

D99A11
Office of Administrative Hearings

Operating Budget Data

(\$ in Thousands)

	FY 05 <u>Actual</u>	FY 06 <u>Working</u>	FY 07 <u>Allowance</u>	FY 06-07 <u>Change</u>	% Change <u>Prior Year</u>
General Fund	\$303	\$0	\$0	\$0	
Special Fund	41	6	36	30	500.0%
Reimbursable Fund	<u>10,942</u>	<u>11,208</u>	<u>11,914</u>	<u>705</u>	<u>6.3%</u>
Total Funds	\$11,285	\$11,214	\$11,950	\$735	6.6%

- The Office of the Administrative Hearings' (OAH) allowance increases by \$735,460, or 6.6% above the fiscal 2006 working appropriation. Personnel expenses increase by \$539,912 mostly due to a \$407,236 increase in employee and retiree health insurance.
- Special funds increase by \$30,000, or 500% above the fiscal 2006 working appropriation. This increase was made in an effort to provide OAH with sufficient funds to pay for local school board disabilities cases which are not part of OAH's reimbursable fund allocation.
- Other notable increases include (1) \$84,101 in rent paid to the Department of General Services; (2) \$19,085 in computer maintenance fees; and (3) \$75,000 in security expenses.

Personnel Data

	FY 05 <u>Actual</u>	FY 06 <u>Working</u>	FY 07 <u>Allowance</u>	FY 06-07 <u>Change</u>
Regular Positions	125.00	122.00	122.00	0.00
Contractual FTEs	<u>1.00</u>	<u>0.00</u>	<u>1.00</u>	<u>1.00</u>
Total Personnel	126.00	122.00	123.00	1.00

Vacancy Data: Regular Positions

Turnover, Excluding New Positions	3.66	3.00%
Positions Vacant as of 12/31/05	3.00	2.46%

- There is an additional Department of Human Resources Coordinator full-time equivalent position in fiscal 2007. This position is located within the Clerk's office. Duties generally consists of documenting, compiling, and distributing failure to appear notices to litigants.

Note: Numbers may not sum to total due to rounding.

For further information contact: Chantelle Green

Phone: (410) 946-5530

Analysis in Brief

Major Trends

Managing for Results Indicate Mixed Success: OAH reduces by 22.6 days the amount of time between the receipt and disposition of motor vehicle cases. By contrast, the amount of time between the receipt and disposition of miscellaneous cases increases by 6.1 days.

Issues

Lack of Courtroom Security: OAH receives funding to address growing courtroom security concerns. **OAH should comment to the committees on its security concerns and how it plans to use the \$75,000 allocation to address these concerns. OAH should also address any future security enhancements that it may be considering, including the impact that additional equipment or personnel may have on its budget.**

Recommended Actions

1. Concur with Governor's allowance.

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Office of Administrative Hearings

Operating Budget Analysis

Program Description

The Office of Administrative Hearings (OAH) holds hearings in contested cases involving State agencies. The office was created in 1989 to centralize the hearing functions in various units of State government. Most cases originate from the Motor Vehicle Administration (MVA); the Inmate Grievance Office; the Department of Health and Mental Hygiene (DHMH); the Department of Human Resources (DHR); the Department of Labor, Licensing, and Regulation (DLLR); and the Department of Budget and Management (DBM). Funding primarily comes from those agencies that use OAH services. These agencies reimburse OAH based on the proportion of time spent on their cases.

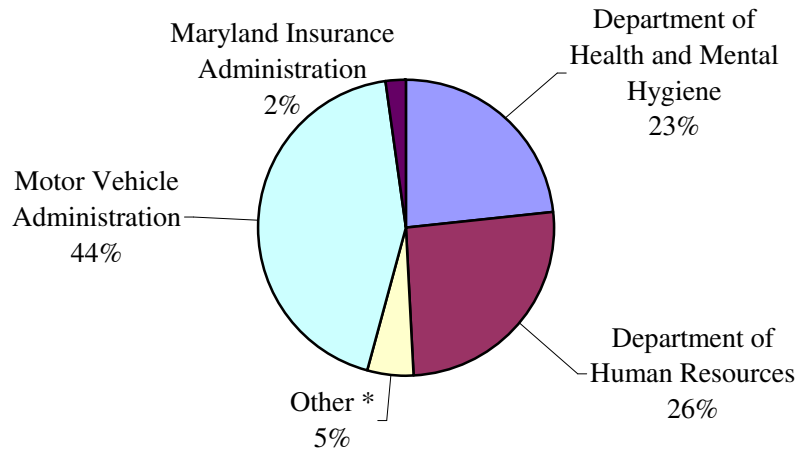
OAH decisions may be appealed on the record to the circuit court. In certain cases the OAH decision is advisory, and the originating agency can overrule or reject the OAH ruling. When an agency has rejected the OAH decision, recourse again is with the circuit court.

