

**OFFICE
OF
ADMINISTRATIVE HEARINGS**



**2006
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 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 Maryland citizens.

Thomas E. Dewberry is the Chief Administrative Law Judge (CALJ). A ten-member State Advisory Council on Administrative Hearings (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 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 2006 annual reports jointly.

Mission

The mission of the OAH is to provide due process for any person or business affected by the action or proposed action of State agencies. Additionally, the OAH has a responsibility to provide this due process in a prompt and efficient manner.

I. Executive Summary

The following is an outline summary of 2006 events and progress:

1. Meetings with Agencies
2. Staffing
3. Community Outreach and Education-*Branded DUI*
4. Local, National and International Perspectives
5. Managing for Results
6. Alternative Dispute Resolution
7. Financial Impact of OAH's Fiscal 2006 and Appropriated Fiscal 2007 Budget



In 2006 OAH:

- Received 52,879 new cases
- Had a 97.5% timeliness rate for issuing decisions
- Successfully mediated 72% of the special education settlement conferences that were scheduled
- Scheduled 60% of its cases throughout the State
- Increased Community Outreach and Education
- Enhanced security and technology
- Provided Statewide mediation training
- Developed in-depth ALJ Training Sessions

8. Information Technology
9. Security
10. Significant Changes in Case Law

II. DETAIL OF 2006 EVENTS AND PROGRESS

1. Meetings with Agencies

Maintaining communication with the agencies for which OAH conducts hearings is beneficial and vital to the on-going operation of the agency. As a result, meetings were held with various State agencies throughout the year. For example:

- Maryland State Department of Education (MSDE)
- Department of Labor, Licensing and Regulation (DLLR)
- Department of Human Resources (DHR)
- Division of Occupational and Professional Licensing and Real Estate Commission of DLLR
- Maryland Department of Transportation (MDOT), Motor Vehicle Administration (MVA)
- DHR - Child Abuse and Neglect Conference sponsored by DHR
- the new Executive Director of the Inmate Grievance Office (IGO)
- Department of Budget and Management (DBM)

2. Staffing

OAH experienced many changes to its staffing in 2006. Those changes were as follows:

- **Administrative Law Judges (ALJs)** – In the Fall, a Hiring Committee conducted 30 interviews, CALJ Dewberry then conducted second interviews and extended offers to four candidates.
- **Staff Attorneys** – Two part-time staff attorneys and one part-time contractual staff attorney joined OAH's workforce.
- **Librarian** – OAH's librarian resigned in April and a new librarian was hired in August to fill the vacancy.
- **Director of Personnel** – OAH's Director of Personnel resigned in June and a new Director was hired in July to fill that vacancy.
- **Information Technology (IT) Director** – OAH's IT Director retired from State service as of July 1 and a new IT Director was hired to fill that vacancy on September 13.
- **Deputy Chief Clerk** – an ALJ Assignment Deputy Chief Clerk was hired from within the agency in April 2006.

- **Other Staffing** – OAH also hired a Fiscal Accounts Clerk, an Administrative Aide, an Office Secretary and Clerk's Office Staff.

3. *Community Outreach and Education - Branded D.U.I.*

In 2005, OAH reported on the extraordinary efforts of ALJ Yvette Diamond in 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.

Maryland Public Television (MPT) produced the film with financial support from MSDE and MDOT. The film was distributed to all Maryland high schools in March with the expectation that students would have an opportunity to view it prior to prom season. A premiere showing was held at the Aquarium in Baltimore on April 9 with approximately 280 guests in attendance. Throughout the year, many ALJs traveled to high schools to introduce the film and discuss the dangers of underage drinking and driving with students.

It is important to once again state that this significant project would not have come to fruition without the outstanding efforts of ALJ Yvette Diamond and MPT, and the financial contributions of the MSDE and MDOT through their agency heads, Dr. Nancy Grasmick and Secretary Robert Flanagan, respectively.

In addition, in recognition of her production of *Branded D.U.I.*, ALJ Diamond was awarded the National Highway Traffic Safety Administration/American Bar Association's Judicial Division/National Conference of Administrative Law Judiciary's Judicial Fellowship. As the Judicial Fellow, ALJ Diamond works with the National Highway Traffic Safety Administration and the American Bar Association to provide education, resources and outreach to judges and the public throughout the United States aimed at improving highway safety and the delivery of justice.

