

**OFFICE  
OF  
ADMINISTRATIVE HEARINGS**



**FISCAL YEAR 2019  
ANNUAL REPORT**



## *About the Office of Administrative Hearings*

The Office of Administrative Hearings (OAH) is an independent unit within the executive branch of State government created to centralize and improve Maryland's administrative hearing process at a reduced cost to its citizens.

Thomas E. Dewberry is the Chief Administrative Law Judge (CALJ). A ten-member State Advisory Council on Administrative Hearings (Council) meets regularly and advises the CALJ.

Section 9-1604(c) of the State Government Article requires the CALJ to submit an annual report to the Governor and, subject to Section 2-1312 of the State Government Article, to the General Assembly. Section 9-1604(c) also permits OAH to prepare and submit its report in conjunction with the Council. In the interest of government efficiency and economy, OAH and the Council submit their Fiscal Year 2019 (FY19) annual reports jointly.

### *I. Mission*

OAH's mission is to provide due process for any person or business affected by the action or proposed action of State agencies in a prompt and efficient manner.



#### **In Fiscal Year 2019 OAH:**

- **Received 39,332 new cases**
- **Accomplished a timeliness rate of approximately 99% for the issuance of written decisions**
- **Conducted 74% of its hearings throughout the State**
- **Provided Community Outreach and Education**
- **Conducted in-depth ALJ Training Sessions**
- **Conducted 1,759 mediations and settlement conferences**
- **Continued to meet with new agency heads**

## II Highlights

The following are some highlights from FY19:

### *Meetings with Agencies*

CALJ Dewberry and the Directors of Operation and Quality Assurance (QA) meet with the new agency heads and these meetings provide an excellent opportunity to explain how OAH operates. In addition to these introductory meetings, OAH met with personnel from the following agencies in FY19:

- Maryland State Department of Education
- Department of General Services
- Department of Health (MDH)
- Department of Human Services (DHS)
- Department of Labor, Licensing and Regulation (DLLR)
- Maryland Insurance Administration
- Board of Physicians
- Maryland State Police
- Inmate Grievance Office
- Office of the Public Defender
- Maryland Health Benefit Exchange

Maintaining communication with the agencies for which OAH conducts hearings has always been vital to its on-going operation. The attached Operations' Reports provide a list of additional agency meetings which were held in FY19.<sup>1</sup>

### *Community Outreach and Education*



OAH continuously works to increase public awareness so that Maryland's citizens are familiar with OAH and its mission.

ALJs are always available for community outreach and education. The attached Quality Assurance Reports includes lists of ALJ Speaking Engagements.<sup>2</sup>

<sup>1</sup> Attached Operations' Reports are dated September 24, 2018, February 25, 2019, and May 22, 2019.

<sup>2</sup> The Quality Assurance Division Reports are entitled: "Report to the Advisory Council: (Fall 2018); "Report to the Advisory Council – October 2018 – February 2019"; and "Report to the Advisory Council – January 2019 – May 2019"

Particularly the following:

- Director of QA, Denise Shaffer's, participation on a National Association of Unemployment Appeals Professionals Webinar
- CALJ Dewberry and ALJs Chapman, Leidig, Osborn and Shock's Law Day 2019 participation at the Maryland Historical Society on the topic of "Free Speech, Free Press, Free Society"
- Deputy Director of QA, Harriet Helfand's, training on Emergency Petitions and Involuntary Admissions procedures and hearings at the Western Maryland Regional Hospital
- OAH's hosting of the MYLAW High School Mock Trial Competition coordinated by ALJ Chapman and staffing by ALJs Bennett, Frisby-Trout, Shock and Walder and staff attorney Carlton Curry

### *Decision Portal*

In August 2018, OAH completed the Decision Portal Project. OAH's Division of QA and Director of IT worked with the Department of Information Technology to develop a keyword searchable mechanism for OAH's redacted decisions. Due to confidentiality, only certain case types are available on the portal. The public can now go to OAH's website and review ALJs' decisions.

### *Case Management System Upgrade*

In November 2018, the case management system, myCaseload, upgrade was fully implemented. Enhancements were also made to the system following the November implementation. Some of the highlights of the new system are:

- All of the current data was seamlessly converted to myCaseload;
- Non-Motor Vehicle Administration Hearing Notices, as well as any documents/letters, etc. generated through myCaseload are now attached and saved to each case which is a nice feature for handling calls and general inquires from parties in cases.
- Multi-day hearing scheduling is greatly improved
- The appearance of hearing notices is greatly improved
- Appeal requests, motions, postponements, etc. are scanned into myCaseload and attached to each case

### *Appointment of Administrative Law Judge to the Judiciary*

In early January 2019, Governor Hogan appointed ALJ Kerwin Miller to the District Court of Harford County.

There have been eight former ALJs appointed to the Judiciary and the OAH is extremely proud to report on Judge Miller's appointment.

### *Hiring of Seven New ALJs*

Seven new ALJs were hired in FY18 and, as reported in previous years' reports. OAH's Hiring Committee, comprised of five OAH employees, namely, the Deputy Directors of Operations and QA, the Chief Clerk, and two ALJs selected by the CALJ that included a racial minority and a recent hire, reviewed all of the resumes that were received and conducted interviews. The Hiring Committee then developed a short list for the CALJ and Directors of Operations and QA to conduct second interviews and make selections.

QA has the primary responsibility for training new ALJs. All OAH ALJs are cross trained to conduct hearings for the over 30 State agencies and are required to master the substantive and procedural law for over 500 different types of hearings. The training process takes over a year to complete.

### *Regulations*

Pursuant to the Regulatory, Review and Evaluation Act, OAH is required to review all of its Regulations in 2018, Code of Maryland Regulations (COMAR) Title 28. Quality Assurance (QA) created three in-house workgroups to review OAH's regulations and recommend changes. This has been a comprehensive review. A draft report was submitted to the Joint Committee for Administrative Executive Legislative Review and two public meetings were held for input concerning the draft regulations.

