

D99A11
Office of Administrative Hearings

Operating Budget Data

(\$ in Thousands)

	<u>FY 09</u> <u>Actual</u>	<u>FY 10</u> <u>Working</u>	<u>FY 11</u> <u>Allowance</u>	<u>FY 10-11</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
Special Fund	\$17	\$48	\$48	\$0	
Adjusted Special Fund	\$17	\$48	\$48	\$0	0.0%
Reimbursable Fund	13,369	12,906	12,833	-74	-0.6%
Contingent & Back of Bill Reductions	0	0	-321	-321	
Adjusted Reimbursable Fund	\$13,369	\$12,906	\$12,512	-\$395	-3.1%
Adjusted Grand Total	\$13,387	\$12,955	\$12,560	-\$395	-3.0%

Note: For purposes of illustration, the Department of Legislative Services has estimated the distribution of selected across-the-board reductions. The actual allocations are to be developed by the Administration.

- The adjusted allowance decreases by \$395,000, or 3.0%, below the fiscal 2010 working appropriation. This is primarily driven by the impact of fiscal 2011 across-the-board reductions.
- Increases to personnel expenditures include \$119,000 for the employee retirement system and \$61,000 for health insurance.

Personnel Data

	<u>FY 09</u> <u>Actual</u>	<u>FY 10</u> <u>Working</u>	<u>FY 11</u> <u>Allowance</u>	<u>FY 10-11</u> <u>Change</u>
Regular Positions	122.00	119.00	118.00	-1.00
Contractual FTEs	<u>1.20</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Total Personnel	123.20	119.00	118.00	-1.00

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	4.19	3.55%
Positions and Percentage Vacant as of 12/31/09	9.00	7.56%

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

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- The fiscal 2011 allowance abolishes 1.0 regular vacant position for an administrative law judge.
- As of December 31, 2009, the vacancy rate for regular employees was 7.56% due to positions being held vacant for fiscal 2010 cost containment purposes.

Analysis in Brief

Major Trends

Managing for Results Indicate Overall Success: There was a 7.7-day decrease in the amount of time between the receipt and disposition of Department of Health and Mental Hygiene cases, and Motor Vehicle Administration cases decreased by 2.1 days in fiscal 2009. The amount of time between receipt and disposition of Department of Human Resources cases remained nearly constant.

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 Department of Health and Mental Hygiene (DHMH); the Department of Human Resources (DHR); the Department of Labor, Licensing, and Regulation; the Department of Public Safety and Correctional Services (DPSCS); 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.

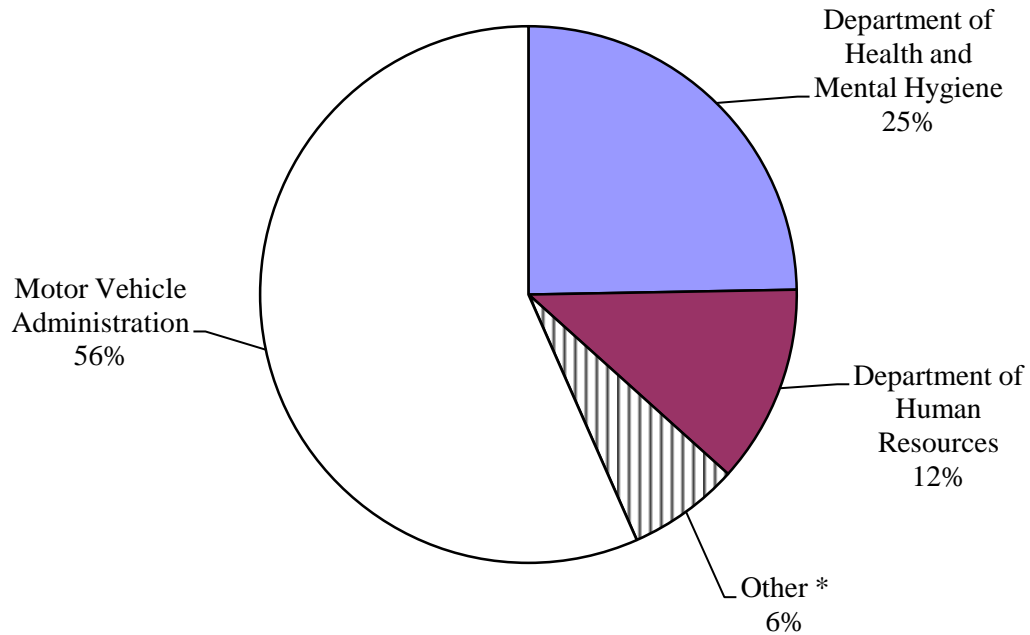
The Chief Administrative Law Judge (ALJ) is the administrative head of the agency. The State Advisory Council on Administrative Hearings oversees all activities of the agency and provides guidance and direction to the Chief ALJ.