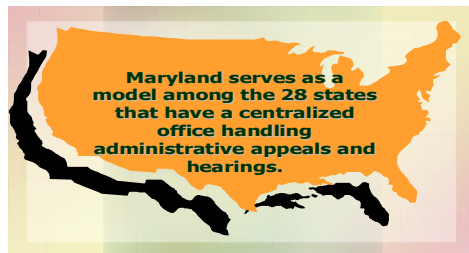
4. *Local, National and International Perspectives*

Local

On September 22, Judge Glenn T. Harrell, Jr., Maryland Court of Appeals, invited Judges James R. Eyster and James A. Kenny, III, Maryland Court of Special Appeals, to participate in his annual update on recent Maryland appellate administrative law decisions. Judge Harrell has been conducting this annual ALJ training session for approximately twelve years.

Throughout the year, OAH worked with the Maryland Judiciary on the distribution of the above-mentioned film, *Branded D.U.I.*, and the coordination of speaking engagements. Chief Judge Robert Bell, Maryland Court of Appeals, and judges from courts throughout the State of Maryland attended the April premiere of the film.

In addition, Maryland's ALJs participate in local and national associations that focus on administrative law. ALJs are board and committee members, and attend and plan educational conferences and annual meetings. See Attachment A for a listing of OAH's local and national association involvement as well as international site visits that OAH hosted in 2006.



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.

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 2006, 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 (ADR)*



ADR includes a number of procedures designed to simplify and expedite the resolution of controversies without the need for a hearing or trial.

Alternative Dispute Resolution:

- generally refers to any procedure that utilizes the services of a neutral party to assist in reaching an agreement
- avoids the expense, delay and uncertainty of litigation
- provides a forum for the parties to work toward a voluntary, consensual agreement, as opposed to having an ALJ or other authority decide the outcome of the case
- includes mediation and settlement conferences, which the OAH utilizes frequently
- encourages and improves communication between the parties
- is used in OAH's mediation program for Special Education appeals which is a prime example of the benefits of the mediation process. **OAH settled approximately 72% of the Special Education cases mediated in 2006**

OAH again received a grant from the Mediation and Conflict Resolution Office (MACRO), which is under the auspices of the Maryland Judiciary, to host a 40-hour mediation training session in November.

These training sessions are extremely successful and:

- are attended by employees from various State agencies including the Office of the Attorney General, DBM, DHR, and DPSCS
- include OAH's newest ALJs and staff attorneys who have not had mediation training;
- prepare agency employees to resolve disputes at the agency level or consider mediation in cases where an appeal has been filed with the OAH
- certify that each participant "has successfully completed a minimum of 40 hours of mediation training including areas specified in Maryland Rule 17-106"

In addition, three ALJs and a paralegal attended the 2006 Maryland Mediators Convention that was hosted by MACRO on December 1 and ten ALJs attended The Fourth National Symposium on Dispute Resolution in Special Education on December 7 – 9, 2006.

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 a half day or longer and is, therefore, burdensome to the docket. Mediation takes place at OAH one day per month with a maximum of four cases per day. Participation is voluntary. 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 Maryland Court system and for the prompt and effective disposition of executive agency/citizen disputes.

7. Financial Impact of OAH's Fiscal 2006 and Appropriated Fiscal 2007 Budget

OAH's appropriated budget for Fiscal 2007 is \$12,306,706 which does not include a budget amendment for COLA. Approximately 95% of OAH's appropriation is dedicated to salaries and benefits, contractual services and rent of facilities. The break down of OAH's budget is:

- 83% Salaries and benefits, including contractual employees
- 4% Contractual services of which half is dedicated for legal services
- 8% Rent for three offices
- 5% Routine travel, utilities, supplies and materials, equipment and motor vehicle operations

The majority of OAH funds are reimbursable, which is the transfer of funds from agencies for which hearings are held. An allocation of cost is prepared each year based upon 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 B and C for charts showing the Fiscal 2006 and Fiscal 2007 agency allocation.