The purpose of the review is to determine whether the regulations are necessary for public interest, continue to be supported by statutory authority and judicial opinion, or are appropriate for amendment or repeal.

### *Implementation of HB 819 - Public Safety - Handgun Permit Review Board*

Meetings were held with the Maryland State Police regarding the implementation and procedures for HB 819, which was effective on October 1, 2018. This bill alters the process by which a person who is denied a certain handgun permit or renewal of a permit or whose permit is revoked or limited by the Secretary of State Police or the Secretary's designee. A person may now request to appeal the decision of the Secretary to OAH.

### *Security*

OAH is vigilant to ensure the safety of its employees. The Director of Finance and Administration worked with the Department of General Services on a security personnel contract for the Hunt Valley offices. OAH firmly held that a security officer with police powers is required in the Hunt Valley office and

requested that off-duty police officer security services plus a uniformed guard be included in the contract.

The Director and Deputy Director of Operations and the Chief of the Mental Health Division of the Office of the Public met with hospitals throughout FY19 to ensure that safety measures are in place at Involuntary Admissions hearings. Meetings were held with staff from the following: University of Maryland-Midtown; University of Maryland Shore Medical System; Sinai Hospital; Carroll Hospital; and Bon Secours.

### *Maryland Charity Campaign*

OAH was asked to designate an employee to serve as a member of the state-wide Maryland Charity Campaign (MCC) for the duration of the Campaign. While it is difficult to lose an employee for an extended period of time, OAH was able to designate Brother Frank O'Donnell, who is a part-time staff attorney in the QA Division. The MCC assigned Brother Frank to the OAH, the headquarters of the Office of the Attorney General and the Judiciary's Administration offices in Annapolis.

At an MCC Thank You luncheon, OAH's Director of Human Resources, Janet Cora, won the Local Coordinator of the Year award and, thanks to Brother Frank, OAH received a Certificate of Appreciation for exceeding the 2018 Campaign goal by 135.3%.

### *III. Legislative History and Background*

OAH was created by Chapter 788 (SB 658) of the Laws of 1989, codified in State Government Article, Title 9, Subtitle 16 of the Annotated Code of Maryland. Chapter 788 incorporated the recommendations of the Governor's Task Force on Administrative Hearing Officers.

Noting the concerns of the business community, the public and members of the bar, the Governor charged the Task Force on Administrative Hearing Officers with examining the then-current administrative hearing system and recommending needed changes. The final report strongly endorsed the creation of a centralized administrative hearing process and identified many problems with the non-centralized system. Hearing officers lacked adequate training opportunities, suffered from poor salaries, often failed to write decisions that would withstand judicial scrutiny, were supervised by the agencies for which they issued decisions and were not subject to uniform procedures or codes of responsibility and ethics.

Following enactment of the legislation, staff from agencies as diverse as MDH, Department of Labor, Licensing and Regulation and the Department of the Environment were consolidated into a central office. ALJs were cross-trained to handle a wide variety of cases and projected operational efficiencies were realized. Uniform Rules of Procedure were promulgated in 1991 and the Code of Ethics modeled on the Judicial Code of Ethics were adopted.

In late 1991, the Commission to Revise the Administrative Procedure Act (APA) was appointed to study and update Maryland's APA to reflect the creation of the OAH. The Commission included former CALJ Hardwicke, two Cabinet Secretaries and representatives of the Judiciary, business community, labor unions, the Maryland State Bar Association and the Attorney General's Office. The Commission's recommended legislation, Chapter 59 of the Laws of 1993, became effective June 1, 1993. In 1994, revisions to OAH's Rules of Procedure, COMAR 28.02.01, were adopted incorporating the revisions to the APA.

#### *IV. Miscellaneous Additional FY19 Activities*

##### **A. Administration**

##### **1. Personnel**

OAH's CALJ is appointed by the Governor for a six-year term. CALJ Dewberry was appointed on May 22, 2002, was re-appointed by Governor O'Malley in January of 2008 and was again re-appointed in January of 2014 for his third six-year term. Executive ALJs serve as the Directors of Quality Assurance and Operations.

The OAH began FY19 on July 1, 2018 with 118.5 authorized positions, 52 of which were ALJ positions. ALJs are appointed by the CALJ. Current qualifications require that ALJs be bar-admitted attorneys with a minimum of five years of experience. As of July 1, 2018, the entry level salary for an ALJ is \$99,549 and the average ALJ salary is \$98,925.

ALJs' work has a significant impact on both public and private interests and requires a high degree of education, skill responsibility and professionalism. The work frequently involves highly complex legal matters, requiring detailed written decisions that must be issued between seven to 90 days after the close of the record.

##### **2. Facilities**

OAH's headquarters in Hunt Valley is accessible from I-83 North and provides ample free parking. There are two light rail stations within walking

distance of the building and bus service make the building accessible via public transportation.

OAH's Administrative Law Building houses twenty-one hearing rooms, two attorney-client meeting rooms, a clerk's office, public waiting areas, a law library, which is accessible to the public during normal business hours, as well as offices and training rooms for OAH staff.

In addition to the hearings held at OAH's headquarters, ALJs travel throughout the State to conduct hearings in all counties. Hearings are held at various locations around the State, including private hospitals and nursing homes. Other hearings are held in government facilities such as courthouses and agency offices.

OAH operates satellite offices in Cumberland and Salisbury. OAH also has newly leased hearing space in Rockville. There is also space in each of the Circuit Court buildings for conducting foreclosure mediations.

## **B. Operations**

### **OAH's Operations Division:**

- **schedules and assigns cases**
- **reviews caseload to ensure that backlogs do not develop**
- **ensures expeditious case management**
- **monitors the timeliness of decisions**
- **supervises ALJs, Clerk's Office staff, IT Staff and secretarial staff**
- **monitors legislation**
- **oversees OAH's Telework Program**
- **handles all Public Information Act requests**

OAH conducts fair and timely hearings in contested cases for more than thirty State agencies for over 200 different programs, with over 500 hearing types. Except for entities exempted by statute, a Board, Commission or agency head must hear a contested case personally or must delegate authority to hear the case to OAH or, with the permission of the CALJ, a person not employed by OAH. Md. Code Ann., State Gov't § 10-205 (Supp. 2006). In FY19, OAH received 39,332 new cases. The caseload statistics are attached.