Performance Analysis: Managing for Results

OAH's Managing for Results indicate overall success. In fiscal 2009, OAH disposed of more than 46,000 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 7.7-day decrease in the amount of time between the receipt and disposition of DHMH cases in fiscal 2009. 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. Similarly, the amount of time between the receipt and disposition of MVA cases decreased by 2.1 days in fiscal 2009, while the amount of time between receipt and disposition of DHR cases remained nearly constant.

The amount of time between the receipt and disposition of inmate grievance cases from DPSCS increased by 2.6 days in fiscal 2009. However, that followed a 26.7-day drop in fiscal 2008, as shown in **Exhibit 3**. OAH notes that the factors leading to these changes are generally out of its control because OAH does not control the scheduling. The agency schedules the hearing for inmate grievance and other certain cases and then forwards the case to OAH.

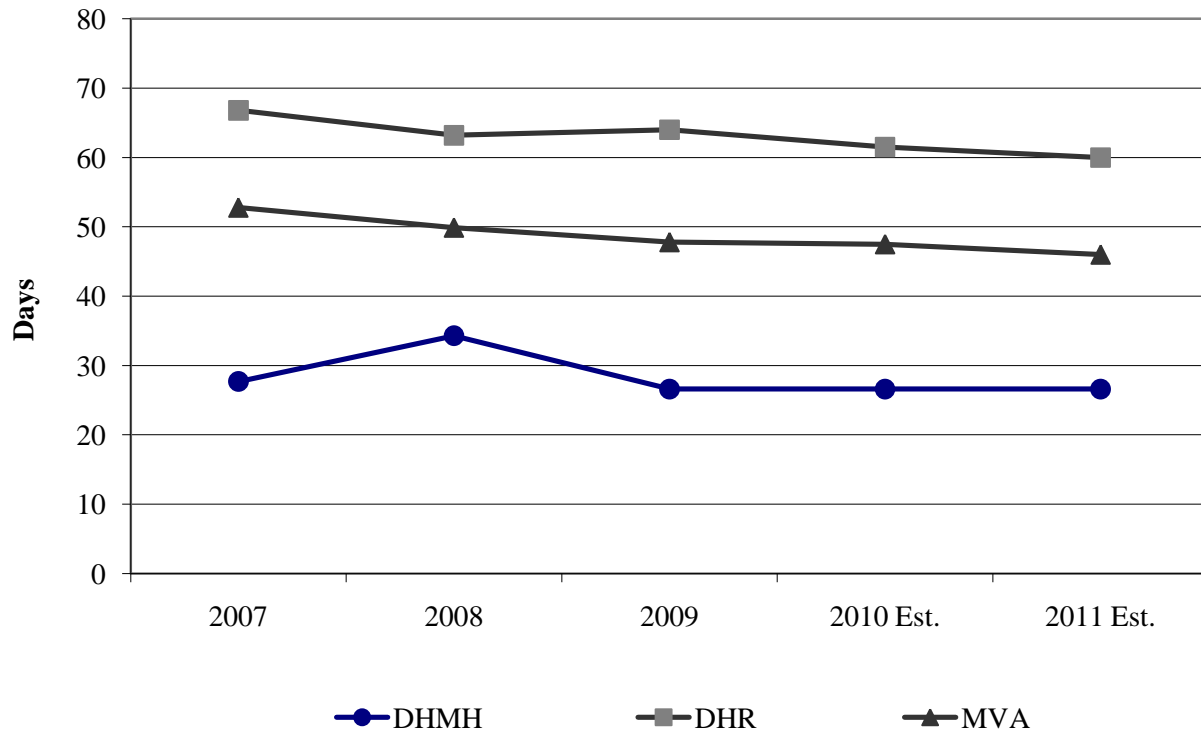
Exhibit 1
Percentage of Cases Disposed by Agency
Fiscal 2009



*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; the Department of Budget and Management – Personnel; and miscellaneous.