In 2006, OAH was able to improve service to the citizens of Maryland and increase efficiency through:

- enhanced technology
- ALJ training programs
- video-conferencing
- the installation of a new telephone system
- improved security at OAH's Hunt Valley offices
- the hiring of an additional contractual part-time staff attorney to assist ALJs who are assigned complex hearings

8. Information Technology (IT)

The year 2006 brought many technology changes and enhancements to the agency. For example:

- network infrastructure migration to NetworkMaryland was completed in April 2006. NetworkMaryland was created several years ago to provide connection to facilitate Circuit Switched Services, Maryland Government Internet Services, and Intranet Services between government agencies throughout Maryland. Several advantages exist by switching to NetworkMaryland to include improving services offered, cost savings, and network scalability. Also, NetworkMaryland provides OAH with secure Wide Area Network connection to all other State agencies.
- a Microsoft Exchange 2003 Cluster was implemented which provides OAH with an active/passive clustering configuration for Exchange Server 2003. In active/passive clustering, two Exchange Servers are clustered with a single storage system between them. With this new configuration, OAH provides outstanding performance and high reliability to its end users.
- Microsoft Outlook Web Access (OWA) was deployed, which allows employees access to their electronic mail "e-mail," whenever Internet access is available. OWA provides both Outlook e-mail and calendar functionality from any web browser. This provides the staff with the ability to view and respond to e-mails from any computer with Internet access without the need to carry a laptop or computer while away from OAH.
- the Website Committee continued to work to help improve the appearance, content, and usability of OAH's website. This Committee consists of members from every facet of OAH and meets on a regular basis. Modifications were made to OAH's website to comply with the Branding Guidelines for State Government Web Sites that require all State

agencies to bring a common look and feel to State agency websites. OAH first completed these modifications reflecting the State of Maryland's Web Site branding format in January 2006. Updates on our website relating to the transition and official photographs of Governor Martin O'Malley and Lieutenant Governor Anthony G. Brown were made to OAH's website on January 17, 2007.

- IT continued to work on enhancing the case management system to provide OAH customers with a complete history of each case from start to finish including: hearing schedules; electronic postponement requests; and, electronic filing which can be viewed on-line and printed through web access. The Web-based case management system will provide increased scalability and performance, no client software to install and a highly interactive user experience. The new case management system is currently in a beta version and has an estimated implementation date of the fall 2007.
- since July 2006, the OAH has two fully-operational videoconference units at its Hunt Valley headquarters. In addition, the DPSCS has new, fully-operational videoconferencing equipment in each of its facilities, except the Maryland Correctional Adjustment Center located on Madison Street in Baltimore and the Maryland House of Corrections located in Jessup. Throughout the year, OAH's Operations Department focused on the integration and full utilization of both of these units.

9. *Security*

Prior to the purchase and installation of the above mentioned videoconferencing units at OAH and DPSCS' facilities, ALJs conducted IGO hearings at the majority of the correctional facilities across the State. This new equipment has made it possible for ALJs to remain in Hunt Valley to conduct these hearings, which has helped to alleviate many of the security issues that have surfaced over the years.

The safety of ALJs, OAH employees and the public has been an important priority for OAH's management staff. In addition, the Council strongly recommended that OAH have security at its headquarters in Hunt Valley. Consequently, funding was received and OAH's Administration Department concentrated on the procurement and installation of security equipment, developing security procedures and determining the most viable option for contracting security personnel. OAH chose to hire Maryland State Troopers, who are stationed at the Golden Ring Barracks, are armed and have full arrest powers.

10. Significant Changes in Case Law

In 2006, there were several case types that increased in complexity resulting in longer hearings, the need for additional research and ALJ writing time. For example:

Medical Assistance (MA) – Under Maryland Law, an applicant is eligible for MA benefits as a disabled person if that individual meets the federal disability standard for Social Security Disability. A State Review Team (SRT) is responsible for making a determination of disability and the Department of Social Services must show at a hearing how a determination was made. ALJs must now consider additional medical documentation and make a disability determination.

In March, staff from the Social Security Administration conducted an all day ALJ training entitled: "Medical Assistance: Sequential Evaluation Training" and in July ALJ Robert Barry conducted an ALJ training session on determining disability.

Special Education – On August 3, 2006, the implementing regulations of the Individuals with Disabilities Education Improvement Act 2004 (IDEA 2004) were released. The IDEA 2004 is the federal law mandating the education of all children with special education needs, including legal requirements for child find, assessment, eligibility, multidisciplinary team evaluations and recommendations, individualized education programs, free appropriate public education, related services, least restrictive environment, zero reject, extended school year, stay-put, graduation and discipline.

The regulations contain changes in several important areas of the law, including methods to identify students with learning disabilities, early intervention services, highly qualified teachers, discipline and meeting accessibility standards. Two ALJ training sessions were dedicated to special education.

Although the special education caseload decreased in 2006, the cases that went to hearing were considerably more complex than in previous years and, in some instances, lasted as long as seven days.

