

The Office of Administrative Hearings (OAH or the Agency) is an independent unit within the executive branch of State government created to centralize and improve the administrative hearing process of Maryland government. Concurrently, it was expected that administrative adjudication would be independent of state agencies at a reduced cost to the citizens of the State. The mission of the OAH is to provide due process for any person affected by the action or proposed action of State agencies.

Chief Administrative Law Judge (CALJ), Thomas E. Dewberry, heads the OAH. A ten member State Advisory Council on Administrative Hearings (the Council) meets quarterly 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. Chapter 662 of the Laws of 1994 permits the OAH to prepare and submit its report in conjunction with the Council. In the interest of government efficiency and economy, the OAH and the Council submit their 2005 annual reports jointly.

I. EXECUTIVE SUMMARY OF THIS ANNUAL REPORT

The following is an outline summary of 2005 events and progress:

1. Meetings with Agencies
2. OAH Staffing
3. Local, National and International Perspectives
4. Strategic Budgeting
5. OAH's Managing for Results (MFR)
6. Expansion of mediation programs and continued development and refinement of mediation
7. Financial Impact of OAH's Fiscal 2005 and Appropriated Fiscal 2006 Budget
8. Videoconferencing Equipment

II. DETAIL OF 2005 EVENTS AND PROGRESS

1. Meetings with Agencies

Maintaining communication with the agencies that OAH conducts hearings for is beneficial and vital to the on-going operation of the agency. As a result, meetings were held with various State agencies throughout 2005. For example, the CALJ and/or members of his management staff participated in the following meetings:

- OAH's Directors of Operations and Quality Assurance met quarterly with representatives of the Maryland State Department of Education (MSDE);
- on January 21, a meeting was held with representatives from the State Board of Physicians (the Board) to discuss the appropriate handling of cases;
- the following meetings were held with the Department of Budget and Management (DBM): July 27 to discuss OAH's ALJ staffing; and October 27 to discuss OAH's FY 2007 budget;
- on August 2, the Governor's Deputy Chief of Staff, Mary Beth Carozza, visited OAH and met with the CALJ, members of management staff, OAH employees and toured the headquarters;
- on September 2, a meeting was held with the Department of Health and Mental Hygiene (DHMH) Secretary, S. Anthony McCann, to give the him an overview of the agency and a tour of the offices;
- on October 26, a meeting was held with representatives from the Department of Labor, Licensing and Regulation (DLLR) to discuss continuing problems with scheduling and postponements; and
- the Deputy Director for Management and Administration, Benjamin Rudo, and the new Director of Administration, Richard Norman, continued to confer at length with DBM throughout the year to review OAH's program and financial requirements.

2. OAH Staffing

OAH experienced significant changes to its agency staffing in 2005 and spent an extraordinary amount of time and resources recruiting and hiring new employees. The following is a summary of those positions:

Deputy Director for Management and Administration

In June, OAH's Deputy Director for Management and Administration, Benjamin Rudo, retired. Mr. Rudo had been with OAH since its inception in 1990 and played a key role in the OAH. He agreed to stay on as a contractual employee to

assist with the development of OAH's FY 2007 proposed budget and with the recruitment of his replacement.

In October, Richard Norman was selected as OAH's new Director of Administration. Mr. Norman came to the OAH from the Maryland State Police where he held the position of Assistant Director, Budget & Finance Division.

Seven Administrative Law Judges

In 2005, OAH experienced a 16% reduction in the ALJ workforce.

During the summer months, a Hiring Committee, comprised of four OAH employees – the Director of Quality Assurance, the Deputy Director of Operations, the Chief Clerk, and one ALJ -- reviewed resumes and interviewed candidates.

The use of a Hiring Committee complies with the criterion in OAH's August 2002 "Report on Increasing the Diversity of Its Workforce." OAH is proud to report that because of the successful policies that were developed by OAH in 2002, which were used for recruiting and interviewing candidates over the past three years, OAH's diversity among its ALJs and staff attorney position has increased from 6.5% to 15%¹. Six new ALJ hires, two of whom are African American, began on September 28 and one new hire is scheduled to begin in July 2006.

CALJ Dewberry believes that the 16% reduction in the ALJ staff in 2005 is the result of low, non-competitive ALJ salaries. For example, as of January 2005, the starting salary at the District of Columbia hearing office is \$82,140, yet the starting salary at the OAH is only just over \$65,000.

