

# **OFFICE OF ADMINISTRATIVE HEARINGS**

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CHIEF HEARING EXAMINER**



**FISCAL YEAR 2017  
LEGISLATIVE REPORT**

## **INDEX**

**INTRODUCTION BY THE CHIEF HEARING EXAMINER** (Page 2 and Page 3)

**CREATION OF THE OFFICE OF ADMINISTRATIVE HEARINGS** (Page 3 thru Page 5)

**DESCRIPTION OF THE OFFICE OF ADMINISTRATIVE HEARINGS** (Page 5)

**PURPOSE AND MISSION OF THE OFFICE OF ADMINISTRATIVE HEARINGS** (Page 6)

**JURISDICTION OF THE OFFICE OF ADMINISTRATIVE HEARINGS** (Page 6 thru Page 15)

**WRITTEN OBJECTIONS TO REVOCATION ORDERS** (Page 15 thru Page 18)

**ADMINISTRATIVE HEARINGS** (Page 19 thru Page 21)

**CONTINUANCES** (Page 22 and Page 23)

**FINAL ORDERS** (Page 24 thru Page 28)

**RESOLUTION OF WRITTEN OBJECTIONS** (Page 29 thru 31)

**SHIFT IN THE AGENCY'S FOCUS RESULTS IN A DECREASED NUMBER OF AGED CASES THAT ARE UNRESOLVED**(Page 32)

**APPEALS OF OFFICE OF ADMINISTRATIVE HEARINGS' FINAL ORDERS** (Page 33 and Page 34)

**MATTERS PENDING BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS** (Page 35)

**BUDGET ANALYSIS** (Page 36)

**FEES COLLECTED** (Page 37)

**ACCOMPLISHMENTS OF THE OFFICE OF ADMINISTRATIVE HEARINGS** (Page 38 and Page 39)

**GOALS AND OBJECTIVES OF THE OFFICE OF ADMINISTRATIVE HEARINGS** (Page 40)

## INTRODUCTION BY THE CHIEF HEARING EXAMINER

The Office of Administrative Hearings (OAH) is tasked with the responsibility of providing fair and impartial hearings to litigants involved in contested driver's license revocation proceedings. OAH is bound by the law as interpreted by the Supreme Court of Appeals of West Virginia, which has created some discord among the defense bar following the issuance of the decisions in *Dale v. Odum*, 233 W.Va. 601, 760 S.E.2d 415 (2014); *Reed v. Beckett*, No. 15-1044; *Reed v. Pettit*, No. 14-0372; and *Patricia S. Reed, Commissioner, West Virginia Division of Motor Vehicles v. Jeffrey Hill*, 235 W. Va. 1, 770 S.E.2d 501 (2015). The federal constitution as well as the West Virginia Constitution provide that no person shall be deprived of property without due process of law. Due process of law entitles an individual to a notice of the action the Division of Motor Vehicles (DMV) intends to take against the individual's driving privilege as well as an opportunity to be heard.

Currently, at least forty-one (41) states have adopted administrative license revocation (ALR) laws similar to those established in West Virginia. The National Highway Traffic Safety Administration (NHTSA) continues to encourage every state to implement an ALR system by providing incentives such as grants that can be used to sponsor impaired driver prevention programs. NHTSA studies have shown that driving under the influence (DUI) related fatalities have been reduced in State's that have separated the administrative revocation process from the criminal proceeding. The Center for Disease Prevention has also identified the ALR system as a viable means of DUI prevention. In 2016, West Virginia was ranked twelfth in the nation in DUI prevention among all fifty (50) states and the District of Columbia.

The administrative hearing differs from the criminal proceeding in several ways most significantly in the standard of proof. Because the administrative process is considered a civil remedy, the DMV does not have to establish guilt beyond a reasonable doubt. Instead, the hearing examiner applies a preponderance of the evidence standard to determine whether the driver more likely than not drove his or her vehicle while under the influence of alcohol, drugs, and/or controlled substances or failed to submit to the designated secondary chemical test. The burden of proof rests upon the DMV; however, the Petitioner has the opportunity to produce evidence and testimony to rebut that offered by the DMV. Because the criminal proceeding focuses on a violation of criminal law, while the administrative proceeding focuses on an individual's driving behavior, a driver's license can be administratively revoked even when a criminal charge has been dropped or reduced to a non-revocable offense such as reckless driving.

Although criminal and administrative proceedings are treated very differently, it is common for certain conduct to have both criminal and administrative ramifications. For instance, an attorney who embezzles money from a client may face criminal charges for theft at which time he or she may be found "not guilty" under the "beyond a reasonable doubt" standard; however, that same evidence may be sufficient to establish "by a preponderance of the evidence" that the attorney's administrative license to practice law should be revoked or suspended. NHTSA recognizes the

nuances of administrative versus criminal proceedings and recommends that the administrative sanction “be handled separately from the criminal proceeding. Due to differing procedural aspects, the findings and outcome of an ALR action normally should not affect a criminal proceeding, and vice versa.”

Throughout its short existence, OAH has been cognizant of budgetary issues and has ended each fiscal year with unexpended monies. In the last two years, the agency has decreased its fleet from fifteen (15) vehicles to six (6) vehicles. At the end of FY 2017, OAH had a budget surplus of almost twenty-four percent (24%). In light of the current financial crisis facing the State, OAH is considering a modification to the organizational chart, which would reduce the overall number of full-time positions while creating an additional paralegal slot in the Legal Department. The addition of another paralegal would assist in the streamlining of the order entry process.

### **CREATION OF THE OFFICE OF ADMINISTRATIVE HEARINGS**

OAH originated through Senate Bill 186, which passed during the 2010 Regular Legislative Session and became effective on June 11, 2010. West Virginia Code § 17C-5C-1 provides that OAH is created as a separate operating agency within the West Virginia Department of Transportation, and the transition of authority from the DMV to OAH was completed by October 1, 2010, as mandated. However, the Hearing Examiners employed by OAH continued to conduct hearings on behalf of DMV regarding alleged offenses, which occurred prior to the effective date of the statute.<sup>1</sup>

Specifically, the creation of the Office of Administrative Hearings and the organization of the office are addressed in West Virginia Code §17C-5C-1 and §17C-5C-2. Those sections state:

#### **§17C-5C-1. Office created; appointment of Chief Hearing Examiner.**

- (a) The Office of Administrative Hearings is created as a separate operating agency within the Department of Transportation.
- (b) The Governor, with the advice and consent of the senate, shall appoint a director of the office who shall serve as the administrative head of the office and as chief hearing examiner.
- (c) Prior to appointment, the Chief Hearing Examiner shall be a citizen of the United States and a resident of this state who is admitted to the practice of law in this state.
- (d) The salary of the Chief Hearing Examiner shall be set by the Secretary of the Department of Transportation. The salary shall be within the salary range for

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<sup>1</sup> NOTE: A decision issued on July 20, 2012, by the Supreme Court of Appeals establishes THAT THE DMV RETAINS JURISDICTION OVER CASES involving offenses occurring PRIOR TO JUNE 11, 2010 – and the OAH hearing examiners no longer conduct DMV hearings or draft DMV Orders.

comparable administrators as determined by the State Personnel Board created by section six, article six, chapter twenty-nine of this code.

