

A SURVEY ANALYSIS OF *SILVER V. BOROUGH OF  
WILKINSBURG*: AN INTERPRETATION OF FINAL ACTION  
UNDER 708(B)(7)(VIII) OF THE PENNSYLVANIA RIGHT-  
TO-KNOW LAW

I. INTRODUCTION

The federal Freedom of Information Act<sup>1</sup> was enacted in order to encourage public access to information regarding activities of federal agencies.<sup>2</sup> Pennsylvania encourages public access in a similar fashion through the Pennsylvania Right-to-Know Law (RTKL).<sup>3</sup> An analysis of *Silver v. Borough of Wilkesburg*<sup>4</sup> reveals another layer of the RTKL, particularly an interpretation of production of a 'final action' in section 708(b)(7)(viii) as it pertains to the final action in an employee termination letter.<sup>5</sup> Specifically, this case holds that an employee termination is the final action requiring disclosure under the RTKL.<sup>6</sup> The employee termination letter is the record of that final action and is exempt from disclosure under the RTKL because it contains personnel information, including prior disciplinary action.<sup>7</sup> Although the court needed to define final action, it is argued that the purpose behind the RTKL would be furthered if final action was defined to include the entire employment termination letter.

Part II of this survey discusses the background of the RTKL and details the purpose behind the RTKL and the Sunshine Act, which is often analyzed alongside the RTKL. It further addresses the definition of final action prior to the *Silver* decision by looking specifically at *Lutz v. City of Philadelphia*.<sup>8</sup> Part III includes a brief explanation of the facts, procedural history, and main issues in the survey case. It also analyzes both parties' arguments, as well as the

---

<sup>1</sup> Freedom of Information Act, 5 U.S.C. § 552 (2012).

<sup>2</sup> *Id.*

<sup>3</sup> 65 PA. STAT. ANN. §§ 67.101-.3104 (West 2010).

<sup>4</sup> *Silver v. Borough of Wilkesburg*, 58 A.3d 125 (Pa. Commw. Ct. 2012).

<sup>5</sup> *Id.* at 126.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Lutz v. City of Phila.*, 6 A.3d 669 (Pa. Commw. Ct. 2010).

majority and dissenting opinions. Part IV commends the *Silver* court for providing Pennsylvania attorneys with an interpretation of final action under the RTKL. However, Part IV also criticizes the court because its interpretation of final action likely goes against the purpose of the RTKL. Finally, Part V provides a brief summarization of the major points raised herein, as well as the issues likely to arise as a result of this decision and the impact on administrative law in Pennsylvania.

## II. BACKGROUND

### A. *Pennsylvania's Right-to-Know Law and the Sunshine Act*

In order to interpret the language of a statute, the court usually looks to the purpose behind the law. The purpose of the RTKL is to "enlarge the rights of the general public for the examination and inspection of public records."<sup>9</sup> The legislature intended the statute to promote transparency in government, and likewise, hold government officials responsible for their actions.<sup>10</sup> The law provides an additional 'check' on governmental officials by the Commonwealth's citizens in order to prevent corruption and back-door deals. Under the RTKL, the Commonwealth's citizens have access to public, legislative, or financial records, and an agency may not deny access to a request for public records unless otherwise provided by the law.<sup>11</sup> Any denial of access to an agency's records must be explained in a writing that includes a description of the requested information with a justification for denying the request.<sup>12</sup> An agency's reason for denying public access to a record may not be modified.<sup>13</sup> Additionally, if an

---

<sup>9</sup> *Wiley v. Woods*, 141 A.2d 844, 848 (Pa. 1958).

<sup>10</sup> *Allegheny Cnty. Dep't of Admin. Servs. v. A Second Chance, Inc.*, 13 A.3d 1025, 1034 (Pa. Commw. Ct. 2011) (quoting *Bowling v. Office of Open Records*, 990 A.2d 813, 824 (Pa. Commw. Ct. 2010)).

<sup>11</sup> *See* 65 PA. STAT. ANN. §§ 67.101-3104 (West 2010).

<sup>12</sup> *Id.* § 67.903 (requiring the writing to include legal authority to justify the denial).

