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The County Commissioners Association of Pennsylvania (CCAP) is the voice of county government; a statewide nonprofit, nonpartisan association representing all 67 counties in Pennsylvania. CCAP members include county commissioners, council members, county executives, administrators, chief clerks and solicitors. CCAP strengthens the counties' abilities to govern their own affairs and improve the well-being and quality of life for every Pennsylvania resident. It advocates for favorable state and federal legislation, programs and policies on behalf of counties. CCAP is committed to service excellence through education, information, insurance, technology and other programs that support effective county government. Founded in 1886, CCAP is an affiliate of the National Association of Counties.

To acquire an article idea submittal form for CCAP's *Pennsylvania County News* please email Ken Kroski at kkroski@pacounties.org.

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fall
2019

PENNSYLVANIA **county news**

AN ICONIC ERA OF EXEMPLARY LEADERSHIP

Doug Hill is retiring on December 31 with nearly 36 years of service as CCAP's executive director. His accomplishments will permanently and positively affect counties in Pennsylvania. The words on the cover of this issue were chosen by CCAP members to celebrate Doug and describe his character, knowledge and leadership.

ALSO IN THIS ISSUE:

Confidentiality remains an important issue for many aspects of county government. Several articles in this issue explore the complex components.

features



Doug Hill: Public Service Writ Large



Confidentiality of Human Resources Records Under the Right to Know Law



Balancing Data Privacy in a Day of Convenience

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DOUGLAS E. HILL

Executive Director, County Commissioners Association of Pennsylvania

Bridges

Last weekend daughter Liz stopped by with a couple armloads of stuff. With their mom's passing a year and a half ago, our kids are now slowly working their way through a life's accumulation of things, deciding what to keep, what to give to others, and what goes ultimately out to the curb. Highlights: They sorted the photos and brought me every one that contained all three kids (price-less). And sandwich bags labeled Stephen, Elizabeth and David, with baby teeth (well, ummm ...).

Genealogy has been an on-again off-again side pursuit, abetted by the fact that on one hand all of my primary lines of descent are pure Pennsylvania German dating back to the 1700s, and on the other that I get to a lot of courthouses. And so with the eager cooperation of my extended family, I already have a similar repository of the self-selected sets of things that one generation judged the most important to keep from its forebears and hand on to its successors. I have a great-great-grandfather's box camera and his glass plate negatives, along with his Sunday school Bible. A sixth-generation farmer's journal, with entries on corn

sales, blacksmithing, and shoe repair. A small box of a family's photos from the late 1800s (my grandmother knew who they all were but never wrote it down; I've identified exactly two, one with his name written on the back and the other because he's the only one who moved to Hammond, Indiana, the photographer's address). A fourth-generation formal family photo and accompanying Bible, with the names in multi-colored tempera calligraphy on its genealogy page. From my mother, lots of photos plus the senior high yearbook where she was predicted to be a Broadway dancer and my dad was an acknowledged roaming Romeo.

So now, with retirement looming and the transition to Lisa Schaefer's leadership well underway, I find myself rummaging through a career's worth of stuff, thinking what I want to keep, what I think important to hand off to the CCAP family, and what can simply go to the curb. You've all done it, whether changing jobs, moving to another house, or sorting out a loved one's estate, and so can pretty readily relate. Still, there's just a few observations.

First is the weeding process—both practical and therapeutic. Yes, there's a lot that has accumulated. No, little of it is really needed for CCAP's ability to continue to function. It is comparable to what we did for my mom's 90th birthday last year, six months after she moved to assisted living. We held a party for her and extended family at the facility, and brought in maybe six bins of memorabilia that my sisters and I had collected as we prepared her house for sale. We spent the evening sorting through, telling stories, laughing, shedding the occasional tear, and ultimately pulling out of the stack the things we each wanted to keep, and putting the rest in the big black bags in the corner. It was practical—a three-bedroom home was now clean and clear, and we had our favorite bits and pieces. And it was therapeutic—all the memories were rekindled and reinforced, in an evening that itself has become a special memory.

The CCAP stuff is the same. Pulling out a yellowed 1990s legislative proposal, remembering the hammer-and-tongs ordeal to successfully get the county view properly represented, and then tossing it in the bin. Or looking at the

“Don’t be sad because it’s over,
smile because it happened.”

— *Dr. Seuss (Ted Geisel)*

weathered sign from the front of our 30-year downtown office building and the artist’s print of it and its neighbors in historic Governor’s Row, and leaving it on its shelf and its fate to my successors.

The second thought is the people—predecessors, contemporaries, and successors. In genealogy, it’s not collecting names and dates, it’s collecting families and stories. I look at the photos of my kids and remember standing there with the 35mm, gauging when the three together would turn just the right way to *click* that perfect photo. Remembering those motions and emotions, I look at a photo my great-great-grandfather took of three boys running down a dirt Montgomery Borough street, and can place myself there, feeling the camera in my hands, looking through the viewfinder for the right *one-two-three* of the shutter release.

I think of our CCAP predecessors the same way. I imagine standing in Devil’s Den for the 1890s photo that now hangs in one of our conference rooms, flannel suit a bit scratchy and warm, lining up and squinting into the sun

while talking to the older commissioner next to me who actually fought there. The 1913 and 1955 County Code rewrites did not simply appear; having just participated in the latest rewrite, I can put myself in the place of the volunteer chief clerk getting on the train to travel to the legislature’s (then) short session, sitting across the desk from a legislative leader and arguing how the commissioner relationship with the controller should be written. I sit at the table in the 1900 Lehigh County commissioners office and suggest the annual conference include sessions on election administration and sheriff powers. And I stand in the shoes of the solicitor on the floor of an 1890s conference, looking around the room at my peers during the business meeting, and arguing that I “wished for once that the Legislature would throw us bread and not stones.”

Taking all that together, the third observation is the continuity of purpose and of mission that defines CCAP’s 130-plus year history. Our predecessors were not just photos on the wall, reference books on the shelf, or entries in the minute books. They were all real people, serving their

constituents, dealing with bureaucratic frustrations, adapting to changing communities and social settings, developing shared policy priorities, joining with common stakeholders and battling with common foes, championing the county voice in Harrisburg and Washington. Our story today shares all of these elements; yes, our setting, our scope of services, and our tools and technology are markedly different, but the core remains the same—building counties’ capacity to best serve their constituents.

The last observation is a recognition that each of us is a bridge between generations, overlapping and touching at different intersections, passing along knowledge, history and values. I was privileged to work with Ferd Gunzberger, Potter County chief clerk from 1928 to 1999. He was from the era when CCAP had no staff and relied on its volunteers to make the Harrisburg trip and yes, he could talk about the 1955 Code rewrite. He understood his unique place, and was delighted to share experience and perspective, knowing in part that he was carrying forward traditions and lobbying issues he learned from long-

ago contemporaries who came up in the 1800s. He is just one example of the many who provided support, encouragement, grounding, and sense of community to CCAP and to me over the last nearly 36 years.

Looking forward, I am equally privileged to work with the many, many CCAP members and staff who will still be in the trenches after I walk to the door the last time on December 31. The mark of a successful organization is developing, instilling, maintaining, and carrying forward a strong set of shared values. For CCAP, chief among these is inclusiveness and voice, for every member, no exceptions. That was a principle recognized by the CCAP Board and its Recruitment Committee as they deliberated my successor,

something already a part of the CCAP culture at staff and membership levels, and a charge they have given Lisa as she assumes leadership.

Time to return to sorting the office and figuring which pieces to keep and which to discard. It's akin to writing history, if history ultimately is told by what is kept and passed along. It is also in some measure ironic how quickly the record can change. As integral as he was to our tradition and our success, only a handful of current CCAP members knew Ferd. In a similar way, on the first Monday of this coming January, statistics show that a third of the CCAP membership, new to office, will have no personal relationship to me. But that doesn't matter. For each of us, while we're here, we preserve

the best of our traditions and heritage, we exercise diligence and imagination in playing today's game, and we set the stage in a way that grows and empowers our successors.

For now, each file I open, and more importantly each person I talk to, enriches my memories with wonderful people, great times, and all we accomplished on behalf of Pennsylvania's counties and those they serve. 🍷

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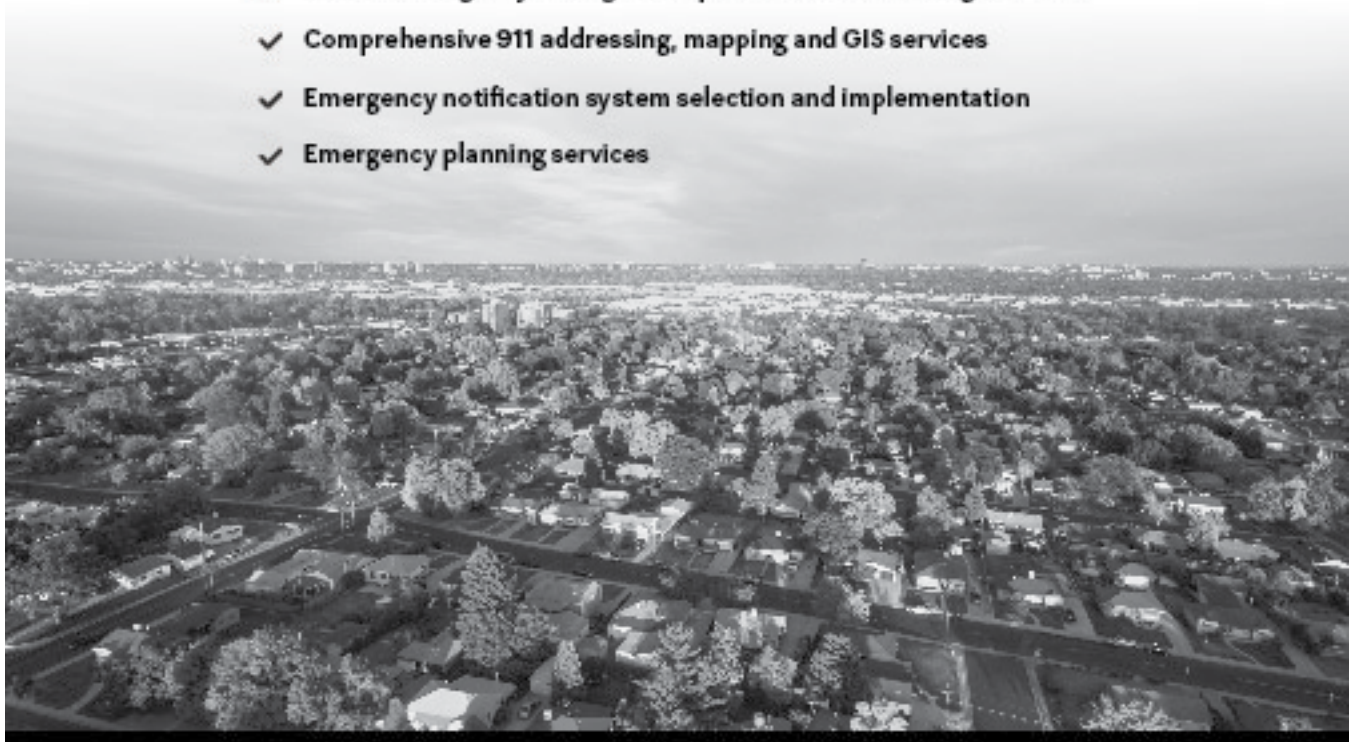
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For more information about our vendor opportunities, please contact Mandi Glantz, director of member and vendor relations, at (717) 736-4739 or mglantz@pacounties.org.

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(202) 942-4221 • www.naco.org

Contact: Kimberly Hall

The National Association of Counties (NACo) unites America's 3,069 county governments. Founded in 1935, NACo brings county officials together to advocate with a collective voice on national policy, exchange ideas and build new leadership skills, pursue transformational county solutions, enrich the public's understanding of county government and exercise exemplary leadership in public service. NACo's Programs and Services offer counties unique opportunities to help your residents, your employees and your county meet the needs of the future. CCAP has a long standing relationship with NACo and their sponsoring programs. As a CCAP member you have the opportunity to participate in the following endorsed programs: NACo Live Healthy-Dental and Health Discount Program (www.naco.org/health) and NACo 457 Deferred Compensation administered by Nationwide Retirement Solutions (www.nationwide.com).

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Contact: Fred Bean

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Doug Hill:

PUBLIC SERVICE WRIT LARGE

Written by John Sallade
Designed and Executed by Doug Hill

In 2014, on his 30th anniversary of work at CCAP, the senior staff gave Doug an award inscribed “Si Momentenum Requiris, Circumspice” – if you seek his monument, look around. The new addition to the CCAP office was just about complete, and the association was continuing to expand its already impressive menu of services for counties. Five years later, as Doug nears his last day as Executive Director, we want to try to provide a full picture of what he has helped the membership build, and how truly incredible the last 35 years has been for CCAP, counties and the citizens of Pennsylvania.

Recently, Doug spent some time reflecting on his career and provided a listing of CCAP’s major accomplishments, as well as some fun statistics. Together, they reveal CCAP’s growth and prominence. While Doug reminisced, notes were taken and conversations recorded. The result is this article.

As you can imagine, there is a lot to cover, but make sure you don’t miss the ending section, Coda, which gives

a great glimpse into what really makes Doug unique.

Let’s look around...

To think that it all happened because of an internship....

An important factor in Doug becoming CCAP executive director was that he had met Norm Hetrick, and that happened because of an internship. Norm was a well-known Harrisburg attorney and public official. Here’s how it happened:

While in college at Westminster, Doug interned for the city of New Castle. A friend, who later became a Monroe County district attorney, was going to intern there and invited Doug to join him. At some point Doug was thinking of maybe going to law school. He enjoyed the internship and learned that in municipal management you could “do stuff” – get things accomplished. So, he decided to go to graduate school and become a municipal manager. He was accepted to three programs, and chose Penn State Harrisburg because it was the

only program which required an internship as part of the degree. He interned with Lower Paxton Township in Dauphin County, and Norm was the chairman of the Board of Supervisors.

After graduation Doug began work for the Pennsylvania State Association of Boroughs (PSAB). By then Norm had become a Dauphin County commissioner. After five years at PSAB, the executive director of CCAP (then called PSACC, the Pennsylvania State Association of County Commissioners) told Doug he was leaving and suggested Doug apply for the position, noting someone else (Norm) has recommended that Doug apply. Doug had kept in touch with Norm, who was now president of the Association and after being one of four finalists, Doug was chosen as the new executive director.

When Doug started in 1984 the Association’s board consisted of 12 people, and he was responsible for a staff of six. The total annual budget for the Association was \$303,221. Later that year he moved the office to a brownstone building at 17 North Front Street in Harrisburg. The building was owned by Dauphin County.

Si Momentenum Requiris, Circumspice.

*If you seek his monument,
look around.*



1987 Doug with CCAP staff Mary Ann Di Blasio, Resa Kepner, Dave Wegner, Sue Samuelson, Ron Heinlen and Nancy Rorem.

FROM THE BEGINNING: MAJOR ISSUES AND EVENTS

SARA Title III Compliance – 1987

Pennsylvania needed to become compliant with federal hazardous waste requirements and CCAP worked with the Casey Administration. The role we were given was a planning responsibility in two areas – locations of hazardous materials (MSDS), and also to put plans in place for hazardous materials response – not necessarily carry it out – but have contractors or others in place who will respond.

Solid Waste Act 101 – July 1988

The impetus for this law was that DER (now DEP) sometime in 1985 had started a program to close all of the environmentally unsound landfills in Pennsylvania. About 1,200 landfills were closed and the end result was a lack of disposal space as there remained less than 20 sites still operating. The work on the act started near the end of Governor Thornburgh's term of office, and ended during Governor Casey's administration. Both administrations

wanted to lessen reliance on landfills and reduce the waste stream as much as possible, but the focus changed from an emphasis on resource recovery facilities (incinerators) to what ended up as an emphasis on recycling, which was how the Act ended up with a county–municipal partnership focus.

Doug and Elam Herr (of the Pennsylvania State Association of Township Supervisors) ended up writing the legislation with staff from DEP. Doug noted this legislation was a great example of an overarching theme of CCAP and its members: we are not unilaterally opposed to mandates – we are willing to look at what needs to be done and how counties are able to do it. Up until this point municipalities were responsible to prepare solid waste plans, and many had not yet done that, so taking the planning responsibilities to the county level was a major step forward, and we were able to get agreement for a revenue stream to fund our work. CCAP and the Authorities Association conducted 10 to 12 training sessions around the state to educate counties and solid waste facility operators about the new Act.

“

Doug Hill has led CCAP with professionalism, dignity and dedication. He has earned respect and admiration from county commissioners and his peers throughout the commonwealth and the nation. Just as we do, Doug has a commitment to the people we serve and a passion for successful county government. Above all this, Doug is a kind, thoughtful person who has been a mentor and friend to many. I'm personally grateful for his guidance and patience and wish him much happiness in the next chapter of his life.

— **KATHI COZZONE**

CCAP President and Chester County Commissioner



Huntingdon County Commissioner Larry Sather and Senator Doyle Corman with Doug.



1988 Doug with Ken Greider, Governor Bob Casey, Jack Gardner and Jack Garner at the comprehensive local tax reform initiative signing.

Agricultural Conservation Easements – December 1988

Pennsylvania was one of the early adopters of the agricultural conservation easement concept, and remains at the forefront with an incredibly successful number of farms and acres preserved. The program provided a four to one or eight to one state to local match, which started with just counties. Eventually municipalities and land preservation trusts were added. The state did a bond issue to get the programs started and now the program is funded by a General Fund appropriation.

CCAP received a grant from the Department of Agriculture to help implement the program, including a series of training sessions around the state to educate counties, farmers and local officials. Pennsylvania lead the nation by a wide margin on the number of farms preserved. In addition many counties also stepped up and added overmatch funding, including Bucks, Chester, Lancaster, Montgomery and more.

National Voter Registration Act – 1995

Commonly called motor voter, Pennsylvania had to totally rewrite its law to comply with the federal act, and CCAP was the center of this, writing the legislation and getting it passed. The work took an extra year because the Senate approval margin was razor thin. The first year it was defeated by one vote and had to be reintroduced the following spring. Voting issues can be difficult when there appears to be a desire by the federal government to control our election process. The law established that any consumer interaction with a state agency, or a local agency the state funds, requires the agency to ask if the person is registered to vote, and if not, would

“

Anyone that seeks inspiration, vision and leadership should look no further than Doug Hill. I have known Doug for over eighteen years and his level of commitment to county government and a better Pennsylvania is second to none. CCAP has been well-served by his leadership and he has been a key catalyst for propelling your exceptional organization to new heights. I nicknamed him several years ago as “Dean Hill” out of appreciation for his ability to serve as a reliable voice of reason in so many matters. Doug often sees future trends and acts decisively, long before most people can even see the horizon. I wish Doug well in his retirement, yet I would not be surprised to see him working through a public policy dilemma in a coffee shop or perhaps winning the Boston Marathon. Doug Hill always respects people and his legendary achievements have most certainly made this commonwealth stronger.

— **CHRIS CAP**
Executive Director, Pennsylvania State Association of Boroughs

they like to be. The largest number of additions to the voting roles came through PennDOT interactions, much less through the other agencies.

Doug received an award from the Association of the National Secretaries of States when Pennsylvania's law passed, acknowledging his work on the legislation.

Tax Exempt Properties Act 55

This started with the Hospital Utilization Project (HUP) decision in Erie County, where the Pennsylvania Supreme Court laid out a five-prong test to qualify as tax exempt from the local property tax. This led to the idea to write this into statute. A series of stakeholder meetings was held, and the legislation passed in early 2000. About five years later the Supreme Court overturned the law alleging it stepped on their territory. Ultimately the tests in the law and court decision were not that much out of line with each other, and the result was to bring some order to a system that has since basically survived court tests. This is now a major component of the training for county assessors.

Council on Local and Area International Relations (CLAIR) – 2002

CLAIR is a Japan government-based program to share common experiences with municipal officials worldwide, and has offices all over the world. Japan conducts this program each year. Each of the national public entity associations nominates one person to attend, and NACo had nominated Doug. The group started in Tokyo, with public officials from all over the world, attending an international conference, as the guests of Japan. His primary travel group was the U.S. and Canada, about a dozen people. In

Tokyo they were joined by folks from Ireland, Scotland, Australia and New Zealand. They held sessions, in classroom style seating reminiscent of the old U.N. – as the speakers made their presentations, all the attendees had headphones and a box which provided options for which translation language you preferred. One evening there was a reception with translators attending and each had a badge listing the languages they spoke, so you could request help with your conversation. At one point Doug found himself in a conversation with a Central Chinese and a Western Chinese Mongolian, right after the U.S. had just invaded Afghanistan – their next door neighbor. Later in the trip they visited a Prefecture, met with the Governor, visited several cities and their mayors, and discussed regional challenges. The trip also included a three-day home stay with a Japanese family. Doug has lots of great stories about this trip!

