

Laser Fax

Modification 5
Modification 5.96
June 30, 2010

PAPER CASE RECORDS PUBLIC ACCESS POLICY

As noted in Informational Laser Fax 5.159, the *Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts* takes effect on July 1, 2010.

This policy provides updated protocols governing public access to those paper records that are filed with the magisterial district courts and maintained in the files pursuant to legal authority. The policy replaces the former procedures originally adopted in 1994 (also known as the *Public Access Policy of the Unified Judicial System of Pennsylvania: Magisterial District Judge Records*). The policy can be found at 204 Pa.Code § 213.1 *et seq.* as well as on the UJS web site at www.pacourts.us.

The following paragraphs detail some of the provisions of the policy.

- A. Sections 3.00 and 4.00 of the policy address how members of the public request access to records and how the courts must respond. Since a majority of the requests received by magisterial district courts are straightforward and for a small number of records, most requests to inspect and/or photocopy records will be made verbally. However, the policy provides magisterial district courts with the discretion to require that a “complex or voluminous” request be submitted in writing on a form. A new MDJS form, Request for Official Case Records (AOPC 200), has been placed on the blank forms menu and also on the UJS web site. The purpose of the form is to clarify the request with the intent to avoid misunderstandings and errors that can often result in more time being expended to provide the requested information than is necessary. Exactly what is “complex or voluminous” may vary from court to court depending on factors such as court resources and caseload. All denials must be issued in writing on the form (AOPC 200) and a requestor can “appeal” such a denial to the president judge or designee.
- B. Section 5.00 requires the establishment of a fee schedule by local rule. The schedule shall be publicly posted in each court. Photocopying fees shall not exceed 25 cents per page.
- C. Perhaps one of the most significant changes resulting from the policy’s adoption is what information is restricted and ultimately protected by the policy’s provisions. See Sections 6.00 and 7.00. Of course, information subject to a sealing order, restricted by law or court rule, and the court’s work product is not accessible to the public. Importantly, the policy acknowledges the privacy and personal security implications for release of social security numbers (SSNs) and financial information.

Many steps have been taken to protect SSNs pursuant to this policy. Over the past year, the SSN field has been removed entirely from many MDJS forms or it has been suppressed on the office copy. In addition, the non-traffic citation set was amended

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to include a "public access copy" on which the SSN field is not visible. For more information regard the NT citation, see Informational Laser Faxes 5.157 and 5.150.

- D. Section 7.00 of the policy requires parties and their attorneys to refrain from including SSNs and financial information in all documents and exhibits filed with the court, except as noted below. If inclusion of SSN or financial information is required by law or requested by the court, the party shall file the information on a Confidential Information Form (a new MDJS form, AOPC 205) which then will not be accessible to the public. This form has been added to the print blank forms menu and also the UJS web page for use by parties and their attorneys.

The policy provides that if the identity of the financial institution account number, credit card account number, or debit card number must be established in the case, the party may include the last four digits of the number in the document and exhibits filed with the court. Parties and their attorneys are solely responsible for complying with these provisions. The court staff is not required to review any document for compliance. A party's or attorney's failure to comply with these provisions shall not affect access to information that is otherwise accessible.

- E. Specific forms affected by this protection of information are as follows and have been placed in the statewide directory in a folder labeled "Forms - July 1 2010."
1. Criminal Complaint. See Informational Laser Fax 5.170, dated June 23 that details the changes.
 2. Search Warrant: The following text, "Social security numbers and financial information (e.g. PINS) should not be listed. If the identity of an account number must be established, list only the last four digits. 204 Pa.Code §§ 213.1 - 213.7" has been added to Search Warrant forms listed below:

? Instruction Document: Under the heading "General Document Information."

? Application for Search Warrant and Authorization: Under the section "Specific Description of Premises and/or Person to be Searched."

? Affidavit of Probable Cause: Under the section, "Probable Cause Belief."

If the information is required by law or requested by the court, it shall be placed on the Confidential Information Form. If the identity of an account number must be established, list only the last four digits.

3. Private Criminal Complaint. "Defendant's social security number" field has been removed from the first page. On Page 2, under the text, "The acts committed by the accused were," the following text is inserted, "Social Security Numbers and

financial information (e.g. PINs) should not be listed. If the identity of an account number must be established, list only the last four digits. 204 Pa.Code §§ 213.1 - 213.7.”

4. Civil Complaint Form. Instructional language has been added: “Social Security Numbers and financial information (e.g. PINs) should not be listed. If the identity of an account number must be established, list only the last four digits. 204 Pa.Code §§ 213.1- 213.7.”

The successful implementation of this policy depends upon the commitment by and understanding of its provisions by magisterial district courts and administrative personnel, as well as by parties and their attorneys. To assist, we have: 1) distributed laminated notices for posting in the magisterial district courts to advise litigants and counsel of the policy provisions; and 2) incorporated a segment on this policy at all MJEB continuing education classes and will be making a presentation on the same at the Special Courts Judges Association Summer Conference next month. The magisterial district courts may wish to also refer to any local rules/orders issued by the president judge that further address procedures governing access to magisterial district court records.

AOPC has been advised that some police departments will not have software changes made to their internal case management systems from which they produce the criminal complaint by July 1st. Therefore, please continue to accept the current criminal complaint from those affected police departments until July 15th. Please share this extension with local law enforcement.