



pennsylvania

OFFICE OF OPEN RECORDS

2019 ANNUAL REPORT

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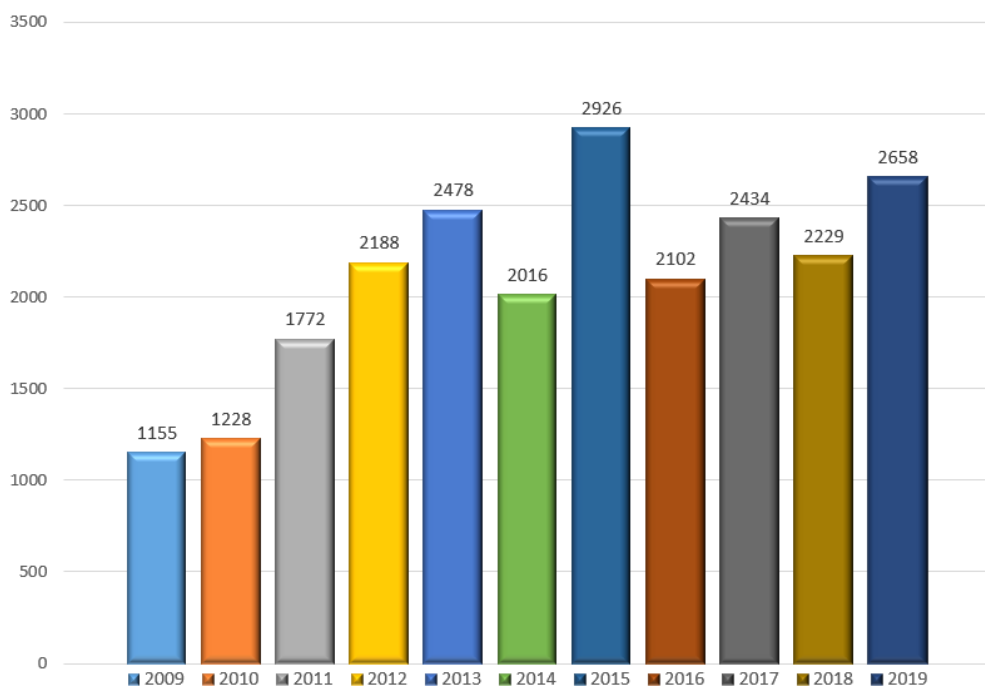
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2,658 APPEALS FILED

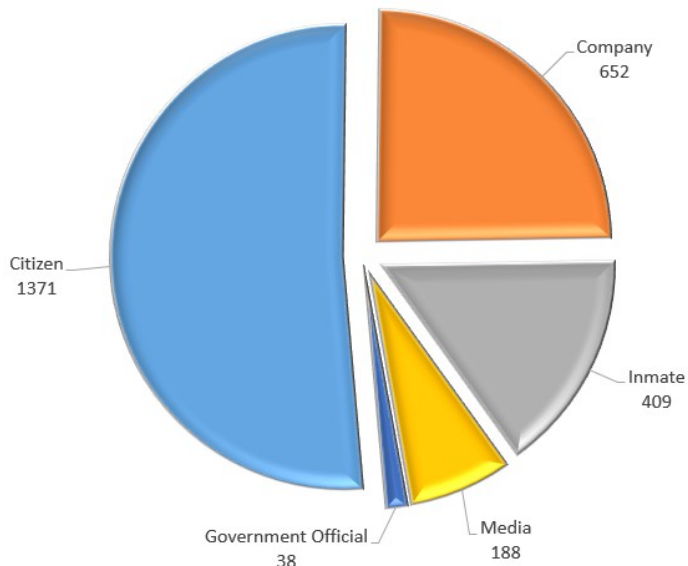
2019 ranks as the second-busiest year ever for the Office of Open Records. More appeals were filed last year than in any year other than 2015. In addition, the appeals continue to grow more complex. The current three-year average is 2,440 appeals; the current five-year average is 2,470.