Source: Office of Administrative Hearings

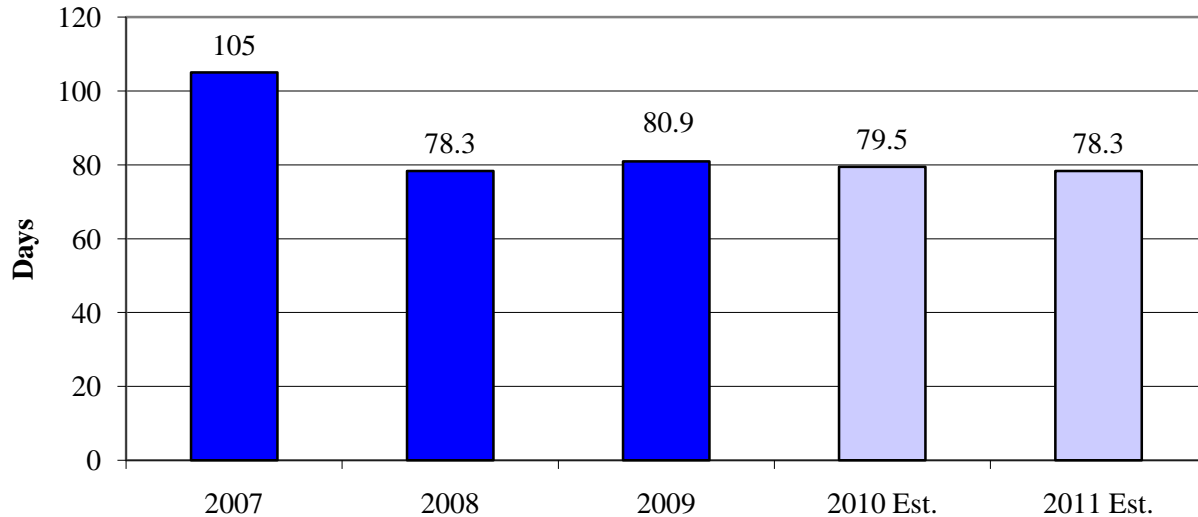
Exhibit 2
Average Number of Days Between Receipt and Disposition of
DHMH, DHR, and MVA Cases
Fiscal 2007-2011



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 2007-2011



Source: Office of Administrative Hearings

Fiscal 2010 Actions

Impact of Cost Containment

In July, August, and November 2009, the Governor proposed and the Board of Public Works adopted reductions to the fiscal 2010 appropriation. As part of these cost containment actions, OAH will revert \$100,000 of reimbursable funds to the general fund at the close of fiscal 2010. This reflects cost savings achieved through vacancies that will be held open the remainder of the year.

Proposed Budget

As illustrated in **Exhibit 4**, OAH's fiscal 2011 allowance decreases by \$395,000, or 3.0%, below the fiscal 2010 working appropriation. This decrease is primarily driven by personnel expenditures including \$328,000 to reflect salary costs net of the Department of Legislative Services estimate of furlough reductions, \$127,000 to abolish an administrative law judge position, and \$53,000 to increase the turnover rate. These decreases are slightly offset by increases of \$119,000 for the employee retirement system and \$61,000 for health insurance (net of estimated across-the-board reductions). Non-personnel expenditures decrease \$86,000 for a lease on capital equipment that will expire in fiscal 2011 (\$58,000), the elimination of funds for out-of-state conferences (\$15,000), and utilities (\$13,000).

Exhibit 4
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>
2010 Working Appropriation	\$48	\$12,906	\$12,955
2011 Allowance	<u>48</u>	<u>12,833</u>	<u>12,881</u>
Amount Change	\$0	-\$74	-\$74
Percent Change		-0.6%	-0.6%
 Contingent Reductions	 \$0	 -\$321	 -\$321
Adjusted Change	\$0	-\$395	-\$395
Adjusted Percent Change	0.0%	-3.1%	-3.0%

Where It Goes:

Personnel Expenses

Adjustment for fiscal 2011 contingent reductions	-\$328
Abolition of 1.0 administrative law judge position	-127
Employee retirement system	119
Employee and retiree health insurance	61
Turnover adjustments	-53
Unemployment compensation	14
Workers' compensation premium assessment.....	8
Other fringe benefit adjustments	-3

Other Changes

Capital lease equipment	-58
Elimination of funds for out-of-state conferences and seminars.....	-15
Utilities.....	-13

Total **-\$395**

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 2009) 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 4** shows the average case times, number of cases, and total case hours for fiscal 2011.

