# NEW MATTER EXHIBIT C

From: Filkosky, Andrew <afilkosky@pa.gov>
Sent: Thursday, October 16, 2014 2:50 PM
To: Haines, Christine
Subject: RE: Right to know request/RTKL 1849-14

Dear Ms. Haines,

This email acknowledges receipt by the Department of Corrections of your written request for records under the Pennsylvania Right-to-Know Law (RTKL). Your request was received by this office on September 25, 2014. On September 26, 2014, an interim response was sent to you extending the final response date to October 31, 2014.

Your requests for "documentation of illnesses contracted by inmates and/or staff members at SCI-Fayette", "the types of reported contracted illnesses and the number of inmates or staff members with those illnesses", "various types of cancer reported at SCI-Fayette since its opening, as well as respiratory ailments reported", and "information comparing the health at SCI-Fayette with the health at other state correctional facilities" are denied for the following reasons:

- The RTKL exempts from disclosure records of an agency relating to a noncriminal investigation, including, but not limited to: complaints submitted to an agency; investigative materials, notes, correspondence and reports; records that include the identity of a confidential source, including individuals subject to the act of December 12, 1986 (P.L. 1559, No. 169), known as the Whistleblower Law; records that include information made confidential by law; work papers underlying an audit; and records that, if disclosed, would reveal the institution, progress or result of an agency investigation, deprive a person of the right to an impartial adjudication; constitute an unwarranted invasion of privacy, hinder an agency's ability to secure an administrative or civil sanction, or endanger the life or physical safety of an individual. 65 P.S. § .

67.708(b)(17). *See Amro v Office of AG*, 783 A.2d 897, (Pa. Cmwlth. 2001); *Senk v. Commonwealth*, 521 A.2d 532 (Pa. Cmwlth. 1987). Your request implicates such information and access is denied.

- The requested records fall within the personal security exemption of the RTKL. 65 P.S. § 67.708(b)(1)(ii). That section exempts from access any record the disclosure of which would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual. *Id. See also Bargeron v. Department of Labor and Industry*, 720 A.2d 500 (Pa. Cmwlth. 1998); *Weaver v. Department of Corrections*, 702 A.2d 370 (Pa.Cmwlth. 1997).

- The RTKL excludes records maintained by an agency in connection with law enforcement or other public safety activity that, if disclosed, would be reasonably likely to jeopardize or threaten public safety or preparedness or a public protection activity. 65 P.S. § 67.708(b)(2). The requested records are records maintained by the Department in connection with its official law enforcement function of supervising the incarceration of inmates. The disclosure of the requested records would threaten public safety and the Department's public protection activities in maintaining safe and secure correctional institutions by allowing inmates or others to access information that can be used to undermine the Department's security procedures. Therefore, disclosure of these types of records is excluded under the RTKL. *Weaver v. Department of Corrections*, 702 A.2d 370 (Pa.Cmwlth. 1997).

- The RTKL exempts records of an individual's medical, psychiatric or psychological history or disability status, including an evaluation, consultation, prescription, diagnosis or treatment; results of tests, including drug tests; enrollment in a health care program or program designed for participation by persons with disabilities, including vocation rehabilitation, workers' compensation and unemployment compensation; or related information that would disclose individually identifiable health information. 65 P.S. § 67.708(b)(5). *Hunt v. Pennsylvania Department of Corrections*, 698 A.2d 147, 150 (Pa.Cmwlth. 1997); *Neyhart v Department of Corrections*, 721 A.2d 391 (Pa.Cmwlth. 1998). Your request implicates such records and access is denied. ). Please note that the department policy does allow inmates to access specific staff members to discuss medical records and medical issues. Please refer to DC-ADM 003 for the procedures to make such a request or for further information.

- The RTKL exempts personal identification information from disclosure. 65 P.S. § 67.708(b)(6). Personal identification information includes, but is not limited to a person's Social Security number, driver's license number, personal financial information, home, cellular or personal telephone numbers, personal e-mail addresses, employee number or other confidential personal identification number, a spouse's name, marital status, beneficiary or dependent information or the home address of a law enforcement officer or judge. *Id.* Your request implicates such personal identification information and access is denied.

- The RTKL exempts from disclosure records that reflect the internal, predecisional deliberations of an agency, its members, employees or officials and members, employees or officials of another agency, including predecisional deliberations relating to a budget recommendation, legislative proposal, legislative amendment, contemplated or proposed policy or course of action or any research, memos or other documents used in the predecisional deliberations. 65 P.S. § 67.708(b)(10)(i)(A); see also *Lavalle v. Office of General Counsel*, 769 A.2d 449 (Pa. 2001); *Tribune-Review Publishing Co. v. Department of Community & Economic Development*, 814 A.2d 1261, 1263-1264 (Pa. Cmwlth. 2003); *City Council v. Greene*, 856 A.2d 217, 225 n.6 (Pa. Cmwlth. 2004). Your request implicates such information and access is denied.

- The requested records are also covered by the deliberative process privilege and are not public records under the law. 65 P.S. § 67.102 (See definitions of "public record" and "privilege"); 65 P.S. § 67.506(c). The deliberative process privilege applies to pre-decisional communications which reflect on legal or policy matters. *Tribune-Review Publishing Co. v. Department of Community & Economic Development*, 814 A.2d 1261, 1263-1264 (Pa. Cmwlth. 2003); *See also Lavalle v. Office of General Counsel*, 769 A.2d 449 (Pa. 2001); *City Council v. Greene*, 856 A.2d 217, 225 n.6 (Pa. Cmwlth. 2004). Your request implicates such information and access is denied.

- The requested records are covered by the attorney client privilege and are not public records under the law. 65 P.S. § 67.102 (See definitions of "public record" and "privilege"); 65 P.S. § 67.506(c).

- The RTKL exempts from disclosure notes and working papers prepared by or for a public official or agency employee and used solely for that official's or employee's own personal use. 65 P.S. § 67.708(b)(12). Such records would include telephone message slips, routing slips and other materials that do not have an official purpose. *Id.* Your request implicates such information and access is denied.

You have a right to appeal this denial of information in writing to Terry Mutchler, Executive Director, Office of Open Records (OOR), Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, Pennsylvania 17120. If you choose to file an appeal you must do so within 15 business days of the mailing date of this response and send to the OOR:

1) this response; 2) your request; and 3) the reason why you think the agency is wrong in its reasons for saying that the record is not public (a statement that addresses any ground stated by the agency for the denial). If the agency gave several reasons why the record is not public, state which ones you think were wrong.

Also, the OOR has an appeal form available on the OOR website at:

https://www.dced.state.pa.us/public/oor/appealformgeneral.pdf.

Sincerely,

**Andrew Filkosky** | Agency Open Records Officer
Department of Corrections | Office of Chief Counsel
1920 Technology Parkway
Mechanicsburg, PA 17050
Phone: 717.728.7770 | Fax: 717.728.0312
www.cor.state.pa.us



**From:** Haines, Christine [mailto:chaines@heraldstandard.com]
**Sent:** Thursday, September 25, 2014 4:08 PM
**To:** Filkosky, Andrew
**Subject:** Right to know request

Andrew, I am seeking documentation of illnesses contracted by inmates and/or staff members at SCI-Fayette. I am not seeking identifying information, only the types of reported contracted illnesses and the number of inmates or staff members with those illnesses. I am particularly interested in various types of cancer reported at SCI-Fayette since its opening, as well as respiratory ailments reported. If there is also information comparing the health at SCI-Fayette with the health at other state correctional facilities, that would also be helpful. Thank you, Christine Haines, Herald-Standard 724-425-7223.

# NEW MATTER EXHIBIT D

pennsylvania
OFFICE OF OPEN RECORDS

October 30, 2014

**Via E-Mail only:**

Christine Haines
Herald Standard
8 East Church Street
Uniontown, PA 15401
chaines@heraldstandard.com

**Via E-Mail only:**

Andrew Filkosky
Agency Open Records Officer
PA Department of Corrections
1920 Technology Parkway
Mechanicsburg, PA 17050
ra-docrighttoknow@pa.gov

RE: OFFICIAL NOTICE OF APPEAL - DOCKET # AP 2014-1694

Dear Parties:

Please review this information carefully as it affects your legal rights.

The Office of Open Records ("OOR") received this appeal under the Right-to-Know Law, 65 P.S. §§ 67.101, *et seq.* ("RTKL") on October 30, 2014. The process to follow in submitting information to the OOR is attached. A binding Final Determination will be issued in 30 calendar days as set forth in the RTKL.

The Supreme Court of Pennsylvania has held that an agency is permitted to assert exemptions on appeal, even if the agency did not assert them when the request was originally denied. *Levy v. Senate of Pa.*, 65 A.3d 361 (Pa. 2013). Accordingly, the agency may supplement its response within the time frame set forth below.

**You may submit information and legal argument to support your position by 5:00 p.m. seven (7) business days from the date on this letter.** Please include the docket number above on all submissions.

The law requires that your position must be supported by sufficient facts and citation to all relevant sections of the RTKL, case law, and Final Determinations of the OOR. **Statements of fact must be supported by an affidavit made under penalty of perjury by a person with actual knowledge.** An affidavit is required to demonstrate nonexistence of records. Blank sample affidavits are available on our website.

The agency has the burden of proving that records are not subject to public access. Any written information you provide to OOR must be provided to all parties.

Agency Must Notify Third Parties: If records affect a legal or security interest of an employee of the agency; contain confidential, proprietary or trademarked records of a person or business entity; or are held by a contractor or vendor, **the agency must notify such parties of this appeal immediately and provide proof of that notice to the OOR within 7 business days.**

Such notice must be made by 1) providing a copy of all documents included with this letter; and 2) advising that interested persons may request to participate in this appeal (*see* 65 P.S. § 67.1101(c)).

The Commonwealth Court has held that "the burden [is] on third-party contractors ... to prove by a preponderance of the evidence that the [requested] records are exempt." *See Allegheny County Dep't of Admin. Servs. v. A Second Chance, Inc.*, 13 A.3d 1025, 1042 (Pa. Commw. Ct. 2011). **Failure to participate in an appeal before the OOR may be construed as a waiver of objections regarding release of the requested records.**

Law Enforcement Records of Local Agencies: District Attorneys are required to appoint appeals officers to hear appeals regarding access to criminal investigative records in possession of a local agency. If records were denied in part upon that basis, requester may consider filing a concurrent appeal with the District Attorney of the County where the agency is located if the records were denied, in part, because they are criminal investigative records of a local agency.

