



pennsylvania

OFFICE OF OPEN RECORDS

2020 ANNUAL REPORT

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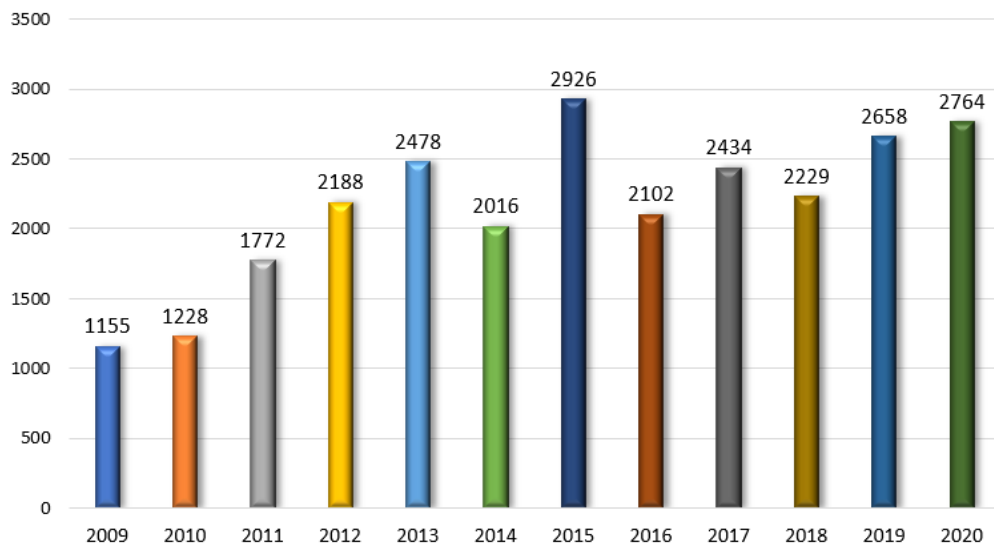
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2,764 APPEALS FILED

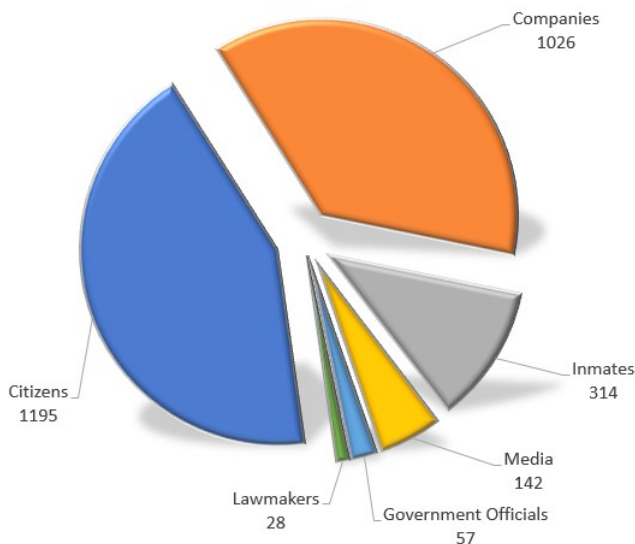
2020 ranks as the second-busiest year ever for the Office of Open Records for the second year in a row. The issues to be decided on appeal continue to grow in both volume and complexity. The current three-year average is 2,550 appeals; the current five-year average is 2,437.



1,195 CITIZEN APPEALS

Nearly half (43.3%) of the appeals docketed by the OOR in 2020 were filed by everyday citizens. They were followed by:

- Companies, 37.1%
- Inmates, 11.4%
- Media, 5.1%
- Government officials, 2.1%
- Lawmakers, 1.0%