As previously noted, the attached Operations' Reports for FY19 are attached to this Report.

## C. Quality Assurance (QA)

### OAH's Quality Assurance Division:

- oversees the quality of written decisions
- has primary responsibility for the hiring of ALJs and other legal staff
- trains new ALJs
- offers mandatory monthly judicial education for ALJs, paralegals and staff attorneys and out-of-office training programs
- oversees OAH's library
- maintains decision and hearing notice boilerplates, Time Frame matrix, Bench Manuals and Case Digests
- supervises staff attorneys, paralegals, librarian and management associate
- is responsible for OAH's Speaker's Bureau
- is responsible to OAH's Managing For Results submission.

As previously noted, the attached QA Reports for FY19 are attached to this report.

## V. Conclusions

OAH worked throughout FY19 to update its Rules of Procedure to include all current practices and clarify the Rules for the citizens it serves. It also upgraded its case management system for further efficiencies and to work toward E-filing. The implementation and installation of a Decision Portal enhances OAH's goal for transparency and accessibility to citizens.

OAH is proud to report on the appointment of ALJ Kerwin Miller to the District Court of Harford County. Judge Miller is the eighth former ALJ to be appointed to the Judiciary.

It is noteworthy that seven new ALJs were hired beginning in December of 2018. The training program for new ALJs is comprehensive and extensive and takes approximately one year for a new ALJ to be fully trained.

OAH appreciates the extraordinary efforts of staff attorney, Brother Frank O'Donnell, as a loaned executive to the 2018 Maryland Charity Campaign and the Director of Human Resources, Janet Cora. Through their efforts and the generosity of OAH's employees, OAH was able to exceed its MCC goal by 135.3%.

CALJ Dewberry and members of OAH's management staff appreciate working and meeting with agency personnel. It has been a pleasure to work with members of Governor Hogan's Administration and maintain open

communications with the agencies for which it holds hearings. OAH stands ready to assist in any way that is appropriate.

CALJ Dewberry remains grateful for the support, hard work and dedication of OAH's employees and the guidance from OAH's Advisory Council.

**QUALITY ASSURANCE DIVISION  
REPORT TO THE ADVISORY COUNCIL**

Denise Shaffer, Director, Quality Assurance  
Harriet Helfand, Deputy Director, Quality Assurance

**I. Continuing Judicial Education**

The Quality Assurance Division (QA) emails weekly newsletters to OAH staff summarizing recent case law, changes to regulations, and other important news. A copy of a recent newsletter is attached for your review.

QA also presents monthly training sessions for administrative law judges (ALJs), staff attorneys, and paralegals. ALJs are required to attend or to review the video recording of the training promptly. These sessions cover a wide variety of topics relevant to the legal issues that arise at OAH. The schedule for January 13, 2018 through September 14, 2018 is as follows:

Judicial Training Date	Topic/Agenda	Presenter(s)
January 13, 2018	The Nuts and Bolts of Judging- Panel Discussion	Judge Yolanda Curtin Judge Wayne Brooks Judge Marina Sabett Judge Nicole Pastore-Klein Judge Joan Gordon Judge Zuberi Williams
February 9, 2018	Overview  Board Referrals, composition of the record  Hypotheticals  Process	Allan Hillman  Gary Honick, Chief Antitrust Division OAG and Deborah Donohue, AAG MHD, Schonette Walker, AAG Antitrust Division  Panel: Allan Hillman, Bob Levin , John Leidig, Gary Honick and Deborah Donohue  John Leidig and Denise Shaffer
March 23, 2018	Domestic Violence and Mediation  Presentation from Bar Counsel  MVA SMS meeting	Tracey Delp, Terry Garland, Tameika Lunn-Exinor, Leigh Walder  Lydia Lawless
April 13, 2018	Special Education Law Update	Art Cernosia, Esq.
May 11, 2018	MVA Update	MVA SMS training group, Steve Adler, Susan Sinrod,

		Jim Murray, Mike Osborn, Mike Wallace, Harriet Helfand, Claire Pierson
June 15, 2018	DHS& CSA Subject Matter Specialist presentation  OAH decision publishing update	
July 20, 2018	Legislative Update  MVA,IGO,OCC, gun seizure	Jennifer Carter Jones  Quality Assurance
September 14, 2018	MSDE SMS training  Appellate overview	Judge Robert McDonald Judge Kevin Arthur Judge Judith Ensor

## II. Speaking Engagements and other Extrajudicial Activities

DATE (S)	TOPICS	ALJ
February 13, 2018	University of Baltimore School of Law Mental Health Clinic Mock Trial-Presiding ALJ	ALJ Garland
March 9, 2018	Speaking to high school students about administrative law and legal issues	ALJ Cole
March 9, 2018	Involuntary Admission (IVA) training at Washington Adventist Hospital	ALJ Helfand
March 19, 2018	Mock Hearings, The Green Mount School	ALJ Kehinde ALJ Nappier
April 4, 2018	Mock Hearings, CLREP's High School Mock Trial regional competition	ALJs Chapman, Dargan, Burnham, Hampton-EL, Baker and Leigh Walder
April 6, 2018	IVA Training at Harbor Hospital	ALJ Helfand
April 10, 2018	Council of State Administrators of Vocational Rehabilitation: Due process hearings	ALJ Shaffer
May 4, 2018	124 <sup>th</sup> Annual Meeting & Law Day Celebration	CALJ Dewberry
May 26, 2018	Hugh O'Brian Youth Leadership.	ALJ Frisby Trout
May 26 & 27, 2018	Youth Leadership Seminar	ALJ Frisby-Trout
June 18, 2018	National Association of Unemployment Insurance Professionals Annual Conference, presentation on authentication of non-traditional evidence	Chief Judge Dewberry ALJ Shaffer