- (e) The Chief Hearing Examiner during his or her term shall:
  - (1) Devote his or her full time to the duties of the position;
  - (2) Not otherwise engage in the active practice of law or be associated with any group or entity which is itself engaged in the active practice of law: Provided, That nothing in this paragraph may be construed to prohibit the Chief Hearing Examiner from being a member of a national, state or local bar association or committee, or of any other similar group or organization, or to prohibit the Chief Hearing Examiner from engaging in the practice of law by representing himself, herself or his or her immediate family in their personal affairs in matters not subject to this article.
  - (3) Not engage directly or indirectly in any activity, occupation or business interfering or inconsistent with his or her duties as Chief Hearing Examiner;
  - (4) Not hold any other appointed public office or any elected public office or any other position of public trust; and
  - (5) Not be a candidate for any elected public office, or serve on or under any committee of any political party.
  
- (f) The Governor may remove the Chief Hearing Examiner only for incompetence, neglect of duty, official misconduct or violation of subsection (e) of this section, and removal shall be in the same manner as that specified for removal of elected state officials in section six, article six, chapter six of this code.
  
- (g) The term of the Chief Hearing Examiner shall be six years. A person holding the position of Chief Hearing Examiner may be reappointed to that position subject to the provisions of subsection (b).

**§17C-5C-2. Organization of office.**

- (a) The Chief Hearing Examiner is the chief administrator of the Office of Administrative Hearings and he or she may employ hearing examiners and other clerical personnel necessary for the proper administration of this article.
  - (1) The Chief Hearing Examiner may delegate administrative duties to other employees, but the Chief Hearing Examiner shall be responsible for all official delegated acts.
  - (2) All employees of the Office of Administrative Hearings, except the Chief Hearing Examiner, shall be in the classified service and shall be governed by the provisions of the statutes, rules and policies of the classified service in accordance with the provisions of article six, chapter twenty-nine of this code.
  - (3) Notwithstanding any provision of this code to the contrary, those persons serving as hearing examiners within the Division of Motor Vehicles on the effective date of this article as enacted during the Regular Session of the 2010 Legislature, shall be eligible and given first preference in hiring as hearing examiners pursuant to this article.

- (b) The Chief Hearing Examiner shall:
- (1) Direct and supervise the work of the office staff;
  - (2) Make hearing assignments;
  - (3) Maintain the records of the office;
  - (4) Review and approve decisions of hearing examiners as to legal accuracy, clarity and other requirements;
  - (5) Submit to the Legislature, on or before the fifteenth day of February, an annual report summarizing the office's activities since the end of the last report period, including a statement of the number and type of matters handled by the office during the preceding fiscal year and the number of matters pending at the end of the year; and
  - (6) Perform the other duties necessary and proper to carry out the purposes of this article.
- (c) The administrative expenses of the office shall be included within the annual budget of the Department of Transportation.

#### **DESCRIPTION OF THE OFFICE OF ADMINISTRATIVE HEARINGS**

The mission of OAH is to provide a neutral forum for the fair and impartial resolution of contested license revocations initiated by DMV. OAH has jurisdiction over most matters involving contested motor vehicle license revocations. However, the Legislature did not transfer jurisdiction of revocation orders issued to persons who fail to carry automotive insurance nor in matters involving punitive actions taken by DMV against motor vehicle dealerships.

OAH conducts hearings and, based on the determination of the facts of the case and applicable law, renders decisions affirming, reversing or modifying the actions taken by DMV. OAH functions include, but are not limited to the following:

- Conducting administrative hearings in contested cases involving license revocations issued by DMV.
- Issuing final orders, either resulting from administrative hearings, or other circumstances that result from activities or omissions not involving the holding of an administrative hearing.
- Statistically tracking cases to conclusion within the framework of each fiscal year.

## **PURPOSE OF THE OFFICE OF ADMINISTRATIVE HEARINGS**

The purpose of OAH is to conduct administrative hearings regarding license revocation or suspension orders issued by DMV and to issue decisions, which uphold, reverse, or modify the revocation or suspension of citizens' driving privileges.

## **MISSION OF THE OFFICE OF ADMINISTRATIVE HEARINGS**

The Mission of OAH is to provide a neutral forum for the fair and impartial resolution of license revocations or suspensions initiated by DMV.

## **JURISDICTION OF THE OFFICE OF ADMINISTRATIVE HEARINGS**

West Virginia Code §17C-5C-3 establishes that OAH has jurisdiction to hear and determine:

- (1) Appeals from an order of the Commissioner of the Division of Motor Vehicles suspending a license pursuant to section eight, article two-b, chapter seventeen-b of this code;
- (2) Appeals from decisions or orders of the Commissioner of the Division of Motor Vehicles suspending or revoking a license pursuant to sections three-c, six and twelve, article three, chapter seventeen-b of this code;
- (3) Appeals from orders of the Commissioner of the Division of Motor Vehicles pursuant to section two, article five-a of this chapter, revoking or suspending a license under the provisions of section one of this article or section seven, article five of chapter;
- (4) Appeals from decisions or orders of the Commissioner of the Division of Motor Vehicles denying, suspending, revoking, refusing to renew any license or imposing any civil money penalty for violating the provisions of any licensing law contained in chapters seventeen-b and seventeen-c that are administered by the Commissioner of the Division of Motor Vehicles; and
- (5) Other matters which may be conferred on the office by statute or legislatively approved rules.

However, the vast majority of the appeals adjudicated by OAH are filed in response to revocation orders issued by the West Virginia Division of Motor Vehicles for various offenses relating to driving under the influence of alcohol, controlled substances, or drugs (DUI). These offenses include DUI; DUI causing bodily injury; DUI causing death; DUI with a minor passenger; DUI when under the age of twenty-one (21); DUI with a blood alcohol content of fifteen hundredths of one percent (.15) or more; refusal to submit to the secondary chemical test to determine the

alcohol concentration level of the blood, and knowingly permitting an impaired person to operate your motor vehicle.

West Virginia Code §17C-5C-4 sets forth the procedures to be followed during hearings conducted by OAH. West Virginia Code §17C-5C-4 states:

- (a) A hearing before the office shall be heard de novo and conducted pursuant to the provisions of the contested case procedure set forth in article five, chapter twenty-nine-a of this code to the extent not inconsistent with the provisions of chapters seventeen-b and seventeen-c of this code. In case of conflict, the provisions of chapters seventeen-b and seventeen-c of this code shall govern.
- (b) Notwithstanding any provision of this code to the contrary, the Commissioner of the Division of Motor Vehicles may be represented at hearings conducted by the Office and evidence submitted by the Commissioner may be considered in such hearings with or without such representation.
- (c) The West Virginia Rules of Evidence governing proceedings in the courts of this state shall be given like effect in hearings held before a hearing examiner. All testimony shall be given under oath.
- (d) Except as otherwise provided by this code or legislative rules, the Commissioner of the Division of Motor Vehicles has the burden of proof.
- (e) The hearing examiner may request proposed findings of fact and conclusions of law from the parties prior to the issuance by the office of the decision in the matter.