As noted in **Appendix 2**, a February 2009 fiscal compliance audit conducted by the Office of Legislative Audits found that OAH lacked assurance that the allocation of its operating costs to State agencies was proper. In response, OAH conducted a study in the spring of 2009 to examine the actual amount of time it takes to process various types of cases. The study revealed that in many instances, the actual amount of time from receipt to disposition of certain cases was much higher or lower than originally thought, thus creating new Average Case Hours for most agencies that are displayed in Appendix 4. In fiscal 2011, OAH and DBM have utilized the new Average Case Hours to determine the cost allocation. As a result, the allocation of reimbursable funds to other agencies changes significantly in fiscal 2011 as compared to fiscal 2010, even though the OAH budget overall remains nearly level.

OAH should brief the committees on the study performed in the fall of 2009, the findings of the study, and the implications for the budgets of other State agencies.

Impact of Cost Containment

The fiscal 2011 budget reflects several across-the-board actions to be allocated by the Administration. This includes a combination of employee furloughs and government shut-down days similar to the plan adopted in fiscal 2010; a reduction in overtime based on accident leave management; streamlining of State operations; hiring freeze and attrition savings; a change in the injured workers' settlement policy and administrative costs; and a savings in health insurance to reflect a balance in that account. For purposes of illustration, the Department of Legislative Services has estimated the distribution of selected actions relating to employee furloughs, health insurance, and the Injured Workers' Insurance Fund cost savings.

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</u> <u>Fund</u>	<u>Special</u> <u>Fund</u>	<u>Federal</u> <u>Fund</u>	<u>Reimb.</u> <u>Fund</u>	<u>Total</u>
Fiscal 2009					
Legislative Appropriation	\$0	\$48	\$0	\$13,292	\$13,340
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	0	0	0	226	226
Cost Containment	0	0	0	0	0
Reversions and Cancellations	0	-31	0	-149	-180
Actual Expenditures	\$0	\$17	\$0	\$13,369	\$13,386
Fiscal 2010					
Legislative Appropriation	\$0	\$48	\$0	\$12,906	\$12,954
Cost Containment	0	0	0	0	0
Budget Amendments	0	0	0	0	0
Working Appropriation	\$0	\$48	\$0	\$12,906	\$12,954

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

Fiscal 2009

OAH completed fiscal 2009 \$46,000 above the legislative appropriation. Actual fiscal 2009 special fund expenditures were \$31,000 below the legislative appropriation due to cancelled funds that were not utilized. Actual fiscal 2009 reimbursable fund expenditures were \$77,000 above the legislative appropriation due to a \$186,380 cost-of-living adjustment and \$40,000 from the Department of Labor, Licensing, and Regulation to assist with unemployment insurance cases. Additionally, \$149,000 was cancelled at the close of fiscal 2009 for unspent funds.

Fiscal 2010

In fiscal 2010, the working appropriation for OAH remains unchanged as compared to the legislative appropriation.

Audit Findings

Audit Period for Last Audit:	November 4, 2005 – August 17, 2008
Issue Date:	February 2009
Number of Findings:	3
Number of Repeat Findings:	1
% of Repeat Findings:	33%
Rating: (if applicable)	

Finding 1: **Proper internal controls were not established over disbursement transactions.**

Finding 2: OAH lacked assurance that its allocation of operating costs to State agencies was proper.

Finding 3: OAH improperly recorded accrued expenditures totaling approximately \$150,900.

*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>FY09 Actual</u>	<u>FY10 Working Appropriation</u>	<u>FY11 Allowance</u>	<u>FY10 - FY11 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	122.00	119.00	118.00	-1.00	-0.8%
02 Contractual	1.20	0	0	0	0.0%
Total Positions	123.20	119.00	118.00	-1.00	-0.8%
Objects					
01 Salaries and Wages	\$ 11,061,155	\$ 10,674,955	\$ 10,686,631	\$ 11,676	0.1%
02 Technical and Spec. Fees	57,074	0	0	0	0.0%
03 Communication	166,019	172,898	173,374	476	0.3%
04 Travel	185,455	120,649	114,728	-5,921	-4.9%
06 Fuel and Utilities	152,443	165,031	152,443	-12,588	-7.6%
07 Motor Vehicles	23,472	27,374	29,154	1,780	6.5%
08 Contractual Services	491,107	510,983	504,237	-6,746	-1.3%
09 Supplies and Materials	133,162	139,256	131,821	-7,435	-5.3%
10 Equipment – Replacement	54,841	46,025	46,008	-17	0%
11 Equipment – Additional	69,921	58,138	0	-58,138	-100.0%
13 Fixed Charges	991,868	1,039,372	1,042,737	3,365	0.3%
Total Objects	\$ 13,386,517	\$ 12,954,681	\$ 12,881,133	-\$ 73,548	-0.6%
Funds					
03 Special Fund	\$ 17,345	\$ 48,213	\$ 48,213	\$ 0	0%
09 Reimbursable Fund	13,369,172	12,906,468	12,832,920	-73,548	-0.6%
Total Funds	\$ 13,386,517	\$ 12,954,681	\$ 12,881,133	-\$ 73,548	-0.6%