During the past fifteen years, the OAH and its Advisory Council have urged the Administration to increase ALJ salaries. In 2004, the Administration allotted a one-grade increase for ALJs in OAH's FY 2005 budget. The 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 ten to ninety days after the close of the record. OAH experienced the loss of ALJs even with the one-grade salary increase.

In 2005, CALJ Dewberry developed a proposal for increasing ALJ salaries that was submitted to the Secretary of DBM in July. Subsequently, CALJ Dewberry and an Advisory Council member, Dr. Nancy Grasmick, met with Governor

¹ The Chief Administrative Law Judge is not included in this percentage since he is appointed by the Governor.

Ehrlich's Deputy Chief of Staff, Craig Williams, on September 12 and submitted the proposal to him. CALJ Dewberry hopes to gain the Governor's support.

Director of Personnel

As a result of the Strategic Budgeting process, a position in OAH's Administration Department was abolished. Consequently, the Director of Personnel's position was abolished and the Personnel Associate responsible for assisting the Director assumed those job functions.

Two Deputy Chief Clerks

In April, the Deputy Chief Clerk responsible for Data Analysis retired and in August, the Deputy Chief Clerk responsible to Assignment retired. In 2004, OAH also lost the Deputy Chief Clerk responsible for Docketing. All three of these Deputy Chief Clerks had been with OAH since its inception and represented a significant loss in experience. However, these vacancies have allowed OAH to promote from within and have increased diversity in this mid-management level. OAH's Chief Clerk, the Deputy Director of Operations and the Deputy Director of Quality Assurance participated in the interview and hiring process for two of these three positions. The OAH anticipates filling the third position in the beginning of 2006. OAH's Chief Clerk, Linda Novak, is to be commended for her efforts in maintaining a smooth flow of work in all areas of the Clerks Office through this significant loss in staffing.

Docket Specialist

Also, as a result of the Strategic Budgeting Process, OAH lost a Docket Specialist responsible for scheduling Motor Vehicle Administration cases. This position was abolished.

3. Local, National and International Perspectives

Local

Maryland Judiciary

On April 14, CALJ Dewberry and ALJ Bennett participated in a Maryland Judicial Institute (the Institute) training program. The Institute is responsible to the Maryland Judicial Conference for all judicial education and training. The Institute develops, provides, and evaluates comprehensive, diverse and cost-effective continuing legal education for the judges of Maryland. The OAH was

honored to receive an invitation from Judge Glenn T. Harrell of the Court of Appeals to participate in the April training session. The training participants were given background information on the OAH as well as receiving an in depth overview of our Agency.

ALJs Fraser and Freidman assisted in the early planning stages by developing a comprehensive outline for OAH's presentation and ALJ Miller spent countless hours developing and editing a Power Point presentation that was the main focus of OAH's training. This Power Point continues to be used by OAH's management for visitors who are seeking information on the administrative hearing process. CALJ Dewberry acknowledges and commends ALJ Miller for her remarkable efforts in developing this presentation.

Maryland State Bar Association

CALJ Dewberry is a member of the Administrative Law Section Council of the Maryland State Bar Association (MSBA). The Council meets on a regular basis throughout the year and is responsible for developing an educational program for MSBA's Annual meeting. At the June Annual meeting, CALJ Dewberry participated as a cast member of a historical one-act drama entitled "Merryman", which was based on several true incidents during the Civil War resulting in the incarceration of a Maryland resident at Ft. McHenry and the refusal of his release because of suspension of habeas corpus by President Lincoln. Former ALJ Paul Handy wrote this drama. The Honorable Robert Bell, Chief Judge of the Court of Appeals, played the role of Justice Roger Brooke Taney and CALJ Dewberry played the role of Francis Key Howard. ALJ Marc Nachman played the role of John Merryman. The educational program was well attended.

ALJ Yvette Diamond also participates on the Administrative Law Section and worked on the development and filming of a video on the consequences of underage drinking and driving. There are many worthy productions that show the death and devastation caused by drinking and driving. Nevertheless, young drivers think of themselves as invincible. In this film, a diverse group of teens who had alcohol-related driving offenses were interviewed about the many consequences of underage drinking and driving. This film takes a somewhat different approach in an attempt to show teens that even if they are fortunate enough not to injure themselves or others, there will be consequences, restrictions and limitations upon their daily activities for a substantial amount of time. The expectation is that teens will identify with at least one of the students in the film, learn from the experiences of their peers and make better choices.