West Virginia Code §17C-5A-2 sets forth the procedures for notice of hearings, revocations and review of the Final Orders issued by the OAH. West Virginia Code §17C-5A-2 states:

- (a) Written objections to an order of revocation or suspension under the provisions of section one of this article or section seven, article five of this chapter shall be filed with the Office of Administrative Hearings. Upon the receipt of an objection, the Office of Administrative Hearings shall notify the Commissioner of the Division of Motor Vehicles, who shall stay the imposition of the period of revocation or suspension and afford the person an opportunity to be heard by the Office of Administrative Hearings. The written objection must be filed with Office of Administrative Hearings in person, by registered or certified mail, return receipt requested, or by facsimile transmission or electronic mail within thirty calendar days after receipt of a copy of the order of revocation or suspension or no hearing will be granted: Provided, That a successful transmittal sheet shall be necessary for proof of written objection in the case of filing by fax. The hearing shall be before a hearing examiner employed by the Office of Administrative Hearings who shall rule on evidentiary issues. Upon consideration of the designated record, the hearing examiner shall, based on the determination of the facts of the case and applicable law, render a decision affirming, reversing or modifying the action protested. The decision shall



contain findings of fact and conclusions of law and shall be provided to all parties by registered or certified mail, return receipt requested.

- (b) The hearing shall be held at an office of the Division of Motor Vehicles located in or near the county in which the arrest was made in this state or at some other suitable place in the county in which the arrest was made if an office of the division is not available. The Office of Administrative Hearings shall send a notice of hearing to the person whose driving privileges are at issue and the person's legal counsel if the person is represented by legal counsel, the investigating or arresting law-enforcement officers, the Division of Motor Vehicles, and the Attorney General's Office, if the Attorney General has filed a notice of appearance of counsel on behalf of the Division of Motor Vehicles.
- (c) (1) Any hearing shall be held within one hundred eighty days after the date upon which the Office of Administrative Hearings received the timely written objection unless there is a postponement or continuance.  
(2) The Office of Administrative Hearings may postpone or continue any hearing on its own motion or upon application by the party whose license is at issue in that hearing or by the commissioner for good cause shown.  
(3) The Office of Administrative Hearings may issue subpoenas commanding the appearance of witnesses and subpoenas duces tecum commanding the submission of documents, items or other things. Subpoenas duces tecum shall be returnable on the date of the next scheduled hearing unless otherwise specified. The Office of Administrative Hearings shall issue subpoenas and subpoenas duces tecum at the request of a party or the party's legal representative. The party requesting the subpoena shall be responsible for service of the subpoena upon the appropriate individual. Every subpoena or subpoena duces tecum shall be served at least five days before the return date thereof, either by personal service made by a person over eighteen years of age or by registered or certified mail, return receipt requested, and received by the party responsible for serving the subpoena or subpoena duces tecum: Provided, That the Division of Motor Vehicles may serve subpoenas to law-enforcement officers through electronic mail to the department of his or her employer. If a person does not obey the subpoena or fails to appear, the party who issued the subpoena to the person may petition the circuit court wherein the action lies for enforcement of the subpoena.
- (d) Law-enforcement officers shall be compensated for the time expended in their travel and appearance before the Office of Administrative Hearings by the law-enforcement agency by whom they are employed at their regular rate if they are scheduled to be on duty during said time or at their regular overtime rate if they are scheduled to be off duty during said time.
- (e) The principal question at the hearing shall be whether the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, or did refuse to submit to the

designated secondary chemical test, or did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight.

- (f) In the case of a hearing in which a person is accused of driving a motor vehicle while under the influence of alcohol, controlled substances or drugs, or accused of driving a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, or accused of driving a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, the Office of Administrative Hearings shall make specific findings as to: (1) Whether the investigating law-enforcement officer had reasonable grounds to believe the person to have been driving while under the influence of alcohol, controlled substances or drugs, or while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, or to have been driving a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight; (2) whether the person was lawfully placed under arrest for an offense involving driving under the influence of alcohol, controlled substances or drugs, or was lawfully taken into custody for the purpose of administering a secondary test: Provided, That this element shall be waived in cases where no arrest occurred due to driver incapacitation; (3) whether the person committed an offense involving driving under the influence of alcohol, controlled substances or drugs, or was lawfully taken into custody for the purpose of administering a secondary test; and (4) whether the tests, if any, were administered in accordance with the provisions of this article and article five of this chapter.
- (g) If, in addition to a finding that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, or did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did an act forbidden by law or failed to perform a duty imposed by law, which act or failure proximately caused the death of a person and was committed in reckless disregard of the safety of others and if the Office of Administrative Hearings further finds that the influence of alcohol, controlled substances or drugs or the alcohol concentration in the blood was a contributing cause to the death, the commissioner shall revoke the person's license for a period of ten years: Provided, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

- (h) If, in addition to a finding that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did an act forbidden by law or failed to perform a duty imposed by law, which act or failure proximately caused the death of a person, the commissioner shall revoke the person's license for a period of five years: Provided, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.
- (i) If, in addition to a finding that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did an act forbidden by law or failed to perform a duty imposed by law, which act or failure proximately caused bodily injury to a person other than himself or herself, the commissioner shall revoke the person's license for a period of two years: Provided, That if the license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: Provided, however, That if the person's license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.
- (j) If the Office of Administrative Hearings finds by a preponderance of the evidence that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, but less than fifteen hundredths of one percent or more, by weight, or finds that the person knowingly permitted the persons vehicle to be driven by another person who was under the influence of alcohol, controlled substances or drugs, or knowingly permitted the person's vehicle to be driven by another person who had an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight the commissioner shall revoke the person's license for a period of six months or a period of fifteen days with an additional one hundred and twenty days of participation in the Motor Vehicle Alcohol Test and Lock Program in accordance with the provisions of section three-a of this article: Provided, That any period of participation in the Motor Vehicle Alcohol Test and Lock Program that has been imposed by a court pursuant to section two-b, article five of this chapter shall be credited against any period of participation imposed by the commissioner: Provided, however, That a person whose license is revoked for driving while under the influence of drugs is not eligible to participate in the Motor Vehicle Alcohol Test and

Lock Program: Provided further, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: And provided further, That if the person's license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(k) (1) If in addition to finding by a preponderance of the evidence that the person did drive a motor vehicle while under the influence of alcohol, controlled substance or drugs, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person did drive a motor vehicle while having an alcohol concentration in the person's blood of fifteen hundredths of one percent or more, by weight, the commissioner shall revoke the person's license for a period of forty-five days with an additional two hundred and seventy days of participation in the Motor Vehicle Alcohol Test and Lock Program in accordance with the provisions of section three-a, article five-a, chapter seventeen-c of this code: Provided, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: Provided, however, That if the person's license has previously been suspended or revoked the person's license more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(2) If a person whose license is revoked pursuant to subdivision (1) of this subsection proves by clear and convincing evidence that they do not own a motor vehicle upon which the alcohol test and lock device may be installed or is otherwise incapable of participating in the Motor Vehicle Alcohol Test and Lock Program, the period of revocation shall be one hundred eighty days: Provided, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: Provided, however, That if the person's license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(l) If, in addition to a finding that the person did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did an act forbidden by law or failed to perform a duty imposed by law, which act or failure proximately caused the death of a person, and if the Office of Administrative Hearings further

finds that the alcohol concentration in the blood was a contributing cause to the death, the commissioner shall revoke the person's license for a period of five years: Provided, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

