Department of Public Welfare for services to Medicaid enrollees are public because they qualify as financial records. In addition, the organizations were hired by the department to meet the department’s obligations.

Department of Public Welfare v. Eiseman, 85 A.3d 1117 (Pa. Commw. 2014)

The monthly payments the Department of Public Welfare made per Medicaid enrollee is public because those payments are financial records. In addition, the department did not prove those rates qualified as trade secrets under the Pennsylvania Uniform Trade Secrets Act, 12 Pa. C.S. §5301-5308.

12. WORKING PAPERS (65 P.S. §67.708(b)(12)): Notes and working papers used by a public official or employee strictly for personal use, such as message or routing slips and other non-official materials.

City of Philadelphia v. Philadelphia Inquirer, 52 A.3d 456 (Pa. Commw. 2012)

Daily schedule and calendar of Philadelphia mayor and council members were ruled exempt because they were created solely for the convenience of the mayor’s and council members’ personal use and were not circulated outside of the officials’ office.

13. DONATIONS (65 P.S. §67.708(b)(13)): Records revealing the identity of a person who lawfully makes a donation to an agency, unless the donation is intended to provide remuneration or other personal tangible benefit to a public official or agency employee, including potential donor lists.

East Stroudsburg University Foundation v. Office of Open Records, 995 A.2d 496 (Pa. Commw. 2010)

The Court held that the foundation was performing a government function of the university, that of fundraising, so records relating “directly” to performing fundraising activities for the university (in this case, the list of donors) were subject to disclosure under §506(d)(1) of the Right-to-Know Law. That includes financial information, though donor names could be redacted. Foundation minutes related to the management of funds by the foundation for the university were also subject to disclosure, although other minutes were not.

14. UNPUBLISHED ACADEMIC PAPERS (65 P.S. §67.708(b)(14)): Unpublished lecture notes, manuscripts, articles, creative works in progress, research material and scholarly correspondence related to a community college or state-owned university.

15. ACADEMIC TRANSCRIPTS (65 P.S. §67.708(b)(15)): Academic transcripts; examinations; examination questions, scoring keys and answers to examinations.

16. CRIMINAL INVESTIGATIVE RECORDS (65 P.S. §67.708(b)(16)): Records relating to or resulting in a criminal investigation. (Police blotters, defined in 18 Pa. C.S. §9102, private criminal complaints and traffic reports are public.)

Pennsylvania State Police v. Grove, 161 A.3d 877 (Pa. 2017)

The court ruled motor vehicle recordings or dash cam videos were not automatically exempt from disclosure under the Right-To-Know Law or the Criminal History Record Information Act, 18 Pa. C.S.A. §9101-9183 because they showed only what a bystander would see, and, in this case, information used to issue citations was obtained in conversations, not the video components.

Audio portions were properly redacted because they contained witness interviews, and exempt “investigative information” includes such things as “witness interviews, interrogations, intoxication testing and other investigative work.” Requiring redaction of audio portions of the video did not constitute the improper creation of a “new record” under Section 705 of the Right-to-Know Law. Finally, disclosure of the videos did not violate the Pennsylvania Wiretapping and Electronic Surveillance Control Act, 18 Pa. C.S.A. §5701-5782 as it existed at the time the case was decided. The Wiretap Act was subsequently amended to remove all law enforcement audio and video from the Right-to-Know Law. Requesters seeking access to law enforcement audio or video must comply with the requirements of Act 22 of 2017 which you can review [here](#).

Galloway v. Office of Pennsylvania Attorney General, 63 A.3d 485 (Pa. Commw. 2013)

Information related to the relocation of a particular witness through a witness protection program of a law enforcement agency is exempt from disclosure under (b)(16)(vi)(E).

Commonwealth v. Zloczower, No. 2082 C.D. 2010 (Pa. Commw. 2011) (unpublished)

Arrest records, including lists of filed charges and lists of arrests, are public.

Pennsylvania State Police v. Office of Open Records, 5 A.3d 473 (Pa. Commw. 2010)

An incident report containing notes of interviews

with alleged victims/perpetrators, as well as another witness, and containing checkboxes regarding whether certain investigative tasks had been carried out or whether certain information was discovered, assembled as a result of an investigation into a criminal incident or an allegation of criminal wrongdoing, was not a public record. The court also agreed that the victims’ names and addresses were victim information and, thus, exempt from the definition of a “public record.”

Mitchell v. Office of Open Records, 997 A.2d 1262 (Pa. Commw. 2010)

Pennsylvania State Police records, known as Automated Incident Memo System, or “AIMS,” reports, evidencing arrival and departure times of police officers conducting search warrants were exempt from disclosure.

17. NON-CRIMINAL INVESTIGATIVE RECORDS (65 P.S. §67.708(b)(17)):

Records relating to non-criminal investigations, including complaints submitted to agencies; investigative materials, notes, correspondence and reports; work papers underlying an audit; records including information made confidential by law; and records that reveal the identities of confidential sources. Also, records that, if revealed, would reveal the institution, progress or result of an agency investigation or endanger the life or physical safety of an individual. Records of civil fines or penalties executed settlement agreements not determined to be confidential by a court, and license suspensions, modifications or revocations are public.

Brown v. Pennsylvania Department of State, 123 A.3d 801 (Pa. Commw. 2015)

Letters disclosing the results of the noncriminal investigations of two doctors were ruled exempt because they would reveal the results of an agency’s noncriminal investigation.

Michak v. Department of Public Welfare, 56 A.3d 925 (Pa. Commw. 2012)

License inspection summaries issued by the Department of Public Welfare were not subject to disclosure, as they did not affect or change the certification of day care providers.

Pennsylvania Public Utility Commission v. Gilbert, 40 A.3d 755 (Pa. Commw. 2012)

Records related to underground natural gas pipelines pursuant to inspections/investigations conducted by Public Utility Commission gas safety inspectors under federal law are not subject to disclosure.

Sherry v. Radnor Township School District, 20 A.3d 515 (Pa. Commw. 2011)

Reports relating to Academic Honor Code violations that included violations, a description of the violative conduct, witness/teacher statements, and the course and result of the investigation, are exempt.

Department of Health v. Office of Open Records, 4 A.3d 803 (Pa. Commw. 2010)

Use of the word “noncriminal” in (b)(17) is intended to signal that the exemption is applicable to investigations other than those which are criminal in nature. “Investigation” means a systematic or searching inquiry, a detailed examination, or an official probe. Pennsylvania Department of Health notes, witness statements and other materials regarding the survey of a nursing home fell within the noncriminal investigation exemption and were not subject to disclosure.

Stein v. Plymouth Township, 994 A.2d 1179 (Pa. Commw. 2010)

A property owner’s request for access to names of a complainant that caused Plymouth Township to initiate an enforcement action against him was properly denied, the court ruled.

18. 911 CALLS (65 P.S. §67.708(b)(18)):
Recordings and transcripts of 911 calls, unless an agency or court determines that their release is in the public interest. Time-response logs are public.

County of York v. Office of Open Records, 13 A.3d 594 (Pa. Commw. 2011)

Time response logs are public records to permit evaluation of a county’s response time to 911 calls. Destination addresses or cross-street information are necessary to evaluate information in time response logs and, therefore, should be disclosed in conjunction with time response logs, the court ruled.

19. DNA & RNA (65 P.S. §67.708(b)(19)):
Records containing DNA or RNA information.

20. AUTOPSIES (65 P.S. §67.708(b)(20)):
Contents of autopsy report of coroner or medical examiner, except for the decedent’s name, cause of death and manner of death.

Hearst Television, Inc., d/b/a WGAL-TV v. Norris, 54 A.3d 23 (Pa. 2012)

While the Right-to-Know Law exempts the autopsy report, it is overruled by Section 1251 of the Pennsylvania Coroner’s Act, which states that autopsy reports/manner of death records become available to the public 30 days after the end of the year. Requesters can also receive immediate access under Section 1236.1(c) of the Coroner’s Act upon payment of any fees charged by the coroner. Name, cause and manner of death records are immediately public under the Right-to-Know Law.

21. MINUTES (65 P.S. §67.708(b)(21)):
Draft minutes of any public meeting until the next regularly scheduled meeting of the agency. Any executive session minutes and records of executive session discussions. Note, if an agency makes a recording of a public meeting, that recording is not a “draft minute,” and the recording is immediately public under the Right-to-Know Law. See Office of Open Records Advisory Opinion 2009-003.

22. APPRAISALS & REVIEWS (65 P.S. §67.708(b)(22)):
Records involving real estate appraisals, engineering or feasibility estimates, environmental reviews, audits and evaluations involving a potential agency lease, acquisition or disposal of real property, a construction project or the purchase of public supplies. Exception ends when a final decision is made to proceed with the lease, acquisition or disposal of real property, public supply purchase or construction project.

23. LIBRARY & ARCHIVE USERS (65 P.S. §67.708(b)(23)):
The circulation and order records of an identifiable individual or group of individuals.

24. LIBRARY & MUSEUM DONORS (65 P.S. §67.708(b)(24)):
Library archived and museum materials and rare books

or documents contributed by gift, grant, bequest or devise to the extent imposed as a condition by the donor.

25. ENDANGERED SITES & SPECIES (65 P.S. §67.708(b)(25)): Records identifying the location of an archaeological site, or an endangered plant or animal species not already known to the public.
26. CONTRACT BIDS (65 P.S. §67.708(b)(26)): Proposals for the procurement or disposal of supplies, services or construction before the award of a contract or the opening and rejection of all bids. Also, certain financial information about the bidders. Note that some local government statutes require public access to bid information sooner than the Right-to-Know Law. For example, Section 1901.5 of the Third Class City Code requires bids to be opened publicly and requires the city to create and make available to the public a list identifying bidders and bid amounts.
27. INSURANCE (65 P.S. §67.708(b)(27)): Records of communication between an agency and its insurance carrier, administration service organization or risk management office. (Contracts between agencies and these entities are public, as are financial records relating to the provision of insurance.)
28. SOCIAL SERVICES (65 P.S. §67.708(b)(28)): Records identifying people who apply for or receive social services, or that disclose the type of social services they receive and other personal information. Social services are broadly defined by the Right-to-Know Law to include cash assistance, welfare benefits, medical, mental and other health care services, drug and alcohol treatment, adoption services, vocational services and training, occupational training, education services, counseling services, workers' compensation services and unemployment compensation services, foster care services, services for the elderly, services for individuals with disabilities

and services for victims of crimes and domestic violence.

Department of Human Services v. Union Reform, Inc., 154 A.3d 431 (Pa. Commw. 2017)

Home addresses of all direct care workers were not exempt, as there was no evidence that disclosure of all of the addresses would lead to disclosure of the identity of a particular individual's caregiver. However, the individual's right to privacy in his or her home address must be balanced against the public benefit in the dissemination of that information.

Department of Labor and Industry v. Simpson, 151 A.3d 678 (Pa. Commw. 2016)

Information relating to an individual's application for workers' compensation is exempt from public access.

Housing Authority of City of Pittsburgh v. Van Osdol, 40 A.3d 209 (Pa. Commw. 2012)

Records relating to low-income Section 8 housing were ruled public because they did not reveal the recipients of social services, the tenants; the requester sought only the owners' names.

29. CONSTITUENTS (65 P.S. §67.708(b)(29)): Correspondence between state legislators and their constituents and accompanying records that identify constituents who request assistance or constituent services. Correspondence between lawmakers and principals or lobbyists is public.

30. MINORS (65 P.S. §67.708(b)(30)): Records identifying the name, home address or date of birth of child who is 17 years of age or younger.

Blasi v. Pen Argyl School District, No. 2009-3706 (Northampton County Court of Common Pleas 2009)

Names of students enrolled in classes and names and addresses of the parents or guardians of all children attending school in the school district are exempt from public access under (b)(30).