The Chief Administrative Law Judge (ALJ) is the administrative head of the agency. The State Advisory Council on Administrative Hearings oversees all activities of the agency and provides guidance and direction to the Chief ALJ.

Performance Analysis: Managing for Results

Overall, OAH's Managing for Results indicate mixed success. In fiscal 2005, OAH disposed of approximately 65,000 cases, most of which, as shown in **Exhibit 1** were motor vehicle grievances. One of OAH's primary performance goals is to reduce the average number of days it takes to dispose of cases from various agencies such as the MVA. As shown in **Exhibit 2**, there was a significant decrease in the amount of time between the receipt and disposition of motor vehicle cases. OAH attributes this success primarily to its case management system upgrade and the implementation of new scheduling protocol. Also note that OAH met its timeliness goals for DHMH and DHR. Both of these agencies represent 49% of the total cases disposed in fiscal 2005.

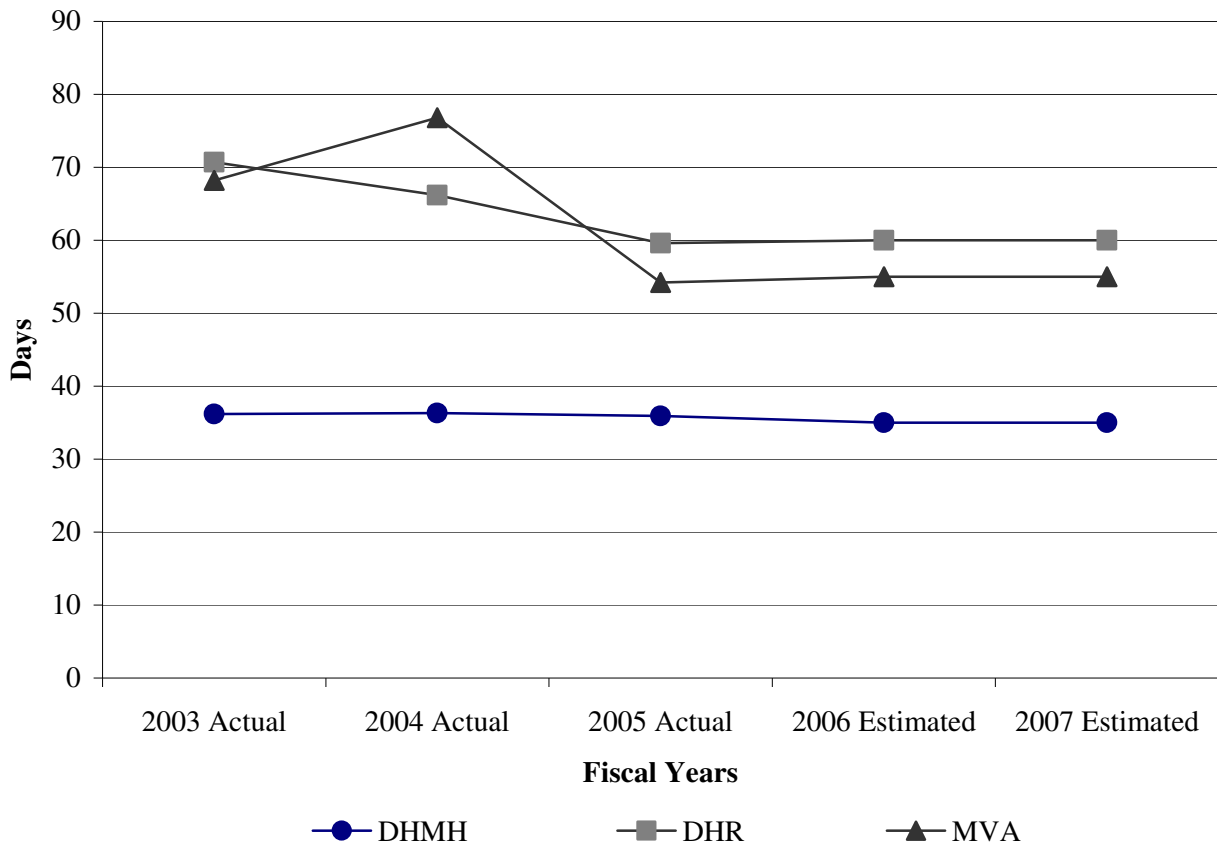
Exhibit 1
Fiscal 2005 Percentage of Cases Disposed by Agency