EAC Chair Gracia Hillman – 2004

The Federal Elections Assistance Commission (EAC) was a part of the Help America Vote Act. For the first presidential election after HAVA, Doug got a call from the Pennsylvania Department of State informing him that Gracia Hillman, one of the EAC commissioners, wanted to come up from D.C. and tour a couple of polling places to see how Pennsylvania is doing. Doug met her at the train station along with one of her staffers, and took them to several polling places in Dauphin County. One was a new dual precinct, and another was in a senior center where most of the poll workers were high school students, which was relatively new at that time. After the election she wrote a very nice article about her visit to Pennsylvania, and how the counties there "get it right."

Voting Equipment Replacement – 2006

Replacing the equipment was the result of HAVA, which passed in 2002. This work to get new equipment started with a call to Doug from Governor Rendell, suggesting counties work to buy all the equipment through a state contract, which was eventually accomplished through COSTARS. This was the tail end of the HAVA piece which required counties to get rid of all the old equipment. Using COSTARS helped all the counties new equipment in place. The timeline to get everything in place was very tight – counties had to get their orders in place to COSTARS by January and then have the new equipment up and running by the May primary. The good news was it was an off-year election, which helped, and the federal government provided \$100 million in funding which was why it went so quickly.

Russian Embassy Staff – 2010

One day Doug got a call from the Pennsylvania Department of State explaining the Russians would like to send some staff from their embassy to observe our election process and wondered if Doug would be willing to provide a tour. There were two Russian embassy staff members, mid-level diplomats, and they jumped in Doug's car and did the visits. The State coordinated everything, and they visited a precinct at the Susquehanna Township Municipal Building and another one at a Catholic school in Cumberland County where they randomly got to meet a Cumberland County commissioner who had just voted. They also got to spend time with the Judge of Elections who explained the process. The Susquehanna precinct was not too busy so the diplomats got to meet with the staff and poll watchers, exam-

ine how the electronic machines were set up, and discuss the process. At this point the Russians were conducting elections and wanted to compare the process. They were having issues with low turnout and discussed ways to increase participation. The cultural exchange was the fun part. For example, in Moscow the first person to vote gets a rose. They also discussed school and security concerns, and the Russians noted that voters who come to school buildings to vote get a discount in the cafeteria!

Shale Gas Impact Fee – 2012

This issue ending up making the Corbett administration not happy with CCAP. While the Governor was making the announcement about the administration's position on impact fees, CCAP was called to a meeting with the Lieutenant Governor who was informing us what the proposal included. They were proposing an impact fee that the counties would levy. We had to do a media release and we expressed support but had some reservations about the implementation process. The next day the press headlines focused on counties not liking the impact fee. When the angry call came to Doug from someone close to the administration, we needed to remind them that CCAP did not write the headlines. In the end,

Doug and Elam Herr and others managed to write how the process worked, after convening with representatives from the industry, and it ultimately turned out to be a well written process in support of local government. Doug noted it was one of the best pieces of legislation he was associated with, in terms of the benefits coming back to counties and local government.

Lithuanian Guard – 2018

Over the years CCAP has built a strong relationship with the Pennsylvania National Guard and the Department of Military and Veterans Affairs. When Lithuania won its independence, they formed a relationship with the Pennsylvania National Guard, and they take turns sending people to each country, conducting two or three weeks of training and cultural visits. In 2018 Doug got a call that some of the Lithuanian group wanted to meet to talk about municipal government, and it turned out they were all municipal officials back home. They visited CCAP and compared notes on elections, service provision and funding, and even political corruption. It was interesting comparing how things "got done" in an oligarchy and how that differed when the country became a democracy.

Madagascar

Another visit started with a call to Elam Herr and Doug from either Penn State or DCED. Madagascar was changing their national government to a constitutional form, and one of the gentlemen writing it wanted to talk about how local government was structured. Doug and Elam met with him, discussing power distribution, safeguards, building an infrastructure while balancing environmental issues, economic development and more.

Wellness, Activities, Personnel Policies

Doug notes that CCAP has done and tried so many things that our peers look at and are interested in and surprised by. He is proud of our innovation and has done presentations for his peers about the details, such as promoting a culture of health through a wellness program. As the staff started to grow we realized we needed to take policies seriously, and we preferred to have rules in place so that we knew them before we needed them. He noted CCAP has a strong record of uniformly adhering to its policies, keeping them current with laws and case law, and using legal counsel when needed.

THE DOUG HILL ERA BEGINS.

1984

Doug is hired as the executive director of the Pennsylvania State Association of County Commissioners. The price of a movie ticket is \$2.50. Trivial Pursuit revives the board-game industry.

1984

The first Apple Macintosh goes on sale. Carbon paper still is a big seller.

1985

Microsoft releases its first version of Windows.

1986

The Association's 100th anniversary is celebrated.

1987

Smoking is banned on all public transport.

1987

PCoRP is born.

1987

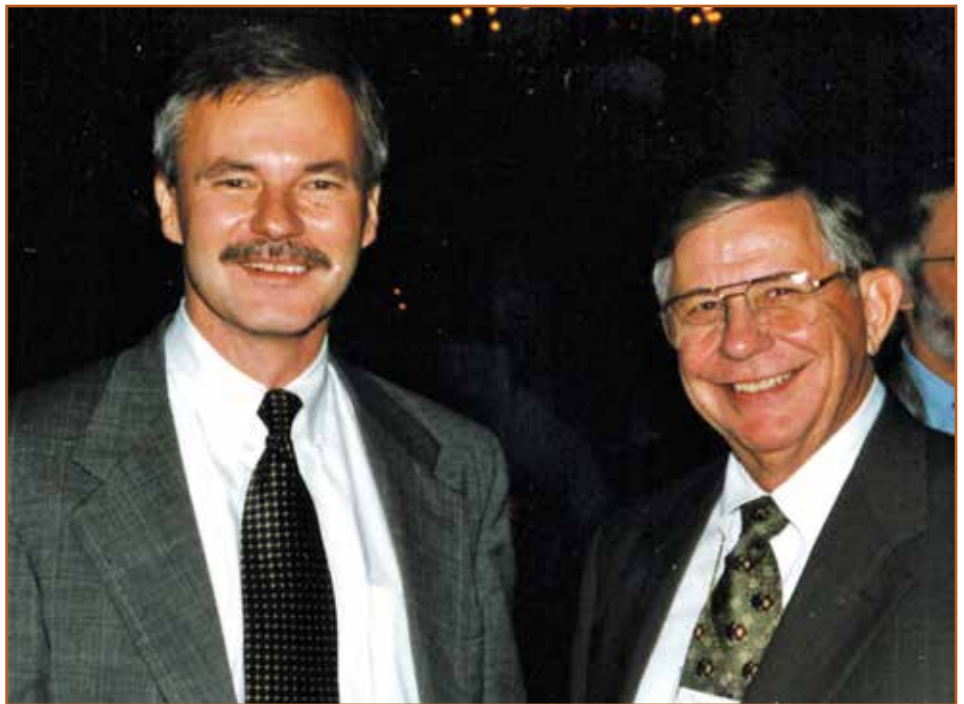
The *Pennsylvania County News*, started after the Legislative Bulletin debuted in 1981, gets a facelift.

Doug also noted he is proud of CCAP's innovations, such as our early adoption of telework policies, a staff activities program, and a robust wellness program.

THE GIFTS THAT KEEP ON GIVING:

Assessment Reform and Publications – starting in 1987

CCAP did a handful of little things over many years. The earliest was amending the law to allow counties to incur debt to fund reassessment costs. We then did a lot of work with the Local Government Commission to do a full rewrite of all the assessment laws and we collapsed the seven laws into three, leaving Philadelphia and Allegheny with their own laws, and combining all the other counties into one. Previously every county was under two different laws at the same time, and the two laws did not always agree! Since then a handful of other changes have brought all the assessment laws up to current standards. The publications on CCAP's website, such as valuations and standards, working with the media, bid specifications, sample contracts, self-evaluation tool – all help with deciding about reassessing, how the assessment will be conducted, and show the public how the decision is made.



1999 Doug with Cumberland County Commissioner Earl Keller.

“

Doug Hill is a true public servant. He is an impressive statesman, always focused on promoting the greater public good. With the engagement and collaboration of Pennsylvania's county leaders, he has transformed CCAP into one of the very best associations in America. Doug has also played a key leadership role at the national level throughout his career. He is a trusted advisor and innovator, always pushing to address the collective priorities and needs of our counties. He will always be part of the NACo family.

— **MATT CHASE**

CEO/Executive Director, National Association of Counties

1988

The Agriculture Conservation Easement Purchase Program is enacted through Act 149.

1988

Governor Casey signs the local tax reform initiative.

1990

The Public Safety Emergency Telephone Act of 1990 passes providing 911 services to individuals across the state.

1993

PComp is born.

1994

The Association begins using its new name, the County Commissioners Association of Pennsylvania.

1996

CCAP creates its Academy for Excellence in County Government certificate training program.

1997

CCAP launches its first website. The Association wins a constitutional challenge to the county personal property tax.

County Code Rewrites – starting in 1988

In 1988 we decided to do a rewrite of the County Code. Kathy Emery, formerly a solicitor and now a judge, chaired the CCAP County Code committee, and the committee agreed to work on it by topic areas, one at a time. The first two were finance and contracting. Work on the finance section moved along quickly, but was held up due to some opposition from the row offices who were concerned about performance audits. As a result, the contract section was completed first in 2000 and it took until 2003 to work out the finance issues.

Then finally in 2013 the row office associations went to the Local Government Commission and suggested a full County Code rewrite, and the Commission agreed to manage it. This ended up being a much more technical project, as opposed to changes in process. The prior work on the finance and contracts sections which CCAP worked on was much more substantive, including updates and changes to out of date processes, such as requirements for a paper based system, clarified the relationship between the commissioners and controller, some changes in how

investments are handled, sale of personal property, purchasing exceptions in certain instances for technology and construction managers, clarified provisions on no-bid contracts, updated all the bonding requirements, added best value procurement options and more.

Open Meetings – Two times

The Sunshine Law was a big project, and CCAP's priority was to make sure the law provided proper guidance for our members, and at the same time met our obligations to the public and respected what counties need to do to get their work done. The primary driver was Common Cause and of course the media were interested. Working with them we came to agreement on the idea of focusing on deliberations, as opposed to discussions. CCAP was able to explain the two separate legislative and administrative roles commissioners and other elected officials must perform.

Open Records – Two times

This involved two major rewrites. Pennsylvania did not have a singular law and the first rewrite got everyone on the same page. A later rewrite turned the process around (changed the presumption) to focus on what was exempted instead of what was

an open record. The rewrite was also done because technology was changing. Both CCAP and the municipal associations were in agreement that the second rewrite was needed due to the increasing amount of court cases regarding electronic records, and there was no guidance in the law. We felt that if we were at the table we can help craft the legislation to match how the counties manage their information.

911 – Four times (1990 – 2015)

The first time was a little miracle moment, as counties were not doing this at all and now they were going to become responsible for it. Very few of the municipalities were doing this, but public needed it, and counties were willing to do it if we could find a funding source. The CCAP board and membership agreed because they too recognized the need. The legislature was starting to kick the idea around and PEMA was also interested in a unified system. The original statute was passed in 1990. Under the original Act, the Department of Community Affairs administered the program while PEMA provided technical oversight.

The original funding was a wire land surcharge. The original idea was the county would determine its costs and

1998

Google is founded.

1999

The world prepares for doomsday as computers slide into the 2000s. Pretty much nothing happens.

2000

CCAP North opens near Linglestown Road but the government relations team remains in downtown Harrisburg.

2001

September 11 attacks occur including United Flight 93 crashing into a field in Shanksville, Pennsylvania.

2002

The Help America Vote Act is signed into law, bringing new election requirements to the state and counties.

2004

Facebook is founded.

then file a rate request with the PUC, but the legislative process resulted in capped rates – and the rates were not changed until 2012. CCAP did eight or more trainings around the state for the counties. One of the biggest benefits was a unified system with fewer dispatch points.

The second iteration of the law added wireless in 1999, and then VOIP in 2003 and a full rewrite in 2015. Doug noted when work on the 2015 rewrite started, he was the only person of 30+ stakeholders present who was there when the original bill was written.

Court Funding Decision and Legislation – iterum atque iterum

Again and again – the matter of court funding and potential disparities due to size and budgets of counties led the Pennsylvania Supreme Court to rule that the state should assume responsibility for the cost and operation of the Common Pleas Courts. (A full explanation of this matter would take several pages.) The case began in 1987, and CCAP went back to court three times, and we did get as far as transfer to the State of the Court Administrator and Chief Deputies. While the Supreme Court remained true to the principle, the Court essentially did not mandate it but relied upon agency cooperation.

“

Doug Hill has been an outstanding advocate for the County Commissioners Association of Pennsylvania throughout his many years as the lobbyist for CCAP. He always presented CCAP’s position on legislation in an informative and persuasive manner. His courteous and professional demeanor was always appreciated and made working with him a good and productive experience. His presence on Capitol Hill will be missed.

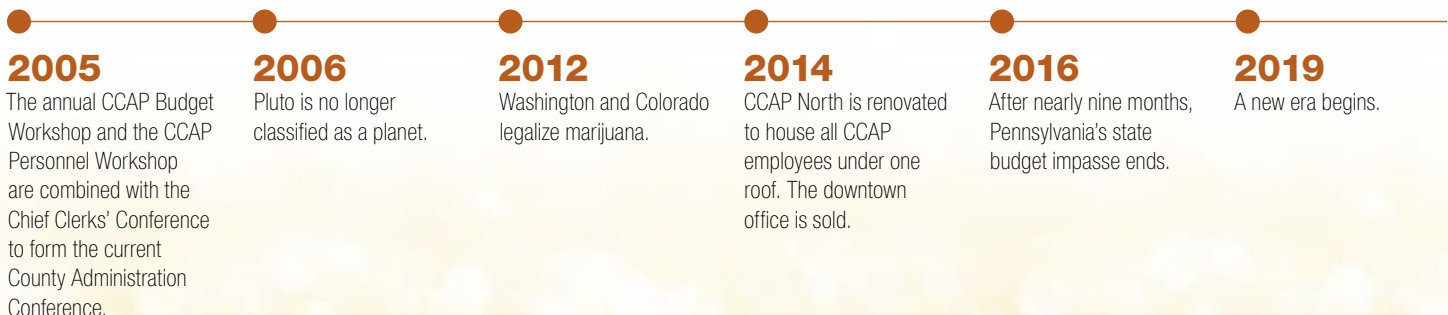
– REPRESENTATIVE BOB FREEMAN

“

So, after working with Doug for a while, you are most likely to hear some of his favorite phrases. Some of those lines can be used throughout life and applied in a variety of situations. As an example: I would go into his office and start to pour my heart and soul out to him about something counties were facing in human services that was a totally unreasonable expectation given our funding. After about five minutes of politely listening to me, Doug would stop whatever he was doing, look up at me over his glasses, and say, “That will never get to the top of my pile.” I was never really put off by that reply. It meant that it was okay for me to find my own solution to the issue, and I didn’t need to check back with him before taking action. More importantly, it also meant that he trusted me to resolve the issue. So the next time you think there are already enough things on your own “to do list,” and someone you have confidence in is trying to get you to add yet another item, just remember Doug’s words of wisdom, “That will never get to the top of my pile.”

– RON HEINLEN
former CCAP Deputy Director

THE DOUG HILL ERA ENDS.





Above: 2005 At the CCAP Annual Conference with Mike Abrashoff and staff.

Right: 2006 The CCAP softball team.



Personal Property Tax – since 1970

Counties had always been required to levy the personal property tax, and had to remit all the proceeds to the state up until sometime around 1913. It was an honesty tax – there was no way to enforce it or audit it. In the 1970s counties won the right to repeal the tax. When the Annenberg case arose in 1996, about one third of the counties had repealed the tax.

The US Supreme Court had ruled in a case out of North Carolina about the technicalities of the personal property tax. Since Pennsylvania’s law was the same as North Carolina’s, Walter Annenberg sued Montgomery County alleging the tax violated the Commerce Clause of the Constitution. CCAP convened a meeting of the counties to decide what to do. Montgomery County was facing the possibility of a quarter billion dollars in refunds and of course losing the tax going forward. CCAP’s Solicitor, Bob Knupp, suggested finding someone to defend the case, and that was the strategy adopted. Richard Sprague agreed to take the case. At the same time CCAP worked on legislation to fix the issue, which passed the General Assembly, but Governor Ridge was going to veto it because he thought it was retrospective legislation. Sprague managed to convince the Pennsylvania Supreme Court to take the case King’s Bench (skipping the lower court process), and the Court ordered the Montgomery County Court of Pleas to hold the evidentiary hearing, and we won the case. In essence the Supreme Court ruled the tax was constitutional, but the in-state exemption is severable. The court allowed the tax to stand and simply struck out the in-state exemption meaning the tax included in-state earnings, ending the Commerce

“

I have known Doug for more than 40 years. During that time, I watched him grow the County Commissioners Association of Pennsylvania from an organization with fewer than 10 staff members to one of the most influential and respected municipal associations of its kind not only in Pennsylvania but across the nation as well. His passion for local government is paled by no other. He has championed some of the most significant and noteworthy legislative initiatives all with a single mission . . . to keep local government vibrant and strong. Doug’s service and dedication to the commonwealth’s local government officials is the credo of public service . . . others first. His contributions and transformative impact on Pennsylvania’s system of local governance and the tens of thousands of elected and appointed officials who serve the state’s 12 million residents will remain the greatest challenge to those who follow him. As an association leader, he managed with integrity, respect and impartiality to all those who worked alongside him. It was a pleasure and privilege working alongside Doug.

— KEITH HITE

Retired Executive Director, Pennsylvania State Association of Township Supervisors

Clause issue. Annenberg appealed to the U.S. Supreme Court which decided not to hear the case. Sprague then crafted the process for all the counties to outline how the tax would be handled going forward – counties stopped collecting the tax if those who had paid the tax in the past would agree not to seek refunds. And that resolved the issue.

Jury Commissioners Law and Litigation – 2013

CCAP's members came to us noting the Jury Commissioner position was an outmoded system and a waste of money. CCAP developed legislation that was passed in 2012, but then on appeal the state Supreme Court invalidated the law because it had been dropped into a piece of legislation which was multi subject. CCAP went back and redid the process as a standalone bill in 2013. When that passed it was also appealed to the courts, this time it was upheld.

INNOVATION:

In many ways CCAP's status as a local government gives it flexibility to provide services to its members without some of the restrictions on a traditional association. This is especially true in the technology and insurance programs areas, and also when CCAP contracts with the state to provide services to the counties.

When Doug started at CCAP he looked at the finances and told the board the budget was not sustainable for the long term. CCAP was reliant almost totally on dues income and a few grants, and needed to develop non-dues income. The CCAP UC Trust was in place and it was started as a way to get the counties out of the state unemployment compensation system. The board also realized that they did not want to just add the association's name to anyone who knocked on the door seeking an

endorsement. So they decided to be careful and only provide what the members indicated they needed.

And right about that time, along came the liability insurance crisis of the mid-80s which led to the creation of the Pennsylvania Counties Risk Pool (PCoRP), now the largest program of any created by CCAP for the members.

The same is true with CCAP's technology services, where being open to something different, being in the right place at the right time, and being able to show the business case, has allowed CCAP to develop innovative new products and services to help counties.

By deciding early on how to handle non-dues income, the philosophy of focusing on what the members need has been embraced by every CCAP board, and has been written into the Association's bylaws.

“

It has been my distinct honor knowing Doug. Our history goes back many years and my experience in working with him has always been a pleasure. He is a wealth of knowledge, a problem-solver, and natural born leader. As a former county commissioner and now as a state legislator, I have found Doug to be a dependable resource on all issues relating to county government. While I will miss his presence at CCAP, I am excited for his next chapter of life. Doug, thank you for the many years you have devoted to your work. The foundation you have laid over time will leave an everlasting footprint in local governance across our commonwealth. Your work ethic has been an inspiration and you deserve all the rewards of a long, healthy, and happy retirement. Enjoy each day!