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 Department of Health and Mental Hygiene, DLLR, 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 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 former 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 OAH's Rules of Procedure, COMAR 28.02.01, were adopted incorporating the revisions to the APA.

IV. MISCELLANEOUS ADDITIONAL 2006 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. 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 total filled positions, 31% are African-American and 72% are women. Of the ALJs, 16% are African-American and 57% are women. OAH remains 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. In 2006, the Administrative allotted a

one-grade increase for ALJs in OAH's Fiscal 2007 budget. ALJ salaries now range from \$73,943 to 104,005, with the average being \$79,119. OAH's management staff anticipates that the increase will alleviate the ALJ retention problem that it has experienced in the past.

Current qualifications require that ALJs be bar-admitted attorneys with a minimum of five 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. The ALJs' work has a significant impact on both public and provide 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 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 makes the building accessible via public transportation.

OAH's 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.

B. Operations

OAH's Operations Division:

- is responsible for the scheduling and assignment of cases
- reviews caseload to ensure that backlogs do not develop
- ensures expeditious case management
- monitors the timeliness of decisions
- supervises the ALJs; Clerk's Office; IT Staff and secretaries
- 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 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 CALJ, a person not employed by OAH. Md. Code. Ann., State Gov't. § 10-205 (Supp. 2006).

OAH received 52,879 new cases in 2006. This is a notable decrease from the 64,257 cases received in 2005. The OAH began receiving approximately four to five times more entitlement appeals in April 2001 because DHR, pursuant to the terms of a Consent Decree, was ordered to mail Request for Hearing forms with Temporary Cash Assistance (TCA) program Adverse Action Notices to applicants residing in Baltimore City. DHR's CARES computer system could not distinguish between Baltimore City and other jurisdictions, as well as type of service. As a result, **ALL** DHR's Adverse Action Notices sent to Maryland applicants were accompanied by a Request for Hearing form.

In February 2006, DHR reprogrammed its computers so that Request for Hearing Forms are only provided to applicants in Baltimore City who receive Adverse Action Notices for TCA. As a result, the OAH has seen an approximate 66% drop in the number of entitlement appeals to be scheduled for hearing.

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 2006 are included in Attachment D.

1. Statistics for Special Education Hearings and Mediations

In 2006, OAH conducted an average of four special education due process hearings per month resulting in 48 written special education decisions. There were, however, 347 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 399 special education mediation requests were made in 2006, which resulted in an average of 33 mediations being scheduled each month. Of those 399 mediation requests, 246 were actually conducted and 177 settled, resulting in a 72% successful mediation rate.

2. Satellite Offices and Outlying Hearing Locations

Although the Administrative Law Building in Hunt Valley is OAH's

headquarters, ALJs conduct less than 40% of the hearings at this location. The remainder of the 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. The hearing space at Wheaton Plaza in Montgomery County continues to receive nearly maximum use.

OAH also has an arrangement with DLLR's Unemployment Insurance Hearing Unit with regard to sharing hearing space at various locations throughout the State. Currently, OAH shares hearing space with the Unemployment Insurance office in Hunt Valley and Cumberland.

One ALJ is assigned to OAH's Salisbury office and both satellite offices are fully integrated with the Hunt Valley OAH headquarters through OAH's network. A team leader assigned to Hunt Valley provides oversight and assistance for the satellite offices.

3. Teleworking

OAH based its Telework Program upon legislation that was enacted in 1999 and strictly adheres to DBM's Telework Policies. The Director of Operations is OAH's Telework Coordinator. Each OAH teleworker must sign both an Agency Telework Agreement and an OAH Internal Telework Policy Agreement. ALJs are assigned to telework specific days each month depending on the ALJs' workload and availability.

In 2006, 38 ALJs and OAH's Chief Clerk teleworked for a total of 1148 hours.

In addition to OAH's telework initiative, the ALJ staff has been encouraged to establish remote access to OAH through 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 2006, 48 ALJs had 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 2006, 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 an OAH laptop and/or have a personal computer at home, which is connected to the Internet, in order to access OAH's network.

Allowing ALJs to Telework and work at home has created operational efficiencies in that ALJs' travel time is reduced and ALJs are able to focus on decision writing with fewer interruptions and distractions. There is also a savings on fuel, mileage reimbursement and wear and tear on state vehicles.