Significant Court Cases

The Office of Open Records maintains a list of significant Right-to-Know Law cases decided by the Commonwealth and Pennsylvania Supreme Courts. Several cases are highlighted below,

but obviously this list and the Office of Open Records are not exhaustive. Assistance with case law jurisprudence should be sought from a licensed Pennsylvania attorney experienced in public access cases.

Pennsylvania State Education Assn. v. Commonwealth of Pennsylvania, Office of Open Records, et al., 148 A.3d 142 (Pa. 2018)

The Pennsylvania Supreme Court held that the Pennsylvania Constitution includes a right to privacy in personal information. The court did not define what constitutes “personal information,” but the case dealt with public access to public school employees’ home addresses. The court held that when “personal information” is requested, agencies, appeal officers and court must conduct a balancing test that weighs the public interest in disclosure versus the interest in privacy. Access will be granted where the public interest outweighs the interest in privacy.

Bowling v. Office of Open Records, PEMA 75 A.3d 453 (Pa. 2013)

The Pennsylvania Supreme Court holds that the applicable standard of review for courts reviewing administrative appeals from the Office of Open Records and other Right-to-Know Law appeal officers is *de novo*, with no deference required to be given to the lower tribunal.

Bowling v. Office of Open Records, PEMA, 990 A.2d 813 (Pa. Commw. 2010)

The Commonwealth Court held that since the Right-to-Know Law is remedial legislation designed to promote access to official government information in order to prohibit secrets, scrutinize the actions of public officials, and make public officials accountable for their actions, the exemptions from disclosure must be narrowly construed. The court also held that agencies may not use blanket redaction but must make a reasonable effort to differentiate between public and non-public information in records.

Uniontown Newspapers, Inc. v. Pa. Dep’t of Corr., 185 A.3d 1161 (Pa. Commw. Ct. 2015) *Uniontown Newspapers, Inc. v. Pa. Dep’t of Corr.*, 197 A.3d 825 (Pa. Commw. 2018)

The Commonwealth Court fined the Department of Corrections \$1,500, the maximum fine permitted by the Right-to-Know Law, for bad faith under the law. The Commonwealth Court also entered an order requiring the Department of Corrections to pay the

Herald-Standard newspaper attorney’s fees in the amount of \$118,458.37 for bad faith actions under the law, the largest award in Right-to-Know Law history. The case involved repeated delays and failure to provide records related to illnesses among inmates and staff at several state prisons.

Levy v. Senate of Pa., 65 A.3d 361 (Pa. 2013)

The Pennsylvania Supreme Court held that client names and descriptions of services in legal invoices are not *per se* subject to the attorney-client privilege. The records must be evaluated on a case-by-case basis to determine whether a description of services rises to the level of invoking the privilege.

The court in this case also reversed the holding in *Signature Information Solutions v. Aston Twp.*, 995 A.2d 510 (Pa. Commw. 2010), thereby allowing agencies to add grounds for denial in addition to those raised in an initial denial letter. Agencies waive additional grounds for denial not raised in a denial letter or administrative appeal.

Commonwealth Dept. of Environmental Protection v. Cole, 52 A.3d 541 (Pa. Commw. Ct. 2012)

The Commonwealth Court held that pulling requested information from a database is not “creation of a record” under the Right-to-Know Law, and agencies are required to pull data in response to Right-to-Know Law requests.

Commonwealth Dept. of Environmental Protection v. Legere, 50 A.3d 260 (Pa. Commw. Ct. 2012)

The Commonwealth Court held that burden on an agency is not a basis for denial under the Right-to-Know Law. The requester cannot control how an agency stores records and cannot be denied because records are difficult to locate due to an agency’s storage methods and record distribution within the Commonwealth.

Do all Pennsylvania lawyers belong to the Pennsylvania Bar Association?

No. The Pennsylvania Bar Association is a voluntary professional bar association that is separate from the Pennsylvania Supreme Court. Currently, two-thirds of Pennsylvania's lawyers belong to the Pennsylvania Bar Association. In some states, the state bar is overseen by the State Supreme Court and bar membership is mandatory.

What entity in Pennsylvania regulates and monitors lawyers and their actions?

The Pennsylvania Supreme Court regulates all Pennsylvania lawyers through the following boards/commissions: (all board members are appointed by the Supreme Court)

- **Board of Law Examiners:** The board administers the commonwealth's bar examination and reviews admissions applications for all individuals wishing to sit for the bar exam. The board also reviews applications for practicing lawyers in other states who wish to be admitted to the Pennsylvania bar without sitting for the exam.
- **Continuing Legal Education Board:** In 1992, Pennsylvania became the 38th state in the country to institute mandatory continuing legal education (CLE) for lawyers. As such, this board was created to administer and update the CLE rules, monitor lawyers' fulfillment of the requirements and accredit and monitor CLE providers and courses.
- **Disciplinary Board of the Supreme Court:** The Disciplinary Board considers and investigates the conduct of all Pennsylvania lawyers in accordance with the Pennsylvania Rules of Professional Conduct. The Disciplinary Board has the authority to discipline lawyers in the following ways: informal admonition; private reprimand; probation; public censure; suspension; and disbarment.
- **Interest on Lawyers Trust Account Board (IOLTA Board):** The IOLTA Board raises, manages

and distributes funds to provide civil legal services to the poor and disadvantaged of Pennsylvania. It is a mandatory program for Pennsylvania lawyers.

- **Pennsylvania Lawyers Fund for Client Security:** This fund was established in 1982 by the Pennsylvania Supreme Court to help clients recover money and/or property stolen from them by their lawyers. Clients may receive up to \$50,000 for a claim. It is funded through a special assessment fee paid by all lawyers admitted to practice in Pennsylvania.

Where should someone call with a complaint about a lawyer?

The Disciplinary Board at one of the following numbers: if the lawyer practices in Philadelphia County, (215) 560-6296; the rest of eastern Pennsylvania, (610) 650-8210; central Pennsylvania, (717) 772-8572; and western Pennsylvania, (412) 565-3173.

How can someone find out if a lawyer is licensed to practice in Pennsylvania?

Contact the Attorney Registration Office of the Pennsylvania Supreme Court at (717) 231-3380 or visit <http://padisciplinaryboard.org/look-up/pa-attorney-search.php>.

How are judicial complaints handled in Pennsylvania, including judges and district justices?

All judicial complaints are referred to the Judicial Conduct Board. The board is located in Harrisburg at (717) 234-7911 or file a complaint online at <http://judicialconductboardofpa.org/filing-a-complaint/>.

How can someone find out if a lawyer is in good standing in Pennsylvania with no grievances/complaints filed?

Contact the Disciplinary Board at (717) 231-3380 or visit <http://padisciplinaryboard.org/look-up/pa-attorney-search.php>.

Can lawyers belong to a bar association in their communities or counties?

Yes. There are 65 local and county bar associations in Pennsylvania, which operate independently of the Pennsylvania Bar Association.

FREQUENTLY ASKED QUESTIONS

How many law schools are in Pennsylvania and where are they located?

Pennsylvania has nine law schools:

Temple University Beasley School of Law — <http://www.law.temple.edu>

Pennsylvania State University Dickinson Law — <https://dickinsonlaw.psu.edu>

Drexel University Thomas R. Kline School of Law — <http://drexel.edu/law>

Duquesne University School of Law — <http://law.duq.edu>

Penn State University Penn State Law — <https://pennstatelaw.psu.edu/>

University of Pennsylvania Law School — <https://www.law.upenn.edu/>

University of Pittsburgh School of Law — <http://www.law.pitt.edu>

Villanova University Charles Widger School of Law — <http://www1.villanova.edu/villanova/law.html>

Widener University Widener Law Commonwealth — <http://commonwealthlaw.widener.edu/>

PENNSYLVANIA STATE GOVERNMENT AGENCIES

This list includes selected departments, boards, bureaus, councils and offices. The telephone numbers listed are for the organizations' press or main offices. If you would like other telephone numbers than the ones listed below, call (717) 787-2121. The area code for all numbers listed below is (717) unless otherwise indicated.

Administration, Office of 772-4237

308 Capitol Building
Harrisburg 17120
(Governor's Office)

Aging, Dept. of 783-1550

Forum Place, 555 Walnut St., 5th
Floor
Harrisburg 17101

Aging, Pa. Council on 783-1924

Forum Place, 555 Walnut St.
Harrisburg 17101

Agriculture, Dept. of 787-5085

2301 N. Cameron St.
Harrisburg 17110

Drug and Alcohol Programs, Department of 783-8200

(a.k.a Alcohol Abuse,
Governor's Council on Drug
and)

02 Kline Plaza
Harrisburg 17104

Arts, Pa. Council on 787-6883 ext. 3039

216 Finance Bldg.
Harrisburg 17120

Attorney General, Office of 787-5211

16th Floor, Strawberry Square
Harrisburg 17120

Auditor General, Dept. of 787-1381

224 Finance Bldg.
Harrisburg 17120

Banking and Securities, Dept. of 783-4721

Market Square Plaza
17 N. Second Street, Suite 1300
Harrisburg 17101-2290

Budget, Office of the 783-1116

(Governor's Executive Offices)
Harristown 2, 19th Fl.,
333 Market St.
Harrisburg, PA 17101

Civil Service Commission 787-7811

P.O. Box 569
Harrisburg 17108-0569

Claims, Board of 787-3325

200 N. Third St., Suite 700
Harrisburg 17101-1501

Community and Economic Development, Dept. of 783-1132

Commonwealth Keystone Bldg.
400 North St., 4th Floor
Harrisburg 17120

Conservation and Natural Resources, Dept. of 772-9101

Rachel Carson State Office Bldg.
400 Market St., 7th Floor
Harrisburg 17105-8767

Consumer Advocate, Office of 787-5048

(Attorney General's Office)
Forum Place, 5th Fl.
555 Walnut St.
Harrisburg 17120

Consumer Protection, Bureau of 787-5211

(Attorney General's Office)
Strawberry Square, 16th Fl.
Harrisburg 17120

Corporations and Charitable Organizations, Bureau of 783-1621

(Dept. of State)
401 North Street, Room 206,
Harrisburg 17120

Corrections, Depart. of 728-4026

1920 Technology Parkway,
Mechanicsburg 17050

Crime and Delinquency, Pa. Commission on 705-0888

3101 N. Front St.
P.O. Box 1167
Harrisburg 17108-1167

Crime Victim's Compensation Board 783-5153

PCCD Bldg.
3101 N. Front Street
Harrisburg 17109

Criminal Prosecutions Section 787-5211

(Attorney General's Office)
Strawberry Square, 16th Fl.
Harrisburg 17120

Education, Dept. of 783-9802

333 Market St., 10th Fl.
Harrisburg 17126

Emergency Management Agency, Pa. 651-2009

1310 Elmerton Ave.
Harrisburg 17110

Environmental Hearing Board, Pa. (814) 871-2573

Rachel Carson State Office Bldg.
2nd Fl.,
400 Market St.
P.O. Box 8457
Harrisburg 17105-8457

**Environmental Protection,
Dept. of
787-1323**

RCSOB, 400 Market St.
Harrisburg 17105-2063
FAX: 783-8926

**Ethics Commission, State
800-932-0936**

309 Finance Bldg.
P.O. Box 11470
Harrisburg 17108-1470

**Fish and Boat Commission
705-7806**

1601 Elmerton Ave.
P.O. Box 67000
Harrisburg 17106-7000

**Game Commission, Pa.
705-6541**

2001 Elmerton Avenue
Harrisburg 17110-9797

**General Counsel, Office of
787-2551**

(Governor's Office)
333 Market St., 17th Fl.
Harrisburg, PA 17101

**General Services, Depart. of
787-3197**

515 North Office Bldg.
Harrisburg 17125-0001

**Governor's Action Team
783-1132**

Commonwealth Keystone Building
400 North St., 4th Floor
Harrisburg 17120
FAX: 783-1198