— REPRESENTATIVE MARK KELLER

“

I started at CCAP in 1983 when Jim Allen was the Executive. I met Doug, he was one of the 'local government boys' as we called them. Then he beat me out for the Executive Director position and then I really had the opportunity to know him. One of the best jobs and bosses I've ever had. I enjoyed my work with Doug tremendously; mostly because he let me do some crazy stuff – take chances, fight with the administration. We sued the state together over child welfare and won, we did the intergovernmental transfer and got millions and millions of dollars for counties, and we got the carve-out on mental health. He was always supportive and when I got into a serious fight – which was fairly often – unfunded mandates. He would always back me up ... with a sigh, "Nancy, what are we doing now?" In the era of extreme partisanship, I was always impressed that Doug could find a large county commissioner of the same party as the Governor, who would take our message on. He managed the bi-partisan nature of the business so well.

— NANCY KUKOVICH
President/CEO, Adelphoi and former CCAP Deputy Director

Kennedy School at Harvard

NACo created a program with the Kennedy School at Harvard. Each year NACo helps select 25 top county elected officials nationwide to go to Harvard or D.C. The Kennedy School faculty conduct deep dive public policy and administration discussions. As part of the program, some of the county association executive directors are invited to sit in, and Doug did this three times. The program really makes a great connection between the county executives, NACo and their state associations.

NCCAE – National Council of County Association Executives

NCCAE is Doug's peer group, consisting of those who also are executive directors of state associations of counties. The group existed long before Doug joined CCAP, and originally held one meeting each year – an October retreat in the location where the upcoming NACo annual conference was going to be held. Doug noted the meeting itself was about the annual conference (sometimes even touring the hotels to be used for the conference) but also much more, including NACo updates, and was always a great learning session. He was president of NCCAE in 1991 and at that time the group started moving the meeting around based on who was willing to host. The group provides a way to develop solid connections, and "great ideas that you can poach from each other like mad." Doug also continues to enjoy the friendships he developed with other executives, some which have continued after they have retired.

NCCAE/NACo 457

Doug was part of the negotiating committee three times, working on the marketing agreements and endorsements between Nationwide Retirement Solutions and NACo. The first time he was involved he chaired the committee in 1990-91.

CODA

When asked, Doug is most proud of touching the lives of every Pennsylvanian. "We have done some things that have really made a difference for our membership (insurance, technology, training programs, legislation and more). We've accomplished public service writ large."

"Drive down the street and you see blue recycling bins. We made that happen."

Doug does not have too many regrets, and notes "there are always a hundred things you wish you had done differently. We all have that list – the spotlight stuff you notice that you wish you had not done – and then you have to remind yourself to turn off the spotlight – no one else sees that." It also helps to "keep yourself open to accept people for who they are. Sometimes you get some of the absolute quirkiest people, and you can either wall them off, or you can invite them in. And with few exceptions, this is what we were able to do, and it worked well and made the Association stronger."

Doug notes that CCAP's change in membership is so much more than other associations. "This time next year a third of our members won't

know who I am! They will have met me at the Fall Conference and they will never see me again." On the flip side, Doug admits one of his favorite things to do is to visit new members, particularly every four years after the elections. "They are happy to see us, to make the connection. They have things they want to show you, and even complain about, and there are things they want to learn more about."

CLOSING ADVICE

Keep a calendar, but in pencil.

At least once a week you will think: I thought I'd seen everything but ...

Be really proud when you meet with other associations and they want to know "how does CCAP do this?" That is a tribute to everyone who works here.

Remember Harry Truman's advice: "I have found the best way to give advice to your children is to find out what they want and then advise them to do it." The same is true of CCAP's members.

When asked how he wants people to remember him, Doug cites this quote from American middle and longer distance runner Steve Prefontaine: "To give anything less than your best is to sacrifice the gift." Or in a similar view, he adds: "Just do your best, someone might like it."

At the end of the discussion, Doug notes, somewhat wistfully, that, "It has been such a fun group to work with, both the members and the staff."



Biker Doug and CCAP's Lori Dabbondanza. You don't want to know!



2009 CCAP staff at Devils Den.

“

Few people have done more to advance the mission of CCAP than Doug Hill. As a former county commissioner, I believe he should be very proud of the leading role he has played in helping counties provide services more efficiently and effectively to the people who need them most. I appreciate everything that Doug has done to ensure that the interests of county government and taxpayers are both represented well in Harrisburg, and I wish him all the best in his well-deserved retirement.

— SENATOR SCOTT MARTIN

“

The Pennsylvania world of public policy was shaken when Doug announced his retirement. There is no one to compare with his expansive influence over state government, on behalf of the counties. More than three and a half decades is only part of the equation – the manner of approach and the clear expertise in carrying the county message will never be fully replaced!

— **BRINDA PENYAK**
Deputy Director, County Commissioners Association of Pennsylvania

“

In my 20 years at CCAP, I have had the privilege to report to Doug directly. He has helped me to grow significantly, mentoring me in things like attention to detail, diplomacy, negotiation, lobbying, delegation and of course let's not forget branding! Our working relationship goes beyond that as well. The conversations about running and marathons, antique cars, raising children, caring for elderly parents, church administration and politics – we've shared experiences across all of these topics. Truly great conversations that I will miss!

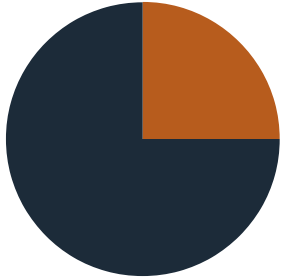

— **RITA REYNOLDS, CGCIO**
Chief Technology Officer, NACo and former Chief Information Officer, County Commissioners Association of Pennsylvania

DOUG'S 36 Years

BY THE NUMBERS

MORE THAN
930
commissioners

1
3 OF A
century



A **QUARTER**
OF THE
ASSOCIATION'S
HISTORY

more than **900**
**LEGISLATIVE
BULLETINS**

TWICE THE LENGTH
OF SERVICE OF ALL
CCAP PREDECESSORS,
COMBINED. **2X**

MORE THAN
100
CCAP
conferences



6
governors





2017 During an on-camera media interview.



2019 Snyder County Commissioner Joe Kantz, Doug and Lehigh County Elections Director Tim Benyo address the House Policy Committee.

“

Doug's insistence on member service being the focus of everything CCAP does has always been the driving force of everything CCAP staff does. Our members know this, expect this, and appreciate it. It permeates everything we do, and the amazing side effect of this is how much enjoyment the staff and members receive from this relationship, based on continually striving for excellent member service. The members know he wants their needs and input to lead where the association goes. He's created a great place to work. And he's given us the tools to ensure that this continues after he retires.

— **JOHN SALLADE, CRM**
Managing Director, Insurance Programs, County Commissioners Association of Pennsylvania

“

Doug Hill has been a constant advocate and partner promoting the value of local government for his entire career. I have had the pleasure of working with him in multiple capacities over those years ranging from my time in state government to chief operating officer in Bucks County to my current position. Doug's wisdom, experience and common-sense approach to problem solving will be missed but fortunately not forgotten as he has shaped so many additional leaders.

— **DAVE SANKO**
Executive Director, Pennsylvania State Association of Township Supervisors

“

Every organization needs a leader that keeps the gears turning. Doug is the person who has done that for over 35 years for counties across this commonwealth. As a former county commissioner, I know firsthand how invaluable Doug's knowledge and commitment has been to CCAP and all 67 counties. He was always available to assist on any issue needed. No matter what the issue, he always handled it with professionalism and dignity. As a current state representative, I have been happy to continue my work with Doug on behalf of CCAP. I want to wish Doug a very happy and healthy retirement. He has certainly earned it!

— **REPRESENTATIVE PAM SNYDER**

DOUG'S SERVICE AND AWARDS

Professional, state and local board and civic group service:

- National Conference of County Association Executives (Past President)
- National Association of Counties Programs and Services Committee (Vice Chair)
- National Association of Counties Resilient Counties Advisory Board
- Pennsylvania Local Government Conference (Former Chair)
- PA State Association of Elected County Officials (Former service on Executive Committee)
- PA Society of Association Executives (Board of Directors, and former service on Legislative, Technology, and Program Committees)
- Impact Harrisburg Board of Directors (Vice Chair and Interim Treasurer)
- Westminster College Alumni Council (President)
- Westminster College Board of Trustees (Associate Trustee)
- West Shore Baptist Church Moderator
- American Baptist Churches of PA and Delaware Board of Directors (Past President)
- American Baptist Churches of PA and Delaware Foundation Board of Directors
- Capital Area Neighborhood Board of Directors
- Speaker of the House, HOBY Mock Legislature
- City of Harrisburg Municipal Financial Recovery Advisory Committee
- City of Harrisburg Receiver 501(c)(3) Taskforce (Co-chair)
- Governor's Election Reform Task Force (2005)
- Governor's Voting Modernization Task Force (2001)
- Governor's Homeland Security and Emergency Preparedness Advisory Council
- Pennsylvania Travel and Tourism Partnership
- National Association of Counties/ Nationwide Deferred Compensation Advisory Committee
- National Association of Counties Financial Services Center Advisory Committee
- National Association of Counties Elections Task Force
- Statewide Uniform Registry of Electors Advisory Committee
- PA Pandemic Preparedness Planning Advisory Committee
- PA Bioterrorism Preparedness Planning Advisory Committee
- Governor's Census 2010 Advisory Board
- Governor's Census 2000 Advisory Panel
- Pennsylvania Capitol Centennial Advisory Committee
- Pennsylvania Commission on Crime and Delinquency Corrections Policy Committee
- Department of Environmental Protection Technical Advisory Committee (Water Quality)
- PA Sewage Advisory Committee (Alternate)
- PA Low Level Radioactive Waste Advisory Committee (Alternate)
- Pennsylvania Emergency Management Agency Intrastate Mutual Aid Committee
- Pennsylvania Historical and Museum Commission Historical Records Advisory Board
- Shippensburg University Center for Land Use Advisory Board
- National Association of Counties Board of Directors
- National Association of Counties Homeland Security Task Force
- National Association of Counties Annual Conference Planning Committee
- National Conference of County Association Executives Deferred Compensation Study Group (Chair)
- National Association of Counties Green Government Advisory Board
- National Association of Counties Orange County Response Task Force
- Advisory Board, National Center for the Study of Counties, Carl Vinson Institute of Government, University of Georgia
- Pennsylvania United Way Board of Directors
- American Heart Association Operation Heartbeat Committee
- Hampden Township Planning Commission (Chair)
- Pennsylvania Intergovernmental Council Board of Directors (Chair)
- West Shore Baptist Church Board of Trustees (Chair)
- West Shore Baptist Church Board of Deacons
- Manager, HMMS Rhinos and HMMS Invaders boys' travel soccer teams
- Youth soccer and basketball assistant coach
- Cub Scout Pack 296 (Treasurer)
- Adult Leader, Boy Scout Troop 296
- Adult Committee, Boy Scout Troop 88
- Westover Civic Association Board of Directors (President)
- Indian Creek Civic Association Board of Directors (President)

DOUG'S HONORS AND AWARDS

- National Association of Counties / New York University County Leadership Institute (2004; inaugural class)
- International Study Fellowship, Japan Center for Local and Area International Relations (2002)
- Order of Democracy, National Association of Secretaries of State (2001)
- C. K. Koontz Fellowship (Post-Graduate)
- HHS Public Administration Fellowship (Post-Graduate)

Oh, and he was an Eagle Scout.
Of course he was.

“

Working for Doug for more than 26 years has been an honor. Watching him lead CCAP through exponential growth, while increasing and expanding products and services for our members, has been awe-inspiring. I am grateful for his 35 years of dedicated service to CCAP, its employees, its members, and to Pennsylvania's citizens, but I am most thankful to have witnessed his incredible work and personal ethics, which are second to none. I have learned so much from him, and am extremely fortunate to be his employee and friend. CCAP is the leader it is today because of Doug Hill.

— **KAREN SWEIGARD**

Director of Meetings and Education, County Commissioners Association of Pennsylvania

“

Prior to my employment at CCAP I spent fifteen years working in the accounting departments for Fortune 200 and Fortune 500 companies. The goal was to cut costs and make the shareholders happy by making profits. After a short time at CCAP I approached Doug and questioned whether it was worth the time and effort to process more than thirty grants and simply break even on them. Doug sat back, took a deep breath and stated that it's not about profit; it's about helping counties. Later, I was able to travel to a county and witness the beneficial outcomes of one of the grants. It drove home the value of Doug's wisdom which continued to be invaluable to me and our members over the years.

— **PAM SZAJNUK**

Chief Financial Officer, County Commissioners Association of Pennsylvania



Live Healthy U.S. Counties

SINCE 2004, NACo'S LIVE HEALTHY PRESCRIPTION DISCOUNT PROGRAM HAS SEEN:

**\$700 MILLION SAVED
50 MILLION PRESCRIPTIONS FILLED
OVER 1,300 COUNTIES PARTICIPATING**

Behind each of these numbers is a county resident who was helped by the Live Healthy program. Each dollar saved is money in the pocket of a county resident struggling with the high costs of prescription drugs.

Contact NACo to join the program and get free marketing resources to ensure this essential cost-saving program reaches more people in your county.



Join the Live Healthy program, to save your residents an average of 29%* off retail prescription prices.



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2020 CCAP Officers Elected



Jeff Snyder
2020 CCAP
President and
Clinton County
Commissioner

Members of the County Commissioners Association of Pennsylvania (CCAP) recently elected Jeff Snyder, Clinton County commissioner, as the 2020 president of the Association.

Other county officials elected to be leaders of CCAP include Kevin Boozel, Butler County commissioner, first vice president; Daryl Miller, Bradford County commissioner, second vice president; and, Leslie Osche, Butler County commissioner, treasurer.

Elected as district representatives to the CCAP Board were: District 1 Representative Basil Huffman, Forest County commissioner; District 2 Representative Dan Vogler, Lawrence County commissioner; District 3 Representative Randy Phiel, Adams County commissioner; District 4 Representative Preston Boop, Union County commissioner; District 5 Representative, Michelle Kichline, Chester County commissioner; District 6 Representative John Cusick, Northampton County council member; and District 7 Representative Brian Smith, Wayne County commissioner.

Those elected will begin their terms on January 1, 2020. 🍷

Lisa Schaefer to Succeed Doug Hill



In August, the County Commissioners Association of Pennsylvania (CCAP) announced the selection of Lisa Schaefer as the Association's new executive director. Lisa, who has been CCAP's director of government relations for nearly nine years, will succeed current executive director Doug Hill.

CCAP's senior staff lineup will include Lisa, Deputy Director Brinda Penyak, Chief

Information Officer Mike Sage, Insurance Programs Managing Director John Sallade, Director of Meetings and Education Karen Sweigard and Chief Financial Officer Pam Szajduk.

CCAP President and Chester County Commissioner Kathi Cozzone noted, "Counties in Pennsylvania are fortunate to begin a new era of leadership with Lisa Schaefer at the helm of CCAP, our statewide association. Lisa has proven to have the skills, respect and vision to continue to move counties forward as we work to enhance the lives of residents throughout Pennsylvania."

As CCAP's director of government relations, Lisa has been instrumental with helping to lead the organization through numerous issues and enhancements. Prior to coming to CCAP, she was part of the government relations staff at the Pennsylvania School Boards Association and has worked as a staffer in the state Senate. Lisa holds a bachelor's degree in English from Lebanon Valley College and a Master of Public Administration from Shippensburg University, and also is a Certified Public Manager.

Lisa noted, "It is a privilege to represent Pennsylvania's 67 counties and to support the work our county officials do on behalf of their residents every day. I am honored to now have the opportunity to lead this incredible organization, which, because of Doug Hill's leadership, has a foundation for an exciting future."

Lisa assumed the title of acting executive director appointee on September 1 and will become executive director on December 1. Doug will assume emeritus status after that, until his retirement on December 31, 2019, after nearly 36 years of service as CCAP's executive director. 🍷

Confidentiality of Human Resources Records

UNDER THE RIGHT TO KNOW LAW

Shon K. Worner, Esq.
Campbell Durrant, P.C.



Confidentiality is one of the most important concerns that county human resources departments face.

Given the sensitive nature of employment records, and the central role confidentiality plays in internal investigations, it is critical that county managers and supervisors know whether the records they create and maintain will remain confidential. This concern can be heightened when a county receives a Right-to-Know request. But before a county discloses records in response to a request, keep in mind that while many types of records are subject to disclosure via a Right-to-Know request, there are still several bases upon which a county may be able to assert exceptions to disclosure requirements.

The "Right-to-Know Law" (RTKL) applies to all local agencies and allows individual members of the public to request access to government records. 65 P.S. § 67.302. The term "local agencies" under the RTKL includes counties and a record is defined to include any "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." 65 P.S. § 67.102. All government records under this law are presumed to be publicly accessible unless an agency can show that the requested records are exempt from disclosure by one of the many exceptions to the RTKL. 65 P.S. §67.708(a).

EXAMPLES AND EXCEPTIONS

Examples of records that counties must disclose upon request include: finalized meeting minutes; 911 time response logs; numerous types of financial records; the "name, title and salary" of public officials and employees; as well as "internal emails" that do not fall within one of the RTKL's exemptions. A Guide to Open Records Laws in Pennsylvania, AM. CIVIL LIBERTIES UNION OF PENNSYLVANIA (last visited July 10, 2019).

Exceptions to the RTKL, or information that is not public, include information such as: Social Security, driver's license, or employee numbers; home, cellular or personal phone numbers; personal financial

information; spouse's name, marital status, beneficiary or dependent information; home addresses of law enforcement and judges; autopsy report information other than name, cause and manner of death; records that identify social service recipients, including welfare recipients; a minor's name, home address, or date of birth; records which, if disclosed, would result in the loss of federal or state funds; and, records which, if disclosed, would be reasonably likely to result in a substantial risk of harm to a person.

Exceptions to the RTKL that most often might apply as they relate to county human resources records include: records of a person's medical, psychiatric, or psychological history or disability status including diagnosis, treatment, prescriptions,

and test results (including drug tests); participation in workers' compensation and unemployment compensation or related information that would disclose individually identifiable health information; letters of reference for employees; employee performance ratings; applications for employment for individuals who were not hired; written criticisms of employees and information regarding discipline, demotion or discharge; academic transcripts; internal investigation materials; and grievance materials, including documents related to sexual harassment. 65 P.S. § 67.708(b).

A DENIAL OF ACCESS

Counties should be aware that it is possible that a record may contain information that is both publicly accessible and an exception to the RTKL in the same document or record. In such cases, counties may redact or "black out" confidential information from records that they disclose. However, counties should be aware that redaction "is considered a denial of access" under the RTKL. Accordingly, the Pennsylvania Office of Open Records (OOR), the commonwealth agency which administers the RTKL, will require a county to "state [t]he specific reasons for the denial, including a citation of supporting legal authority' for a denial of access through redaction." In the Matter of Philip Abromats v. Pa. Dept. of Pub. Welfare, Respondent, 2014 WL 576028 (Pa.Off. Open Rec.), 4 (citing 65 P.S. §67.903(2)).

Keep in mind, however, that it is not enough for a county to simply state in an affidavit that a requested record comes under one of these exemptions. The OOR has time and time again rejected "conclusory" assertions by agencies that a record is not subject to disclosure because it,

for example, relates to a non-criminal investigation, or necessarily contains written criticisms of an employee. Instead, counties need to be prepared to offer evidence to the OOR that the requested record(s) are exempt from disclosure because they fall under one of these exemptions. Counties should be aware that they would bear the burden of proving that a county record is exempt from public access under the RTKL if it takes such a position in response to a request.

CONFIDENTIAL COMMUNICATION

Counties should also be aware and find comfort in the fact that the RTKL does not strip counties of the ability to communicate confidentially with their attorneys. The law protects from disclosure those records that are subject to privilege, including the attorney/client privilege. 65 P.S. § 67.102. The requirements for establishing that the attorney/client privilege applies to a record under the RTKL are the same as they are for any other communication between an attorney and a client. In the Matter of Ryan Hancock v. Pa. Public Utility Comm'n, 2017 WL 6262385 (Pa.Off. Open Rec.), 5.

In the same vein, any record retained by an agency which contains the "work-product" of the agency's attorney, i.e., "the mental impressions of (the agency's) attorney or his or her conclusions, opinions, memoranda, notes or summaries, legal research or legal theories," is protected from disclosure by the RTKL. Id. at 6 (citing Pa.R.C.P. 40003.3).

