pennsylvania
OFFICE OF OPEN RECORDS

Erik Arneson, Executive Director

Judson Morris
Upland Country Day School
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https://openrecords.pa.gov
@ErikOpenRecords
@OpenRecordsPA
earneson@pa.gov
(717) 346-9903

Accessing Government Records

What kind of records do you want?

- Federal Government: [Freedom of Information Act (FOIA)](#)

- Judicial Records: [Common Law, PA Supreme Court Rule 509](#)

- State & Local Records: [Right-to-Know Law](#)

Sunlight and Transparency

"Sunlight is said to be the best of disinfectants."

- Louis Brandeis, 1914
    - A few years later (1916) became a Supreme Court Justice
- "Sunlight" is a synonym for "transparency"
- Why is it important for the government to do its work in the sunlight – to be transparent?

Why Transparency is Important

"Transparency builds trust."

- Senate Majority Leader Dominic Pileggi, 2007
  - Author of Pennsylvania's Right-to-Know Law
- When things happen behind closed doors, people are suspicious
- You turn in homework, take quizzes and tests
  - How would you feel if your teacher **never** showed you any grades?
  - Would you believe that **your final grade was fair**?

Why Transparency is Important

"Better transparency in the states is related to less corruption."

- David Cuillier, 2019
  - University of Arizona Professor of Journalism
  - Studied requests for records in all 50 states
- Let's say you are 100% in charge of reporting grades to your parents: They know nothing, you know everything
- Would you focus on **the good results more than the bad**?
- Would you be tempted to **completely leave out the bad**?

Why Access to Records is Important

Official government records are often the best source

- 122 levees in the U.S. are at **risk for flooding**
  - 2007 FOIA request by the Associated Press
  - Source: U.S. Army Corps of Engineers
- Level of **lead and copper** in residential water supply
  - 2016 RTKL request by a freelance reporter
  - Source: City of Pittsburgh

Why Access to Records is Important

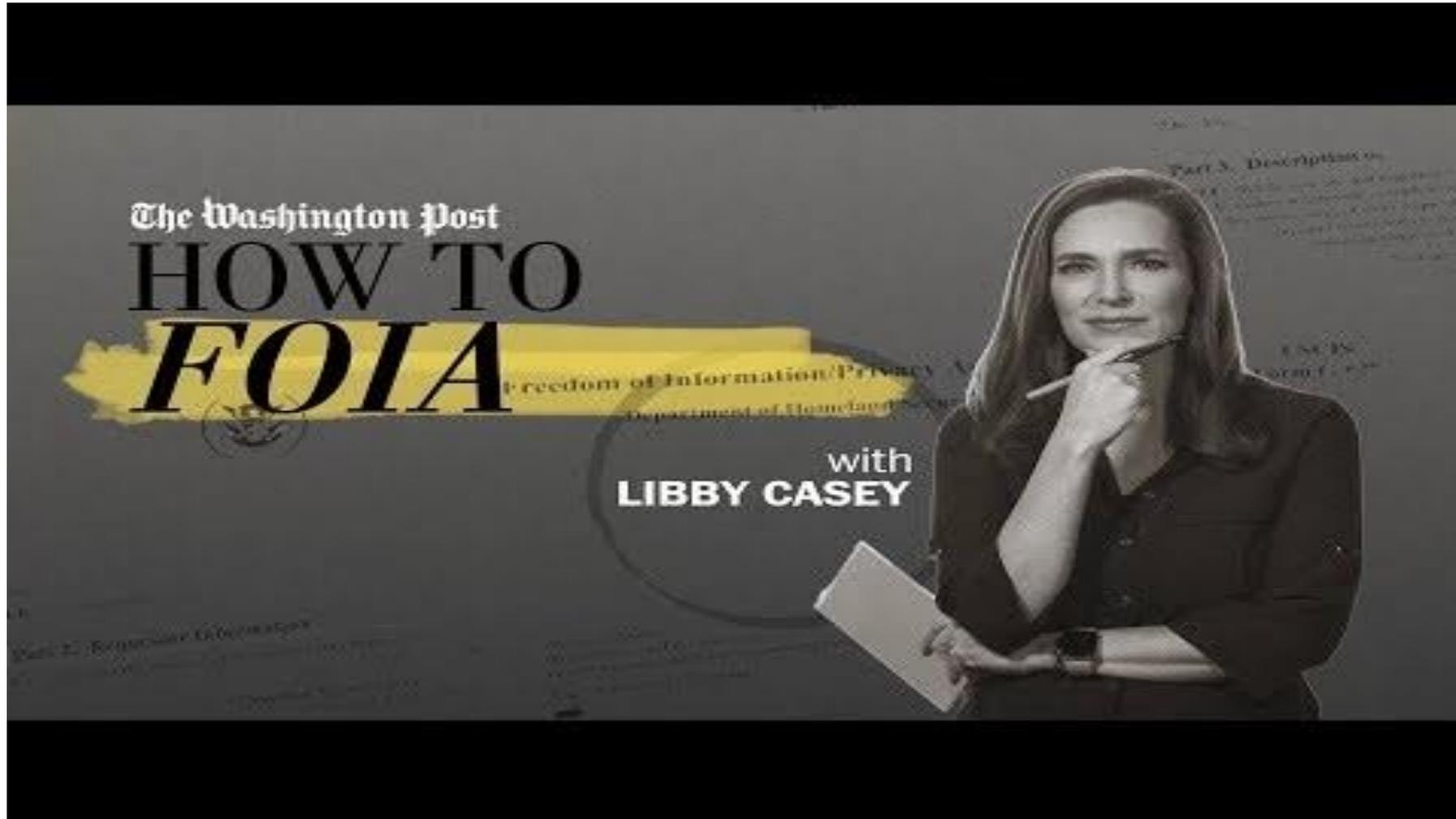**Official government records are often the best source**