4. Legislation Affecting OAH

The General Assembly passed only a few legislative initiatives, which would impact OAH, in the past legislative session. Some of this legislation may generate additional hearings for OAH, and others may change the types of evidence that may be considered in various cases, for example:

- HB 525 increases a driver's license suspension period if the driver takes a test that indicates a blood alcohol concentration of 0.15 or more. However, the driver could avoid a hearing by electing to participate in the Ignition Interlock System Program for one year.
- HB 310/SB228 provides that young drivers who are convicted of an alcohol and/or drug related driving offense will face mandatory suspension periods of one year for a first conviction and two years for a second or subsequent conviction.
- SB 897/HB 1486 may add a significant number of hearings. This bill concerns an attempt to end discrimination under the State procurement laws. If a business entity that provides goods or services to the State is suspected of discriminating against another business entity in the bidding process, or the provision of those goods or services, the violator is subject to sanctions including debarment from bidding or entering contracts with the State, and/or cancellation of current contracts.
- There were three insurance related bills concerning the requirements for refusing to underwrite or renew a homeowner's or auto insurance policy. These are issues that often generate appeals to OAH. HB 285 prohibits an insurer from refusing to underwrite a risk, increasing a premium, or cancelling or refusing to renew coverage based on an "inquiry" about a potential claim by a homeowner.
- HB 570/SB 913 establishes a 45-day underwriting period after writing a policy to give the insurer an opportunity to determine if the risk of providing the policy meets the insurer's underwriting

standards. If not, the insurer must give the insured fifteen days written notice of the insurer's intent to cancel the policy.

- HB 760/SB 948 requires an insurer in cases of cancellation, non-renewal or reductions in coverage to provide in its notice a brief statement of the basis for the proposed action. In addition, if the insurer proposes a premium increase of more than 15% for the entire policy the aggrieved party may request a hearing. If the proposed premium increase is disallowed, under the bill the insurer must return the disallowed premium with interest.
- HB 1032/SB 784 and HB 1726/SB 1080 do not directly impact OAH, however, they are significant to note. HB 1032/SB 784 requires the principal unit of an employee who appeals a decision in a disciplinary action to pay OAH directly for the cost associated with the appeal. Previously, DBM was responsible for reimbursing OAH for the cost of these appeals.
- HB 1726/SB 1080 is intended to clarify in the State Personnel and Pension article that in a disciplinary appeal an ALJ has the power to award full back pay and benefits if the judge rescinds or modifies an employee's disciplinary action.

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 (PIA) 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)

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 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

A major focus of the Quality Assurance Division continues to be the evaluation of ALJs' performance, which is required by DBM's Performance, Planning & Evaluation Program. QA is responsible for rating OAH's 60 ALJs on their Presence at Hearings and Written Expression. The evaluations are conducted bi-annually and are useful for identifying ALJs who need additional training or support.

QA is primarily responsible for hiring and 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 approximately six months, after which they are released to conduct the full range of hearings independently.

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. In addition, QA is providing valuable support to the ALJ staff and increasing efficiency by maintaining boilerplates, time frames, bench manuals and case digests on the network.

1. Library

OAH's library is open to the public. The librarian and assistant librarian serve both 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 new law journals and legal research material available through the Internet. Through e-mail, they notify ALJs of interesting articles and cases that pertain to 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 staff attorneys. In addition, QA selects appropriate judicial and special education training programs for ALJs to attend. The 2006 training schedule is at Attachment E.

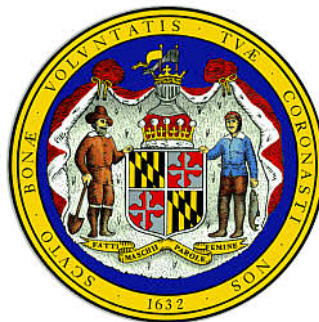
3. Speaker's Bureau

ALJs participate in OAH's speaker's bureau and QA is responsible for authorizing requests made to the speaker's bureau. The 2006 engagements are highlighted in Attachment F.

V. Conclusions

OAH will continue to work in 2007 to further improve the administrative hearing process so that the citizens of Maryland receive due process in a prompt and efficient manner. We look forward to working with Governor Martin O'Malley and his Administration and are eager to assist in any way that is appropriate.

We remain grateful for the support, hard work and dedication of OAH employees, the guidance that we receive from the Advisory Council and the cooperative effort that we share with the agencies for whom OAH conducts hearings.