Records can also be protected from disclosure by the constitutional right to privacy. See In the Matter of Pamela Lehman and the Morning

Call v. Northampton County, 2017 WL 1294457 (Pa.Off.Open Rec.), 4. In Lehman, the OOR declined to compel the disclosure of the names of a former employee's "individual employment references." Id. The former employee was a teacher who was later convicted of a series of gruesome crimes. Although such personal information was not, in the circumstances of that case, exempt from disclosure by the RTKL, the OOR agreed with the Respondent's assertion that "(i)n Human Resources... it is important to be able to rely on the forthrightness and honesty of job references, so they feel confidence that there is a reasonable degree of privacy to the information they provide." Id. at 5. The OOR found that compelling the disclosure of the names of the former employee's employment references would "(subject) them to public scrutiny, criticism, embarrassment, or even threats and violence." Id. Because the Requester had not articulated any countervailing reasons why the names should be disclosed, the OOR concluded that "the individuals' right to privacy outweighs any perceived public benefit in disclosure." Id. at 6.

DISCIPLINARY RECORDS

One of the most common Right-to-Know requests that county human resources departments receive is for disciplinary records. The RTKL provides broad protection to disciplinary records and other employee files, including "grievance material." The OOR has defined "grievance material" as records that are "related to a grievance filed by an agency employee and includes a grievance filed related to the conduct of an individual agency employee, internal agency reviews of the basis of

the grievance, and materials created during the grievance process on behalf of the agency or individual agency employee." In the Matter of Simon Campbell v. Bellefonte Area Sch. Dist., Respondent, 2019 WL 2207893 (Pa.Off.Open Rec.), 13.

In Lehman, the OOR declined to compel the disclosure of a "Personnel Action Notification" which detailed the circumstances of an employee's suspension, as well as the suspension letter itself, but did compel the disclosure of the termination letter later issued by the agency to the employee. Id. The public status of termination letters does not change even if an agency later reinstates a terminated employee, as, at the time it was issued, it represented the agency's "final action." In the Matter of Sara Ganim and the Centre Daily Times v. Pa. State Police, Respondent, 2010 WL 4932657 (Pa.Off.Open Rec.), 3. The reinstatement letter, however, so long as it "is a record regarding discipline, demotion or discharge," is exempt from disclosure. Id.

Interestingly, it does not matter who is making the request for disciplinary records or other written criticisms; even if the requester is the subject of the discipline and/or criticism, if the records

come under the exemption, they do not need to be publicly disclosed. As the OOR explained in Aliota, "the identity of the Requester does not alter the public status of the records" and "(t)he intended use of a record has no bearing on whether a record is determined to be public or nonpublic." In the Matter of Louis Aliota v. County of Erie, Respondent, 2014 WL 2599963 (Pa.Off.Open Rec.), 4.

SETTLEMENT AGREEMENTS

County officials may also be surprised to learn that settlement agreements between a county and its employees are subject to public disclosure. See Hancock at 9. In Hancock, the OOR compelled the disclosure of a settlement agreement between a public agency and employee accused of sexual harassment, as the settlement agreement did not "(reveal) any discipline imposed" by the agency but "rather...detail(ed) the terms of the former employee's separation from employment" with the agency. Id. In that case, it did not matter that the agency and the employee had signed a confidentiality agreement with respect to the settlement, as "a public agency's agreement to

hold confidential a public record is unenforceable as a matter of public policy." Id.

On the other hand, if an agency conducts an investigation into an incidence of sexual harassment, or any other non-criminal investigation, records related to that investigation will be exempt from disclosure. 65 P.S. § 67.708(b)(17). But it is not enough for a county to simply assert that any given record was part of an internal investigation. Instead, "in order for this exemption to apply, an agency must demonstrate that 'a systematic or searching inquiry, a detailed examination, or an official probe' was conducted regarding a noncriminal matter." In the Matter of Jeffrey Krug v. Bloomsburg Univ. of Pa., 2019 WL 1055665 (Pa.Off.Open Rec.), 5.

Furthermore, this investigation must be conducted "as part of an agency's official duties" and must be within the agency's "legislatively granted fact-finding and investigative powers." Id. Investigations into violations of Title VII of the Civil Rights Act of 1964, including allegations of race, color, religion, sex, or national origin-based discrimination, come within these requirements. Hancock at 11.

Example exceptions to the RTKL:

Social Security, driver's license, or employee numbers; personal phone numbers; personal financial information; spouse's name, marital status, beneficiary or dependent information; records that identify social service recipients; a minor's name, home address, or date of birth; and, records which, if disclosed, would be reasonably likely to result in a substantial risk of harm to a person.



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PROTECTED MATERIALS

Examples of materials protected from disclosure under this exemption include witness statements, complaints against employees, internal communications regarding actions to be taken in the course of the investigation, “pre-disciplinary conference” notes, as well as other emails and notes pertaining to the investigation. In the *Matter of FHA Holding Co. v. Pa. Dept. of Insurance*, 2014 WL 3548814 (Pa.Off.Open Rec.), 1.

If an agency is successful in demonstrating the existence of an internal investigation, then the amount and variety of records that can be protected could be quite broad. For example, in *Campbell*, the OOR protected from disclosure a wide range of material that related to “an internal Human Resources investigation” into a claim of sexual harassment, including several emails regarding the claim and proposed courses of action with respect to the claim, as well as intra-agency complaints, disciplinary records, “anecdotal information supporting said discipline,” as well as “the responses” of both “the (accused) employee” and the agency’s other employees to this anecdotal evidence. *Campbell* at 10-11.

Relatedly, the RTKL protects from disclosure the “pre-decisional deliberations” of agency officials concerning matters “relating to a budget recommendation, legislative proposal, legislative amendment, contemplated or proposed policy or course of action” as well as “any research, memos or other documents used in the predecisional deliberations.” 65 P.S. § 67.708(b)(10).

DEFINITIONS AND DELIBERATIONS

Any record sought to be protected from disclosure by this exemption must fit the exact definition of the exemption, i.e., it must reflect deliberations conducted before a decision was made, and the “contents” of the record must be “deliberative in character,” meaning that they relate to a proposed course of action. In the *Matter of Barry Katz v. Lower Merion Sch. Dist.*, 2015 WL 5813104 (Pa.Off. Open Rec.), 10.

For example, the OOR held in *Katz* that emails exchanged between school administrators prior to a disciplinary action in response to a student’s misconduct were protected by this exemption, as they reflected deliberations on the proper course of action to take with respect to the student. *Id.* In the same vein, the RTKL protects from disclosure any “record pertaining to strategy or negotiations relating to labor relations or collective bargaining.” 65 P.S. § 67.708(b)(8). The OOR has explained that this exemption covers notes from “meet and discuss” meetings, where employees and their representatives submit “input or recommendations... on policy matters affecting wages, hours and terms and conditions of employment.” *Krug* at 4.

MEDICAL RECORDS

Other human resources records that are not subject to disclosure under the RTKL (and which are also considered confidential under other laws which are often applicable to counties) include medical records. In fact, as is the case with disciplinary records, this exemption applies even if the medical records belong to the requester. In the

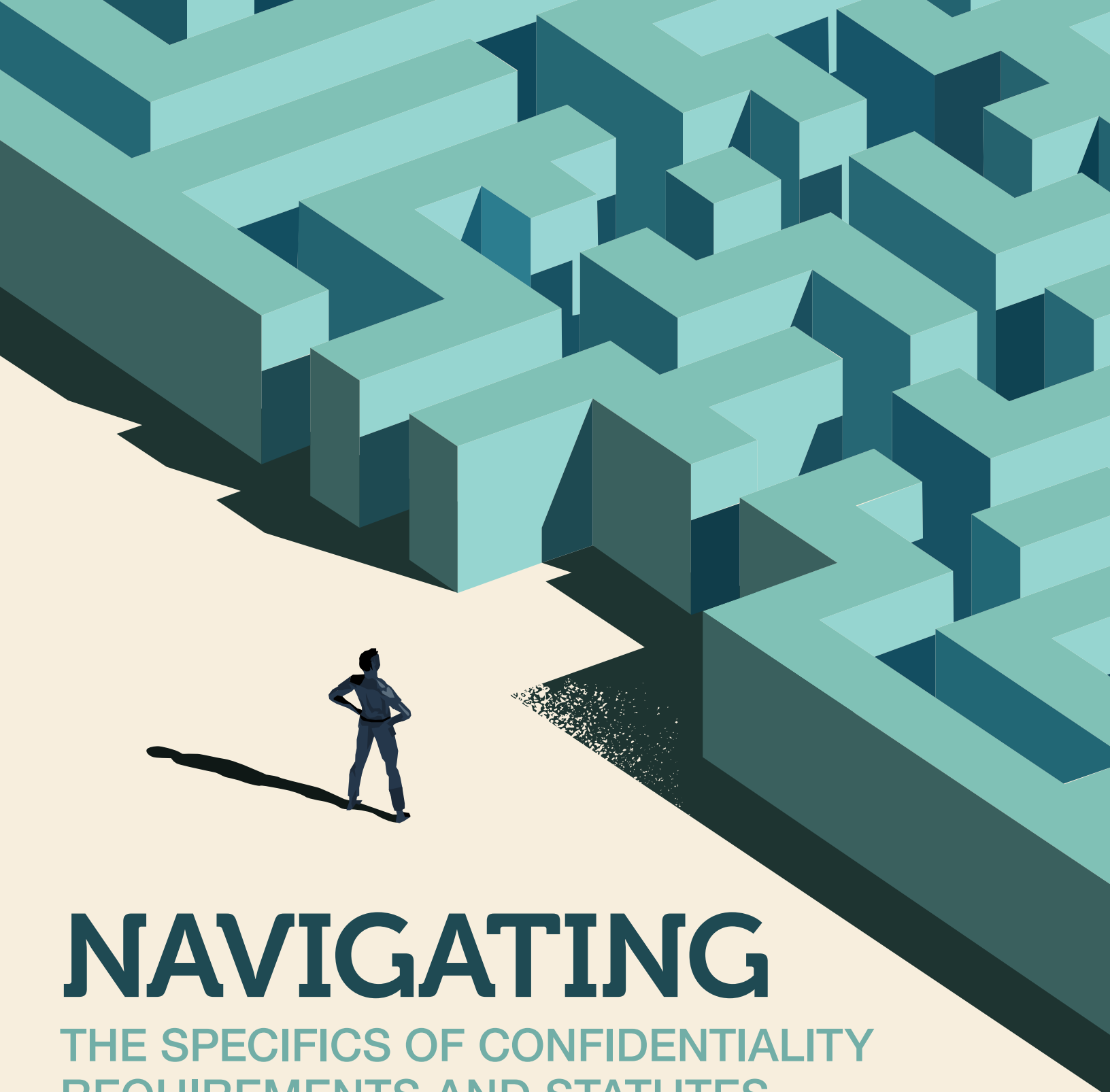
Matter of Basilio Davila v. Pa. Dept. of Corrections, 2009 WL 6503995 (Pa.Off. Open Rec.), 2.

As we addressed earlier in this article, the medical records exemption also bars disclosure of the results of drug tests, any psychiatric records or records of an employee’s disability status, as well as any records concerning “enrollment in a health care program or program designed for participation by persons with disabilities, including vocation rehabilitation, workers’ compensation and unemployment compensation.” 65 P.S. § 67.708(b)(5).

A BROAD DOMAIN

What should county human resources departments take from all this? Departments need to be aware that while the Right-to-Know Law creates a broad domain of publicly accessible information, there are many sensitive records that are exempt from disclosure. Before creating a record that the county may desire to keep confidential, it should evaluate its level of confidence as to whether the record comes under one of these exemptions, and before a county discloses a record pursuant to a RTKL request, it should check to see if it falls within one of these exemptions. The Office of Open Records provides a host of information on this topic, and final determinations from the OOR on the accessibility of similar documents can give counties a good idea of whether they might be compelled to release a record.

Finally, if a county believes a record comes under one of these exemptions, it should be fully prepared to demonstrate how and why it is exempt, otherwise, a county may be compelled to disclose a record that could otherwise have remained confidential. 📌



NAVIGATING

THE SPECIFICS OF CONFIDENTIALITY REQUIREMENTS AND STATUTES

Crystal Clark
CCAP Solicitor

Romilda Crocamo
Luzerne County Solicitor

Christopher Gabriel
Clarion County Solicitor

Melissa Giddy
Westmoreland County Solicitor

Molly Mudd
Adams County Solicitor

Glenn Roth, Jr.
Schuylkill County First Assistant Solicitor

County government provides a significant number of key services to county residents, to include drug and alcohol services, mental health services, child welfare services, and of course prison services. Each county's goal in providing these services is to be as efficient and effective as possible, and to serve our constituents to the maximum extent possible. In a perfect world, there would be coordination and cooperation between each of our individual agencies charged with providing these services, in order to achieve this goal, especially given that many of our constituents are receiving services from more than one county agency.

One of the biggest barriers to this coordination and cooperation is the exchange of information between departments. In providing mental health, drug and alcohol, child welfare, and other services, a county collects a great deal of personal information regarding the residents being served. If that information were shared between the departments, we could better identify what families are being served, how to better serve the families within the departments to whom they're already known, and potentially offer additional service through better identifying needs. However, a significant part of the information collected by the individual departments in providing these services is considered confidential under the law.

NO EASY TASK

Unfortunately, navigating the specifics of what information is confidential, who is authorized to have or use the information, and when and to whom it can be disclosed is no easy task because there is no one "confidentiality" law that applies.

Instead, "confidentiality" of this information is addressed across multiple statutes often tied specifically to the type of information in issue or services being provided. In addition, most of the statutes have exceptions—and sometimes exceptions to exceptions—making it extremely difficult, at best, to determine whether a particular disclosure is permitted or not permitted.

While the confidentiality requirements can sometimes be deeply complicated, a working knowledge of the basics of the various confidentiality requirements of the most commonly applicable statutes can at least help county officials identify those times when they need to engage their solicitor to confirm the appropriateness of a use or disclosure of information, particularly when it comes to disclosures between county departments. We've brought together a group of county solicitors from across the state to help identify and explain in very broad detail the most significant confidentiality statutes pertaining to county departments.

CHRIA

The Criminal History Record Information Act is much discussed, but too often not properly understood. The statute is set up to categorize different types of information, including criminal history record information, intelligence information, investigatory information, and treatment information, and provide for varying levels of protection for it. Generally speaking, the more the type of information has to do with criminal justice, the more protected it is.

Criminal history record information is generally notes of arrests, charges and criminal convictions. Intelligence information and investigatory information represent the underlying facts police may have gathered and/or used in investigation whether or not to bring criminal charges. Treatment information is information of a medical nature that has been gathered as part of an investigation or other police contact with a citizen who may or may not have been charged with a crime. CHRIA allows law enforcement agencies to have



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all of this information under tightly-controlled circumstances.

Essentially, criminal justice agencies must prove that they have specific systems in place to purge old information and to handle information that is to be retained so that it is safe and cannot be disseminated in ways that are improper. The Act allows for some sharing of information under limited circumstances, but strictly prohibits sharing of information related to investigations, intelligence gathering or medical treatment.

This is not because criminal justice agencies are special, but because the information is dangerous to the citizens about whom it has been collected. While it is possible some of that information is useful to other governmental entities pursuing other goals, like county human services, the county must be mindful of the important reasons for the restrictions placed on the dissemination of that information. CHRIA is set up as a series of safeguards to prevent the dissemination of information that may damage people's lives and reputations. Any system for sharing that information more broadly, if one can be devised, would also have to devise a similar set of safeguards in which we have full confidence. As we consider ways in which our

counties might be able to have their departments cooperate more fully together, we must therefore also consider not just whether we can devise a way to disseminate information protected by CHRIA, but also whether we ought to do so.

HIPAA

The Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), together with the Privacy Rule of 2000 and the Security Rule of 2003, mandate privacy and security safeguards for information about a person's health status, health care, or payment for health care, all of which are considered protected health information ("PHI"). Under HIPAA, PHI is considered to be individually identifiable information relating to the past, present, or future health status of an individual that is created, collected, transmitted, or maintained by a HIPAA-covered entity. PHI generally refers to physical records, while ePHI is any PHI that is created, scored, transmitted or received electronically.

A hybrid entity is a covered entity whose business activities include both covered and non-covered functions. Because of the services that counties provide under their human services departments and

prisons, they are considered by the state and federal government to be hybrid entities under the HIPAA rules. This hybrid designation allows a county to ensure that the HIPAA rules apply only to its health care components, and not to the county as a whole. Most importantly, this hybrid entity standard allows the county to designate otherwise non-covered departments that provide services to the covered functions (e.g., legal/accounting), as part of the healthcare component, so that PHI can be shared between departments without business associate agreements or individual authorizations that would otherwise be required.

Because HIPAA rules do not apply to non-healthcare components, the proper identification and designation of all components is critical to compliance with the hybrid-entity standard. Operationally speaking, this means that it is critical that you complete the necessary in-depth interviews with the county's departments and directors to ensure that you understand which departments within your hybrid entity are creating, collecting, transmitting, or maintaining PHI.

Under the HIPAA rules, a hybrid entity must treat its non-covered components as if they were entirely separate entities when it comes to sharing or using PHI. Health care components within the county must securely segregate PHI from access by or disclosure to non-healthcare components. As privacy officer for your county, or as the solicitor that provides legal advice to the privacy officer, it is critical that you put into place policies and procedures that adhere to HIPAA's administrative, technical and physical safeguard requirements. One perspective is that

Confidentiality of medical records centers on the tenet that if people don't feel like they have privacy, they aren't going to be forthcoming when they see a medical professional. Privacy rights are critical, especially for people with mental illness, just as they are for anyone else, to ensure that they received the optimum treatment available.

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the county's CIO or IT director should be appointed as the HIPAA security officer. Other critical functions within your county should be considered for seats on your county's HIPAA compliance committee.

MENTAL HEALTH

Confidentiality of medical records centers on the tenet that if people don't feel like they have privacy, they aren't going to be forthcoming when they see a medical professional. Privacy rights are critical, especially for people with mental illness, just as they are for anyone else, to ensure that they received the optimum treatment available.

In Pennsylvania, juxtaposed to the HIPAA requirements discussed above, which would apply to mental health records the same way it would any other medical records, is the Mental Health Procedure Act ("MHPA"), which also restricts the mental health information that providers can disclose both with and without patient consent. 50 P.S. § 7101-7503. In particular, providers may only release mental health records with patient consent if the consent form meets a number of specific requirements.

For departments in government entities that either provide services such as medical or mental health treatment or substance abuse rehabilitative services the decision to release or "share" PHI information still has not been resolved. The law can cause these providers seeking consults on their patient's care. Moreover, the various departments may have various interpretations of disclosure limitations. That is, a county's department of mental health and developmental services (MH/DS) may have different protocols or

Pennsylvania confidentiality laws concerning the disclosure of drug and alcohol treatment are stricter than federal law. In Pennsylvania, 4 Pa. Code Section 255.5 governs the release of information.

needs from the drug and alcohol department. For example, MH/DS often requires communications based on need and for continuity of care purposes in urgent situations by giving only the required information.

Ultimately, what is required is that department heads perform a risk assessment. Release or share the information without a consent and risk penalties or potential litigation? A first step is to regularly perform risk analysis as per the HIPAA compliance requirements and at the same time meeting the specifications of the HIPAA Security Rule. These HIPAA compliance requirements may be found at <https://www.hhs.gov/hipaa/for-professionals/security/guidance/guidance-risk-analysis/index.html>. From this starting point, a general legal risk assessment should be conducted to create a tool for department to use when making these decisions.

DRUG AND ALCOHOL RECORDS

Federal law, 42 U.S.C.A. § 290dd-2(a), and implementing regulations, 42 C.F.R. Part 2, protect the confidentiality of patient records in a federally conducted, regulated or assisted program that "holds itself out as providing . . . alcohol or drug abuse diagnosis, treatment or treatment referral." "Part 2" requires individual consent before identifiable information

about substance use treatment can be shared. A valid consent must be in writing and meet the requirements set forth in 42 C.F.R § 2.31.

Nonconsensual disclosure of information under Part 2, is permitted only in limited circumstances. Confidential information may be disclosed to medical personnel to meet a bona fide medical emergency. See 42 C.F.R. § 2.51(a). Additionally, disclosure is permitted for scientific research, program evaluation or when a court order is obtained. See 42 C.F.R. §§ 2.52 and 2.53. A valid subpoena must be issued at the same time as the court order in order to compel disclosure. See 42 C.F.R. §§ 2.61, 2.64 and 2.65.