**Governor's Office
783-1116**

508 Main Capitol Bldg.
Harrisburg 17120
FAX: 772-8462

**Health, Dept. of
787-1783**

Health and Welfare Bldg.
625 Forster Street, 8th Fl. West,
Harrisburg 17120

**Higher Education Assistance
Agency, Pa. (PHEAA)
720-2509**

1200 N. 7th St.
Harrisburg 17102-1444

**Higher Educational Facilities
Authority
975-2204**

1035 Mumma Rd., Suite 300
Wormleysburg 17043
FAX: 975-2215

**Higher Education, State
System of
720-4054**

Dixon University Center
2986 N. Second Street
Harrisburg 17110

**Homeland Security, Office of
651-2715**

1800 Elmerton Ave.
Harrisburg 17110

**House of Representatives, Pa
Public Information:
Democratic 787-7895
Republican 787-3993**

129 Main Capitol Bldg.
Harrisburg 17120-2020

**Housing Finance Agency, Pa.
780-3916**

211 N. Front St.
P.O. Box 8029
Harrisburg 17105

**Human Relations
Commission, Pa.
783-8266**

Harrisburg Regional Office
333 Market St., 8th Fl.
Harrisburg 17126

**Independent Regulatory
Review Comm.
783-5417**

333 Market St., 14th Fl.,
Harrisburg 17101

**Insurance, Dept. of
787-3289**

1326 Strawberry Square
Harrisburg 17120

**Joint State Government
Commission
787-4397**

108 Finance Bldg.
Harrisburg 17120

**Labor and Industry, Dept. of
787-7530**

Labor & Industry Bldg.
651 Boas St.
Harrisburg 17121

**Labor Law Compliance, Bureau
of
787-7530**

(Dept. of Labor and Industry)
Room 1301, Labor and Industry
Bldg.
Harrisburg 17121

**Labor Relations Board, PA
787-7530**

(Dept. of Labor)
651 Boas St., Room 418
Harrisburg 17121

**Legislative Reference Bureau
787-4223**

641 Main Capitol Bldg.
Harrisburg 17120-0033
FAX: 783-2396

**Lieutenant Governor's Office
787-3300**

200 Main Capitol Bldg.
Harrisburg 17120
FAX: 783-0150

**Liquor Control Board
783-8864**

406 Northwest Office Bldg., Room
515
Harrisburg 17124-0001

**Local Government
Commission
787-7680**

Forum Place, 555 Walnut Street
Harrisburg, PA 17101
Mailing Address: Senate Box
203078, Harrisburg 17120-3078

**Medical Care Availability
and Reduction of Error
Fund (MCARE Fund)
783-3770**

1010 N. 7th St., Suite 201
Harrisburg 17102
Mailing Address: P.O. Box 12030,
Harrisburg 17108

**Military and Veterans Affairs,
Dept. of
861- 8468**

Building P-O-47
Fort Indiantown Gap
Annville 17003-5002

**Milk Marketing Board
787-4194**

2301 N. Cameron St.
Agriculture Bldg., Room 110
Harrisburg 17110

**Municipal Retirement System,
Pa. 800-622-7968**

1721 North Front St.
Harrisburg 17102
Mailing Address: P.O. Box 1165
Harrisburg 17108-1165

**Pardons, Board of
787-2596**

15th Fl., 333 Market St.
Harrisburg 17126-0333

**Pennvest (Pennsylvania
Infrastructure Investment
Authority)
783-6798**

434 Forum Building
607 South Dr.
Harrisburg 17120

**Probation and Parole, Board
of
231-4411**

1130 Herr St.
Harrisburg 17103

**Professional and
Occupational Affairs, Bureau
of
787-8503**

(Dept. of State)
P.O. Box 2649
Harrisburg 17105

**Public School Building
Authority
975-2200**

1035 Mumma Road, Suite 300
Wormleysburg 17043

**Public School Employees'
Retirement System
720-4734**

5 N. 5th Street,
Harrisburg 17101

**Public Utility Commission
787-5722**

Commonwealth Keystone Bldg.
P.O. Box 3265
Harrisburg 17105-3265

**Human Services, Dept. of
425-7606**

P.O. Box 2675
Harrisburg 17105

**Revenue, Dept. of
787-6960**

10th Fl., Strawberry Sq.
Harrisburg 17128

**Securities Commission, Pa
787-8061**

1109 State Office Bldg., Broad &
Spring Garden Sts.
Philadelphia 19130
Eastgate Bldg., 2nd Fl.,

1010 N. 7th St.
Harrisburg 17102-1410

Senate, Pa.

Main Capitol Bldg.,
Harrisburg 17120-0029

**Communications Officer 787-
6725**

Press Offices:

Majority 787-6725

Minority 787-5166

**State, Dept. of
783-1621**

302 North Office Bldg.
Harrisburg 17120-0029

**State Police, Pa.
783-5556**

Department Headquarters, 3rd Fl.
1800 Elmerton Ave.
Harrisburg 17110

**Transportation, Dept. of
787-0485**

1101 South Front St.
Harrisburg 17104

**Treasury Department
Senior Advisor to the State
Treasurer
787-2991**

**State Treasurer
787-2465**

**Communications Office
787-2991
129**

Finance Bldg.
Harrisburg 17120

**Turnpike Commission, Pa.
939-9551 ext. 7540,
or use ext. 4644 after 4:30
p.m.**

700 S. Eisenhower Blvd.
Middletown 17057
Mailing Address: P.O. Box 67676,
Harrisburg 17106-7676

**Vital Records, Div. of
(724) 656-3100**

(Dept. of Health)
101 South Mercer Street
P.O. Box 1528
New Castle 16103

**Workers' Compensation,
Bureau of
787-7530**

(Dept. of Labor & Industry)
651 Boas St.
Harrisburg 17121

**Workers' Compensation
Appeal Board
787-7840**

Capitol Associates Bldg., 3rd Floor
901 N. Seventh St.
Harrisburg 17102

LEGAL TERMS

A

- **Abstract of Record** - A complete history in short. An abbreviated form of the case as found in the court record.
- **Abstract of Title** - An abbreviated chronological history of the ownership of a parcel of land.
- **Abuse of Process** - The improper use by any party of legal proceedings for the sole purpose of forcing another party to yield to its demands.
- **Acceleration Clause** - A clause in a contract which states that if interest or an installment is not paid timely, the entire debt becomes payable immediately.
- **Accessory** - In criminal law, a person who assists another in the commission of a crime, either before or after the fact. In zoning law, a use of real property that is not its primary use.
- **Acknowledgment** - A sworn declaration by a person before an official, such as a notary public, that he or she executed a legal document or that such a document is genuine.
- **Acquit** - To release from an obligation or liability. In criminal law, to pronounce «not guilty.»
- **Action in Persona** - An action against a person or other entity, founded on a personal liability.
- **Action in Rem** - An action involving rights or interests in a specific object, usually an item of personal property.
- **Ad Hoc** - «For this.» Most frequently used to refer to a person, committee or other body that has been commissioned to serve a single or sole function. Also, used to refer to decisions that are made on a case-by-case basis.
- **Adjudication** - Giving or pronouncing a judgment or decree. It is also the judgment given. In juvenile court, it refers to a hearing determining a juvenile's guilt or innocence.
- **Administrator/Trix** - In estate law, a person appointed by the court to settle the estate of a deceased person. Administrators are appointed when there is no will, or when there is a will but the named executor/trix has died, resigned, or is otherwise unable to serve in the appointed capacity. Duties of an administrator/trix are similar to those of an executor/trix.
- **Admission** - A written or oral statement by an individual that certain facts are true.
- **Adversary System** - The system of trial practice in which each opposing party has a full opportunity to present and establish opposing contentions before the court.
- **Adverse Possession** - A method of acquiring title to land by possessing the land for a certain period of time and under certain conditions, whereby ownership is vested in an individual who has neither deed nor other written evidence of ownership of the real estate.
- **Affidavit** - A written statement of facts sworn to by the person making the statement.
- **Affirmative Defense** - A defense in which the facts are peculiarly within the defendant's own knowledge, and for which the defendant is required to produce the supporting evidence.
- **Agent** - Someone who acts for another who is commonly referred to as the principal. Under the rule of respondent superior, a principal may be held liable for the wrongful acts or omissions of his or her agents.
- **Alimony** - Financial support that one spouse pays to the other spouse after a divorce decree has been entered.
- **Alimony Pendente Lite** - Alimony paid to a party in a divorce prior to a divorce decree being entered.
- **Allegation** - The declaration made in a pleading that presents what the party expects to prove.
- **Allocatur** - «It is allowed.» A petition for allowance of appeal to the Pennsylvania Supreme Court that requests that the court grant allocatur, which is the Supreme Court's exercising its discretion to hear a case.
- **Amendment** - A modification, addition or change of the law. Also, the correction or

alteration of a matter in a pending legal proceeding.

- **Amicus Curiae** - «A friend of the Court.» It can refer to an attorney who volunteers information on some matter of law that the court is considering, or to a person not directly involved in a lawsuit who is permitted to introduce evidence or arguments to protect his interests. An amicus curiae brief is one submitted by a non-party to a case to aid the court in gaining information or to urge a particular result on behalf of the public or a private third party who would be indirectly affected by the resolution of the dispute.
- **Amortization** - The payment of a debt by installments; usually refers to the allocation of installment debt payments between principal and interest.
- **Ancillary Bill or Suit** - A bill or suit growing out of or auxiliary to another action or suit.
- **Ancillary Jurisdiction** - In federal courts, the court's taking jurisdiction over a case because it is related to a pending federal case.
- **Annulment** - A court's voiding of a marriage due to conditions that existed prior to the marriage that would have prevented a valid marriage from being entered into between the parties.
- **Answer** - A pleading by which a defendant responds to a plaintiff's allegations of law and fact.
- **Ante in Legal Writing** - Abbreviation that refers the reader to a latter portion of the legal writing.
- **Appeal** - A procedure in which a party seeks to have a higher court reverse or modify a judgment or final order of a lower court or administrative agency. Appeals generally must be made on the grounds that the lower court misinterpreted or misapplied the law or that it made incorrect or unsupported findings of fact.
- **Appearance** - A filing made by an attorney notifying the court of his or her representation of a party.
- **Appellant** - The party appealing a decision or a judgment to a higher court.
- **Appellate Court** - A court having jurisdiction of appeal and review;

compare «Trial Court.»

- **Appellee** - The party who has not filed an appeal from a lower court's decision, but against whom an appeal was taken.
- **Arraignment** - In criminal law, the proceeding in which an accused is brought before the court to answer to a criminal charge. At an «arraignment,» a defendant pleads guilty or not guilty, and the arraignment initiates the running of time periods relevant to the prosecution and defense of a criminal case. *See also "Preliminary Arraignment."*
- **Arrest of Judgment** - A court's order that prevents execution on a previously issued judgment, either in civil or criminal law.
- **Assault** - An attempt, with unlawful force or threat of force, to inflict bodily injury upon another, accompanied by the apparent present ability on the part of the actor to inflict the injury.
- **Assumpsit** - «He promised.» It refers to a promise or agreement, written or oral that has not been sworn to under seal. Under previous Pennsylvania law, it referred to a suit to recover damages from a party because of a breach of contract.
- **Assumption of the Risk** - In tort law, an affirmative defense in a personal injury suit. The defense is available when a plaintiff voluntarily encounters a known risk, and that risk causes the plaintiff injury.
- **At Issue** - A point of fact or law disputed between parties. The term is often used by the court to introduce a disputed point.
- **Attachment** - The act of taking, apprehending or seizing persons or property by a writ, summons or order to bring a person or property into legal custody. It's used to bring a person to court, acquire jurisdiction over seized property, compel appearances, furnish securities for debt or costs and to seize a fund in the hands of a third person.
- **Attorney of Record** - An attorney who has entered his or her appearance for a party in the permanent records or files of the court.