- Drownings and safety at public swimming pools

- Pedestrian deaths at street crossings

- How public schools manage internet access for students

- How much money agencies use to settle lawsuits

- Complaints from the public about new voting machines

Actual Headlines in Pennsylvania

Headlines related to public records in Pennsylvania

- "Surveillance cameras in parts of Pennsylvania use hackable Chinese tech and can recognize faces"

- "100s of Pittsburgh public school credit cards run up millions of dollars in purchases"

- "Borough says $1.1 million isn't missing; it won't release details as to where it is"

How Journalists Use FOIA (federal law)

Not Every Case is So Serious

Sometimes cases involving public records are unusual

- Request sought all records related to an incident where…
- A pet peacock escaped from an enclosure…
- Pooped on a sidewalk…
- At the entrance to an elementary school…
- And the peacock's owner was charged with disorderly conduct.

Not Every Case is So Serious

Sometimes cases involving public records are unusual

- Dent's Run is in Elk County, Pennsylvania
- Some people believe Civil War-era gold is hidden there
  - (A shipment of Union gold lost or stolen on its way to Philadelphia)
- FBI closed down the site and dug; says it found nothing
- RTK request to DCNR for relevant communications w/ FBI
- Court has ordered DCNR to provide the communications

What Records Should be Available?

Should these records be available to the public?

- Chester County's budget for the current fiscal year
- Police detective's interview notes w/ a suspect
- Proposal from the state to Amazon seeking HQ2 in PA
- Social Security Numbers
- Names of people charged with crimes

Fundamental Question: 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"

Right-to-Know Law Basics

All state & local government records presumed to be public

- 30 exceptions in the RTKL
  - Fewer apply to financial records & aggregated data
- Exceptions in other laws & regulations
  - Other laws also make records expressly public (e.g., Coroner's Act)
- Attorney-client privilege & other privileges
  - Only if recognized by PA courts; not "self-critical evaluation"
- Records can be made non-public by court order

Records Take Many Shapes

The Right-to-Know Law…

- **Doesn't** distinguish between formats
  - Paper, email, texts, social media, audio, video, etc.
- **Doesn't** distinguish between agency & personal devices (or agency & personal email / social media accounts)
- All that matters: Is it a **record**? And if so, is it a **public** **record**?

