



pennsylvania

OFFICE OF OPEN RECORDS

2017 ANNUAL REPORT

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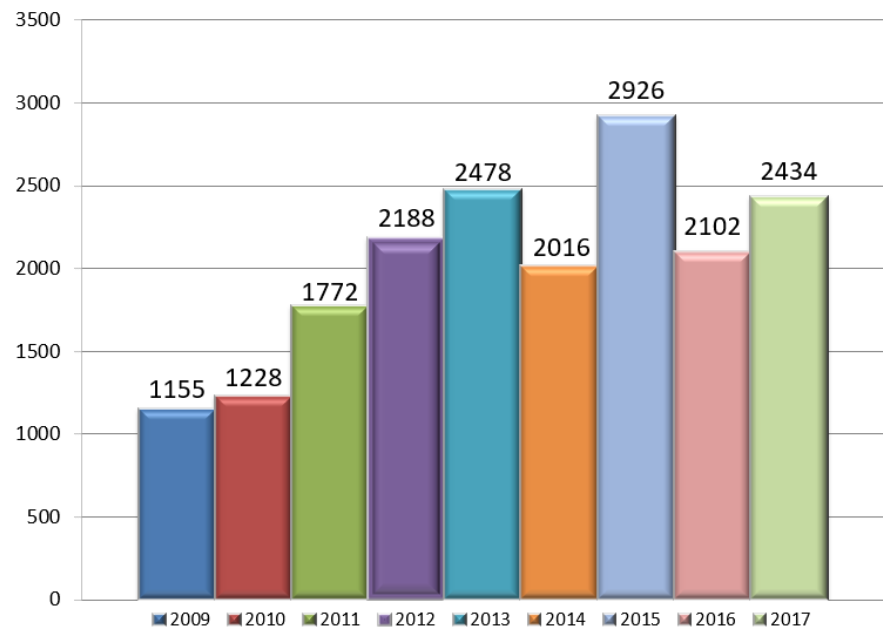
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2,434 APPEALS FILED

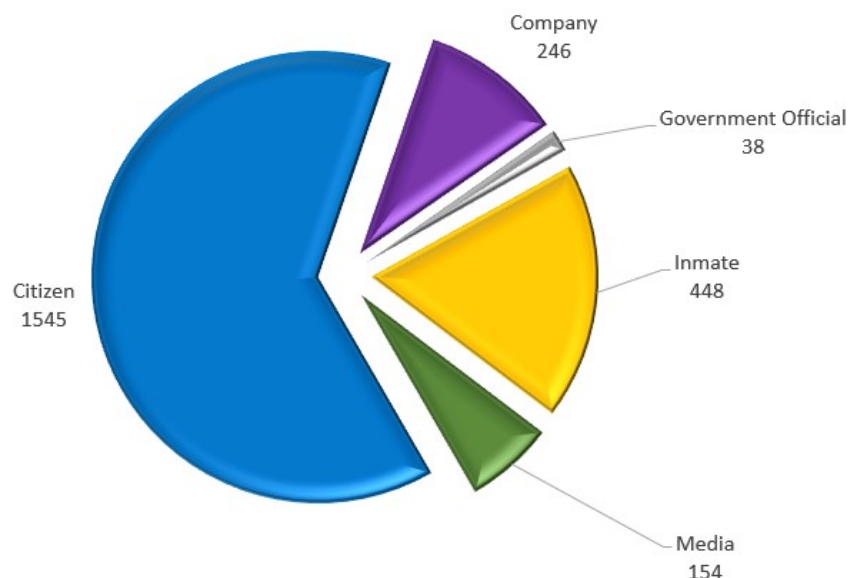
2017 was the third-busiest year ever for the OOR in terms of the number of appeals filed. In addition, the appeals continued to grow in complexity, with more sophisticated arguments being made and more nuanced issues being presented in many cases.