The next phase of this project is the editing of the footage that ALJ Diamond has obtained. Maryland Public Television has agreed to produce the

video; however, funding must be provided. CALJ Dewberry and ALJ Diamond solicited financial assistance from MSDE, the Department of Transportation (MDOT) and the Maryland Higher Education Commission. The OAH wishes to acknowledge and thank Dr. Grasmick for MSDE's pledge of \$10,000 and Secretary Flanagan for MDOT's pledge of \$6,100. Dr. Grasmick requested that efforts be made to have the video complete prior to the 2006 prom season so that it can be shown in Maryland high schools.

The OAH wishes to commend ALJ Diamond for her extraordinary efforts in moving this important project forward.

Maryland and District of Columbia Association of Administrative Adjudicators

OAH's ALJs are members and officers of The Maryland and District of Columbia Association of Administrative Adjudicators (MDCAAA), an affiliate organization of the National Association of Administrative Law Judges (NAALJ). CALJ Dewberry is the Secretary of MDCAAA and ALJ A. Michael Nolan is the Past-President.

CALJ Dewberry and several ALJs who are members of MDCAAA are working with the Executive Director of NAALJ, former CALJ John Hardwicke, to include agency heads and/or their designees in NAALJ's membership.

ALJs also participate in local bar associations and make presentations to these associations and numerous other community-based organizations.

National

At the time of the creation of the OAH, Maryland was the twelfth state to have a centralized office for handling administrative appeals and hearings. The central panel concept has now been incorporated to greater and lesser degrees in 28 jurisdictions, the most recent being Washington, D.C. Maryland's OAH is among the largest central panels in the country with the most jurisdiction. When fully staffed, it employs over 60 ALJs, including the CALJ and the Directors of Operations and Quality Assurance and their respective deputies.² In calendar year 2005, OAH received 64,879 new cases.

Over the years, States contemplating the establishment of a central panel have contacted Maryland for information, statistics and guidance. In addition,

² It is noteworthy that, in addition to overseeing the agency, the CALJ, the Directors of Operations and Quality Assurance and their respective deputies all hear cases and participate in the docket on a regular basis.

once established, central panel states continue to seek advice and guidance from the OAH.

CALJ Dewberry and ALJs Bennett, Burch, Brooks and McClellan attended the Central Panel Directors' Conference in Florida in September. This annual Conference is extremely worthwhile in that Central Panel Directors are provided with a forum in which to exchange ideas, discuss similar problems, and gain assistance from other central panel states. One of the key issues discussed at the 2005 Conference was security.

In 2005, NAALJ held its Annual Conference in Chicago on October 29 through November 3. OAH's ALJ A. Michael Nolan is the Secretary of NAALJ and CALJ Dewberry was elected to the Board of Governors. ALJs Veronica Jones and Thomas Welshko also attend the NAALJ Annual Meeting. In addition, ALJ Nolan attended the mid-year NAALJ meeting in May, which was held in Savannah, Georgia.

At the NAALJ Annual Meeting, CALJ Dewberry led a panel discussion entitled "Professionalism and Civility" and ALJ Nolan participated on two panel discussions entitled "Driver's License Administrative Hearings" and "Technology's Being Used to Make Working More Efficient for ALJs". The Maryland OAH has been involved with the NAALJ organization for over 11 years.

International

On March 18, the International Law Institute hosted a program on Administration Reform for officials from Montenegro, an Eastern European country. As part of that program, the OAH made a presentation on the creation and growth of the OAH and the administrative hearing process. The Montenegro dignitaries met with CALJ Dewberry and members of management staff. They toured the facility and asked excellent questions.

On December 19, Chinese delegates from the Shenzhen Delegation on Administrative Hearings visited the OAH. The Delegation received a presentation and tour of the building from CALJ Dewberry and Judges Brooks and McClellan.

The Maryland OAH is a national and international model and could not maintain this reputation without the vigorous support of Maryland's executive, legislative and judicial branches of government.

4. Strategic Budgeting

In an effort to continue to provide high quality and efficient services to

the citizens of Maryland, members of OAH's management staff, once again, participated in the Governor's Strategic Budgeting Program. OAH reviewed all agency programs to assess priorities and the need to maintain certain functions. All functions were evaluated based upon how critical they are to fulfilling the mission of the agency. Although it was felt that in an agency the size of OAH, all functions are important, it was determined that several were less critical than others. Upon receiving instructions from DBM to reduce funding for fiscal year 2007, the OAH utilized the Strategic Budgeting Guide to make these important decisions.

