



**ACT 50 – DAMAGE PREVENTION ENFORCEMENT**

**2021 – A YEAR IN REVIEW**

**STATISTICAL REPORT**



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## **Executive Summary**

This Statistical Report tracks Alleged Violation Reports (AVRs) and the subsequent actions taken by the Damage Prevention Committee (DPC). Actions include the issuance of warning letters, administrative penalties and locator, excavator, designer, or complex project education. The information in this report is based on data derived from statistical software used to determine the number of AVRs sent to the Public Utility Commission (PUC) from each county and by each affected stakeholder. Additionally, this report summarizes the number of penalties and dollar amounts administered by the DPC during the period of January 2021 through December 2021, including the total dollar amount the PUC has currently collected. The report also provides data gathered from 2019 through 2021 as a historical comparison. This report was prepared by the Damage Prevention Section of the Pennsylvania PUC's Bureau of Investigation & Enforcement.

## Damage Prevention Committee Members

<u>Terri Cooper-Smith</u> <u>Chairman</u>		Pennsylvania PUC
William Kiger		Pennsylvania One Call System
Jon Fleming		Pennsylvania Dept. of Transportation
<u>Eric Swartley</u> <u>Vice Chairman</u>	Gas Industry	UGI Utilities Inc.
<u>Mark Santayana</u> <u>Secretary</u>	Electric Industry	PPL Electric Utilities
James Dacey	Excavator	Doli Construction Corp.
Charles Dippo	Excavator	Utility Line Services Inc.
Armando Ferri	Excavator	Sicavo Consulting LLC
Kevin German	Municipal Authority	Lehigh County Authority
Thomas Clark	Municipal Government	Derry Township
Rick Moslen	Cable	Comcast
Robert Collins Jr.	Telecommunications	Windstream
Jeffrey Canfield	Water	Schuylkill County Municipal Authority

## Introduction

In 2021, the PUC worked with all stakeholders to continue to pursue the goals outlined in the provisions of Act 287. Act 287, as amended by Act 50, also is referred to as the Underground Utility Line Protection Law (PA One Call Law). The year 2021 saw significant changes to workflow as the approved bylaw changes were implemented. The DPC continued to interact with stakeholders and to function in its review and oversight role with minimal disruption throughout the calendar year.

This Statistical Report includes data from January 1, 2019, which was the first full year the PUC was tasked with the enforcement of Act 50 in order to examine the current violation trends in 2021. The information compiled in this report is utilized to help direct the education and enforcement efforts of the DPC.

## Report Background and Organization

### Report Background

On Oct. 30, 2017, the Governor signed Act 50. Act 50 included the requirement that the DPC submit an annual report containing relevant damage prevention data to the Committee on Consumer Protection and Professional Licensure of the Senate, the Committee on Consumer Affairs of the House of Representatives, and the PUC.

### Report Organization

This report focuses on the enforcement activities of the DPC from January through December 2021. Despite the ongoing challenges presented by the COVID-19 pandemic, the DPC remained productive in the exercise of its responsibilities. The Committee adjusted the way cases are processed based on the approval of the updated bylaws. The PUC's Management Information Systems (MIS) assisted with the changes. This new workflow gives stakeholders an opportunity to see the case and recommended resolution before administrative penalties are issued. Also, the new workflow allows stakeholders the opportunity to provide additional information or testimony.

The Committee continued to hold all meetings via Microsoft Teams, allowing

stakeholders to participate either via telephone or computer. A total of 101 stakeholders were brought into compliance by completing their mandated education as recommended by the DPC. The Commission's Damage Prevention Section (DPS) sent out 228 warning letters to homeowners and various stakeholders; opened 466 investigations; presented 412 cases for review at the monthly DPC meetings; and administered 1,590 recommended penalties amounting to a total of \$766,775. Enforcement activities have resulted in the collection of penalties totaling \$500,585 for Jan. 1 through Dec. 31, 2021.



# PA PUC Statistical Update

Since the inception of the PUC’s enforcement responsibilities in April 2018, the DPC has issued 4,612 violations to stakeholders with a total amount of \$2,467,365 in penalties.

The PUC has received a total of 27,333 Alleged Violation Reports (AVRs) from the Pennsylvania One Call System (POCS) via a data exchange service created to facilitate the process. Figure A below presents a monthly breakdown of the total number of AVRs received since enforcement responsibility was taken on by PUC. Figures B through D break down the AVRs by industry group and by county.