August 16, 2018	LLAM, University of Maryland Law Library 500 W. Baltimore Street	Elizabeth Lukes
September 13, 2018	LLAM, Goddard Information and Collaboration Center, Greenbelt, MD	Elizabeth Lukes

### III. Update on training for recently hired ALJs

ALJs Burnham, Hampton-El, Frisby-Trout and Weeks continue in their new ALJ training session. They have two substantive areas left to cover and will soon be fully trained. OAH was able to send all eight of the ALJs hired in the past two years to a week-long training for Special Education in Seattle, Washington. The Seattle conference is specifically designed for ALJs and hearing officers who conduct hearings under the Individuals with Disabilities Education Act. That Act mandates that ALJs receive directed training in special education law and adjudication. These ALJs were accompanied by Deputy Director of QA Harriet Helfand.

The summer, QA planned and presented the forty hour mediation certification course in house. OAH's four new ALJs, one new staff attorney and four summer interns participated in a one-week seminar on mediation. By presenting this training at OAH using OAH ALJs, attorneys and staff, we were able to focus the training on the types of mediations that will be encountered at OAH. The training met all of the requirements of the Court rules for a mediation training program. All law student interns were required to also observe mediation before receiving their certificates. It was a successful experiment and QA hopes to be able to continue the in-house training for mediation.

### IV. Publishing of Decisions

The publishing portal is live and to date has several hundred decisions uploaded and searchable. OAH recently reached consensus with DHS and those decision will be redacted and uploaded in the coming weeks.

DOC # 171939

**QUALITY ASSURANCE DIVISION  
REPORT TO THE ADVISORY COUNCIL -  
OCTOBER 2018 - FEBRUARY 2019**

Denise Shaffer, Director, Quality Assurance  
Harriet Helfand, Deputy Director, Quality Assurance

**I. Continuing Judicial Education**

The Quality Assurance Division (QA) emails weekly newsletters to OAH staff summarizing recent case law, changes to regulations, and other important news.

QA also presents monthly training sessions for administrative law judges (ALJs), staff attorneys, and paralegals. ALJs are required to attend or to review the video recording of the training promptly. These sessions cover a wide variety of topics relevant to the legal issues that arise at OAH. The schedule for January 2019 through May 2019 is as follows:

Judicial Training Date	Topic/Agenda	Presenter(s)
January 18, 2019	Mandatory Sexual Harassment Training for all OAH employees	Denise Shaffer, Director of Quality Assurance Janet Cora, Director of Human Resources
	ALJ Training - De Novo Appeals from the Handgun Permit Review Board	Maryland State Police
February 15, 2019	Issues in mental health law: IVA, NCR, Forced Medication, Outpatient Civil Commitment	Dr. David Mallott, Psychiatrist, University of Maryland Medical System Judge George Lipman, District Court of Maryland for Baltimore City (retired) Cassandra Mclean, Bon Secours Hospital, Outpatient Civil Commitment Program IVA/NCR SMS Group

March 15, 2019	<b>March - Complex Litigation</b>	ALJs Burch, Helfand & Leidig
April 5, 2019	<b>April - Special Education Update</b>	<b>Art Cernosia</b>
April 26, 2019	<b>What Maryland Judges need to know about Commercial Driver's Licenses – attended by ALJs with less than 2 years experience at OAH.</b>	Honorable Gary Graber & Honorable Gayle Williams-Byers
May 17, 2019	<p><b>The Art of Judging - handling difficult litigants</b></p> <p><b>NAALJ Mid-Year Conference</b> <i>Maintaining our Professional Edge</i></p> <p><i>Current Developments in Administrative Law</i></p> <p><i>Evidence Issues for ALJs</i></p> <p><i>Procedural Fairness</i></p> <p><i>Ethics for ALJs: Outside the Hearing Room</i></p>	<p>ALJs Shaffer &amp; Helfand</p> <p><b>Christopher Walkler</b>, Professor of Law, Ohio State University School of Law; co-chair of the Adjudication Committee of the American Bar Association's Section of Administrative Law and Regulatory Practice</p> <p><b>Denise Shaffer</b>, Administrative Law Judge, Maryland Office of Administrative Hearings; Director of Quality Assurance</p> <p><b>Tom Tyler</b>, Professor of Law Professor of Law and Professor of Psychology, Yale Law School; Founding Director of The Justice Collaboratory</p> <p><b>Garnett Chisenhall</b>, Administrative Law Judge, Florida Division of Administrative Hearings; Chair, Administrative Law Section of the Florida Bar</p>

## II. Speaking Engagements and other Extrajudicial Activities

DATE (S)	TOPICS	ALJ
January 24, 2019	MSBA presentation on mental health law	Harriet Helfand
January 29, 2019	NAUIAP Webinar	Denise Shaffer
February 26, 2019 thru February 28, 2019	American College of Trial Lawyers Conference	Jana Burch
March 26, 2019	MSBA "Meet a Practitioner Panel"	Rachael Barnett
April 8, 2019	"Evidence and Standards of Proof" presented to senior forensic classes at Baltimore Polytechnic Institute.	Michelle Cole
April 9, 2019	Lecture on the Maryland Constitution by Hon. Dan Friedman	Laurie Bennett
April 11, 2019	Council of State Administrators of Vocational Rehabilitation Conference	Denise Shaffer
April 17, 2019	MYLAW High School Mock Trial Competition	Hosted at OAH Offices in Hunt Valley: ALJs Laurie Bennett, Alecia Frisby-Trout, Leigh Walder, Mary Shock And staff attorney Carlton Curry
April 25, 2019	Overview of trials/ hearings (prep for Mock trial)	Ann Kehinde & Krystin Richardson
May 1, 2019	Law Day 2019: Free Speech, Free Press, Free Society. The Maryland Historical Society hosted Maryland high school students for a tour of exhibits highlighting First Amendment issues, followed by a interactive "You be the Judge" presentation discussing Supreme Court cases on freedom of speech and freedom of the press. The event was co-hosted by the MSBA Public Awareness Committee and the Maryland Association of Administrative Law Judges, along with the Historical Society.	Chief ALJ Thomas Dewberry, ALJs Mary Shock, Kathleen Chapman, Michael Osborn and John Leidig

## III. Update on training for recently hired ALJs

In December 2018, seven ALJs joined OAH. They have completed training in most subject areas and will be trained in mediation and special education in the summer months. All seven ALJs will attend that National Academy for Special Education ALJs and Hearing Officers in July.