- (m) If, in addition to a finding that the person did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did an act forbidden by law or failed to perform a duty imposed by law, which act or failure proximately caused bodily injury to a person other than himself or herself, and if the Office of Administrative Hearings further finds that the alcohol concentration in the blood was a contributing cause to the bodily injury, the commissioner shall revoke the person's license for a period of two years: Provided, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: Provided, however, That if the person's license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.
- (n) If the Office of Administrative Hearings finds by a preponderance of the evidence that the person did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, the commissioner shall suspend the person's license for a period of sixty days: Provided, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article, the period of revocation shall be for one year, or until the person's twenty-first birthday, whichever period is longer.
- (o) If, in addition to a finding that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did have on or within the Motor vehicle another person who has not reached his or her sixteenth birthday, the commissioner shall revoke the person's license for a period of one year: Provided, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: Provided, however, That if the person's license has previously been suspended or revoked more than once under the provisions of this section or section one of this

article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

- (p) For purposes of this section, where reference is made to previous suspensions or revocations under this section, the following types of criminal convictions or administrative suspensions or revocations shall also be regarded as suspensions or revocations under this section or section one of this article:

(1) Any administrative revocation under the provisions of the prior enactment of this section for conduct which occurred within the ten years immediately preceding the date of arrest;

(2) Any suspension or revocation on the basis of a conviction under a municipal ordinance of another state or a statute of the United States or of any other state of an offense which has the same elements as an offense described in section two, article five of this chapter for conduct which occurred within the ten years immediately preceding the date of arrest; or

(3) Any revocation under the provisions of section seven, article five of this chapter for conduct which occurred within the ten years immediately preceding the date of arrest.

- (q) In the case of a hearing in which a person is accused of refusing to submit to a designated secondary test, the Office of Administrative Hearings shall make specific findings as to: (1) Whether the arresting law-enforcement officer had reasonable grounds to believe the person had been driving a motor vehicle in this state while under the influence of alcohol, controlled substances or drugs; (2) whether the person was lawfully placed under arrest for an offense involving driving under the influence of alcohol, controlled substances or drugs, or was lawfully taken into custody for the purpose of administering a secondary test: Provided, That this element shall be waived in cases where no arrest occurred due to driver incapacitation; (3) whether the person committed an offense relating to driving a motor vehicle in this state while under the influence of alcohol, controlled substances or drugs; (4) whether the person refused to submit to the secondary test finally designated in the manner provided in section four, article five of this chapter; and (5) whether the person had been given a written statement advising the person that the person's license to operate a motor vehicle in this state would be revoked for at least forty-five days and up to life if the person refused to submit to the test finally designated in the manner provided in said section.

- (r) If the Office of Administrative Hearings finds by a preponderance of the evidence that: (1) The investigating officer had reasonable grounds to believe the person had been driving a motor vehicle in this state while under the influence of alcohol, controlled substances or drugs; (2) whether the person was lawfully placed under arrest for an offense involving driving under the influence of alcohol, controlled substances or drugs, or was lawfully taken into custody for the purpose of

administering a secondary test: Provided, That this element shall be waived in cases where no arrest occurred due to driver incapacitation; (3) the person committed an offense relating to driving a motor vehicle in this state while under the influence of alcohol, controlled substances or drugs; (4) the person refused to submit to the secondary test finally designated in the manner provided in section four, article five of this chapter; and (5) the person had been given a written statement advising the person that the person's license to operate a motor vehicle in this state would be revoked for at least forty-five days and up to life if the person refused to submit to the test finally designated, the commissioner shall revoke the person's license to operate a motor vehicle in this state for the periods specified in section seven, article five of this chapter. The revocation period prescribed in this subsection shall run concurrently with any other revocation period ordered under this section or section one of this article arising out of the same occurrence. The revocation period prescribed in this subsection shall run concurrently with any other revocation period ordered under this section or section one of this article arising out of the same occurrence.

- (s) If the Office of Administration finds to the contrary with respect to the above issues the commissioner shall rescind his or her earlier order of revocation or shall reduce the order of revocation to the appropriate period of revocation under this section or section seven, article five of this chapter. A copy of the Office of Administrative Hearings final order containing its findings of fact and conclusions of law made and entered following the hearing shall be served upon the person whose license is at issue or upon the person's legal counsel if the person is represented by legal counsel by registered or certified mail, return receipt requested or by electronic mail if available. The final order shall be served upon the commissioner by electronic mail. During the pendency of any hearing, the revocation of the person's license to operate a motor vehicle in this state shall be stayed.

A person whose license is at issue and the commissioner shall be entitled to judicial review as set forth in chapter twenty-nine-a of this code. Neither the Commissioner nor the OAH may stay enforcement of the order. The court may grant a stay or supersede as of the order only upon motion and hearing, and a finding by the court upon the evidence presented, that there is a substantial probability that the appellant shall prevail upon the merits and the appellant will suffer irreparable harm if the order is not stayed: Provided, That in no event shall the stay or supersede as of the order exceed one hundred fifty days. Notwithstanding the provisions of section four, article five of said chapter, the Office of Administrative Hearings may not be compelled to transmit a certified copy of the file or the transcript of the hearing to the circuit court in less than sixty days.

- (t) In any revocation or suspension pursuant to this section, if the driver whose license is revoked or suspended had not reached the driver's eighteenth birthday at the time of the conduct for which the license is revoked or suspended, the driver's license shall be revoked or suspended until the driver's eighteenth birthday or the applicable

statutory period of revocation or suspension prescribed by this section, whichever is longer.

- (u) Funds for this section's hearing and appeal process may be provided from the Drunk Driving Prevention Fund, as created by section forty-one, article two, chapter fifteen of this code, upon application for the funds to the Commission on Drunk Driving Prevention.

Also, Title 105, *Code of State Rules*, Series 1, provides procedures regarding the initiation and administration of appeals that are heard and determined by OAH from orders and decisions of the Commissioner of the DMV. It states definitions, provides service and filing deadlines, sets forth required information and data for written objections, informs regarding hearing notices and locations, and addresses hearing continuances and postponements. The rule sets forth pre-hearing notification requirements, covers subpoenas, discovery, motions, stipulations and exhibits, and informs regarding the consequences of a failure to appear at a hearing. It also addresses hearings and evidence, hearing transcripts, the official record, transcript requests, final orders, and motions to reconsider, and it sets fees.

### **WRITTEN OBJECTIONS TO REVOCATION ORDERS**

Any person (hereinafter "the Petitioner") whose driving privilege has been revoked or suspended pursuant to an Order of Revocation or Suspension issued by DMV for a DUI offense may file a Written Objection with OAH. The Written Objection must be filed with OAH within thirty (30) days of the person's receipt of the Revocation or Suspension Order.

The OAH Docketing Department is comprised of seven (7) full-time positions (currently two positions are vacant) whose function is to process the Written Objection and schedule all administrative hearings. The Docketing Department reviews all Written Objections to confirm that the appeal was timely filed by the Petitioner and then all pertinent information is entered into the Agency database. During Fiscal Year 2017, the OAH Docketing Department received and processed nine hundred seventy-two new Written Objections. Of these requests, nine hundred thirty-eight (938) were granted, and thirty-four (34) were denied for various reasons.

Once it is verified that the Written Objection was timely filed, the Docketing Department notifies DMV of the appeal of the revocation order, and a stay of the imposition of the revocation period is entered and remains in effect during the pendency of the appeal.