1,371 CITIZEN APPEALS

More than half (51.6%) of the appeals docketed by the OOR in 2019 were filed by everyday citizens. (The three-year average for citizen appeals is 57.3%.) They were followed by:

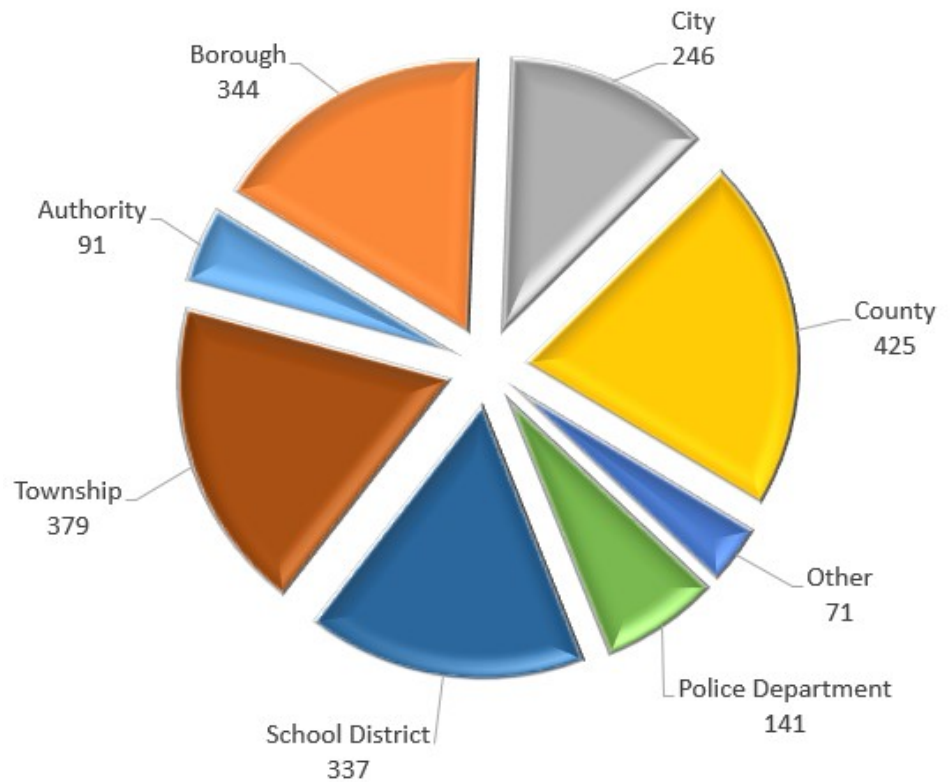
- Companies, 24.5% (three-year average 14.7%)
- Inmates, 15.4% (three-year average 19.5%)
- Media, 7.1% (three-year average 7.0%)
- Government officials, 1.4% (three-year average 1.3%)



2,034 APPEALS INVOLVING LOCAL AGENCIES

In 2019, municipalities (cities, boroughs, and townships) were involved in 47.6% of appeals filed against local agencies. Here's the complete list:

- Counties, 20.9% (three-year average 22.1%)
- Townships, 18.6% (three-year average 18.8%)
- Boroughs, 16.9% (three-year average 13.5%)
- School Districts, 16.6% (three-year average 17.8%)
- Cities, 12.1% (three-year average 12.0%)
- Police Departments, 6.9% (three-year average 6.4%)
- Authorities, 4.5% (three-year average 5.2%)
- Other, 3.5% (three-year average 4.2%)

