

D99A11
Office of Administrative Hearings

Operating Budget Data

(\$ in Thousands)

	<u>FY 07</u> <u>Actual</u>	<u>FY 08</u> <u>Working</u>	<u>FY 09</u> <u>Allowance</u>	<u>FY 08-09</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$371	\$0	\$0	\$0	
Special Fund	8	48	48	0	
Reimbursable Fund	<u>12,064</u>	<u>12,335</u>	<u>13,292</u>	<u>957</u>	<u>7.8%</u>
Total Funds	\$12,443	\$12,383	\$13,340	\$957	7.7%

- The allowance increases by \$956,773, or 7.7%, above the fiscal 2008 working appropriation. However, when you adjust the allowance to reflect changes in the allocation of health insurance and Other Post Employment Benefits (OPEB), the fiscal 2009 allowance increases by \$383,691, or 3.4%.
- Personnel expenditures increase by \$935,329 mostly due to OPEB (\$419,799), employee increments (\$311,753), and health insurance (\$153,283) expenditures.
- Equipment expenditures increase by \$74,495 mostly due to a lease purchase agreement for laptop computers.

Personnel Data

	<u>FY 07</u> <u>Actual</u>	<u>FY 08</u> <u>Working</u>	<u>FY 09</u> <u>Allowance</u>	<u>FY 08-09</u> <u>Change</u>
Regular Positions	122.00	122.00	122.00	0.00
Contractual FTEs	<u>0.50</u>	<u>0.50</u>	<u>0.50</u>	<u>0.00</u>
Total Personnel	122.50	122.50	122.50	0.00

Vacancy Data: Regular Positions

Turnover, Excluding New Positions	2.83	2.32%
Positions Vacant as of 12/31/07	2.90	2.38%

- The fiscal 2008 allowance does not include any new positions.

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

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- As of December 31, 2007, the vacancy rate for regular employees was 2.38%. Since that time, 1.8 of these vacancies have subsequently been filled, thereby reducing the vacancy rate to 0.90%.

Analysis in Brief

Major Trends

Managing for Results Indicate Mixed Success: The Office of Administrative Hearings reduces the amount of time between the receipt and disposition of the Department of Health and Mental Hygiene cases by 2 days. By contrast, the amount of time between the receipt and disposition of the Department of Public Safety and Correctional Services and the Department of Human Resources cases increases by 23 and 8 days, respectively.

Recommended Actions

1. Concur with Governor's allowance.

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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 Department of Health and Mental Hygiene (DHMH); the Department of Human Resources (DHR); the Department of Labor, Licensing, and Regulation; and the Maryland State Department of Education. Funding primarily comes from those agencies that use OAH services. These agencies reimburse OAH based on the proportion of time spent on their cases.

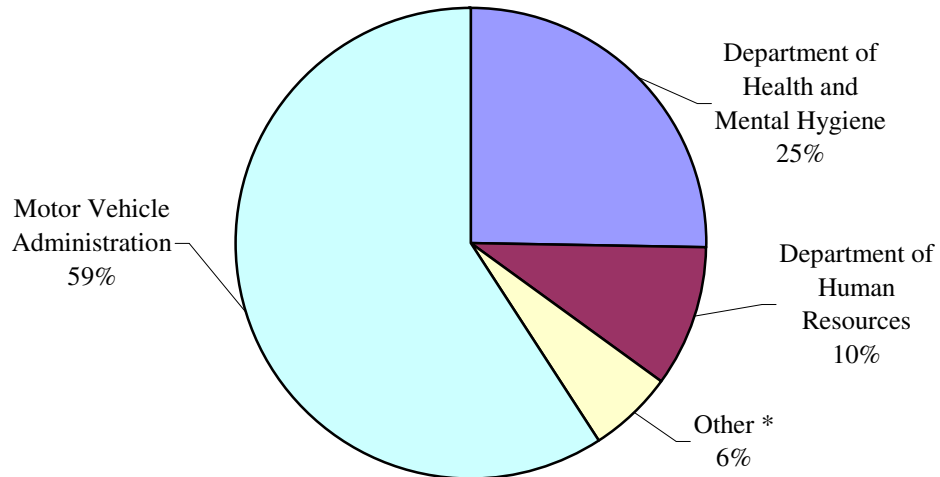
OAH decisions may be appealed on the record to the circuit court. In certain cases, the OAH decision is advisory, and the originating agency may overrule or reject the OAH ruling. When an agency has rejected the OAH decision, recourse again is with the circuit court.