The OAH Docketing Department schedules the administrative hearing to be conducted within one hundred eighty (180) days of the receipt of the Written Objection and is responsible for issuing a hearing notice advising the parties of the date, time and location of the administrative hearing. During fiscal year 2017, the OAH Docketing Department scheduled four thousand seven hundred forty-six (4,746) administrative hearings. Currently there are nine hundred sixty-seven (967) hearings scheduled and one hundred seventy-five (175) hearings on the docket, which need to be scheduled.



Finally, at the request of the person whose license is at issue, the OAH Docketing Department generates subpoenas commanding the appearance of witnesses and subpoenas duces tecum commanding the submission of documents at the administrative hearing.

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**FISCAL YEAR 2017**

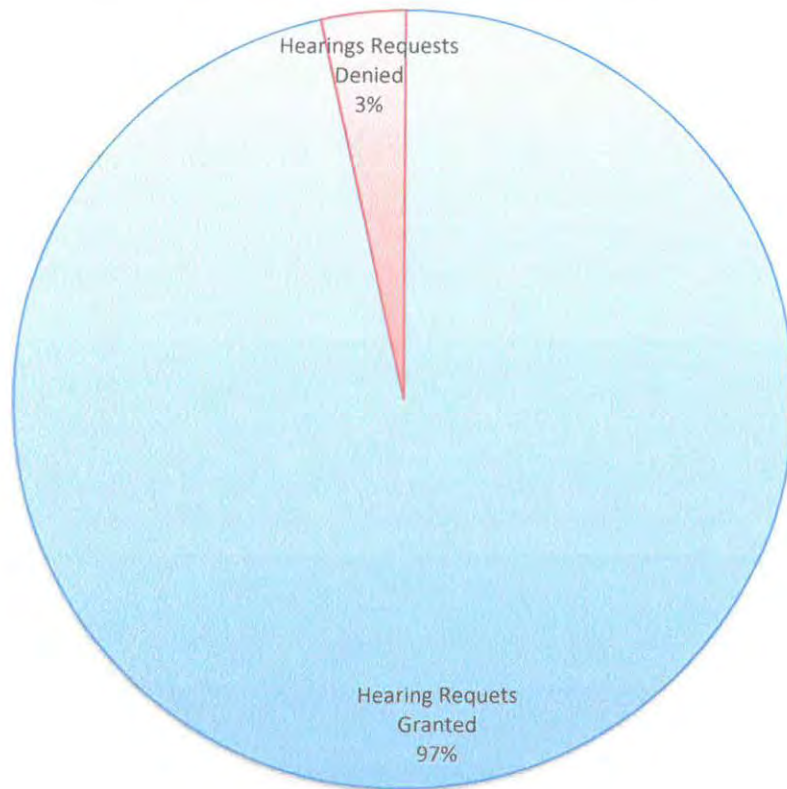
**New Written Objections Filed (972)**

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<b>New Written Objections Filed</b>	<b>972</b>
Hearing Requests Granted	938
Hearing Requests Denied	34

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**NEW WRITTEN OBJECTIONS FILED - 972**



As noted, during Fiscal year 2017, nine hundred thirty-eight (938) people were granted an administrative hearing to contest the revocation of their driving privileges. The following is a breakdown of the alleged offenses for which an administrative hearing has been granted:

<b>DUI:</b>	<b>619</b>	
	DUI < .15	329
	DUI/Minor	12
	DUI/Injury	12
	DUI/Death	01
	DUI/Refusal	108
	DUI/Refusal/Minor	01
	DUI/Injury/Minor	01
	DUI > .15	66
	DUI>15/Injury	01
	DUI>15/Minor	01
	DUI/CDL	29
	DUI>15/CDL	15
	DUI/Refusal/CDL	06
	DUI>15/CDL/Injury	01
	Permitting	11
	Points	10
	Revoked	06
	Other	09

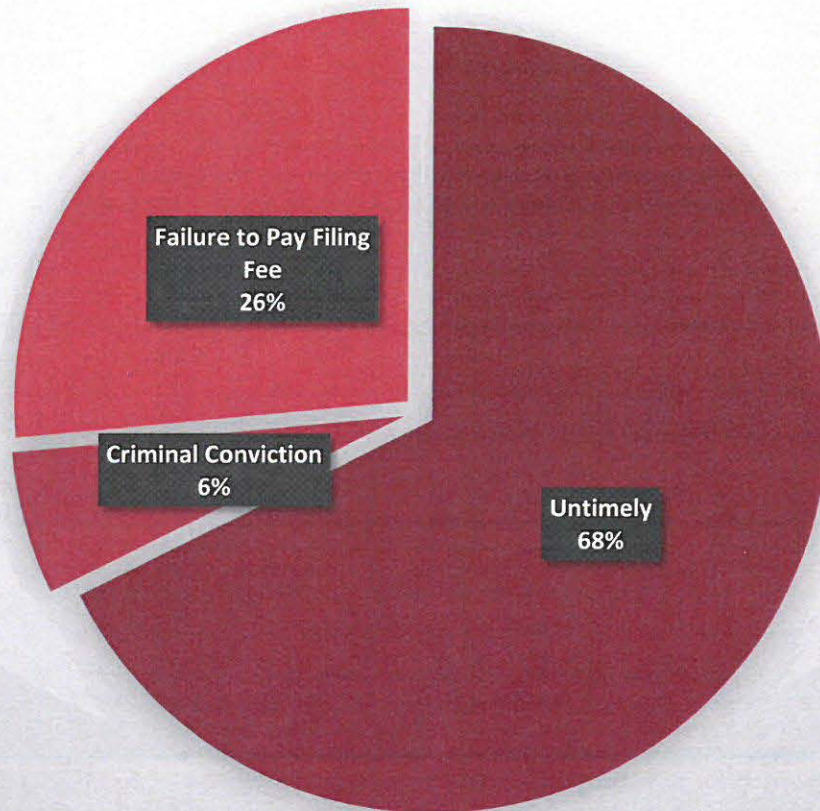
<b>DRUGS:</b>	<b>319</b>	
	Drugs	285
	Drugs/Injury	06
	Drugs/Death	01
	Drugs/Minor	15
	Drugs/CDL	12

FISCAL YEAR 2017

Hearing Requests Denied (34)

<b>New Hearing Requests Denied</b>	<b>34</b>
Untimely	23
Criminal Conviction	02
Failure to Pay Filing Fee	09

HEARING REQUESTS DENIED - 34



## ADMINISTRATIVE HEARINGS

OAH employs twelve (12) Hearing Examiners to preside over and to conduct administrative hearings regarding the revocation and suspension of an individual's driving privilege for alleged violations of the Motor Vehicle Code. Currently, there are three vacant Hearing Examiner positions.

These administrative hearings are held at the DMV Regional Offices located in or near the County in which the arrest was made or at some other suitable place in the county in which the arrest was made if an office of the division is not available. Hearing Examiners are assigned to specific geographical regions throughout the State and travel from their home office to conduct these hearings. A realignment of the geographical areas of assignment resulted in a significant reduction in the Agency fleet. The Agency currently has six (6) motor vehicles permanently assigned to Agency personnel.