Another Example: School Security

Exclusive: How these Pa. schools fortified themselves after Parkland

By Avi Wolfman-Arent · August 2, 2019

A license-plate reader. Bullet-proof vests. Yoga lessons. And *lots* of security cameras.

Those items may sound disparate, but they're unified by a single stream of money.

A year ago, Pennsylvania earmarked $40 million in competitive grants for school districts to make safety and security upgrades in the wake of school shootings in Parkland, Florida and Santa Fe, Texas.

Through a Right-to-Know request, Keystone Crossroads obtained summaries of what 231 districts, charter schools and technical schools plan to purchase with this unprecedented pot of money. The summaries provide rare insight into how school districts have adjusted priorities post-Parkland. And they shed light on how the modern, fortified school building looks and feels.
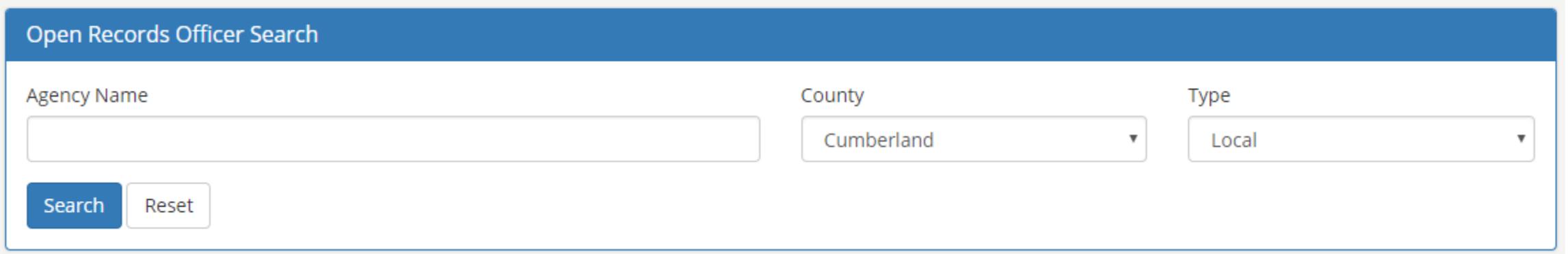
Another Example: School Security

WHYY: How these Pa. schools fortified themselves…

- $40 million state grant program for school security
- 231 districts, charter schools & technical schools won grants
  - 7 license-plate readers (at one district)
  - Bullet-proof vests
  - Night-vision cameras
  - Airlock sensors for entrance doors
  - Yoga training (no further explanation included in article)

How to File a RTK Request

Submit your RTK request to the correct agency

- Database of agencies is available on OOR website

Open Records Officer Search

Agency Name	County	Type
	Cumberland ▾	Local ▾

Search Reset

How to File a RTK Request

Basic steps:

- Generally best to use OOR's [Standard RTKL Request Form](#)
- Be specific when describing records
- Make a note of the date you submit the request
  - Very important if you need to appeal

Speaking of Databases...

Two useful resources:

- Online Contract Database, http://contracts.patreasury.gov/
  - State agency contracts of $5,000 or more
- PennWATCH, http://pennwatch.pa.gov/
  - State employee names, titles, salaries & compensation
  - State agency employee counts
  - Some very basic state budget data

How Much Does This Cost?
How Long Does it Take?

OOR fee schedule developed pursuant to RTKL

- General rule: **No charge for electronic records**

- Up to $0.25/page for hard copies (8.5 x 11, b&w)

Relatively (compared to FOIA & other states) tight timeline

- Agency must respond **within 5 (agency) business days**
  - Agency can extend timeline by 30 calendar days

What If My Request is Denied?

Most denials can be appealed to the OOR

- If request is denied, appeal can be filed within 15 business days
    - File appeals using online form at OOR website
    - About 10 to 15 minutes to fill out
    - **No lawyer necessary**
    - OOR assigns Appeals Officer to oversee case
    - Both sides can send evidence & argument – **requesters don't have to**
    - OOR has **30 days** to issue Final Determination

Final Question

Thinking back to what we've learned

- What government records would you request?