As a result of the Strategic Budgeting process, DBM recommended that three positions be abolished. Consequently the decision was made that the following positions be abolished: (1) the Director of Personnel; (2) an ALJ position; and (3) a docket specialist in the Clerk's Office.

5. Managing For Results (MFR)

OAH strives to provide an efficient and high quality administrative hearing process to the citizens of Maryland and views the MFR plan as a valuable tool to assess its success in achieving that goal.

The MFR allows the OAH to track its performance in three key areas:

1. completion of the administrative hearing process, from appeal to disposition, in an efficient and timely manner;
2. issuance of non-bench decisions in a timely manner; and
3. conducting administrative proceedings in a professional and competent manner and issuing decisions that address and resolve the issues raised by the participants to the proceedings.

In fiscal year 2005, OAH was able to document a reduction in the number of days from appeal to disposition in all eight of the case-specific areas that it monitors, while the number of days in the Miscellaneous Case Types showed only a slight increase. The percentage of non-bench decisions that were issued in a timely manner remained high, at 97.5%. And the number of participants in the hearing process who rated the hearing process as either satisfactory or excellent also remained in a very high range in all three areas.

6. Alternative Dispute Resolution

Alternative Dispute Resolution (ADR) includes a number of procedures designed to simplify and expedite the resolution of controversies without the need for a hearing or trial. ADR generally refers to any procedure that utilizes the services of a neutral party to assist in reaching an agreement, thus avoiding the expense, delay, and uncertainty of litigation. ADR provides a forum for the parties to work toward a voluntary, consensual agreement, as opposed to having a judge or other authority decide the outcome of the case. ADR includes mediation and settlement conferences, which the OAH utilizes frequently. Mediation is particularly desirable because it encourages and improves communication between the parties.

OAH continues to expand ADR services available to parties with pending administrative hearings. OAH is working with the Mediation and Conflict Resolution Office (MACRO) to promote the use of ADR at OAH. MACRO is under the auspices of the Judiciary. With grant money received from MACRO, the OAH has hosted 40-hour mediation training sessions over the past four years, including two in Spring 2005. These training sessions have been attended by employees from various state agencies including the Office of the Attorney General, DBM, DHR, and DPSCS. In prior years, participants included First Lady Kendel S. Ehrlich, The Honorable Thurman Rhodes from the District Court for Prince George's County, The Honorable Martha Rasin from the District Court for Anne Arundel County, and the Deputy Attorney General, Donna Hill Staton. As a result of the training, agencies will be better equipped to resolve disputes at the agency level, or will be more inclined to request mediation in cases where an appeal has been filed with the OAH.

Each participant receives a certificate providing that he or she "has successfully completed a minimum of 40 hours of mediation training including areas specified in Maryland Rule 17-106." The training has been very successful. The OAH has contacted MACRO about funding for future training.

In addition, OAH conducted its first Advanced Mediation Training session for ALJs and legal support staff. Participants were divided into three groups; two-day training sessions were held over a three-month period.

OAH's mediation program for Special Education appeals is a prime example of the benefits of the mediation process. OAH settled approximately 70.5% of the Special Education cases mediated in 2005. OAH also conducts a large number of settlement conferences for Boat Excise Tax cases where the settlement rate in 2005 was 65%.

Mediation Pilot Project with the District Court of Maryland

OAH continues to collaborate with the District Court for Baltimore County to provide mediation in the full range of civil matters. The District Court will refer cases where a trial is expected to last ½ day or longer and is, therefore, burdensome to the docket. Mediation will take place at OAH one day per month with a maximum of four cases per day. Participation by the litigants is voluntary. OAH has initially identified four ALJs to mediate these cases. The ALJs identified possess strong mediation skills and knowledge about District Court practice. OAH considers mediation to be one of the key devices for easing the seriously overburdened Court system and for the prompt and effective disposition of executive agency/citizen disputes.

7. Financial Impact of OAH's Fiscal 2005 and Appropriated Fiscal 2006 Budget

OAH's appropriated budget for FY 2006 is \$11,214,246 covering direct and overhead costs, and including rent and administrative staff. The OAH is funded through the transfer of funds from the agencies for which hearings are held. An allocation of costs is prepared each year based on caseload and the time required to adjudicate each type of case. The budgets for the agencies for which OAH holds hearings include an appropriation for "hearings" based on this allocation. On July 1 of every fiscal year, each agency transfers the appropriated funds to OAH. See Attachments A and B for charts showing the FY 2005 and FY 2006 allocation by agency.