<sup>13</sup> *Signature Info. Solutions, LLC v. Aston Twp.*, 995 A.2d 510, 514 (Pa. Commw. Ct. 2010).

agency does not initially assert its justification for denial, then it waives the right to raise it on appeal.<sup>14</sup>

The RTKL presumes that a record in a Commonwealth agency's possession is a public record.<sup>15</sup> Under section 708(b) of the RTKL, there are exceptions for certain types of public records that are not accessible to the public.<sup>16</sup> Section 708(b)(7)(viii) provides an exception for records relating to an agency employee regarding employment termination.<sup>17</sup> Specifically, section 708(b)(7)(viii) states: "Information regarding discipline, demotion or discharge contained in a personnel file . . . shall not apply to the final action of an agency that results in demotion or discharge."<sup>18</sup> However, the RTKL does not provide a definition for final action.<sup>19</sup> Therefore, when the statute is ambiguous, the plain and ordinary meaning of the language of the statute should be effectuated.<sup>20</sup>

Another statute, with a similar purpose to the RTKL, is the Sunshine Act.<sup>21</sup> Since both the RTKL and the Sunshine Act are intended to provide a comprehensive overview of public access to the intricacies of government agencies, it would be prudent to also understand the purpose behind the Sunshine Act. The purpose of the Sunshine Act is to give the Commonwealth citizens the opportunity, if they so chose, to participate in public agency meetings, and to witness the deliberations and brain-storming sessions that went into making decisions.<sup>22</sup> Because they both relate to public access to government information, courts have found the RTKL and the Sunshine Act should be analyzed with one another.<sup>23</sup>

---

<sup>14</sup> *Id.*

<sup>15</sup> tit. 65, § 67.305(a).

<sup>16</sup> *Id.* § 67.708(b).

<sup>17</sup> *Id.* § 67.708(b)(7)(viii).

<sup>18</sup> *Id.*

<sup>19</sup> *See id.* § 67.102 (showing that no definition is provided for final action).

<sup>20</sup> *In re* Condemnation of a Permanent Right-of-Way, 873 A.2d 14, 17 (Pa. Commw. Ct. 2005).

<sup>21</sup> 65 PA. CONS. STAT. ANN. §§ 701-716 (West 2010).

<sup>22</sup> Soc'y Hill Civic Ass'n v. Phila. Bd. of License & Inspection Review, 905 A.2d 579, 584 (Pa. Commw. Ct. 2006).

<sup>23</sup> *See* Schenck v. Twp. of Center, Butler Cnty., 893 A.2d 849, 853 (Pa. Commw. Ct. 2006) (explaining the purpose of the Sunshine Act).

*B. Case Law*

There is no previous case law that directly addresses the issue of a "final action" within an employment termination context. However, in *Lutz v. City of Philadelphia*,<sup>24</sup> the court does mention redacting certain personal information in order to provide the public record that is required to be disclosed.<sup>25</sup> In *Lutz*, an employee of Philadelphia Newspapers, LLC submitted a request to the City of Philadelphia under the RTKL.<sup>26</sup> The newspaper wanted to review all arbitration awards, including any decisions by the arbitrator, pertaining to police officers from 2005 through 2010.<sup>27</sup> The city reviewed the request and identified 187 arbitration awards that were subject to disclosure.<sup>28</sup> The city planned on providing "redacted copies of the requested documents."<sup>29</sup>

Upon hearing of the city's plans, the Fraternal Order of Police, Lodge No. 5 (Union) petitioned for injunctive relief to enjoin the city from disclosing any arbitration awards subject to Philadelphia Newspapers' RTKL request.<sup>30</sup> The Union believed that the disclosure of the arbitration records might reveal personal information of the police officers, thereby jeopardizing the police officers' safety.<sup>31</sup> The court issued the injunction and ordered the city to comply with the RTKL request by providing a summary of the arbitration awards that only included "(1) the date the arbitration award was issued; (2) the name of the arbitrator; and (3) whether the grievance was affirmed or denied."<sup>32</sup> The *Lutz* court interpreted section 708(b)(8)(ii) of the RTKL,<sup>33</sup> which is similar to section 708(b)(7)(viii).<sup>34</sup> Section 708(b)(8)(ii) states that the following are exempt from disclosure:

---

<sup>24</sup> *Lutz v. City of Phila.*, 6 A.3d 669 (Pa. Commw. Ct. 2010).

