The challenge of implementing the new Right-to-Know Law has been a welcomed mission because I believe that ensuring open and honest government is a bedrock principle of democracy. Good government can only be attained through the unfettered exchange of information between citizens and their government. A citizen’s right-to-know fosters accountability, prevents abuses of power and promotes trust in government.

Governor Edward G. Rendell, an ardent supporter of open government, signed the Right-to-Know Law on February 14, 2008. He fundamentally changed access to public records. Citizens no longer have to prove that a record is public. Now, a government agency must presume the record is public. If the government chooses to withhold a record, it has the burden to prove, with legal citation, why access should be denied. The law also required the creation of the Office of Open Records and required that it issue an annual report on its progress, which we do in this debut report.

When I arrived to my new post, the Department of Commerce and Economic Development provided invaluable help in designing an office and creating a budget. From a cubicle, I divided my day into mission, message and mechanics. The mission was to ensure maximum access to government records, and I crisscrossed the Commonwealth to share that message. I also focused on the mechanics: revising blueprints, writing policy, interviewing applicants and answering the ever-present question: Will this law work?
The answer is yes, because of those who helped make it work. I owe immeasurable gratitude to Gov. Rendell, Senate Majority Leader Dominic Pileggi, former DCED Executive Deputy Secretary John Blake and my OOR colleagues who undertook a nearly impossible mission and devoted themselves fully to the task. Senator Pileggi authored the law and has been an equal partner in ensuring open government. The Legislature passed and funded the bill and our office has served as a quasi-satellite office for lawmakers who often forward constituent questions about public records.

It is my great privilege to serve as the Commonwealth’s first Executive Director of this independent office. This job changes daily and it seems similar to rafting an uncharted river – exhilarating and exhausting. The statistics are staggering. We handled nearly 1,200 appeals, 5,000 telephone and email inquiries and hundreds of trainings. In our second year, our numbers are growing, and our nine staff has a new workload: 130 cases pending in all levels of the judiciary.

In my six-year term, I pledge that the OOR will help citizens, officials and members of the media better understand their rights and obligations. Our goal is to apply this law fairly and evenly and change what I call the "culture of secrecy" that often permeates government. As you read our debut Annual Report, I welcome your comments and suggestions to improve access to government because I believe this government does not belong to me, or any other public official. Pennsylvania’s government belongs to its citizens.
Pennsylvanians were eager to look through the Law’s new window into the workings of government. Thousands of record requests were made to local and Commonwealth agencies and **1,159 appeals** were filed to the Office of Open Records.

The issues raised in the actual appeals process – when a requester challenges the denial of a Right-to-Know request to the Office of Open Records – have run the gamut from the smallest procedural questions to Constitutional matters such as the right to privacy.

The Office of Open Records has tackled fundamental issues of what is a valid request, ruled on the fees and costs allowed, and developed evidentiary standards to ensure a fair process.

### WHO ARE THE REQUESTERS?

- **90%** from Citizens
- **8%** from the Media
- **2%** from Government Officials

- 1047 from Citizens
- 88 from the Media
- 24 from Government Officials
What Records Did People Ask For?

Requestors have sought a myriad of government records and their requests often mirror national issues and concerns. The economy and financial stresses seem to be on everyone’s mind. As families sit at the kitchen table to better track their spending, they are filing Right-to-Know requests to track how government officials are spending their tax dollars as well. In addition to financial records, they ask for many other records. From our website, https://openrecords.state.pa.us, you can track every appeal filed and know what records were sought and denied and how the OOR ruled. Here are a few examples of what people wanted under the new law.

- Records that reflect what a local agency pays a law firm or attorney
- Salary of the superintendent of school districts
- Overtime paid to snow removal workers in local government
- W-2 Forms for state and local government workers
- A copy of a grant application for a wind turbine construction
- Prison visitor logs
- Emails for elected officials in school districts, townships, the Governor’s Office and the Office of Open Records
- Police reports
- Environmental Studies/Engineering Studies
- Recordings of public meetings
- Certified payroll records
- Construction blueprints, building permits, zoning applications
- Home addresses of teachers, public officials and lawmakers
Status of appeals as of 12/31/2009

596 Final Determinations issued
   246 Granted or partially granted
   254 Dismissed
   167 Withdrawn
   142 Pending
   350 Denied or dismissed as moot, usually because
       the records were released