Local, National and International Perspectives

Maryland State Bar Association

CALJ Dewberry and ALJ Diamond are members of the Administrative Law Section Council of the Maryland State Bar Association (MSBA). The Administrative Law Council meets on a regular basis throughout the year and is responsible for developing an educational program for MSBA's Annual June Meeting. At this year's Annual Meeting, *Branded D.U.I.* was shown and CALJ Dewberry participated as a panel member with The Honorable James N. Vaughn, Former Chief Judge, District Court of Maryland; David H. Hugel, Administrator, MVA; and John P. Kudel, Esquire.

The Administrative Law Section won the Presidential Best Section Project for Service to the Public Award for the film.

Maryland and District of Columbia Association of Administrative Adjudicators

Many of 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 Judiciary (NAALJ). CALJ Dewberry is an officer of MDCAAA and ALJ A. Michael Nolan is a Past-President of the organization. There are approximately fifteen ALJ members of this Association.

Locally, ALJs also participate in bar associations, participate as panelists in continuing legal education seminars and make presentations to these associations and numerous other community-based organizations.

National

2006 Central Panel Directors' Conference

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 twenty-eight jurisdictions, the most recent being Washington, D.C. Maryland's OAH is among the largest central panels in the country with the broadest jurisdiction.

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

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

CALJ Dewberry and the Director of Quality Assurance, ALJ Laurie Bennett; the Director of Operations, ALJ Jana Corn Burch; the Deputy Director of Operations, ALJ Wayne A. Brooks; and the Deputy Director of Quality Assurance, ALJ J. Bernard McClellan, attended the Central Panel Directors' Conference in Minnesota in September. This Annual Conference provides central panel directors with a forum in which to exchange ideas, discuss similar problems and gain assistance from other central panel states. This year's conference program contained many sessions that were relevant to Maryland's OAH as follows:

- evaluating the performance of ALJs
- the latest case management technology
- website design
- electronic filing
- disaster planning
- managing the special demands of special education cases

CALJ Dewberry participated on a panel discussion entitled "Managing High Volume Caseloads" and *Branded D.U.I.* was available for other central panel directors to view.

2006 Annual Meeting and Educational Conference of the National Association of Administrative Law Judiciary (NAALJ)

In 2006, NAALJ's annual meeting was held in Seattle, Washington on September 6 through 8. CALJ Dewberry and ALJs Laurie Bennett, James Murray, A. Michael Nolan and Thomas Welshko attended the Annual Meeting. In addition, CALJ Dewberry attended the **NAALJ Mid-year Meeting and Educational Conference** in June, which was held in Des Moines, Iowa.

CALJ Dewberry served as a member of the NAALJ Board of Governors and Chair of the Affiliate Support Committee; ALJ A. Michael Nolan served as a member of the Newsletter Committee and ALJ James Murray participated on the 2007 Annual Meeting Committee and has worked with the D.C. OAH to plan the Annual Meeting that will be held in Washington, D.C. in October 2007.

At the invitation of the Arkansas Bar Association, CALJ Dewberry and ALJ Marc Nachman traveled to Arkansas in June and participated as cast members in 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 Fort McHenry and the refusal of his release because of suspension of

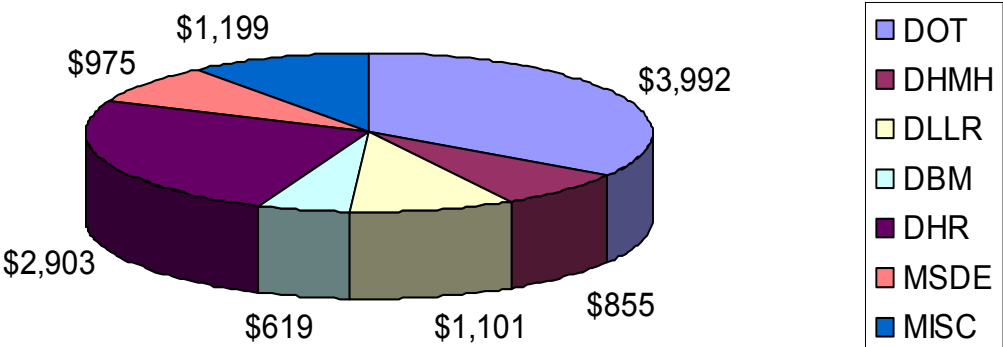
habeas corpus by President Abraham Lincoln. Former OAH ALJ Paul Handy wrote this drama. CALJ Dewberry played the role of Francis Key Howard and ALJ Marc Nachman played the role of John Merryman.