* Other is a combination of the Department of Labor, Licensing, and Regulation; the Department of Public Safety and Correctional Services; the Maryland State Department of Education; Department of Budget and Management Personnel; and miscellaneous.

Source: Office of Administrative Hearings

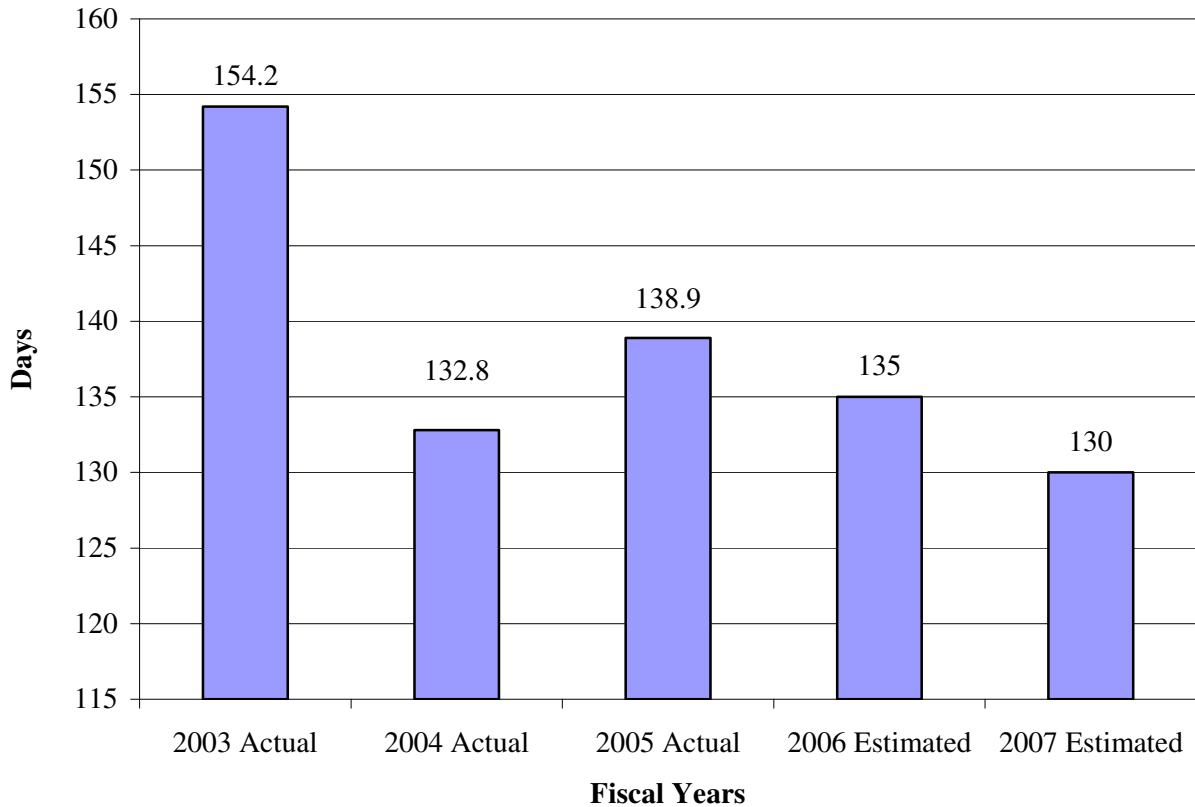
Exhibit 2
Average Number of Days Between Receipt and Disposition of
DHMH, DHR, and MVA Cases
Fiscal 2003 – 2007