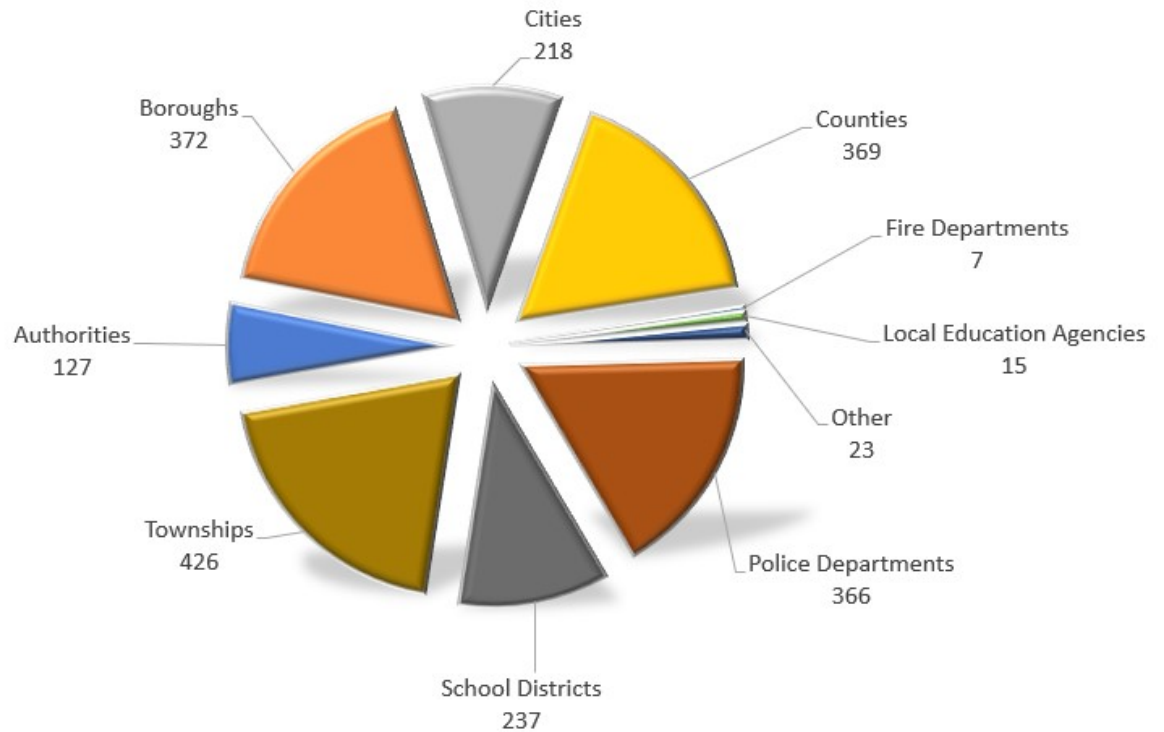


Two appeals were filed by a non-U.S. resident, who cannot be requesters under the RTKL. Those appeals are not included in the pie chart above.

2,160 APPEALS INVOLVING LOCAL AGENCIES

In 2020, municipalities (cities, boroughs, and townships) were involved in 47% of appeals filed against local agencies. Here's the complete list:

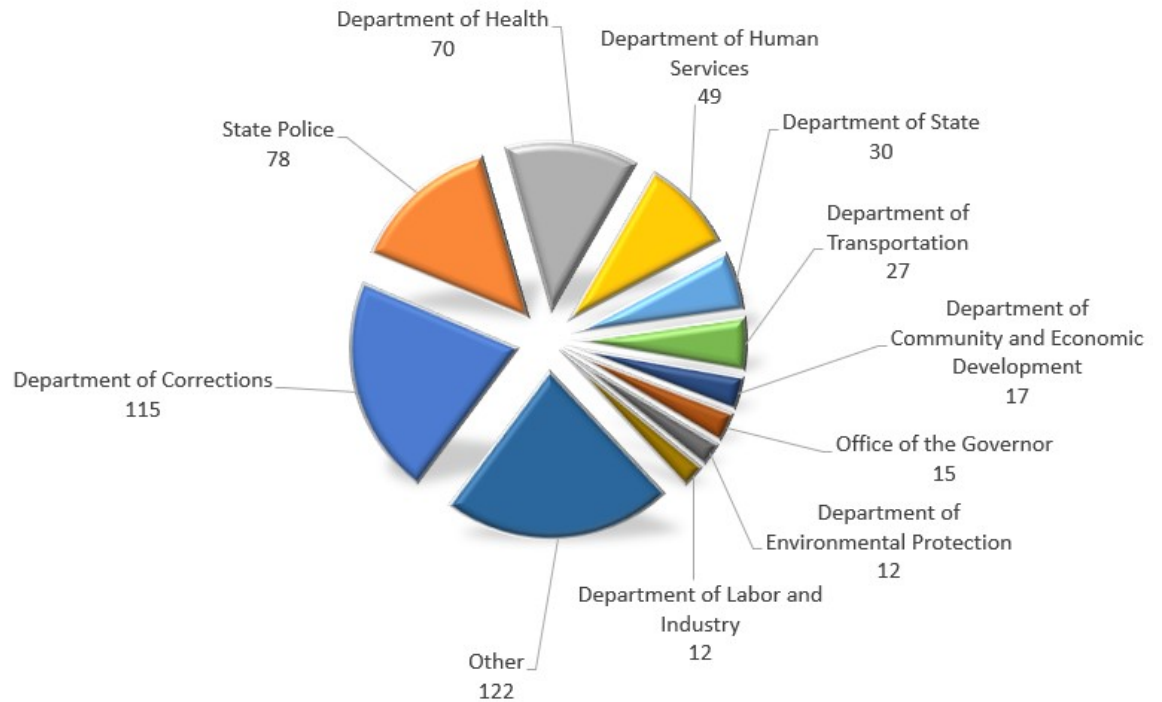
- Townships, 19.7%
- Boroughs, 17.2%
- Counties, 17.1%
- Police Departments, 16.9%
- School Districts, 11%
- Cities, 10.1%
- Authorities, 5.9%
- Other, 1.1%
- Local Education Agencies, 0.7%
- Fire Departments, 0.3%