<sup>25</sup> *Id.* at 675 (quoting 65 PA. STAT. ANN. § 67.708(b)(6)(ii)-(iii) (West 2010)).

<sup>26</sup> *Id.* at 671.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Lutz*, 6 A.3d at 671.

<sup>31</sup> *Id.* at 672.

<sup>32</sup> *Id.*

<sup>33</sup> 65 PA. STAT. ANN. § 67.708(b)(8)(ii) (West 2010).

<sup>34</sup> *Id.* § 67.708(b)(7)(viii).

In the case of the arbitration of a dispute or grievance under a collective bargaining agreement, an exhibit entered into evidence at an arbitration proceeding, a transcript of the arbitration or the opinion. This subparagraph shall not apply to the final award or order of the arbitrator in a dispute or grievance procedure.<sup>35</sup>

The court held that the arbitration awards and orders should be provided to the newspaper.<sup>36</sup> However, if they contained any information that is exempt under section 708(b)(8)(ii) of the RTKL, that information had to be redacted.<sup>37</sup> The court further held that redaction was appropriate in this type of situation and the legislature provided guidance on how to appropriately use redaction for exempt information, while still disclosing the requested information under the RTKL.<sup>38</sup>

The trial court in *Lutz* pointed to the exception for certain employee records in section 708(b)(7) of the RTKL.<sup>39</sup> The court specifically stated that "[a]ssuming, *arguendo*, that an arbitration award can be considered . . . 'information regarding discipline, demotion or discharge,' " this information does "not apply to the final action of an agency that results in demotion or discharge."<sup>40</sup> The trial court in *Lutz* failed to address what section 708(b)(7) means and, in fact, suggested in its opinion that it did not know what the section was intended to mean.<sup>41</sup> However, the *Lutz* court did state that although it was unsure what section 708(b)(7) meant, it was clear that it was accompanied by a command in section 708(b)(8)(ii) to provide the public with access to the " 'final award or order' of an arbitrator."<sup>42</sup> This further illustrates that the survey case's holding defines a specific area of the RTKL that prior courts have chosen not to address.

---

<sup>35</sup> *Id.* § 67.708(b)(8)(ii).

<sup>36</sup> *Lutz*, 6 A.3d at 674.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 675.

<sup>40</sup> *Id.* (quoting tit. 65, § 67.708(b)(7)(viii)).

<sup>41</sup> *Id.*

<sup>42</sup> *Lutz*, 6 A.3d at 675 (quoting tit. 65, § 67.708(b)(8)(ii)).

III. ANALYSIS: *SILVER V. BOROUGH OF WILKINSBURG*

In *Silver*, the Commonwealth Court of Pennsylvania held that an employee termination is a final action requiring disclosure under the RTKL.<sup>43</sup> While the employee termination letter is the record of that final action, it is exempt from disclosure under the RTKL because it contains personnel information, including prior disciplinary action.<sup>44</sup> As a result, Commonwealth citizens are only entitled to the disclosure that a particular employee was terminated.<sup>45</sup> The reasons behind the employee's termination do not have to be disclosed because disclosure would reveal employee personnel information.<sup>46</sup>

A. *Facts and Procedural History*

On August 2, 2011, The Pittsburgh Post-Gazette (Gazette) submitted a request to the Borough of Wilkinsburg (Borough) seeking a former Borough employee's employment termination letter under the RTKL.<sup>47</sup> The Borough gave the Gazette a redacted copy of the employment termination letter, granting only limited access to the termination letter.<sup>48</sup>

The Gazette appealed to the Office of Open Records (OOR), "which issued a Final Determination affirming the Borough's decision" to produce the limited letter.<sup>49</sup> The Gazette appealed to the Court of Common Pleas of Allegheny County.<sup>50</sup> The trial court viewed the un-redacted employment termination letter in private and determined that the material the Borough had redacted related to prior disciplinary action.<sup>51</sup> "On January 25, 2012, the trial court affirmed the OOR's Final Determination."<sup>52</sup> The Gazette appealed

---

<sup>43</sup> *Silver v. Borough of Wilkinsburg*, 58 A.3d 125, 129-30 (Pa. Commw. Ct. 2012).