Breakdown of the appeals filed against Commonwealth and Local Agencies

344 against State Agencies:
   46 Granted or partially granted
   48 Withdrawn
   49 Dismissed
   177 Denied
   24 Pending

815 against Local Agencies:
   203 Granted or partially granted
   119 Withdrawn
   205 Dismissed
   170 Denied
   118 Pending
Types of Local Agencies
Applies Filed Against

- School District: 29%
- Township: 22%
- Borough: 9%
- Authority: 5%
- Other: 6%
- City: 12%
- County: 17%
- Township: 22%
Most appeals filed to the OOR:

Out-of-State requesters (total) 111
Mr. Simon Campbell 49
Signature Information Solutions 27
Ms Julie Serfass 27

Appeals Filed Against Commonwealth Agencies

Corrections 81
State Police 45
Transportation 27
Board of Probation & Parole 22
Labor & Industry 18
Environmental Protection 17
State 17
Public Welfare 11

All other Commonwealth agencies: less than 10 appeals each filed against them

Most Appeals Filed Against Local Agencies

*City of Philadelphia 46
*Allegheny County 17

* And all departments and agencies within
During its first year, the Office of Open Records received 25 requests for a variety of its own documents -- staff salaries, job descriptions, health benefit information and statements of financial interest; correspondence; judicial decisions; appeal files; the office’s Web site policies and the list of registrants at an OOR state-wide training session. This Office ultimately granted every request for records.

Interestingly, but inaccurately, many people believe that the Office of Open Records is a repository for all public documents and information in the Commonwealth.

Several times a day the Office of Open Records receives requests for standard government records that are available elsewhere. We also received inquiries from people seeking information on where relatives are buried, how they can obtain their adoption records, how to obtain a license for arcade games, a list of the most profitable businesses in a particular county, the blueprints to their home, a high school diploma or the available information on antique farm equipment.
Perhaps the best measure of the success and independence of the Office of Open Records is that its determinations have equally pleased and disappointed government officials, reform and watchdog groups, the media, requesters and attorneys.

As with any new statute, the courts will ultimately interpret the Right-to-Know Law and that process is in full swing with many agencies and requesters filing petitions for review of the OOR’s Final Determinations.

As of December 31, 2009, there have been 70 appeals from our Final Determinations involving local agencies to the Courts of Common Pleas around the state. An additional 40 appeals have been made to the Commonwealth Court in matters involving state agencies.

The legal issues raised in these appeals are wide ranging and significant – a clarification of the term “governmental function,” the standard of review of OOR determinations by the court, the standards for burden of proof, the format and medium records are provided and guidance on the parameters of the pre-decisional deliberative records exception.
110 Petitions for Review filed in 2009

**70 Courts of Common Pleas – local agency appeals**
- 84% filed by government (59 appeals from OOR Grants)
- 16% filed by requesters (11 appeals from OOR Denials)

**40 Commonwealth Court – Commonwealth agency appeals**
- 38% filed by government (15 appeals from Grants)
- 58% filed by requesters (23 appeals from Denials)
- 48% of these are inmates (12)
- 4% filed by both parties (2 cross appeals)

*Eliminating inmate appeals, the statistics would change as follows:
32 Petitions for Review filed in Commonwealth Court:
  - 61% filed by the government (17)
  - 22% filed by the requester (13)
  - 6% cross filed (2)*
Trainings

The Right-to-Know Law requires the Office of Open Records to conduct one annual training session but Executive Director Terry Mutchler has made education about the RTKL one of the hallmarks of her term.

The OOR staff has crisscrossed the Commonwealth conducting 134 training sessions and countless speeches for citizens, municipal officials, attorneys, legislators, and reporters of audiences ranging from 5 to 500.