During the administrative hearing, the Hearing Examiner is required to issue rulings on evidentiary issues, take testimony, and admit exhibits in order to create a designated record of the proceedings. During fiscal year 2017, there were four thousand seven hundred forty-six (4,746) administrative hearings scheduled on the OAH docket. The Hearing Examiners conducted seven hundred sixty-nine (769) administrative hearings, and five hundred seventy (570) hearings were cancelled after being resolved prior to the hearing date. The remaining three thousand four hundred one (3,401) administrative hearings were continued.

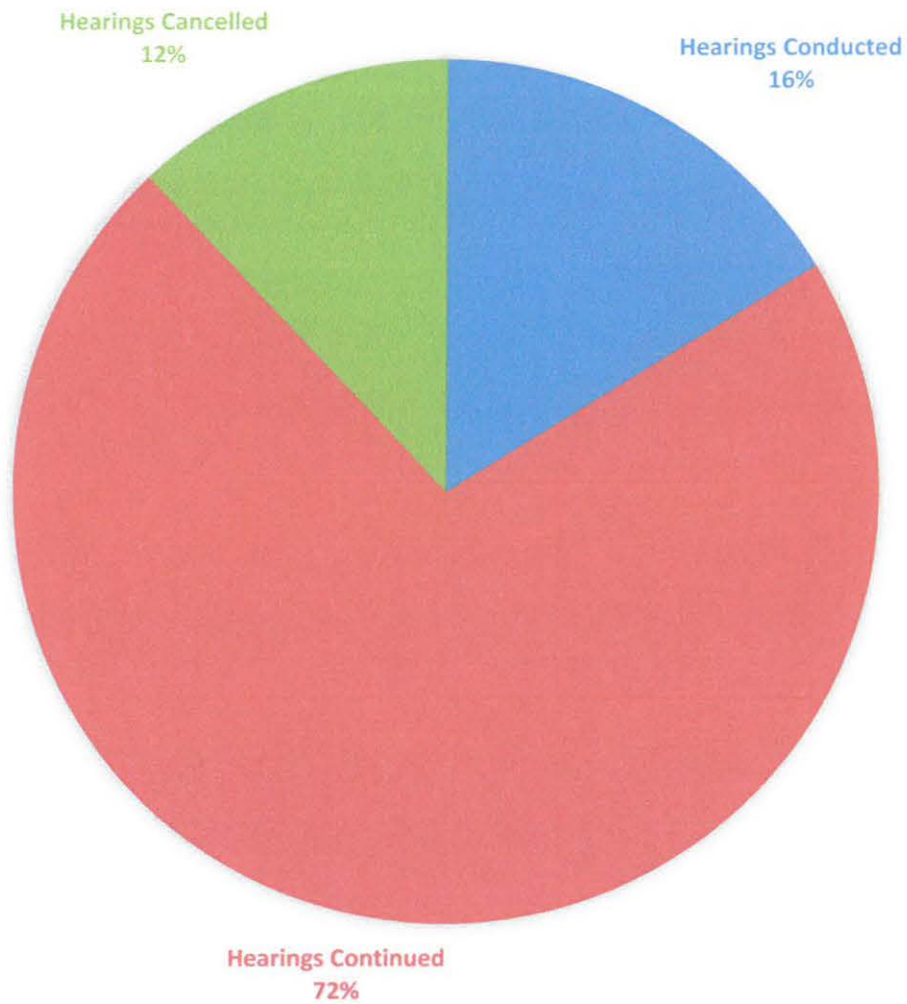
After the conclusion of the administrative hearing, the parties are afforded the opportunity to submit proposed Findings of Fact and Conclusions of Law for consideration by the Hearing Examiner. Prior to submitting these proposed findings, the parties may request a copy of the audio of the administrative hearing and/or a transcript of the proceedings. During fiscal year 2017, OAH received and processed one hundred thirty-five (135) requests for audios. The Office of Administrative Hearings contracted with an outside vendor to produce seventy-two (72) hearing transcripts.

After considering the designated record, the Hearing Examiner, based upon the determination of the facts of the case and applicable law, drafts a recommended decision containing Findings of Fact and Conclusions of Law, which affirms, reverses, or modifies the Order of Revocation issued by the Commissioner of the DMV against the individual's driving privilege. The recommended decision is submitted to the Chief Hearing Examiner for review and approval.

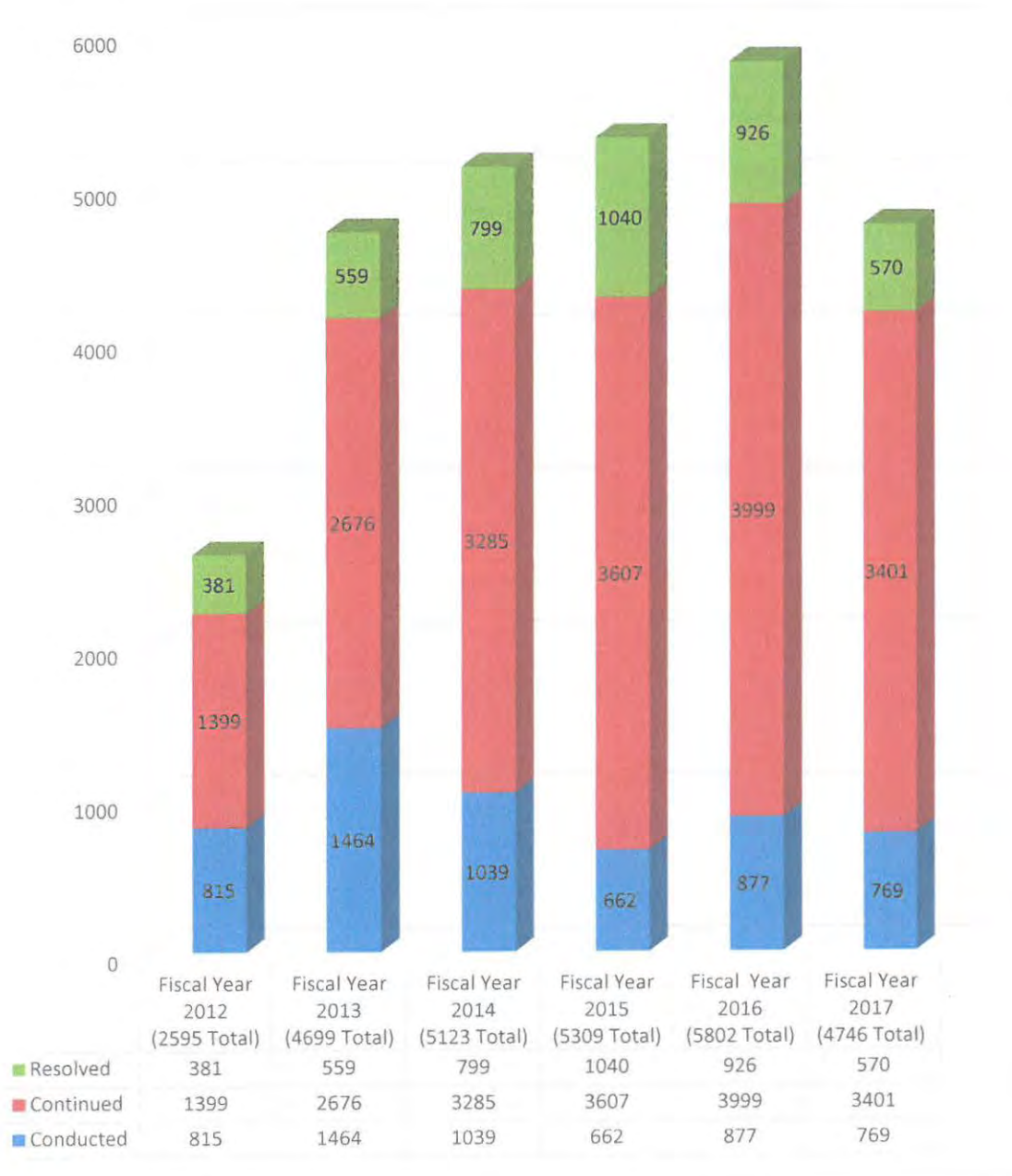
FISCAL YEAR 2017 OAH HEARING DOCKET (4746)