Pennsylvania confidentiality laws concerning the disclosure of drug and alcohol treatment are stricter than federal law. In Pennsylvania, 4 Pa. Code Section 255.5 governs the release of information.

Disclosure by a project, as defined in 28 Pa. Code Section 701.1, can be made with or without the consent of a client: to judges who have imposed sentence conditioned upon the client entering a project; to probation or parole officers if the probation or parole is condition upon being in treatment; to judges who have assigned a client to a project under a pre-sentence conditional release program.

Disclosure may be made with the written consent of the client: to a judge deciding whether to initiate conditional release programs; to an attorney, who is representing the client; to an insurance company, health, or hospital plan which has contracted with the client to provide or will provide medical, hospital, disability or similar benefits; and to governmental officials for the purpose of obtaining governmental benefits as a result of the client's drug or alcohol abuse or dependence.

Disclosure may be made without the written consent of the client to proper medical authorities for the purpose of providing medical treatment where the life of the client is in immediate jeopardy.

Pennsylvania consent requirements are found at 28 Pa. Code § 709.28 and § 711.43. The requirements are similar to those required by Part 2, with the exception that Pennsylvania requires the dated signature of a witness.

CHILD PROTECTIVE SERVICES LAW

County child protective service agency records are governed by the Child Protective Services Law (the "Law"), 23 Pa.C.S.A. §6301, et seq. and regulations of the Pennsylvania Department of Human Services contained in 55 Pa. Code §3490 et seq. and elsewhere. The purpose of the Law is to promote more complete reporting of suspected child abuse, to involve law enforcement, to establish protective services in every county, and to protect children from abuse as well as to provide rehabilitative

services. See § 6302(b) of the Law.

The Law clearly attempts to balance the need for promotion of more adequate and complete reporting of suspected child abuse while still protecting the individual right to privacy. The Law makes all reports made pursuant to the Law; report summaries of child abuse; reports made pursuant to the mandatory reporting procedures as well as any other information obtained confidential. See § 6334(b). Unless specifically excepted, virtually every document, record, report, photograph or x-ray in the possession of a county child protective services agency is confidential.

The exceptions to the confidentiality requirement are found in Section 6340 of the Law and the most significant are: (1) an authorized official of a county child protective service agency, a Federal agency in need of information to protect children from abuse or neglect or an agency from another state analogous to Pennsylvania Child Protective Services; (2) a physician examining or treating a child for suspected child abuse; (3) a guardian ad litem or court designated advocate for the child; (4) an authorized agent of the Department of Human Services; (5) a court of competent jurisdiction pursuant to court order or subpoena in a criminal matter involving a charge of child abuse; (6) a court of common pleas involving custody; (7) the attorney general; (8) law enforcement officials of any jurisdiction related to the investigation of certain enumerated crimes; (9) a mandated reporter of suspected child abuse who made a

report is entitled to know whether the child abuse report was indicated, founded, or unfounded and any services provided to the child; (10) school administrators and child care service employers if the alleged perpetrator is an employee; (11) and a prospective adoptive parent, approved by an adoption agency when considering adopting an abused child in the custody of the county agency. Further, the subject of a report may receive a copy of all information contained except the identity of the reporter or a person who cooperated with the investigation. See Section 6340(b).

CONCLUSION

The most important considerations in providing advice on whether to release a confidential piece of information is to know what is being released; whether or not an authorization is required, and if not why not; what exception is being used; and be aware of every term and its definition in the laws and their exceptions. If you don't review the definitions, you could release something that is actually confidential without appropriate legal authority, thereby doing harm to the very people our departments are trying to serve. Remember to consult with and include your solicitors in any discussions about policies and practices surrounding confidentiality and disclosure, and certainly if you plan to deviate from prior practice, even where disclosures are made within county government. ▀



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PENSION TECHNOLOGY GROUP

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Delivering web-based pension administration solutions for Public Employee Pension Funds has been Pension Technology Group's sole focus since our inception in 2006. The PTG Team consists of former pension board administrators, pension board trustees, former investment professionals, and a technology team that has successfully delivered over 200 web-based pension systems. PTG recognized early on that when it came to public employee pension administration software projects, the best interest of pension funds were not being met. Here's why:

- Pension Funds became too dependent on the use of technology consultants
- Consultants were given too much authority (Draft RFP, Vendor Selection, Project Oversight)
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- Longer projects pose greater financial and cybersecurity risks
- Little incentive for software vendors to provide more cost effective and timely solutions
- Potential conflict of interest

What We Do



PTG PensionPro™ evolved out of direct collaboration between public employee pension administrators and a technology team with unrivaled experience in delivering web-based pension administration systems for a wide variety of complex retirement plans. The end result is a streamlined and cost effective implementation methodology. PTG's implementation methodology is extremely agile and flexible. PTG projects are completed within 8 -14 months. Consultant driven projects typically take 24-48 months to complete which poses greater financial and data security risks.



PTG PensionPro™

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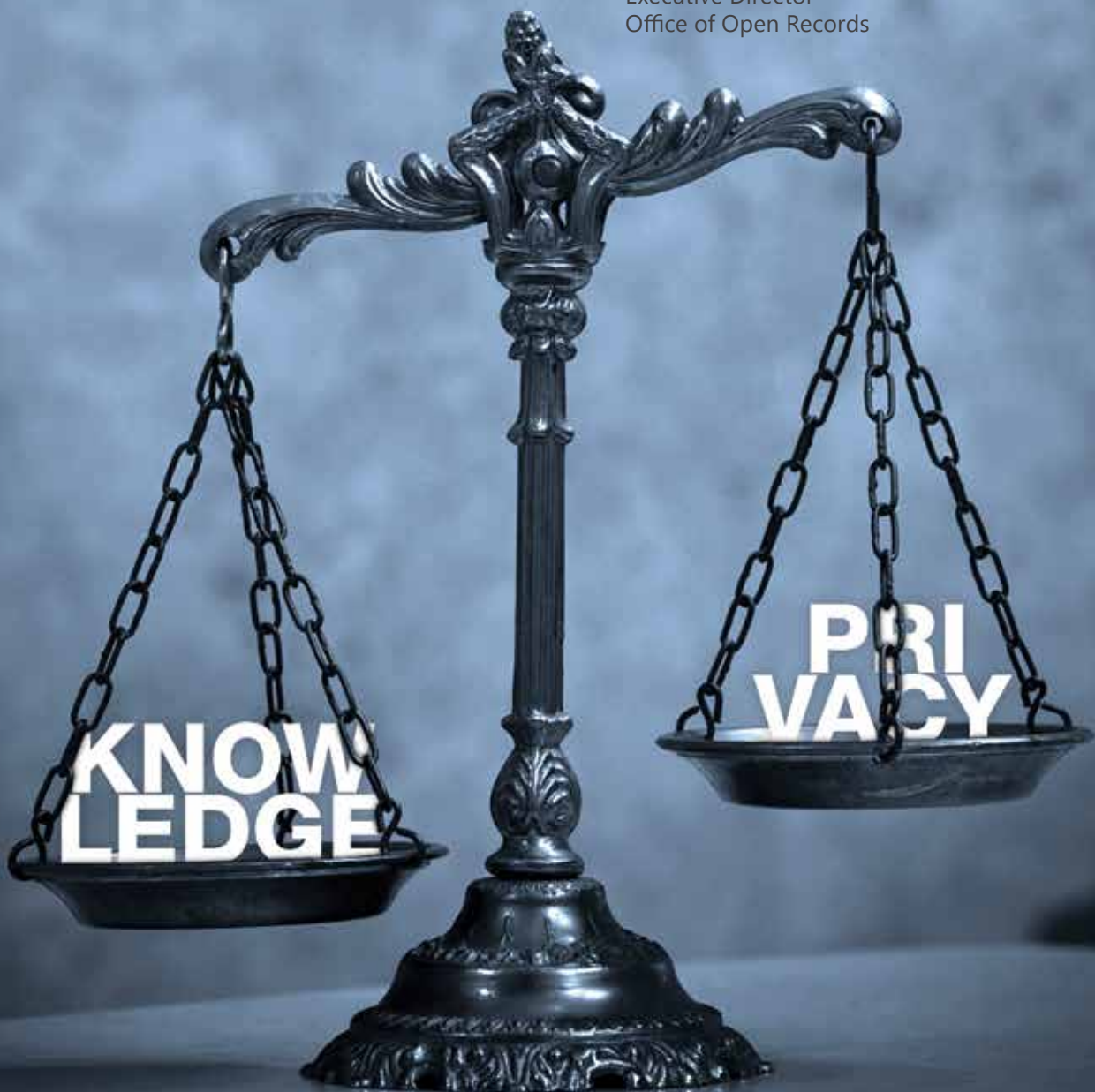
BALANCING

THE PUBLIC'S
RIGHT TO KNOW

with

CONFIDENTIALITY LAWS
AND PRIVACY INTERESTS

Erik Arneson
Executive Director
Office of Open Records



Pennsylvania’s Right-to-Know Law (RTKL) presumes that all government records are available to the public—but it also recognizes that there are times records must be shielded to comply with confidentiality laws, to respect various privileges, and to protect legitimate privacy interests.

In our training sessions, the Office of Open Records (OOR) often points out that the RTKL is not itself a confidentiality law. In other words, the RTKL does not require agencies to withhold any records. Instead, it allows agencies to withhold records when certain conditions apply. (For example, records can be withheld if their disclosure would endanger public safety, reveal police notes about an investigation, or identify an individual receiving social services.)

But there are laws which require confidentiality, and those laws must be followed.

Some of the laws, such as the Family Educational Records Privacy Act (FERPA), apply to a limited number of agencies. FERPA, a federal law, protects the privacy of student

education records and applies to all schools that receive funds from the U.S. Department of Education.

Similarly, the Criminal History Records Information Act (CHRIA) is a state law that applies to state and local agencies and limits the release of certain criminal history record information. CHRIA often applies to records requested from District Attorneys, so to the extent that a county’s Agency Open Records Officer (AORO) also handles RTKL requests for the District Attorney, it’s important for the AORO to be aware of this law.

Other laws which can affect counties and which require records to be withheld—in other words, laws which require confidentiality of certain records—include:

The state Child Protective Services Law, which protects reports of child abuse and information obtained concerning allegations of child abuse.

The Disease Prevention and Control Act, which prohibits the release of certain reports of disease and any records maintained as a result of actions taken as a consequence of those reports.

The Motor Vehicle Code, which holds that certain vehicle accident reports are only available to certain government officials, people conducting traffic safety research, and the people involved in the accident, their attorneys, and their insurance companies.

The Older Adult Protective Services Act, which protects

various investigative records, client assessments, and service plans.

The Uniform Construction Code, which allows agencies to prohibit the release of certain documents related to the construction of buildings.

The federal Copyright Act, which prevents the copying of certain records—although agencies are generally required to allow requesters to inspect those same records.

While that's is not an exhaustive list, it provides a good overview of the type of laws that contain confidentiality provisions that must be considered when responding to certain RTKL requests.

Of course, no AORO is expected to know and understand each confidentiality law. However, an AORO should develop an ability to recognize when such laws might apply and then consult with agency-level experts, and possibly the county solicitor, for specific guidance on a case-by-case basis.

When applying a confidentiality law, it's advisable to ensure that the language of the statute is not too broadly applied. One example is a recent case where the OOR held that both residential and commercial building plans were confidential under the UCC. However, the Philadelphia County Court of Common Pleas disagreed with that application of the UCC and overruled the IIR's final determination, finding that "foundation plans" and "building plans" for residential properties must be released.

The state constitution includes an implied right to privacy for some personal information, such as home addresses. In such cases, a county should apply a balancing test before releasing the information. **Specifically: Does the public interest in disclosure outweigh any privacy interest in non-disclosure?**

PRIVILEGES

The RTKL also recognizes that certain privileges require that certain records remain confidential. The most commonly raised privilege is the attorney-client privilege. In order for the attorney-client privilege to apply, an agency must demonstrate four things:

- That the county is or sought to become a client;
- That the person to whom the communication was made is a member of the bar or a subordinate;
- That the communication relates to a fact of which the attorney was informed by the county, without the presence of strangers, for the purpose of securing either an opinion of law, legal services or assistance in a legal matter, and not for the purpose of committing a crime or tort; and
- That the privilege has been claimed and is not waived by the client.

Finally, the state constitution includes an implied right to privacy for some personal information, such as home addresses. In such cases, a county should apply a balancing test before releasing the information. Specifically:

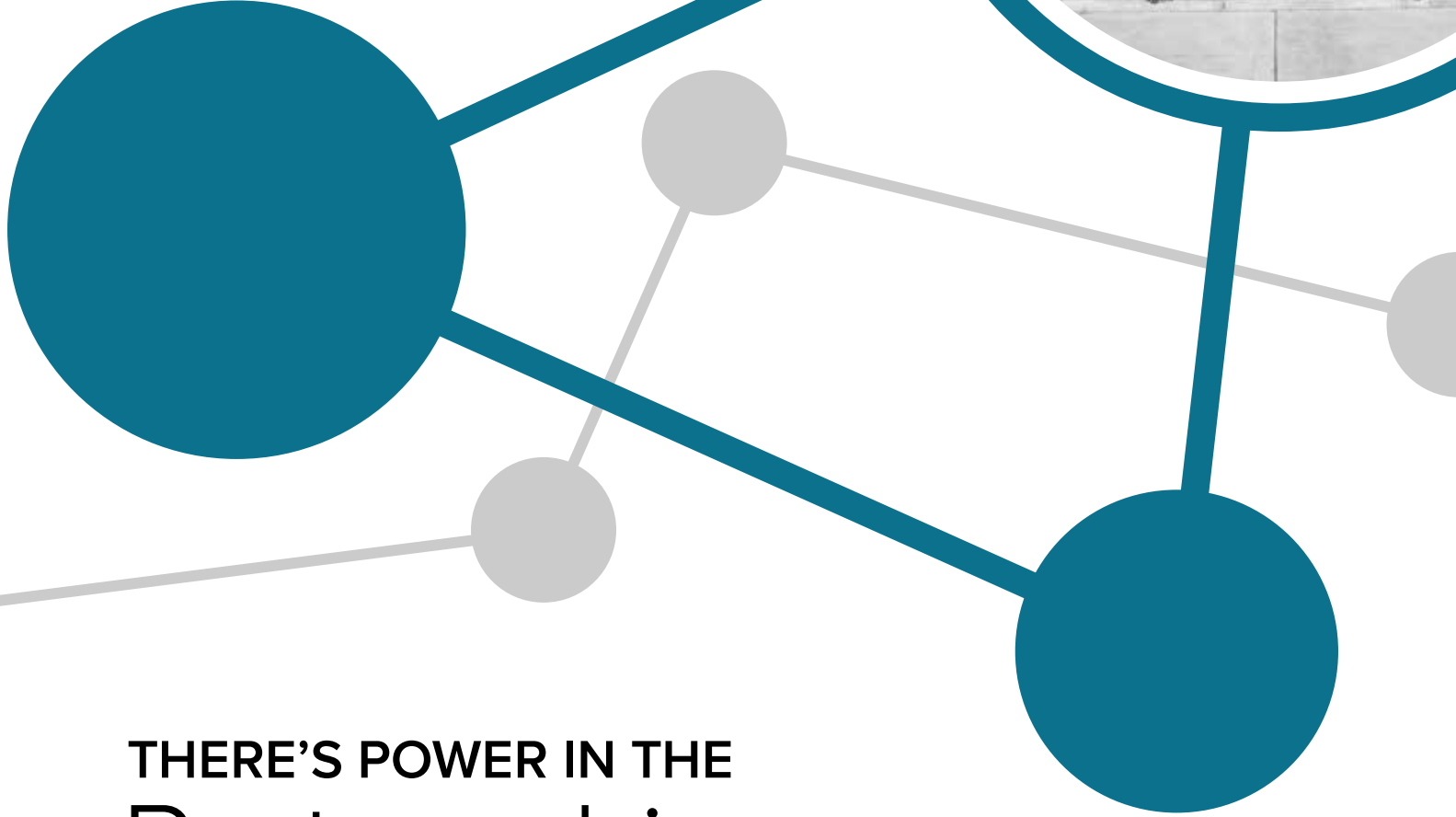
Does the public interest in disclosure outweigh any privacy interest in non-disclosure?

The OOR's website includes a searchable database of our final determinations—every decision issued by the OOR since it opened in 2009—that can assist an AORO's understanding of the interaction between the RTKL, confidentiality laws, privilege, and privacy interests. Under the "Appeals" tab on the website, choose "Final Determinations." That will lead to a search tool. The best first step in using the search tool is to enter a subject matter, topic, or type of record in the "Description" field.

The OOR also schedules regular training sessions, both online and in person, which will be of interest to AOROs, as well as many county officials and employees. The "Training" tab on our website has all the details.

Finally, we're always available to answer questions by telephone, (717) 346-9903, and email openrecords@pa.gov. One of my goals as executive director of the OOR is to make the RTKL as easy as possible for both agencies and requesters. Please don't hesitate to contact us with any questions at all. ▼

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2019 Annual Conference



CCAP President and Chester County Commissioner Kathi Cozzone.

Members and guests celebrated learning and remarkable achievements at this year's Annual Conference in Berks County, Pa.

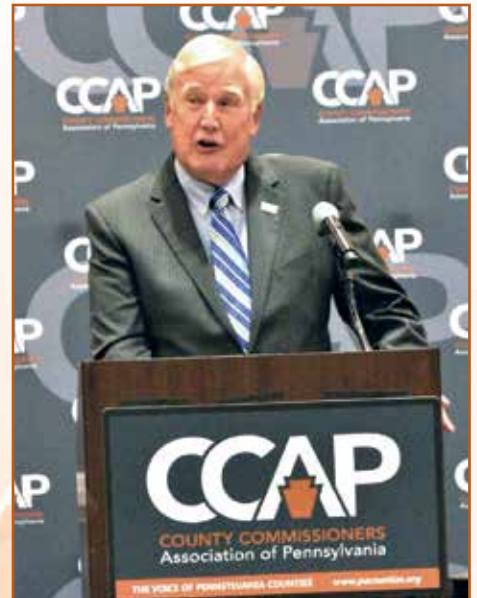
Conference photos by Ken Kroski.
Awards photos by Roger Baumgarten.



Tioga County Commissioner Erick Coolidge sings the National Anthem behind the Veterans Color Guard.



Keynote speaker Kelly McDonald



NACo Past President and San Diego Supervisor Greg Cox



The Department of Homeland Security's Simona Flores.



Kathi Cozzone and Jeff Snyder share a laugh.



Senator Bob Casey



Executive Director of the Governor's Census 2020 Complete Count Commission Norman Bristol Colón

2019

Awards



CCAP First Vice President and Clinton County Commissioner Jeff Snyder introduces Doug Hill for a special Friend of Government award.



CCAP Executive Director Doug Hill speaks.



Carbon County's Daniel Miscavige speaks as Outstanding Solicitor of the Year.



Lancaster County Commissioner Craig Lehman and Berks County Commissioner Kevin Barnhardt accept President's Awards.



Cumberland County's Claremont Nursing and Rehabilitation Center's Raymond Soto accepts the 1st to 3rd class Website Award.



Local Government Commission Research Analyst Danette Magee speaks after being announced as a recipient of the Friend of County Government Award.

Greene County Commissioners Dave Coder, Archie Trader and Blair Zimmerman accept the 4th to 8th class county Excellence in Website Award.





Erie County Commissioner Fiore Leone speaks as Commissioner of the Year.



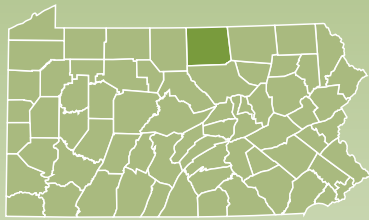
Warren County's Pam Matve accepts the Outstanding Chief Clerk or Administrator of the Year Award.



Bucks County's Gabriella Latzko and Lehigh County's Dustin Moore accept the CCAP 2019 Affiliate Award for the Youth Advisory Board.



CCAP staff helping to produce another successful learning experience for members.