#### **IV. QA staff attorneys**

The Quality Assurance Division added one full-time and one part-time staff attorney.

DOC # 171939

**QUALITY ASSURANCE DIVISION  
REPORT TO THE ADVISORY COUNCIL -  
JANUARY 2019 - MAY 2019**

Denise Shaffer, Director, Quality Assurance  
Harriet Helfand, Deputy Director, Quality Assurance

**I. Continuing Judicial Education**

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QA also presents monthly training sessions for administrative law judges (ALJs), staff attorneys, and paralegals. ALJs are required to attend or to review the video recording of the training promptly. These sessions cover a wide variety of topics relevant to the legal issues that arise at OAH. The schedule for January 2019 through May 2019 is as follows:

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January 18, 2019	Mandatory Sexual Harassment Training for all OAH employees	Denise Shaffer, Director of Quality Assurance Janet Cora, Director of Human Resources
	ALJ Training - MSP the Handgun Permit Review Board	Maryland State Police & Mark Pennak, Maryland Shall Issue (Mr. Pennak canceled due to illness on the day of training)
February 15, 2019	Issues in mental health law: IVA, NCR, Forced Medication, Outpatient Civil Commitment	Dr. David Mallott, Psychiatrist, University of Maryland Medical System Judge George Lipman, District Court of Maryland for Baltimore City (retired) Cassandra Mclean, Bon Secours Hospital, Outpatient Civil Commitment Program IVA/NCR SMS Group

March 15, 2019	<b>March – Best Practices for Handling Complex Litigation</b>	ALJs Burch, Helfand & Leidig
April 5, 2019	<b>April - Special Education Update</b>	Art Cernosia
April 26, 2019	<b>What Maryland Judges need to know about Commercial Driver’s Licenses – attended by ALJs with less than 2 years experience at OAH.</b>	Honorable Gary Graber & Honorable Gayle Williams-Byers
May 17, 2019	<p><b>The Art of Judging</b></p> <p><b>NAALJ Mid-Year Conference</b> <i>Maintaining our Professional Edge</i></p> <p><i>Current Developments in Administrative Law</i></p> <p><i>Evidence Issues for ALJs</i></p> <p><i>Procedural Fairness</i></p> <p><i>Ethics for ALJs: Outside the Hearing Room</i></p>	<p>ALJs Shaffer &amp; Helfand</p> <p><b>Christopher Walker</b>, Professor of Law, Ohio State University School of Law; co-chair of the Adjudication Committee of the American Bar Association’s Section of Administrative Law and Regulatory Practice</p> <p><b>Denise Shaffer</b>, Administrative Law Judge, Maryland Office of Administrative Hearings; Director of Quality Assurance</p> <p><b>Tom Tyler</b>, Professor of Law Professor of Law and Professor of Psychology, Yale Law School; Founding Director of The Justice Collaboratory`</p> <p><b>Garnett Chisenhall</b>, Administrative Law Judge, Florida Division of Administrative Hearings; Chair, Administrative Law Section of the Florida Bar</p>
June 7, 2019	<b>Special Education</b>	Linda M. Valentini, Psy.D., Special Education Hearing Officer, Pennsylvania. Interpreting Evaluations, Evaluating Expert witnesses, and other challenges that arise



## II. Speaking Engagements and other Extrajudicial Activities

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May 9, 2019	Conducted training on Emergency Petitions and Involuntary Admissions procedures and hearings at Western Maryland Regional Hospital	Harriet Helfand

## III. Update on training for recently hired ALJs

In December 2018, seven ALJs joined OAH. OAH hosted an investiture ceremony on April 1, 2019. These ALJs have completed training in most subject areas and will be trained in mediation and special education in the summer months. All seven ALJs will attend that National Academy for Special Education ALJs and Hearing Officers in July.

#### **IV. QA staff attorneys**

The Quality Assurance Division added one full-time and one part-time staff attorney.

Carlton Curry was the Executive Director of the Board of Physical Therapists and legislative liaison for MDH independent health occupations boards.

Laura Casiano was an Assistant State's Attorney in Harford County specializing in domestic violence.

DOC. # 180010

## **Operations Report**

**September 24, 2018**

**Jana Corn Burch, Director of Operations  
John Leidig, Deputy Director of Operations  
Linda Novak, Chief Clerk  
Tareq Ibrahim, Director of Information Technology**

### **I. Timeliness and Case Load**

OAH's timeliness rate for the issuance of its written decisions for the first two months of FY19 was 99.58%, reflecting a slight decrease when compared to 99.70% for the same period in FY18. OAH remains vigilant in monitoring the timeliness of its written decisions and continually strives for 100% timeliness. That goal is noted in OAH's Managing For Results and each ALJ is evaluated on his/her timeliness. For the first two months of FY19, ALJs heard 444 cases which required written decisions, as compared to 349 cases for the same time period in FY18, which is a marked uptick.

In addition to the issuance of written decisions, ALJs rendered 2,460 bench decisions in Motor Vehicle Administration (MVA) hearings in the first two months of FY19, a decrease from the 2,928 MVA cases heard in the same period of FY18. They also rendered 203 bench decisions in Involuntary Admissions (IVA) hearings in the first two months of FY19, which is a negligible decrease from the 213 IVA hearings held during the same period in FY18.