<b>OAH Hearings Scheduled</b>	<b>4746</b>
Hearings Conducted	769
Hearings Continued	3401
Cancelled	570

OAH HEARING DOCKET  
HEARINGS SCHEDULED 4746



## Overview of Administrative Hearings Scheduled for Fiscal Year 2012 Through Fiscal Year 2017

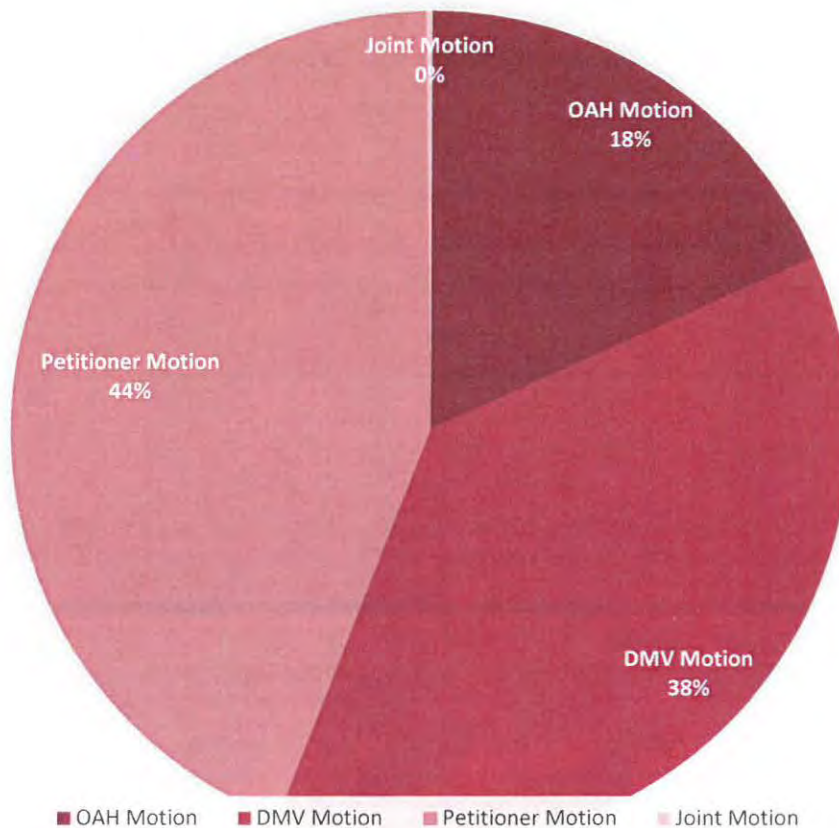


## CONTINUANCES

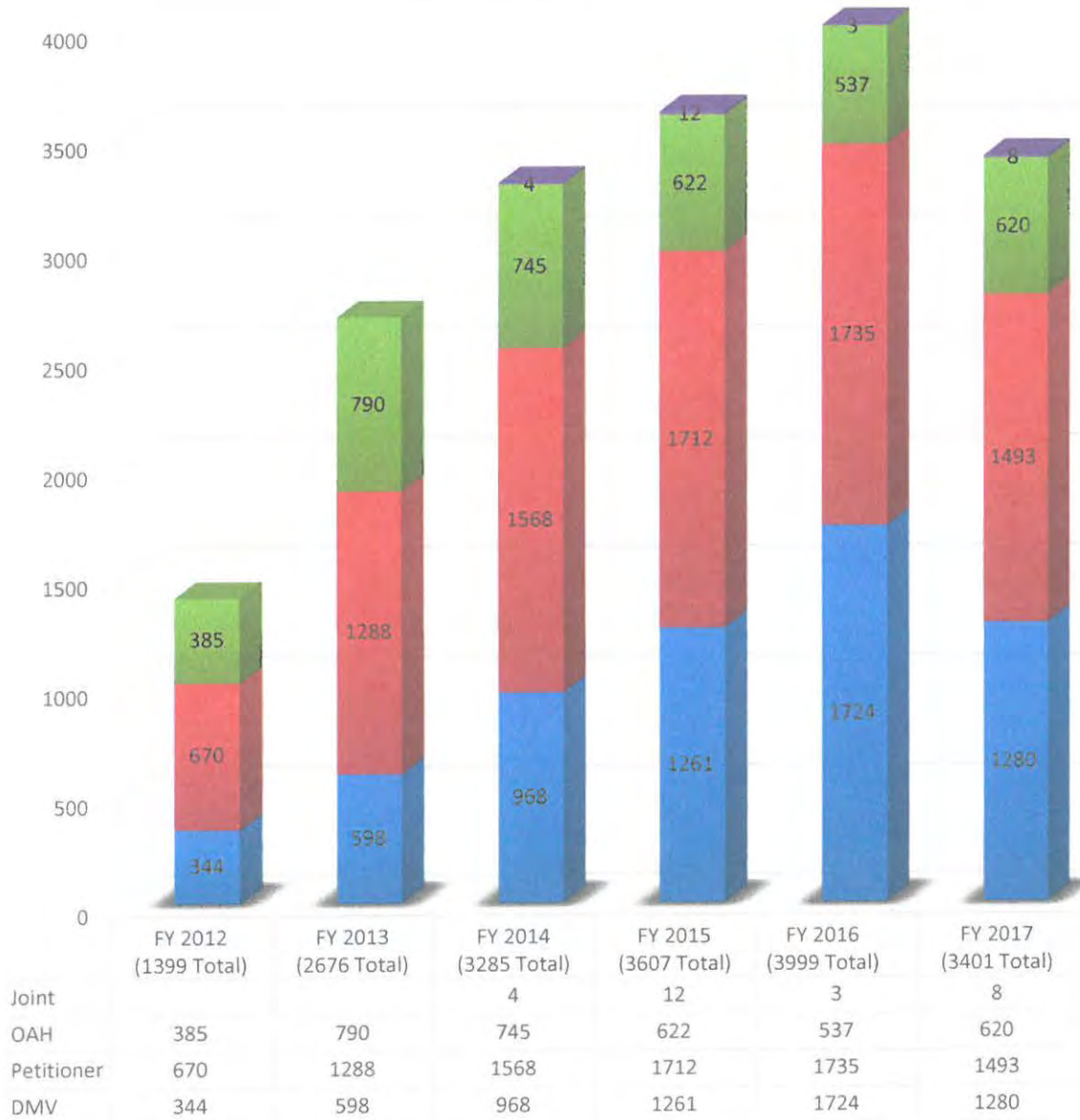
OAH may continue or postpone any hearing on its own motion, upon application by the party whose license is at issue, or by the Commissioner of the DMV for good cause shown. During fiscal year 2017, OAH issued three thousand four hundred one (3,401) continuances, the majority of which were requested by the parties.