547 APPEALS INVOLVING STATE AGENCIES

In 2020, the Department of Corrections was involved in nearly a quarter of the appeals filed against state agencies. Here's the full list:

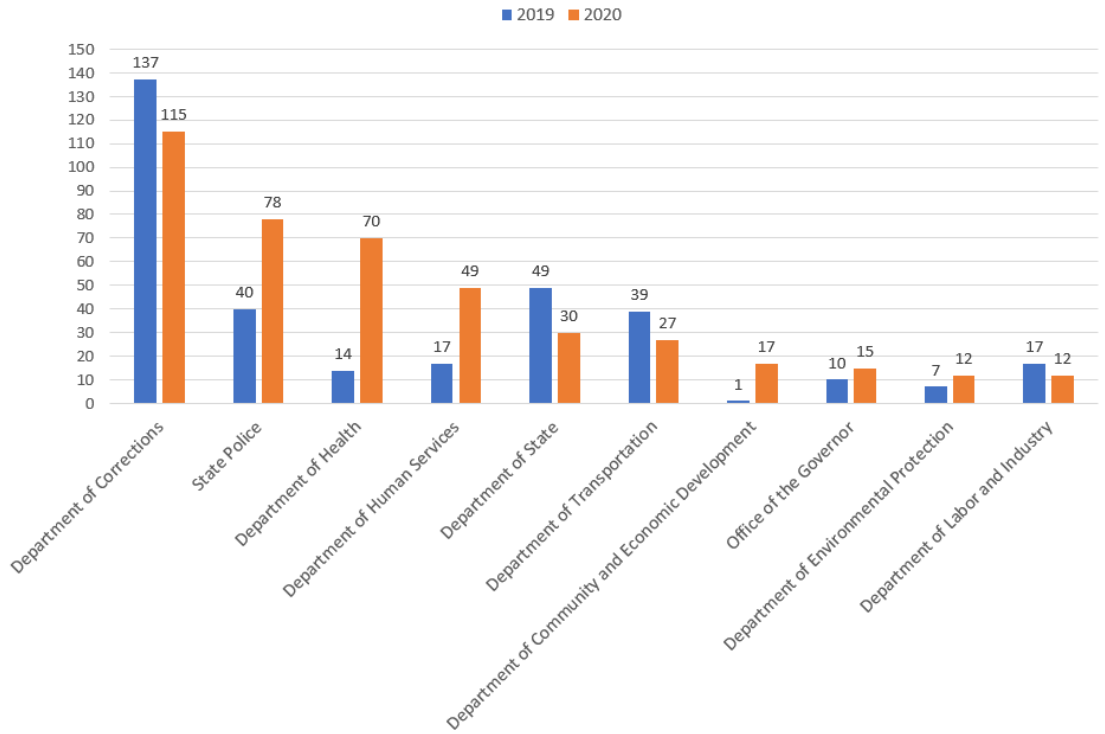
- Department of Corrections, 21.0%
- State Police, 14.3%
- Department of Health, 12.8%
- Department of Human Services, 9.0%
- Department of State, 5.5%
- Department of Transportation, 4.9%
- Department of Community & Economic Development, 3.1%
- Office of the Governor, 2.7%
- Department of Environmental Protection, 2.2%
- Department of Labor & Industry, 2.2%
- Other, 22.3%



The number of appeals involving local agencies on the previous page (2,160) and the number involving state agencies on this page (547) don't add up to the total of 2,658 appeals listed earlier in this report. The "missing" 57 appeals were filed against judicial agencies, legislative agencies (both of which the OOR has no jurisdiction over), and entities which are not agencies.

INCREASE AND DECREASE OF STATE AGENCIES

In 2020, several agencies saw noticeable increases and decreases of appeals filed compared to 2019.