Sept. 8, 2008 PA Municipal Authority Assn’s annual conference, Hershey
Sept. 10, 2008 Lancaster Inter-Municipal Committee, Manor Twp.
Sept. 19, 2008, Institute for Municipal Secretaries, Clerks and Administrators, Shippensburg
Sept. 26, 2008, Altoona Mirror staff training
Sept. 26, 2008, Cambria Co. Twp. Supervisors Convention, Ebensburg
Oct. 2, 2008, Cumberland County Twp. Supervisors Convention, Carlisle
Oct. 2, 2008 Carlisle Sentinel staff
Oct. 7, 2008, PHMC Annual Archives and Records Management Seminar, Harrisburg
Oct. 16, 2008 Adams County officials, Gettysburg
Oct. 16, 2008, Berks County Twp. Supervisors Convention, Temple
Oct. 22, 2008, Harrisburg Area Community College administrators
Oct. 23, 2008, Lycoming County township officials, Pennsdale
Oct. 27, 2008, Western Bradford Co. COG, Troy
Oct. 29, 2008 Quaker Valley COG, Emsworth
Nov. 6, 2008, Eastern Bradford Co. COG, Towanda
Nov. 11, 2008, Chester County municipal officials, Thorndale
Nov. 12, 2008, Upper Dauphin COG, Halifax
Nov. 13, 2008, Sen. Eichelberger community event, Altoona
Nov. 14, 2008, County Planning Directors, State College
Nov. 14, 2008, College Twp. staff, State College
Nov. 15, 2008 State Assn. of Twp. Commissioners, Lancaster
Nov. 18, 2008, City of Allentown employees training
Nov. 18, 2008 Bradford County Boroughs Assoc., Towanda
Nov. 19, 2008 State College borough staff
Nov. 20, 2008, Westmoreland County Boroughs Association, Greensburg
Nov. 21, 2008, Whitemarsh Township staff and police dept., Lafayette Hill
Nov. 24, 2008, Blair County municipal secretaries, Altoona
Nov. 25, 2008, Lehigh County staff, Allentown
Dec. 3, 2008, Lancaster County staff, Lancaster
Dec. 4, 2008, Lackawanna County municipal officials, Clarks Summit
Dec. 8, 2008 Erie County municipal officials, Erie
Dec. 11, 2008, Butler County municipal officials, Valencia
Dec. 12, 2008, York County staff, York
Dec. 17, 2008 Dauphin County municipal officials, Middletown
Dec. 18, 2008, State-wide training, Harrisburg
Dec. 23, 2008, PSATS Webinar, Harrisburg
Jan. 1, 2009, Patriot-News staff, Harrisburg
Jan. 10, 2009, Sen. Folmer community event, Lebanon
Jan. 13, 2009, Commonwealth Foundation Transparency Symposium, Harrisburg
Jan. 15, 2009 Assoc. of Municipal and School Solicitors, Pittsburgh 45
Jan. 15, 2009 Rep. Mahoney RTKL event, Uniontown
Jan. 20, 2009 Columbia/Montour Borough Assoc., Lightspeed
Jan. 23, 2009 Rep. Gillespie’s staff, Harrisburg
Feb. 13, 2009, Monroeville Police Department
Feb. 18, 2009, Municipal officials, Abington
Feb. 19, 2009, Municipal officials, Bensalem
Feb. 19, 2009 Rep Pyle and Oberlander, Senator White event, Kittanning
Feb. 19, 2009 Municipal officials, Ford City
Feb. 20, 2009 Rep. Ellis RTKL event, Butler
Feb. 24, 2009 Bucks Co. Boroughs Assoc., Doylestown
Feb. 26, 2009 PSATS Webinar, Harrisburg
Feb. 27, 2009 Municipal officials, Lansdale
March 3, 2009 Reps. Kreiger and Reese RTKL event, Youngwood
March 3, 2009 Reps. Christiana and Marshall RTKL event, Midland
March 5, 2009 PA Municipal Authority Assoc., Mars
March 9, 2009 Municipal officials, Madera
March 12, 2009 PA Assoc. of Realtors, Camp Hill
March 12, 2009 PA Municipal Authority Assoc. board, Bethlehem
March 13, 2009 CLE for DAs and public defenders, Pittsburgh
March 14, 2009 League of Women Voters, Stroudsburg
March 17, 2009 CCAP IT coordinators, Harrisburg
March 19, 2009 Sen. Eichelberger community event, McConnellsburg
March 23, 2009 Susquehanna Co. municipal officials, New Milford
March 24, 2009 PA Assoc. of Realtors, Harrisburg
March 25, 2009 PA Healthcare Cost Containment Council, Harrisburg
March 26, 2009 PELRAS conference, State College
March 30, 2009 PA Public Purchasing Assoc., Manheim
March 30, 2009 CCAP state convention, Harrisburg
