

# **Bond Case Briefs**

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## **OPEN RECORDS - PENNSYLVANIA**

### **Uniontown Newspapers, Inc. v. Pennsylvania Department of Corrections**

**Supreme Court of Pennsylvania - December 22, 2020 - A.3d - 2020 WL 7502321**

Newspaper petitioned to enforce a decision of Office of Open Records (OOR) that required Department of Corrections (DOC) to disclose records, pursuant to the Right to Know Law (RTKL) regarding illnesses of inmates and staff members at certain correctional facility.

The Commonwealth Court denied newspaper's motion for summary relief and then the Court, in single-judge opinions, concluded that DOC acted in bad faith, ordered disclosure of certain records, and ordered sanctions and awarded attorney fees to newspaper. DOC's petition for allowance of appeal was granted.

The Supreme Court held that:

- DOC's open records officer failed to act with diligence, which supported conclusion that DOC acted in bad faith, and
- RTKL permits recovery of attorney fees when the receiving agency determination is reversed and it deprived a requester of access to records in bad faith.

Department of Corrections' (DOC) open records officer failed to act with diligence in response to newspaper's request for records regarding illnesses of inmates and staff members at certain correctional facility, which supported conclusion that DOC acted in bad faith under Right to Know Law (RTKL); even though officer forwarded request to DOC's Health Care Bureau, officer did not seek an explanation or question Bureau's narrow interpretation that request exclusively sought records related to specific internal investigation, and officer did not take any steps to confirm whether only records that existed other than those generated in ongoing investigation were medical records.

The attorney fees provision of the Right to Know Law (RTKL) permits recovery of attorney fees when the receiving agency determination is reversed, and it deprived a requester of access to records in bad faith; recovery is not limited to when a court reverses the determination of the appeals officer or the agency deems the request denied.