Figure A

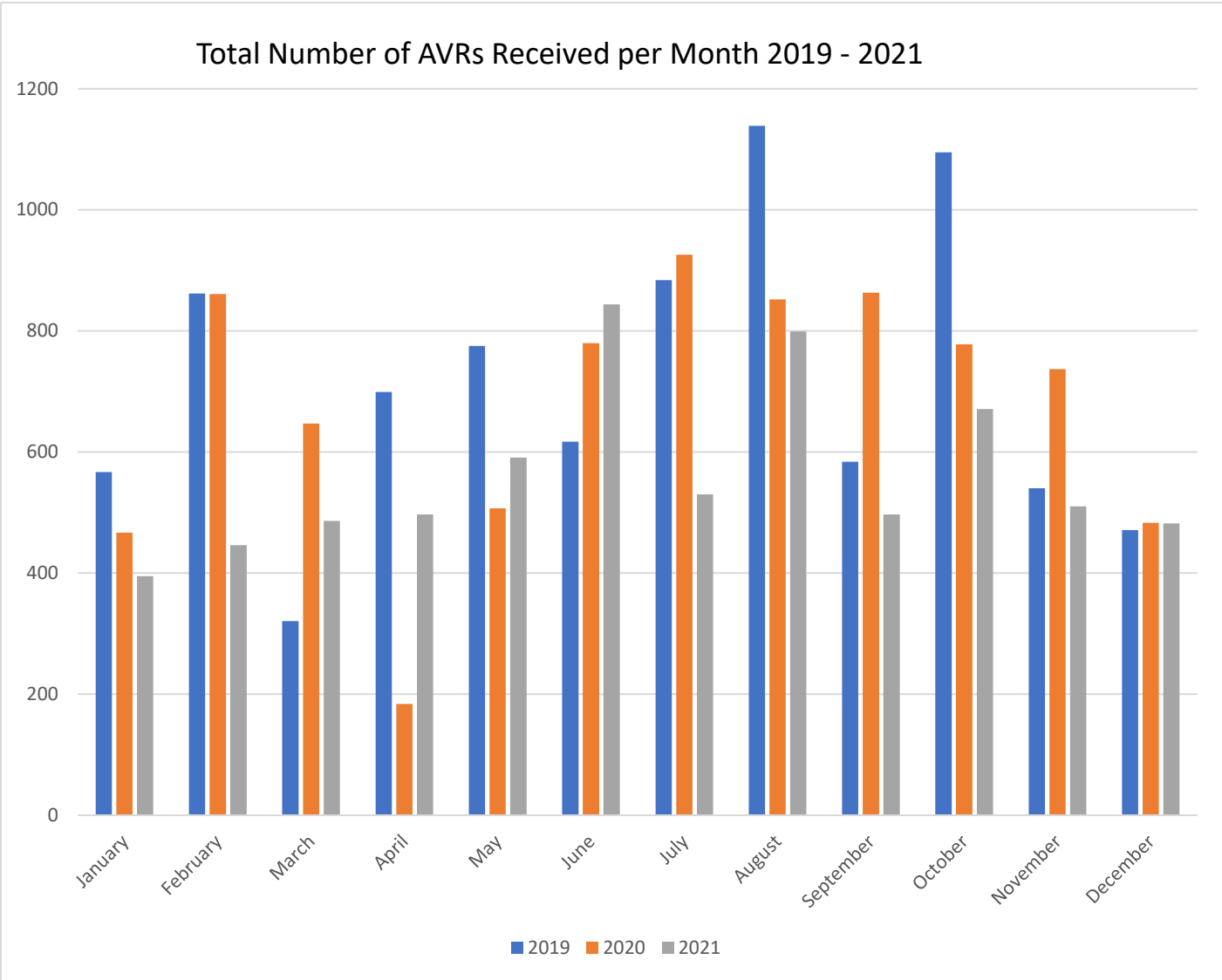


Figure B

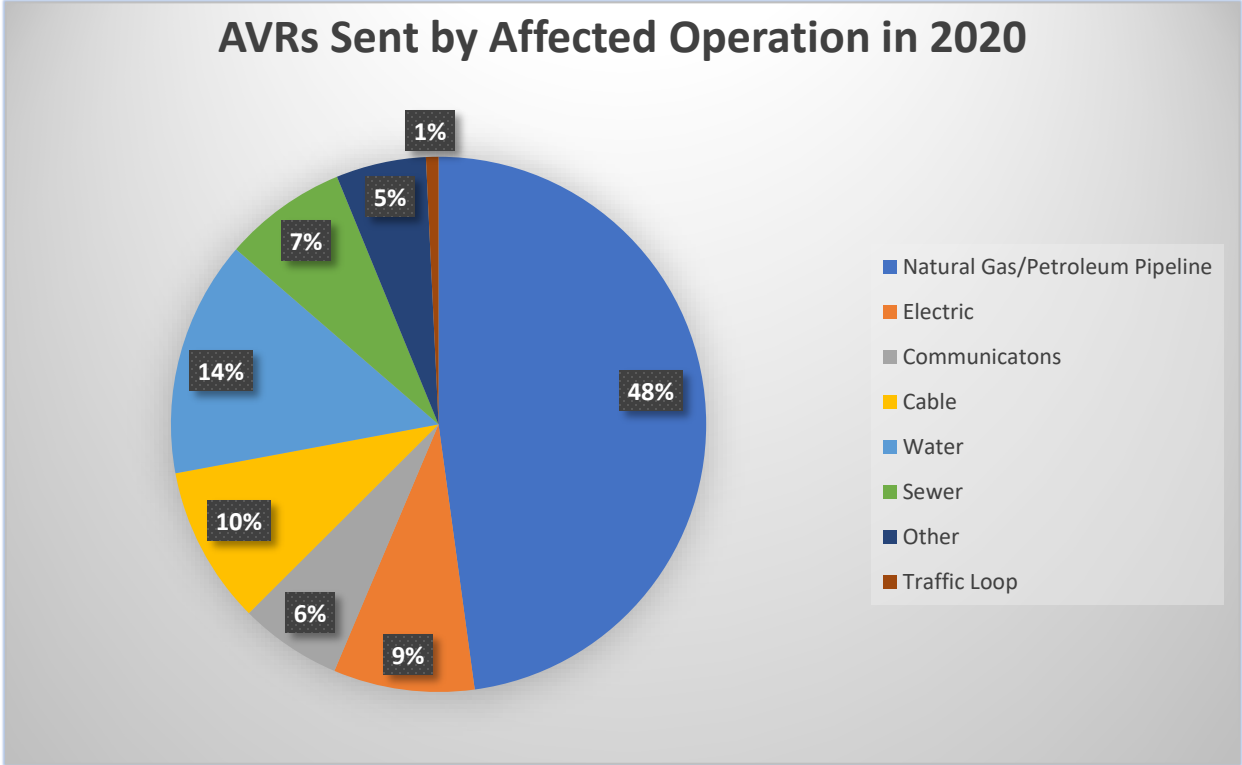


Figure C