International

On September 21, the International Law Institute hosted delegations from Nigeria, Tanzania, Tajikistan and Uganda for a 2006 Government Integrity and Anti-Corruption Course. As part of the program, the OAH made a presentation on the creation and growth of OAH and the administrative hearing process. CALJ Dewberry and members of management staff participated in the presentation and gave the attendees a tour of the facility.

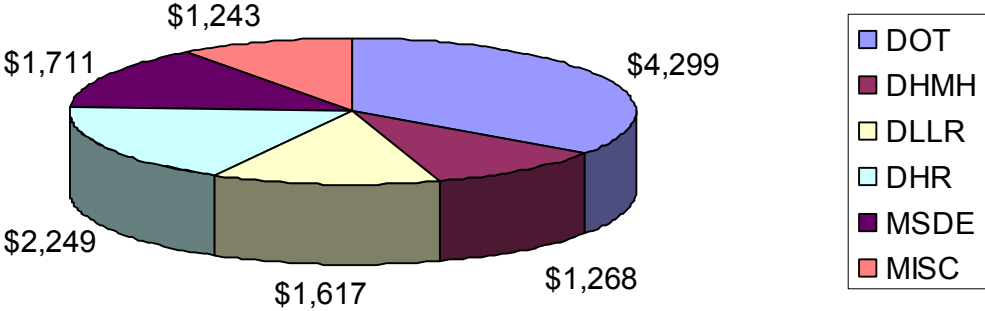
On December 13, OAH hosted a Chinese delegation of seventeen government officials from Guizhou provincial Legal Office and municipal legal offices who were visiting the United States to study various subjects related to administrative law and administrative rulemaking. This visit was arranged through the Sino-Canada Technology Exchange Center. The delegation received a presentation and tour of the building from CALJ Dewberry and members of management staff.

OAH FUNDING FY 2006 In Thousands



OAH FUNDING FY 2007

In thousands



	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTALS
CASELOAD FLOW													
I. CASES CARRIED OVER FROM PREVIOUS MONTH	5887	5865	5484	5102	4425	4000	3419	3271	2828	2797	2491	2775	
II. NEW CASES RECEIVED													
A. Complete Cases	5431	4400	5339	4175	4641	4099	3776	4174	4137	4040	3794	3637	51643
B. Untimely Cases	74	68	55	51	59	61	59	74	131	14	60	78	784
C. Incomplete Cases	37	31	38	30	30	19	21	20	18	1609	16	27	1896
D. Fee Payments	1700	1466	1994	1741	1531	1732	1581	1852	1700	20	1656	1535	18508
E. Mediations	28	25	44	34	43	46	29	43	23	20	21	29	385
													0
TOTAL RECEIVED	5533	4493	5438	4260	4743	4206	3864	4291	4291	4141	3875	3744	52879
III. CASES SCHEDULED													
A. Heard in Full	2387	2460	2798	2373	2778	2793	2111	2676	2353	2423	1999	2191	29342
B. Record Review	0	1	0	3	3	0	4	0	0	0	2	0	13
C. Heard & Continued	76	79	107	88	103	105	92	109	101	88	61	78	1087
D. PHC Heard	27	20	18	14	11	19	9	8	19	18	13	11	187
E. Motion Heard	10	10	15	6	8	7	5	8	2	2	3	4	80
F. Mediation Heard	15	12	17	20	24	27	26	23	15	16	9	8	212
G. SC Heard	16	12	10	12	12	14	9	13	14	14	12	5	143
H. Postponed	819	804	780	742	724	895	704	864	661	702	599	680	8974
I. Default	1052	889	863	484	454	386	372	421	299	301	295	245	6061
J. Failed to Appear	191	198	215	193	255	272	211	238	216	214	159	215	2577
K. Scheduled but not Heard	1890	1577	1662	1265	1464	1289	1185	1367	1190	1360	1145	1124	16518
TOTAL SCHEDULED	6483	6062	6485	5200	5836	5807	4728	5727	4870	5138	4297	4561	65194
IV. DISPOSITIONS													
A. Decisions	246	231	257	210	308	274	249	246	245	259	239	209	2973
B. Bench Decisions	2351	2409	2727	2296	2836	2834	2149	2681	2369	2457	1976	2267	29352
C. Defaults	590	489	630	892	351	244	196	280	205	214	161	165	4417
D. Untimely	80	66	67	62	68	57	62	85	105	104	77	69	902
E. FTA (MVA Only) *							46	72	86	52	52	58	
F. Not Settled(MSDE-MED)	8	3	6	3	8	6	11	7	6	1	5	4	68
G. Withdrawn/Settled or Cancelled/Dismissed or Reinstated	2281	1676	2133	1474	1597	1372	1299	1364	1306	1360	1081	1086	18029
TOTAL DISPOSITIONS	5556	4874	5820	4937	5168	4787	4012	4734	4322	4447	3591	3858	56106
V. CASES CARRIED OVER TO THE FOLLOWING MONTH	5865	5484	5102	4425	4000	3419	3271	2828	2797	2491	2775	2661	

* Began collecting this statistic effective FY2007.

