

D99A11
Office of Administrative Hearings

Operating Budget Data

(\$ in Thousands)

	<u>FY 08</u> <u>Actual</u>	<u>FY 09</u> <u>Working</u>	<u>FY 10</u> <u>Allowance</u>	<u>FY 09-10</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
Special Fund	\$22	\$48	\$48	\$0	
Adjusted Special Fund	\$22	\$48	\$48	\$0	0.0%
Reimbursable Fund	12,382	13,478	12,962	-516	-3.8%
Contingent & Back of Bill Reductions	0	0	-56	-56	
Adjusted Reimbursable Fund	\$12,382	\$13,478	\$12,906	-\$572	-4.2%
Adjusted Grand Total	\$12,404	\$13,526	\$12,955	-\$572	-4.2%

- The adjusted allowance decreases by \$572,000, or 4.2%, below the fiscal 2009 working appropriation. This decrease is driven by a \$590,000 reduction in personnel-related activities and is slightly offset by increases in rent and computer maintenance contracts.
- Personnel expenditures decrease primarily due to a reduction of 3.0 regular positions and a 0.5 contractual position and the deletion of funds for Other Post Employment Benefits.

Personnel Data

	<u>FY 08</u> <u>Actual</u>	<u>FY 09</u> <u>Working</u>	<u>FY 10</u> <u>Allowance</u>	<u>FY 09-10</u> <u>Change</u>
Regular Positions	122.00	122.00	119.00	-3.00
Contractual FTEs	0.50	0.50	0.00	-0.50
Total Personnel	122.50	122.50	119.00	-3.50

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	3.58	3.01%
Positions and Percentage Vacant as of 12/31/08	2.00	1.64%

- The fiscal 2010 allowance decreases by 3.0 regular positions and 0.5 contractual positions.

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

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- As of December 31, 2008, the vacancy rate for regular employees was 1.64%, or 2.0 positions.

Analysis in Brief

Major Trends

Managing for Results Indicate Mixed Results: There was a 6.6-day increase in the amount of time between the receipt and disposition of the Department of Health and Mental Hygiene cases. By contrast, the amount of time between the receipt and disposition of Department of Human Resources and Motor Vehicle Administration cases decreased by 3.6 and 2.9 days, respectively, in fiscal 2008.

Recommended Actions

1. Concur with Governor's allowance.

D99A11
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 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.

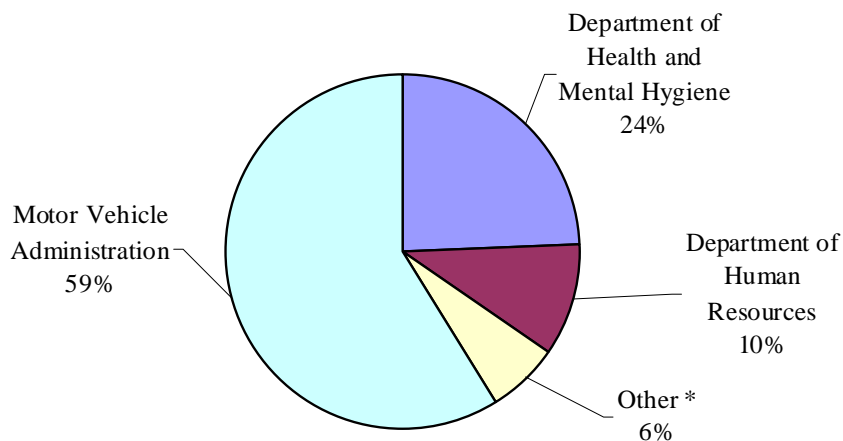
The Chief Administrative Law Judge (ALJ) is the administrative head of the agency. The State Advisory Council on Administrative Hearings oversees all activities of the agency and provides guidance and direction to the Chief ALJ.