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 2007, OAH disposed of approximately 50,000 cases, most of which were motor vehicle grievances (See **Exhibit 1**). One of OAH's primary performance goals is to reduce the average number of days it takes to dispose of cases from various agencies. As shown in **Exhibit 2**, there was a slight decline in the amount of time between the receipt and disposition of DHMH cases. OAH attributes this success to more stringent postponement requirements and the utilization of new case management software. By contrast, the amount of time between the receipt and disposition of DHR cases increased by 8 days to 69 days in fiscal 2007. OAH's goal is to dispose of DHR cases within 62 days from the date of receipt. OAH attributes the increase in the number of days required to dispose of DHR cases to modifications in notice procedures for entitlement appeals. According to the agency, changes in the notice requirements for temporary cash assistance have reduced the number of appeals that can be disposed of in a summary fashion.

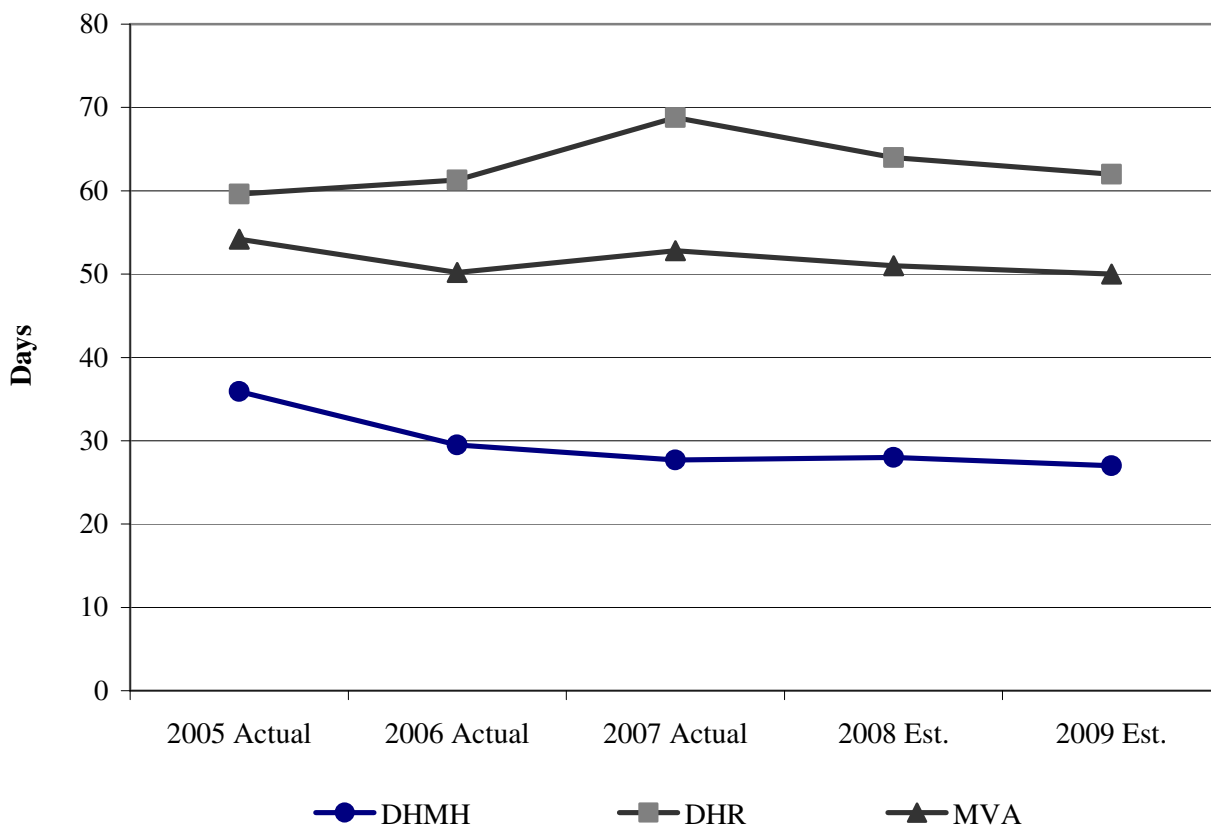
Exhibit 1
Fiscal 2007 Percentage of Cases Disposed by Agency