<sup>44</sup> *Id.* at 129.

<sup>45</sup> *Id.* at 130.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.* at 126.

<sup>48</sup> *Id.* at 126-27.

<sup>49</sup> *Silver*, 58 A.3d at 127.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

to the Commonwealth Court of Pennsylvania.<sup>53</sup> The standard of review under the RTKL is *de novo* review.<sup>54</sup> The two issues before the court were:

- (1) whether Section 708(b)(7)(viii) of the Right-to-Know Law (RTKL), which requires production of a final action, means the entire employment termination letter which contains prior disciplinary action or only the employment termination language and notice given to the employee, and
- (2) whether the Borough waived its argument that the employment termination letter was not a final action.<sup>55</sup>

### *B. Parties' Arguments*

The Gazette argued that the Borough was required to produce the entire employment termination letter as per the exception within the general exemption of section 708(b)(7)(viii) of the RTKL.<sup>56</sup> Specifically, the Gazette asserted that "the second sentence of section 708(b)(7)(viii), . . . relating to an agency employee's discipline, demotion, or discharge, . . . states an exception for a final action of an agency that results in demotion or discharge."<sup>57</sup> Therefore, the Gazette believed that the Borough was required to produce the entire employment termination letter, as it represented the final action of discharge by the agency.<sup>58</sup> The Gazette's final argument was that "the Borough waived its argument [that] the employment termination letter" was not the final action.<sup>59</sup>

On the other hand, the Borough argued that they were not required to produce the entire employment termination letter, and that they were permitted to redact information which was exempt from disclosure, even within documents required to be disclosed.<sup>60</sup> The Borough argued that if they had to produce the entire

---

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Silver*, 58 A.3d at 126 (footnote omitted).

<sup>56</sup> *Id.* at 127.

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* at 130.

<sup>60</sup> *Id.*

termination letter, then the Gazette would be able to access employee information that did not directly stem from the employee's termination, including prior disciplinary action.<sup>61</sup> The Borough believed that this sensitive personnel information, specifically, the employee's past disciplinary behavior, was exempt from disclosure under the RTKL.<sup>62</sup>

### *C. Majority Opinion*

The majority opinion begins by defining "final action," since the RTKL does not define it.<sup>63</sup> The court defines final action using *Webster's Third New College Dictionary* and finds that the definition of final is "forming or occurring at the end . . . or constituting the last element in a series, process or procedure."<sup>64</sup> The court continued defining terms, stating:

Section 102 of the RTKL defines "record" as:

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. The term includes a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically and a data-processed or image-processed document.<sup>65</sup>

After defining "final action," the court held that "the agency's 'final action' was the employment termination, and the employment termination letter was the 'record' of [the] employment termination."<sup>66</sup> Next, in order to support its definition of final action, the majority opinion looked at the purpose behind the

---

<sup>61</sup> *Silver*, 58 A.3d at 130.

<sup>62</sup> *Id.* at 129-30.

<sup>63</sup> *Id.* at 127.

<sup>64</sup> *Id.* (quoting WEBSTER'S THIRD NEW COLLEGE DICTIONARY 428 (3d ed. 2008)).

<sup>65</sup> *Id.* at 127-28 (quoting 65 PA. STAT. ANN. § 67.102 (West 2010)).

<sup>66</sup> *Id.* at 128.

RTKL and the Sunshine Act.<sup>67</sup> The purpose behind the RTKL was to provide access to government information and hold officials accountable for their actions.<sup>68</sup> Similarly, the purpose behind the Sunshine Act was to allow transparency in government decisions by allowing the Commonwealth's citizens to take part in meetings, hearings, and similar events.<sup>69</sup> The Sunshine Act defines an "official action" and "administrative action."<sup>70</sup> The court argues that administrative action does not "include the deliberation of agency business."<sup>71</sup> The court concludes that "the employment termination itself is the 'official action,' " and the letter was the record of that action.<sup>72</sup>

The majority next states that the purpose behind the Sunshine Act is further supported because section 704 of the Sunshine Act creates an express exception that discussions of termination of employment are closed to the public.<sup>73</sup> The court states that since the public is not entitled to hear the discussions behind terminating an employee, then it follows that the public would not be entitled to the entire employment termination letter, and concludes "that the Gazette's argument is not supported by the statutory language."<sup>74</sup>