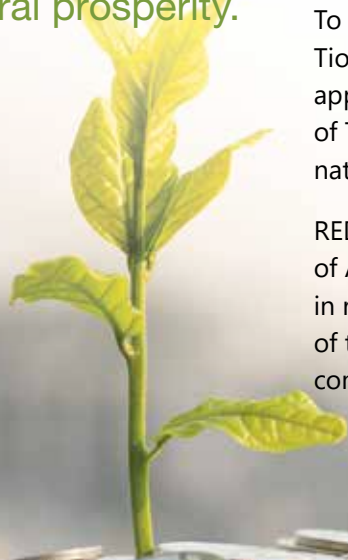


COUNTY HIGHLIGHT:

TIOGA

Tioga County
Board of Commissioners

REDI is a new partnership initiative developed through the U.S. Department of Agriculture's Rural Development Innovation Center to help build capacity in rural communities and create foundations for rural prosperity.



Growing Rural Communities

THROUGH REDI

Counties across the commonwealth are seeking the same thing: building an economy and holding an economy together. Tioga County, like many counties, has been challenged with keeping the businesses we have and being able to fill those businesses with competent employees. We've had industries exit and in doing so, create concern for all of us.

Tioga County seeks to create an environment that is driven by community interests wanting to find a way that we could create economic benefit, as well as opportunity for jobs and growth. There is an economic base that is important for every county and when a business leaves the challenge is to fill the void that's been created.

THE REDI GRANT

To assist with this endeavor, Kristin Hamilton, executive director of Develop Tioga, formally Tioga County Development Corporation, presented an application for a Rural Economic Development Initiative (REDI) grant on behalf of Tioga County. The result: Tioga County is one of six out of 47 counties nationwide chosen to be part of the two-year program.

REDI is a new partnership initiative developed through the U.S. Department of Agriculture's Rural Development Innovation Center to help build capacity in rural communities and create foundations for rural prosperity. The purpose of the program is to provide free technical assistance and training to help communities with economic development planning. In addition, the program

will help identify funding sources to benefit counties. The National Association of Counties partners on the REDI initiative and will work directly with the National Association of Regional Councils on this new initiative to develop an interactive, team-based peer-learning program to:

- Educate and inspire county and regional leaders to think creatively and regionally about new strategies and solutions;
- Facilitate multijurisdictional collaboration and partnerships among neighboring counties; and
- Empower counties to develop and implement economic and community strategies with a focus on economic diversification, workforce development, asset-based development and technology and e-connectivity.

This program and peer network will include hands-on, interactive training workshops, team mentoring, educational webinars and other interactive learning opportunities. County and regional best practice case studies will also be developed to help other rural communities in America replicate strategies that make sense for them.

The grant covered the hotel and travel costs to Clark County, Nevada for the initial training, which occurred this past July in Clark County, Nevada prior to the NACo Annual Conference. Those traveling on behalf of Tioga County were Erick Coolidge, county commissioner; Kristin Hamilton, executive director of Develop Tioga; Kerry Nelson, county planner; Brenda Freeman, Wellsboro Area School District superintendent; and Diana Barnes, Northern Tioga School District superintendent.

A topic of discussion in most meetings is workforce. Having a workforce trained to address the needs of business and industry is critical; more importantly if a business is considering locating in a county is there an employee base available?

MAKING THE CASE

One of Tioga County's key strengths that was critical to our acceptance in the program is that it is a rural area that could show collaboration between planning and economic development—resulting in bringing business and community leaders together to the table.

Since 2017, Tioga County leaders have held summit meetings, sponsored by the Board of Commissioners, to discuss economic development. The commissioners started by inviting Kevin Abrams, the executive director of the Northern Tier Regional Planning and Development Commission and Tom Freeman, the interim director at that time for Tioga County Development Corporation, for discussion. The discussion led the creation of Economic Summits which allow the community a chance to guide the conversation in an open forum, helping to decide the direction we need to go.

The meetings bring together elected officials, business and industry leaders, various departments within the county, educators and community members to discuss how to work together and support business and industry throughout the county. All attend willingly. Before the first Summit closed, everyone in the room

had commented. It was important that we heard everyone's thoughts; that process has continued through all three summits.

Tioga held three Economic Summits prior to receiving the REDI grant, which helped position the county to apply the resources made available through the REDI grant.

VITAL DISCUSSIONS

Clearly, much of what becomes a topic of discussion in most meetings is workforce. Having a workforce trained to address the needs of business and industry is critical; more importantly if a business is considering locating in a county is there an employee base available?

What became evident in the Summit discussions was how important school districts, including Mansfield University, were in helping to create a curriculum of instruction, building on pathways or choices for students to choose from in career opportunities. The school districts train the future workforce, which supports efforts to create a place where people want to live and visit.

Through those discussions, the group identified three areas of focus: 1) workforce development; 2) retaining and attracting business to the area; and 3) expanding broadband access.

HAPPY TRAILS AND BROADBAND

One industry that is being built is a 3.5 mile stretch of the Marsh Creek Greenway Trail, which is the continuum of a 62 trail program that runs from Tioga County into neighboring Lycoming County, on an old rail bed that is known to some as the Rail Trail. As the network is being built throughout the country, it is a good investment and we anticipate between \$8 and \$11 million dollars annually coming into our region's economy once the trail is completed. On top of that, we are also in line over the next three or four years to see broadband built across the Northern Tier. Rural communities will then be

as connected as urban and suburban communities are; to foster economic growth and development and give our rural setting and all who live within it the benefit of broadband.

Some of the partners working with Tioga County are USDA, a sponsor coordinated through (NACo), and the Federal Reserve Bank of Philadelphia, who has been involved with contribution at the last two economic summits. What a wonderful group to have supporting rural counties.

IN DEVELOPMENT

Other counties at the REDI training had similar goals as Tioga County, namely workforce development and broadband expansion. Tioga County

is partnering with the National Association of Counties Research Foundation to coordinate the group's efforts to develop a plan. Additional REDI trainings are planned that involve the actual development of a plan to help our area achieve its goals.

We are fortunate to be supported by so many throughout Tioga County, as well as outside of our community, dedicating time to be a part of the conversation. They built it; we simply invited their contribution. That is our story—our part of growing rural communities. We look forward to sharing our knowledge to assist other counties on Pennsylvania. ▀



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All facts and figures are as of December 31, 2018.



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Balancing Data Privacy

IN A DAY OF CONVENIENCE

Rita Reynolds, CGCIO
Chief Technology Officer
National Association of Counties

I recently had the opportunity to watch "The Great Hack," a Netflix documentary that came out in late July. It is about the Cambridge Analytica scandal with citizen data and elections. If you haven't watched it, I highly encourage you to do so. In the absence of time, let me break it down for you! The documentary focuses on how accessible our individual human data and just how much of it is on the internet. Even if you have deleted your Facebook account, much of your data is still out there.

The documentary focuses on how Cambridge Analytica gathered and cultivated massive amounts of citizen data from all across the globe and then supposedly used it in marketing campaigns to persuade certain citizens (dubbed the "persuadables") in voting decisions worldwide; including Brexit (the UK's withdrawal from the European Union) and the United States 2016 election. This article is not going to focus on how Cambridge Analytica used U.S. Citizen data, but rather on how they were able to access it without one's approval.

COLLECTING DATA POINTS

The background of the documentary is that Cambridge Analytica had collected between 4,000-5,000 data points on every U.S. voting citizen. Every Citizen. One may ask, how this can be? Well, does Facebook or Instagram sound familiar? Data from more than 87 million Facebook member profiles was obtained by Cambridge Analytica, who then used that data to assist the Leave campaign in the Brexit vote and the Trump 2016 presidential campaign. Regardless of the presidential outcomes, the fact that they acquired and used that much data on human beings is incredible and even scary.

While that's just one way citizen data is accessible, according to a May 2019 article from PEW Research, 69% of the

U.S. is on Facebook; that's a pretty significant exposure. The importance of these numbers becomes even more meaningful, when you consider that data and the data giants Alphabet (Google's parent company), Amazon, Apple, Facebook and Microsoft are now considered more valuable than oil. (May of 2017 the Economist).

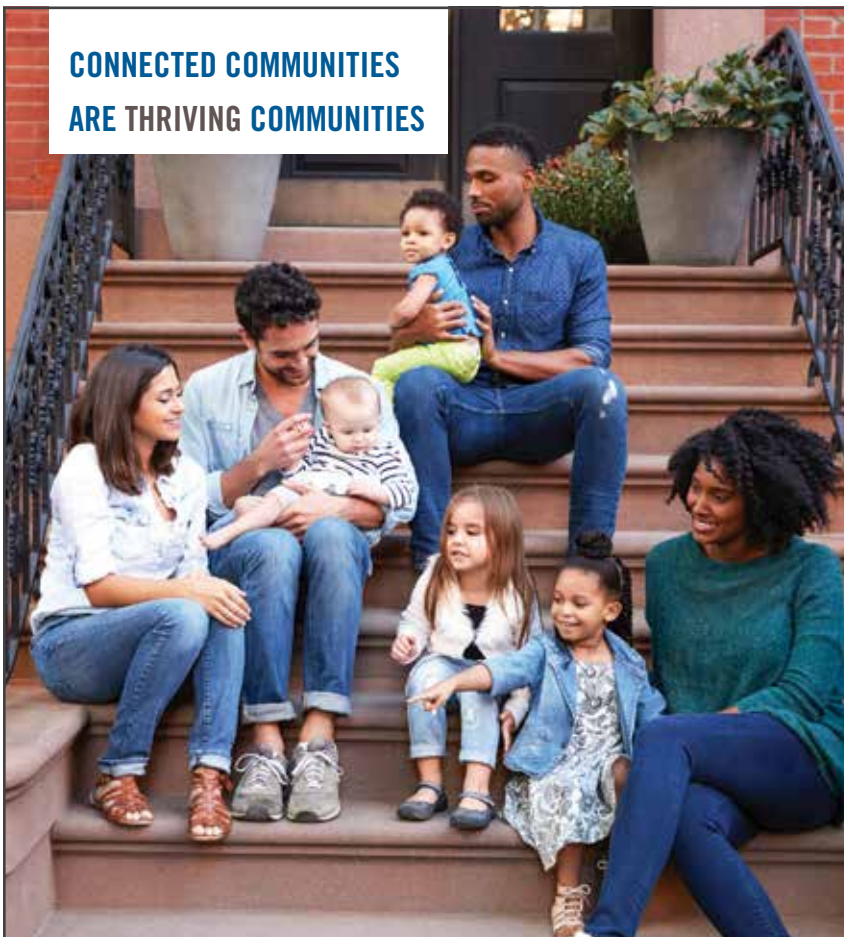
Yet the bigger story is that our personal data is out there and being used in ways we don't understand. One may ask, was it really that much important data? We will never really know for sure, but at the time of these campaigns, the data collected from the third-party app that gave anyone access to Facebook included information like interests, likes, location, political affiliation, relationships, photos and more.

SEARCHING FOR ANSWERS

So why is this important? In this day and age, our personal assets go beyond just finances; data rights are human rights. Personal data is extremely valuable. Think about how quickly relevant advertisements pop up on your Facebook page or even your cell phone through a text or an app after you have conducted an online search.

To bring it to the workplace, think about how much searching we do on the internet for new county equipment, software applications, or even job postings for finding qualified staff. And then all of sudden, this particular product or service that you were searching about shows up on your Facebook Feed, even though

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Other features include posting a privacy policy on their website that states:

- The type of personal data collected
- Any third parties you share the data with
- How users can review and change their data that you've collected
- How you'll update users of changes to your Privacy Policy
- Your Privacy Policy's effective date
- How you'll respond to Do Not Track requests

Other states that have recently passed or attempted to pass privacy laws are shown on the previous page.

According to legislative tracking website Quorum, more than 200 pieces of legislation on privacy have been debated in state legislatures so far in 2019.

PAY ATTENTION

On a personal level, folks like you and I should be more attentive to what data we make available online. As I like to say often, the devil is in the details.



Listed below are some questions to ask yourself and to share with your county departments and your citizens:

- What information do you have in your Facebook profile, your LinkedIn profile? Do you include where you went to high school, college, if you are married, what your religious affiliation or political affiliation is?
- Do you include your hometown you currently live in?
- Do you have your cell phone posted online anywhere that could be publicly accessible?
- Do you post pictures of yourself, your family members, new grandbabies that can be accessed publicly?
- Do you read the Terms and Conditions on a site that you join as a member? Or the new "cookies" pop-up that so many sites have now, as a result of the GDPR laws in Europe?
- Have you read the current Facebook terms (<https://www.facebook.com/terms.php>)?

The good news is that terms and conditions on most sites are much more transparent these days. Consider the Facebook Terms.

We don't charge you to use Facebook or the other products and services covered by these terms. Instead, businesses and organizations pay us to show you ads for their products and services. By using our products, you agree that we can show you ads that we think will be relevant to you and your interests. We use your personal data to help determine which ads to show you.

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While, the section 2 reference is quite extensive and not reprinted here, it covers what Facebook does with your data. While one may or may not be comfortable with these additional details, it is important that you are aware. You can find out more at <https://www.facebook.com/about/privacy/update>.

If nothing else after reading this article, I would highly encourage you to consider the questions above and to look at what those major sites (like Facebook) do with your data and to whom they share your personal information. Awareness is critical in balancing privacy with convenience. Remember data rights equal human rights! 🍷

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05/18

Recent Ransomware Attacks

Highlight Importance of Data Security for Pa. Counties

Devin Chwastyk, CIPP
Privacy & Data Security Group Chair
McNees Wallace & Nurick

In roughly the past year, the court systems of Philadelphia County and Luzerne County have been victimized by ransomware attacks. The City of Allentown joined these counties as a notable victim that had computer files encrypted by ransomware. At an even more local level, Butler County's Federated Library resorted to using pen-and-paper to track book borrowing, after the library's staff were frozen out of their computerized lending system by ransomware in July 2019.

Such ransomware attacks often begin with an email that contains either a link or an attachment that is infected with ransomware, a type of computer virus or malware, sent to an employee of the county. When the email is opened, the virus spreads throughout the computer network, locking up the servers and preventing officials from accessing computerized data. Municipalities infected with ransomware usually have two options: restore systems from an available backup or pay a ransom by transferring funds (in the form of bitcoins, an electronic currency) in exchange for a decryption key that may or may not unlock the files.

Whether or not accompanied by a data breach, ransomware attacks will always result in significant costs and consequences for counties. Ransomware results in downtime and expensive repair and recovery efforts to continue essential operations and regain access to important information.

NO GUARANTEES

There is no suggestion that the recent ransomware attacks in Pennsylvania involved any theft of data from the affected municipalities. But there is no guarantee that ransomware will not steal data from infected computer systems. Indeed, guidance from the U.S. Department of Health & Human Services (HHS) and the Federal Bureau of Investigation has suggested that some variants of ransomware do not just lock down systems but also exfiltrate data (transferring data from the victim's systems to the attacker's systems). If there is an exfiltration of personally identifiable information, ransomware can qualify as a data breach under federal and state breach notification laws.

Indeed, HHS presumptively concludes that encryption of data by ransomware constitutes an "acquisition" of data by the attackers, on the theory that such data is under the control of the attackers even if they never view or steal that data. As such, a ransomware attack that locks down protected health information (PHI) may require issuance of notifications pursuant to the Health Information Portability & Accountability Act (HIPAA).

Counties and other municipalities make an attractive target for a malicious hacker looking to steal or ransom valuable information. For taxation and other purposes, local governments routinely collect and maintain files of private and confidential information about their residents. Personally identifiable information abounds in public records, including names, addresses, dates of birth, and Social Security numbers.

When left exposed and taken up into the wrong hands, that information can be used to perpetuate identity theft and other fraudulent activity.

Whether or not accompanied by a data breach, ransomware attacks will always result in significant costs and consequences for counties. Ransomware results in downtime and expensive repair and recovery efforts to continue essential operations and regain access to important information.

LEGAL OBLIGATIONS FOR PROTECTION

The primary legal obligation arising when a data breach occurs is the duty to notify all individuals whose records were exposed. All fifty U.S. states now have laws requiring data security breach notifications. The requirement to notify affected persons that their information has been exposed to unauthorized third parties extends to any entity that maintains, stores, or manages computerized data, including counties and other political subdivisions. Some states require not only that notice of the breach be sent to the individuals affected, but also to the state attorney general's office, consumer affairs division, or police agencies.

Generally, an entity storing computerized data is required by these state data breach notification laws to provide notice whenever it discovers or reasonably believes that unauthorized persons have accessed and acquired unencrypted files containing un-redacted personal information. In a few states, however, notification is required as soon as unauthorized access is detected,

regardless of whether there is any proof that the information has been acquired by third parties.

Personal information most commonly is defined to include an individual's name, in combination with any of the following: (1) Social Security number; (2) driver's license or state identification number; or, (3) financial account information, such as credit or debit card or bank account numbers, in combination with a security code or password. This is the definition of PII under Pennsylvania's Breach of Personal Information Notification Act. In other states, that definition has been broadened to encompass other categories, including medical information and biometric data such as fingerprints and retina images.

At the federal level, data security is addressed by industry-specific laws and regulations. For counties, the most relevant federal regulation is HIPAA. Many county agencies likely collect PHI for various purposes. Under HIPAA, an entity that stores PHI is required to notify HHS and affected individuals of a compromise of the security or privacy of PHI. PHI includes any individually identifiable information relating to the past, present, or future health status of an individual that is created, collected, or transmitted, or maintained in relation to the provision of healthcare, payment for healthcare services, or use in healthcare operations. This broad definition encompasses paper documents or electronic files that contain information about diagnoses

The requirement to notify affected persons that their information has been exposed to unauthorized third parties extends to any entity that maintains, stores, or manages computerized data, including counties and other political subdivisions.

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or treatment, medical test results, and prescription information, along with identification numbers and demographic information such as birth dates, gender, ethnicity, and contact and emergency contact information.

COSTS AND MITIGATING RISKS

While notification alone can be an expensive endeavor when thousands of records are involved, the expense of mailing notices is not the only direct cost of a data breach. A county that is hacked will need to pay IT experts to investigate, repair, and secure the breached data network. Many entities that suffer a breach make offers to provide identity theft monitoring and protection to the affected persons, which also can be expensive.

Several reliable studies have examined these costs of responding to a data breach. Those findings demonstrate that the average cost for the public sector to respond to a data breach is approximately \$80 per individual record exposed. Multiply the number of residents of your county by \$80 to reach a low-end and rough approximation of the potential costs of a data breach to your county.

Counties can proactively seek to limit the risks of data breaches through training and education, security assessments and IT support, strong data security policies, appropriate breach response plans, and attention to insurance and indemnification issues. Training and education of employees about the importance of data security and risks of data breaches must be increased in the public arena.

A 2015 poll of local government employees revealed that almost half were unaware of their employer's IT security practices. Employees must be instructed about the importance of strong passwords, and systems should require the same. Training employees to recognize "phishing" attempts and avoid opening emails or attachments from unfamiliar addresses will greatly reduce the opportunity for hackers to introduce malware or ransomware into government computer networks.

The process of creating a data security policy can force a county to deal with how much personal information they have collected and stored. The best way to avoid a breach that exposes such information is not to collect it at all, or to retain it only so long as necessary to serve a necessary purpose.

SECURITY POLICY

A properly devised data security policy will be written down and disseminated throughout the organization so that all employees are familiar with the policy.

First, a data security policy should designate an employee to coordinate the organization's data security efforts, including implementation, training, and testing of the policy. Second, the policy should limit the categories of personal information that will be collected, limit access to those records to the employees whose duties require such access and require that such records be destroyed or deleted at the earliest opportunity (consistent with organizational needs and legal retention requirements). The policy should include or reference

a document retention policy that addresses the full gamut of records the organization may collect or create. The data security policy must also provide for levels of disciplinary measures to be imposed if employees break or ignore the mandates addressing information security. Third, the policy should address technical requirements, such as the updating and patching of software and firewalls, strong password requirements, and mandatory use of anti-virus protections. It is crucial also to prohibit the transfer of unencrypted personal information by e-mail or to portable devices, including storage media. All of the requirements regarding the security of electronically stored personal information apply equally to the storage of such information in paper records and files.

In addition to a data security policy, counties should have in place a data breach response plan. When a breach occurs, the plan will designate the key decision makers, including county officials and legal and IT support. The plan should walk them through a decision tree that touches upon issues including contacting law enforcement, retaining outside counsel, determining notification obligations, documenting response steps, and addressing public relations. The breach response plan should require occasional drills to simulate a breach, with follow-up to refine the plan and for training purposes. ▼



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Newsworthy

FALL 2019

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C.S. Davidson, Inc. has been a part of the community and an important partner in the region's growth since 1923 through providing engineering services that work toward building an infrastructure designed for today's and tomorrow's needs. C.S. Davidson, Inc. continues to work hard as a leading engineering firm in the marketplace offering civil and structural engineering services, surveying, and construction materials testing and inspection services.