Performance Analysis: Managing for Results

Overall, OAH's Managing for Results indicate mixed results. In fiscal 2008, OAH disposed of more than 48,000 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 6.6-day increase in the amount of time between the receipt and disposition of DHMH cases. OAH notes that disposition time for DHMH cases can vary according to the complexity of the case and at times is subject to scheduling difficulties. In contrast, the amount of time between the receipt and disposition of DHR and MVA cases decreased by 3.6 and 2.9 days, respectively, in fiscal 2008. This measure has decreased relative to fiscal 2007, during which disposition times were irregularly high due to procedural changes.

The amount of time between the receipt and disposition of inmate grievance cases from the Department of Public Safety and Correctional Services (DPSCS) decreased by 26.7 days in fiscal 2008. As shown in **Exhibit 3**, the number of days between the receipt and disposition of DPSCS cases was 78.3 days in fiscal 2008, compared to 105 days in fiscal 2007. OAH notes that the factors leading to this decrease are generally out of its control because OAH does not control the scheduling.

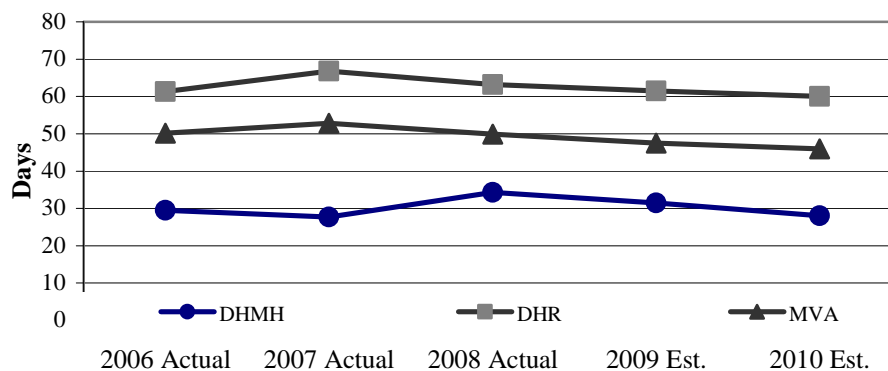
Exhibit 1
Fiscal 2008 Percentage of Cases Disposed by Agency