8. Videoconferencing Equipment

Prior to 2005, video conferencing equipment was located in seven Department of Public Safety and Correctional Services (DPSCS) correctional institutions across the State of Maryland and ALJs conducted Personnel and Inmate Grievance Office (IGO) hearings via video conferencing with these correctional institutions. The use of video conferencing, however, was limited because the equipment in many of the correctional facilities was no longer functional and OAH had only one set of video conferencing hardware. As a result, only one video conferencing docket was scheduled for each workday. OAH's equipment was quite antiquated.

Following a hostage situation that occurred during an IGO hearing at the Maryland Correctional Institute in Hagerstown in which an ALJ and two DPSCS employees were held hostage for several hours, OAH and the DPSCS met to discuss upgrading the video conferencing equipment and expanding video dockets to additional correctional facilities. As a result of this incident and previous discussions concerning ALJ safety at IGO hearings, new video conferencing equipment was purchased and installed at OAH's headquarters.

DBM approved OAH's supplemental budget request for the equipment and the DPSCS contributed to one-half of the cost. OAH now has two videoconference units at its Hunt Valley headquarters and the DPSCS has new videoconferencing equipment in each of its facilities except the Maryland Correctional Adjustment Center located on Madison Street in Baltimore. This new equipment makes it possible for ALJs to remain in Hunt Valley to conduct IGO hearings as well as DPSCS personnel hearings.

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 with examining the then-current administrative hearing system and recommending needed changes. The Task Force issued a final report strongly endorsing the creation of a centralized administrative hearing process and identifying 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 the Departments of Health and Mental Hygiene, Licensing & Regulation, and Environment were consolidated into a central office. ALJs were cross-trained to handle a wide variety of cases, and projected operational efficiencies began to be realized. Uniform Rules of Procedure were promulgated in 1991 and the Code of Ethics modeled on the Judicial Code of Ethics was 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 CALJ Hardwicke, two Cabinet Secretaries, and representatives of the judiciary, business community, labor unions, 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 the Office's Rules of Procedure, COMAR 28.02.01, were adopted incorporating the revisions to the APA.

III. MISCELLANEOUS ADDITIONAL 2005 ACTIVITIES

A. Administration

1. Personnel

The CALJ of OAH is appointed by the Governor for a six-year term. CALJ Dewberry was appointed for a six-year term on May 22, 2002. Executive ALJs serve as the Directors of Operations and Quality Assurance.

OAH began 2006 with 122 authorized positions, of which 120 were filled. 60 of the positions are for ALJs who are appointed by the CALJ. Of the 120 OAH employees, 35% are African-American and 75% are women. Of the ALJs and staff attorney, 15% are African-American and 52% are women. As previously mentioned, OAH is committed to maintaining a diverse and qualified workforce. To that end, OAH strives to upgrade salaries as appropriate and to offer a work environment that is both professionally challenging and satisfying.

Current qualifications require that ALJs be bar-admitted attorneys with a minimum of 5 years of experience. The ALJs may be removed for cause and are considered special appointees within the professional service of the State Personnel Management System. Judge salaries range from \$65,408 to \$94,194, with the average being \$77,403. These salary levels were effective as of July 2005.

2. Facilities

OAH's headquarters in Hunt Valley is accessible from I-83 North and provides ample parking. There is a light rail station within walking distance of the building and bus service makes the building accessible via public transportation.

The Administrative Law Building houses 23 hearing rooms, two attorney-client meeting rooms, a clerk's office, ample 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 its headquarters location, the ALJs travel throughout the State to conduct hearings in all counties. OAH operates satellite offices in Cumberland and Salisbury and has dedicated hearing space in Montgomery County.

3. Technology

OAH continues to revise and update its Website to provide the public with the following current information:

- A. sample decisions
- B. frequently asked questions and answers providing general information about our hearings
- C. information concerning types of cases the ALJs hear
- D. directions to hearing locations
- E. telephone numbers for OAH contacts (i.e. postponement clerks, MVA docket specialists, etc.)
- F. business hours and holiday schedule
- G. information regarding employment opportunities
- H. information regarding how to obtain audio and video recordings of hearings
- I. inclement weather policy
- J. OAH's organizational chart
- K. subpoena request forms
- L. Public Information Act request form
- M. filing fees and other hearing related costs
- N. postponement request information

OAH's continued improvements to its Website provides users with with relevant information about the Agency and answers to questions about the hearing process.

