



pennsylvania

OFFICE OF OPEN RECORDS

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Potter County Assoc. of Twp. Officials

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<http://openrecords.pa.gov>

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Right-to-Know Law Basics

All gov't records **presumed** to be public

- 30 exceptions in the RTKL
 - Fewer apply to financial records & agg. data
- Exceptions in other laws & regulations
- Attorney-client privilege & other privileges
 - Only those recognized by Pennsylvania courts
 - Not the “self-critical evaluation” privilege
- Can be made non-public by court order

What is a Record?

A record is...

- “information, regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency”

Records Take Many Shapes

The Right-to-Know Law...

- **Doesn't** distinguish between emails & paper
- **Doesn't** distinguish between agency devices & personal devices
- It **only cares** if the document / email / whatever is a “record” – and then if that record is a “public record”

Who Must Respond to Requests?

Every government agency (state & local) **must** respond to RTK requests

- Every agency has an Open Records Officer
- Must respond within 5 business days
- Can extend the timeline by 30 calendar days
- Response: grant, deny, or a mix of both

Record Retention

The RTKL does **not** address record retention.

- Goal is a strong, effective retention policy
- Must balance agency needs & transparency
 - *Can't simply say "0 days for everything"*
- PHMC has a Municipal Records Manual
 - Includes a retention schedule
 - PHMC staff can be a great resource

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Created by RTKL: Independent & quasi-judicial

- Decide appeals filed by people denied access to records by government agencies
- **18 total staff**
 - Executive Director & Deputy Director
 - 12 Attorneys
 - Chief of Training & Outreach
 - 3 Administrative

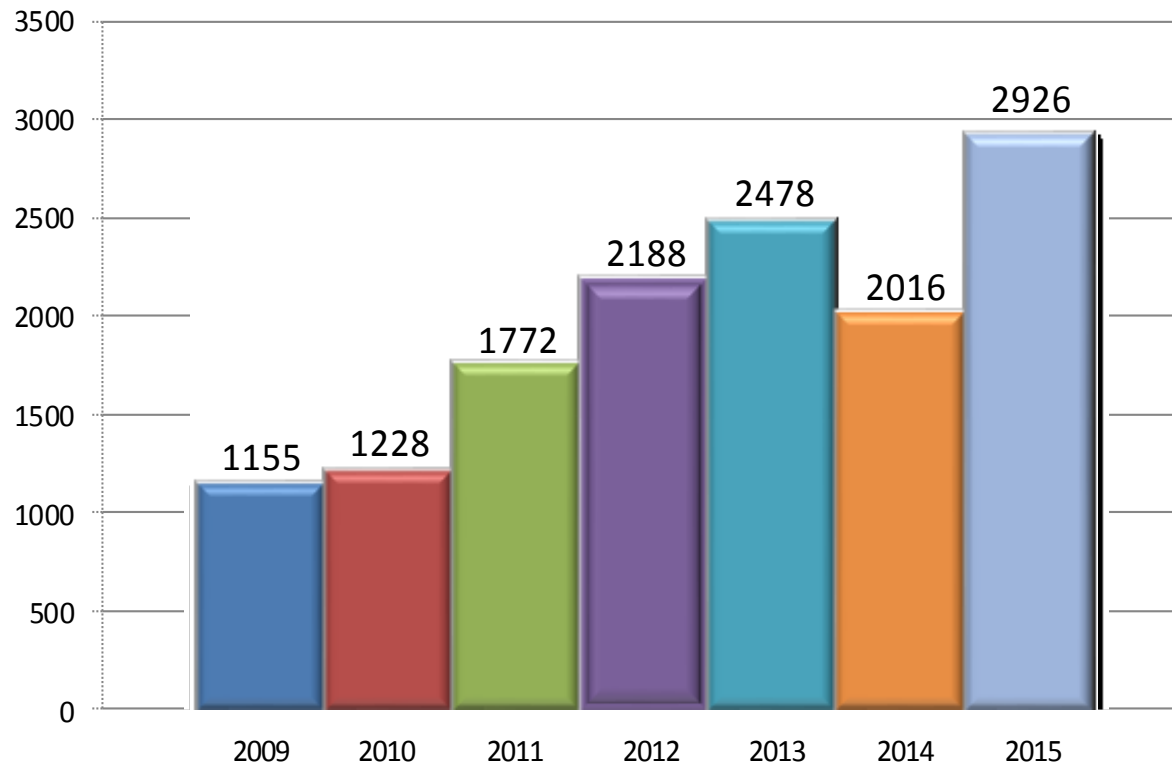
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OOR appeal process is simple