*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 2006-2010

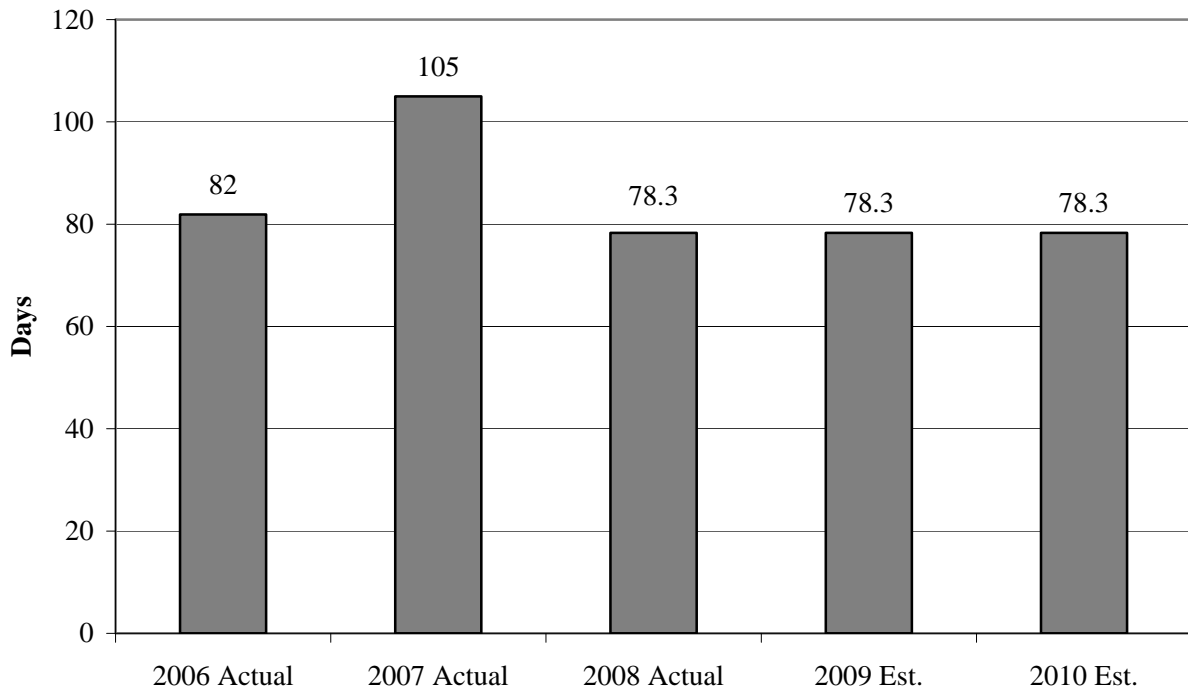


DHMH: Department of Health and Mental Hygiene
 DHR: Department of Human Resources

MVA: Motor Vehicle Administration

Source: Office of Administrative Hearings

Exhibit 3
Average Number of Days Between Receipt and Disposition of
Department of Public Safety and Correctional Services Cases
Fiscal 2006-2010



Source: Office of Administrative Hearings

Proposed Budget

As illustrated in **Exhibit 4**, OAH’s fiscal 2010 allowance decreases by \$572,000, or 4.29%, below the fiscal 2009 working appropriation. This decrease is primarily driven by the elimination of 3.0 regular positions, 0.5 contractual positions, the deferred compensation match, and funds for Other Post Employment Benefits. Reductions were taken from personnel because it accounts for 85.0% of the OAH budget. The 3.0 regular positions included 2.0 administrative law judge positions and 1.0 assistant librarian position. The 0.5 contractual full-time equivalent was for a staff attorney position. Additionally, OAH has eliminated security measures to help address budgetary gaps. The reductions are slightly offset by a \$50,940 increase in rent and a \$59,726 increase for computer maintenance contracts. OAH recently renegotiated a lease contract for its facility in Hunt Valley, increasing rent slightly. The computer maintenance contracts will support digital recording software, server maintenance, and case management updates.

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

How Much It Grows:	<u>Special</u> <u>Fund</u>	<u>Reimbursable</u> <u>Fund</u>	<u>Total</u>
2009 Working Appropriation	\$48	\$13,478	\$13,526
2010 Allowance	<u>48</u>	<u>12,962</u>	<u>13,011</u>
Amount Change	\$0	-\$572	-\$572
Percent Change		-4.2%	-4.2%

Where It Goes:

Personnel Expenses

Net health insurance.....	\$246
Retirement contribution	101
Delete funds reducing Other Post Employment Benefits' unfunded liability.....	-420
Elimination of 3.0 regular positions.....	-289
Turnover adjustment	-71
Deferred compensation	-56
Elimination of 0.5 contractual positions	-44
Other Changes	
Contracts – computer maintenance	60
Rent	51
Contracts – security services	-90
Contracts – training	-32
Equipment replacement.....	-28
Total	-\$572

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. The Department of Budget and Management (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 2008) 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 2010.

Analysis of the FY 2010 Maryland Executive Budget, 2009

Impact of Cost Containment

The fiscal 2010 allowance reflects a \$56,000 reduction for deferred compensation. This reduction is contingent upon enactment of the Budget Reconciliation and Financing Act of 2009.

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 2008					
Legislative Appropriation	\$0	\$48	\$0	\$12,335	\$12,383
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	0	0	0	59	59
Cost Containment	0	0	0	0	0
Reversions and Cancellations	0	-26	0	-12	-38
Actual Expenditures	\$0	\$22	\$0	\$12,382	\$12,404
Fiscal 2009					
Legislative Appropriation	\$0	\$48	\$0	\$13,292	\$13,340
Cost Containment	0	0	0	0	0
Budget Amendments	0	0	0	186	186
Working Appropriation	\$0	\$48	\$0	\$13,478	\$13,526

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

Fiscal 2008

In fiscal 2008, the total budget for OAH increased by \$59,000 due to a reimbursable fund budget amendment for a cost-of-living adjustment (COLA) that was centrally budgeted in DBM. Additionally, there was a \$26,000 special fund cancellation and \$12,000 reimbursable fund cancellation because the amount budgeted for expenditures related to conducting hearings and copying documents exceeded actual expenditures.