*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; the Maryland Insurance Administration; 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 2005-2009

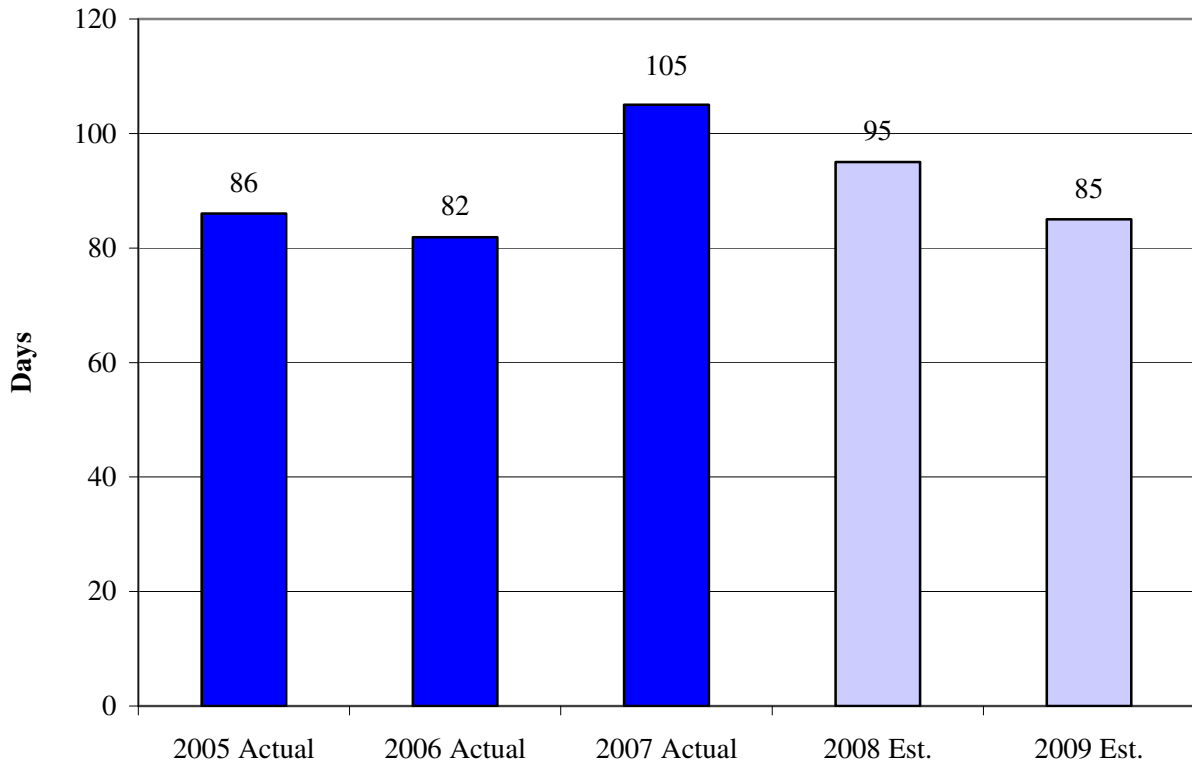


DHMH: Department of Health and Mental Hygiene
DHR: Department of Human Resources
MVA: Motor Vehicle Administration

Source: Office of Administrative Hearings

The amount of time between the receipt and disposition of inmate grievance cases from the Department of Public Safety and Correctional Services (DPSCS) increased by 23 days in fiscal 2007. As shown in **Exhibit 3**, the number of days between the receipt and disposition of DPSCS cases increased to 105 days in fiscal 2007. OAH notes that while the factors that led to this increase are generally out of its control, the amount of time required to dispose of DPSCS cases has declined in the current fiscal year.