If you have questions, contact the assigned Appeals Officer in writing and copy the other party.

Respectfully,

Terry Mutchler
Executive Director

Enclosures:
Assigned Appeals Officer contact information
Entire appeal as filed with OOR

## REQUEST TO PARTICIPATE AS DIRECT INTEREST PARTY

Please accept this as a Request to participate as a 3rd party with a direct interest in a currently pending appeal before the Office of Open Records pursuant to 65 P.S. § 67.1101(c). I hereby make the following statements under penalty of perjury as more fully set forth in 18 Pa.C.S. § 4904.

**Today's date:** _____

**OOR Docket No:** _____

**Name of Direct Interest Participant Information:** _____

Address/City/State/Zip _____

Telephone/Fax Number: _____ / _____

E-mail _____

**Date you received actual notice of the appeal:** _____

**Name of Requester:** _____

Address/City/State/Zip _____

Telephone/Fax Number: _____ / _____

E-mail _____

**Name of Agency:** _____

Address/City/State/Zip _____

Telephone/Fax Number: _____ / _____

E-mail _____

**Record at issue:** _____

**Statement of Direct Interest:**

I have a direct interest in the record(s) at issue as:

- ☐ employee of the agency
- ☐ containing confidential or proprietary information or trademarked records
- ☐ contractor or vendor
- ☐ Other: (attach additional pages if necessary) _____

Explain how the information you will submit in this appeal is probative to the final determination in support of the Requester's or Agency's position (attach additional pages if necessary) _____

_____

☐ I have attached a copy of my position statement to be included in the Office's final determination.

Respectfully submitted, _____(must be signed)

**Please submit this form the Appeals Officer assigned to the appeal. Remember to copy all parties on this correspondence. The Office of Open Records will not consider direct interest filings submitted after a Final Determination has been issued in the appeal.**

pennsylvania

OFFICE OF OPEN RECORDS


| | |
|---|---|
| APPEALS OFFICER: | Kathleen Higgins, Esquire |
| CONTACT INFORMATION: | Commonwealth of Pennsylvania<br>Office of Open Records<br>Commonwealth Keystone Building<br>400 North Street, 4th Floor<br>Harrisburg, PA 17120-0225 |
| PHONE: | (717) 346-9903 |
| FACSIMILE: | (717) 425-5343 |
| E-MAIL: | KaHiggins@pa.gov |
| Preferred method of contact and submission of information: | EMAIL |


**Please direct submissions and correspondence related to this appeal to the above Appeals Officer. Please include the case name and docket number on all submissions.**

**You must copy the other party on everything you submit to the OOR.**

The OOR website, http://openrecords.state.pa.us, is searchable and both parties are encouraged to review prior final determinations involving similar records and fees that may impact this appeal.

pennsylvania
OFFICE OF OPEN RECORDS

RECEIVED
OCT 30 2014
OFFICE OF OPEN RECORDS

# RIGHT TO KNOW LAW APPEAL
# DENIAL OR PARTIAL DENIAL

Office of Open Records
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225
Fax: (717) 425-5343 E-mail: openrecords@pa.gov

Today's date: 11-30-14

Requester's name: Christine Haines, Herald Standard
Address/City/State/Zip: 9 East Church St, Uniontown PA 15401
Request submitted by: ☒ Fax ☐ Mail ☐ E-mail ☐ In-Person (Please check one)
Date of Right to Know request: 9/25/14 Date of Agency Response: 10/16/14
Telephone and fax number: 724-425-7223 /724-439-7559 E-mail: chaines@heraldstandard.com

Name and address of Agency: Department of Corrections, 1920 Technology Parkway, Mechanicsburg, PA 17050
E-mail Address of Agency: afilkosky@pa.gov Fax of Agency 717-728-0312
Name and title of person who denied my request: Andrew Filkosky, Agency Open Records Officer

I submitted a request for records to the agency named above. The agency either denied or partially denied my request. I am appealing that denial to the Office of Open Records (OOR), and I am providing the following information:

I was denied access to the following records (attach additional pages if necessary): Report of the illnesses contracted at SCI Fayette, by type and quantity (i.e. how many cases fo each diagnosis) and comparison of illness rates at other SCIs

The agency's denial of my request is flawed and the requested records are public records because (check all that apply) (REQUIRED):

- ☐ the records document the receipt or use of agency funds.
- ☒ the records are in the possession, custody or control of the agency and are not protected by any exemptions under Section 708 of the Right-to-Know Law, are not protected by privilege, and are not exempted under any Federal or State law or regulation.
- ☐ Other _____

(attach additional pages if necessary)

- ☒ I have attached a copy of my request for records. (REQUIRED)
- ☒ I have attached a copy of all responses from the agency regarding my request. (REQUIRED)
- ☒ I have attached any letters or notices extending the agency's time to respond to my request.
- ☒ I hereby agree to permit the OOR an additional thirty (30) days to issue a final order in this appeal.

Respectfully Submitted, Christine E Haines (must be signed)

**You should provide the agency with a copy of this form and any documents you submit to the OOR.**

Filkosky, Andrew <afilkosky@pa.gov>
Fri 9/26/2014 3:14 PM
Inbox

To: Haines, Christine;

You forwarded this message on 9/26/2014 3:24 PM.

Dear Ms. Haines,

This email acknowledges receipt by the Department of Corrections of your written request for records under the Pennsylvania Right-to-Know Law (RTKL). Your request was received by this office on September 25, 2014. Therefore, under the RTKL, a written response to your request is due on or before October 2, 2014. This letter is provided pursuant to that requirement. This letter is an interim response to your request. A final response will be sent at a later time as outlined below.

You are hereby notified that, for the reason set forth below, the Department will require an additional 30 calendar days, i.e. until October 31, 2014, in which to provide a final written response to your request:

- A legal review is necessary to determine whether the record requested is subject to access under the Act.

At this time, the Department is unable to provide you with an estimated cost to fulfill your current request if it is granted. Any actual or estimated fees will be identified in the Department's future response.

Sincerely,

**Andrew Filkosky** | Agency Open Records Officer
Department of Corrections | Office of Chief Counsel
1920 Technology Parkway
Mechanicsburg, PA 17050
Phone: 717.728.7770 | Fax: 717.728.0312
[www.cor.state.pa.us]www.cor.state.pa.us



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**Sent:** Thursday, September 25, 2014 4:08 PM
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Inmates or staff members with those illnesses. I am particularly interested in various types of cancer reported at SCI-Fayette since its opening, as well as respiratory ailments reported. If there is also information comparing the health at SCI-Fayette with the health at other state correctional facilities, that would also be helpful. Thank you, Christine Haines, Herald-Standard 724-425-7223.

# RE: Right to know request/RTKL 1849-14

Filkosky, Andrew <afilkosky@pa.gov>

Thu 10/16/2014 2:50 PM

Inbox

To:Haines, Christine <chaines@heraldstandard.com>;

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- The RTKL exempts from disclosure records of an agency relating to a noncriminal investigation, including, but not limited to: complaints submitted to an agency; investigative materials, notes, correspondence and reports; records that include the identity of a confidential source, including individuals subject to the act of December 12, 1986 (P.L. 1559, No. 169), known as the Whistleblower Law; records that include information made confidential by law; work papers underlying an audit; and records that, if disclosed, would reveal the institution, progress or result of an agency investigation, deprive a person of the right to an impartial adjudication; constitute an unwarranted invasion of privacy, hinder an agency's ability to secure an administrative or civil sanction, or endanger the life or physical safety of an individual. 65 P.S. § 67.708(b)(17). *See Amro v Office of AG*, 783 A.2d 897, (Pa. Cmwlth. 2001); *Senk v. Commonwealth*, 521 A.2d 532 (Pa. Cmwlth. 1987). Your request implicates such information and access is denied.

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- The RTKL excludes records maintained by an agency in connection with law enforcement or other public safety activity that, if disclosed, would be reasonably likely to jeopardize or threaten public safety or preparedness or a public protection activity. 65 P.S. § 67.708(b)(2). The requested records are records maintained by the Department in connection with its official law enforcement function of supervising the incarceration of inmates. The disclosure of the requested records would threaten public safety and the Department's public protection activities in maintaining safe and secure correctional institutions by allowing inmates or others to access information that can be used to undermine the Department's security procedures. Therefore, disclosure of these types of records is excluded under the RTKL. *Weaver v. Department of Corrections*, 702 A.2d 370 (Pa.Cmwlth. 1997).

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would disclose individually identifiable health information. 65 P.S. § 67.708(b)(5). *Hunt v. Pennsylvania Department of Corrections*, 698 A.2d 147, 150 (Pa.Cmwlth. 1997); *Neyhart v Department of Corrections*, 721 A.2d 391 (Pa.Cmwlth. 1998). Your request implicates such records and access is denied. ). Please note that the department policy does allow inmates to access specific staff members to discuss medical records and medical issues. Please refer to DC-ADM 003 for the procedures to make such a request or for further information.

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- The requested records are also covered by the deliberative process privilege and are not public records under the law. 65 P.S. § 67.102 (See definitions of "public record" and "privilege"); 65 P.S. § 67.506(c). The deliberative process privilege applies to pre-decisional communications which reflect on legal or policy matters. *Tribune-Review Publishing Co. v. Department of Community & Economic Development*, 814 A.2d 1261, 1263-1264 (Pa. Cmwlth. 2003); *See also Lavalle v. Office of General Counsel*, 769 A.2d 449 (Pa. 2001); *City Council v. Greene*, 856 A.2d 217, 225 n.6 (Pa. Cmwlth. 2004). Your request implicates such information and access is denied.

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1) this response; 2) your request; and 3) the reason why you think the agency is wrong in its reasons for saying that the record is not public (a statement that addresses any ground stated by the agency for the denial). If the agency gave several reasons why the record is not public, state which ones you think were wrong.

Also, the OOR has an appeal form available on the OOR website at:

https://www.dced.state.pa.us/public/oor/appealformgeneral.pdf

Sincerely,

**Andrew Filkosky** | Agency Open Records Officer
Department of Corrections | Office of Chief Counsel
1920 Technology Parkway
Mechanicsburg, PA 17050
Phone: 717.728.7770 | Fax: 717.728.0312
[www.cor.state.pa.us]www.cor.state.pa.us



From: Haines, Christine [mailto:chaines@heraldstandard.com]
Sent: Thursday, September 25, 2014 4:08 PM
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I am appealing the denial of my Open Records request for aggregated data regarding medical information for SCI-Fayette which was submitted to the Department of Corrections on Sept. 25.