B

- **Bail** - The amount of security required to affect the release of a person arrested or imprisoned and to ensure his or her court appearance at a specified time and place.
- **Bail Bond** - A signed obligation in which a surety assures the presence of a criminal defendant at future court appearances.
- **Bailiff** - A court attendant whose duties include keeping order in the courtroom and having custody of a jury.
- **Bankruptcy** - The condition of owing more debts than the amount of assets owned. Bankruptcy courts are federal courts and have jurisdiction over bankruptcy filings made by individuals, partnerships, corporations or any other recognized entity.
- **Bar** - The part of a courtroom, enclosed by a railing, where the judges and lawyers sit. Also, the term denotes the collective members of the legal profession.
- **Bar Examination** - A test administered to law school graduates to determine whether they possess the knowledge and qualification necessary to practice law in a jurisdiction. To obtain a license to practice law, an individual must successfully pass a bar examination.
- **Battery** - The use of physical force against another. It also refers to any physical contact to which an individual has not consented.
- **Bench** - The judge or judges of a court, and the court itself. It also is the physical location where a judge sits.
- **Bench Warrant** - A warrant issued by the court for the attachment or arrest of a person.
- **Best Evidence Rule** - The rule of evidence which states that only the most authoritative and original evidence shall be admitted in a hearing or trial.
- **Bill of Particulars** - A criminal defendant's filing with the court, requesting that the prosecution provide more detailed facts than were contained in a Criminal Information.
- **Binding Instruction** - An instruction to a jury that if it finds certain conditions to be true, then it must find for a particular party.
- **Bind Over** - To hold for trial or for further inquiry. It usually refers to the action of a district justice or municipal court, in which an accused is held for trial in a criminal case following a preliminary hearing.
- **Brief** - A written or printed document that is prepared by counsel and filed in court that sets forth the facts and law in support of a party's position.
- **Burden of Production** - The requirement of a party to produce at least some facts to support his or her position at a trial or hearing.
- **Burden of Proof** - The duty of a party to prove facts in dispute. Depending upon the issue being litigated, the burden of proof may be on the plaintiff or defendant in a civil case. In a criminal case, the burden of proof almost is always on the prosecution. Burden of proof varies between different types of cases and may be by the «preponderance of the evidence,» «clear and convincing» or «beyond a reasonable doubt.»
- **Burglary** - Breaking into and entering a building or structure with the intent to commit a felony therein.

C

- **Caption** - The heading on a pleading that shows the name of the court, the name of the parties and the docket number of the case, as well as other pertinent information.
- **Cause of Action** - A claim that is sufficient enough in law and fact to submit to a court for disposition.
- **Certificate of Title** - A document, usually bearing the seal of a government authority, evidencing ownership of a particular piece of personal property.
- **Certiorari** - An original writ commanding a public officer to certify or return records of proceedings for judicial review. The writ is often used as a means of gaining appellate review. In the United States Supreme Court and the Pennsylvania Supreme Court, the writ is discretionary with the court, such that in most cases both courts decide which cases they will

- hear and which cases they will not hear.
- **Challenge to the Array** - Questioning the qualifications of an entire jury panel, usually on the grounds of partiality or some fault in the summoning process. More recently, the challenge often is used by criminal defendants to question the appropriateness of peremptory strikes used by a prosecutor.
 - **Challenge for Cause** - A challenge to a prospective juror's ability to sit as a juror in a particular case as a result of the prospective juror's bias, prejudice or other circumstance that would prevent the juror from being able to deliberate fairly and impartially.
 - **Change of Venire** - The summoning, selecting and impaneling of a jury from a county other than the one in which a trial is held. Venire may be changed by the court when it determines that a fair and impartial trial cannot be had in the county where the case is pending, usually because of extensive pretrial publicity.
 - **Change of Venue** - The transfer of a suit from one county to another county, or from one court to another court in the same county or district.
 - **Charge** - The judge's instructions to the jury detailing the law relevant to a case, and how the law must be applied. The charge always is given immediately before the jury retires to deliberate. The term also is often used to refer to an accusation made in a criminal case.
 - **Chattel** - An item of tangible personal property.
 - **Circuit Court** - A court that has jurisdiction over various counties or districts.
 - **Circumstantial Evidence** - All evidence of an indirect nature. Facts that the court or jury may determine to be true from known circumstances, or that are established by inference.
 - **Citation to Legal Authority** - Reference to a statute, code, regulation, court decision or constitutional provision to support a statement of the law. It also refers to a quotation from a body of law.
 - **Civil Action** - A lawsuit between parties in which a party or parties allege that another party or parties committed a wrongful act, resulting in a loss to the other party or parties.
 - **Clerk of Courts** - The officer who generally acts as the administrative agent of the Court of Common Pleas in criminal matters. The clerk of courts' responsibilities include, but are not limited to, accepting filings in criminal cases, recording orders of court in criminal matters and calculating sentences imposed in criminal matters.
 - **Code** - A collection or compendium of laws systematically arranged and promulgated by legislative authority.
 - **Codicil** - A supplement or addition to a will.
 - **Collateral Estoppel** - Commonly referred to as «issue preclusion.» When a court renders a decision in a case based upon its disposition of certain issues, those same issues cannot be re-litigated in another case in which a party to the previous case, who litigated or had the opportunity to litigate the decided issues, participated.
 - **Commit** - To order that a person be institutionalized - in the case of an adult criminal defendant, to a prison; in the case of a juvenile defendant, to a juvenile detention center, or some other secure juvenile facility; in the case of an individual who is committed under the mental health act, to a mental institution.
 - **Common Law** - Law based on judicial precedent, rather than on legislative enactments.
 - **Common Law Marriage** - A marriage between two people without a ceremony, but in which the parties consider themselves married and hold themselves out to the public as married.
 - **Commutation** - Reduction of a criminal defendant's sentence, most often referring to changing punishment from a death sentence to life imprisonment.
 - **Comparative Negligence** - The reduction in a plaintiff's recovery by the percentage amount of negligence that the plaintiff committed in causing his or her injuries. A plaintiff in Pennsylvania may recover, despite his or her own

negligence, if his or her negligence was less than fifty percent of the cause of the injuries. The term also refers to the allocation of percentages of negligence between multiple defendants.

- **Compensatory Damages** - Damages recoverable in a civil action to compensate a plaintiff for losses or damages incurred as a result of the acts of another. The purpose of compensatory damages is to place the plaintiff in the position that he or she would have been in if the incident giving rise to the civil action had not occurred. Examples of compensatory damages are economic damages, such as lost wages and medical bills, and non-economic damages, such as pain, suffering and disfigurement.
- **Competency** - A witness possessing the necessary qualifications to render the witness legally fit to testify.
- **Complainant** - Synonymous with «plaintiff.»
- **Complaint** - The first or initial pleading filed by a plaintiff in a civil lawsuit. Also refers to the written document detailing criminal charges filed against a criminal defendant.
- **Concurrent Sentences** - Sentences for more than one crime, in which the sentences for the crimes are served simultaneously, rather than successively. *See also* “*Consecutive Sentences*.”
- **Condemnation** - The legal process by which private real estate is appropriated for public use without the owner’s consent, but for which the owner is paid just compensation by the public body for such appropriation.
- **Consecutive Sentences** - Sentences for more than one crime, in which a criminal defendant must complete one sentence before beginning to serve a second or subsequent sentence. *See also* “*Concurrent Sentences*.”
- **Consent Decree** - An agreement of parties to a lawsuit, based upon stipulated facts, which is sanctioned by the court. It also is used to refer to a disposition of criminal charges under the Pennsylvania Juvenile Act, whereby a juvenile admits to participation in criminal activity, but does not obtain a record of conviction.
- **Consideration** - A promise in a contract whereby a party agrees to convey to another party some benefit or to forgo an existing liability.
- **Contempt of Court** - An intentional act designed to obstruct a court’s administration of justice. Direct contempt is committed in the immediate presence of the court. Indirect contempt is the failure or refusal to obey lawful court orders.
- **Contingent Fee** - An attorney’s fee calculated as a percentage of recovery made on behalf of a client.
- **Continuance** - A postponement granted by the court. A continuance may be granted by the court at the request of either or both parties or may be made by the court on its own motion.
- **Contract** - An enforceable oral or written agreement between two or more parties.
- **Contributory Negligence** - The concept that a plaintiff, who sues a defendant on a basis of negligence, is not entitled to recover any damages if he or she committed an act of negligence that contributed to the injury suffered. Contributory negligence has been abandoned in Pennsylvania to the extent that it would completely preclude a plaintiff’s recovery if the plaintiff is determined to have been in any way causally negligent. *See also* “*Comparative Negligence*.”
- **Controlled Substance** - A substance identified in Pennsylvania’s Drug, Device and Cosmetic Act, whose distribution either is controlled by government regulation or is prohibited under the law. The term refers to legal prescription medications and to illegal drugs, such as marijuana, cocaine, heroin and other prohibited substances.
- **Conversion** - The improper use or possession of the personal property of another, or the destruction of another’s personal property.
- **Corpus Delicti** - Objective proof that a crime has been committed, for example, the

corpse of a murdered person or the charred remains of a burned house.

- **Corroborating Evidence** - Evidence tending to strengthen or confirm evidence previously introduced.
- **Costs** - Expenses in prosecuting or defending a suit, usually not including attorney's fees. «Record costs» always may be recovered by the prevailing party in a lawsuit. Additionally, the prevailing party may file a «bill of costs,» which, depending upon local or statewide rule, may entitle the prevailing party to recover certain enumerated costs from the other party.
- **Counterclaim** - A demand made by the defendant against the plaintiff after the plaintiff has instituted a suit against the defendant. A counterclaim neither answers nor denies the plaintiff's claim, but rather asserts an independent claim against the plaintiff arising out of the same incidents or transactions that gave rise to the plaintiff's original claim.
- **Court of Common Pleas** - Under the Pennsylvania Constitution, the county courts. The trial courts are of original and general jurisdiction.
- **Court Reporter** - A person who transcribes testimony during court proceedings, depositions or other proceedings authorized by a court or rule of court.
- **Courts of Record** - Courts whose proceedings are permanently recorded, and which have the power to fine or imprison individuals for contempt. Courts not of record are those of lesser authority and usually refer to district courts or municipal courts. *See also "Pennsylvania Court System."*
- **Criminal Information** - The formal document prepared by a district attorney charging a criminal defendant with specific crimes. A criminal defendant enters a plea to a criminal information by signing the information, indicating his plea.
- **Criminal Insanity** - Mental illness that absolves a defendant of criminal responsibility. Basically stated, a defendant is not criminally culpable if, as

a result of a diagnosed mental illness, he or she is unable to appreciate the wrongness of the acts.

- **Crossclaim** - A claim by one defendant against another defendant. It can refer to independent claims between defendants arising out of the same incident or transaction that gave rise to the plaintiff's suit against a defendant. It often refers to a claim that another defendant is liable to the plaintiff or is responsible to indemnify another defendant.
- **Cross Examination** - The questioning of a witness in a legal proceeding by a party that has not called the witness as his or her witness.