Note: The fiscal 2010 appropriation does not include deficiencies.

**Cost Allocation
Fiscal 2011**

<u>Agency</u>	<u>Type of Cases</u>	<u>Average Case Hours</u>	<u>Est. No. of Cases</u>	<u>Total Case Hours</u>	<u>% of Total</u>
Department of Transportation (MDOT)					
	Motor Vehicle Administration (MVA)	0.73	26,254	19,165	21.91%
	MDOT Cases	4.26	55	234	0.27%
	MVA Personnel Cases	17.39	39	678	0.78%
	MDOT Personnel Cases	17.39	1	17	0.02%
	Total		26,349	20,095	22.98%
Department of Health and Mental Hygiene					
	Not Criminally Responsible	5.36	353	1,892	2.16%
	Involuntary Admissions	0.57	5,817	3,316	3.79%
	Medical Assistance	1.38	4,495	6,203	7.09%
	State Board of Physicians	43.50	25	1,088	1.24%
	Children's Health Insurance Plan	10.38	389	4,038	4.62%
	Boards	43.50	27	1,175	1.34%
	Misc.	4.59	447	2,052	2.35%
	Personnel Cases	17.39	14	243	0.28%
	Total		11,567	20,006	22.88%
Spring Grove & Springfield					
	Personnel Cases	17.39	16	278	0.32%
	Total		16	278	0.32%
Department of Labor, Licensing, and Regulation					
	Home Improvement Commission	9.73	230	2,238	2.56%
	Real Estate Commission	19.14	69	1,321	1.51%
	MOSH	14.29	86	1,229	1.41%
	Misc.	9.88	51	504	0.58%
	Unemployment Insurance	17.39	9	157	0.18%
	Personnel Cases	17.39	10	174	0.20%
	Total		455	5,622	6.43%
Department of Budget and Management					
	Central Collections	11.18	91	1,017	1.16%
	Personnel Cases	17.39	1	17	0.02%
	Total		92	1,035	1.18%

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Appendix 4 (Cont.)

<u>Agency</u>	<u>Type of Cases</u>	<u>Average Case Hours</u>	<u>Est. No. of Cases</u>	<u>Total Case Hours</u>	<u>% of Total</u>
Department of Human Resources					
	Child Support Enforcement	7.19	96	690	0.79%
	Income Maintenance	0.89	4,691	4,175	4.77%
	Child Abuse and Neglect	10.82	756	8,180	9.35%
	Personnel Cases	17.39	10	174	0.20%
	Total		5,553	13,219	15.12%
Baltimore City Department of Social Services					
	Personnel Cases	17.39	16	278	0.32%
	Total		16	278	0.32%
Department of Natural Resources					
	Cases	24.33	35	852	0.97%
	Personnel Cases	17.39	5	87	0.10%
	Total		40	939	1.07%
Department of Education					
	Mediations	5.12	307	-	0.00%
	Hearings	22.45	285	6,398	7.32%
	Misc	8.34	380	3,169	3.62%
	Personnel Cases	17.39	3	52	0.06%
	Total		975	9,620	11.00%
Office of Attorney General					
	Consumer Protection	17.19	52	894	1.02%
	Securities Division	55.42	10	554	0.63%
	Total		62	1,448	1.66%
Department of Environment					
	Cases	20.73	159	3,296	3.77%
	Public Information Act Cases	14.63	1	15	0.02%
	Personnel Cases	17.39	3	52	0.06%
	Total		163	3,363	3.85%
Retirement and Pension					
	Cases	17.81	41	730	0.83%
	Public Information Act Cases	14.63	1	15	0.02%
	Total		42	745	0.85%

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Appendix 4 (Cont.)