1,545 CITIZEN APPEALS

Nearly two-thirds (63.5%) of all appeals filed in 2017 were filed by everyday citizens. They were followed by:

- Inmates (18.4%)
- Companies (10.1%)
- Media (6.3%)
- Government officials (1.6%)

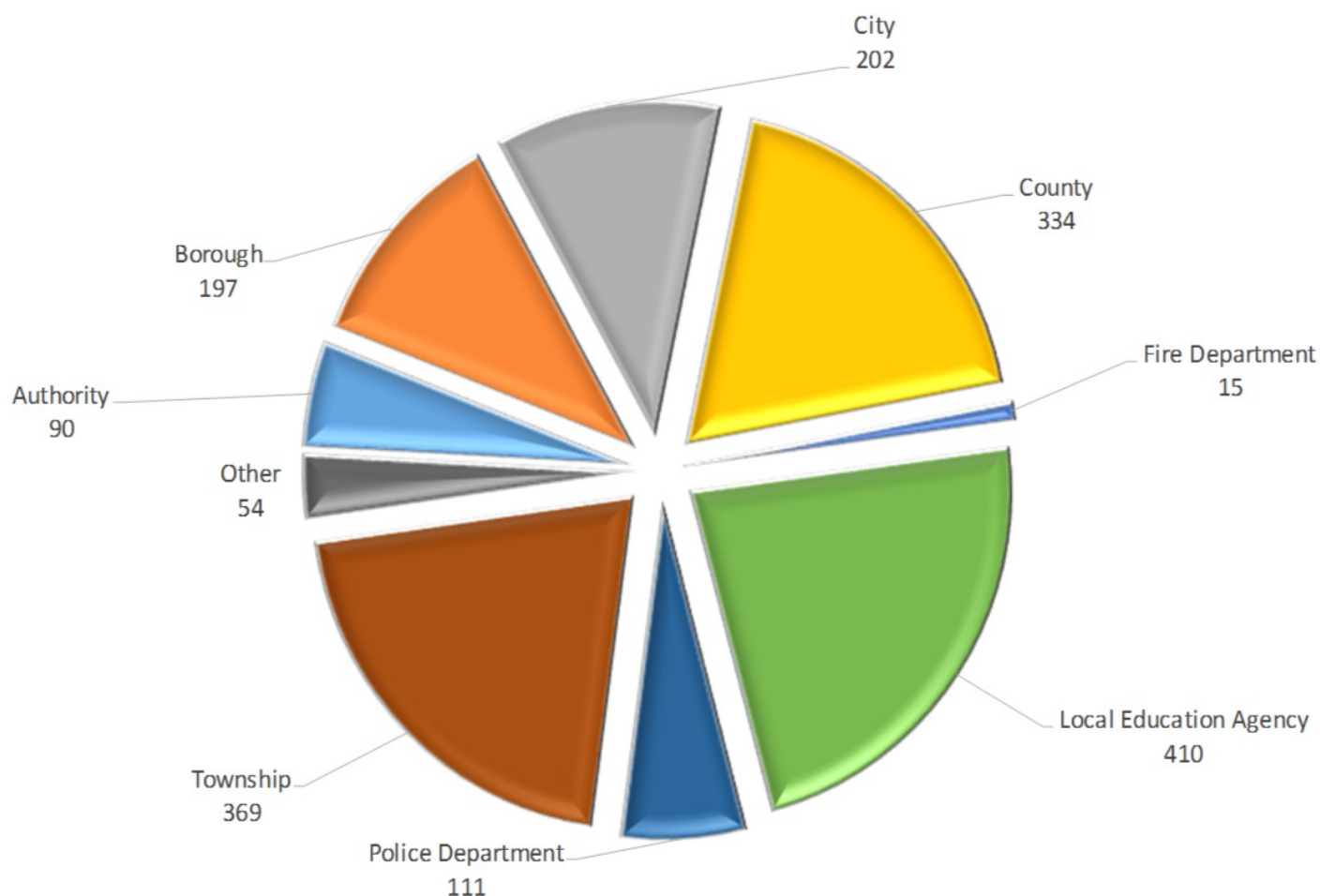


Three appeals were filed by non-U.S. residents, who cannot be requesters under the RTKL. Those appeals are not included in the pie chart above.