The DOC initially requested a 30-day extension to respond saying a legal review was necessary. On Oct. 16 I received an email denying my request.

I am appealing that denial on the grounds that the information that I am seeking does not fall under any privileged category. Furthermore, the requested records are public records as they document a transaction or activity of the DOC and which is created, retained or received pursuant to law or in connection with DOC activity or function. The records reveal information about the medical care provided to inmates housed at SCI-Fayette, a responsibility of the DOC and Commonwealth. As such, the records are presumptively public pursuant to the RTKL and must be provided absent an applicable exemption, and none of the exemptions cited by the DOC provide a basis for denial.

- The first basis for denial was the exemption from disclosing records of an agency relating to a noncriminal investigation. I am not aware of any such investigation, nor have I requested documents related to such an investigation. I am simply seeking aggregate data related to illnesses contracted at SCI-Fayette and, if available, a comparison to illness rates at other SCIs. I did not seek information specific to particular inmates or incidents. I am seeking data which relates to broad classes, groups or categories so that it is not possible to distinguish the properties of individuals within those classes, groups or categories, which is defined as "aggregated data" under section 102 of the RTKL. Moreover, section 708(d) of the RTKL renders the investigation exemption, found in section 708(b)(17) inapplicable to requests for aggregated data. As such, the noncriminal investigation exemption does not apply to limit access.

- The second basis for denial is the personal security exemption, with the contention that releasing such information would likely result in a substantial and demonstrable risk of harm or personal security of an individual. Again, I do not see a connection between a list of the number of cases of various illnesses and risk to any individual. Moreover, the courts have been very clear that mere conjecture cannot form the basis of this exemption. See *Governor's Office of Administration v. Purcell*, 35 A.3d 811, 820 (Pa.Cmwlth.2012);. The DOC has failed to show any factually similar requests that have resulted in risk to personal security. The DOC has failed to meet the burden of proof imposed by law and as such, cannot rely on this basis to deny the request.

- The third basis for denial is the exclusion of records maintained by an agency in connection with law enforcement or other public safety activity that, if disclosed, would jeopardize public safety. Unless all records of the DOC are therefore exempt, I see no reason why the records I requested should fall under this exemption. It is merely an aggregate list of medical information. And again, the DOC had failed to produce any evidence, other than mere conjecture, that would support its reliance on this basis for denial and overcome the presumption of access and strong right to access aggregated data enshrined in the RTKL. Carey v. Pennsylvania Dept. of Corrections, 61 A.3d 367, (Pa.Cmwlth.2013). As such, this statutory provision cannot provide a basis for denial.

- The exemption of an individual's medical records was also cited in the denial. I am not seeking any individual medical records or identifying information. I was directed to DC-ADM 003 to make my request. That form does deal with individual information, something which I never requested and do not want. Moreover, as the request deals with aggregated data, which by definition excludes indentifying information, this provision cannot provide a basis for denial.

- The next reason for the denial is the exemption of personal identification information. Again, I did not request, nor do I want any information that would identify specific individuals. I am interested in aggregate data on an annual basis since SCI-Fayette opened less than 10 years ago. By definition and by operation of section 708(d), the aggregated data requested cannot invoke this statutory basis for denial.

- The request was also denied because it allegedly falls under the deliberative process privilege. Again, unless all documents held by the DOC are exempted under this privilege, I do not see how it applies in this situation. I am not asking for DOC medical policies, just a numeric tabulation (aggregated data). Moreover, and again, section 708(d) renders this basis for denial inapplicable to a request for aggregated data and as such, the DOC cannot rely on this statutory provision to deny access.

- The denial also states attorney client privilege. Again, I am at a loss to see the application of this exemption to the documents requested. Moreover, the attorney-client privilege is not all-encompassing, and only applies in limited circumstances which are not present as part of this request. An agency may not rely on a bald assertion that the attorney-client privilege applies; instead, the agency must prove all four elements of the privilege exist with regard to the requested records. *See* Clement v. Berks County, OOR Dkt. AP 2011-0110, 2011 PA O.O.R.D. LEXIS 139 ("Simply invoking the phrase 'attorney-client privilege' or 'legal advice' does not excuse the agency from the burden it must meet to withhold records". In this case, the DOC has done no more than assert the privilege and cannot meet the test imposed by law with regard to the requested records. Aggregated data is not protected by the attorney-client privilege because it is incapable of triggering the privilege by its very nature.

- The final reason for denial is the exemption for personal notes and working papers. I am not asking for personal notes, telephone message slips, routing slips or anything else of that nature. I merely want to know how many inmates have reported contracting which types of illnesses while incarcerated at SCI Fayette. And again, section 708(d) renders this exemption inapplicable to aggregated data.

Christine Haines

# NEW MATTER EXHIBIT E

pennsylvania
DEPARTMENT OF CORRECTIONS

November 4, 2014

Kathleen Higgins, Esquire
Appeals Officer
Office of Open Records
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Re: Appeal No.: 2014-1694 (*Christine Haines v. PA DOC*)

Dear Ms. Higgins:

Please accept this correspondence in support of the Department of Corrections' ("Department") position in this appeal filed by Christine Haines. Ms. Haines Right to Know Law ("RTKL") request (No. 1849-14) received by the Department's Agency Open Records Officer ("AORO") on September 25, 2014, sought access to "report of the illnesses contracted at SCI Fayette, by type and quantity (i.e. how many cases of each diagnosis) and comparison of illness rates at other SCI's." *See* Request. On September 26, 2014, the AORO filed an interim response extending the final response to October 31, 2014. On October 16, 2014, the Department denied the request. *See* Response. Subsequently, Ms. Haines filed this appeal. *See* Appeal.

The Department submits that the requested records are exempt pursuant to 65 P.S. § 67.708(b)(17), which exempts from public disclosure in pertinent part:

> A record of an agency relating to a noncriminal investigation, including:
>
> (i) Complaints submitted to an agency.
>
> (ii) Investigative materials, notes, correspondence and reports.
>
> . . .
>
> (iv) A record that, if disclosed, would do any of the following:
>
> (A) Reveal the institution, progress or result of an agency investigation, except the imposition of a fine or civil penalty, the suspension, modification or revocation of a license, permit, registration, certification or similar authorization issued by an agency or an executed settlement agreement unless the agreement is determined to be confidential by a court.
>
> . . .

The RTKL does not define "noncriminal" and "investigation." The Commonwealth Court has interpreted "noncriminal" to indicate the exemption of investigations other than those that are criminal in nature. *Department of Health v. Office of Open Records*, 4 A. 3d 803, 810 (Pa. Cmwlth. 2010). Further, the Commonwealth Court has found the term "investigation" in this exemption to mean "a systematic or searching inquiry, detailed examination, or an official probe." *Id.* at 811.

The Department submits the Declaration of the Director of the Bureau of Health Care Services, Christopher Oppman to set forth that the records requested by Ms. Haines are part of an ongoing noncriminal investigation. *See* Declaration of Christopher Oppman, attached hereto as Exhibit "A." The noncriminal investigation is being conducted by the Department and by the Department of Health. *Id.* The records requested have been generated by the Department and provided to the Department of Health's for investigation on the matter. *Id.* At this time, the Department of Health has not issued any results regarding the investigation. Thus, providing the requested records that are clearly investigative materials, notes, and reports, would reveal the institution and the progress of the investigation being conduct. *Id.*

For the foregoing reasons, the Department's denial of Ms. Haines' request was proper. The appeal is without merit and should be dismissed.

Sincerely,

Chase M. Defelice
Assistant Counsel

cc: Christine Haines, Herald Standard, 8 East Church Street, Uniontown, PA 15401 (*via regular mail*)

## DECLARATION OF CHRISTOPHER OPPMAN

I, Christopher Oppman, hereby declare under the penalty of perjury, pursuant to 18 Pa. C.S. § 4904, that the following statements are true and correct based upon my personal knowledge, information, and belief:

1. Currently, the Department of Corrections of the Commonwealth of Pennsylvania ("Department") employs me as the Director for the Bureau of Health Care Services ("BHCS").

2. In my capacity as Director of BHCS, I, *inter alia*, oversee the administration of medical, mental health and dental services to the inmate population; oversee and ensure contract compliance with vendors of professional medical services; supervise quality of the delivery of medical services; develop, monitor and supervise the application of policy as it pertains to the delivery of medical services within the Department, including the administration and enforcement of security as it relates to those policies and the BHCS.

3. I am aware of Christen Haines request pursuant to the Right-to-Know Law for "report of the illnesses contracted at SCI Fayette, by type and quantity (i.e. how many cases of each diagnosis) and comparison of illness rates at other SCI's."

4. The records requested by Ms. Haines are presently part of a noncriminal investigation that was started by the Department and now includes the Department of Health.

EXHIBIT

A

5. The request seeks reports of the number and type of illnesses that have been contracted at SCI-Fayette, and also comparison reports with other State Correctional Institutions.

6. The Department has generated the records that Ms. Haines requests; however, those records were created as part of an investigation that the Department of Health is conducting.

7. The Department of Health has yet to issue results to their investigation, thus this matter, along with the requested records, are still part of the investigation.

8. Providing the requested records would reveal the institution and the progress of the investigation being conduct by the Department and the Department of Health.

Respectfully submitted,

Christopher Oppman, Director
Bureau of Health Care Services
Pennsylvania Department of Corrections

Date: November 4, 2014

# NEW MATTER EXHIBIT F

pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

| | | |
|---|---|---|
| IN THE MATTER OF | : | |
| CHRISTINE HAINES AND THE *HERALD STANDARD*, Requester | : | Docket No.: AP 2014-1695 |
| v. | : | |
| PENNSYLVANIA DEPARTMENT OF CORRECTIONS, Respondent | : | |

## INTRODUCTION

Christine Haines, on behalf of the *Herald Standard* ("Requester"), submitted a request ("Request") to the Pennsylvania Department of Corrections ("Department") pursuant to the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq.*, seeking documentation of illnesses contracted by inmates and staff members at SCI-Fayette. The Department denied the Request, asserting that responsive records are exempt under the RTKL because they relate to an ongoing noncriminal investigation. The Requester appealed to the Office of Open Records ("OOR"). For the reasons set forth in this Final Determination, the appeal is granted and the Department is required to take further action as directed.