In the first two months of FY19, 304 mediations and settlement conferences were conducted versus 312 for the same period in FY18. In the first two months of FY19, OAH received 376 Foreclosure Mediation (FM) requests which were scheduled versus 414 for the same period in FY18. OAH received 5 pre-file FMs in the first two months of FY19. There were 6 pre-file FMs for the same period in FY18.

### **II. Docketing**

In the first two months of FY19, ALJs, excluding management, heard an average of nine cases requiring written decisions, which is an increase from seven cases per ALJ for the same period in FY18.

OAH's Clerk's Office currently has two vacancies for full-time positions. The recruitment process has begun. A new eligible list will soon be available with interviews to follow in November.

The long-overdue enhancement to OAH's case management system is nearing implementation. The vendor, working with Linda Novak and OAH's Information Technology (IT) team, has made significant progress over the past months. OAH is pleased to announce that it has a "Go Live" date of November 13, 2018. In order to finally arrive at this juncture Linda Novak, along with IT's support, has accomplished the following:

- Drafted procedures for the Clerk's Office, which have been tested;
- Scheduled SQL Report Builder training for September 25, 26 and 27, 2018;
- Scheduled training sessions on the new system for OAH staff on October 22, 2018 through November 2, 2018; and
- Scheduled a conversion of OAH's current database to its new database on the weekend of November 11, 2018.

### **III. Information Technology**

#### **Case Management System Upgrade**

Significant progress, as described above, has been made with this project as OAH works with Evans, the vendor, to modify the software to meet its needs. OAH is finalizing its testing and developing documentation in order to ensure the cutover process does not impact operations. Testing is to be completed by the end of September with additional vendor training to be completed on September 27<sup>th</sup>. The new system is scheduled to go live, as noted, in mid November 2018.

#### **Court Recording Software Procurement**

The RFP that was originally sent out on January 22, 2018 was cancelled on the advice of the Department of Information Technologies (DoIT) Procurement office on September 11, 2018. The primary reason for the cancellation was to revise the RFP to exclude hardware. A new RFP was submitted on September 12, 2018 to the DoIT Procurement Office for review. Once approved, OAH will send the RFP out to all of the appropriate vendors.

#### **Publish Decisions/OAH Document Portal**

The portal was published to OAH's website in March 2018 but did not include the keyword search functionality. Users are now able to search for decisions by agency, unit, case type, date of issuance, and keyword search. OAH officially completed the project in August 2018.

## **On-line Payment Processing**

The purpose of the project is to design a web application to allow users to request a hearing and submit an associated filing fee electronically. The system will allow appellants and attorneys the ability to request a hearing for multiple types of cases, upload any pertinent documentation, and submit payment 24/7.

The portal is currently in the development phase with the project completion expected in November 2018.

## **IV. Meetings**

- ❖ On May 16, 2018, Jana Burch met with the Inmate Grievance Office.
- ❖ On May 21, 2018, Jana Burch and Jennifer Carter-Jones met with Department of Human Services (DHS) concerning the inefficiency of dockets in Baltimore County.
- ❖ On May 29, 2018, Jana Burch and Jennifer Carter-Jones met with University of Maryland Shore Medical System staff, along with Carroll McCabe, Chief of the Mental Health Division of the Office of the Public Defender, to discuss security at IVA hearings.
- ❖ On June 26, 2018, Jana Burch and Denise Shaffer attended the Maryland State Department of Education (MSDE) quarterly meeting to discuss issues surrounding OAH's Special Education hearings.
- ❖ On July 25, 2018, Jana Burch, Jennifer Carter-Jones, Linda Novak and Pat Thomas met with Maryland Department of Health (MDH) to discuss MDH's backlog.
- ❖ On August 15, 2018, Jana Burch and John Leidig attended a meeting with Baltimore County Circuit Court Judge Judith Ensor to discuss her participation at OAH training.
- ❖ On September 18, 2018, Jana Burch and John Leidig participated in a meeting, with Carroll McCabe, at Sinai Hospital to discuss with Sinai's staff its security measures at its IVA hearings.
- ❖ On September 20, 2018, Jana Burch, Denise Shaffer, Harriet Helfand, and John Leidig attended an annual meeting with staff from the Maryland Board of Physicians (MBP) to discuss operational issues concerning MBP's hearings.
- ❖ On September 27, 2018, OAH's management staff plans to hold its first public hearing for input concerning its recently drafted OAH regulations. The meeting is scheduled at OAH Hunt Valley.

- ❖ On September 28, 2018, Jana Burch and John Leidig are scheduled to attend a meeting with University of Maryland-Midtown staff, along with Carroll McCabe, to discuss security protocol at that facility's IVA hearings.

## **Operations Report**

**February 25, 2019**

**Jana Corn Burch, Director of Operations  
John Leidig, Deputy Director of Operations  
Linda Novak, Chief Clerk  
Tareq Ibrahim, Director of Information Technology**

### **I. Timeliness and Case Load**

OAH's timeliness rate for the issuance of its written decisions for the first six months of FY19 was 99.45%, reflecting a very slight decrease when compared to 99.53% for the same period in FY18. OAH remains vigilant in monitoring the timeliness of its written decisions and continually strives for 100% timeliness. That goal is noted in OAH's Managing For Results and each ALJ is evaluated on his/her timeliness. For the first six months of FY19, ALJs heard 1,169 cases which required written decisions, as compared to 1,108 cases for the same time period in FY18.

In addition to the issuance of written decisions, ALJs rendered 7,339 bench decisions in Motor Vehicle Administration (MVA) hearings in the first six months of FY19, a significant decrease from the 8,993 MVA cases heard in the same period of FY18. They also rendered 531 bench decisions in Involuntary Admissions (IVA) hearings in the first six months of FY19, which is a decrease from the 636 IVA hearings held during the same period in FY18.

In the first six months of FY19, 876 mediations and settlement conferences were conducted versus 925 for the same period in FY18. In the first six months of FY19, OAH received 1,087 Foreclosure Mediation (FM) requests which were scheduled versus 1,140 for the same period in FY18. OAH received 13 pre-file FMs in the first six months of FY19, versus 10 for the same period in FY18.