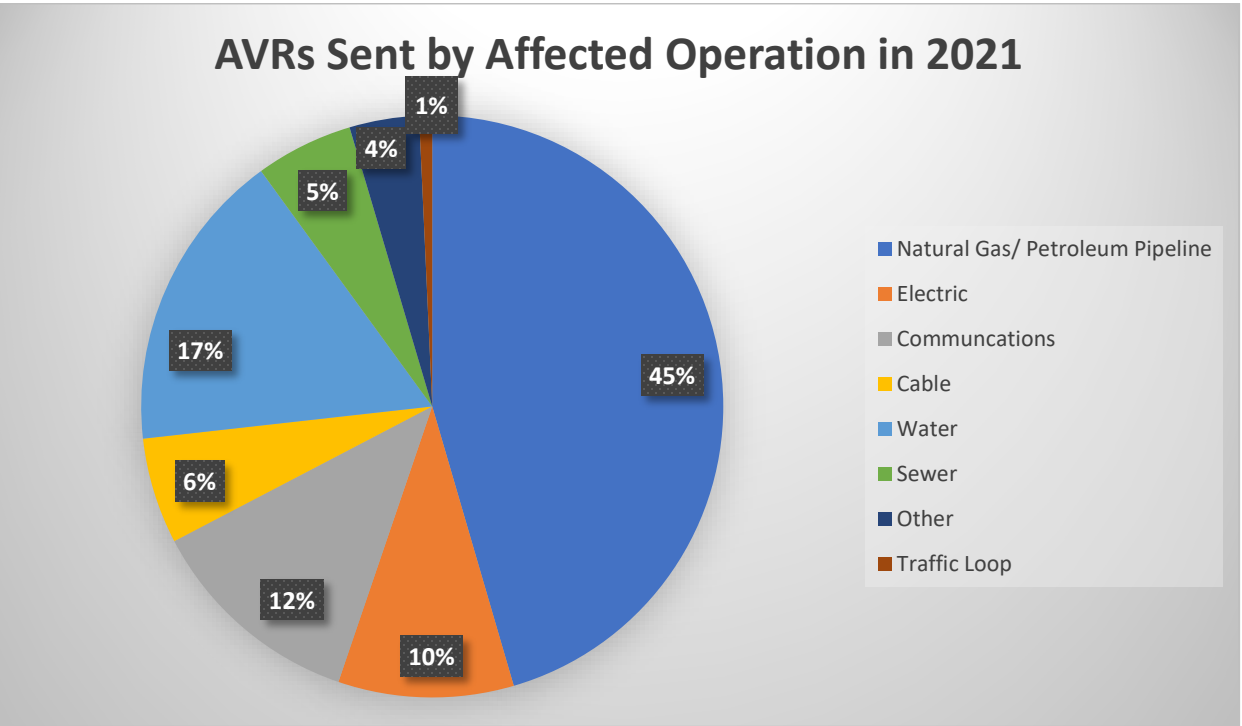


Figure D

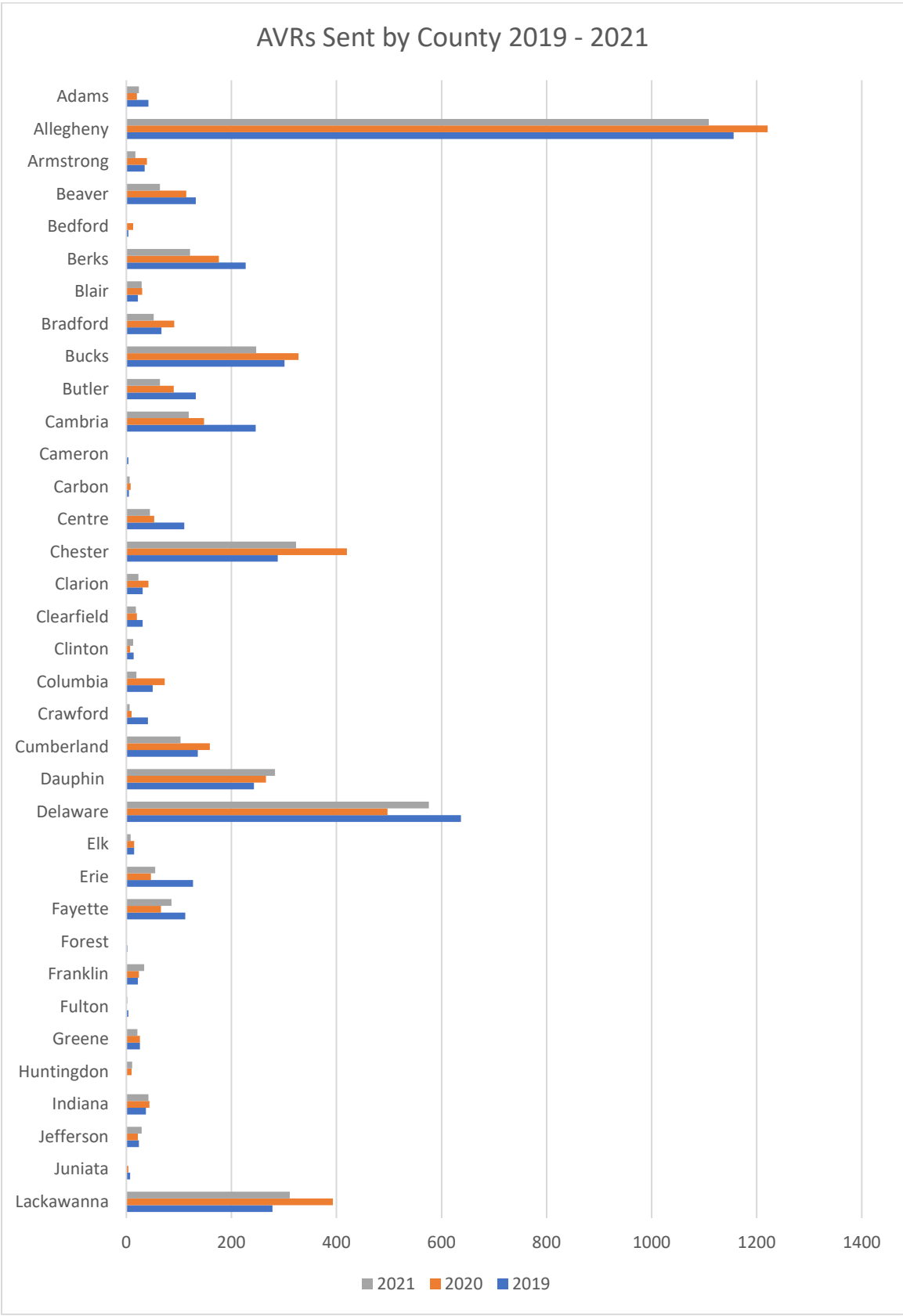
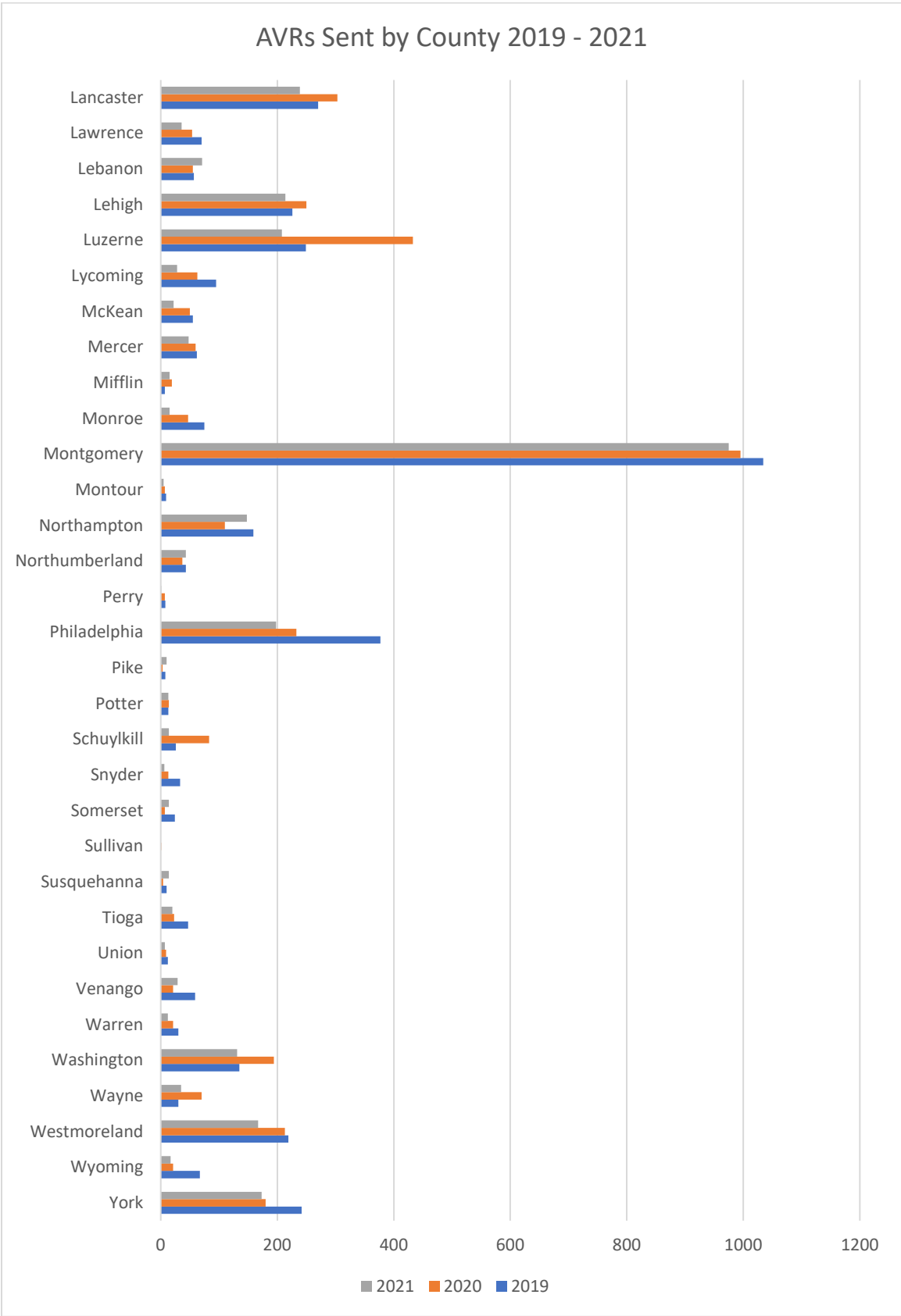