## FACTUAL BACKGROUND

On September 25, 2014, the Request was filed, seeking "documentation of illnesses contracted by inmates and/or staff members at SCI-Fayette." The Requester specifically stated that she was "not seeking identifying information, only types of reported contracted illnesses and

the number of inmates or staff members with those illnesses." The Requester further specified that "I am particularly interested in various types of cancer reported at SCI-Fayette since its opening, as well as respiratory ailments reported" and added that "[i]f there is also information comparing the health at SCI-Fayette with the health at other state correctional facilities, that would also be helpful."

On September 26, 2014, the Department invoked a thirty day extension of time to respond to the Request pursuant to 65 P.S. § 67.902. On October 16, 2014, the Department denied the Request, stating that responsive records are not public under exemptions for noncriminal investigative records (65 P.S. § 67.708(b)(17)); personal security records (65 P.S. § 67.708(b)(1)); public safety records (65 P.S. § 67.708(b)(2)); medical records (65 P.S. § 67.708(b)(5)); personal identification information (65 P.S. § 67.708(b)(6)); internal, predecisional deliberations (65 P.S. § 67.708(b)(10)(i)(A)); and notes and working papers prepared by or for a public official or agency employee for that individual's own personal use (65 P.S. § 67.708(b)(12)). Additionally, the Department cites to the attorney-client privilege as a basis for denial.

On October 30, 2014, the Requester appealed to the OOR, challenging the denial and asserting grounds for disclosure. The OOR invited both parties to supplement the record and directed the Department to notify any third parties of their ability to participate in this appeal pursuant to 65 P.S. § 67.1101(c). On November 4, 2014, the Department submitted a position statement, along with the declaration of Christopher Oppman, the Department's Director for the Bureau of Health Care Services, who attests that the requested records are part of a noncriminal investigation. On November 6, 2014, the Requester submitted a position statement, arguing that

she is seeking aggregated data, which is not subject to the majority of exemptions cited by the Department. *See* 65 P.S. § 67.708(d).

## LEGAL ANALYSIS

"The objective of the Right to Know Law ... is to empower citizens by affording them access to information concerning the activities of their government." *SWB Yankees L.L.C. v. Wintermantel*, 45 A.3d 1029, 1041 (Pa. 2012). Further, this important open-government law is "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." *Bowling v. Office of Open Records*, 990 A.2d 813, 824 (Pa. Commw. Ct. 2010), *aff'd* 75 A.3d 453 (Pa. 2013).

The OOR is authorized to hear appeals for all Commonwealth and local agencies. *See* 65 P.S. § 67.503(a). An appeals officer is required "to review all information filed relating to the request" and may consider testimony, evidence and documents that are reasonably probative and relevant to the matter at issue. 65 P.S. § 67.1102(a)(2). An appeals officer may conduct a hearing to resolve an appeal. The decision to hold a hearing is discretionary and non-appealable. *Id.*; *Giurintano v. Dep't of Gen. Servs.*, 20 A.3d 613, 617 (Pa. Commw. Ct. 2011). Here, the OOR has the necessary, requisite information and evidence before it to properly adjudicate the matter.

The Department is a Commonwealth agency subject to the RTKL that is required to disclose public records. 65 P.S. § 67.301. Records in possession of a Commonwealth agency are presumed public unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. Upon receipt of a request, an agency is required to assess whether a record requested is within its possession, custody or control and respond

within five business days. 65 P.S. § 67.901. An agency bears the burden of proving the applicability of any cited exemptions. *See* 65 P.S. § 67.708(b).

Section 708 of the RTKL clearly places the burden of proof on the public body to demonstrate that a record is exempt. In pertinent part, Section 708(a) states: "(1) The burden of proving that a record of a Commonwealth agency or local agency is exempt from public access shall be on the Commonwealth agency or local agency receiving a request by a preponderance of the evidence." 65 P.S. § 67.708(a). Preponderance of the evidence has been defined as "such proof as leads the fact-finder ... to find that the existence of a contested fact is more probable than its nonexistence." *Pa. State Troopers Ass'n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Dep't of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)).

**1. The Department has not established that responsive records are exempt as noncriminal investigative records**

On appeal, the Department argues that the records responsive to the Request constitute noncriminal investigative records and are therefore exempt from disclosure under Section 708(b)(17) of the RTKL. Section 708(b)(17) exempts from disclosure records of an agency "relating to a noncriminal investigation" including "[c]omplaints submitted to an agency" and "[i]nvestigative materials, notes, correspondence and reports." 65 P.S. § 67.708(b)(17)(i)-(ii). Additionally, Section 708(b)(17) exempts disclosure of "[a] record that, if disclosed, would ... [r]eveal the institution, progress or result of an agency investigation, except the imposition of a fine or civil penalty, the suspension, modification or revocation of a license, permit, registration, certification or similar authorization issued by an agency or an executed settlement agreement unless the agreement is determined to be confidential by the court." 65 P.S. § 67.708(b)(17)(vi)(A).

In order for this exemption to apply, an agency must demonstrate that "a systematic or searching inquiry, a detailed examination, or an official probe" was conducted regarding a noncriminal matter. *See Department of Health v. Office of Open Records*, 4 A.3d 803, 810-11 (Pa. Commw. Ct. 2010). To constitute "a systematic or searching inquiry" or "a detailed examination," the investigation cannot be a "one time inquiry" and must instead involve "comprehensive, repeated," and "regular" examinations or inspections. *Dep't of Public Welfare v. Chawaga*, 91 A.3d 257, 259 (Pa. Commw. Ct. 2014). Further, the inquiry, examination, or probe must be "conducted as part of an agency's official duties." *Department of Health*, 4 A.3d at 810-11 ; *see also Johnson v. Pennsylvania Convention Center Authority*, 49 A.3d 920 (Pa. Commw. Ct. 2012).

In the instant matter, Director Oppman attests that:

> 4. The records requested by [the Requester] are presently part of a noncriminal investigation that was started by the Department and now includes the Department of Health....
>
> 6. The Department has generated the records that [the Requester] requests; however, those records were created as part of an investigation that the Department of Health is conducting.
>
> 7. The Department of Health has yet to issue results to their investigation, thus this matter, along with the requested records, are still part of the investigation.
>
> 8. Providing the requested records would reveal the institution and the progress of the investigation being conducted by the Department and the Department of Health.

While Director Oppman generally concludes that the Department started a noncriminal investigation, the Department has not provided any evidence that an inquiry, examination, or official probe was conducted as part of the Department's official duties. *Department of Health*, 4 A.3d at 810-11; *Johnson*, 49 A.3d at 925. Not all agency fact-finding constitutes a "noncriminal investigation" subject to the protections of the RTKL. In *Chawaga*, the

Commonwealth Court held that a performance audit was not part of the Department of Public Welfare's legislatively granted fact-finding and investigative powers, and that the audit was ancillary to the Department's public assistance services. 91 A.3d at 259. The Court noted that "[a] contrary determination of an 'official probe' would craft a gaping exemption, under which any governmental information-gathering could be shielded from disclosure." *Id.* Recently, the Lackawanna County Court of Common Pleas held that an agency failed to meet its burden of proof when the records did not relate to the "official duties" of the agency and it was not established that the investigation that occurred was more than a "one-time inquiry." *Lackawanna County Government Study Commission v. The Scranton Times, L.P.*, No. 14-CV-4427, 2014 WL 5930128 (Lack. Com. Pl. Nov. 14, 2014) (citing *Chawaga*,).

The Department is the Commonwealth agency charged with overseeing the confinement of inmates, but now asserts that it has undertaken a noncriminal investigation into medical illnesses of inmates and its employees at SCI-Fayette. However, the Department has failed to provide any evidence that an inquiry, examination, or official probe was conducted and how such inquiry, examination or official probe was conducted as part of the Department's official duties regarding the incarceration of inmates. The Department's one-time investigation into medical illnesses of its inmates or staff members at SCI-Fayette is ancillary to the overall function and operation of the Department.

Further, Director Oppman attests that the records are part of an investigation that is now being conducted by the Pennsylvania Department of Health. The investigative exemptions under the RTKL generally have only been extended to protect the records of the agency carrying out the investigation, and not the agency that is being investigated. *See Hayes v. Pennsylvania Department of Public Welfare*, OOR Dkt. AP 2012-0415, 2012 PA O.O.R.D. LEXIS 530 ("[A]

review of case law interpreting the RTKL and its predecessor statute indicates that the investigative exemption has only been extended to protect the records of the agency carrying out an investigation"). Therefore, it is irrelevant if the Department of Health is now conducting its own investigation into the matter, even if the Department of Health's investigation is being conducted pursuant to its official duties. Accordingly, the Department has not shown that "a systematic or searching inquiry, a detailed examination, or an official probe" was conducted by the Department regarding a noncriminal matter, and therefore has not met its burden of proving that the requested records are exempt under Section 708(b)(17) the RTKL. *See Department of Health*, 4 A.3d at 810-11.

2. **The Department has not its burden of proving that responsive records are exempt as medical records**

In its response, the Department asserts that responsive records are exempt from disclosure under Section 708(b)(5) of the RTKL. Section 708(b)(5) exempts from disclosure:

> A record of an individual's medical, psychiatric or psychological history or disability status, including an evaluation, consultation, prescription, diagnosis or treatment; results of tests, including drug tests; enrollment in a health care program or program designed for participation by persons with disabilities, including vocation rehabilitation, workers' compensation and unemployment compensation; or related information that would disclose individually identifiable health information.

65 P.S. § 67.708(b)(5). The Department has not asserted what records are being withheld pursuant to this exemption, and has not provided any evidence on appeal to explain why these records fall under this exemption. *See Carey v. Pennsylvania Department of Corrections*, 61 A.3d 367 (Pa. Commw. Ct. 2013 ("[A]gencies must show the connection between the information and the grounds for protection"). Additionally, the Requester specifically states in her Request that she is not seeking any identifying information. Therefore, without any

additional evidence, the Department has not established that responsive records are exempt under Section 708(b)(5).