Fiscal 2009

The OAH fiscal 2009 working appropriation is \$186,380 higher than the legislative appropriation due to a reimbursable fund budget amendment for a COLA that was centrally budgeted in DBM.

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

<u>Object/Fund</u>	<u>FY08 Actual</u>	<u>FY09 Working Appropriation</u>	<u>FY10 Allowance</u>	<u>FY09 - FY10 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	122.00	122.00	119.00	-3.00	-2.5%
02 Contractual	0.50	0.50	0	-0.50	-100.0%
Total Positions	122.50	122.50	119.00	-3.50	-2.9%
Objects					
01 Salaries and Wages	\$ 10,142,610	\$ 11,237,283	\$ 10,730,955	-\$ 506,328	-4.5%
02 Technical and Spec. Fees	41,554	43,748	0	-43,748	-100.0%
03 Communication	162,944	171,533	172,898	1,365	0.8%
04 Travel	133,069	115,685	120,649	4,964	4.3%
06 Fuel and Utilities	137,526	117,846	165,031	47,185	40.0%
07 Motor Vehicles	51,007	23,513	27,374	3,861	16.4%
08 Contractual Services	482,329	560,557	510,983	-49,574	-8.8%
09 Supplies and Materials	141,475	135,300	139,256	3,956	2.9%
10 Equipment – Replacement	45,099	74,495	46,025	-28,470	-38.2%
11 Equipment – Additional	84,827	58,165	58,138	-27	0%
13 Fixed Charges	981,804	988,180	1,039,372	51,192	5.2%
Total Objects	\$ 12,404,244	\$ 13,526,305	\$ 13,010,681	-\$ 515,624	-3.8%
Funds					
03 Special Fund	\$ 21,913	\$ 48,213	\$ 48,213	\$ 0	0%
09 Reimbursable Fund	12,382,331	13,478,092	12,962,468	-515,624	-3.8%
Total Funds	\$ 12,404,244	\$ 13,526,305	\$ 13,010,681	-\$ 515,624	-3.8%

Note: The fiscal 2009 appropriation does not include deficiencies. The fiscal 2010 allowance does not include contingent reductions.

**Cost Allocation
Fiscal 2010**

<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>
Department of Transportation					
	Motor Vehicle Administration	0.55	24,741	13,608	32.9%
	Grievance Cases	7.07	5	35	0.1%
	Disciplinary Cases	7.07	26	184	0.4%
	Miscellaneous	7.50	14	105	0.3%
	Total		24,786	13,932	33.7%
Maryland Port Administration					
	Disciplinary Cases	7.07	2	14	0.0%
	Grievance Cases	7.07	1	7	0.0%
	Total		3	21	0.1%
Maryland Transit Administration					
	Disciplinary Cases	7.07	1	7	0.0%
	Grievance Cases	7.07	6	42	0.1%
	Total		7	49	0.1%
Maryland Aviation Division					
	Disciplinary Cases	7.07	8	57	0.1%
	Grievance Cases	7.07	5	35	0.1%
	Total		13	92	0.2%
Maryland Transportation Authority					
	Disciplinary Cases	7.07	2	14	0.0%
	Total		2	14	0.0%
State Highway Administration					
	Disciplinary Cases	7.07	27	191	0.5%
	Grievance Cases	7.07	2	14	0.0%
	Total		29	205	0.5%
Department of Health and Mental Hygiene					
	Not Criminally Responsible	2.79	279	778	1.9%
	Involuntary Admissions	0.94	1,125	1,058	2.6%
	Medical Assistance	1.53	594	909	2.2%
	Physician Quality Assurance	88.00	11	968	2.3%
	Patient Bill of Rights	2.00	41	82	0.2%

Analysis of the FY 2010 Maryland Executive Budget, 2009

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Appendix 3 (Cont.)