Figure D Continued





One of the PUC's Damage Prevention goals is to progressively reduce the number of underground utility line hits. The number of tickets<sup>1</sup> issued by the POCS was 1,037,463 in 2019, and 991,975 in 2020. In 2021 ticket numbers were reported as 1,046,498. Additionally, the number of AVRs the PUC received in 2019 was 8,419 and 8,085 in 2020. In 2021, there were 6,793 AVRs received. This represents an approximate 28% reduction from 2019, and 16% reduction from 2020. The increase in the reporting of AVRs and damages in the first few years was expected due to enhanced knowledge and enforcement efforts. The establishment of a baseline number for the annual hits and AVRs will present itself as enforcement continues over the next years. Construction activity during the calendar year 2020 and first quarter of 2021 may be skewed due to the disruption in activity because of the pandemic. Therefore, the establishment of baseline numbers for AVRs and hits will continue to evolve as additional data becomes available.

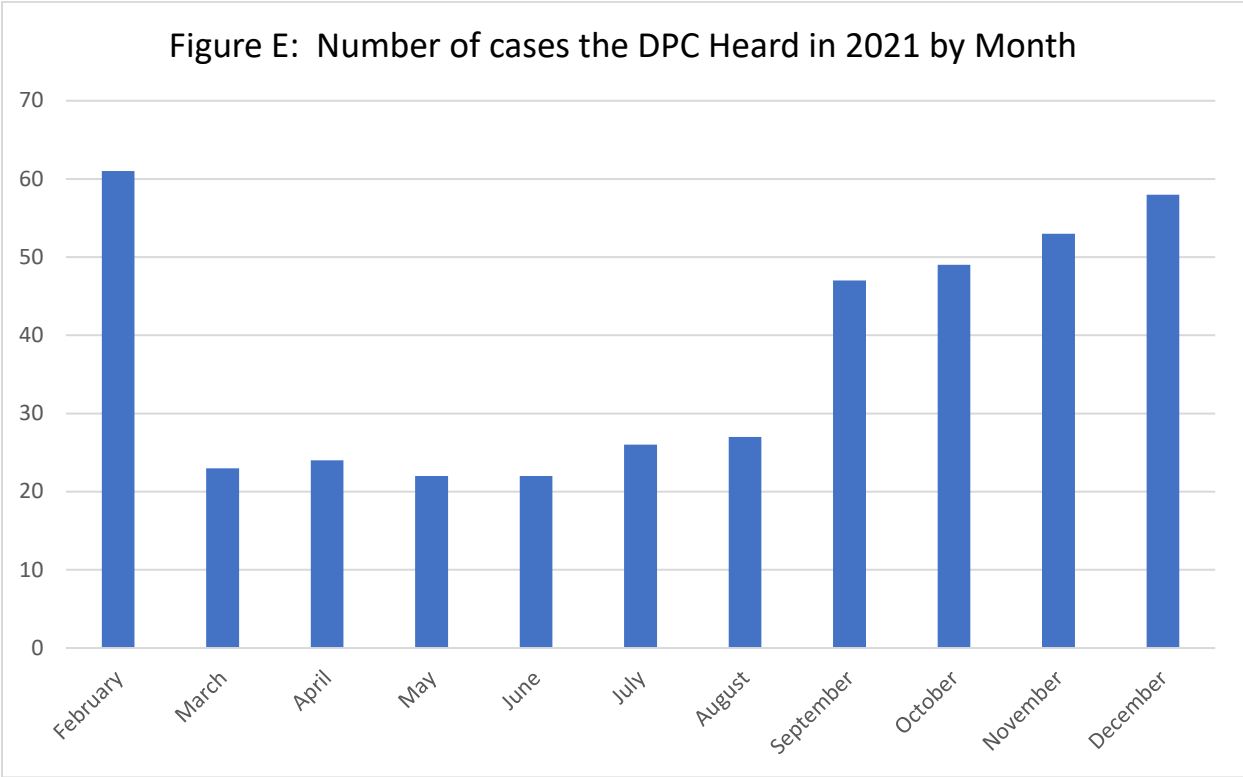
As shown in Figure D, Allegheny County had the most reported damages in 2021 followed closely by Montgomery County. Natural Gas/Petroleum Pipeline remains the most reported damaged facility type (see Figure B and C), which may be due to the stricter mandated Pipeline and Hazardous Materials Safety Administration (PHMSA) regulatory reporting requirements.