April 2, 2009 Sen. Baker RTKL event, Dallas
April 2, 2009 Pittsburgh Post-Gazette staff
April 3, 2009 Allegheny League of Municipalities, Seven Springs
April 6, 2009 Franklin Co. Bar Assoc., Chambersburg
April 14, 2009 Berks Co. Bar Assoc., Reading
April 14, 2009 Naumann Smith RTKL event, Harrisburg
April 15, 2009 Naumann Smith RTKL event, Camp Hill
April 20, 2009 PSATS annual conference, Hershey
April 21, 2009 Chester Co. Bar Assoc., West Chester
April 23, 2009 PA Mental Health / Retardation Program Admin. Assoc., Harrisburg
April 24, 2009 Southcentral PA Regional Counter Terrorism Task Force, York
April 27, 2009 Elkins Park municipal officials
April 28, 2009 Mercer Co. Planning Comm., Hermitage
April 29, 2009 Westtown Twp. employees
April 30, 2009 Municipal officials, White Haven
May 4, 2009 PA Assoc. of Broadcasters, Hershey
May 6, 2009, NW Planning Comm. Conference, Titusville
May 8, 2009 PA Bar Institute, Hershey
May 12, 2009 Montgomery Co. Bar Assoc., Norristown
May 14, 2009 Delaware Co. Tax Collectors Assoc., Chester
May 19, 2009 St. Nicholas Seniors, Steelton
May 21, 2009 Monroe Co. Tax Collectors Assoc., Snydersville
May 22, 2009 Western PA Local Income Tax Assoc., Hermitage
May 28, 2009 Berks Co. school superintendents, Reading
May 29, 2009 PA APME, Gettysburg
May 30, 2009 PA Women's Press Assoc., Gettysburg
June 9, 2009 County Treasurer Assoc., Skytop
June 10, 2009 City of Reading staff
June 11, 2009 PNA Media Law Conf., Hershey
June 13, 2009 Allegheny Co. Airport Authority, Pittsburgh
June 16, 2009 Rep. Quinn RTKL event, Doylestown
June 16, 2009 Lorman RTKL seminar, Philadelphia
June 27, 2009 Fayette Co. staff, Uniontown
July 16, 2009 PA Sheriffs Assoc., Cranberry Twp.
Aug. 21, 2009 PA Local Govt Secretaries Assoc., Malvern
Aug. 24, 2009 Bala Cynwyd citizens group
Sept. 14, 2009 PA Municipal Authorities Assoc., Hershey
Sept. 17, 2009 Allegheny IU, Pittsburgh
Sept. 20, 2009 Lorman RTKL seminar, Harrisburg
Sept. 21, 2009 PEITOAC Annual Meeting, Lancaster
Sept. 21, 2009 OOR state-wide RTKL training, Harrisburg
Sept. 25, 2009 Bucks Co. bench/bar CLE, Cambridge, MD
Sept. 25, 2009 Montgomery Co. township officials, East Norriton
Sept. 29, 2009 OOR state-wide RTKL training session, Harrisburg
Sept. 30, 2009 Lancaster-Lebanon IU, Lancaster
Oct. 9, 2009 Lancaster-Lebanon IU leadership council, Lancaster
Oct. 14, 2009 PSBA school secretaries, Hershey
Oct. 20, 2009 PSATS township officials, Moon Twp.
Oct. 22, 2009 PA Business Privilege & Mercantile Tax Collectors Assoc., Gettysburg
Oct. 27, 2009 PSATS township officials, Clarks Summit
Oct. 29, 2009 Bucks Co. Assn. of Township Officials, Iveyland
Nov.12, 2009, PSATS township officials, Enola
Nov. 17, 2009 Lancaster County Bar Assoc. RTKL CLE, Lancaster
Nov. 18, 2009 PSATS township officials, State College
Nov. 18, 2009 IBEW RTKL event, Harrisburg
Nov. 24, 2009 PSATS township officials, West Chester
Dec. 1, 2009, Tax collectors RTKL seminar, Conshohocken
Since the OOR issued its first Final Determination in February 2009, our cases have been written about by national, state and local news organizations. Many papers have editorialized about our decisions and have both challenged and praised them. Open government issues, including our Final Determinations, have been written about by The New York Times, Philadelphia Inquirer, Pittsburgh Post-Gazette, Philadelphia Daily News, Pittsburgh Tribune-Review, The Morning Call, The Patriot-News, Delaware County Daily Times, York Daily Record, The Herald, The Sentinel, Scranton Times, Erie Times-News, Pocono Record, Reading Eagle, Intelligencer Journal, Beaver County Times, The Times Leader, Pottsville Republican, The Daily News and Ellwood City Ledger.

