



pennsylvania

OFFICE OF OPEN RECORDS

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<http://openrecords.pa.gov>

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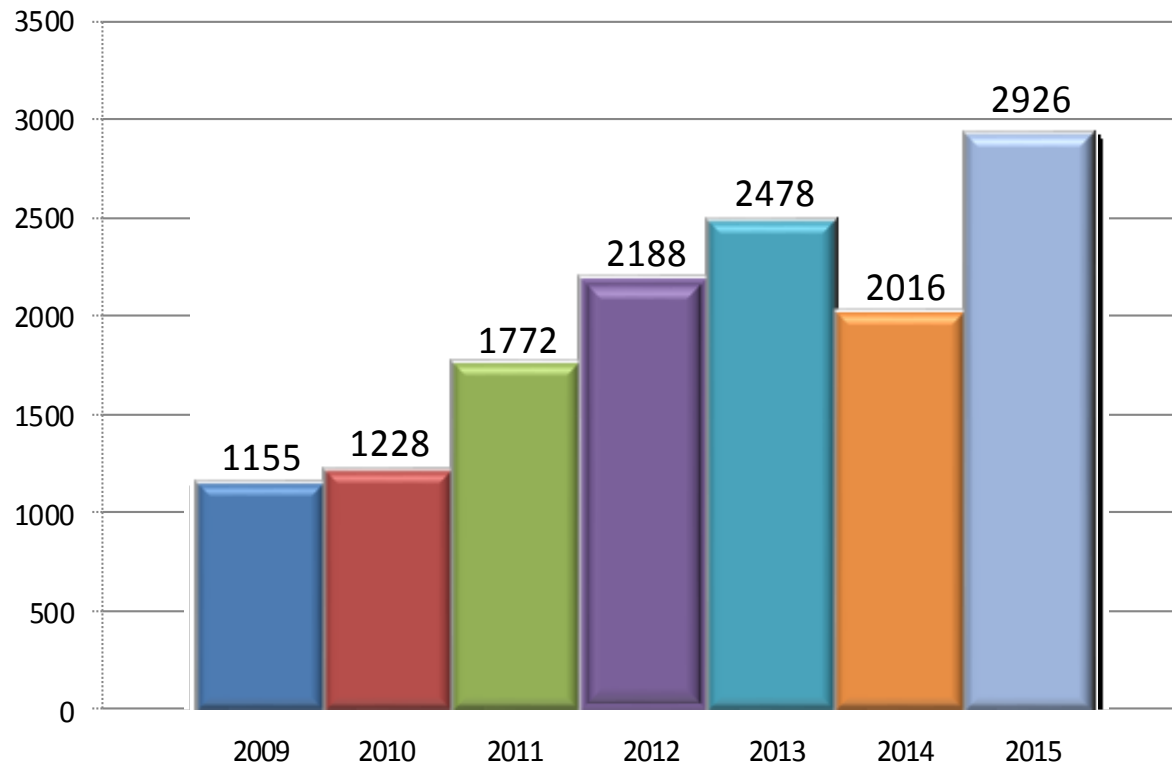
Office of Open Records

Created by the Right-to-Know Law

- 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

OOR - Appeals Filed in 2015

2,926 appeals filed w/ OOR in 2015.