In 2021, the DPS continued to work virtually and held monthly meetings via Microsoft Teams. The PUC and DPC worked to update the case workflow as required by the bylaw changes that went into effect in January with minimal interruptions to the process.

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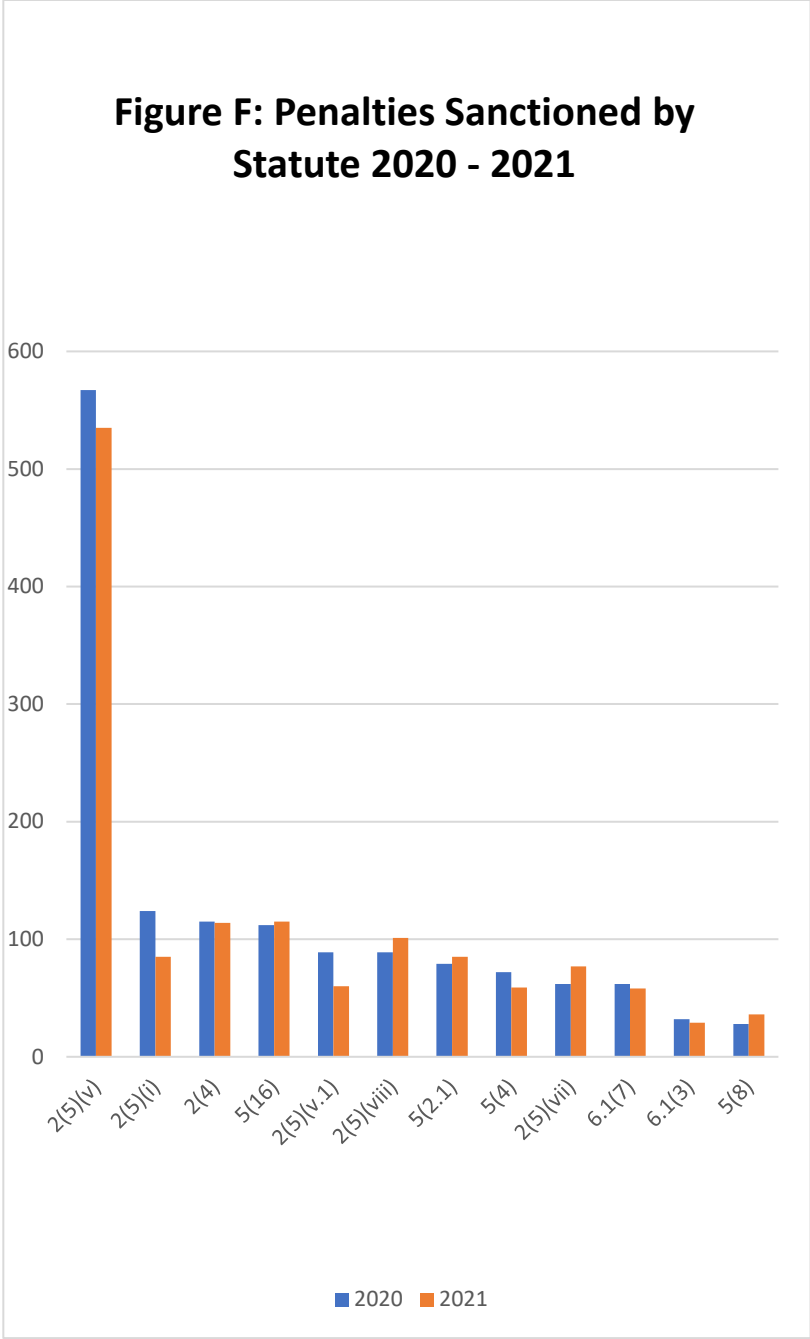
<sup>1</sup> Information obtained from Pennsylvania One Call.