Continuing Judicial Education

Judicial Training Date	Topic/Agenda	Presenter
January 13, 2006	Child Abuse Hearings: how local Departments of Social Services conduct child abuse investigations; how children are interviewed	Harford County Child Advocacy Center; Maryland Children's Alliance Presenter: Sgt. David Betz, Coordinator
February 10, 2006	Division of Rehabilitation Services (DORS) 9:30 am (half day)	Polly Houston, Acting Director (DORS)
March 10, 2006	Medical Assistance: Sequential Evaluation training	Social Security Administration staff
March 9 & 10, 2006 March 20 & 21, 2006 (ALJs rotated through the 2-day writing training in groups of 10 in March, April and May)	Writing Workshop	Lynne Agress, Ph.D.
April 6 & 7, 2006 April 24 & 25	Writing Workshop	Lynne Agress, Ph.D
May 11 & 12, 2006	Writing Workshop	Lynne Agress, Ph.D.
May 11, 2006	Ethics Training	Louis Hurwitz, ALJ, Chairman, Harriet Helfand, Political Activity, Melvin Hirshman, Bar Counsel, Attorney Grievance Commission of Maryland, Hon. Jack Lesser, District Court of Maryland for Baltimore City

Judicial Training Date (continued – page 2)	Topic/Agenda	Presenter
June 9, 2006	MVA roundtable discussion	J. Bernard McClellan, ALJ
July 14, 2006	Medical Assistance: Determining Disability	Robert Barry, ALJ
August 11, 2006	MVA: reading GLS driving records	Roxanne Langford, MVA
September 22, 2006	Court of Appeals/Court of Special Appeals Update	Hon. Glenn T. Harrell, Jr., Maryland Court of Appeals; Hon. James R. Eyler and Hon. James A. Kenney, III, Maryland Court of Special Appeals
October 13, 2006	MVA: New Law Charges How to Effectively Use Foreign Language Interpreters	Roxanne Langford, MVA Marta Goldstein, Certified Interpreter
November 17, 2006	Special Education: What's new about the new federal regulations?	Laurie Bennett, ALJ
December 4, 2006	Special Education Update	Art Cernosia, Esquire
Out-of-Office Educational Training		
June 4, 2007	National Association of Administrative Judiciary – Midyear Educational Conference	
June 14 – 17, 2006	Maryland State Bar Association – Annual Meeting	
September 6 – 8, 2006	National Association of Administrative Judiciary - Annual Meeting and Educational Conference	
September 13 – 16, 2006	Central Panel Directors' Conference	
September 25 – 27, 2006	23 rd Pacific Northwest Institute on Special Education and the Law	
December 1, 2006	2006 Maryland Mediators Convention	
December 7 – 9, 2005	The 4 th Nat'l Symposium on Dispute Resolution in Special Education	

Attachment F

Speaker's Bureau
Community Outreach and Education

Medical Office of the Circuit Court for Baltimore City: *Not Criminally Responsible Hearings*

University of Baltimore: *OAH's mediation program*

Liberty Road Volunteer Fire Department: *Branded D.U.I.* video and discussion

American Bar Association in conjunction with Howard County Public Schools: *Mock Constitutional Convention*

Maryland State Bar Association's Annual Meeting: *Branded D.U.I.* showing

Arkansas Bar Association: *Ex Parte Merryman* play

Department of Human Resources: *Child Abuse and Neglect Hearings*

Young Driver Task Force of the Maryland Highway Safety Office: *Branded D.U.I.* showing

Professional Practices Institute: *Using Expert Witnesses in Administrative Hearings*

Owings Mills High School: *Branded D.U.I.* showing

Harbor City High School: *Branded D.U.I.* showing

Young Driver Task Force of the State Highway Administration: *Branded D.U.I.* showing

Maryland Association of Women Highway Safety Leaders: *Branded D.U.I.* showing

Maryland Association for Family & Community Education, Inc.: *Branded D.U.I.* showing