### **II. Docketing**

In the first six months of FY19, ALJs, excluding management, heard an average of 25 cases requiring written decisions, as compared with 22 decisions per ALJ for the same period in FY18.

OAH's Clerk's Office recently filled its two vacancies. The new employees began employment in our MVA and Data Units on January 30, 2019 and are doing exceptionally well.

### **III. Information Technology**

#### **Case Management System Upgrade**

OAH successfully completed the case management system upgrade on November 13, 2018. OAH continues to work with the vendor to enhance system functionality while also leveraging new system features to improve user access to case-related documents.

#### **Court Recording Software Procurement**

OAH issued an RFP for digital recording system software on January 4, 2019 with the close date of January 31, 2018. OAH received seven responses which are currently under review.

#### **Publish Decisions/OAH Document Portal**

The OAH Document Portal was published in March 2018. Since that time the portal has received over 19,000 page views and over 1600 users accessing the site

#### **On-line Payment Processing**

While major strides were made with development of the portal an issue with the transfer of funds from the portal to the State Treasurer's Office was unresolved.

A conference call with the State Treasurer's Office was held on February 13, 2019 to find out what was causing a delay in the accounting portion of the project. The Director of Finance for the State Treasurer's Office, Jessica Papaleonti, stated that her office will not set up new services for NIC due to a contract issue between NIC and DoIT.

The project is on hold until OAH receives additional information from DoIT and the State Treasurer's Office.

### **IV. Meetings**

- ❖ October 9 through October 12, 2018 - Jana Burch and John Leidig attended Central Panel Conference along with other members of OAH's management team.
- ❖ October 15 through October 18, 2018, John Leidig attended the NAALJ Conference.
- ❖ On October 30, 2018, Jana Burch and John Leidig met with representatives of the Department of Labor, Licensing and Regulation to discuss operational issues surrounding the cases it transmits to OAH for hearing.
- ❖ On November 1, 2018, Jana Burch and John Leidig attended National Instant Criminal Background System.

- ❖ On November 8, 2018, Jana Burch and John Leidig met with representatives of the Maryland Insurance Administration to discuss operational issues surrounding the cases it transmits to OAH for hearing.
- ❖ On November 9, 2018, Jana Burch and John Leidig met with representatives of the Maryland Health Benefit Exchange to discuss operational issues surrounding the cases it transmits to OAH for hearing.
- ❖ On December 12, 2018, Jana Burch and John Leidig met with representatives of Carroll Hospital to discuss security issues surrounding IVA hearings conducted at that facility.
- ❖ On January 10, 2019, Jana Burch and Denise Shaffer attended the Maryland State Department of Education quarterly meeting to discuss issues surrounding the cases it transmits to OAH for hearing.
- ❖ On January 30, 2019, Jana Burch, John Leidig and Denise Shaffer participated in conference call with representatives of the Department of Human Services to discuss issues surrounding the cases it transmits to OAH for hearing.
- ❖ On February 13, 2019, Jana Burch and John Leidig, along with other members of OAH's management team, attended OAH's House Budget Hearing.
- ❖ On February 18, 2019, Jana Burch and John Leidig, along with other members of OAH's management team, attended OAH's Senate Budget Hearing.
- ❖ On February 21, 2019, Jana Burch, Danara Harvell and John Leidig participated in a conference call with representatives of the Department of General Services and the landlord of the new Rockville OAH hearing space concerning the build out of that space.

## **Operations Report**

**May 22, 2019**

**Jana Corn Burch, Director of Operations**  
**John Leidig, Deputy Director of Operations**  
**Linda Novak, Chief Clerk**  
**Tareq Ibrahim, Director of Information Technology**

### **I. Timeliness and Case Load**

OAH's timeliness rate for the issuance of its written decisions for the first nine months of FY19 was 99.60%, reflecting an extremely slight decrease when compared to 99.63% for the same period in FY18. OAH remains vigilant in monitoring the timeliness of its written decisions and continually strives for 100% timeliness. That goal is noted in OAH's Managing For Results and each ALJ is evaluated on his/her timeliness. For the first ten months of FY19, ALJs heard 1,929 cases which required written decisions, as compared to 1,867 cases for the same time period in FY18, which is a marked uptick.

In addition to the issuance of written decisions, ALJs rendered 9,528 bench decisions in Motor Vehicle Administration (MVA) hearings in the first nine months of FY19, a decrease from the 11,944 MVA cases heard in the same period of FY18. They also rendered 770 bench decisions in Involuntary Admissions (IVA) hearings in the first nine months of FY19, which is a decrease from the 1,053 IVA hearings held during the same period in FY18.

In the first nine months of FY19, 1,314 mediations and settlement conferences were conducted versus 1,373 for the same period in FY18. In the first nine months of FY19, OAH received 1,667 Foreclosure Mediation (FM) requests which were scheduled versus 1,724 for the same period in FY18. OAH received 18 pre-file FMs in the first nine months of FY19. There were 19 pre-file FMs for the same period in FY18.

### **II. Docketing**

In the first ten months of FY19, ALJs, excluding management, heard an average of forty-one cases requiring written decisions, which is an increase from thirty-eight cases per ALJ for the same period in FY18.

On March 25, 2019, OAH implemented the next phase of its case management project. The required modifications for scanning and attaching documents to the system were completed by the vendor in early March, 2019. Linda Novak developed additional written procedures and conducted training with the Clerk's Office and secretarial staff on Friday, March 22, 2019. The benefits of this project were immediate.

### **III. Information Technology**

#### **Court Recording Software Procurement**

OAH issued an RFP for a new digital recording system on January 4, 2019 with the close date of January 31, 2019. Vendors participated in oral presentations which were held on April 16<sup>th</sup> and 17<sup>th</sup>. The RFP evaluation committee determined that CourtSmart Digital Systems Inc. provided a solution that was superior to the other vendors.

