

**Pennsylvania Commission on Sentencing  
Caselaw Highlights (PA Reporter through May 23, 2008)**

	Long	922 A.2d 892	5/31/2007	PA	Trial	Records	The common law test in Pennsylvania for public access to judicial records in criminal trials requires the trial court to balance the presumption of openness against the circumstances warranting the sealing of the document for which disclosure is sought. Under the First Amendment, a criminal trial can be closed to the public only upon showing a compelling government interest, and any restrictions must be narrowly tailored to serve that interest. U.S.C.A. Const.Amend. 1.
	Long	922 A.2d 892	5/31/2007	PA	Trial	Records	In Pennsylvania, the common law right of access to criminal trials, which right involves access to judicial records, does not extend to names and addresses of impaneled jurors, because there is no list of impaneled jurors' names and addresses that becomes part of the public judicial record, and because such information is not the type of information upon which a judge bases his or her decision.
	Long	922 A.2d 892	5/31/2007	PA	Trial	Records	Trial court's generalized finding that disclosure, to television station and newspaper, of names of impaneled jurors for murder trial would pose a risk that jurors would be subject to invasion of privacy and harassment, without specific findings demonstrating that there was substantial probability that an important right would be prejudiced by publicity and that reasonable alternatives to closure could not adequately protect the right, did not support withholding of impaneled jurors' names, for purposes of qualified First Amendment right of public access to names of impaneled jurors in criminal trials. U.S.C.A. Const.Amend. 1.
Humphrey	DOC	939 A.2d 987	9/26/2007	PA Cmwth	Sentence	Records	Department of Corrections' (DOC) regulation prohibiting inmate's access to Uniform Commercial Code (UCC) forms did not violate the Right-to-Know Law (RTKL); blank UCC forms fell outside the definition of a "public record" in the RTKL. 65 P.S. § 66.1.
LeGrande	DOC	920 A.2d 943	3/30/2007	PA Cmwth	Sentence	Records	Department of Corrections' (DOC) Sentence Computation Procedures Manual was not an essential component of the implementation of sentencing and, therefore, failed to qualify as a "public record" under Right to Know Law; DOC's legal counsel created Manual in order to assist DOC staff in determining sentencing and understanding application of relevant sentencing law, and such advice and assistance did not sufficiently establish close relationship between Manual and ultimate implementation of sentencing orders from trial court, and Manual did not become a basis or a condition precedent of DOC's implementation of sentencing. 65 P.S. § 66.1.

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LeGrande	DOC	920 A.2d 943	3/30/2007	PA Cmwlth	Sentence	Records	Department of Corrections' (DOC) Sentence Computation Procedures Manual fell under the rubric of attorney work product since it contained the mental impressions of DOC attorneys regarding legal research and legal theories of sentencing law, and therefore, the Manual was, by definition, not a "public record" under Right to Know Law; in providing recommendations and advice on the state of sentencing law, the Manual was a legal opinion created by DOC attorneys and was also exempted from the definition of a public record. 65 P.S. § 66.1.
Dunbar	PSP	902 A.2d 1002	7/7/2006	PA Cmwlth	Sentence	Records	State Police was proper party to defend petitioner's challenge to the accuracy of his criminal history records, under the Criminal History Record Information Act (CHRIA), and thus petitioner's due process rights were not violated by hearing at which State Police defended petitioner's challenge. U.S.C.A. Const.Amend. 14; 18 Pa.C.S.A. § 9152.
Heicklen	DOC	769 A.2d 1239	3/14/2001	PA Cmwlth	Sentence	Records	DOC protocol for review and treatment of hepatitis C identification and treatment, and survey results regarding number of inmates housed in state correctional facilities who currently had hepatitis C was a public record within meaning of the Right-to-Know Act, requiring DOC to grant request to disclose those documents. (65/66.1-66.4)
Heicklen	DOC	769 A.2d 1239	3/14/2001	PA Cmwlth	Sentence	Records	Medical documentation of inmates was protected from disclosure as an exception to the Right-to-Know Act, as dissemination would reveal confidential information in the inmates' medical records.
Hull	PSP	768 A.2d 909	3/1/2001	PA Cmwlth	Sentence	Records	DNA test results, which could only be released to criminal justice agencies under the DNA Detection of Sexual and Violent Offenders Act, were not public records under the Right-to-Know Act. (35/7651.101-7651.1102)(65/66.1)
	Fowler	930 A.2d 586	7/23/2007	PA Super	Sentence	Records	While a sentencing court is required to place its reasons for a sentence on the record, the failure to do so does not make the sentence imposed an illegal one. 42 Pa.C.S.A. § 9721(b).
	Martinez	917 A.2d 856	2/6/2007	PA Super	Sentence	Records	Given the open nature of criminal trials, and sentencing proceedings in particular, letters submitted to a sentencing court by defense counsel at the time of sentencing, which the sentencing court explicitly reviews in preparation for sentencing, are "public judicial documents" to which a presumption of common-law access applies, regardless of whether the sentencing court formally docketes the letters.