The Office of Open Records and/or its Executive Director Terry Mutchler was profiled in newspapers and magazines across the state and has been a frequent guest on television and radio public affairs shows around Pennsylvania including the Pennsylvania Cable Network and “SmartTalk” on WITF-FM in Harrisburg.

The National Freedom of Information Coalition at the University of Missouri previously ranked Pennsylvania among the worst in the nation for open government issues. Under the new law, the Coalition ranked Pennsylvania in the top 20 states for open government success. Because of this, many states have reached out to the OOR Executive Director seeking advice on how to start similar state agencies. She has testified before committees of Congress and the Washington State Legislature. Officials in Maryland, Ohio and California have also sought recommendations on creating a similar office to the OOR.
Terry Mutchler, Executive Director

Prior to accepting this position, Ms. Mutchler served as Illinois ’ first Public Access Counselor to enforce the state’s sunshine laws and also served as a senior advisor and speech writer for the Attorney General.

She previously worked at a national law firm in its media law group and appellate practice group in Chicago. She is a former law clerk for a retired Chief Justice of the Illinois Supreme Court, and also clerked for the Executive Office of the President during the Clinton Administration focusing on privacy issues. Before becoming an attorney, Ms. Mutchler was an investigative journalist for The Associated Press in Pennsylvania, New Jersey, Alaska and Illinois, where she was the first woman appointed as Statehouse Bureau Chief. She later served as a senior advisor and speech writer for the late Illinois Senate Minority Whip.

Mutchler received her bachelors from the Pennsylvania State University and her juris doctor from the John Marshall School of Law in Chicago. She was selected as a Bohnett Summer Fellow at the Kennedy School of Government, Harvard University.

Barry Fox, Deputy Director
A newspaper reporter for 23 years Mr. Fox was named the deputy director of Pennsylvania’s new Office of Open Records in August, 2008. During his time in journalism he worked for the weekly South Street Star in Philadelphia, two daily newspapers in New Jersey and spent the bulk of his career with The Patriot-News in Harrisburg

Corinna Wilson, Chief Counsel
Ms. Wilson came to the Office of Open Records after nearly a decade with the Pennsylvania Newspaper Association, as general counsel and later chief operating officer. Prior to her work with PNA she was in private law practice at Fredrikson & Byron, P.A. in Minneapolis and at Buchanan Ingersoll, PC in Harrisburg. She is a graduate of the University of Minnesota Law School, cum laude and Sarah Lawrence College in Bronxville, New York.
Dena Lefkowitz, Senior Attorney
The one-time General Counsel to the Chester Upland School District and Assistant General Counsel to the School District of Philadelphia. Ms. Lefkowitz has also been a civil litigator for law firms in Media, Bala Cynwyd, Norristown and Philadelphia. She is a graduate of Temple School of Law.

Lucinda Glinn, Staff Attorney
A litigation attorney and appellate advocate with Harrisburg’s Nauman Smith Shissler & Hall LLP before joining the Office of Open Records staff, Ms. Glinn has also been an associate at K&L Gates. She is a graduate of the Georgetown University Law Center and Lafayette College.

Nathanael Byerly, Staff Attorney
A former Special Assistant United States Attorney, Mr. Byerly has also worked in private practice for Knauer & Associates and at the Law Offices of Craig A. Diehl. He is a graduate of the University of Dayton School of Law.

Audrey Buglione, Staff Attorney
Prior to joining the Office of Open Records, Ms. Buglione had her own law firm. She has also been an associate at McNees, Wallace & Nurick, in Harrisburg. Ms. Buglione is a magna cum laude graduate of the Widener University School of Law, Harrisburg Campus.

Maryanne Brawley, Executive Assistant
Ms. Brawley came to the Office of Open Records from Bravo Group, a Harrisburg public advocacy firm. She has also been a project coordinator for Thomas J. Carricato & Sons Inc., an officer manager for Premier Funding Inc. and a project accounting manager for Nolen Companies. She is a graduate of University of Maryland with degrees in Accounting and English.

Cindy Watson, Administrative Officer
A former Communications Specialist with Coventry Health Care, Ms. Watson has also been a Paralegal Supervisor and Administrative Officer with the Pennsylvania Dept. of Corrections as well as an Administrative Officer for the Supreme Court of Pennsylvania. She is a graduate of Harrisburg Area Community College with a liberal Arts degree and a Paralegal Certificate.