In order to meet the deadline for the June 19, 2019 BPW Agenda, OAH submitted all the required documents to DoIT on May 16, 2019. OAH has received confirmation that the item will be on the June 19, 2019 BPW Agenda.

#### **Online Payment Processing**

NIC completed the development phase of the project in early February 2019 and OAH was scheduled to begin testing shortly thereafter.

One of the final components of the project is the process of linking the portal with an account set up by the State Treasurer's Office (STO). The STO was contacted early in the project to set up the services necessary to collect fees. On February 13, 2019 the STO was again contacted to find out what was causing a delay in the accounting portion of the project. The Director of Finance for the STO, Jessica Papaleonti, stated that STO will not set up new services for NIC due to a contract issue between NIC and DoIT. OAH put the project on hold until DoIT resolved its contract issue with NIC.

DoIT is scheduled on the May 22, 2019 BPW Agenda to modify the existing NIC contract. If the modification is approved, OAH will work with NIC and the STO to finalize the project.

### **IV. Meetings**

- ❖ On April 4, 2019, Jana Burch and John Leidig met with Carroll McCabe, Chief of the Mental Health Division of the Office of the Public Defender (OPD), and Tim Scully, an Assistant Public Defender, to discuss numerous issues concerning the scheduling of IVA hearings.
- ❖ On April 24, 2018, Jana Burch and other members of OAH's staff met with a staff member from Cristo Rey High School to discuss the students who work at OAH.
- ❖ On April 24, 2018, Jana Burch and John Leidig met with Bon Secours staff, along with Carroll McCabe and Tim Scully of the OPD, to discuss staffing issues and security at IVA hearings.

- ❖ On May 1, 2019, CALJ Dewberry, John Leidig and ALJs Chapman, Shock and Osborn made a Law Day presentation to Maryland high school students at the Maryland Historical Society.
- ❖ On May 8, 2019, CALJ Dewberry, Jana Burch, John Leidig, along with Carroll McCabe, met with Bon Secours' staff to discuss long-standing issues involving the IVA hearings at that hospital.
- ❖ On May 23, 2019, Jana Burch and John Leidig attended an NICS meeting.

**FY/2019 MONTHLY REPORT  
TOTALS**

	JULY	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUNE	TOTALS
<b>CASELOAD FLOW</b>													
I. CASES CARRIED OVER FROM PREVIOUS MONTH***	5997	5618	6034	5528	5447	5451	5200	5338	5558	5338	5401	5443	
II. NEW CASES RECEIVED													
A. Complete Cases	3001	3790	2850	3518	2892	2569	3175	2983	2990	3419	3718	3250	38155
B. Untimely Cases	59	80	63	48	40	87	67	54	74	74	71	68	785
C. Incomplete Cases*	25	27	19	25	32	17	25	23	22	15	24	20	274
D. Fee Payments**	1247	1170	955	1135	908	153	1181	1060	1214	1210	1316	1160	12709
E. Mediations - Special Ed	14	28	17	10	15	12	13	14	19	23	13	21	199
F. Due Process - Special Ed	14	27	16	10	15	12	14	13	20	23	14	15	193
TOTAL RECEIVED	3088	3925	2946	3586	2962	2680	3269	3064	3103	3539	3816	3354	39332
III. CASES SCHEDULED													
A. Heard in Full	1293	1507	1398	1469	1002	981	1122	1079	1296	1172	1500	1278	15097
B. Special Ed Hearing in Full	2	0	1	1	3	1	2	2	1	2	5	1	21
C. Record Review	5	2	7	5	1	2	4	5	2	3	5	3	44
D. Hearing Continued	57	80	83	70	43	47	76	57	61	73	73	76	796
E. PHC Heard	15	26	26	23	17	24	21	15	17	18	19	18	239
F. Motion Heard	3	1	18	2	2	4	2	5	4	5	2	3	51
G. Mediation Heard (SE)	17	16	22	12	12	11	10	5	16	14	12	13	160
H. SC/Mediation Heard	139	132	121	143	140	111	133	130	144	137	145	124	1599
I. Postponed/Liberal Leave	529	552	487	508	376	625	516	596	480	401	531	508	6109
J. Default	280	360	338	422	323	298	304	307	374	365	405	388	4164
K. Failed to Appear (MVA)	106	118	125	100	53	84	79	89	98	115	118	81	1166
L. Scheduled but not Heard	1354	1556	1320	1579	1206	1151	1363	1215	1415	1502	1648	1501	16810
TOTAL SCHEDULED	3800	4350	3946	4334	3178	3339	3632	3505	3908	3807	4463	3994	46256
IV. DISPOSITIONS													
A. Decisions	193	227	176	218	205	150	185	157	143	205	179	188	2226
B. Special Ed Decisions	3	1	1	1	0	2	1	2	2	1	4	2	20
C. Bench Decisions	1238	1425	1103	1354	897	972	1037	1043	1229	1177	1432	1159	14066
D. Defaults	314	204	274	317	362	230	267	210	269	370	269	238	3324
E. Untimely	6	8	17	3	3	7	9	3	15	2	13	14	100
F. Untimely (MVA Only)	53	70	46	45	37	58	58	51	58	60	57	54	647
G. Not Settled	2	6	9	2	2	3	0	0	4	8	7	4	47
H. Withdrawn/Settled or Cancelled/Dismissed Reinstated or Duplicate	1658	1568	1826	1727	1452	1509	1574	1378	1603	1653	1813	1718	19479
TOTAL DISPOSITIONS	3467	3509	3452	3667	2958	2931	3131	2844	3323	3476	3774	3377	39909
V. CASES CARRIED OVER TO THE FOLLOWING MONTH	5618	6034	5528	5447	5451	5200	5338	5558	5338	5401	5443	5420	

\* Incomplete Cases Received are not calculated in "TOTAL RECEIVED".

\*\* Fee Payments Received are not calculated in "TOTAL RECEIVED".

\*\*\* Modified Total Carried over from FY18 to reflect actual total (total carried over from each page rather than calculated formula)