B. Operations

OAH conducts fair and timely hearings in contested cases for more than 30 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 the OAH or, with the permission of the Chief Administrative Law Judge, a person not employed by OAH. Md. Code. Ann., State Gov't. § 10-205 (2004).

OAH received 64,879 new cases in CY 2005. This was a slight decrease from the 65,696 cases received in CY 2004. OAH has continued its efforts to reduce the number of hearings by encouraging the parties to engage in settlement conferences and mediations. Those case resolution mechanisms have been most successful. Caseload statistics for CY 2005 are included in Attachment C.

1. Statistics for Special Education Hearings and Mediations

In CY 2005, OAH conducted an average of 7 special education due process hearings per month resulting in 83 written special education decisions. There were, however, 375 hearing requests received and the majority of those were scheduled for hearings. Most of those hearing requests were either withdrawn or the case settled prior to the hearing date.

It is noteworthy that 455 special education mediation requests were made in CY 2005, which resulted in an average of 38 mediations being scheduled each month. Of those 455 mediation requests, 348 were actually conducted and 246 settled resulting in a 70.5% mediation rate.

2. Satellite Offices and Outlying Hearing Locations

Although the Administrative Law Building in Hunt Valley is the headquarters of the OAH, the ALJs conduct less than 40% of the OAH's hearings at this location. The remainder of the hearings is held at various locations used by the OAH around the State, including private hospitals and nursing homes. Other hearings are held in government facilities such as courthouses and agency offices. In addition to those facilities, the OAH has continued to lease hearing space at Wheaton Plaza in Montgomery County. The space continues to receive nearly maximum use.

The OAH also has an arrangement with the Unemployment Insurance Hearing Unit of the Department of Labor, Licensing and Regulation with regard to sharing hearing space at various locations throughout the State. Currently the OAH shares hearing space with the Unemployment Insurance office in Hunt Valley and Cumberland.

The OAH also maintains satellite offices in Cumberland and Salisbury. One ALJ is assigned to the Salisbury office. Both of the OAH's satellite offices are fully integrated with the Hunt Valley OAH headquarters through the OAH's network. A team leader assigned to Hunt Valley provides oversight and assistance for the satellite offices.

3. Teleworking

In 1999, legislation was enacted that required State agencies to re-establish a telecommuting program for State employees. The program, now called "teleworking" allows certain designated State employees to work from home or alternate work sites. The program set a mandate that 10% of an agency's eligible employee population are allowed to telework.

OAH implemented the State's Telework Program. Each OAH teleworker

must sign both an Agency Telework Agreement and an OAH Internal Telework Policy Agreement. Prior to CY 2005, ALJs are assigned to telework from one to four days per month. Assignments were made on a rotating basis depending on the ALJ's workload and availability.

In CY 2005, 43 ALJs and OAH's Chief Clerk teleworked for a total of 838 days.

In addition to OAH's telework initiative, the ALJ staff has been encouraged to establish remote access to OAH either through Citrix or the internet. They may do so either by the use of their assigned OAH laptop computers or through their home computers. At the end of CY 2005, 55 ALJs have remote access to OAH. As a result, those ALJs are eligible to telework and/or work-at-home under OAH's policies regulating both of those programs.

In CY 2005, ALJs worked at home before and/or after traveling to their dockets for approximately 4,818 hours. During their initial six-month training period, new ALJs are encouraged to spend as much time as possible working at OAH headquarters and are not eligible to telework. They are, however, eligible to work at home under OAH's work-at-home policy. Of course, they must either choose to use a laptop provided by OAH and/or have a personal computer at home, which is connected to the Citrix system and/or the internet, in order to access OAH's network.

4. Legislation Affecting OAH

The General Assembly passed a number of legislative initiatives intended to improve safety of the roadways by placing stricter licensing requirements on young drivers. The bill numbers that passed were: SB 50; SB 57; SB 206; SB 209; HB 393; HB 394; HB 395; HB 633. However, the bills are not anticipated to generate a number of hearings for OAH because the bills provide that police officers can only enforce the provisions of the bills as secondary actions. However, the one bill dealing with safety on the roadways that may add a few hearings concerns commercial drivers. SB 640/HB 789. The new legislation requires suspension or disqualification of a commercial driver's license if certain offenses are committed while driving any vehicle, not just a commercial vehicle.