Finally, the majority agrees with the Borough's interpretation of *Lutz*.<sup>75</sup> The court stated that the part of the termination letter setting forth the employment termination must be disclosed, but the references to the prior disciplinary action should be redacted.<sup>76</sup> This is similar to the result in *Lutz*, where the arbitration award and order were required to be disclosed, but the other information was redacted.<sup>77</sup> Further, the court stated that "the Borough did not waive the argument that the employment termination . . . is not a

---

<sup>67</sup> *Silver*, 58 A.3d at 128.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.* at 128-29.

<sup>71</sup> *Id.* at 129 (quoting 65 PA. CONS. STAT. ANN. § 703 (West 2010)).

<sup>72</sup> *Id.*

<sup>73</sup> *Silver*, 58 A.3d at 129.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.* at 129-30.

<sup>76</sup> *Id.* at 130.

<sup>77</sup> *Id.*

final action" because the Borough had not changed its reason for redacting the information, which was to protect employee personnel information.<sup>78</sup> Ultimately, the Commonwealth Court of Pennsylvania affirmed the trial court's order.<sup>79</sup>

#### *D. Dissenting Opinion*

The dissenting opinion argues that "all of the information contained in [an employment termination] letter is a 'final action' subject to disclosure" under the RTKL.<sup>80</sup> The dissent disagrees with the idea that all the information in the letter should be redacted because it is personnel-related.<sup>81</sup> Specifically, the dissent argues that once information is put into an employment termination letter, it is no longer contained within the employee's personnel file.<sup>82</sup> If all of the information in the employee termination letter is redacted, it will only leave the "bare fact" that the employee was demoted or discharged.<sup>83</sup>

#### IV. EVALUATION

The Commonwealth Court of Pennsylvania incorrectly decided *Silver* in frustration of the Pennsylvania RTKL. Although this case interprets another layer of the RTKL, it fails to effectuate the legislature's intent to provide transparency in government. This case is important because it provides an explanation of final action in regards to section 708(b)(7)(viii) of the RTKL and helps further define the intricacies of the law for Pennsylvania attorneys.<sup>84</sup> Prior courts have not addressed this specific issue and have admitted that they were not certain what section 708(b)(7) was supposed to mean.<sup>85</sup>

Given that there was little case law on the issue, this court took the language of the statute and interpreted the phrase "final

---

<sup>78</sup> *Id.*

<sup>79</sup> *Silver*, 58 A.3d at 130.

<sup>80</sup> *Id.* (Pellegrini, P.J., dissenting).

<sup>81</sup> *Id.* at 131.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *See id.* at 126.

<sup>85</sup> *See Lutz v. City of Phila.*, 6 A.3d 669, 675 (Pa. Commw. Ct. 2010).

action," without going beyond its authority.<sup>86</sup> However, the dissent's argument that once the prior disciplinary action is put into an employment termination letter it is no longer personnel information inaccessible to the public is convincing.<sup>87</sup> Since the purpose behind the RTKL is to provide transparency among government officials and access to agency decisions, it is argued that the Gazette should have been able to access more than the simple fact that the employee was terminated. Additionally, the *Silver* court pays little attention to the waiver issue, even though the Borough did not give a specific reason for not disclosing the requested information.<sup>88</sup>

It has already been stated that when a statute is unambiguous, it is the court's duty to adopt the plain meaning of the language of the statute to carry out the legislature's intent.<sup>89</sup> The majority in *Silver*, despite an honest attempt to interpret the plain meaning by using *Webster's Third New College Dictionary* to define final and action, failed to recognize previous courts' interpretations of the purpose behind the RTKL.<sup>90</sup> The purpose of the RTKL, to provide the public with a check on government officials and their actions, illustrates the legislature's intent when passing the statute.<sup>91</sup> The majority in *Silver* should have used this purpose and the legislature's intent to interpret final action to include the entire termination letter. Failing to define final action as the entire termination letter leaves the public with only the bare fact that the employee was demoted or discharged. This interpretation clearly does not promote transparency and gives government officials the opportunity to make 'secret' decisions without public scrutiny – exactly what the law was intended to protect against.