1,782 APPEALS INVOLVING LOCAL AGENCIES

In 2017, municipal governments (cities, boroughs, and townships) were involved in 43.1% of appeals filed against local agencies. Here's the complete list:

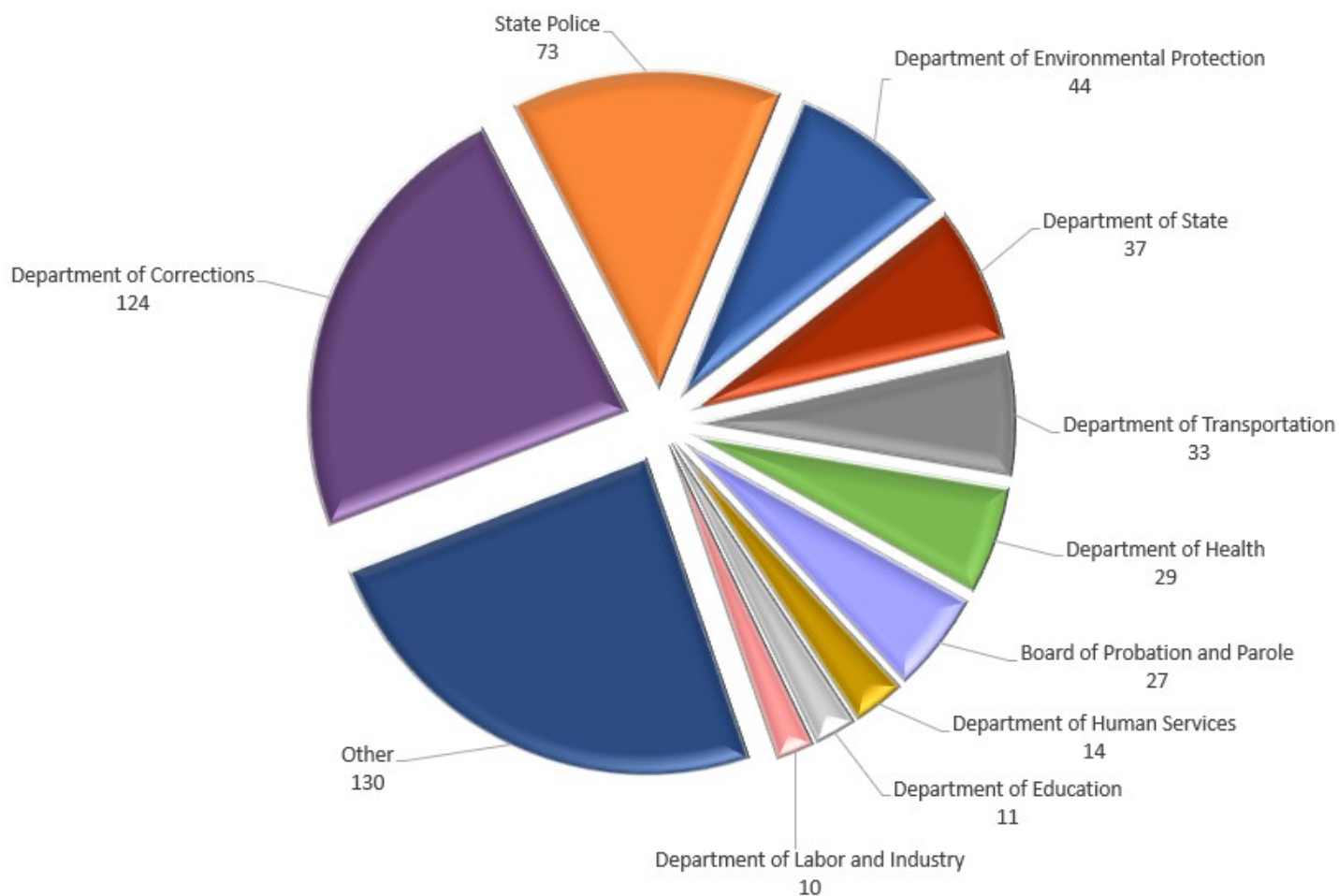
- Local Education Agencies, 23.0%
- Townships, 20.7%
- Counties, 18.7%
- Cities, 11.3%
- Boroughs, 11.1%
- Police Departments, 6.2%
- Authorities, 5.1%
- Fire Departments, 0.8%
- Other, 3.0%