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Recurrent Energy is a leading utility-scale solar and energy storage project developer, delivering competitive, clean electricity to large energy buyers. Based in the U.S., Recurrent Energy is a wholly owned subsidiary of Canadian Solar Inc. and functions as Canadian Solar's U.S. project development arm. Recurrent Energy has more than five GW of solar projects in development in the U.S.

Sustainable Energy Fund (SEF) is an independent, nonprofit 501(c)(3) that assists energy users in overcoming educational, financial, and regulatory barriers to a sustainable energy future: a future in which energy is harvested, converted, distributed, and utilized in a manner that allows all to meet their energy needs now without compromising the ability of future generations to meet their needs. SEF acts as a program administrator for Commercial Property Assessed Clean Energy (C-PACE).

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Stepping Up Innovators

The National Association of Counties (NACo), the Council of State Governments (CSG) Justice Center, and the American Psychiatric Association (APA) Foundation have come together to lead a national initiative to help advance counties' efforts to reduce the number of adults with mental illnesses and co-occurring substance use disorders in jails. Stepping Up: A National Initiative to Reduce the Number of People with Mental Illnesses in Jails, continues to increase awareness about the mental health crisis affecting communities across the nation. Congratulations to **Philadelphia County** for being named a Stepping Up Innovator County. Next up, **Montgomery County**, which recently has been nominated to be a Stepping Up Innovator County. Learn more at naco.org.





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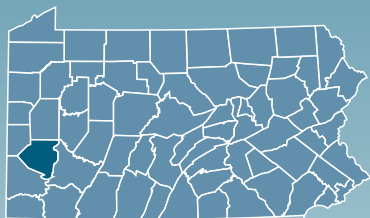
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COUNTY HIGHLIGHT:
ALLEGHENY

Rachel Looker

Junior Writer

National Association of Counties



ON TOP

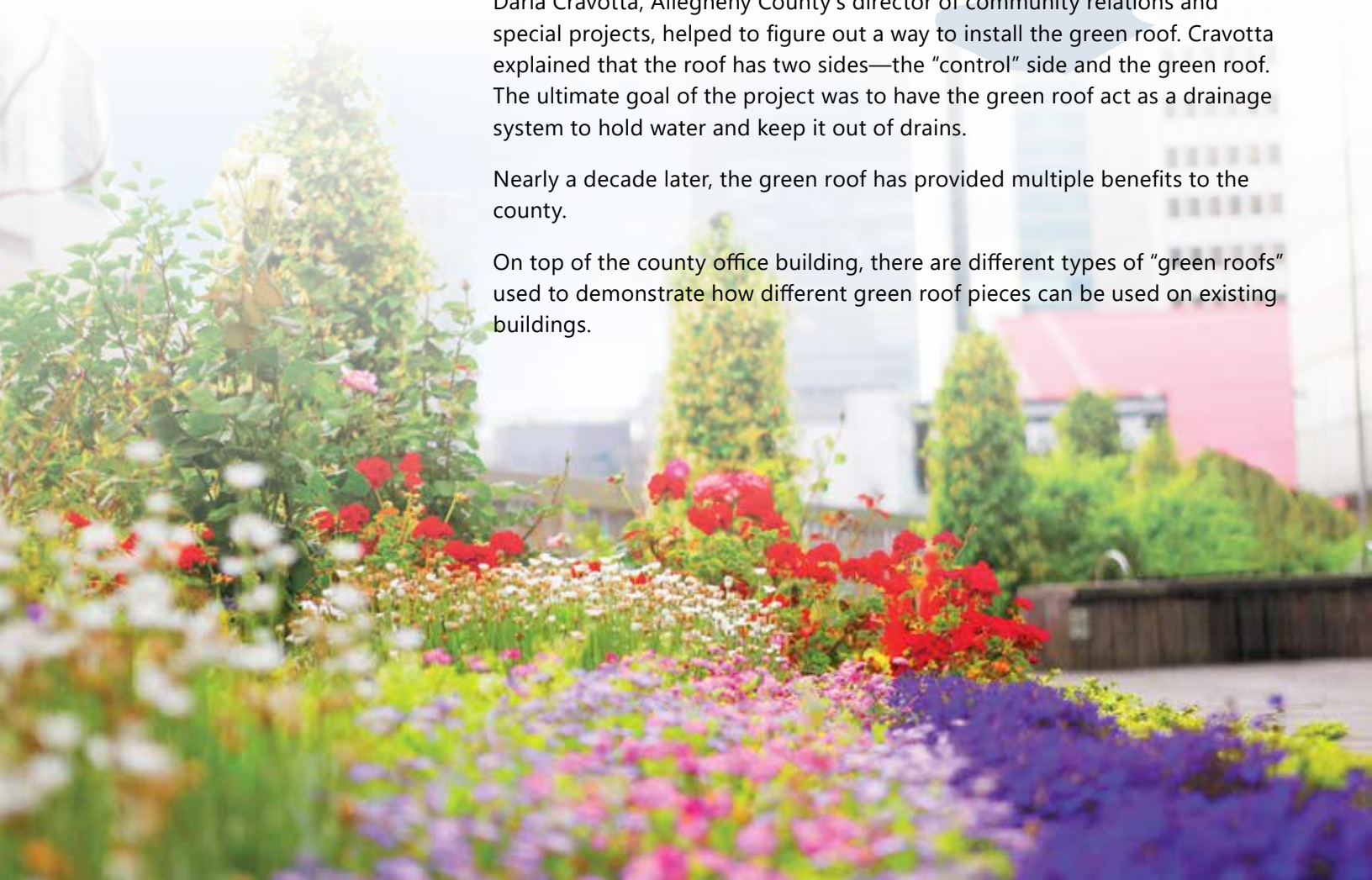
in Allegheny County

On top of the county office building in Allegheny County, Pennsylvania, there's more than just concrete and tar. In 2010, the county installed an 8,400-square-foot green roof on the 1930s-constructed building in downtown Pittsburgh.

Darla Cravotta, Allegheny County's director of community relations and special projects, helped to figure out a way to install the green roof. Cravotta explained that the roof has two sides—the "control" side and the green roof. The ultimate goal of the project was to have the green roof act as a drainage system to hold water and keep it out of drains.

Nearly a decade later, the green roof has provided multiple benefits to the county.

On top of the county office building, there are different types of "green roofs" used to demonstrate how different green roof pieces can be used on existing buildings.



DEPTH AND BEAUTY

Allegheny County's green roof features a mat filled with sedum, a type of plant that has a shallow soil depth of less than four inches. Other pieces on the green roof are described as "intensive" and "semi-intensive," which have varying soil depths. The "semi-intensive" green roof is between six and seven inches of soil while the "intensive" green roof can be up to 10 inches deep. The different types of green roofs are all incorporated in the same space on top of the county office building. "We wanted to build the roof to demonstrate what you could do on top of an existing building," Cravotta said. "We did a variety of types of roofs on top so we could show people."

The roof can capture an inch of rain in a 24-hour storm, according to Cravotta. Depending on the green roof type, the soil depth and the rain storm, the roof can capture anywhere from 20 to 100 percent of the rain. "The green roof on the County Office Building has met and exceeded our expectations," said Allegheny County Executive Rich Fitzgerald.

Cravotta said the green roof has an impact on the reduction in the urban heat island effect, which is caused when surfaces such as rooftops or concrete absorb heat during the day and re-radiate heat throughout the day and night. This makes the city hotter and results in higher cooling costs. On the side of the top of the building with the green roof, the temperature is usually cooler by 20 to 50 degrees, Cravotta said. With the temperature reduction, the costs for running the HVAC are lower. "The very first year we saw that our costs for our electrical savings in the first year were \$80,000 because we put essentially an entire insulation on top of our roof," she said.



Photo courtesy of Allegheny County Photography.

ROOF FRIENDLY

Green roofs also help increase a roof's lifespan by protecting the surface from UV rays, which cause wear and tear over time. "If you're a county and you have a budget, you're going to be extending your roof life two to three times," Cravotta said. She added that the green roof helps with a major problem in Allegheny County—dealing with stormwater management—by collecting the rainfall. "We wanted to demonstrate in an area that has a high concentration of concrete and existing older buildings, where you could install a green roof on top of a building," she said.

"The county's sustainability program really grew out of these efforts," Fitzgerald added. "The roof project was our first foray into seeing what impact we could have at the county." Over the years, Cravotta said she has seen more biodiversity on the roof with an increase in bees, birds and has even seen a praying mantis. "There's things happening on that

roof that normally wouldn't happen on a flat, black tar roof," she said.

Cravotta said there are various ways to incorporate green space on the top of buildings, and that can vary, depending on a roof's loading capabilities. She said if the loading on a roof is minimal, a mat with sedum is an option that can help with stormwater management. "The green roof is a way to help manage stormwater in cities that are experiencing and we all are — every city, every county—is experiencing this need to manage their water and a green roof is a way to do that and then also reap benefits especially on older buildings," she said. Allegheny County continues to monitor the green roof by tracking its rainfall data and posting the information on the county website, Cravotta said, noting: "The county saw this as a really important investment for us." ▼

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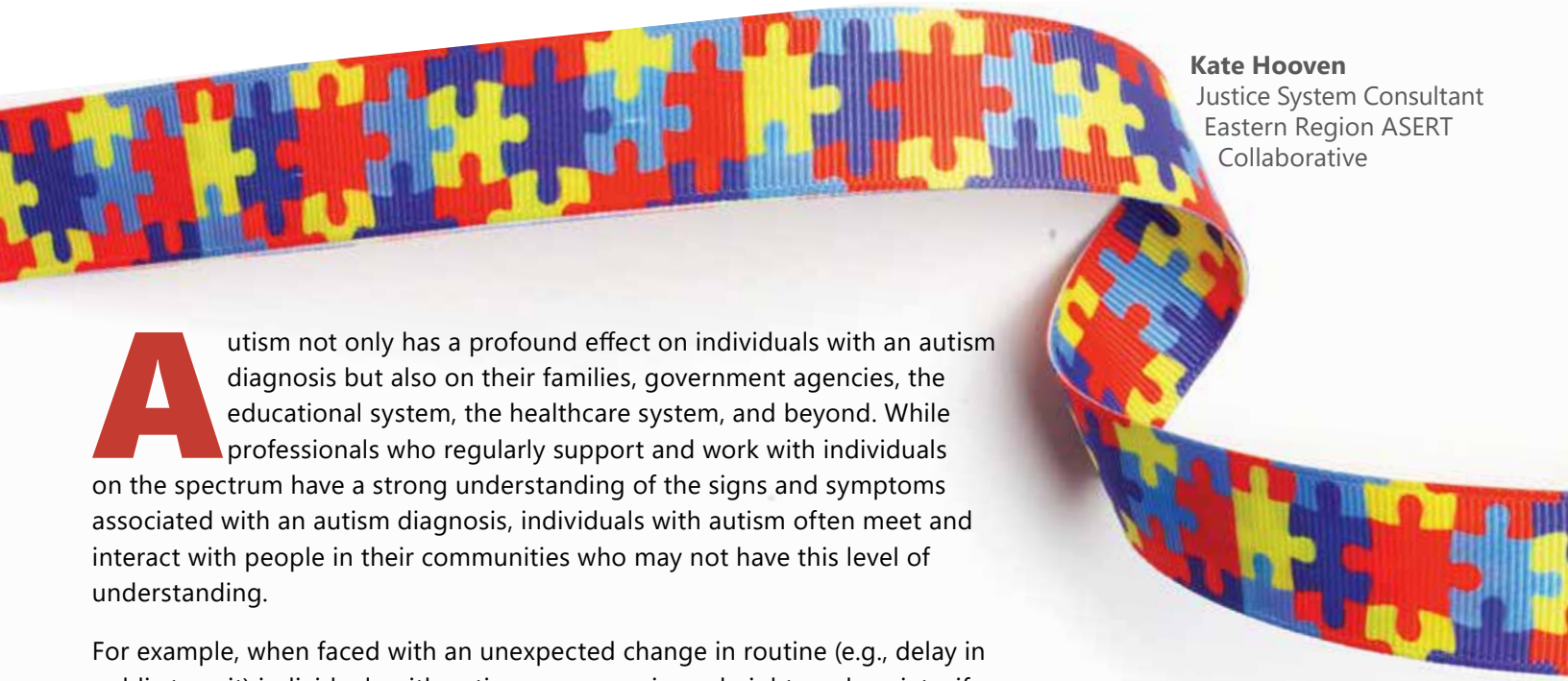
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UNDERSTANDING AUTISM AND RESOURCES THROUGH ASERT

Kate Hooven
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Autism not only has a profound effect on individuals with an autism diagnosis but also on their families, government agencies, the educational system, the healthcare system, and beyond. While professionals who regularly support and work with individuals on the spectrum have a strong understanding of the signs and symptoms associated with an autism diagnosis, individuals with autism often meet and interact with people in their communities who may not have this level of understanding.

For example, when faced with an unexpected change in routine (e.g., delay in public transit) individuals with autism may experience heightened anxiety, if unable to cope with this change, they may exhibit verbal or physical behaviors. In this situation, if the individual is approached by a police officer or other bystander who does not recognize their symptoms as characteristic of autism, the situation can intensify to lead to arrest or a physical altercation. It is possible to avert these types of outcomes through training and efforts to increase awareness of autism throughout our communities.

MISSION AND DATA

The Autism Services, Education, Resources and Training (ASERT) Collaborative is a partnership of medical centers, centers of autism research and services, universities, and other providers involved in the treatment and care of individuals of all ages with autism and their families. The ASERT Collaborative is funded by the Office of Developmental Programs, Bureau of Supports for Autism and Special Populations; Pennsylvania Department of Human Services and has been designed to bring together resources locally, regionally, and statewide. The mission of ASERT is to improve access to quality services and information, provide support to individuals with autism and caregivers, train professionals in best practices and facilitate the connection between individuals, families, professionals and providers.

The mission of ASERT is to improve access to quality services and information, provide support to individuals with autism and caregivers, train professionals in best practices and facilitate the connection between individuals, families, professionals and providers.

According to the 2014 Pennsylvania Autism Census (available at www.paautism.org/census), in 2011 there were more than 55,000 individuals with autism in the Commonwealth of Pennsylvania who were receiving public services. More than 500 individuals with autism receiving services from Medicaid came into contact with the juvenile or criminal justice systems according to the Pennsylvania Autism Census. The 2011 Pennsylvania Autism Needs Assessment, through survey administration in 2009, (available at www.paautism.org/needsassessment) also found that one in 10 individuals with autism in Pennsylvania reported past police contact. These data demonstrate a need for community supports to support individuals with autism in avoiding contact with the justice system and to dually training justice system professionals to safely and effectively interact with individuals with autism.

SYMPTOMS OF AUTISM

Because autism is a “spectrum disorder”, the symptom presentation will likely vary from person to person. However, there are several signs and symptoms of autism that commonly present in individuals with autism of any age. These may include:

- Avoiding eye contact.
- Struggling with understanding the emotions or feelings of another person.
- Repeating words or phrases (from television shows, movies, commands, previous conversations, etc.).
- Adhering strictly to routines and consistent surroundings.
- Having restricted interests.
- Performing repetitive behaviors (like flapping, spinning, pacing, or rocking).
- Having an increased sensitivity to light, sound, or touch.

The symptom presentation of an individual with autism may cause someone to misinterpret their behavior or actions, especially in situations of crisis or high stress. Below are several examples of how symptoms of autism can be misinterpreted and then correctly interpreted from a resource created by the ASERT Collaborative (the full resource is available at paautism.org/justice).

SENSITIVITIES AND DISTRACTIONS

Being aware of how autism presents is critical to appropriately supporting individuals with autism regardless of age or situation. When conducting an interview, it’s important to keep in mind the sensory sensitivities that many individuals with autism experience. If possible, try and have as few distractions as possible in the

WHAT YOU SEE/HEAR	WHAT YOU THINK	WHAT THEY ARE TELLING YOU
Little to no eye contact	Something to hide	Eye contact makes me anxious and is difficult for me. I cannot look at you if you want me to hear and understand you.
Mimicking what you are saying	He is mocking me or not taking me seriously.	I have to repeat what you say to try to comprehend it and sometimes repeating things helps me calm down.
Plugging their ears, closing their eyes	Noncompliance	It is too bright and loud in here. My senses are overloaded and my flight or fight response is in overdrive. Please give me some time to calm down.
Does not want to be touched	Hiding something	Even the lightest touch hurts me. Please warn me if you are going to touch me.
Uninterested in social interactions	They do not like me or are not interested in making friends.	Social situations can be very challenging for me. I may take additional time to feel comfortable communicating with you.
Highly skilled in a specific area (stating facts and figures, math, computers)	They are very smart and need no support.	I may be skilled in an area that I am interested in, but still can have high social, sensory, and communication support needs.

room where the interview is being held. For example, conducting the interview in a quiet room, with little to no visual distractions such as photos or posters on the wall would be beneficial. If the individual with autism has a preferred item that calms them, allow them to keep this item during the interview. Having a parent or someone the individual trusts and is comfortable with during questioning will also make the interview go more smoothly. Individuals with autism often need extra time to process information. It can be overwhelming for them to receive a large number of directions, questions or information at once. Being concise and asking if they have any questions can decrease confusion and help you clarify any unclear information being asked or communicated to them.

When interviewing an individual with autism, it's important to remember that many individuals with autism

are very literal with language, so do not use vague or abstract language and avoid using idioms and slang. Interview questions should be very specific and only one question should be asked at a time. The individual with autism may need extra time to process questions and you may have to repeat the question several times, so be patient and allow them time to respond. If more than one person is conducting the interview, try and appoint one person to ask the questions as too many questions coming from multiple people will make it difficult for the individual with autism to focus and communicate effectively. Individuals with autism may have trouble participating in an interview for an extended period of time. Keeping an interview brief can help ensure that the individual is cooperative and responsive, whereas prolonged interviews or assessments can cause fatigue and may lead to frustration for the individual.

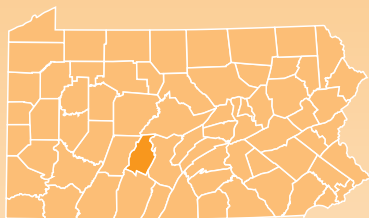
HOW ASERT CAN HELP

ASERT has trained more than 6,000 justice system professionals in Pennsylvania since 2015 and developed a collection of resources related to the just system for individuals with autism, family members, providers, and professionals (www.paautism.org/justice).

ASERT can help individuals with autism, their families, their communities, and the providers who support them:

- Call our Statewide Resource Center, (877) 231-4244, in English or Spanish or email (info@paautism.org or ASERTespanol@paautism.org)
 - o With a database of information, our resource specialists are able to provide up-to-date and accurate information and resources.
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Being aware of how autism presents is critical to appropriately supporting individuals with autism regardless of age or situation.

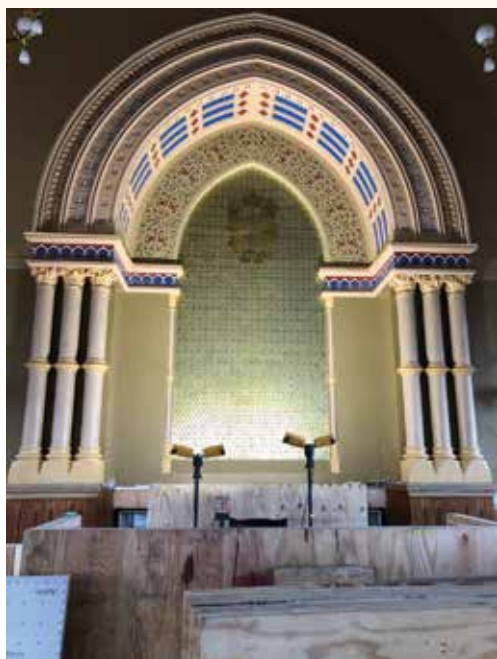


COUNTY HIGHLIGHT:

BLAIR

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Blair County Commissioner

Restoring Glory: THE BLAIR COUNTY COURTHOUSE



The Commonwealth of Pennsylvania is blessed with many inspiring courthouses as evidenced by the ongoing collaborative effort of the County Commissioners Association of Pennsylvania (CCAP) and the Pennsylvania Cable Network (PCN) to showcase these buildings during airings of *Pennsylvania's Historic County Courthouses*. In many counties, including the County of Blair, these buildings are the architectural gems of the region and are the equivalent of each county's "Independence Hall."