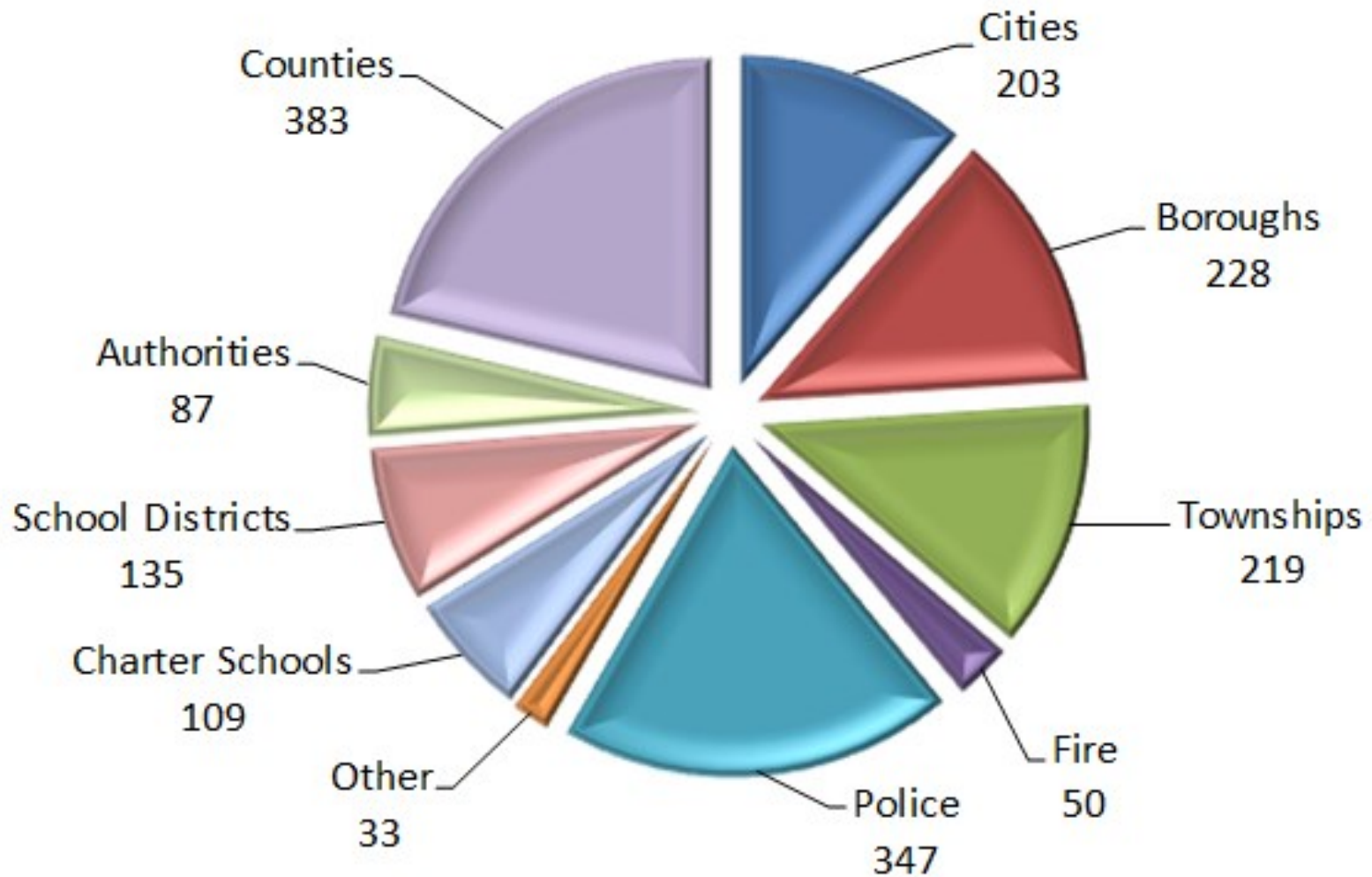


OOR Caseload

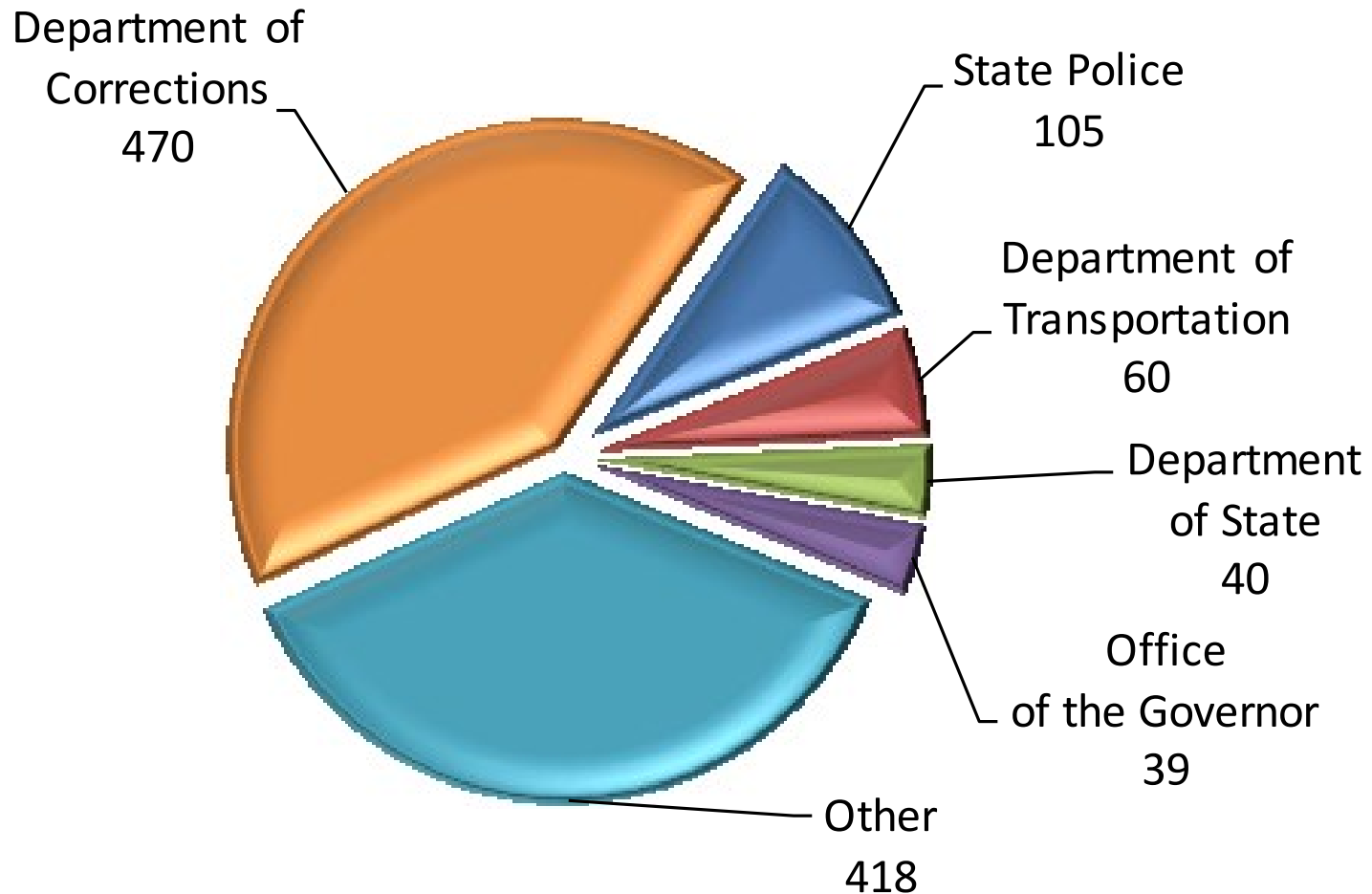
Thousands of RTK appeals are filed every year