<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>
	Disciplinary Cases	7.07	4	28	0.1%
	Grievance Cases	7.07	3	21	0.1%
	Total		2,057	3,844	9.3%
Clifton T. Perkins Hospital					
	Grievance Cases	7.07	1	7	0.0%
	Total		1	7	0.0%
Eastern Shore Hospital Center					
	Grievance Cases	7.07	6	42	0.1%
	Total		6	42	0.1%
Spring Grove Hospital					
	Disciplinary Cases	7.07	11	78	0.2%
	Grievance Cases	7.07	1	7	0.0%
	Total		12	85	0.2%
Springfield Hospital Center					
	Disciplinary Cases	7.07	13	92	0.2%
	Grievance Cases	7.07	2	14	0.0%
	Total		15	106	0.3%
Walter P. Carter Center					
	Disciplinary Cases	7.07	0	0	0.0%
	Total		0	0	0.0%
Department of Labor, Licensing and Regulation					
	Home Improvement Commission	24.00	225	5,400	13.1%
	Real Estate Commission	24.00	30	720	1.7%
	Mosh	15.00	7	105	0.3%
	Grievance Cases	7.07	1	7	0.0%
	Disciplinary Cases	7.07	2	14	0.0%
	Miscellaneous	24.00	15	360	0.9%
	Total		280	6,606	16.0%
Department of Budget and Management					
	Hearings	3.50	15	53	0.1%
	Central Collections	2.00	7	14	0.0%
	Total		22	67	0.2%
Department of Human Resources					
	Child Support Enforcement	1.50	16	24	0.1%
	Income Maintenance	3.50	323	1,131	2.7%

Analysis of the FY 2010 Maryland Executive Budget, 2009

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Appendix 3 (Cont.)

<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>
	Child Abuse and Neglect	24.00	237	5,688	13.8%
	Disciplinary Cases	7.07	7	49	0.1%
	Grievance Cases	7.07	1	7	0.0%
	Total		584	6,899	16.7%
Baltimore City	Department of Social Services				
	Disciplinary Cases	7.07	6	42	0.1%
	Grievance Cases	7.07	3	21	0.1%
	Total		9	64	0.2%
	Department of Natural Resources				
	Hearings	20.00	16	320	0.8%
	Settlements	0.50	3	2	0.0%
	Disciplinary Cases	7.07	0	0	0.0%
	Grievance Cases	7.07	2	14	0.0%
	Total		21	336	0.8%
Department of Education					
	Mediations	3.23	177	572	1.4%
	Hearings	30.00	134	4,020	9.7%
	Disciplinary Cases	7.07	0	0	0.0%
	Grievance Cases	7.07	2	14	0.0%
	Total		313	4,606	11.1%
Office of Attorney General					
	Consumer Protection	20.00	7	140	0.3%
	Securities Division	16.00	3	48	0.1%
	Grievance Cases	7.07	0	0	0.0%
	Total		10	188	0.5%
Department of Environment					
	Hearings	50.00	12	600	1.5%
	Grievance Cases	7.07	0	0	0.0%
	Total		12	600	1.5%
Retirement and Pension					
	Hearings	20.00	29	580	1.4%
	Disciplinary Cases	7.07	1	7	0.0%
	Total		30	587	1.4%

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Appendix 3 (Cont.)

<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>
Human Relations Commission	Miscellaneous	60.00	3	180	0.4%
	Total		3	180	0.4%
Maryland State Police	Hearings	5.88	7	41	0.1%
	Disciplinary Cases	7.07	1	7	0.0%
	Grievance Cases	7.07	2	14	0.0%
	Total		10	62	0.2%
Board of Public Works	Hearings	26.00	0	0	0.0%
	Total		0	0	0.0%
Department of Public Safety and Correctional Services	Inmate Grievance Office	1.63	390	636	1.5%
	Disciplinary Cases	7.07	103	728	1.8%
	Grievance Cases	7.07	26	184	0.4%
	Total		519	1,548	3.7%
Metropolitan Transition Center	Disciplinary Cases	7.07	11	78	0.2%
	Grievance Cases	7.07	3	21	0.1%
	Total		14	99	0.2%
Maryland Insurance Administration	Hearings	2.23	169	377	0.9%
	Grievance Cases	7.07	0	0	0.0%
	Total		169	377	0.9%
Maryland Health Insurance Plan	Hearings	2.23	0	0	0.0%
	Total		0	0	0.0%
Higher Education Relation Boards	Hearings	62.50	0	0	0.0%
	Total		0	0	0.0%
Department of General Services	Grievance Cases	7.07	1	7	0.0%
	Disciplinary Cases	7.07	1	7	0.0%
	Total		2	14	0.0%