Regrettably, in some cases these buildings had fallen on hard times through the years for a variety of reasons including lack of funding, long-deferred maintenance and the natural aging process. This article will tell you the story of one county as it sought to preserve and restore its historic courthouse.

DESIGN AND FEATURES

Originally built in 1875, the Blair County Courthouse was designed by Philadelphia architect David S. Gendell to be in "the modern Gothic style of architecture with the Italian treatment." The historic structure's stone walls featured a cut stone facing and was renowned for its carvings including more than 50 sculpted human heads. These still existing heads represented prominent citizens of the county as well as different nationalities, although surprisingly no record was kept identifying the persons or groups remembered. With great energy the Blair County Genealogy Society has been able to identify 15 of these heads, including one of the sculptors who carved his own head on the 1906 addition.

Another notable feature was its five-story clock tower which also remains to this day. With large clock faces on the each of its four sides, the time was a point of reference for all in the community. Unfortunately, the clocks all now show a different time and have not worked for more than 10 years.

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The Hon. Jeremiah S. Black, first presiding judge of Blair County serving from 1847 to 1851 and later Chief Justice of the Pennsylvania Supreme Court and Secretary of State and Attorney General for President James Buchanan, returned to Blair County for the grand dedication ceremony in July of 1877. As noted in newspapers of the day, Judge Black stated that the courthouse was “the most perfect structure of its kind in this country—simple in the abundant wealth of its beauty” and “...the most complete, convenient and appropriate that he had ever seen, grand in its unapproachable simplicity, neatness and comfort.”

A TREASURE TROVE

Although Blair County had no original construction records, the county’s conservator John Rita, a Professional Associate of the American Institute for Conservation, uncovered by happenstance a copy of the July 4, 1877 edition of the Hollidaysburg-based newspaper, the “Democratic Standard”, laying in loose insulation above the courtroom’s ceiling.

This document was a treasure trove of information. Its lengthy “Dedication Day” article not only included the names of the attendees and many of their remarks, it also included a detailed description of the interior and exterior of the then new courthouse prepared by the architect.



A sampling of these comments includes:

“The Judges’ bench is placed in a recess formed under the main tower. This recess is a paneled Gothic arched ceiling 25 feet high and is finished with a large amount of elaborate detail.”

“The ceiling of the courtroom is paneled and is entirely executed in ash and yellow pine, finished in the natural woods, oiled. It is divided by tie beams of the roof trusses, which appear below the ceiling and show as molded ribs over every pier and extending from side to side of the room.”

In 1906, an addition to the courthouse was constructed under the direction of architect William Plack who faithfully copied the original materials and style, making the addition seem an integral

part of the original construction. The 1906 addition included a much-needed second courtroom with judge’s chambers, a large law library and a lawyers lobby conveniently located between the 1875 courtroom and the 1906 courtroom. It also added marble wainscoting throughout the entire first and second floors.

All interior work was finished in the American Renaissance treatment prevalent at that time and enhanced both the functionality and meaningfulness of the spaces.

BEAUTIFUL TO BEIGE

Sometime before 1960, both the 1875 and 1906 courtrooms were inexplicably painted beige essentially in their entirety, a process repeated several times since. In the 1875 courtroom this included painting over the naturally finished wooden ceiling



with its red and blue stenciling and the supportive wall columns with gold leaf accents.

Our conservator who has done microscopic paint-chip investigation of all finishes throughout the entire second floor determined that there had been incredibly up to five coats of beige paint applied to the natural wood ceiling itself. The courtroom's walls, the elaborate detailed arch behind the judge's bench and the walnut window frames were all painted beige, as well as the finely cut walnut filigrees above the 13 windows. Similar damage was done to the once highly decorated 1906 courtroom.

Further "renovations" in the 1970s, necessitated by space limitations and safety code requirements, oddly resulted in a judge's chambers being built inside the 1875 courtroom. The grandeur and essence of the ceremonial courtroom was gone. Its functionality was also severely impaired by the loss of excellent acoustics caused by the injection of the judge's chambers, negatively referred to by many as "the box".

RUNNING OUT OF TIME

The courthouse's condition had also reflected poorly on Blair County across the state. As an example, the 1970 alterations to the 1875 courtroom were described by Oliver Williams



in his 2001 study of Pennsylvania's courthouses as "... one of the more insensitive butchering jobs in this part of Pennsylvania, which takes some doing. The desecration is obvious in the front. Above the paneled box that juts into the room one can see the top of a Gothic arch. Originally there was an elaborate Gothic niche, 25 feet high, behind the bench, elaborately decorated." *County Courthouses of Pennsylvania. A Guide. Williams, p. 45 (2001).*

Upon completion of his 2014 comprehensive volunteer study, our conservator John Rita announced that despite its stately appearance, the historic courthouse had "been ravaged by time, water infiltration, invasive alterations and a legacy of neglect."

Of particular concern was the prolonged and extensive water damage. The commissioners were later advised in 2014 by Rita and architect David Albright that, in as little as two years' time, demolition and construction of a replacement courthouse could become necessary.

The minimum cost to provide simply equivalent foot space was estimated well in excess of \$20 million. The other option which was selected by the county commissioners was committing approximately \$5 million for restoration, thereby extending the building's useful life 75 years with ongoing maintenance.



THE NEED TO REMOVE AND REPAIR

The county immediately took steps to address the most severe areas of water damage. These included the front façade, where water stains in the stone exterior are still visible, and at the point of joinder of the 1875 building and 1906 addition. The third trouble spot was along the rear wall of the 1906 addition. These locations evidenced significant damage to interior plaster walls in both courtrooms with chunks of plaster falling. The need to remove and repair was urgent.

Corrective efforts commenced immediately in 2014 with successful results being monitored for several years by both invasive observation and by computerized daily reports generated by moisture monitors inserted into the damaged areas.

In many cases large sections of plastered walls had to be removed, being as much as 15 feet high and 10 feet wide and revealing the inner brick wall of the building. In several instances scaffolding had to be built with wooden flooring and siding to protect against falling plaster. These protective structures soon began to be called "plaster catchers" in the courthouse.



LET THE BUILDING TELL YOU

One of the major dilemmas affecting the county's efforts was the development of an appropriate plan in limited time. If a complete repair of the exterior was undertaken before the repair of the interior, we would have a leak-proof shell but, due to cost, no funds to repair or restore the interior. As we also learned first-hand, once plaster dried out, it powdered or simply crumbled and

fell to the floor. Our conservator wisely advocated against immediate mass repair as ultimately ineffective and too expensive. The best approach was "let the building tell you" as we studied, addressed and prioritized multiple conditions.

There was also the major decision whether to restore the interior to its original condition, which became a subject of much debate and quite frankly disagreement among the commissioners. A balanced approach

had to be adopted and soon.

Fortunately, the county's volunteer conservator John Rita suggested the creation of a courthouse preservation oversight team similar to the Pennsylvania Capitol Preservation Committee that had been in place for years at the Pennsylvania Capitol in Harrisburg. Mr. Rita formerly had a principal role in the initial and ongoing restoration of a significant portion of the Pennsylvania Capitol commencing in the 1980s.



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DEVELOPING AND MONITORING

A lifelong resident of Blair County, Rita shared his experiences as to how to create such a committee and the effectiveness it provides in developing a restoration plan for decision-making by the county commissioners. The team known as the Courthouse Preservation Oversight Team was soon put together consisting of Rita, local architect David Albright, then President Judge Jolene Kopriva, Director of Public Works Rocky Greenland, County Administrator Helen Schmitt and Commissioner Terry Tomassetti. The team has met basically every other week since the fall of 2015 to develop and monitor the restoration effort with final decisions being made by the Board of Commissioners.

The group adopted a mission statement to guide its efforts which focused on restoration to original condition in accordance with

standards set for historic landmarks, incorporation of current technologies to facilitate efficient use, and adoption of methods to produce greatest longevity in view of a history of long deferred maintenance.

Shortly after the team's formation, the county learned that the 30-year-old HVAC system servicing the two courtrooms was on its last legs. The noise of operation was so loud that it had to be turned off in the winter and summer so that proceedings could be heard. On occasion it was necessary for judges and other participants to wear outer garments during the winter. The detail of the HVAC replacement and its cost in excess of \$1 million now had to be factored into the overall restoration work.

BACK TO THE FUTURE

As can be imagined, completion of the interior work has had a significant impact on the operation of the courts. The courts were relocated to other less than suitable areas in the

adjoining 1999 addition. As matters now stand, reopening of the two courtrooms and related court spaces is scheduled for the end of this year.

The 1875 courtroom has been almost completely restored. The ceiling has been returned to its original look by means of a less expensive but equally effective faux finish inclusive of the stenciling. The Gothic arch referenced by Oliver Williams is restored to its original ornate look and the walls are now painted in original design and color.

The judicial chambers "box" has been removed and the acoustics improved both immediately and dramatically. Period consistent chandeliers were also installed with contemporary efficiencies so that lighting, which was another deficiency, has significantly improved

The buckets of beige paint have also been removed from the wooden window frames and finely cut filigrees and the door trim and hoods. All this



work and much more including their donated provision and application of gold leaf has been superbly performed by Albert Michaels Conservation, Inc. of Harrisburg.

The elaborate Gothic niche which Oliver Williams referenced in his book has been restored to its original diaper-patterned faux golden look through the efforts of Johnson and Griffiths Studio, LLC of Harrisburg.

The 65 barrel-shaped and other chairs still in use from 1906 and the public benches for the 1875 courtroom are being repaired and refinished for the reopening by Pennsylvania Correctional Industries, otherwise known as Big House Products, along with the millwork for the judge's bench and jury's box.

The commissioners were particularly pleased to use Pennsylvania Correctional Industries which produced the dual benefit of supporting the state's correctional system goal of rehabilitating inmates through learning a trade and significantly reducing cost to the county.

The 1906 courtroom should also reopen by the end of year but with restoration limited to the conservation of a 1906 mural depicting the Declaration of Independence by Johnson and Griffiths Studio, LLC and the repair and refinishing of the original 1906 public benches also by Pennsylvania Correctional Industries. Addressing patch-work plastering and beige paint will remain for future boards of commissioners to consider.

The lawyers lobby located between the two courtrooms was the initial restoration site. Funded by a 2018 Pennsylvania Historical and Museum Commission grant, this room -

where plaster was falling - had been generally ignored and some say even abused. Prior decision makers had permitted the cutting and removal of a large section of original marble wainscoting for installation of a plywood pay window. The entire room has been restored to original condition by Albert Michaels Conservation, Inc.

RESTORED PRIDE

There is insufficient space to comment on all the work done in the past six years. However, extensive exterior restoration has included 75 windows, all painted yellow and many severely rotted with danger of falling glass, two leaking front tower slate roofs, and installation of cresting replicating the long removed original. Missing and damaged stained-glass windows actually secured by duct tape were replaced or restored, as well as the missing chin and gold leaf detail of the statue of Lady Justice.

The 185-foot-high clock tower repairs include the removal of what many called the "tower trees" growing from its crevices and installation of flashing to prevent future vegetative growth. Loose and broken masonry, some of which had fallen from the tower, has been removed and secured along with the removal of four 400-pound stone finials in immediate danger of falling.

The county is grateful for the recognition its restoration efforts have received, both as an acknowledgement of the quality of the work done and as a reassurance to its citizens that appropriate means and methods were utilized. In addition to the Pennsylvania Historical and Museum Commission grant, the six-county Southern Alleghenies Museum of Art named Blair County



as the recipient of its 2018 Award for Architectural Excellence. The restoration also received state-wide recognition from Preservation Pennsylvania this year as a recipient of a Construction Award for Rehabilitation.

The project to restore Blair County's historic courthouse is now a source of great excitement and pride in the community despite some lingering concerns about cost. The first goal listed in the Courthouse Preservation Team's Mission Statement was "to restore and preserve the courthouse, to reflect the dignity of the institutions that inhabit it, and to create a source of pride for the residents of Blair County." It can be fairly said this goal has been accomplished in the work completed to date. 🍷

For more information on this project view the recent CCAP/PCNTV video on the restoration by visiting Blair County's website at blairco.org and click on the link "Courthouse Restoration Video."

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What Makes Them **Tick**

Researchers in Penn State's College of Agricultural Sciences investigate tick behavior and molecular biology with a goal of preventing tick-borne illnesses.

Krista Weidner



If you look at the maps from the Centers for Disease Control and Prevention, Pennsylvania is the heartland for disease outbreaks of Lyme disease and other tick-transmitted diseases. We are at growing risk not only for Lyme disease, but for other serious diseases, such as anaplasmosis, spotted fevers, tularemia, ehrlichiosis, and Powassan virus disease.

Pennsylvania leads the nation in the number of confirmed cases of Lyme disease.

About 9,000 cases were reported last year, but the Centers for Disease Control estimates that, when unreported and undiagnosed cases are included, that number should be multiplied by about 10. First identified in the 1970s in the United States near Lyme, Connecticut, Lyme disease is one of the most commonly reported tick-borne diseases.

The culprit for carrying and spreading Lyme disease is the blacklegged tick. Blacklegged ticks, also called deer ticks, are found in all Pennsylvania counties and are the only known vectors of Lyme disease. The *Borrelia burgdorferi* bacterium, identified as the cause of the disease in the early 1980s, is transmitted by blacklegged ticks from small animals to humans. Between 40 and 60 percent of blacklegged ticks tested carry the

Lyme disease pathogen, though that doesn't necessarily mean all of them can transmit the disease.

Penn State researchers and extension educators are working to find and disseminate the best possible methods for tick and tick-borne disease control.

TICK CONTROL

Erika Machtinger, assistant professor of entomology, is interested in sustainable biological control methods for ticks. "I want to learn more about the ecology and behavior of ticks so we can figure out what causes them to do what they do," she says. "We know they respond to heat and chemicals released from the skin, but why do they choose a particular person? Can we avoid that selection process? I'm interested in what odors attract ticks. Can we use pheromones, as attractants or repellants, to control ticks' behavior?"

In informal experiments, Machtinger puts a cotton ball that ticks have been sitting on for several weeks in a lab dish. Then she puts other ticks in with the cotton ball to see whether they'll be attracted to tick pheromones on the cotton ball. Watching what they do could shed light on the pheromone question.

According to Gary Felton, professor and head of Penn State's Department of Entomology, this work is especially important in Pennsylvania, which is ground zero for many tick-borne diseases. "If you look at the maps from the Centers for Disease Control and Prevention, Pennsylvania is the heartland for disease outbreaks of Lyme disease and other tick-transmitted diseases," he says. "We are at growing risk not only for Lyme disease, but for other serious diseases, such as anaplasmosis, spotted fevers, tularemia, ehrlichiosis, and Powassan virus disease."

NEW SPECIES

In conjunction with the growing incidence of these diseases, new tick species inhabiting Pennsylvania, such as the Asian longhorned tick, will bring new risks to livestock, pets, and humans, Felton adds. "The factors contributing to the rise of tick populations and tick-borne diseases are poorly understood," he says. "Research is desperately needed to understand these factors and to develop effective management strategies to minimize tick populations and the diseases they spread."

Machtinger's work directly addresses these problems. She and her colleagues are working to reduce either the number of ticks in the environment or the infection status of mice, which is one of the most

important hosts. Both efforts would reduce tick-borne disease.

Current landscape-level methods for tick control rely mostly on chemical treatments that target the two primary host animals that ticks feed on: deer and mice. One method is a baiting station for deer, developed by the USDA. The station features cotton rollers treated with the pesticide permethrin. As deer come to eat from a corn-filled trough in the baiting station, they have to tilt their heads to get to the corn. As they do, they rub their heads on the rollers, essentially treating themselves for ticks. The other chemical method is a baiting device for mice. Mice attracted to food inside the device must pass through a wick treated with a pesticide that kills ticks that bite the mice.

CONTROL METHODS

Although these host-targeted methods have proven effective in some cases, Machtinger wants to explore landscape-level biological control methods to reduce pesticide use and wildlife baiting. One chemical alternative that shows promise is a naturally occurring soil fungus that kills ticks several days after they come in contact with it. It's effective in killing ticks but doesn't harm nontarget insect populations, such as pollinators.

Biological control methods will likely become more important as ticks develop pesticide resistance. Ticks have a much longer life cycle than insects—two years as opposed to two-to-four weeks for houseflies, for example—and therefore develop resistance more slowly because they're not creating many generations every year.

However, with constant applications of pesticides in the environment, Machtinger believes it's likely we'll begin to see pesticide resistance in tick populations. In fact, resistance to some compounds has already been seen in brown dog ticks in the southern United States.

TRACKING TICKS

While Machtinger studies how hosts and parasites interact, Joyce Sakamoto, assistant research professor of entomology, assesses populations of blacklegged and other tick species, tracking where they've been and where they're going.

Sakamoto and her colleagues recently completed a historical documentation of tick populations, cataloging 117 years' worth of data on ticks submitted from across Pennsylvania.

Historical information on ticks is important because the past may provide clues to predicting future tick behavior, Sakamoto says. "What's happening right now seems like the most important thing, but historical context can be valuable. Early in the 1900s, for example, we know the population of blacklegged ticks crashed because of massive deforestation. The forests were decimated, along with all the wildlife that depended on them. But over time, with the introduction of reforestation, and more deer, there was a slow recovery. Observing this process can help give us the big picture."

As well as the historical study—called passive surveillance—Sakamoto uses active surveillance to monitor current blacklegged tick populations: going into brushy, wooded, and grassy areas

and collecting ticks with a specially designed drag cloth. "The blacklegged tick is an ambush hunter," Sakamoto says. "They will climb onto vegetation and wait for a suitable host. They have their arms out—you can see them. When you're dragging this cloth, they are waiting for vibrations and when they sense it they grab hold. From the tick's point of view, if it's making that much noise it must be food."

INFECTION AND TRANSMISSION

Adult ticks thrive on large animals, especially deer, that allow them to feed and produce offspring. Female ticks drop off their hosts to lay eggs on the ground. The eggs hatch into larvae that feed on mice and other small mammals such as voles, shrews, and chipmunks throughout the summer and into early fall. Larvae then become inactive until spring, when they molt into nymphs, which also feed on small mammals through late spring and summer. Nymphs emerge as adults in the fall.

It's typically during the larval and nymphal stages of the life cycle when ticks become infected with Lyme disease bacteria as they feed on small animals that are infected with *Borrelia*. The bacteria remain in the tick throughout its life cycle, and infected

nymphs and adult ticks then bite and transmit the bacteria to other small rodents, larger animals, and humans.

Sakamoto notes that tick populations are expanding into habitats where they weren't found before. In the United States, populations of several tick species are expanding northward and westward on the east coast (and eastward from the west coast). And they're moving around worldwide as well, being transported globally by animal or human hosts. For example, last November, a tick species native to Asia was reported in the eastern United States. First discovered on a sheep in New Jersey, the Asian longhorned tick spread to at least six other states, including Pennsylvania.

"We don't know how this species will adapt to North American conditions and animals and which hosts it will select, so it's important we remain vigilant," she says. "Rather than focusing on preventing the spread of ticks, we need to find the best methods to deal with them."

PREVENTING DISEASE

In conjunction with landscape- and population-level tick studies, college researchers conduct basic science at the microscopic level to determine whether eliminating a molecule within a tick would prevent it from

becoming infected by a bacterium. Jason Rasgon, professor of disease epidemiology, and his colleagues are modifying a gene-editing technique called CRISPR to observe how molecules and bacteria interact within organisms, including ticks.

CRISPR is a tool that enables either specific elimination or insertion of genetic material within an organism's genome. But it's been problematic to use this tool in ticks. "Right now, genetic engineering by CRISPR involves injecting genetic material into the eggs of an organism, and with ticks, it's really hard," Rasgon explains. "Their eggs don't take well to being poked with a needle, so no one has been able to do genetic engineering with ticks by injecting eggs."

To overcome the problem of injecting eggs, Rasgon's group developed CRISPR technology that will allow them to inject gene-editing material directly into the pregnant female. "Then we can edit those eggs inside the tick's body before she lays them," he says. "We identified small protein molecules that will specifically bind to receptors on the developing eggs, which lets us target the gene-editing materials directly to those developing eggs. The female tick will then lay eggs that develop into genetically modified offspring. We're excited about this technology, which has important implications for research on pathogens that infect ticks but can also be applied to other organisms." 🍷

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Penn State Extension provides many valuable resources and information about tick control and management. For the latest updates on tick research, as well as practical tips, visit <https://extension.psu.edu/catalogsearch/result/?q=ticks>.

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