D

- **Damages** - Compensation that one party may recover from another party when he or she has suffered a loss, detriment or injury to person or property, or a violation of rights through the unlawful acts or omissions of another.
- **De Facto** - «In fact.» It describes a state of affairs or a set of circumstances that exist in reality, though perhaps not officially. A matter of conduct that is founded not upon law, but upon the conduct or practice of a person, organization or government agency.
- **De Jure** - «By right.» A state of affairs established or functioning in explicit and overt accordance with the requirements of the law.
- **De Minimis** - Something that is so minimal or small that it does not justify relief from a court.
- **De Novo** - «New.» Often refers to a «trial de novo» in which a second trial is held on the same matter as if it had not been previously heard. No preceding value is placed upon the first trial when there is a subsequent trial de novo.
- **Dead Man's Rule** - A complex and long-standing rule of law that states generally that one party may not testify at a trial or hearing about transactions or occurrences with a deceased party while the deceased party was alive. Exceptions to this general rule abound.
- **Decedent** - An individual who has died.
- **Declaratory Judgment** - A judgment that states the rights of parties or expresses the

opinion of the court on a disputed question of law, without ordering that damages be awarded or any penalty be paid.

- **Decree** - A decision or order of the court. A final decree is one that fully and finally disposes of litigation. An interlocutory decree is a provisional or preliminary decree that does not fully and finally dispose of litigation.
- **Deed** - A formal written document or instrument used to convey title to real property from one individual or entity to another.
- **Defamation** - The publication of false, derogatory statements about another. Verbal statements constitute «slander.» Written statements constitute «libel.»
- **Default** - Generally, a defendant's failure to file a pleading within the time allowed or to appear at a hearing or trial. In contract law, it also is the failure of a party to perform a duty imposed by a contract.
- **Defendant** - The party against whom a civil action or a criminal information is filed.
- **Demurrer** - A formal statement made by a defendant that the allegations stated in a complaint, even if admitted, are not legally sufficient to constitute a cause of action.
- **Deposition** - The testimony of a witness that is not taken in open court, but rather is taken under oath in the presence of a court reporter.
- **Detainer** - A written notice served by a governing authority on a governing authority that is maintaining custody of a criminal defendant, indicating that it intends to take custody of the defendant immediately upon his or her becoming available from the custodial authority.
- **Devise** - A gift of real property made in a will.
- **Direct Evidence** - Proof of facts by the introduction of objects, documents, tangible evidence and witnesses who have direct sensory perception of facts. Distinguishable from circumstantial evidence, which is indirect and requires inferences to prove facts.
- **Direct Examination** - The interrogation of a witness by the party on whose behalf

the witness is called.

- **Directed Verdict** - An instruction by a judge to a jury that it must return a specific verdict.
- **Disbarment** - Action taken by a court revoking an attorney's license to practice law.
- **Discovery** - The process used by parties to court cases by which one party obtains information and facts known or possessed by the other party or by witnesses. Discovery includes, but is not limited to, interrogatories, requests for production of documents, depositions and requests for admissions.
- **Dismissal with Prejudice** - The ending of a lawsuit in which the plaintiff is prohibited from suing again on the same cause of action.
- **Dismissal without Prejudice** - The ending of a lawsuit in which the plaintiff retains the right to sue again on the same cause of action.
- **Dissent** - The disagreement of one or more judges of a court with the decision of the majority of the court. In written court opinions, it is referred to as a "dissenting opinion."
- **Distraint** - A landlord's retention of property of a tenant as security or compensation for unpaid rent or charges under a lease.
- **Dissolution** - The process by which a corporation, partnership or other legal entity is legally ended.
- **Divorce** - Refers generally to the severance of the bonds of matrimony between husband and wife.
- **Docket** - The court's formal record of a legal proceeding.
- **Domicile** - The location of a person's permanent home, which is intended to be his or her permanent residence. Someone may have several residences, but only may have one domicile.
- **Double Jeopardy** - A prohibition in common law and constitutional law that prohibits an individual from being prosecuted or placed in jeopardy twice for the same crime.
- **Duces Tecum** - «Under penalty you shall take it with you.» Applied to a subpoena

or writ, a duces tecum orders the person upon whom it is served to bring specified documents or tangible evidence to court.

- **Due Process** - Generally speaking, the right of individuals to have notice of legal proceedings and a fair opportunity to be heard.

E

- **Easement** - The right to use the land of another for a specific purpose. The term most frequently refers to the right of passage over another's land, but also refers to other rights to use another's property.
- **Element** - A specific item of factual proof that must be satisfied to prove a claim in a civil case or a criminal act in a criminal case.
- **Embezzlement** - The fraudulent misappropriation of money entrusted to another.
- **Emancipation** - The time when a child under the age of 18 becomes legally free from parental control, and at which point a parent's obligation for support, care and maintenance of a child ends. It may occur when a child under 18 years of age becomes married or self-supporting.
- **Eminent Domain** - The power of a government body to appropriate private property for public use through condemnation proceedings in which the owner of the private property is compensated by the government for the appropriation.
- **En Banc** - Depending upon the particular court, en banc indicates a hearing or argument before all of the judges, or a panel of judges, of the court sitting together.
- **Encumbrance** - A charge or claim levied on property, such as a mortgage, lien or assessment.
- **Enjoin** - To prohibit a person or entity, by injunction, from performing some act.
- **Entity** - A legally identifiable being with specific legal rights, such as an individual, partnership, corporation or governmental body, which may be held legally liable.
- **Entrapment** - The use by law enforcement of acts that induce a person to commit a crime that the person would not otherwise have committed, except for the provocations of law enforcement.
- **Equity** - The side of the court that hears and decides cases based upon general unwritten rules of fairness, not upon specific legal rules.
- **Equity Courts** - Courts that award nonmonetary remedies according to a system of equity, as opposed to courts of law that award monetary remedies.
- **Escheat** - The right of the state to acquire the assets of an estate to which no one is able to make a valid claim. The process rarely is invoked.
- **Escrow** - An agreement whereby a writing, deed, money or security is placed in the custody of a third person until the occurrence of a specified contingency, performance of a specified condition or receipt of a specified notice authorizing release.
- **Escrow Agent** - The individual with whom a writing, deed, money or security is placed, pending the occurrence of a specified contingency.
- **Estate** - All property owned by a person, both real and personal, as well as property rights and rights in an action, and includes all of the liabilities of an individual. Most often used to refer to the holdings of a personal representative of someone who has died, but also may refer to the holdings of a guardian holding property for the benefit of a minor or an incapacitated person. *See also "Marital Estate."*
- **Estoppel** - A person's legally determined inability to deny facts as the result of previous acts, failures to act or acceptance of facts that were relied upon by another party.
- **Et al.** - An abbreviation meaning «and others.»
- **Et seq.** - An abbreviation meaning «and the following.»
- **Et ux.** - An abbreviation meaning «and wife.» Usually used in real estate transactions when a grantor's or grantee's wife joins in a conveyance.
- **Evidence** - Anything tending to prove or disprove a disputed fact. Evidence may be classified as follows:

- *Testimony* - oral statements made in court;
- *Tangible Evidence* - Things or objects that have physical existence;
- *Documentary Evidence* - Includes letters, memoranda, reports or other writings; and
- *Demonstrative Evidence* - A procedure or recreation, where the cause and effect of an event are shown or acted out. See also “Circumstantial Evidence,” “Direct Evidence,” “Rules of Evidence” and “Parol Evidence.”
- **Ex Contractu** - Rights and causes of action arising from a contract.
- **Ex Delicto** - Rights and causes of action arising from a tort.
- **Ex Parte** - Acts done on behalf of or on the application of one party without the knowledge of another party or without another party being given the opportunity to participate. Ex parte communications between a party and a court are frowned upon and avoided whenever possible.
- **Ex Post Facto** - «After the fact.» An act or fact occurring after a previous act or fact and relating to it. Most often refers to an ex post facto law, which would make a crime greater in magnitude when prosecuted, than when the crime was committed -- or a punishment more severe than it was at the time when the act was committed. Ex post facto laws are unconstitutional under the United States Constitution and the Pennsylvania Constitution.
- **Exception** - A formal objection to the court's refusal of a request or overruling of an objection. It also is used to refer to a request by a party to a court, asserting that an appointed master has made errors in its determination of issues before it.
- **Exclusionary Rule** - A rule prohibiting the use in criminal prosecutions of evidence determined to have been obtained illegally, such as the suppression of a defendant's statements made to authorities without having been provided the appropriate Miranda warnings.
- **Execute** - To sign a document. It also refers to a creditor's selling of a debtor's property through a Sheriff or Constable to satisfy a judgment.
- **Execution** - Often used to refer to the imposition of capital punishment; that is, the killing of a criminal defendant for having committed first degree murder. It also refers to an individual's signing of a document.
- **Executor/trix** - A person named by the decedent in a will to effectuate the testamentary intent of the will. The executor/trix is responsible for collecting the assets of the decedent, paying all outstanding liabilities of the decedent and ensuring that the beneficiaries of the will receive the property to which the beneficiaries are entitled under the will.
- **Exhibit** - A paper, document or tangible article introduced as evidence at a hearing or trial and exhibited to the court and jury during a trial or hearing.
- **Expert Testimony** - Testimony usually consisting of opinion evidence given on a scientific, technical or professional matter by persons qualified to speak authoritatively because of special training, skill, experience or familiarity about a subject.
- **Extradition** - The surrender of an accused or convicted criminal by a custodial jurisdiction to another jurisdiction outside of its own territory and within the other jurisdiction's territory.

E

- **Fair Comment** - In libel law, a statement made by a writer in the honest belief of its truth, even though the statement is not true.
- **False Arrest** - The unlawful deprivation of another's liberty.

- **False Pretenses** - Intentional misrepresentation of existing fact to obtain another's property.
- **Fee Simple** - Absolute and perpetual ownership of real property.
- **Felony** - A more serious crime than a misdemeanor, a felony often is punishable by imprisonment in a penitentiary. Felonies are graded as first, second and third degree, with first degree felonies being the most severe.
- **Fiduciary** - A person standing in special trust, confidence or responsibility in obligations to others. For example, the executor of an estate, the director of a corporation or the trustee of a trust stand in a fiduciary capacity, whose obligations are defined by law in a fiduciary code.
- **Foreclosure** - A legal proceeding to enforce payment of a debt through the sale of property upon which a creditor holds a lien.
- **Forfeit** - To lose or to be forced to give up property, a right or a privilege, as a result of misconduct or negligence.
- **Forgery** - Intentionally falsifying or altering a writing that affects legal rights or responsibilities, with the intent to defraud.
- **Forum Non Conveniens** - A determination that, for practical reasons such as the absence of material witnesses or evidence from a jurisdiction in which a case is originally filed, a case should be transferred from the jurisdiction in which it was filed to another jurisdiction where trial of the case would be more convenient for the parties and the hearing court.
- **Fraud** - An intentional misrepresentation designed to deprive another of property or rights, or to inflict injury in some manner.
- **Full Tort** - A selection currently available in Pennsylvania motor vehicle insurance policies that gives an insured the right to make claims and file suit for injuries that are not serious. *See contra, "Limited Tort."*

G

- **Garnishment** - A statutory proceeding in which a creditor obtains a debtor's

property or money, which is in the possession or control of a third party, to apply to the debts of the debtor.