532 APPEALS INVOLVING STATE AGENCIES

In 2017, the Department of Corrections was involved in 23.3% of appeals filed against state agencies. Here's the complete list:

- Department of Corrections, 23.3%
- State Police, 13.7%
- Department of Environmental Protection, 8.3%
- Department of State, 7.0%
- Department of Transportation, 6.2%
- Department of Health, 5.5%
- Board of Probation and Parole, 5.1%
- Department of Human Services, 2.6%
- Department of Education, 2.1%
- Department of Labor and Industry, 1.9%
- Other, 24.4%



The number of appeals involving local agencies on the previous page (1,782) and the number involving state agencies on this page (532) don't add up to the total of 2,434 appeals listed earlier in this report. The "missing" 120 appeals were filed against judicial agencies (which the OOR has no jurisdiction over) and non-agencies.

ISSUES RAISED BY AGENCIES DURING RTKL APPEALS

In 2017, for the first time ever, the OOR tracked the issues raised by agencies and addressed by Appeals Officers. This data gives some insight into the reasons most commonly raised by agencies for denying access to records.

Of the 30 exemptions specifically enumerated in Section 708(b) of the RTKL, these 11 were raised most often in 2017:

- Criminal Investigative Records, (b)(16), 156
- Noncriminal Investigative Records, (b)(17), 127
- Personal Identification Information, (b)(6), 104
- Personal Security, (b)(1), 72
- Internal, Predecisional Deliberations, (b)(10), 71
- Public Safety, (b)(2), 65
- Agency Employee Information, (b)(7), 34
- Trade Secret / Confidential Proprietary Information, (b)(11), 32
- Building, Infrastructure and Utility Safety, (b)(3), 29
- Procurement Prior to Award of Contract, (b)(26), 20
- Notes and Working Papers, (b)(12), 20

The OOR's Appeals Officers also heard hundreds of cases in which the agency asserted that the requested records didn't exist (426), the requested records weren't in the possession of the agency (184), and the request wasn't specific enough or asked questions rather than seeking records (117).

Many appeals heard by the OOR involve more than one exemption and/or other reasons for denying access to records.