Source: Office of Administrative Hearings

By contrast, as shown in **Exhibit 3**, the number of days from the receipt of an appeal to the disposition of miscellaneous cases increased by 6.1 days to 138.9 days in fiscal 2005. OAH's goal is to dispose of miscellaneous cases within 139 days by July 1, 2007. **OAH should explain to the committees what contributed to the increase in fiscal 2005 and why it is expecting the number of days between the receipt and disposition of cases to decline in fiscal 2006 and 2007.**

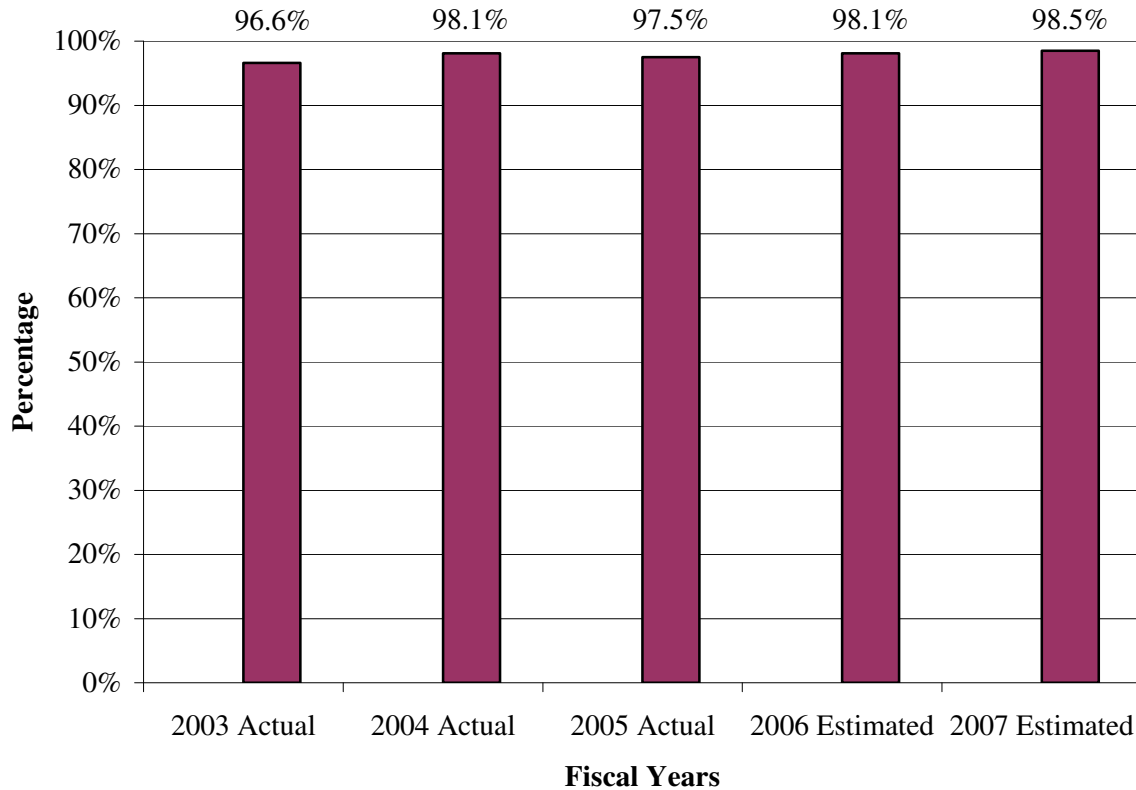
Exhibit 3
Average Number of Days Between Receipt and
Disposition of Miscellaneous Cases
Fiscal 2003 – 2007



Source: Office of Administrative Hearings

OAH's hearings result in either bench or non-bench decisions. Non-bench decisions are rendered in cases that are appealed from DHR, Maryland State Department of Education, and DLLR. As shown in **Exhibit 4**, OAH's percentage of non-bench decisions decreased by six tenths of a point to 97.5% in fiscal 2005. OAH attributes this decline to the loss of judicial manpower resulting from seven judgeship openings, including the absence of three judges due to maternity and medical leave. OAH reports that its three judges have returned from leave and that six new judges were hired in October 2005. The six new judges are currently in training and are expected to begin handling full caseloads by July 2006.