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Department of Juvenile Services					
	Grievance Cases	7.07	10	71	0.2%
	Disciplinary Cases	7.07	13	92	0.2%
	Total		23	163	0.4%
Department of Housing and Community Development					
	Grievance Cases	7.07	0	0	0.0%
	Total		0	0	0.0%
Comptroller of the State					
	Grievance Cases	7.07	2	14	0.0%
	Disciplinary Cases	7.07	3	21	0.1%
	Total		5	35	0.1%
Maryland Public Television					
	Grievance Cases	7.07	0	0	0.0%
	Total		0	0	0.0%
Military Department					
	Disciplinary Cases	7.07	4	28	0.1%
	Grievance Cases	7.07	9	64	0.2%
	Total		13	92	0.2%
State Board of Elections					
	Disciplinary Cases	7.07	0	0	0.0%
	Total		0	0	0.0%
Maryland Department of Agriculture					
	Disciplinary Cases	7.07	3	21	0.1%
	Grievance Cases	7.07	1	7	0.0%
	Total		4	28	0.1%
University of Maryland - University System					
	Disciplinary Cases	7.07	1	7	0.0%
	Total		1	7	0.0%
College Park					
	Grievance Cases	7.07	1	7	0.0%
	Total		1	7	0.0%
Bowie State University					
	Disciplinary Cases	7.07	1	7	0.0%
	Grievance Cases	7.07	1	7	0.0%
	Total		2	14	0.0%

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Coppin State University					
	Disciplinary Cases	7.07	2	14	0.0%
	Grievance Cases	7.07	2	14	0.0%
	Total		4	28	0.1%
Frostburg State College					
	Grievance Cases	7.07	0	0	0.0%
	Total		0	0	0.0%
Morgan State University					
	Disciplinary Cases	7.07	0	0	0.0%
	Grievance Cases	7.07	13	92	0.2%
	Total		13	92	0.2%
Salisbury State University					
	Disciplinary Cases	7.07	0	0	0.0%
	Grievance Cases	7.07	2	14	0.0%
	Total		2	14	0.0%
Towson State University					
	Disciplinary Cases	7.07	1	7	0.0%
	Total		1	7	0.0%
University of Baltimore					
	Grievance Cases	7.07	0	0	0.0%
	Total		0	0	0.0%
St. Mary's College Maryland					
	Disciplinary Cases	7.07	6	42	0.1%
	Grievance Cases	7.07	6	42	0.1%
	Total		12	85	0.2%
University of Maryland at Baltimore					
	Disciplinary Cases	7.07	1	7	0.0%
	Grievance Cases	7.07	10	71	0.2%
	Total		11	78	0.2%
University of Maryland Eastern Shore					
	Disciplinary Cases	7.07	1	7	0.0%
	Grievance Cases	7.07	3	21	0.1%
	Total		4	28	0.1%

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Baltimore City Community College	Disciplinary Cases	7.07	2	14	0.0%
	Total		2	14	0.0%
Office of the Public Defender	Grievance Cases	7.07	1	7	0.0%
	Total		1	7	0.0%
Department of Assessments and Taxation	Disciplinary Cases	7.07	0	0	0.0%
	Grievance Cases	7.07	2	14	0.0%
	Total		2	14	0.0%
Washington Suburban Sanitary Commission	Disciplinary Cases	7.07	1	7	0.0%
	Total		1	7	0.0%
	Grand Total		29,031	41,351	100.0%