- **Garnishee** - The person on whom a garnishment is served, such as a financial institution holding a bank account.
- **General Assignment** - A voluntary transfer by a debtor of all property to a trustee for the benefit of all creditors. General assignments generally have been eliminated in favor of formal bankruptcy proceedings.
- **Gagnon Hearing** - Generally refers to hearings held when a criminal defendant on probation or parole is alleged to have violated the terms and conditions of his or her probation or parole. The hearing may result in the criminal defendant's having such probation or parole revoked.
- **Gift** - The transfer of ownership from one person or entity to another for no consideration.
- **Grantee** - The person or entity to whom property is conveyed.
- **Grand Jury** - A jury whose duty is to receive complaints and accusations in criminal cases and to hear the evidence and issue indictments in cases where it believes that a trial should take place.
- **Grantor** - The person or entity who conveys property to another.
- **Guardian Ad Litem** - An attorney appointed by the court to represent the interests or potential interests of a minor or an incapacitated person in a pending court proceeding.
- **Guardian of the Estate** - A person appointed by the court to represent the interests or potential interests of a minor or an incapacitated person concerning the financial affairs and property interests owned by the minor or incompetent.
- **Guardian of the Person** - A person appointed by the court to care for the personal interests and personal welfare of a minor or an incapacitated person.
- **Guilty but Mentally Ill** - A plea by a criminal defendant in which a criminal defendant admits guilt but claims that his or her criminal behavior was the result of a mental illness. A plea or verdict of guilty but

mentally ill does not absolve the defendant of criminal responsibility, and the criminal defendant is sentenced as though he had simply pleaded “guilty,” but is afforded the opportunity to be incarcerated at a mental institution and afforded treatment prior to being placed in a penitentiary.

H

- **Habeus Corpus** - «You have the body.» A variety of writs that bring a person before a court. They generally are directed to an official who is detaining a person, commanding that the official produce the detainee in court.
- **Harmless Error** - Error committed by a lower court during a trial that an appellate court determines not to have been prejudicial to the rights of a party and for which the appellate court will not reverse judgment.
- **Hearing** - An official legal proceeding in which a court accepts evidence and determines whether sufficient facts have been proven to warrant the court taking official action.
- **Hearsay** - Oral or written evidence, which is not derived from a witness’s personal knowledge, and thus, is susceptible to being inadmissible in a judicial proceeding.
- **Holographic Will** - A will written in a testator’s/testatrix’s own handwriting.
- **Hostile Witness** - A witness who is subject to cross-examination by the party calling him to testify because of a previously unknown antagonism to that party.
- **Hung Jury** - A jury that cannot agree upon a verdict. In criminal cases, a hung jury allows the prosecution to try the defendant again without violating constitutional protections against double jeopardy.
- **Hypothetical Question** - A combination of assumed or proven facts upon which an expert witness is asked to state an opinion.

I

- **Impanel** - To seat a complete jury. A jury is «impaneled» after voir dire has concluded and both sides have used their

peremptory challenges and challenges for cause. The jurors then take an oath to perform their duty, and after which, a trial proceeds with the introduction of evidence.

- **Impeachment** - An attack on a witness’s credibility by cross-examination or by introduction of contradicting evidence.
- **Implied Contract** - A contract in which a promise made by the obligor is not expressed, but rather inferred from conduct or implied in law.
- **Imputed Negligence** - Negligence that is not committed by an individual or entity, but because of a joint legal interest or other legal relationship, he or she is liable. It is often used in a principal/agent situation. *See also “Respondent Superior.”*
- **Inadmissible** - Evidence that, under the established rules of evidence, cannot be admitted in court.
- **In Camera** - In chambers; in private. Typically, it is a review of evidence by a judge in chambers and not in open court.
- **In Personam** - Referring to the jurisdiction that a court obtains over an individual or other entity.
- **In Re** - «In the matter of.» Concerning; regarding.
- **In Rem** - Refers to a court’s jurisdiction over a particular piece of property, real or personal.
- **Indemnify/Indemnification** - To compensate another for a loss or damage that already has occurred; or, to give security for future loss.
- **Indeterminate Sentence** - A sentence of incarceration of «not less than» a time period and “not more than” a time period. After sentencing, parole authorities will determine the actual amount of jail time served within the minimum and maximum limits set by the court in the original sentence.
- **Indictment** - A written accusation presented by a grand jury that charges a person with a crime.
- **Information** - A document prepared by a prosecutor specifically charging a criminal defendant with having committed certain crimes. An information differs from an indictment only in that it is presented by

a prosecutor instead of a grand jury. See also *“Criminal Information.”*

- **Injunction** - An order issued by a court, prohibiting someone from doing something.
- **Innocent** - Free from guilt or responsibility.
- **Insanity** - In criminal law, it is used to refer to a mental state whereby a criminal defendant, due to mental illness, lacks the ability to form the specific intent to commit a crime.
- **Intangible Personal Property** - Property that is not of a physical nature, but still has value, such as bank accounts, stocks, bonds and mortgages.
- **Instruction** - At the close of a jury trial, the explanation given by the judge to the jury concerning the laws pertaining to the case, and the application of the laws to the facts of the case.
- **Instrument** - A formal written legal document, such as a will, contract or deed.
- **Inter Alia** - «Among other things.»
- **Inter Alios** - «Among other persons.»
- **Inter Vivos** - «From one living person to another.» When property passes from one living person to another, as opposed to by the death of a person.
- **Interlocutory** - Provisional or temporary orders and decrees of court.
- **Interrogatories** - Formal written questions posed to a party, who then must provide written answers to the questions under oath.
- **Intervention** - A procedure allowing a third person, not originally a named party to a legal action, to voluntarily become a party to it.
- **Intestate** - Dying without leaving a will. In this event, the decedent's property passes to his or her beneficiaries according to statutory law.
- **Irrelevant** - When referring to evidence, it is evidence that does not relate or apply to a matter at issue.

↓

- **Joint and Several Liability** - The liability of more than one party to a plaintiff, in which case each defendant is responsible

for completely compensating the plaintiff, regardless of the apportionment of liability between the respective defendants.

- **Joint Tenants with Right of Survivorship** - Ownership of real property by more than one person in which each joint tenant owns the entire property, and in which ownership of the property remains entirely with the surviving joint tenants upon the death of another joint tenant.
- **Judge** - An elected or appointed official whose responsibility is to conduct hearings, trials and other legal proceedings to determine disputed issues of fact and law. Judges may be of a trial court or an appellate court.
- **Judgment** - Determined by agreement or judicial decision, a judgment is an entry into the court record of a liability, which may be used by a creditor to levy on a debtor's property and execute on such property.
- **Judicial District** - The designation of a geographic area over which a particular court of common pleas has jurisdiction. In Pennsylvania, most counties are judicial districts in and of themselves, but there are some two-county judicial districts.
- **Jurat** - The clause at the end of an affidavit stating when and before whom the affidavit was made.
- **Juris Doctor** - The degree bestowed by law schools upon students who have earned sufficient academic credit to be eligible to practice law.
- **Jurisdiction** - The authority of a court to hear a particular case and to render a judgment. See also *“In Rem,” “In Personam” and “Subject Matter Jurisdiction.”*
- **Jurisprudence** - The philosophy of law, or the science that deals with the principals of law and legal relations.
- **Jury** - A certain number of persons who are selected according to law and sworn to inquire about matters of fact and declare the truth from evidence presented to it. See also *“Grand Jury” and “Petit Jury.”*
- **Jury Commissioner** - An officer appointed by the court to draw the names for the panel of jurors who shall

be available to sit for a specified term of court.

K

- **King's Bench Power** - The authority of the highest appellate court to take jurisdiction of a pending matter at any point in the proceeding due to immediate and pressing considerations. The power is rarely invoked and only is invoked in the most serious and urgent situations.

L

- **Landlord** - The lessor of real property.
- **Last Clear Chance** - A rebuttal to a defense of contributory negligence, which states that although a plaintiff's own negligence may have been self-endangering, the defendant had the last clear chance to avoid injuring the plaintiff.
- **Leading Question** - A question that, when posed, suggests the answer to the witness. In most cases it can be answered with a simple «yes» or «no.» Leading questions are permitted on cross-examination but are prohibited on a party's direct examination of its own witness.
- **Legal Remedy** - A plaintiff's seeking money damages, as opposed to seeking an equitable remedy.
- **Lessor** - The owner of real or personal property who, for payment of rent, allows possession and use of such property by someone else.
- **Lessee** - The person or entity that pays rent to the owner of property for the right to use and possess the property.
- **Letters Rogatory** - A request by one court to another court, in a separate and independent jurisdiction, that a witness be examined with written questions, such as interrogatories, which are sent with the request.
- **Levy** - The legal process by which property is seized by a sheriff, who notifies the possessor of such property that a creditor has a judgment against the debtor/owner of the property and intends to sell the property to satisfy a judgment or debt.
- **Liable** - Responsible to another.
- **Libel** - Defamation in print, writing,

pictures or signs. In its most general sense, any written publication that is false and injurious to an individual's reputation.

- **Lien** - Any of a variety of charges or encumbrances on property that are imposed to secure the payment of a debt or the performance or nonperformance of some act. Liens are enforced by foreclosure proceedings and can be imposed on real or personal property.
- **Limited Tort** - A limitation on financial recovery in civil actions for personal injury resulting from automobile accidents whereby an injured party only may recover economic damages, such as lost wages. No noneconomic damages, such as pain and suffering, may be recovered unless the individual has sustained a «serious bodily injury.»
- **Lis Pendens** - «Pending the lawsuit, nothing should be changed.» A lis pendens is a written notice filed with the court that becomes public notice of a claim against real property. Generally, the result of a filing of a Lis Pendens is that the property cannot be sold.
- **Litigant** - A party to a lawsuit.
- **Locus Delicti** - The place where a criminal offense occurred.

M

- **Malfeasance** - Intentionally committing an act that is prohibited by law.
- **Malicious Prosecution** - An action for recovery of damages that resulted to a person, property or reputation from previous civil or criminal proceedings that were prosecuted or pursued with malice and without probable cause.
- **Malpractice** - The failure of a professional person, such as a doctor, lawyer or engineer, to abide by accepted standards of practice. The result of this failure is injury or loss to another.
- **Mandamus or Non-discretionary** - A writ issued from a court to a public official that commands the official to perform a ministerial act.
- **Mandatory Sentence** - Legislatively established minimum sentences to which a criminal defendant must, at a minimum, be sentenced following conviction of

a particular crime. With mandatory sentences, a court may not sentence a criminal defendant to a minimum sentence less than the mandatory minimum.

- **Manslaughter** - The unlawful killing of another without malice. Manslaughter is classified as either voluntary or involuntary, depending upon the circumstances.
- **Marital Estate** - The accumulated assets and liabilities of a married couple.
- **Marriage** - The union of two individuals in the bonds of matrimony.
- **Master** - An officer of the court, usually an attorney, who is appointed for the purpose of taking testimony and making a report and recommended result to the court. A master is frequently involved in domestic relations matters. A party unhappy with the decision of a master may file exceptions to have the matter reviewed by a trial court.
- **Material Evidence** - Evidence that is relevant to issues in dispute.
- **Mechanics Lien** - A lien obtained by a contractor or subcontractor against real property as a result of the contractor or subcontractor having made improvements to the real property.
- **Memorandum of Law** - A document prepared by an attorney before a hearing, trial or other legal proceeding, that outlines for the court the basic facts and legal arguments concerning the matters at issue.
- **Mens Rea** - «Guilty mind.» A criminal defendant's state of mind, which must be proved to secure a conviction for a criminal offense.
- **Misdemeanor** - A criminal offense, which is less severe than a felony, and often is punishable by probation, fine or imprisonment other than in a penitentiary. Misdemeanors are graded as first, second- and third-degree misdemeanors, with first degree misdemeanors being the most severe.
- **Misfeasance** - The improper performance of a lawful act.
- **Mistrial** - A trial terminated by the court due to a prejudicial event or error

occurring during the trial, or as the result of a jury being unable to reach a verdict.