- A requester denied access can appeal to OOR
 - Must file appeal w/in 15 calendar days
- No lawyer necessary for requester
- OOR assigns Appeals Officer to oversee case
- Both sides can present evidence & argument
- OOR has **30 days** to issue Final Determination

OOR - Appeals Filed in 2015

2,926 appeals filed w/ OOR in 2015

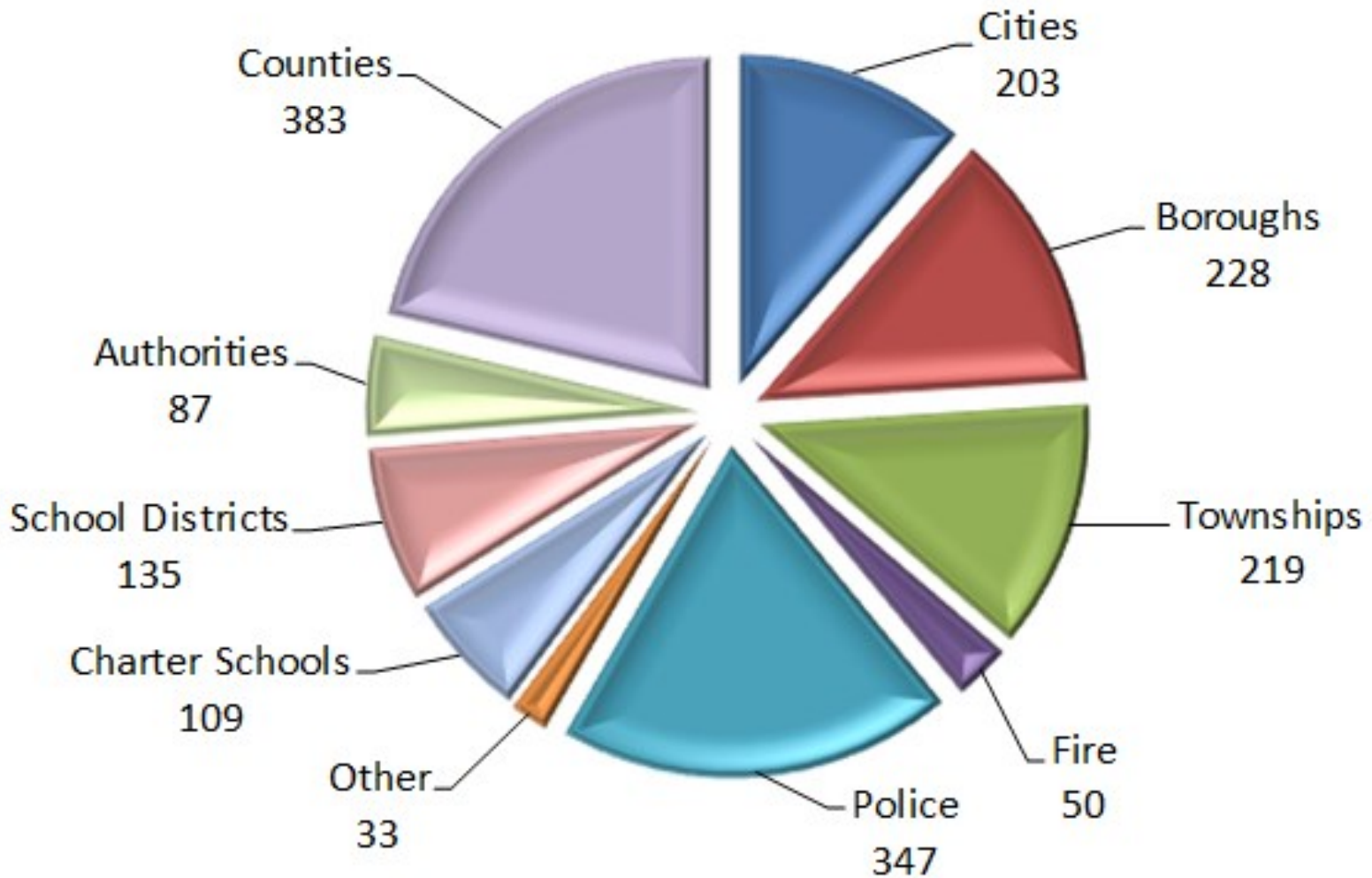


OOR Caseload

Thousands of RTK appeals are filed every year

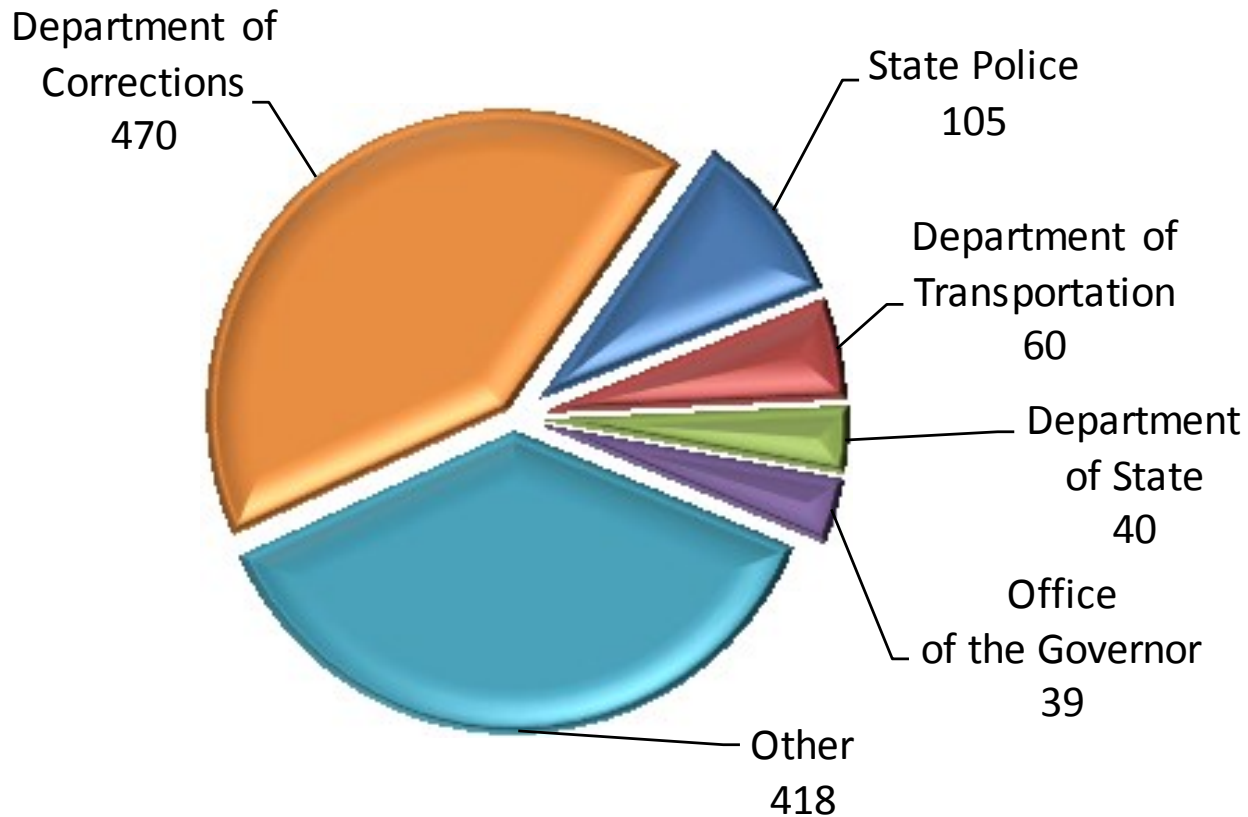
- In 2015, OOR heard **2,926 appeals**
 - That's total appeals, not total requests
 - No central database of # of requests
- Of the appeals, 61.3% involved local agencies

Local Agency Appeals in 2015



State Agency Appeals in 2015

1,132 appeals involving state agencies in 2015



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One of my goals is to simplify the RTK process for agencies & requesters

- <http://openrecords.pa.gov>
- Constantly updating content
 - YouTube videos covering the basics
 - New AORO Guidebook for agencies
 - Sample affidavit forms for agencies
- Suggestions welcome

Ask Questions

Call the OOR with questions

- 717-346-9903
- openrecords@pa.gov
- We answer questions from agencies (and their solicitors) and requesters every day
- May not be able to comment on specific issues, but we can provide general advice

OOR's Mediation Program

Goal: Resolve more cases informally

- > **50 cases** referred to mediation in 2016.
- Both sides agree to confidentiality.
- OOR provides trained mediator.
- If mediation successful, appeal is withdrawn.
- There's no harm in agreeing to mediation
 - Worst-case scenario: FD is slightly delayed

Training from the OOR

Training on the RTKL & Sunshine Act

- OOR website filled with information
 - www.openrecords.pa.gov
- YouTube videos & podcast
- On-site training: basics, recent cases & more
 - Details on OOR website
 - Or call George Spiess, 717-346-9903



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THANK YOU

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