Figures E-G provide statistical data for cases, penalties and violations



**\* The PUC did not conduct a DPC Meeting during January 2021.**

**Figure F: Penalties Sanctioned by Statute 2020 - 2021**



**Figure G1 Most Common Penalties 2020**

Statute	Description	Count
<b>2(5)(v)</b>	Failed to respond to a routine One Call Ticket	543
<b>2(5)(i)</b>	Failed to locate underground lines within 18 inches horizontally of the outside wall of the line	116
<b>2(4)</b>	Failed to respond to Designer's request for information within 10 business days	111
<b>5(16)</b>	Failed to submit an Alleged Violation Report within 10 business days of striking a line	111
<b>2(5)(viii)</b>	Failed to participate in preconstruction meetings for a complex project or as described in section 5(3)	86
<b>2(5)(v.1)</b>	Failed to communicate directly with excavator within 2 hours of renotification	78
<b>5(2.1)</b>	Excavator failed to submit a location request to One Call within the correct timeframe	78
<b>5(4)</b>	Failed to exercise due care and employ prudent excavation techniques	71
<b>6.1(7)</b>	Project owner failed to submit an Alleged Violation Report within 10 business days of a line strike	61
<b>2(5)(vii)</b>	Failed to respond to an emergency notification as soon as practicable following notification	60
<b>6.1(3)</b>	Released a project to bid or construction before final design was complete	32
<b>5(8)</b>	Failed to immediately notify 911 and the facility owner when damage resulted in the escape of gas or liquid which may endanger life, health or property	28

**Figure G2 Most Common Penalties 2021**

Statute	Description	Count
<b>2(5)(v)</b>	Failed to respond to a routine One Call Ticket	535
<b>5(16)</b>	Failed to submit an Alleged Violation Report within 10 business days of striking a line	115
<b>2(4)</b>	Failed to respond to Designer's request for information within 10 business days	111
<b>2(5)(viii)</b>	Failed to participate in preconstruction meetings for a complex project or as described in section 5(3)	101
<b>2(5)(i)</b>	Failed to locate underground lines within 18 inches horizontally of the outside wall of the line	85
<b>5(2.1)</b>	Excavator failed to submit a location request to One Call within the correct timeframe	85
<b>2(5)(vii)</b>	Failed to respond to an emergency notification as soon as practicable following notification	77
<b>2(5)(v.1)</b>	Failed to communicate directly with excavator within 2 hours of renotification	60
<b>5(4)</b>	Failed to exercise due care and employ prudent excavation techniques	59
<b>6.1(7)</b>	Project owner failed to submit an Alleged Violation Report within 10 business days of a line strike	58
<b>5(8)</b>	Excavator failed to immediately notify 911 and the facility owner when damage resulted in the escape of gas or liquid which may endanger life, health or property	36



## Figure H

## 2021 Penalties by Statute

Statute	Description	Count	Penalty	Factor	Total Penalty
2 (5)(v)	Failed to respond to a routine One Call ticket	298	\$187,125.00	\$0.00	\$187,125.00
2 (5)(v)	Failed to respond to a routine One Call ticket within the required amount of time	237	\$83,625.00	\$0.00	\$83,625.00
5 (16)	Excavator failed to submit an Alleged Violation Report within 10 business days of striking a line	115	\$24,125.00	\$0.00	\$24,125.00
2 (4)	Failed to respond to Designer's request for information within 10 Business Days	114	\$37,100.00	\$0.00	\$37,100.00
2 (5)(viii)	Failed to participate in preconstruction meetings for a complex project or as described in section 5(3)	101	\$73,500.00	\$0.00	\$73,500.00
2 (5)(i)	Failed to locate underground lines within 18 inches horizontally of the outside wall of line	85	\$58,750.00	\$2,650.00	\$61,400.00
5 (2.1)	Excavator failed to submit a location request to One Call within the correct timeframe <sup>85</sup>	85	\$52,625.00	\$600.00	\$53,225.00
2 (5)(vii)	Failed to respond to an emergency notification as soon as practicable following notification	77	\$57,000.00	\$0.00	\$57,000.00
2 (5)(v.1)	Failed to communicate directly with excavator within 2 hours of renotification	60	\$26,250.00	\$0.00	\$26,250.00
5 (4)	Excavator failed to exercise due care and employ prudent excavation techniques	59	\$27,250.00	\$1,300.00	\$28,550.00
6.1 (7)	Project owner failed to submit an Alleged Violation Report within 10 business days of a line strike	58	\$15,625.00	\$0.00	\$15,625.00
5 (8)	Excavator failed to immediately notify 911 and the facility owner when damage resulted in the escape of gas or liquid which may endanger life, health or property	36	\$32,000.00	\$200.00	\$32,200.00
5 (17)	Excavator failed to comply with all requests for information from PUC staff within thirty days of the receipt of the request	31	\$7,375.00	\$0.00	\$7,375.00
6.1 (3)	Released a project to bid or construction before final design was complete	29	\$14,750.00	\$0.00	\$14,750.00
2 (5)(i.1)	Failed to locate an actually known facility's point of connection to its facilities	20	\$5,500.00	\$0.00	\$5,500.00
4 (8)	Designer failed to submit an Alleged Violation Report through the One Call System within 30 business days of being made aware that a line strike occurred during excavation or demolition	15	\$3,250.00	\$0.00	\$3,250.00
5 (2.1)	Homeowner failed to submit a location request to One Call within the correct timeframe	13	\$0.00	\$0.00	\$0.00
5 (7)	Excavator failed to immediately report to the facility owner any break or leak in its lines, or any dent, gouge, groove or other damage to such lines or to their coating or cathodic protection made or discovered in the course of the excavation or demolition work	13	\$10,000.00	\$0.00	\$10,000.00
5 (3)	Excavator failed to hold a preconstruction meeting prior to beginning a complex project	11	\$2,500.00	\$0.00	\$2,500.00
5 (3)	Excavator failed to preserve mark-outs or request a remark	11	\$4,000.00	\$0.00	\$4,000.00
5 (13)	Excavator changed the location, scope or duration of a proposed excavation without notifying the One Call System.	9	\$2,250.00	\$125.00	\$2,375.00
5 (6)(i)	Excavator failed to plan the excavation or demolition work to avoid damage to or minimize interference with a facility owner's facilities in the construction area	9	\$2,000.00	\$125.00	\$2,125.00
6.1 (1)	Failed to utilize sufficient quality levels of subsurface utility engineering or other similar techniques to properly determine the existence and positions of underground facilities when designing known complex projects having an estimated cost of four hundred thousand dollars (\$400,000) or more	9	\$4,000.00	\$0.00	\$4,000.00
5 (3.1)	Scope of project exceeds the maximum area of a routine ticket	8	\$2,000.00	\$0.00	\$2,000.00