A bill that may add a significant number of hearings concerns the licensing of mortgage originators. HB 1040. It is estimated that over 10,000 applications will be submitted for the new licenses, and that denials by the Commissioner of Financial Regulation of the new licenses will generate approximately 500 hearings. The bill took effect on October 1, 2005.

Although these next two bills do not directly impact OAH, they are significant to note. HB 922 and 923. HB 923 requires the Secretary of DBM to determine in a grievance case whether the grievant's employing agency will accept a binding settlement. However, if the parties can not reach a settlement within 30 days, the Secretary must refer the case to OAH for final decision. HB 922 provides that any costs incurred by OAH associated with the grievance appeal be paid directly by the employing agency instead of DBM.

It is important to note that OAH's Legislative Liaison, ALJ Wayne Brooks, who reviews, monitors and testifies on all proposed legislation that affects OAH, also serves as: OAH's Deputy Director of Operations, responsible for assisting with the daily operation of OAH; OAH's Public Information Act Officer, responsible for handling all PIA requests in a timely manner; and is regularly scheduled to hear cases as an ALJ.

C. Quality Assurance (QA)

QA and Operations are jointly responsible for performing twice yearly performance annuals on the ALJs, as required by the Department of Budget and Management's Performance, Planning & Evaluation Program (PEP). The evaluation is useful for identifying ALJs who need additional training or support.

QA is primarily responsible for training new ALJs. Each new ALJ is assigned a more experienced ALJ as a mentor, who helps QA monitor the new ALJ's progress. New ALJs observe other ALJs conduct hearings in a specific subject area before being observed themselves. New ALJs rotate through the major subject areas for about six months, after which they are released to conduct the full range of hearings independently.

The QA legal support staff, which includes two paralegals and one staff attorney, provides research and writing assistance to the ALJ staff. They perform other critical duties, such as providing mediation services, assisting with developing and implementing ALJ training, and redacting confidential decisions which are available for distribution to the public upon request.

QA participates in job fairs at law schools and colleges offering legal and paralegal programs in order to attract volunteer student interns for the OAH. QA continues to seek volunteers as a method to assist the ALJ staff and to provide greater exposure of the OAH to the legal community.

QA coordinates the publication of head notes about OAH decisions in The Daily Record. QA selects decisions and prepares the head notes for publication.

In 2005, approximately 19 OAH head notes addressing a variety of subject matter areas were published.

OAH's computer technology has enabled the ALJs to share their work, including decisions, e-mail each other and outside parties, utilize centralized CD ROM research tools, and use on-line research products. The efficient and proficient use of these resources continues to increase as OAH staff becomes more comfortable with the technology.

QA maintains decision boilerplates for most case types. Each boilerplate contains the essential information that should be included in that decision, such as the procedural regulations that apply. Boilerplates provide the ALJs with the basic framework for a decision. QA is responsible for updating and revising the boilerplates. Keeping the boilerplates current is a time consuming and arduous process but well worth the effort. With the advent of computer networking at OAH, QA has been able to revise and update the boilerplate instantaneously to the benefit of all OAH staff.

QA also maintains and updates the Time Frames matrix, which states the statutory or regulatory due date for every case type. Because due dates vary greatly, the matrix is critical. The matrix is available on OAH's network for easy reference.

QA maintains and updates Bench Manuals and Case Digests in various subject areas. These materials are available on the network and assist ALJs in staying current in the law.

1. Library

The OAH library is open to the public. OAH's librarian and assistant librarian serve both the OAH and the public.

Every written decision issued since 1999 is available on OAH's network and can be researched electronically; hard copies can be researched manually. Decisions issued prior to 1999 are searchable manually on an outdated but functional database, called Premise, which is available on a computer located in the library.

OAH librarians scan all new law journals and legal research material available through the internet. Through e-mail, they notify judges of interesting articles and cases that pertain to the OAH. They provide research assistance to all OAH employees, as well as to the public. The librarians respond to more than ten telephone inquiries each day from the public relating to OAH's decisions and other information available in our library.

QA also oversees collection, development, and expansion of services provided by the library to OAH staff, State agencies, the bar and citizens. OAH has contracted with Westlaw, an on-line legal research service. Westlaw and other on-line research tools are accessible to ALJs and legal staff at their desk top computers. QA continues to expand the electronic library as well as maintaining and adding to printed material.