- **Mitigating Circumstance** - A circumstance that does not constitute a justification or excuse for an offense but may reduce the degree of culpability or punishment. It is often used in sentencing proceedings for criminal offenses, especially in cases of first-degree murder where a prosecutor seeks the death penalty.
- **Moot** - An issue that no longer needs judicial consideration due to an occurrence of events over a period of time.
- **Moral Turpitude** - Baseness, vileness or dishonesty of a high degree. A crime of moral turpitude has been defined as one demonstrating depravity in the private and social duties that a person owes to others and society at large.
- **Motion** - A written or oral request addressed to the court that requests that some action be taken; usually requesting the court to issue an order.
- **Municipal Courts** - Courts whose geographic authority is confined to a city or community. *See supra, "Pennsylvania Court System."*
- **Murder** - The unlawful killing of a human being by another with malice aforethought. Murder has three degrees of culpability - first degree, second degree and third degree, with first degree being the most severe.

N

- **Negligence** - An act or the omission of an act that constitutes a lack of due care under the prevailing circumstances. Due care generally is defined as what a reasonable person would do under the existing circumstances.
- **Negotiable Instrument** - A document, such as a check, note or bill that evidences an established financial liability or promise from one person to another, which may be transferred from one person to another for consideration.
- **No-Fault Divorce** - A divorce based on the irretrievable breakdown of a marriage, which involves mutual consent of the parties or a lapse of two years after legal separation when parties have lived

separate and apart for more than two years.

- **Nolle Prosequi** - The formal entry into the court record by a plaintiff in a civil suit, or prosecuting officer in a criminal case, in which it is declared that he or she will not further prosecute the case. The term is commonly referred to by its abbreviated version - Nol Pros.
- **Nolo Contendere** - «I will not contest it.» An admission by a criminal defendant that the prosecution has enough evidence to establish the defendant's guilt beyond a reasonable doubt. It is not, however, an admission that the defendant committed the criminal act. At sentencing the court will accept the prosecution's version of the criminal episode as true when determining the appropriate punishment.
- **Nominal Bail** - Setting bail at one dollar.
- **Non-Obstante Verdicto** - «Notwithstanding the verdict.» A judgment entered for one party by the court despite a jury's verdict against that party is commonly called «judgment n.o.v.»
- **Notice of Appeal** - A document filed with the court clerk to inform the court of a party's intention to appeal a decision.

O

- **Objection** - A party's taking exception to proposed evidence or to a trial procedure, which calls the court's attention to such evidence or procedure. An objection requires a ruling by a court, either sustaining or overruling the objection.
- **Of Counsel** - As opposed to the principal attorney of record, counsel assisting in the preparation, management or presentation on appeal of a case. Also commonly used to denote semi-retired partners in a law firm.
- **Opinion** - The formal written decision rendered by a judge or court in a case reciting the governing facts and legal principles of a case, and the reasons upon which the decision is based.
- **Opinion Evidence** - Evidence consisting of what a witness believes or infers concerning disputed facts, as opposed

to a witness's personal knowledge of a fact. Opinion evidence has limited admissibility, except in the case of expert witnesses.

- **Order** - A written statement of a judge or court that compels someone to do or not do something.
- **Ordinance** - A law enacted by the legislative body of a borough, township or city that is enforceable within the borough, township or city.
- **Original Jurisdiction** - The authority of a court to hear and decide a case in its initial presentation. The Courts of Common Pleas exercise original jurisdiction in the majority of cases. *See supra, "Pennsylvania Court System."*

P

- **Panel** - The whole body of persons summoned as jurors for a term of court, or those selected to hear a particular case.
- **Pardon** - Action by a governor or the president of the United States that relieves a criminal defendant from serving the sentence imposed.
- **Parole** - Releasing a criminal defendant before the expiration of his or her maximum sentence.
- **Parol Evidence** - Oral or verbal evidence. The spoken testimony of a witness in court.
- **Parol Evidence Rule** - When parties have a written agreement, all previous oral agreements and negotiations merge with the written agreement and may not be used to prove the terms of the agreement unless there was a mutual mistake or fraud in the preparation of the written agreement.
- **Party** - Someone named in a legal matter who has a direct interest in the outcome of it.
- **Patent** - A right and the document evidencing the right to the exclusive control of a unique idea, discovery, invention or process, for a definite term of years. Patents are regulated and issued by the United States Government.
- **Per Curium** - «By the court.» An opinion or order by the whole court, as opposed

to an opinion or order of one judge of the court.

- **Peremptory Challenge/Peremptory Strike** - A challenge or strike used to reject a prospective juror without stating a cause.
- **Personal Recognizance** - Bail consisting of a criminal defendant's signed promise to appear in court when required.
- **Petition** - A written request addressed to the court asking for a court order or some other form of relief.
- **Petit Jury** - A jury comprised of twelve or less persons for the trial of a civil or criminal case.
- **Plaintiff** - A person who institutes a civil lawsuit; the party who complains or sues.
- **Plea** - In criminal law, a criminal defendant's formal response to a criminal information. The five pleas are (1) «not guilty,» which is a complete denial of guilt; (2) «not guilty by reason of insanity,» which pleads the defense of criminal insanity; (3) «no contest» (nolo contendere), which denies guilt, but admits that the facts on which the charge is based would be sufficient evidence for a jury to convict the defendant; (4) «guilty,» which is a complete admission of guilt; and (5) «guilty but mentally ill,» in which a defendant admits guilt, but blames his or her criminal acts on a mental illness.
- **Plea Bargain** - An agreement between the prosecution and a defendant, whereby a defendant agrees to enter a plea of guilty, guilty but mentally ill or nolo contendere, in exchange for the prosecution's agreement to withdraw certain charges or to make concessions on sentencing. A court may reject a plea bargain if it believes that it is inappropriate.
- **Pleading** - Written documents filed by parties in civil lawsuits that set forth the basic facts and legal principles upon which the parties rely to support their respective positions. Generally, a pleading that contains allegations of fact that requires another party to file a "responsive pleading."
- **Polling the Jury** - Asking each juror individually to state his or her verdict in open court after the verdict is read.
- **Post-Trial Motions** - A motion filed by a party that is dissatisfied with a trial result. Post-trial motions are available in civil and criminal cases and are subject to specific rules concerning the timely filing and disposition of the post-trial motions. An appeal may be filed to an appellate court once the post-trial motions have been decided by the trial court.
- **Power of Attorney** - An instrument authorizing someone or some entity to act as another's agent or attorney.
- **Praecipe** - A legal document filed by a party in a civil or criminal case that is addressed to the clerk of the court, directing that the clerk do a particular act or issue a particular document.
- **Prejudicial Error** - Synonymous with «reversible error.» An error that requires an appellate court to reverse the judgment of a lower court because the error may have had a substantial effect on the outcome of the trial in the lower court.
- **Preliminary Arraignment** - Usually occurring immediately after arrest, a preliminary arraignment is when a criminal defendant is informed by a district justice of the charges that are being filed against the defendant. It also is when bail is first set by a district justice.
- **Preliminary Hearing** - A hearing before a district justice to determine whether the prosecution has enough evidence to establish a «prima facie» case against a criminal defendant. It is held to determine if there is enough evidence to maintain charges against a criminal defendant.
- **Preliminary Objection** - A responsive pleading in a civil case in which a party alleges that another party's previous pleading is legally defective and asks that the court either dismiss or strike part of or all the previous pleading.
- **Preponderance of the Evidence** - The burden of proof in a civil case, whereby a party must present a greater weight of credible evidence than the other party.
- **Presentment** - A written statement to a court by a grand jury that a criminal offense has occurred. The statement is

based upon the evidence presented to the grand jury.

- **Presumption of Fact** - The inference that a certain fact is true due to the mere existence of another fact or set of facts.
- **Presumption of Law** - The inference that a certain conclusion of law must be made due to the mere existence of a fact or set of facts.
- **Prima Facie** - «On its face.» A degree of proof, whereby there is enough evidence for a reasonable person to believe that a set of events may have occurred.
- **Priority of Liens** - The precedence in which liens on a property are paid. The general rule is «first in time, first in priority,» although certain liens, such as those for unpaid taxes, may have priority regardless of when they were filed.
- **Pro Bono Publico** - For the public good or for the welfare of the whole. It usually refers to services rendered by attorneys without charge. Commonly abbreviated «pro bono.»
- **Probable Cause** - The existence of specific and articulable facts that would lead a reasonable person to believe that something is true. It usually refers to whether there are sufficient facts to arrest someone for committing a crime.
- **Probate** - The process of proving a will. Submitting a will to a register of wills and asking that the register accept the will as the “Last Will and Testament” of a decedent.
- **Probation** - Allowing a person convicted of a criminal offense to remain out of jail under the supervision of a probation officer for a specified length of time. A criminal defendant’s probation may be revoked if he or she violates a term or condition of probation or is convicted of a new offense during the probationary period.
- **Procedural Law** - The rules of court governing the method by which cases are filed, litigated and appealed. *See contra, Substantive law.*
- **Promissory Note** - A written promise to pay a determined sum of money to a named person according to specified terms.

- **Property Bond** - Posting real estate as bail to secure a criminal defendant’s appearance in court.
- **Prosecutor** - Initially, a prosecutor is the instigator of a criminal prosecution -- usually the arresting police officer. It also is a lawyer who represents the commonwealth or state in a criminal case.
- **Protection from Abuse Order** - An order of court that prohibits someone in a family or other close relationship to another person from verbally or physically harassing, stalking or assaulting such other person. A violation of a protection from abuse order may result in immediate incarceration.
- **Prothonotary** - The public officer who acts as the principal clerk of courts in civil matters.
- **Proximate Cause** - Sometimes called «legal cause.» It is an event or occurrence that is a substantial factor in making another event or result occur.
- **Punitive Damages** - Damages awarded to a plaintiff to punish a defendant for committing acts found to be outrageous and not tolerable in a civilized society.

Q

- **Quash** - To vacate an appeal, an indictment, summons or subpoena.
- **Quasi-Judicial** - An act that is done, or authority that is exercised by a public body, which is in part administrative and in part the hearing and determination of facts.
- **Quid Pro Quo** - «For what.» A fair return or consideration.
- **Quitclaim Deed** - A deed that does not state a grantor’s interest in real property, but rather states that the grantor transfers to a grantee whatever interest he or she possesses. A quitclaim deed contains no warranties of title.
- **Quo Warranto** - A lawsuit challenging the legal right of a person who holds a particular public office to hold that office.
- **Quorum** - A sufficient number of members of a governing body gathered at a particular time and place to permit official action or deliberations of such governing body.