Exhibit 3
Average Number of Days Between Receipt and Disposition of
Department of Public Safety and Correctional Services Cases
Fiscal 2005-2009



Source: Office of Administrative Hearings

Fiscal 2008 Actions

Impact of Cost Containment

OAH was required to reduce expenditures by \$112,000 for cost containment in fiscal 2008. To achieve this target, DBM withheld a 2% cost-of-living adjustment (COLA) centrally budgeted within DBM. Despite having its COLA withheld, OAH plans to distribute the 2% increase to its employees by implementing across-the-board reductions of various expenditures.

Governor’s Proposed Budget

As illustrated in **Exhibit 4**, OAH’s fiscal 2009 allowance increases by \$956,773, or 7.7%, above the fiscal 2008 working appropriation. This increase is primarily driven by additional personnel (\$935,329) and equipment expenditures (\$74,495).

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 actual caseload data from the preceding fiscal year. 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 2007) 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. **Appendix 3** shows the average case times, number of cases, and total case hours for fiscal 2009.

Exhibit 4
Governor’s Proposed Budget
Office of Administrative Hearings
(\$ in Thousands)

How Much It Grows:	Special <u>Fund</u>	Reimb. <u>Fund</u>	<u>Total</u>
2008 Working Appropriation	\$48	\$12,335	\$12,383
2009 Governor’s Allowance	<u>48</u>	<u>13,292</u>	<u>13,340</u>
Amount Change	\$0	\$957	\$957
Percent Change		7.8%	7.7%

Where It Goes:

Personnel Expenses

Health insurance – Other Post Employment Benefits	\$420
Increments, merit increases, and other pay adjustments	312
Health insurance – ongoing costs	153
Other fringe benefits adjustments.....	25
Employees’ Retirement System	17
Turnover adjustments.....	8

Other Changes

Laptop computers for Administrative Law Judges	58
Office and computer equipment	16
Court reporting and interpreter costs.....	-44
Reduction of secretarial fees	-14
Other.....	6

Total **\$957**

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

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 2007					
Legislative Appropriation	\$0	\$36	\$0	\$11,914	\$11,950
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	371	0	0	157	528
Reversions and Cancellations	0	-28	0	-7	-35
Actual Expenditures	\$371	\$8	\$0	\$12,064	\$12,443
Fiscal 2008					
Legislative Appropriation	\$0	\$48	\$0	\$12,335	\$12,383
Cost Containment	0	0	0	0	0
Budget Amendments	0	0	0	0	0
Working Appropriation	\$0	\$48	\$0	\$12,335	\$12,383

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

Fiscal 2007

In fiscal 2007, the total budget for OAH increased by \$493,357. OAH's general fund appropriation increased by \$371,000 due to a one-grade pay increase for the Administrative Law Judges. OAH's reimbursable fund appropriation increased by \$156,898 due to the COLA that was centrally budgeted in the Department of Budget and Management. Additionally, there was a reimbursable fund cancellation of \$6,511 due to unrealized communication expenditures. Finally, OAH had a special fund cancellation of \$28,029. The cancellation was the result of an accounting adjustment made by OAH to estimate the total amount of special fund expenditures required to conduct handicap accessibility hearings for local boards of education. OAH overestimated the amount of special fund expenditures required to conduct hearings by \$28,029.

Fiscal 2008

The fiscal 2008 working appropriation is the same as the fiscal 2008 legislative appropriation.

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

<u>Object/Fund</u>	<u>FY07 Actual</u>	<u>FY08 Working Appropriation</u>	<u>FY09 Allowance</u>	<u>FY08-FY09 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	122.00	122.00	122.00	0	0%
02 Contractual	0.50	0.50	0.50	0	0%
Total Positions	122.50	122.50	122.50	0	0%
Objects					
01 Salaries and Wages	\$ 10,079,167	\$ 10,115,574	\$ 11,050,903	\$ 935,329	9.2%
02 Technical and Spec. Fees	57,474	57,748	43,748	-14,000	-24.2%
03 Communication	171,518	168,831	171,533	2,702	1.6%
04 Travel	122,286	112,100	115,685	3,585	3.2%
06 Fuel and Utilities	120,158	117,846	117,846	0	0%
07 Motor Vehicles	19,185	36,164	23,513	-12,651	-35.0%
08 Contractual Services	534,178	589,815	560,557	-29,258	-5.0%
09 Supplies and Materials	149,122	135,300	135,300	0	0%
10 Equip. – Replacement	98,475	0	74,495	74,495	N/A
11 Equip. – Additional	165,949	61,000	58,165	-2,835	-4.6%
13 Fixed Charges	925,552	988,774	988,180	-594	-0.1%
Total Objects	\$ 12,443,064	\$ 12,383,152	\$ 13,339,925	\$ 956,773	7.7%
Funds					
01 General Fund	\$ 371,000	\$ 0	\$ 0	\$ 0	0.0%
03 Special Fund	7,971	48,213	48,213	0	0%
09 Reimbursable Fund	12,064,093	12,334,939	13,291,712	956,773	7.8%
Total Funds	\$ 12,443,064	\$ 12,383,152	\$ 13,339,925	\$ 956,773	7.7%