Additionally, there is no evidence that responsive records are protected by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). HIPAA states that "[a] covered entity may not use or disclose protected health information." 45 C.F.R. § 164.502(a). HIPAA defines a "covered entity" as "(1) A health plan; (2) A health care clearinghouse; (3) A health care provider who transmits any health information in electronic form in connection with a transaction covered by this subchapter." 45 C.F.R. § 160.103. Here, the Department has not shown that it is a covered entity under HIPPA. *See Pass v. Capital Area Transit*, OOR Dkt. AP 2014-0173, 2014 PA O.O.R.D. LEXIS 247.

Even if the Department was a covered entity under HIPAA, the information sought in this appeal is not "individually identifiable health information" as protected by HIPAA. "Individually identifiable health information" is defined as:

> Information that is a subset of health information, including demographic information collected from an individual, and;
>
> (1) Is created or received by health care provider, health plan, employer or health care clearinghouse; and
>
> (2) Relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and
>
> (i) That identifies the individual; or
>
> (ii) With respect to which there is a reasonable basis to believe the information can be used to identify the individual.

*See* 45 C.F.R. § 160.103. The enactment of HIPAA was to address concerns about the confidentiality of patients' individually identifiable health information. *Opis Mgmt. Res. LLC v.*

*Sec'y Fla. Agency for Health Care Admin.*, 713 F.3d 1291, 1294-95 (11th Cir. 2013); *S.C. Med. Ass'n v. Thompson*, 327 F.3d 346, 348 (4th Cir. 2003); *Citizens for Health v. Leavitt*, 428 F.3d 167, 172-74 (3d Cir. 2005) (detailing the history of the Privacy Rule's promulgation and explaining its requirements). In doing so, the Secretary of Health and Human Services promulgated privacy regulations addressing, among other things, individuals' rights to individually identifiable health information. *S.C. Med Ass'n*, 327 F.3d at 349.

The Department has not provided any evidence that HIPPA would apply to the requested records. Because the Department has not shown that it is a covered entity or provided any evidence that HIPPA would apply, particularly in light of the fact that the Request states that the Requester is not seeking identifying information, the OOR finds that the Department has not established that the Request seeks exempt medical records.

**3. The Department has not met its burden of proving that any other exemption applies**

In its response, the Department generally asserts that the requested records are subject to various other exemptions under the RTKL. On appeal, however, the Department failed to provide any evidentiary support or explanation concerning these exemptions, relying solely upon its argument that the records are exempt under 65 P.S. § 67.708(b)(17). Therefore, the Department has not met its burden of establishing that any other exemptions apply. *See* 65 P.S. § 67.708(a)(1).

## CONCLUSION

For the foregoing reasons, the Requester's appeal is **granted** and the Department is required to provide all responsive records to the Requester within thirty days. This Final Determination is binding on all parties. Within thirty days of the mailing of this Final Determination, any party may appeal to the Commonwealth Court. 65 P.S. § 67.1301(a). All

parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond according to court rules as per section 1303 of the RTKL. This Final Determination shall be placed on the OOR website at: http://openrecords.state.pa.us.

FINAL DETERMINATION ISSUED AND MAILED: December 1, 2014

Kathleen A. Higgins

APPEALS OFFICER
KATHLEEN A. HIGGINS, ESQ.

Sent to: Christine Haines (via e-mail only);
Andrew Filkosky (via e-mail only);
Chase Defelice, Esq. (via e-mail only)

# NEW MATTER EXHIBIT G

## Defelice, Chase

**From:** Defelice, Chase
**Sent:** Wednesday, December 31, 2014 8:35 AM
**To:** 'chaines@heraldstandard.com'
**Subject:** Haines v. Pa. DOC AP 2014-1694
**Attachments:** 201412310829.pdf

Ms. Haines

Attached are the records the Department has that are responsive to your request.

Sincerely,

Chase M. Defelice, Assistant Counsel
Office of General Counsel
Pennsylvania Department of Corrections
1920 Technology Parkway
Mechanicsburg, PA 17050
Phone: 717.728.7763 Fax: 717.728.0312
www.cor.state.pa.gov | www.state.pa.gov

| Institution | Number of Patients with Pulmonary Conditions | ADP | # PTS/ADP x 1000 |
|---|---|---|---|
| Muncy | 329 | 1452 | 226.58 |
| Cambridge Springs | 230 | 1039 | 221.37 |
| Smithfield | 203 | 1350 | 150.37 |
| Retreat | 152 | 1112 | 136.69 |
| Mahanoy | 331 | 2494 | 132.72 |
| Frackville | 153 | 1162 | 131.67 |
| Coal Twp | 300 | 2336 | 128.42 |
| Huntingdon | 263 | 2144 | 122.67 |
| Greene | 207 | 1736 | 119.24 |
| Rockview | 287 | 2426 | 118.30 |
| Houtzdale | 298 | 2530 | 117.79 |
| Somerset | 266 | 2344 | 113.48 |
| Fayette | 226 | 2003 | 112.83 |
| Graterford | 411 | 3749 | 109.63 |
| Dallas | 231 | 2146 | 107.64 |
| Benner | 221 | 2101 | 105.19 |
| Forest | 229 | 2240 | 102.23 |
| Pine Grove | 106 | 1077 | 98.42 |
| Laurel Highlands | 149 | 1535 | 97.07 |
| Chester | 120 | 1258 | 95.39 |
| Albion | 208 | 2281 | 91.19 |
| Waymart | 122 | 1396 | 87.39 |
| Camp Hill | 298 | 3503 | 85.07 |
| Pittsburgh | 163 | 1931 | 84.41 |
| Mercer | 124 | 1473 | 84.18 |
| Quehanna | 29 | 448 | 64.73 |

| SCI | 2010 NAT | 2010 CA | 2011 NAT | 2011 CA | 2012 NAT | 2012 CA | 2013 NAT | 2013 CA | TOTAL NAT | TOTAL CA |
|---|---|---|---|---|---|---|---|---|---|---|
| Graterford | 7.62 | 3.46 | 4.77 | 2.39 | 5.53 | 2.49 | 4.27 | 1.00 | 5.42 | 2.24 |
| Laurel Highlands | 31.61 | 4.99 | 31.55 | 4.40 | 17.86 | 3.97 | 14.28 | 4.54 | 23.14 | 4.45 |
| Rockview | 1.89 | 0.00 | 5.89 | 3.79 | 3.66 | 1.22 | 5.28 | 2.44 | 4.25 | 1.91 |
| Pittsburgh | 3.62 | 1.81 | 2.53 | 1.89 | 1.84 | 1.84 | 4.19 | 3.14 | 3.10 | 2.21 |
| Smithfield | 2.18 | 1.46 | 5.86 | 2.93 | 4.38 | 2.92 | 3.65 | 2.19 | 4.02 | 2.37 |
| Waymart | 5.25 | 3.75 | 8.92 | 2.06 | 5.36 | 0.77 | 4.81 | 2.75 | 6.12 | 2.34 |
| Mahanoy | 1.69 | 0.84 | 1.29 | 0.86 | 2.10 | 2.10 | 1.98 | 1.19 | 1.77 | 1.25 |
| Fayette | 3.39 | 1.45 | 1.46 | 0.98 | 0.97 | 0.97 | 2.46 | 0.00 | 2.07 | 0.85 |
| Albion | 0.87 | 0.43 | 1.31 | 0.88 | 3.89 | 1.30 | 3.46 | 1.73 | 2.39 | 1.08 |
| Dallas | 1.86 | 0.47 | 2.37 | 0.95 | 6.19 | 1.90 | 1.89 | 0.00 | 3.07 | 0.83 |
| Greene | 3.35 | 2.24 | 2.86 | 0.57 | 2.79 | 1.12 | 1.15 | 0.57 | 2.55 | 1.13 |
| Houtzdale | 2.18 | 0.44 | 0.00 | 0.00 | 1.94 | 0.78 | 2.36 | 1.57 | 1.62 | 0.71 |
| Cresson | 0.65 | 0.65 | 3.18 | 1.91 | 4.30 | 1.43 | NA | NA | 2.89 | 1.33 |
| Mercer | 1.34 | 0.67 | 2.74 | 0.69 | 2.07 | 1.38 | 4.03 | 1.34 | 2.54 | 1.02 |
| Chester | 2.37 | 0.79 | 1.59 | 0.79 | 2.43 | 0.81 | 3.23 | 1.62 | 2.40 | 1.00 |
| Forest | 0.87 | 0.87 | 1.33 | 0.00 | 0.45 | 0.45 | 1.81 | 0.90 | 1.11 | 0.56 |
| Muncy | 1.38 | 1.38 | 1.32 | 0.00 | 2.91 | 0.00 | 4.19 | 2.09 | 2.43 | 0.87 |
| Camp Hill | 2.18 | 0.31 | 0.00 | 0.00 | 0.28 | 0.28 | 1.91 | 0.54 | 1.08 | 0.29 |
| Cambridge Springs | 0.00 | 0.00 | 2.16 | 2.16 | 0.00 | 0.00 | 1.01 | 1.01 | 0.78 | 0.78 |
| Coal Twp. | 0.00 | 0.00 | 0.99 | 0.00 | 1.75 | 0.88 | 0.87 | 0.44 | 0.92 | 0.35 |
| Huntingdon | 2.32 | 0.46 | 1.40 | 0.00 | 1.39 | 0.00 | 2.35 | 0.47 | 1.86 | 0.23 |
| Somerset | 0.44 | 0.00 | 1.34 | 0.45 | 0.86 | 0.00 | 0.85 | 0.85 | 0.87 | 0.33 |
| Benner Twp. | NA | NA | NA | NA | NA | NA | 0.98 | 0.49 | 0.98 | 0.49 |
| Quehanna | 0.00 | 0.00 | 2.01 | 2.01 | 0.00 | 0.00 | 0.00 | 0.00 | 0.54 | 0.54 |
| Frackville | 0.00 | 0.00 | 0.00 | 0.00 | 0.85 | 0.00 | 0.86 | 0.00 | 0.43 | 0.00 |
| Greensburg | 0.00 | 1.07 | 0.95 | 0.00 | 1.01 | 0.00 | NA | NA | 0.67 | 0.34 |
| Pine Grove | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.84 | 0.00 | 0.26 | 0.00 |
| Retreat | 0.88 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.88 | 0.00 | 0.44 | 0.00 |
| TOTAL | 2.83 | 1.03 | 3.02 | 1.06 | 2.87 | 1.09 | 2.91 | 1.19 | 2.91 | 1.09 |