Exhibit 4
Percentage of Non-bench Decisions Issued Timely
Fiscal 2003 – 2007



Source: Office of Administrative Hearings

Governor's Proposed Budget

As illustrated in **Exhibit 5**, OAH's fiscal allowance increases by \$735,460, or 6.6% above the fiscal 2006 working appropriation. This increase is primarily driven by increases in employee and retiree health insurance totaling \$407,236, or 55.4% of the overall increase. OAH's rent expense increases by \$84,101. This increase is attributed to a \$2.65 increase in rent paid per square foot.

The allowance also includes a \$75,000 increase in security expenses. These funds will be used to hire security personnel and to install a metal detector and x-ray conveyor belt. Other significant contributors include a \$21,000 increase in contractual full-time equivalent (FTE) expenses and an additional DHR Coordinator contractual position. This position is located within the Clerk's office and generally consists of documenting, compiling, and distributing failure to appear notices to litigants. Also note that there is a \$30,000, or 500% special funds increase in legal services to pay for local school board disabilities cases which are not part of OAH's reimbursable fund allocation. This increase is offset by a \$30,000 reduction in legal services paid via OAH's reimbursable funds account for a net change of zero dollars.

Exhibit 5
Governor's Proposed Budget
Office of Administrative Hearings
(\$ in Thousands)

How Much It Grows:	<u>Special</u> <u>Fund</u>	<u>Reimb.</u> <u>Fund</u>	<u>Total</u>
2006 Working Appropriation	\$6	\$11,208	\$11,214
2007 Governor's Allowance	<u>36</u>	<u>11,914</u>	<u>11,950</u>
Amount Change	\$30	\$705	\$735
Percent Change	500.0%	6.3%	6.6%

Where It Goes:

Personnel Expenses

Increments and other compensation	\$2
Employee and retiree health insurance	407
Employees' retirement system	85
Deferred compensation match	19
Unemployment compensation	-9
Turnover adjustments	28
Other fringe benefit adjustments.....	8

Other Changes

One new Default Clerk FTE to process failure to appear notices.....	21
Utility expenses	12
Motor vehicle expenses	4
Security and metal detector.....	75
Computer maintenance and services.....	-8
Advertising and printing costs	2
Equipment rental and repairs	-9
Leased equipment	44
Telephone system upgrade	12
Rent.....	84
Out-of-state conferences and seminars	2
Reduction of telephone and postages expenses	-6
Reduction of secretarial fees.....	-38

Total **\$735**

Note: Numbers may not sum to total due to rounding.

Reimbursable Funds

OAH receives reimbursable funds from State agencies that have contested cases referred to OAH for resolution. DBM allocates funds to these agencies to cover the OAH assessment based on prior years' experience. The agency assessment continues to be based on the case formula methodology. A caseload formula is used to calculate the OAH agency assessment based on the average case time in hours for each agency case category in the prior year (fiscal 2006) multiplied by the projected caseload for each category in the allowance year. The percentage of the total caseload hours is applied to the total budget to calculate the individual agency assessment. Chapter 402, Acts of 2005 amended the process for allocating funding for personnel grievance cases. Pursuant to the Act, the principal unit that employs a grievant is now responsible for paying the costs of appeals to OAH as opposed to DBM. **Appendix 4** shows the average case times, number of cases, and total case hours for fiscal 2007.

Issues

1. Lack of Courtroom Security

The lack of courtroom security has become a growing concern for OAH. OAH reports that there have been growing instances of disorderly conduct by litigants within the past several months, one of which required the assistance of State Police. Approximately 40% of all hearings are conducted at OAH's headquarters in Hunt Valley, Maryland. While OAH has security cameras and combination lock doors for its staff, OAH has no security personnel or security measures in effect to prevent litigants from carrying concealed weapons into the facility. OAH received \$75,000 in its fiscal 2007 allowance for security purposes. OAH reports that it plans to use this money to purchase a metal detector, security wands, and a conveyor belt x-ray machine for its Hunt Valley facility. OAH also plans to allocate a portion of these funds to hire security personnel.

OAH should comment to the committees on its security concerns and how it plans to use the \$75,000 allocation to address these concerns. OAH should also address any future security enhancements that it may be considering, including the impact that additional equipment or personnel may have on its budget.