<u>Agency</u>	<u>Type of Cases</u>	<u>Average Case Hours</u>	<u>Est. No. of Cases</u>	<u>Total Case Hours</u>	<u>% of Total</u>
Human Relations Commission					
	Cases	7.25	5	36	0.04%
	Total		5	36	0.04%
Maryland State Police					
	Cases	6.19	38	235	0.27%
	Public Information Act Cases	14.63	1	15	0.02%
	Personnel Cases	17.39	2	35	0.04%
	Total		41	285	0.33%
Department of Public Safety and Correctional Services					
	Inmate Grievance Office	5.75	315	1,811	2.07%
	Personnel Cases	17.39	240	4,174	4.77%
	Public Information Act Cases	14.63	4	59	0.07%
	Total		559	6,043	6.91%
Maryland Insurance Administration					
	Cases	9.33	181	1,689	1.93%
	Public Information Act Cases	14.63	4	59	0.07%
	Personnel Cases	17.39	3	52	0.06%
	Total		188	1,799	2.06%
State Highway Administration					
	Personnel Cases	17.39	34	591	0.68%
	Public Information Act Cases	14.63	5	73	0.08%
	Total		39	664	0.76%
Department of Juvenile Services					
	Personnel Cases	17.39	16	278	0.32%
	Public Information Act Cases	14.63	1	15	0.02%
	Total		17	293	0.33%
Maryland Institute for Emergency Medical Services Systems					
	Cases	17.39	10	174	0.20%
	Total		10	174	0.20%
Executive Department – State Labor Relations Board					
	Cases	17.39	2	35	0.04%
	Total		2	35	0.04%

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Appendix 4 (Cont.)

<u>Agency</u>	<u>Type of Cases</u>	<u>Average Case Hours</u>	<u>Est. No. of Cases</u>	<u>Total Case Hours</u>	<u>% of Total</u>
Maryland Port Administration					
	Personnel Cases	17.39	10	174	0.20%
	Total		10	174	0.20%
Mass Transit Authority					
	Personnel Cases	17.39	4	70	0.08%
	Total		4	70	0.08%
Maryland Aviation Division					
	Personnel Cases	17.39	8	139	0.16%
	Total		8	139	0.16%
Maryland Transportation Authority					
	Personnel Cases	17.39	13	226	0.26%
	Total		13	226	0.26%
Department of General Services					
	Personnel Cases	17.39	3	52	0.06%
	Total		3	52	0.06%
Comptroller of the State					
	Personnel Cases	17.39	1	17	0.02%
	Total		1	17	0.02%
Military Department					
	Personnel Cases	17.39	4	70	0.08%
	Total		4	70	0.08%
University of Maryland – University System – College Park					
	Personnel Cases	17.39	7	122	0.14%
	Total		7	122	0.14%
University of Maryland University College					
	Personnel Cases	17.39	3	52	0.06%
	Total		3	52	0.06%
Bowie State University					
	Personnel Cases	17.39	2	35	0.04%
	Total		2	35	0.04%

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Appendix 4 (Cont.)

<u>Agency</u>	<u>Type of Cases</u>	<u>Average Case Hours</u>	<u>Est. No. of Cases</u>	<u>Total Case Hours</u>	<u>% of Total</u>
Coppin State University	Personnel Cases	17.39	1	17	0.02%
	Total		1	17	0.02%
Frostburg State College	Personnel Cases	17.39	1	17	0.02%
	Total		1	17	0.02%
Morgan State University	Personnel Cases	17.39	3	52	0.06%
	Total		3	52	0.06%
Salisbury State University	Personnel Cases	17.39	1	17	0.02%
	Total		1	17	0.02%
Towson State University	Personnel Cases	17.39	1	17	0.02%
	Total		1	17	0.02%
St. Mary's College Maryland	Personnel Cases	17.39	7	122	0.14%
	Total		7	122	0.14%
University of Maryland, Baltimore	Personnel Cases	17.39	12	209	0.24%
	Total		12	209	0.24%
Office of the Public Defender	Personnel Cases	17.39	1	17	0.02%
	Total		1	17	0.02%
Department of Assessments & Taxation	Personnel Cases	17.39	3	52	0.06%
	Total		3	52	0.06%
	Grand Total		46,276	87,455	100%

MOSH: Maryland Occupational Safety and Health Administration

Source: Office of Administrative Hearings