DEATHS - 2010 - 2013
NATURAL/CANCER

| INST | 2010 NAT | 2010 CA | 2011 NAT | 2011 CA | 2012 NAT | 2012 CA | 2013 NAT | 2013 CA | TOTAL NAT | TOTAL CA |
|---|---|---|---|---|---|---|---|---|---|---|
| Albion | 2 | 1 | 3 | 2 | 9 | 3 | 8 | 4 | 22 | 10 |
| Benner Twp. | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 1 | 2 | 1 |
| Cambridge Springs | 0 | 0 | 2 | 2 | 0 | 0 | 1 | 1 | 3 | 3 |
| Camp Hill | 7 | 1 | 0 | 0 | 1 | 1 | 7 | 2 | 15 | 4 |
| Chester | 3 | 1 | 2 | 1 | 3 | 1 | 4 | 2 | 12 | 5 |
| Coal Twp. | 0 | 0 | 2 | 0 | 4 | 2 | 2 | 1 | 8 | 3 |
| Cresson | 1 | 1 | 5 | 3 | 6 | 2 | 1 | 0 | 13 | 6 |
| Dallas | 4 | 1 | 5 | 2 | 13 | 4 | 4 | 0 | 26 | 7 |
| Fayette | 6 | 4 | 3 | 3 | 2 | 2 | 5 | 1 | 16 | 10 |
| Forest | 2 | 2 | 3 | 0 | 1 | 1 | 4 | 2 | 10 | 5 |
| Frackville | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 2 | 0 |
| Graterford | 22 | 10 | 16 | 8 | 20 | 9 | 17 | 4 | 75 | 31 |
| Greene | 6 | 3 | 5 | 1 | 5 | 2 | 2 | 1 | 18 | 7 |
| Greensburg | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 2 | 0 |
| Houtzdale | 5 | 1 | 0 | 0 | 5 | 2 | 6 | 4 | 16 | 7 |
| Huntingdon | 5 | 1 | 3 | 0 | 3 | 0 | 5 | 1 | 16 | 2 |
| Laurel Highlands | 38 | 6 | 43 | 6 | 27 | 6 | 22 | 7 | 130 | 25 |
| Mahanoy | 4 | 2 | 3 | 2 | 5 | 5 | 5 | 3 | 17 | 12 |
| Mercer | 2 | 1 | 4 | 1 | 3 | 2 | 6 | 2 | 15 | 6 |
| Muncy | 2 | 2 | 2 | 0 | 4 | 0 | 6 | 3 | 14 | 5 |
| Pine Grove | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 |
| Pittsburgh | 6 | 3 | 4 | 2 | 3 | 3 | 8 | 6 | 21 | 14 |
| Quehanna | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 1 | 1 |
| Retreat | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 2 | 0 |
| Rockview | 4 | 0 | 14 | 9 | 9 | 3 | 13 | 6 | 40 | 18 |
| Smithfield | 3 | 2 | 8 | 4 | 6 | 4 | 5 | 3 | 22 | 13 |
| Somerset | 1 | 0 | 3 | 1 | 2 | 0 | 2 | 1 | 8 | 2 |
| Waymart | 7 | 5 | 13 | 3 | 7 | 1 | 7 | 4 | 34 | 13 |
| Totals | 131 | 47 | 145 | 51 | 140 | 53 | 145 | 59 | 561 | 210 |

Fayette Deaths 2003-2013

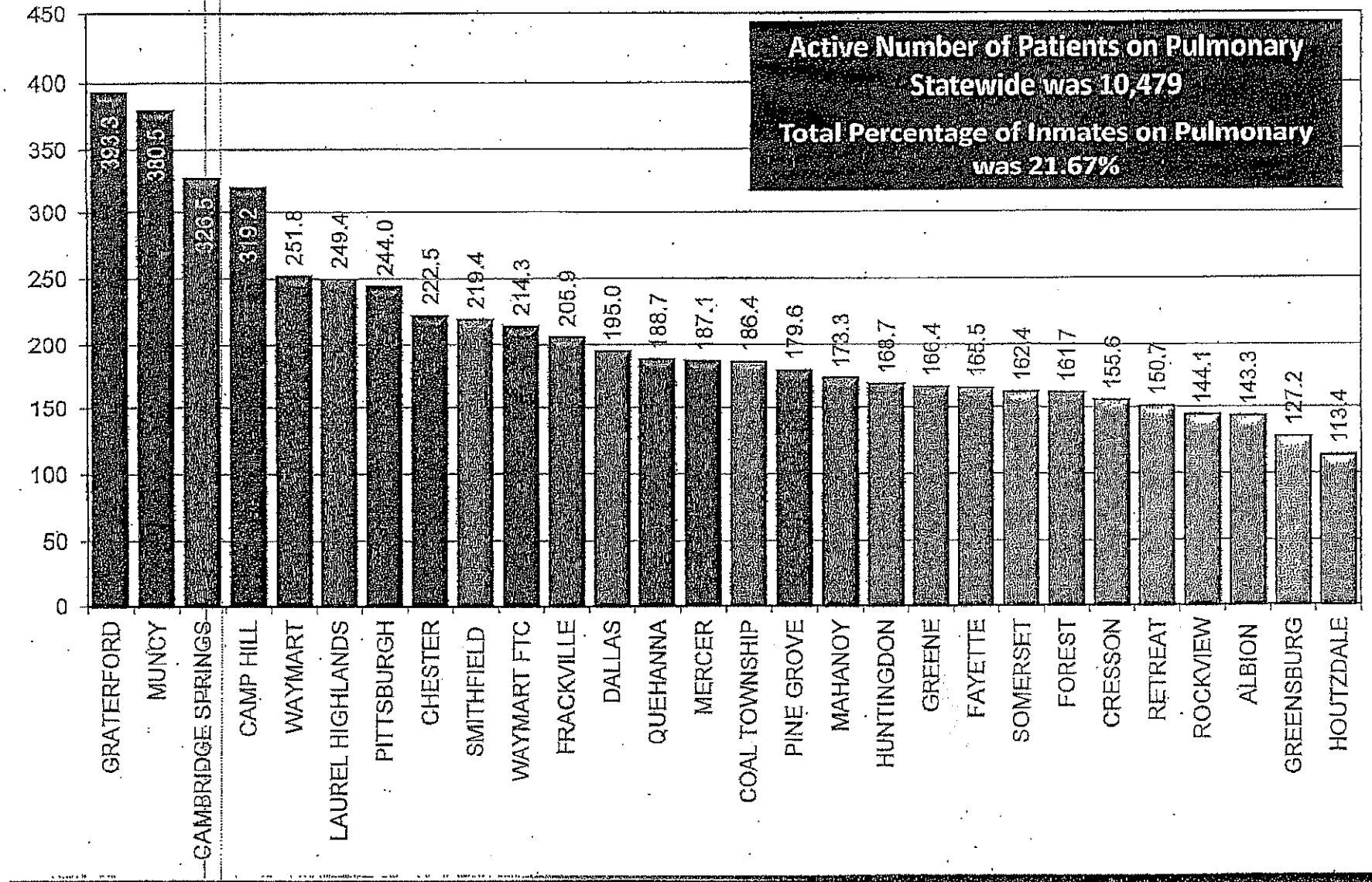
| SCI | DATE OF DEATH | NASHU | CAUSE OF DEATH |
|---|---|---|---|
| FAYETTE | 4/29/2013 | N | ACUTE LYMPHOCYTIC LEUKEMIA |
| | | | |
| FAYETTE | 6/15/2012 | N | CA STOMACH |
| FAYETTE | 9/18/2012 | N | CA LIVER |
| | | | |
| FAYETTE | 1/29/2011 | N | CA LUNG |
| FAYETTE | 5/18/2011 | N | CA BRAIN |
| FAYETTE | 12/2/2011 | N | CA COLON |
| | | | |
| FAYETTE | 2/3/2010 | N | CA LUNG |
| FAYETTE | 5/8/2010 | N | CA LUNG |
| FAYETTE | 8/18/2010 | N | CA TONGUE |
| FAYETTE | 8/20/2010 | N | CA LIVER |
| FAYETTE | 10/17/2010 | N | CA TONSIL |
| | | | |
| FAYETTE | 4/26/2009 | N | CA LUNG |
| FAYETTE | 5/1/2009 | N | CA LUNG |
| FAYETTE | 7/5/2009 | N | HISTIOCYTOMA - MALIGNANT |
| FAYETTE | 11/3/2009 | N | CA KIDNEY |
| | | | |
| | | | |
| | | | |
| FAYETTE | 4/3/2007 | N | CA LUNG |
| FAYETTE | 4/17/2007 | N | CA LUNG |
| FAYETTE | 5/14/2007 | N | CA LIVER, HEP C |
| FAYETTE | 5/31/2007 | N | CA LUNG |
| FAYETTE | 6/25/2007 | N | CA LIVER, HEP C |
| FAYETTE | 12/13/2007 | N | CA COLON |
| | | | |
| 2006 - No CA Deaths | | | |
| 2005 - No CA Deaths | | | |
| 2004 - No CA Deaths | | | |