Additionally, the Commonwealth Court of Pennsylvania failed to recognize that the Borough never argued that the employment

---

<sup>86</sup> See *Silver*, 58 A.3d at 126.

<sup>87</sup> See *id.* at 130 (Pellegrini, P.J., dissenting).

<sup>88</sup> See *id.*

<sup>89</sup> *In re Condemnation of a Permanent Right-of-Way*, 873 A.2d 14, 17 (Pa. Commw. Ct. 2005).

<sup>90</sup> *Silver*, 58 A.3d at 127.

<sup>91</sup> *Allegheny Cnty. Dep't of Admin. Servs. v. A Second Chance, Inc.*, 13 A.3d 1025, 1034 (Pa. Commw. Ct. 2011) (quoting *Bowling v. Office of Open Records*, 990 A.2d 813, 824 (Pa. Commw. Ct. 2010)).

termination letter was a final action, and thus, was not required to disclose the termination letter.<sup>92</sup> Under the RTKL, any denial of access to an agency's records must be explained in a writing that includes a description of the requested information with a justification for denying the request.<sup>93</sup> An agency's reason for denying public access to a record is not permitted to be modified.<sup>94</sup> Additionally, if an agency does not initially assert its justification for denial, then it waives the right to raise it on appeal.<sup>95</sup> The Borough's justification for not disclosing the termination letter was that it included prior disciplinary action of the employee.<sup>96</sup> The majority should have recognized that the Borough's justification was different, and therefore, the Borough waived the right to raise the final action argument on appeal.

Despite the fact that the majority's decision frustrates the legislative intent and side-steps the law, this case is important for Pennsylvania administrative law. It interprets a specific area of the RTKL and provides attorneys and government officials with a workable definition that could be applied in the future. However, this most likely will not be the last time this specific issue is addressed, and the dissent has a valid argument that the entire employee termination letter should be deemed the final action.

## V. CONCLUSION

The majority in *Silver* held that the production of a final action only requires the employment termination language and notice given to the employee, not the entire employment termination letter containing prior disciplinary action.<sup>97</sup> The court further held that the Borough did not foreclose the argument that the employment termination letter was not the final action because the

---

<sup>92</sup> *Silver*, 58 A.3d at 130 (Pellegrini, P.J., dissenting).

<sup>93</sup> 65 PA. STAT. ANN. § 67.903 (West 2010) (requiring the writing to include legal authority to justify the denial).

<sup>94</sup> See *Signature Info. Solutions, LLC v. Aston Twp.*, 995 A.2d 510, 514 (Pa. Commw. Ct. 2010).

<sup>95</sup> *Id.*

<sup>96</sup> *Silver*, 58 A.3d at 130.

<sup>97</sup> *Id.*

Borough's argument remained consistent.<sup>98</sup> That is, the Gazette was only entitled to see the employment termination, and the other contents of the letter, including the prior disciplinary action, should be redacted based on the exception in section 708(b)(7)(viii) of the RTKL.

The court's holding peeled back another layer of the RTKL by interpreting the language of the statute and giving effect to the legislative meaning of the phrase 'final action.' However, the interpretation seems to compete with the purpose behind the RTKL. Therefore, as the law stands now, officials are not required to provide access to the entire employment termination letter. The future is unclear whether the public will argue that this decision only frustrates the legislature's attempt "to promote access to official government information in order to prohibit secrets, scrutinize actions of public officials, and make public officials accountable for their actions."<sup>99</sup>

*Meredith DeMark\**

---

<sup>98</sup> *Id.*

<sup>99</sup> Allegheny Cnty. Dep't of Admin. Servs. v. A Second Chance, Inc., 13 A.3d 1025, 1034 (Pa. Commw. Ct. 2011) (quoting Bowling v. Office of Open Records, 990 A.2d 813, 824 (Pa. Commw. Ct. 2010)).

\* J.D. Candidate, Widener University School of Law (Harrisburg), May 2014; Elizabethtown College, B.A. 2011. This survey is dedicated to my family, my fiancée, Dan, and my friends for their love and support throughout my law school journey; the staff of the *Widener Law Journal*; and those professors from both Widener University School of Law and Elizabethtown College who have guided me throughout my education.