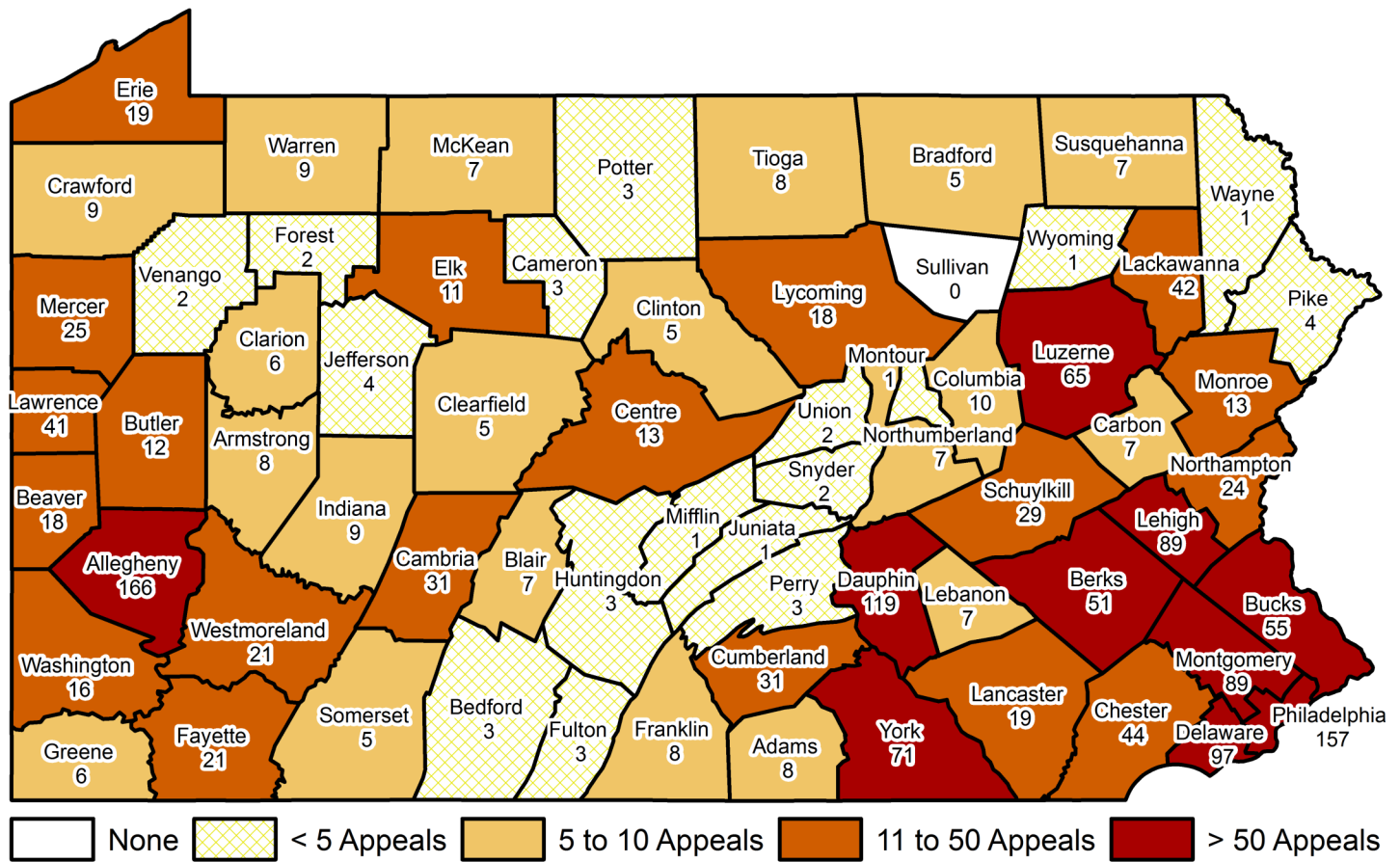
We will continue to track this data in coming years. Over time, comparisons between years should prove to be a useful tool.

STATEWIDE MAP OF APPEALS BY COUNTY

More appeals were filed involving local agencies in Allegheny County — including the county itself, school districts, authorities, municipalities, etc. — than in any other county in 2017. (Allegheny County is home to about 130 municipalities and about 40 school districts.)

The top 10 counties by this measure were:

- Allegheny, 166
- Philadelphia, 157
- Dauphin, 119
- Delaware, 97
- Lehigh, 89
- Montgomery, 89
- York, 71
- Luzerne, 65
- Bucks, 55
- Berks, 51



This map shows the number of non-inmate appeals involving local agencies which were filed with the OOR in 2017. All local agencies (e.g., county government, school districts, municipalities, etc.) are included in each county total. The top 10 counties by this measure are all among the top 15 most populous counties in Pennsylvania.

10 EXAMPLES OF RECORDS THE RTKL PROVIDED ACCESS TO IN 2017

The goal of the RTKL is to make government records available to the public, which can then hold public officials accountable for their actions.

Here are some of the records accessed via the RTKL in 2017:

1. Nearly \$8 million paid to settle at least 18 sexual harassment, misconduct and discrimination lawsuits against State Police troopers since 2001. In early 2018, records revealed additional settlement payments made by other state agencies in sexual misconduct cases, in addition to 339 reports of alleged sexual harassment across state agencies over five years.
2. \$400,000 paid to settle a lawsuit filed by a former agent with the Attorney General's office who claimed he was fired after raising concerns about destruction of evidence.
3. \$250,000 paid to settle a lawsuit filed by a borough police chief against the borough stemming in part from salary disputes.
4. \$175,000 paid to settle a lawsuit filed against a police officer accused of coercing a confession from a 14-year-old boy.
5. More than \$87,000 paid by a sewer authority over five years to provide its solicitor with health benefits.
6. More than \$32,000 in severance payments to the former head of a charter school.
7. More than \$13,000 in asset forfeiture funds used by a county District Attorney over five years for food-related expenses.
8. Documents showing a dramatic increase in towing referrals for one specific company after a directive from a local police chief. Other local police departments used multiple-vendor systems.
9. Communications and documents related to the partial collapse of a parking garage at a state-owned university.
10. Video showing students on a school bus being thrown forward suddenly, some out of their seats, when the driver slammed on the brakes.