Recommended Actions

1. Concur with Governor's allowance.

Current and Prior Year Budgets

Current and Prior Year Budgets Office of Administrative Hearings (\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2005					
Legislative Appropriation	\$0	\$6	\$0	\$10,832	\$10,838
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	303	38	0	109	450
Reversions and Cancellations	0	-3	0	0	-3
Actual Expenditures	\$303	\$41	\$0	\$10,941	\$11,285
Fiscal 2006					
Legislative Appropriation	\$0	\$6	\$0	\$11,090	\$11,096
Budget Amendments	0	0	0	118	118
Working Appropriation	\$0	\$6	\$0	\$11,208	\$11,214

Note: Numbers may not sum to total due to rounding.

Fiscal 2005

In fiscal 2005, the total budget for the OAH increased by \$446,790. The general fund appropriation increased by \$302,526 due to a one-grade salary adjustment for administrative law judges. These funds are budgeted each year in DBM and are transferred to agencies where positions are reclassified. OAH's special fund appropriation also increased by \$38,000. OAH received funding to conduct handicap accessibility hearings for the local Boards of Education. Additionally, OAH had a \$2,911 special fund cancellation. This cancellation reflected money that remained unspent following OAH's \$38,000 budget amendment increase. Finally, there was a reimbursable fund increase of \$109,175. This increase reflected funding in the amount of \$103,625 for the statewide cost-of-living increase and \$5,550 for hearings conducted for the State Labor Relations Board.

Fiscal 2006

The reimbursable fund appropriation increased by \$118,474 due to cost-of-living adjustment from DBM.

Audit Findings

Audit Period for Last Audit:	October 26, 1999 – May 12, 2002
Issue Date:	September 2002
Number of Findings:	4
Number of Repeat Findings:	3
% of Repeat Findings:	75%
Rating: (if applicable)	n/a

Finding 1: Proper internal controls were not established over the processing of purchasing and disbursement transactions.

Finding 2: The office did not ensure that caseload data maintained on its case management system were accurate.

Finding 3: The office did not have assurance that the allocation of its operating costs to State agencies was accurate.

Finding 4: Sufficient controls were not established over the office's corporate purchasing cards.

* Bold denotes item repeated in full or part from preceding audit report.

**Object/Fund Difference Report
Office of Administrative Hearings**

<u>Object/Fund</u>	<u>FY05 Actual</u>	<u>FY06 Working Appropriation</u>	<u>FY07 Allowance</u>	<u>FY06 - FY07 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	125.00	122.00	122.00	0	0%
02 Contractual	1.00	0	1.00	1.00	N/A
Total Positions	126.00	122.00	123.00	1.00	0.8%
Objects					
01 Salaries and Wages	\$ 9,124,042	\$ 9,200,277	\$ 9,740,189	\$ 539,912	5.9%
02 Technical & Spec Fees	109,177	96,154	79,300	-16,854	-17.5%
03 Communication	164,063	185,503	179,603	-5,900	-3.2%
04 Travel	125,651	110,009	112,100	2,091	1.9%
06 Fuel & Utilities	93,287	92,006	104,481	12,475	13.6%
07 Motor Vehicles	23,249	21,564	25,712	4,148	19.2%
08 Contractual Services	594,032	492,654	553,594	60,940	12.4%
09 Supplies & Materials	135,942	136,300	135,300	-1,000	-0.7%
10 Equip - Replacement	52,438	35,000	78,854	43,854	125.3%
11 Equip - Additional	18,928	0	12,000	12,000	N/A
13 Fixed Charges	844,446	844,779	928,573	83,794	9.9%
Total Objects	\$ 11,285,255	\$ 11,214,246	\$ 11,949,706	\$ 735,460	6.6%
Funds					
01 General Fund	\$ 302,526	\$ 0	\$ 0	\$ 0	0.0%
03 Special Fund	41,089	6,000	36,000	30,000	500.0%
09 Reimbursable Fund	10,941,640	11,208,246	11,913,706	705,460	6.3%
Total Funds	\$ 11,285,255	\$ 11,214,246	\$ 11,949,706	\$ 735,460	6.6%

Note: The fiscal 2006 appropriation does not include deficiencies, and the fiscal 2007 allowance does not reflect contingent reductions.