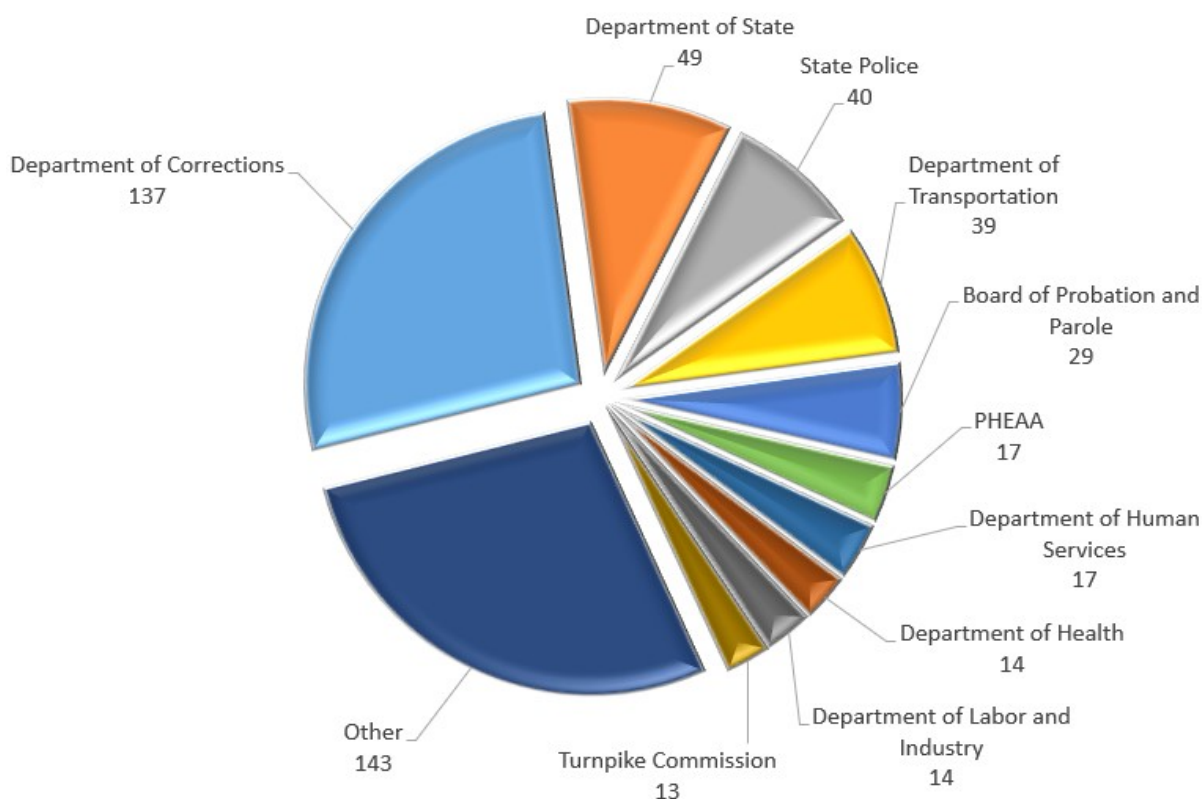


512 APPEALS INVOLVING STATE AGENCIES

In 2019, the Department of Corrections was involved in more than a quarter of the appeals filed against state agencies. Here’s the full list:

- Department of Corrections, 26.8% (three-year average 25.7%)
- Department of State, 9.6% (three-year average 8.3%)
- State Police, 7.8% (three-year average 10.8%)
- Department of Transportation, 7.6% (three-year average 6.7%)
- Board of Probation and Parole, 5.7% (three-year average 5.6%)
- PHEAA, 3.3%
- Department of Human Services, 3.3%
- Department of Health, 2.7% (three-year average 3.6%)
- Department of Labor and Industry, 2.7% (three-year average 2.5%)
- Turnpike Commission, 2.5%
- Other, 27.9%

Note: Where a three-year average is not listed, that agency has not been in the top 10 for all of the past three years.



The number of appeals involving local agencies on the previous page (2,034) and the number involving state agencies on this page (512) don’t add up to the total of 2,658 appeals listed earlier in this report. The “missing” 112 appeals were filed against judicial agencies, legislative agencies (both of which the OOR has no jurisdiction over), and entities which are not agencies.

ISSUES RAISED BY AGENCIES DURING RTKL APPEALS

Since 2018, the OOR has 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 10 were raised most often in 2019:

- Noncriminal Investigative Records, (b)(17), 131
- Criminal Investigative Records, (b)(16), 110
- Personal Identification Information, (b)(6), 83
- Internal, Predecisional Deliberations, (b)(10), 67
- Agency Employee Information, (b)(7), 43
- Personal Security, (b)(1), 41
- Public Safety, (b)(2), 29
- Building, Infrastructure and Utility Safety, (b)(3), 26
- Individual Medical Records, (b)(5), 22
- Trade Secret / Confidential Proprietary Information, (b)(11), 17

The OOR's Appeals Officers also heard hundreds of cases in which the agency asserted that the requested records didn't exist (430), the requested records weren't in the possession of the agency or were not records of the agency (157), the request wasn't specific or asked questions rather than seeking records (135), information was protected by the state constitution's right to privacy (57), or the request sought records protected by attorney-client privilege (47).