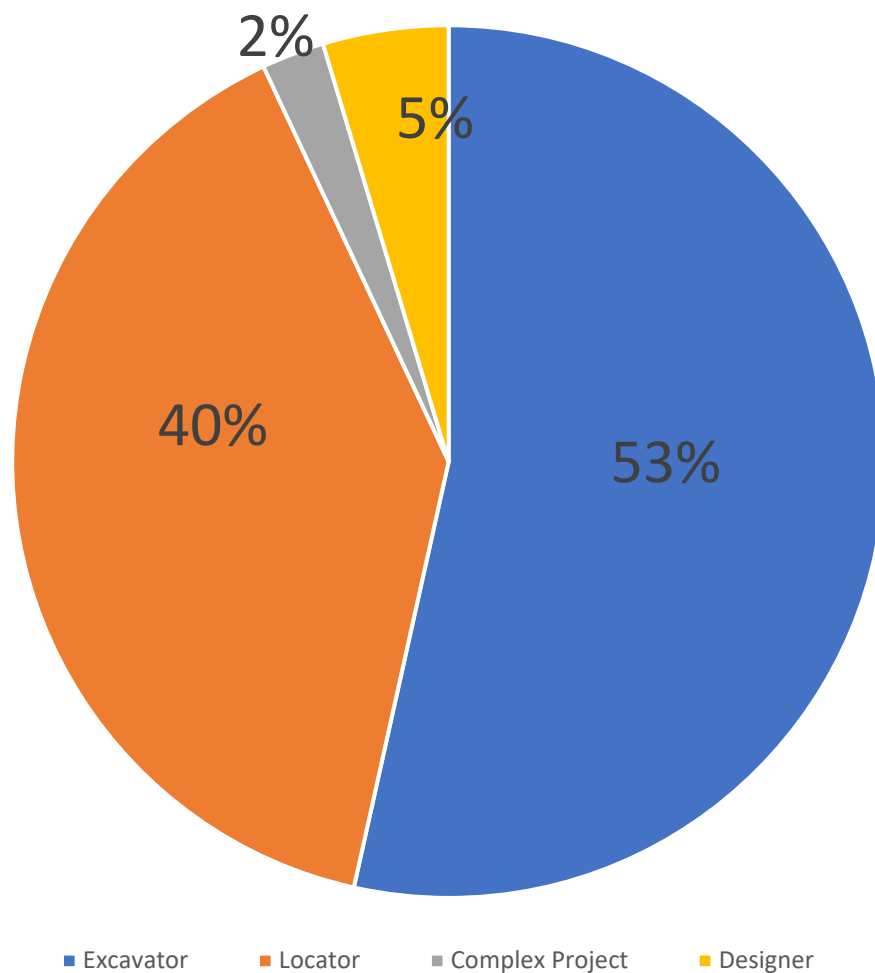
Statute	Description	Count	Penalty	Factor	Total Penalty
5 (9)	Emergency notification does not meet the requirements of "emergency" as defined in Section 1 - Excavator Ticket	7	\$6,000.00	\$0.00	\$6,000.00
2 (10)	Facility owner failed to submit an Alleged Violation Report through the One Call System within 30 business days of receiving notice that one of its lines had been damaged	6	\$1,500.00	\$0.00	\$1,500.00
4 (2)	Designer failed to request the line and facility information prescribed by section 2 (4) from the One Call System not less than ten nor more than ninety business days before final design is to be completed	6	\$2,500.00	\$0.00	\$2,500.00
5 (20)	Excavator failed to renotify One Call of an unmarked or incorrectly marked	6	\$1,250.00	\$0.00	\$1,250.00
2 (1)	Facility owner is not a member of One Call	5	\$1,000.00	\$325.00	\$1,325.00
2 (5)(13)	Failed to maintain existing records of main lines abandoned on or after the date and to mark, Locate or identify the main lines	5	\$1,000.00	\$0.00	\$1,000.00
5 (11.2)	When using horizontal directional drilling (HDD), Excavator failed to utilize the best practices published by the HDD Consortium	5	\$2,000.00	\$0.00	\$2,000.00
5 (19)	Excavator failed to provide accurate information to the One Call System	5	\$1,250.00	\$0.00	\$1,250.00
5 (2.2)	Excavator failed to provide exact information to identify the worksite	5	\$750.00	\$0.00	\$750.00
2 (11)	Facility owner failed to comply with all requests for information by the Commission relating to the Commission's enforcement authority under Act 50	4	\$500.00	\$0.00	\$500.00
5 (21)	Excavator failed to pay the annual fee for services provided by the One Call system	4	\$750.00	\$0.00	\$750.00
2 (1)(ii)(A)	Failed to provide the One Call System with the counties, municipalities, and wards in which its lines are located.	3	\$500.00	\$0.00	\$500.00
2 (5)(vi)	Lines were not marked in compliance with the Common Ground Alliance Best Practices for Temporary Marking (ANSI standard Z535.1)	3	\$500.00	\$0.00	\$500.00
4 (4)	Failed to prepare construction drawings to avoid damage to and minimize interference with facilities in the construction area	3	\$750.00	\$0.00	\$750.00
4 (5)	Designer's drawing does not include One Call's toll free number and the serial number of the ticket	3	\$750.00	\$0.00	\$750.00
5 (11)	Excavator failed to use the color white to mark a proposed excavation work site when exact work site information could not be provided	3	\$750.00	\$100.00	\$850.00
5 (15)	Project Owner or Designer prepared contract documents which attempt to waive an excavator's rights under section 5(15) of Act 50.	3	\$1,500.00	\$0.00	\$1,500.00
5 (8)	Excavator vacated worksite after causing damage that resulted in the escape of gas or liquid which may endanger life, health or property	3	\$3,000.00	\$0.00	\$3,000.00
5 (6)(ii)	Excavator failed to provide support and mechanical protection for known facility owner's lines at the construction work site during the excavation or demolition work, including during backfilling operations	2	\$500.00	\$0.00	\$500.00
2 (12)	Failed to participate in the One Call system's Member Mapping Solutions, as determined by the One Call Systems' board of directors	1	\$0.00	\$0.00	\$0.00
2 (5)(iii.1)	Facility owner failed to propose a mutually agreeable scheduling by which the excavator, facility owner or designer may locate underground facilities	1	\$250.00	\$0.00	\$250.00
2 (5)(ix)	Facility owner failed to respond promptly to the site of an excavation where its underground line was damaged causing an escape of a flammable, toxic or corrosive gas or liquid which endangered life, health or property	1	\$1,000.00	\$0.00	\$1,000.00
4 (3)	Designer's drawing does not show the position and type of each facility owner's line, and the name of the facility owner(s)	1	\$250.00	\$0.00	\$250.00
5 (16)	Homeowner failed to submit an Alleged Violation Report within 10 business days of striking a line	1	\$0.00	\$0.00	\$0.00
5 (5)	Excavator failed to exercise due care when facility owner is unable to mark	1	\$500.00	\$0.00	\$500.00
		<b>1590</b>	<b>\$761,350.00</b>		<b>\$766,775.00</b>

## Education

The Damage Prevention Program, as administered by the PUC, remains focused on education. In many cases, the DPC designates education as an alternative method of enforcement in lieu of substantiated administrative penalties. In 2021, the DPC and recommendations of the DPS placed more emphasis on education and continued to prioritize education as a corrective measure.