Cost Allocation – Fiscal 2007

<u>Agency</u>	<u>Type Of Cases</u>	<u>Avg. Case Hrs</u>	<u>Est No. of Cases</u>	<u>Total Case Hours</u>	<u>% of Total</u>
Department of Transportation	Motor Vehicle Administration	0.55	24,515	13,483	30.62%
	Personnel Grievances	7.07	15	106	0.24%
	Miscellaneous	<u>7.50</u>	<u>5</u>	<u>38</u>	<u>0.09%</u>
	Total		24,535	13,627	30.94%
Department of Health and Mental Hygiene (Includes Deer Head Center)	Not Criminally Responsible (NCR)	2.79	143	399	0.91%
	Involuntary Admissions (IVA)	0.94	1,208	1,136	2.58%
	Medical Assistance	1.53	482	737	1.67%
	Physician Quality Assurance	88.00	18	1,584	3.60%
	Patient Bill of Rights	2.00	28	56	0.13%
	Personnel Grievances	<u>7.07</u>	<u>7</u>	<u>49</u>	<u>0.11%</u>
Total		1,886	3,961	9.00%	
Licensing and Regulation	Home Improvement Commission	24.00	220	5,280	11.99%
	Real Estate Commission	24.00	17	408	0.93%
	MOSH	15.00	8	120	0.27%
	Miscellaneous	<u>24.00</u>	<u>19</u>	<u>456</u>	<u>1.04%</u>
	Total		264	6,264	14.22%
Department of Budget and Management	Office of Personnel Services	7.07	187	1,322	3.00%
	Central Collections	<u>2.00</u>	<u>19</u>	<u>38</u>	<u>0.09%</u>
	Total		206	1,360	3.09%
Department of Human Resources	Child Support Enforcement	1.50	16	24	0.05%
	Income Maintenance	3.50	630	2,205	5.01%
	Child Abuse and Neglect	24.00	306	7,344	16.68%
	Personnel Grievances	<u>7.07</u>	<u>18</u>	<u>127</u>	<u>0.29%</u>
	Total		970	9,700	22.03%
Department of Natural Resources	Hearings	20.00	6	120	0.27%
	Settlements	<u>0.50</u>	<u>27</u>	<u>14</u>	<u>0.03%</u>
	Total		33	134	0.30%
Department of Education	Mediations	3.23	314	1,014	2.30%
	Hearings	30.00	114	3,420	7.77%
	Personnel Grievances	<u>7.07</u>	<u>1</u>	<u>7</u>	<u>0.02%</u>
	Total		429	4,441	10.09%

D99A11 – Office of Administrative Hearings

<u>Agency</u>	<u>Type Of Cases</u>	<u>Avg. Case Hrs</u>	<u>Est No. of Cases</u>	<u>Total Case Hours</u>	<u>% of Total</u>
Office of the Attorney General	Consumer Protection	20.00	5	100	0.23%
	Securities Division	<u>16.00</u>	<u>1</u>	<u>16</u>	<u>0.04%</u>
	Total		6	116	0.26%
Department of the Environment	Hearings	50.00	13	650	1.48%
	MDE – Personnel Grievances	<u>7.07</u>	<u>2</u>	<u>14</u>	<u>0.03%</u>
	Total		15	664	1.51%
Retirement and Pension		20.00	46	920	2.09%
Human Relations Commission		60.00	4	240	0.55%
Maryland State Police	Hearings	5.88	13	76	0.17%
	MSP – Personnel Grievances	<u>7.07</u>	<u>2</u>	<u>14</u>	<u>0.03%</u>
	Total		15	91	0.21%
Board of Public Works	Hearings	26.00			0.00%
Department of Public Safety and Correctional Services	Inmate Grievance Office	1.63	500	815	1.85%
	Personnel Grievances	<u>7.07</u>	<u>37</u>	<u>262</u>	<u>0.59%</u>
	Total		537	1,077	2.44%
Maryland Insurance Administration	Hearings	2.23	561	1,251	2.84%
Higher Education Labor Relations Board	Hearings	62.50			0.00%
Department of General Services	Personnel Grievances	7.07	1	7	0.02%
Department of Juvenile Justice	Personnel Grievances	7.07	7	49	0.11%
Department of Housing and Community Development	Personnel Grievances	7.07	1	7	0.02%
Comptroller of the Treasury	Personnel Grievances	7.07	3	21	0.05%
Maryland Public Television	Personnel Grievances	7.07	1	7	0.02%
University of Maryland University System	Personnel Grievances	<u>7.07</u>	<u>14</u>	<u>99</u>	<u>0.22%</u>
Total			29,534	44,037	100%

Source: Office of Administrative Hearings