Fayette Deaths 2003-2013

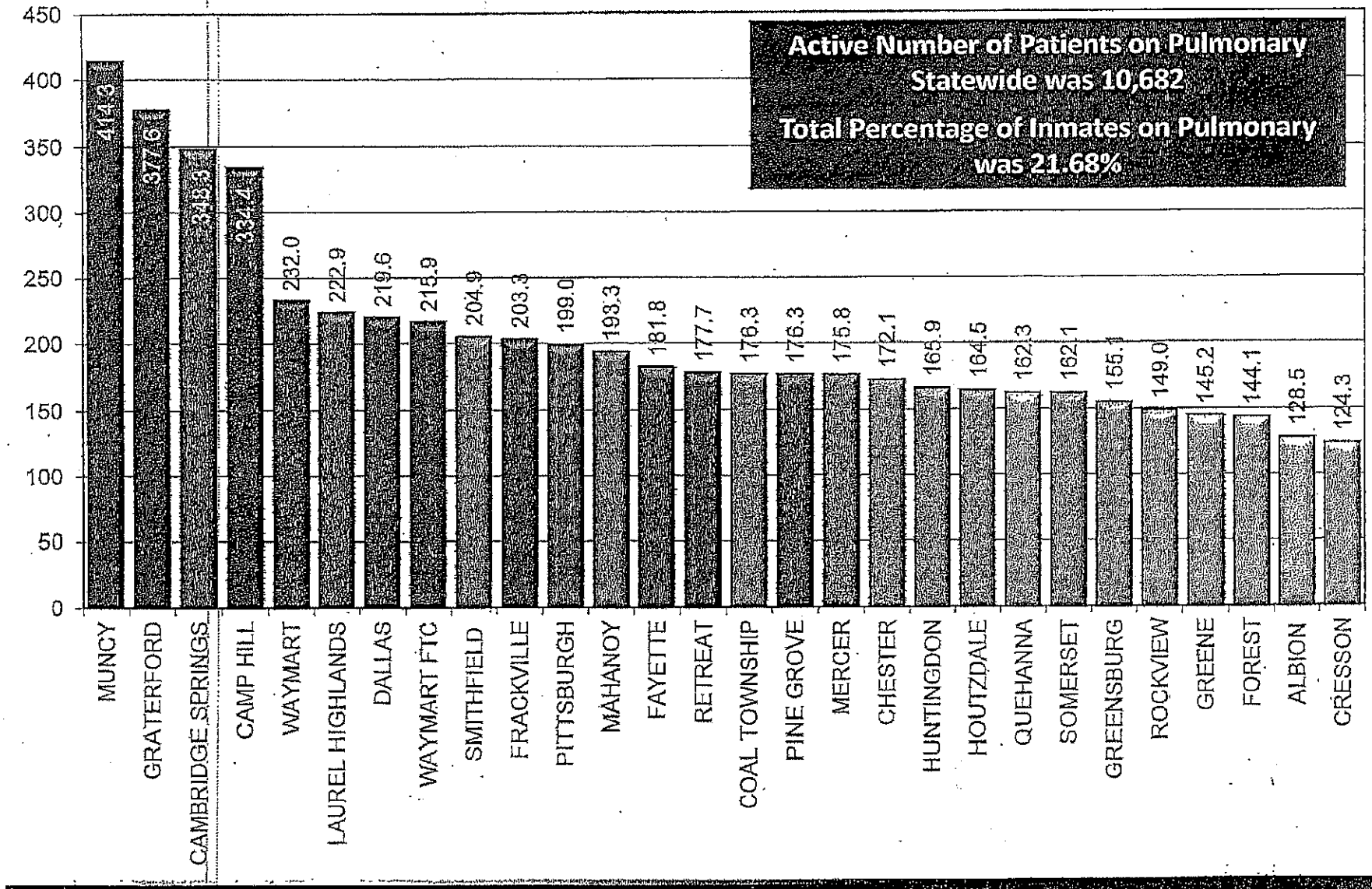
| | | | | |
|---|---|---|---|---|
| 2003 – No Deaths | | | | |

PA DOC - 2010 - Number of Patients treated for Pulmonary per 1000 patients in census
DIAMOND
Active Number of Patients on Pulmonary
Statewide was 10,776
Total Percentage of Inmates on Pulmonary
was 22.81%
GRATERFORD
CAMBRIDGE SPRINGS
MUNCY
CAMP HILL
QUEHANNA
WAYMART FTC
PITTSBURGH
CHESTER
WAYMART
FRACKVILLE
LAUREL HIGHLANDS
SMITHFIELD
DALLAS
MAHANOY
ROCKVIEW
COAL TOWNSHIP
GREENSBURG
PINE GROVE
HUNTINGDON
CRESSON
MERCER
RETREAT
SOMERSET
GREENE
FAYETTE
FOREST
HOUTZDALE
ALBION
380.6
380.3
363.4
351.6
295.3
280.9
245.9
210.1
205.9
192.7
190.9
190.4
188.1
185.9
182.6
181.0
177.1
176.1
170.6
169.1
167.2
164.7
163.3
157.5
153.1
151.9
150.8
137.7
0
50
100
150
200
250
300
350
400
PA DOC
1
Property of Diamond Pharmacy Services