Note: The fiscal 2008 appropriation does not include deficiencies.

**Cost Allocation
Fiscal 2009**

<u>Agency</u>	<u>Type of Cases</u>	<u>Avg. Case Hours</u>	<u>Est. No. of Cases</u>	<u>Total Case Hours</u>	<u>% of Total</u>
Maryland Department of Transportation					
	Motor Vehicle Administration	0.55	25,073	13,790	33.25%
	Personnel Grievances	7.07	13	92	0.22%
	Disciplinary Cases	7.07	52	368	0.89%
	Miscellaneous	7.50	17	128	0.31%
	Total		25,155	14,377	34.67%
Department of Health and Mental Hygiene					
	Not Criminally Responsible	2.79	260	725	1.75%
	Involuntary Admissions	0.94	1,306	1,228	2.96%
	Medical Assistance	1.53	369	565	1.36%
	Physician Quality Assurance	88.00	16	1,408	3.40%
	Patient Bill of Rights	2.00	32	64	0.15%
	Disciplinary Cases	7.07	11	78	0.19%
(Inc. Deer's Head Ctr.)	Personnel Grievances	7.07	10	71	0.17%
	Total		2,004	4,138	9.98%
Department of Labor, Licensing, and Regulation					
	Home Improvement Comm.	24.00	159	3,816	9.20%
	Real Estate Commission	24.00	24	576	1.39%
	Mosh	15.00	7	105	0.25%
	Personnel Grievances and Disciplinary	7.07	8	57	0.14%
	Misc	24.00	31	744	1.79%
	Total		229	5,298	12.77%
Department of Budget and Management					
	Office of Personnel Services	7.07	1	7	0.02%
	Central Collections	2.00	20	40	0.10%
	Total		21	47	0.12%
Department of Human Resources					
	Child Support Enforcement	1.50	26	39	0.09%
	Income Maintenance	3.50	307	1,075	2.59%
	Child Abuse and Neglect	24.00	259	6,216	14.99%
	Disciplinary Cases	7.07	25	177	0.43%
	Personnel Grievances	7.07	16	113	0.27%
	Total		633	7,619	18.37%

D99A11 – Office of Administrative Hearings

<u>Agency</u>	<u>Type of Cases</u>	<u>Avg. Case Hours</u>	<u>Est. No. of Cases</u>	<u>Total Case Hours</u>	<u>% of Total</u>
Maryland State Department of Education					
	Mediations	4.65	165	767	1.85%
	Hearings	30.00	136	4,080	9.84%
	Disciplinary Cases	7.07	3	21	0.05%
	Personnel Grievances	7.07	1	7	0.02%
	Total		305	4,876	11.76%
Maryland Department of the Environment					
	Hearings	50.00	12	600	1.45%
	Personnel Grievances	7.07	1	7	0.02%
	Total		13	607	1.47%
Retirement and Pension					
	Hearings	20.00	52	1,040	2.51%
	Disciplinary Cases	7.07	1	7	0.02%
	Total		53	1,047	2.53%
Maryland State Police					
	Hearings	5.88	17	100	0.24%
	Disciplinary Cases	7.07	-	-	0.00%
	Personnel Grievances	7.07	1	7	0.02%
	Total		18	107	0.26%
Department of Public Safety and Correctional Services					
	Inmate Grievance Office	1.63	197	321	0.77%
	Disciplinary Cases	7.07	112	792	1.91%
	Personnel Grievances	7.07	33	233	0.56%
	Total		342	1,346	3.24%
Maryland Insurance Administration					
	Hearings	2.23	174	388	0.94%
	Personnel Grievances	7.07	2	14	0.03%
	Total		176	402	0.97%
Office of the Attorney General					
	Consumer Protection	20.00	8	160	0.39%
Human Relations Commission					
	Hearings	60.00	3	180	0.43%
Department of Natural Resources					
	Hearings	20.00	11	220	0.53%
Higher Education Labor Relations Board					
	Hearings	62.50	1	63	0.15%