ISSUES RAISED BY AGENCIES DURING RTKL APPEALS

Since 2018, the OOR has tracked the specific issues raised by agencies and addressed by Appeals Officers in their final determinations. 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 2020:

- Noncriminal Investigative Records, (b)(17), 101
- Criminal Investigative Records, (b)(16), 84
- Personal Identification Information, (b)(6), 59
- Internal, Predecisional Deliberations, (b)(10), 52
- Personal Security, (b)(1), 51
- Public Safety, (b)(2), 49
- Agency Employee Information, (b)(7), 30
- Building, Infrastructure and Utility Safety, (b)(3), 20
- Individual Medical Records, (b)(5), 16
- Notes and Working Papers, (b)(12), 10
- Trade Secret / Confidential Proprietary Information, (b)(11), 10

The OOR's Appeals Officers also heard hundreds of cases in which the agency asserted that the requested records didn't exist (364), the requested records weren't in the possession of the agency or were not records of the agency (150), the request wasn't specific or asked questions rather than seeking records (103), information was protected by the state constitution's right to privacy (47), or the request sought records protected by attorney-client privilege (36).

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 2020

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

Here are some of the records accessed via the RTKL in 2020:

- 1) Four years of “relocation logs” from the Philadelphia Parking Authority and the Philadelphia Police Department, demonstrating poor record keeping that created confusion and false reports of stolen vehicles when legally parked cars were towed.
- 2) COVID-19 deaths in Bucks County during a certain time period; after providing the documents, the county requested their return.
- 3) Overbilling by a law firm to Chester County; the RTK request was made by a pipeline safety activist.
- 4) The \$85,000 cost to Northumberland County for a lawsuit against Coal Township regarding a dispute over prison permit fees.
- 5) The \$165,000 retirement payment to Fox Chapel Area School District (Allegheny County) payment; the superintendent did not retire and accepted a position in a different school district.
- 6) The two-minute increase in average dispatch time to 911 calls after the merger of Lehigh County and Allentown 911 operations.
- 7) Tens of thousands of dollars in donations to California University of Pennsylvania’s athletic program by a contractor that subsequently won a \$10.5 million contract to build a campus parking garage. The parking garage partially collapsed.
- 8) The previously undisclosed firing of multiple Philadelphia police officers after charges of domestic violence.
- 9) Records of complaints submitted to the Pennsylvania Department of Human Services about volunteers who work with children lacking proper background checks.
- 10) The \$142,000 cost to taxpayers to investigate Pittsburgh Public School District employees’ trip to Cuba.

2020

Accomplish- ments

Here are some of OOR's accomplishments in 2020:

1. OOR staff working remotely due to COVID-19 and conducting virtual training sessions on a weekly basis
2. OOR [Guidelines](#) to [Act 77 of 2020](#)
3. [Updated RTKL Case Index](#)
4. New version of the [Citizens' Guide to the Right-to-Know Law and the Sunshine Act](#)
5. New [Draft Sample Forms](#) for coroner reports and police report blotter reports
6. Final Determinations issued by County District Attorney's Offices posted to OOR website can be read, and continually updated, here: <https://www.openrecords.pa.gov/Appeals/FDsIssuedByDAs.cfm>.
7. New Court Filings Update Newsletter (Sign up for OOR Email Subscriptions here: <https://www.openrecords.pa.gov/EmailSubscriptions.cfm>.)

91 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 and expense 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

70 TRAINING SESSIONS

The OOR is statutorily required to provide training sessions about the RTKL and the Sunshine Act.

Our complete training schedule can be found at:

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

Image below courtesy of the Pennsylvania State Archives.



1,235 RIGHT-TO- KNOW REQUESTS

The OOR set another record in 2020, 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.

93% of RTK requests filed with the OOR last year were misdirected. 86 requests were for OOR records, usually copies of Final Determinations, case files, Agency Open Records Officer contact information, and OOR forms.

20 OOR EMPLOYEES

I became Executive Director of the Office of Open Records on January 19, 2021. It is an incredible honor to lead an entity with such a critical responsibility and honorable mission: improving transparency in government.

This report summarizes the 2020 work of the OOR, when the COVID-19 pandemic turned the world upside down. Through the initial weeks and months of the pandemic, the OOR's work never paused. It provided trainings for thousands of agency employees on how to process RTK requests while a physical office is closed.

All of this was under the remarkably skilled hand of my predecessor, Erik Arneson. A Pennsylvania legend in the world of open records, Erik deftly steered this agency for six years. He remains dedicated to the success of the OOR, and I am deeply grateful for his guidance.

Despite getting to know OOR staff mostly through a computer screen as our office remains closed, I am constantly impressed by their knowledge, skills, and commitment. Each and everyone of the 19 team members plays a vital role in OOR's success: 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-Brown. Pennsylvania is better because of your work.

Liz Wagenseller
March 18, 2021