2. Continuing Judicial Education

QA offers mandatory monthly training for the ALJs, paralegals and the staff attorney. The 2005 training schedule is at Attachment D.

IV. Looking Ahead

With the many staffing changes in 2005, calendar year 2006 will be a year of training and adjustment for most departments within OAH. These changes affect the management staff with a new Director of Administration, the Clerk's Office with two Deputy Chief Clerks and, most significantly, the ALJ workforce with six new ALJs that began in September 2005. OAH accepts the challenges that lie ahead with these changes and is excited to have the opportunity to welcome new employees who are extremely bright and professional. It is expected that the six new ALJs will be trained and fully integrated into the monthly schedule by April 2006. This will provide significant relief to the ALJ workforce that has had to carry the burden of the caseload while the new judges were hired and being trained.

In addition to increasing the efficiency of the agency by filling these integral positions, the purchase and installation of video conferencing equipment will further improve OAH's effectiveness by decreasing ALJ travel time to correctional facilities around the State as well as ensuring the safety of the ALJ staff.

CALJ Dewberry will continue to work in 2006 to obtain salary enhancements for ALJs so that the serious ALJ retention problem that OAH experienced can be alleviated. Losing 16% of the ALJ workforce in a short period of time places a burden on every aspect of the Agency, particularly its ability to serve the citizens of Maryland.

"Branded D.U.I.," a joint film project of the OAH and the Administrative Law Section Council of the MSBA in conjunction with the Administrative Office of the Courts and Maryland Public Television will be complete by March 2006 and

will be ready for distribution to Maryland high schools by early April. This is a compelling film that is expected to have an important impact on young drivers. Our ALJs look forward to the opportunity to discuss the dangers of underage drinking and driving with students in schools across the State of Maryland.

This project would not have come to fruition without the leadership and guidance of ALJ Yvette Diamond. CALJ Dewberry is grateful for the support that the ALJ workforce gave to Judge Diamond by assuming a portion of her workload so that she could devote time to this project.

OAH will continue to work in 2006 to further improve the administrative hearing process in Maryland so that it can continue to improve the service that it gives to the citizens of Maryland. We are grateful for the continued support, hard work and dedication of OAH employees, the guidance that we receive from the members of the Advisory Council on Administrative Hearings, the cooperative effort that we share with the agencies that we hold hearings for and for Governor Ehrlich and his staff and their continued support.

DATE	OAH - Training Agenda January 2005 - December 2005	PRESENTER(S)
January 7, 2005	<i>Issues of Constitutional Law</i>	ALJs Carlis, Chapman, Friedman, Koteen, Nichols, Pratt, Shock, Wilkinson
February 4, 2005	<i>Alcohol Evaluations</i>	Right Turn of Maryland staff
March 4, 2005	<i>De-escalating anger</i> <i>Bias in the hearing room</i>	Rosanne Torpey Pamela J. White, Esquire
April 8, 2005	<i>Overview of fair housing hearings - Morning Session</i> <i>Disability - Afternoon Session</i>	Glendora Hughes, General Counsel, Maryland Commission on Human Relations Lee D. Hoshall, Assistant General Counsel, MCHR
May 6, 2005	9:30-11:30, 1:00-3:00 <i>MVA Issues</i> 3:00-3:15 <i>What is MFR and why do I care about it?</i> 3:15-3:45 <i>Legislative Update</i>	various ALJs ALJ McClellan ALJ Brooks
June 3, 2005	<i>Special Education: Individuals with Disabilities Education Act Reauthorization 2004</i>	ALJs Bennett and Alan Jacobson
July 8, 2005	<i>Retirement and Pension Hearings: What is the ALJ's authority in disability cases?</i>	Carla Goldman Katzenberg, Assistant Attorney General
August 5, 2005	<i>Researching legislative history</i>	Steve Anderson, Maryland State Law Library
September 16, 2005	<i>Court of Appeals/Special Appeals opinion update</i> <i>Staff Development Day</i>	Hon. Glenn Harrell
October 7, 2005	<i>Motor Vehicle Administration hearings update (statutory changes, driving record changes, etc.)</i>	MVA staff
November 15, 2005	<i>Special Education Update</i>	Art Cernosia, Esq.
December 9, 2005	<i>Demonstration of Field Sobriety Tests and Intoximeter (breathalyzer)</i> <i>Demonstration of Ignition Interlock</i>	Maryland State Police Ignition Interlock provider staff