# PA DOC - 2011 - Number of Patients treated for Pulmonary per 1000 patients in census

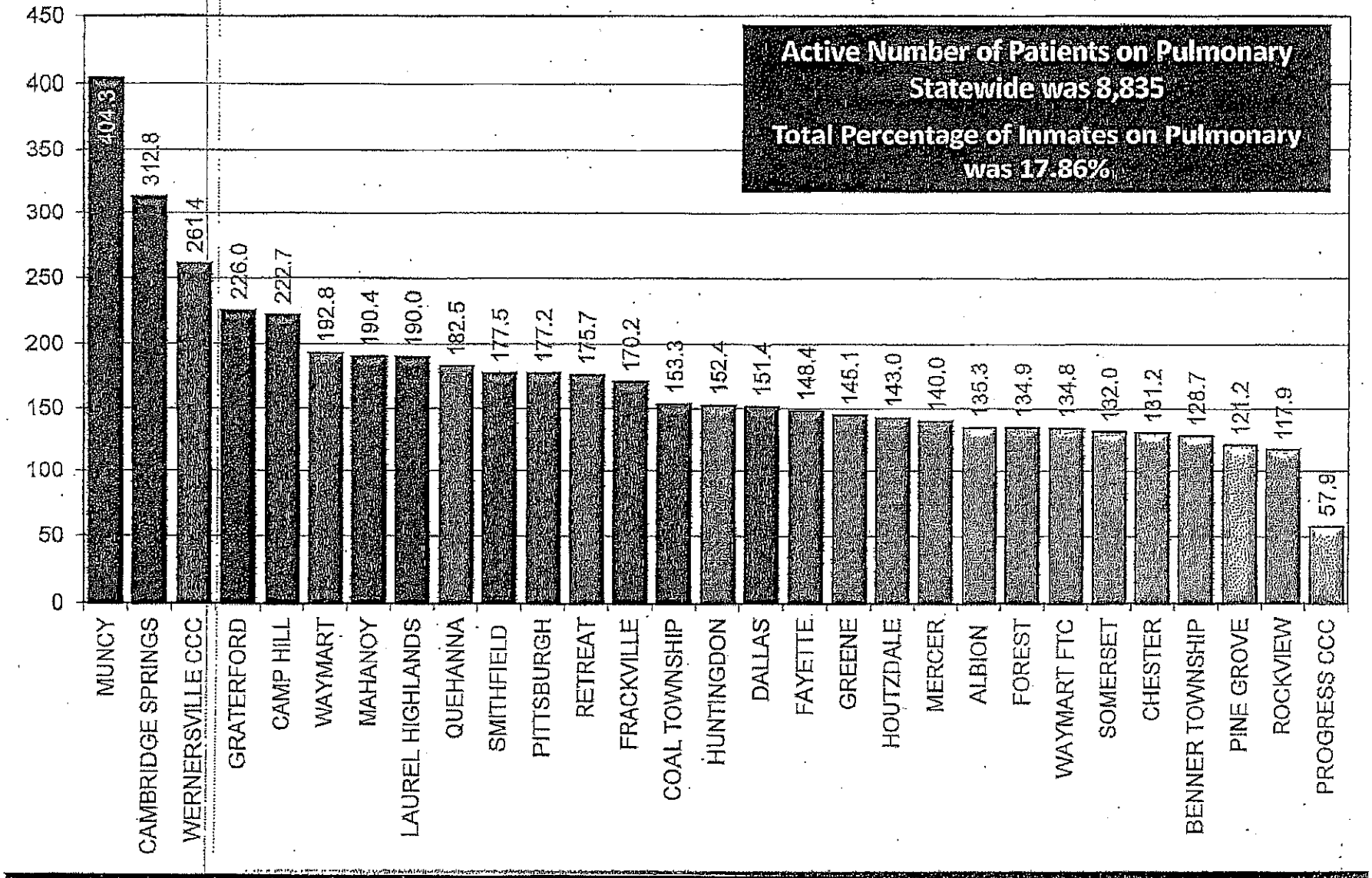


# PA DOC - 2012 - Number of Patients treated for Pulmonary per 1000 patients in census

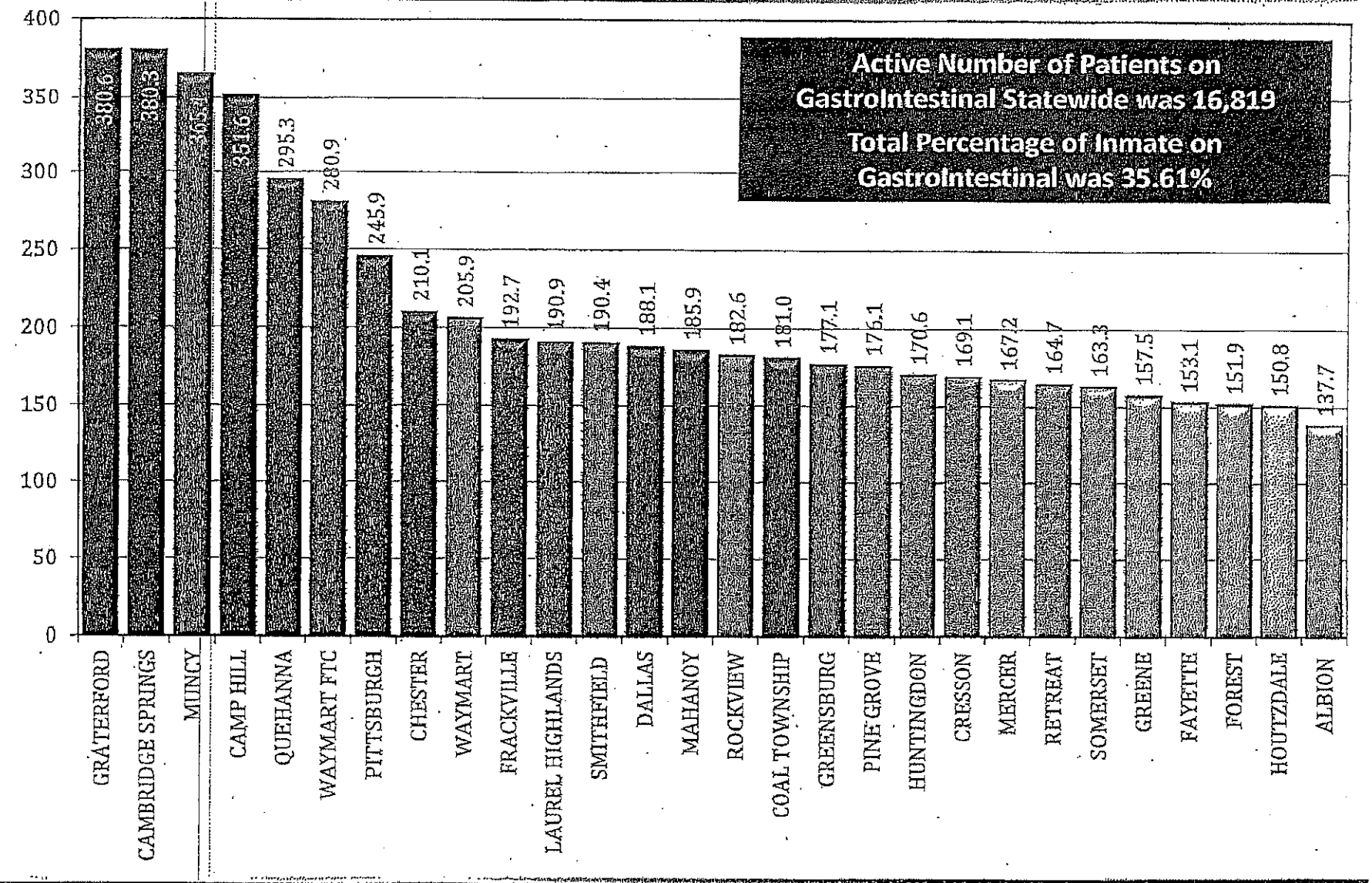


# PA DOC - 2013 - Number of Patients treated for Pulmonary per 1000 patients in census

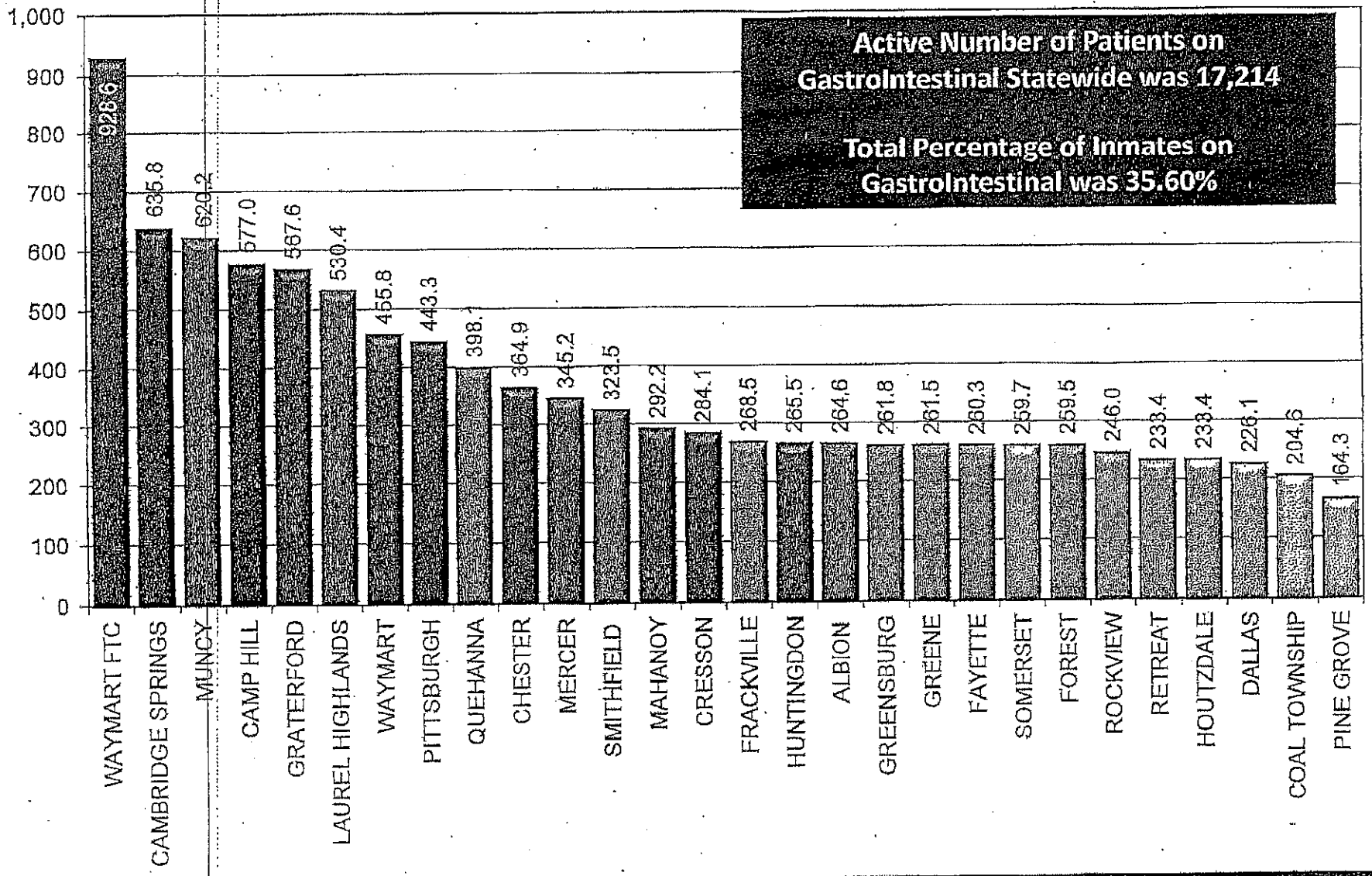
# PA DOC - 2014 - Number of Patients treated for Pulmonary per 1000 patients in census



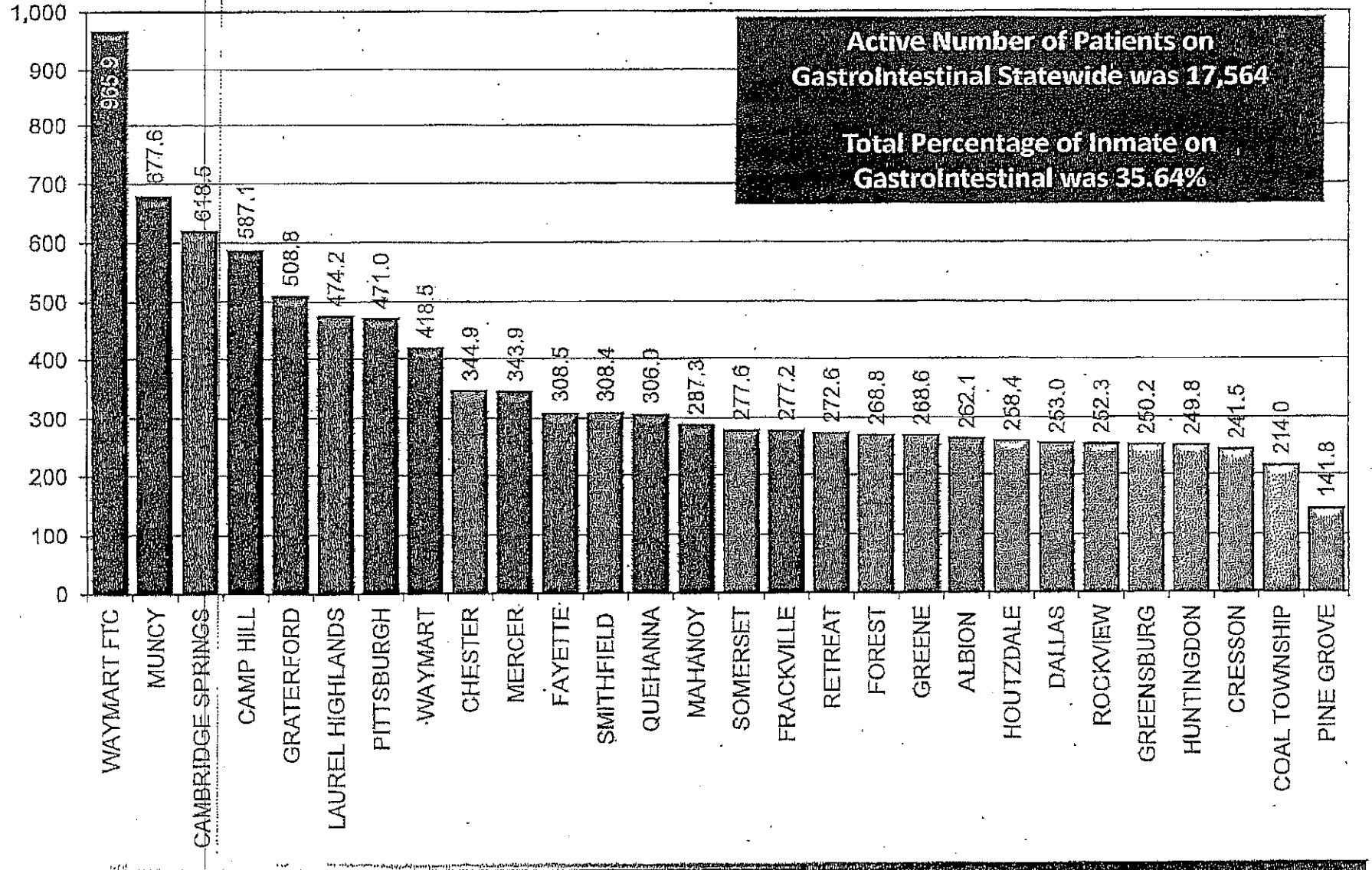
# PA DOC - 2010 - Number of Patients treated for GastroIntestinal per 1000 patients in census



# PA DOC - 2011 - Number of Patients treated for GastroIntestinal per 1000 patients in census



# PA DOC - 2012- Number of Patients treated for GastroIntestinal per 1000 patients in census



# PA DOC - 2013 - Number of Patients treated for GastroIntestinal per 1000 Patients in census




Active Number of Patients on GastroIntestinal Statewide was 18,494

Total Percentage of Inmate on GastroIntestinal was 36.89%

DIAMOND

# PA DOC - 2014 - Number of Patients treated for Gastrointestinal per 1000 patients in census




Active Number of Patients on Gastrointestinal Statewide was 14,271

Total Percentage of Inmate on Gastrointestinal was 28.84%

DIAMOND