- 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



Criminal Investigative Records of a Local Law Enforcement Agency

Section 503(d)(2):

- “The district attorney of a county shall designate one or more appeals officers to hear appeals ... relating to access to criminal investigative records in possession of a local agency of that county.”
- OOR regularly transfers such cases to the District Attorney.

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”

Video Records

The OOR is hearing more appeals of records which include video recordings from:

- Dashcams / Mobile Video Recordings (MVRs)
- Bodycams
- Stationary Cameras
- School Bus Cameras

Video Records – School Bus

Hawkins v. Central Dauphin SD (2016-0583)

- Requested: School bus camera footage.
- Result: Granted. FERPA does not apply, not an investigative record.
- Status: Appealed to Dauphin Common Pleas.

Video Records – Interior of Prison

Halpin v. Luzerne County (2016-1263)

- Requested: Surveillance footage of an incident at the county prison.
- Result: Denied. Public safety exception proven.
- Status: No known court appeal.

Video Records – Incident at Prison

Escalera v. Adams County (2015-0780)

- Requested: All audio & video records related to a shooting incident at county prison.
- Result: Denied. Public safety exception proven.
- Status: No known court appeal.

Video Records – Holding Cell

Rothey v. California Borough (2015-1925)

- Requested: Video from a holding cell.
- Result: Granted. Hearing was held. Failed to demonstrate that release would jeopardize public safety. Video not investigative in nature.
- Status: Appealed to Common Pleas.

Video Records – Holding Cell / Processing Area

Aponte v. Pottstown Borough (2016-0045)

- Requested: Video footage from processing areas and a holding cell.
- Result: Granted. Purpose of videos is not investigative. Failed to demonstrate how release of footage would jeopardize public safety.
- Status: Appealed to Common Pleas.

Video Records – Dashcam Policy

Coley v. PSP (2010-0424)

- Requested: MVR footage and any policies regarding MVRs.
- Result: PSP granted access to the policy, but demonstrated that no video existed.
- Status: No known court appeal.

Video Records – Dashcam Video

Grove v. PSP (2014-0828)

- Requested: Dashcam video from a specified traffic stop.
- Result: Granted. Did not include investigative material.
- Status: Commonwealth court upheld the OOR, remanded for further consideration related to audio portions. Pending in the Supreme Court.

Video Records – Bodycam Policy

Cotter v. York City PD (2016-1263)

- Requested: Full policy of the York City PD regarding bodycams being used as part of the pilot program.
- Result: Appeal was withdrawn. (PD provided policy after appeal was filed.)
- Status: Closed.

Video Records – Bodycam Videos

Rago v. York City PD (2016-0872)

- Requested: Bodycam videos.
- Result: Granted in part, denied in part. Some videos not investigatory; transferred to District Attorney for investigatory videos.
- Status: Appealed to Common Pleas by PD.

Bodycam Videos – Legislation

Senate Bill 976

- Sponsor: Senator Greenleaf (Montgomery Co.)
- Addresses Wiretap Law issue & RTKL issues.
- Status: Laid on the table in the Senate. Needs at least four session days to pass both chambers. Not clear if it will advance to the Governor this session. Amendments are possible.

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

The Office of Open Records

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.
 - Citizens' Guide to the RTKL.
 - AORO Guidebook for agencies.
 - Sample affidavit forms for agencies.

Training from the OOR

Training on the RTKL & Sunshine Act

- OOR website filled with information
 - www.openrecords.pa.gov
- YouTube, podcast, annual training (10/26/16)
- On-site training
 - Details on OOR website
 - Or call George Spiess, 717-346-9903



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THANK YOU

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