D99A11 – Office of Administrative Hearings

<u>Agency</u>	<u>Type of Cases</u>	<u>Avg. Case Hours</u>	<u>Est. No. of Cases</u>	<u>Total Case Hours</u>	<u>% of Total</u>
Injured Workers Insurance Fund	Personnel Grievances	7.07	2	14	0.03%
Department of Juvenile Justice	Personnel Grievances	7.07	6	42	0.10%
	Disciplinary Cases	7.07	15	106	0.26%
	Total		21	148	0.36%
Department of Housing and Community Development	Personnel Grievances	7.07	1	7	0.02%
Maryland Transportation Authority	Personnel Grievances	7.07	13	92	0.22%
Office of the Public Defender	Personnel Grievances	7.07	1	7	0.02%
Military Department	Disciplinary Cases	7.07	4	28	0.07%
	Personnel Grievances	7.07	8	57	0.14%
	Total		12	85	0.21%
Mass Transit Authority	Disciplinary Cases	7.07	2	14	0.03%
	Personnel Grievances	7.07	5	35	0.09%
	Total		7	49	0.12%
Maryland Aviation Division	Disciplinary Cases	7.07	6	42	0.10%
	Personnel Grievances	7.07	4	28	0.07%
	Total		10	70	0.17%
Institute for Children and Adolescents	Disciplinary Cases	7.07	2	14	0.03%
Bowie State University	Disciplinary Cases	7.07	2	14	0.03%
	Personnel Grievances	7.07	2	14	0.03%
	Total		4	28	0.06%
Frostburg State University	Personnel Grievances	7.07	3	21	0.05%

D99A11 – Office of Administrative Hearings

<u>Agency</u>	<u>Type of Cases</u>	<u>Avg. Case Hours</u>	<u>Est. No. of Cases</u>	<u>Total Case Hours</u>	<u>% of Total</u>
Salisbury University					
	Disciplinary Cases	7.07	6	42	0.10%
	Personnel Grievances	7.07	9	64	0.15%
	Total		15	106	0.25%
Towson University					
	Disciplinary Cases	7.07	1	7	0.02%
	Personnel Grievances	7.07	5	35	0.09%
	Total		6	42	0.11%
University of Maryland University College					
	Disciplinary Cases	7.07	1	7	0.02%
	Personnel Grievances	7.07	3	21	0.05%
	Total		4	28	0.07%
University of Maryland Eastern Shore					
	Personnel Grievances	7.07	2	14	0.03%
University of Baltimore					
	Disciplinary Cases	7.07	1	7	0.02%
	Personnel Grievances	7.07	6	42	0.10%
	Total		7	49	0.12%
Clifton T. Perkins Hospital					
	Disciplinary Cases	7.07	1	7	0.02%
	Personnel Grievances	7.07	1	7	0.02%
	Total		2	14	0.04%
Springfield Hospital Center					
	Disciplinary Cases	7.07	6	42	0.10%
	Personnel Grievances	7.07	2	14	0.03%
	Total		8	56	0.13%
Walter P. Carter Center					
	Disciplinary Cases	7.07	3	21	0.05%
State Department of Assessments and Taxation					
	Disciplinary Cases	7.07	3	21	0.05%
	Personnel Grievances	7.07	4	28	0.07%
	Total		7	49	0.12%
Maryland School for the Deaf					
	Disciplinary Cases	7.07	2	14	0.03%

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<u>Agency</u>	<u>Type of Cases</u>	<u>Avg. Case Hours</u>	<u>Est. No. of Cases</u>	<u>Total Case Hours</u>	<u>% of Total</u>
Metropolitan Transition Center					
	Disciplinary Cases	7.07	6	42	0.10%
	Personnel Grievances	7.07	1	7	0.02%
	Total		7	49	0.12%
	Grand Total		29,114	41,470	100%