Note: Many appeals before the OOR involve multiple exemptions and/or other reasons for denying access to records.

10 EXAMPLES OF RECORDS THE RTKL PROVIDED ACCESS TO IN 2019

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 2019:

1. Documents about a network of surveillance cameras in Allegheny County which are collecting images of license plates and have the potential to be used for facial recognition.
2. Information about state inspections and smoke detectors at a daycare center in Erie County, the site of a deadly fire.
3. Data showing where pedestrians had most often been hit by vehicles over the past 20 years in Bucks and Montgomery counties.
4. Information about drownings and other safety-related incidents at public pools in Allegheny County over the past three years.
5. Records related to a letter sent to parents by a school district demanding payment for lunches, including the possibility of taking the families to “Dependency Court for neglecting your child’s right to food.”
6. Cybersecurity spending and related records from school districts.
7. Arbitration records showing how Philadelphia police officers were rehired, some multiple times, after they had been fired due to criminal charges.
8. Written complaints sent to Northampton County by voters after new voting machines were used in the November 2019 election.
9. All properties (15,650) in Philadelphia receiving real estate tax abatements, including many properties in some of the city’s wealthiest neighborhoods.
10. Communications between the FBI and DCNR related to an excavation at Dent’s Run in Elk County, allegedly the site of lost or stolen Civil War-era gold worth millions of dollars.

105 MEDIATIONS

The OOR's mediation program continues to be a fantastic way to efficiently resolve disputes under the RTKL. Several of the OOR's Appeals Officers are trained mediators, and mediations can take place via telephone or in person. When a mediation ends successfully, the appeal is withdrawn. That saves both sides the work that goes into a formal appeal — and it prevents the case from moving to court. Either side can choose to end mediation at any time; if this happens, the traditional RTKL appeal process begins. More about the OOR's mediation program can be found at:

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

88 TRAINING SESSIONS

The OOR is statutorily required to provide training sessions about the Right-to-Know Law and the Sunshine Act. Fortunately, we love doing that and in 2019 we hosted dozens of free webinars and once again traveled across the Commonwealth. We also organized the first-ever RTKL Roundtable (which can be [viewed on our YouTube channel](#)) and visited some of Pennsylvania's many great colleges and universities, including Drexel, Lebanon Valley, Lock Haven, Marywood, Messiah, and Pitt. Our complete training schedule can be found at:

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

Image below courtesy of the Pennsylvania State Archives.



1,006 RIGHT-TO- KNOW REQUESTS

The OOR set another record in 2019, receiving more RTK requests 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 92% of RTK requests filed with the OOR last year were misdirected. 85 requests were for OOR records, usually copies of Final Determinations, case files, Agency Open Records Officer contact information, and OOR forms.

20 OOR EMPLOYEES

The best part, by far, of serving as the Executive Director of the OOR for the past five years has been getting to know and work with the superior staff at this office. I'm proud of the fact that our amazing team is exactly the same now as it was last year: Kyle Applegate, Charles Rees Brown, Erin Burlew, Nathan Byerly, Jordan Davis, Dylan Devenyi, Angie Edris, Blake Eilers, Faith Henry, Kelly Isenberg, Michele Kusery-Grant, Delene Lantz, Ryan Liggitt, Joy Ramsingh, Janelle Sostar, George Spiess, Jill Wolfe, Joshua Young, and Magdalene Zeppos. To each of you, I say thank you for your good spirit, your tremendous talent and skill, and your dedication to a job well done. You make it a pleasure to work here.

As we issue this annual report, Pennsylvania is in the midst of the COVID-19 pandemic emergency (as is the entire United States, along with many other countries around the world). When Senate Bill 1, which became the Right-to-Know Law, was debated in the General Assembly more than a decade ago, the prime sponsor, Sen. Dominic Pileggi, said, "Transparency builds trust." To that I would add: Transparency builds trust, especially in times of crisis.

Erik Arneson
April 8, 2020