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	Martinez	917 A.2d 856	2/6/2007	PA Super	Sentence	Records	Sentencing court abused its discretion in denying newspaper's post-sentencing motion seeking common-law access to public judicial documents in the form of letters that defense counsel presented to court on defendant's behalf, where the court failed to provide an explanation of newspaper's alleged improper purpose and there were no countervailing factors to offset the strong presumption in favor of access to the letters.
	Kennedy	868 A.2d 582	2/8/2005	PA Super	Sentence	Records	The only sentence known to the law is the sentence or judgment entered upon the records of the court. A sentence is to be construed so as to give effect to the intention of the sentencing judge; to determine this intention the reviewing court limits itself to the language of the written judgment, despite oral statements of the sentencing judge not incorporated into it. Documents offered in support of defendant's claim on direct appeal that he was entitled to have credit for time spent on probation detainer applied to sentence for driving under influence (DUI) were not part of certified record, and thus, record was not sufficiently developed to allow appellate review of claim, therefore requiring remand for determination of issue. 42 Pa.C.S.A. § 9760.
Sammons	PSP	931 A.2d 784	8/9/2007	PA Cmwlth	Enforcement	Records	Petitioner was entitled to expungement of his criminal record; statute provided that criminal history record information could be expunged when a person was 70 years old and had not been arrested or prosecuted for ten years after final release or supervision, petitioner met the statute's requirements, and the statute's failure to mention the courts in statute subsection did not evidence an intent for the state police, as opposed to the courts, to have the discretion to expunge. 18 Pa.C.S.A. §§ 9122(a), (b)(1).
Department of Auditor General	PSP	844 A.2d 78	3/8/2004	PA Cmwlth	Enforcement	Records	Information regarding the names, addresses, and release dates of sex offenders not classified as sexually violent predators contained in the Megan's Law registry constituted investigative information under the Criminal History Record Information Act (CHRIA), and thus, the State Police were not required to provide such information to the Auditor General; the information on such sex offenders was the result of the performance of inquiries in the sense that inquiries into Megan's Law offenses resulted in the idea to assemble the information as an investigatory tool. 18 Pa.C.S.A. §§ 9102, 9106(a), 42 Pa.C.S.A. § 9795.1.

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PSP	Warner	827 A.2d 1290	7/2/2003	PA Cmwth	Enforcement	Records	Pennsylvania State Police (PSP) were not required to correct individual's criminal record to show conviction for violation of Controlled Substance Act as misdemeanor, not felony; Criminal History Record Information Act (CHRIA) did not mandate inclusion of grading of an offense, and this violation of Controlled Substance Act was a felony. 63 P.S. §§ 780-101, 780-144; 18/9111.
Clark	PSP	760 A.2d 1202	10/17/2000	PA Cmwth	Enforcement	Records	Defendant was not entitled to expungement of his criminal history information record, even if defendant's birth date as maintained by central repository was inaccurate, absent any dispute that record accurately reflected his prior arrest and subsequent conviction, and given defendant's failure to meet any criteria set forth in statute governing expungement. 18/9122.
	M.M.M.	779 A.2d 1158	6/26/2001	PA Super	Enforcement	Records	PennDOT was subject to order entered pursuant to CHRIA to expunge records related to suspension of petitioner's operating privileges while she participated in ARD to dispose of DUI charge; even though DOT was not party to expungement proceedings, district attorney's participation validated order. Court had jurisdiction to order Department to expunge records.