R

- **Real Estate** - Property consisting of land, buildings and things attached or affixed to land and buildings.
- **Reasonable Doubt** - Referring to the burden of proof in a criminal case. «Beyond a reasonable doubt» is not beyond all doubt but is doubt that would prevent a reasonable person from acting in his everyday affairs.
- **Rebuttal** - Demonstrating that statements of witnesses are not true through subsequent introduced evidence.
- **Receiver** - An appointee of the court who manages the property or business of another, pending legal action.
- **Record Costs** - Fees paid to the court or agents of a court and the sheriff as part of a civil lawsuit.
- **Redirect Examination** - Questioning of a witness by a party after the witness has been subjected to cross-examination by opposing parties.
- **Referee** - An officer to whom a pending case is referred in order for that person to take testimony and report to the court. A referee exercises judicial powers as an arm of the court for that specific purpose.
- **Register (Registrar)** - A court officer whose duty it is to keep official records, such as the register of wills or recorder of deeds.
- **Remand** - To send a case back to a lower court for further action.
- **Removal, Order of** - An order by a court directing the transfer of a case to another court.
- **Replevin** - A lawsuit filed to obtain possession of personal property held by someone else.
- **Reply** - A pleading by a plaintiff in response to a pleading by a defendant.
- **Res Ipsa Loquitor** - «A thing that speaks for itself.» The doctrine imposes negligence upon a defendant without the plaintiff actually proving negligence. Its use is limited to cases in which the cause of the plaintiff's injury was entirely under the control of the defendant, and the injury only could have been caused by negligence of the defendant.
- **Res Judicata** - A rule of law that states that once a final judgment has been rendered by a court, the matter cannot be relitigated between the parties.
- **Rescission** - The act of withdrawing, nullifying, voiding or canceling a contract.
- **Respondent Superior** - «A superior must answer.» An employer or principal is responsible for the acts and omissions of its employees or agents for acts or omissions occurring within the scope of their duties as employees or agents.
- **Respondent** - The party who answers a petition or an appeal, such as an appellee.
- **Responsive Pleading** - A pleading filed by a party in a civil lawsuit that either contains objections to a party's previous pleading or admits or denies allegations of fact contained in another party's pleading.
- **Rest** - A party is said to «rest» when all the evidence he or she intends to offer has been presented and offered to the court for introduction as evidence.
- **Restitution** - A criminal defendant's paying money to the victim of a crime to reimburse the victim for a financial loss occurring as a result of the defendant's criminal activity.
- **Retain** - The act of a client to employ legal counsel.
- **Retainer** - Often refers to the initial fee paid by a client to an attorney to secure the attorney's services.
- **Reversible Error** - *See also "Prejudicial Error."*
- **Robbery** - The taking of property from another by force or with the threat of force.
- **Rule to Show Cause** - An order of court stating that a further order of court will become final unless a party files exceptions and/or a response within a defined time period.
- **Rule of Court** - An order made by a court establishing the general rules of practice before the court.
- **Rules of Evidence** - Rules, statutes and case decisions that govern what evidence can be admitted in hearings and trials.

S

- **Satisfaction** - To pay a debt in its entirety.
- **Satisfaction Piece** - A document signed by a creditor acknowledging and confirming that a debt has been fully paid.
- **Search** - A government official's inspection of private property, either real or personal, for the purpose of discovering weapons, contraband or evidence.
- **Search Warrant** - A written order issued by a court that directs an officer to search a specific location for evidence of criminal activity.
- **Seizure** - The detention of an individual or his or her property that restricts the individual's or the property's freedom of movement.
- **Self-Defense** - The protection of one's person or property against injury or perceived injury attempted by another. When acting in justifiable self-defense a person may not be punished criminally nor held responsible for civil damages.
- **Sentence** - Following a verdict of guilty, or a plea of guilty, guilty but mentally ill, or nolo contendere, a sentence is the judgment in a criminal action, in which a court imposes its punishment as a fine, probation, imprisonment or a combination of them.
- **Sequestration of Witnesses** - A court order requiring witnesses to remain outside the courtroom until each is called to testify.
- **Servant** - An employee or one who acts for the benefit of another.
- **Service of Process** - Official notification authorized by a rule of court that a person has been named as a party to a lawsuit or has been accused of some offense. Process consists of a summons, citation or warrant to which a copy of a complaint or pleading may be attached.
- **Sentencing Guidelines** - Guidelines promulgated by the Pennsylvania Commission on Sentencing that provide for recommended ranges of minimum sentences to which a criminal defendant may be sentenced.
- **Settlement** - An agreement reached between disputing parties.
- **Sheriff** - The elected county official whose principal duties are to aid the criminal and civil courts, including keeping order in a courtroom, and to protect the participants in civil and criminal cases. The sheriff also serves process, executes judgments and holds judicial sales.
- **Sine Qua Non** - An indispensable requisite.
- **Slander** - Defamatory speech about another's reputation, business or means of livelihood.
- **Sovereign Immunity** - The doctrine that a government or governmental agency cannot be sued without the consent of the Legislature.
- **Specific Intent** - The formulation of intent necessary to make an act criminal. It refers to a criminal defendant's designed purpose that his or her act created the expected result.
- **Specific Performance** - In equity, a court order compelling a party to do a specific act. Where damages would be inadequate compensation for a breach of contract, a contractor may be compelled to perform the act that has been agreed upon.
- **Stare Decisis** - The doctrine that once a court has decided a principle of law as applicable to a certain set of facts, it will adhere to that principle and apply it to future cases where the facts are substantially the same.
- **States' Evidence** - Testimony given by an accomplice or co-conspirator in a crime that is intended to incriminate others participating in a joint criminal activity. This testimony is given under an actual or implied promise of immunity.
- **Statute** - An act of the Legislature, which constitutes a law.
- **Statute of Limitations** - The time limit within which an action must be brought after its cause arises. Statutes vary in length depending on the type of case. The unexcused failure to commence an action within that time bars it forever. Statutes of limitations apply to civil and

criminal cases.

- **Stay** - A court order that temporarily suspends a case or the implementation of a court order.
- **Stipulation** - An agreement by opposing attorneys with respect to any matter involved in a proceeding.
- **Stipulation Against Liens** - A document filed with a prothonotary whereby a contractor waives for him or herself and any of his or her subcontractors the right to file a mechanics lien.
- **Subject Matter Jurisdiction** - The authority of a court to hear cases involving particular issues. *See also "Federal Court System" and "Pennsylvania Court System."*
- **Subpoena** - A court-authorized document compelling witnesses to appear to give testimony or to produce certain documents, or both.
- **Subpoena Duces Tecum** - A subpoena compelling a witness to produce certain documents when responding to a subpoena.
- **Substantive Law** - Law dealing with rights, duties and liabilities between individuals or entities, as opposed to procedural law.
- **Summons** - A writ directing a sheriff or other officer to notify a named person that an action has been instituted against him in court. A summons may require a person to appear on a specific date to answer a complaint.
- **Supersedeas** - «Stay of proceedings.» A writ or court order suspending legal proceedings or the pursuit of any further action in regard to a pending matter. *See also "Stay."*
- **Support Guidelines** - A series of computations and formulae adopted by the Pennsylvania Supreme Court that presumptively determines the amount of child and spousal support owed by one party to another.
- **Suppression Hearing** - A hearing concerning a criminal defendant's motion to prohibit the use of certain evidence that is alleged to have been obtained in violation of the defendant's rights. The hearing is held prior to trial

and the prosecution has the burden of producing evidence and establishing, by a preponderance of the evidence, that the defendant's rights were not violated in the process of obtaining the evidence.

- **Supra** - «Above.» As used in legal documents, it refers the reader to a preceding part of the document.
- **Surety** - A third person who agrees to be responsible to a creditor for a debtor's debts or obligations. Under a surety relationship, the third person agrees to pay the debt of the debtor if the debtor defaults to the creditor.
- **Sworn** - Having been administered an oath to tell the truth.

I

- **Tangible Personal Property** - Items of property that, generally speaking, are movable and not affixed or connected to land or buildings.
- **Temporary Restraining Order** - An order issued by a court in urgent situations that precludes someone from doing something that he or she is doing or intends to do.
- **Tenancy** - The possessing of lands, buildings or personal property by right or title.
- **Tenant** - A possessor of real estate under a lease or other agreement with someone who has a superior claim of title to the real estate.
- **Tenants by the Entireties** - Joint ownership of real estate by husband and wife.
- **Tenants in Common** - Multiple owners of real or personal property, whereby each owner owns a specific percent of the property.
- **Term of Court** - The designated period of time when a court sits to hear cases.
- **Testamentary** - Of or pertaining to a will.
- **Testate** - Description of an estate where a decedent has left a valid will.
- **Testator/Trix** - The person who makes a will.
- **Testimony** - Oral evidence given by a witness under oath.
- **Theft** - The unlawful taking of personal property belonging to another.

- **Tipstaff** - A judge's personal aide whose primary functions are to assist jurors during trials and to maintain order in the courtroom.
- **Title** - Evidence of a person's right to hold or possess certain property, real or personal.
- **Title Search** - An investigation of public records to ascertain ownership of property and to discover any liens, encumbrances or defects that would or could affect ownership.
- **Tort** - An injury or wrong committed against the person or property of another.
- **Tort Election** - In Pennsylvania, an individual's choice of motor vehicle insurance, whereby an insured may elect to pay a lower premium for insurance in exchange for giving up the right to sue or make a claim for pain, suffering and other noneconomic damages resulting from an injury determined not to be a «serious bodily injury.»
- **Transcript** - The official record of a trial, hearing, deposition or other legal proceeding.
- **Trespass** - An offense against another's person or property, whereby an individual, without justification, physically imposes upon the person or property of another.
- **Trial Court** - A court that conducts hearings and trials by accepting testimony and other evidence to reach a verdict or decision. *See contra, "Appellate Court."*
- **Trial De Novo** - A new trial or retrial in which a case is heard as if no trial had previously taken place. In a trial de novo, no weight is placed on the findings or outcome in the previous case.
- **Trust** - An arrangement in which the owner of real or personal property transfers ownership of such property to a trustee who holds and manages the property for the benefit of a third party, called a «beneficiary.» It also may refer to a document creating a trust.

U

- **Undue Influence** - The abuse of a confidential relationship by one party

who exercises overbearing control over another person when convincing that person to do an act or to enter into a transaction. It usually is to the financial benefit of the individual exercising the control.

- **Unlawful Detainer** - Forcibly restricting an individual's freedom of movement without probable cause or without the legal authority to do so.
- **Unsecured Bail** - Releasing a criminal defendant on bail pending disposition of a criminal charge based on his or her promise that he or she will appear at future proceedings. If the person does not appear, he or she agrees to owe a specified amount of money as forfeited bail.
- **Usury** - The act or practice of lending money at an exorbitant or illegal rate of interest.

V

- **Venire** - The body of jurors summoned to sit for a term of court.
- **Veniremen** - Members of a panel of jurors.
- **Venue** - The particular county, city or geographical area in which a court has jurisdiction to hear and decide cases.
- **Verdict** - The formal decision or finding of a jury or of a judge sitting without a jury. A verdict is not a judgment in that a verdict is not a judicial determination. A verdict is a finding of fact that the court may accept or reject, but only may reject for very specific reasons. A judgment may be entered based upon a verdict.
- **Verdict Slip** - A written question or series of questions submitted by the court to a jury that the jury must answer to help form the basis for the jury's verdict.
- **Vior Dire** - «To speak the truth.» The preliminary examination by counsel or the court of potential jurors in order to determine whether any prospective juror should be stricken for cause. It also aids counsel in its exercise of peremptory challenges. Vior dire also refers to the preliminary examination of a witness in order to determine a witness' qualifications or competency to testify.

W

- **Waiver** - The expressed or implied surrender of a known right.
- **Warrant of Arrest** - A writ issued by a district justice, judge or other competent authority that requires an individual's arrest and presentation to the district justice or court to answer to a specified criminal charge.
- **Weight of Evidence** - The balance of evidence. The relative amount of credible evidence presented by one side as compared to the evidence presented by the other side. A party losing at trial may request a court to set aside a verdict on the basis that the verdict was against the weight of the evidence.
- **Will** - The instrument that expresses an individual's intended disposition of his or her property upon his or her death.
- **Willful** - An act that is intentional or voluntary, as opposed to accidental.
- **With Prejudice** - A disposition or decision «with prejudice» precludes raising that issue at any time in the future.
- **Without Prejudice** - A disposition «without prejudice» allows the issues resulting in such disposition to be raised again in the future.
- **Witness** - A broad term referring to any individual who may be called upon to provide relevant testimony at a hearing or trial. Fact witnesses are individuals who had sensory perception of something relevant to issues in a case. Expert witnesses are individuals with specialized knowledge, training and experience who can state opinions based upon facts introduced into evidence.
- **Writ** - An order issued from a court requiring the performance of a specific act or the giving of authority in commission to that act.
- **Writ of Error Coram Nobis** - A common law writ that is used to correct a judgment in the same court in which it was rendered on the grounds of error of fact.