2 SURVEYS OF AGENCY OPEN RECORDS OFFICERS

Since last year's annual report, the OOR reported the results of the first-ever survey of Agency Open Records Officers (AOROs, pronounced "arrows") and the Legislative Budget and Finance Committee (LBFC) conducted a second statewide survey of AOROs.

Both surveys had similar findings.

The OOR's survey found that the vast majority of government agencies in Pennsylvania — 87.4% — received 1 or fewer Right-to-Know (RTK) requests per week in 2016.

Similarly, 72.8% of agencies spent 1 hour or less per week (and 91.8% spent 5 hours or less) responding to RTK requests in 2016.

According to the LBFC report, "most of Pennsylvania's state and local government agencies receive few RTKL requests, most of the requests are easily fulfilled at a relatively low cost, and only a small percentage of the requests are appealed."

The LBFC survey found that almost 54% of agencies reported an annual cost of \$500 or less to comply with the RTKL and estimated that the average annual per-agency cost was \$950 to \$1,617.

LBFC estimated that 109,000 total RTKL requests were received by all state and local agencies in 2016. The median number of RTKL requests received per individual agency was 10.

The LBFC report also included a number of recommendations for the OOR and the General Assembly.

One recommendation was to create an online database of AORO contact information. The OOR unveiled that project last month.

Another recommendation was to annually collect data from AOROs on the number of RTKL requests received each year to monitor for any significant changes in trends. We plan to do that starting in January 2019, with our findings reported each year in this Annual Report.

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MEDIATIONS

The OOR's mediation program can be an effective way to resolve disputes between requesters and agencies. Many of our Appeals Officers are also trained mediators and can conduct mediations via telephone or in person. When a mediation is successful, the appeal is withdrawn — saving both sides the effort of engaging in a formal appeal process. Either side can choose to end mediation at any time; if this happens, the OOR's traditional appeal process begins. More about our mediation program can be found at:

www.openrecords.pa.gov/Appeals/Mediation.cfm

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TRAINING SESSIONS

More than 1,900 people attended official OOR training sessions in 2017. We traveled the state again, including visits to Charleroi, Doylestown, Grove City, Pittsburgh, Reading, Roaring Branch, and Summerdale. We're back on the road in 2018 — and this year we'll also be conducting training sessions online. Our training schedule can be found at:

www.openrecords.pa.gov/RTKL/TrainingAbout.cfm



914 RIGHT-TO- KNOW REQUESTS

The OOR received more RTK requests in 2017 than ever before. As in previous years, however, the vast majority of the requests were misdirected. In other words, they did not seek records of the OOR; instead, they sought records of other agencies but were mistakenly filed with the OOR.

Nearly 90% of RTK requests filed with the OOR were misdirected. Every request receives a response. For misdirected requests, we point the requester to the agency most likely to have the records they're seeking.

89 RTK requests were made for OOR records in 2017, typically for copies of Final Determinations, case files, salary information, and OOR forms.

18 OOR EMPLOYEES

The OOR has a remarkably dedicated, talented, and hard-working staff. In 2017, our team included Kyle Applegate, Charles Rees Brown, Nathan Byerly, Jordan Davis, Blake Eilers, Faith Henry, Kathleen Higgins, Kelly Isenberg, Delene Lantz, Ben Lorah, Carolyn Shuman, Bina Singh, Janelle Sostar, George Spiess, Jill Wolfe, Joshua Young, and Magdalene Zeppos.

I'm proud to be the Executive Director of the OOR. Please don't hesitate to contact us with any comments or questions about the RTKL, the Sunshine Act, or anything else related to government transparency in Pennsylvania.

Erik Arneson
May 1, 2018