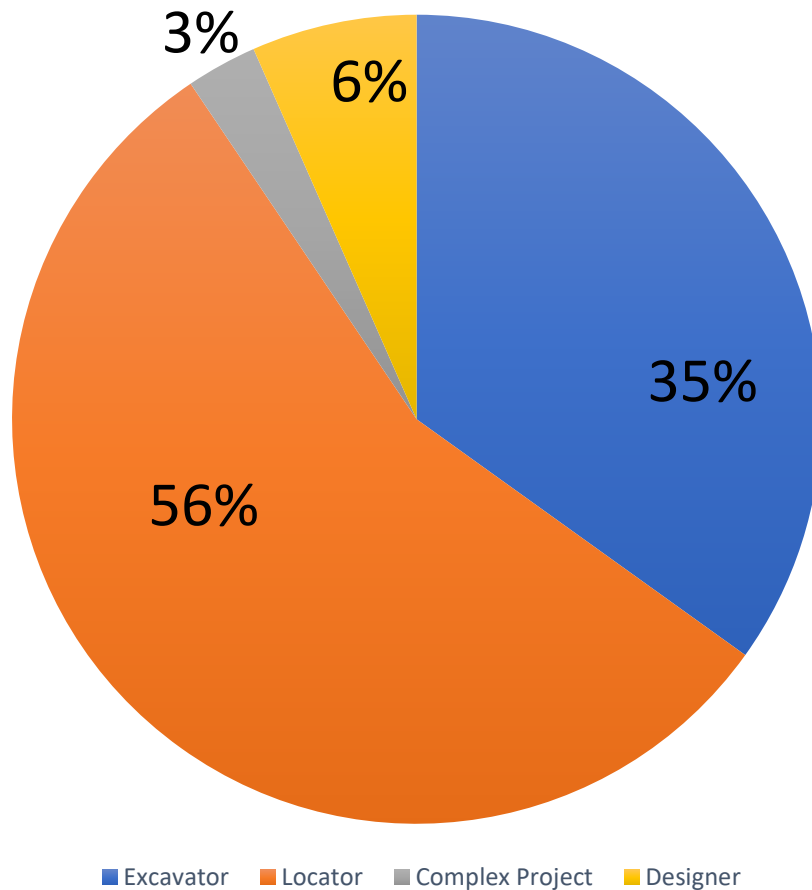
In 2020, the DPC heard 29 Discussion Cases and voted on 422 Omnibus Cases. Of the 451 cases voted on by the DPC, 43 of them included an educational component as part of the recommendation from the DPC.

**Figure I: Recommended Education by DPC in 2020**



In 2021, the DPC heard 214 Discussion Cases, commented on 28 pre-discussion cases, and voted on 169 Omnibus Cases. Of the 411 cases voted on by the DPC, 106 included an educational component as part of the recommendation from the DPC. Pre-discussion cases are a new feature in 2021, having been added in the updated bylaw changes. The DPC began hearing pre-discussion cases in August 2021.

**Figure J: Recommended Education by DPC in 2021**





The POCS modified its education program in 2020 adapting to the needs of the DPC becoming a virtual environment. At the end of 2021, the POCS began offering both virtual and in-person training. With education modules and compliance tests tailored to both in-person and online formats, POCS is an efficient and varied resource for continuing education compliance recommendations.

The PUC, by and through its Damage Prevention Program, remains optimistic that given the enhanced resources and commitment to training to all new stakeholders, we will see more parties obtaining education in 2022, which will lead to improved performance. The DPC encourages all interested parties including the excavation community, designers and facility owners to utilize these formats to improve their internal procedures for a more reliable, safer Pennsylvania.

## Summary

This report presented statistics for the enforcement of Act 50 encompassing information available through the end of 2021. The data gathered is utilized to track trends over time and identify accomplishments and opportunities in damage prevention enforcement.

2021 saw the continuation of online meetings and an update to the procedures used by both the DPS and the DPC. Stakeholders now have the opportunity to dispute penalties after initial DPC review, but before the final vote. During this stakeholder review period, any party may provide additional information and exhibits. The DPC now has the ability to pull cases for a new pre-discussion phase where cases are discussed before the public based on the severity of the incident or to discuss violations that are unusual for the Committee to review.

Overall, the findings for 2021 indicate that there has been a significant reduction in damages over 2019 and 2020. The number of AVRs is decreasing even though more parties are aware that there is a reporting requirement. In addition, education recommendation levels are increasing annually. Between 2018 and 2021, the data has shown that a majority of offenders are first-time offenders who have not returned during this time frame. The DPC maintains that this trend is indicative of the effects that enforcement has had on the industry. There also is a marked improvement in ticket responses by facility owners over previous years. Furthermore, there has been an improvement in the number of design tickets with complete responses. Attendance at preconstruction meetings has gone up substantially. These pre-excavation initiatives give all parties an opportunity to communicate and work together on large-scale projects. Studies from other states show that these pre-excavation efforts result in fewer line damages.

The Commission's Damage Prevention Program, which includes the DPC, DPS and POCS remains committed to upholding the standards of Act 50 and further reducing damage to underground facilities, along with continuing to make Pennsylvania safer.

## References

Bureau of Investigation and Enforcement. (January 2, 2022). *Damage Prevention Reports 2021*. Retrieved from PUC's statistical software; Damage Prevention Dashboard. (Figures A, B, C, D1, D2, E, F, G1, G2, H, I, J)

Pennsylvania One Call System



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