<b>Fiscal Year 2017 Hearing Continuances (3401)</b>	
<b>Continuances</b>	<b>3401</b>
OAH Motion	620
DMV Motion	1280
Petitioner Motion	1493
Joint Motion	8

### OAH HEARING CONTINUANCES 3401



## Overview of Continuances for Fiscal Year 2012 through Fiscal Year 2017





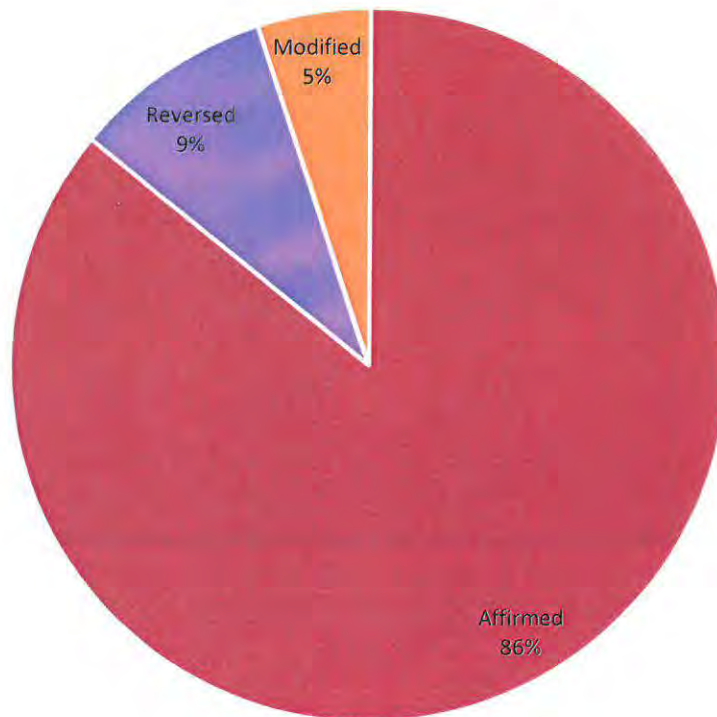
## FINAL ORDERS

Once the Hearing Examiner completes the recommended decision, the file is returned to the OAH Legal Department. Four (4) paralegals review each Order for legal accuracy, clarity and other requirements. The draft Order is then submitted to the Chief Hearing Examiner for final approval. The OAH Legal Department processes and disseminates approved final orders; maintains detailed databases including pertinent information regarding the final orders issued by the Agency, and enters proper codes in the database to reflect current status of driver's licenses.

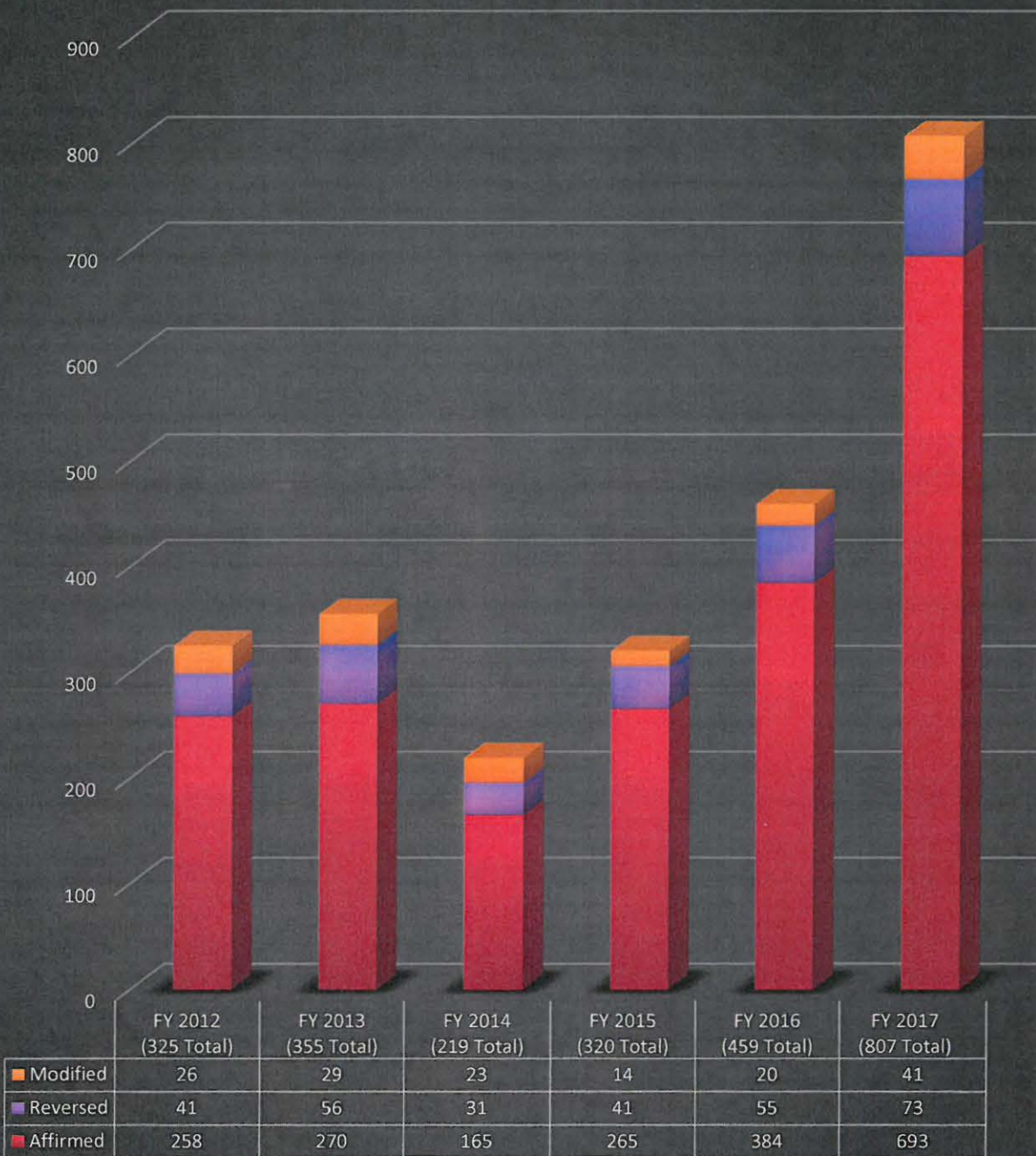
During Fiscal year 2017, OAH issued eight hundred seven (807) Final Orders after the administrative hearing was conducted. As a result, six hundred ninety-three (693) Revocation Orders were upheld, seventy-three (73) Revocation Orders were reversed, and forty-one (41) Revocation Orders were modified.

<b>Fiscal Year 2017 Total Orders Entered After Hearing (870)</b>	
<b>Total Orders Entered</b>	<b>807</b>
Affirmed	693
Reversed	73
Modified	41

### DISPOSITION OF OAH CASES AFTER ADMINISTRATIVE HEARING 807



## Overview of Final Orders Issued After Hearing for Fiscal Year 2012 Through Fiscal Year 2017

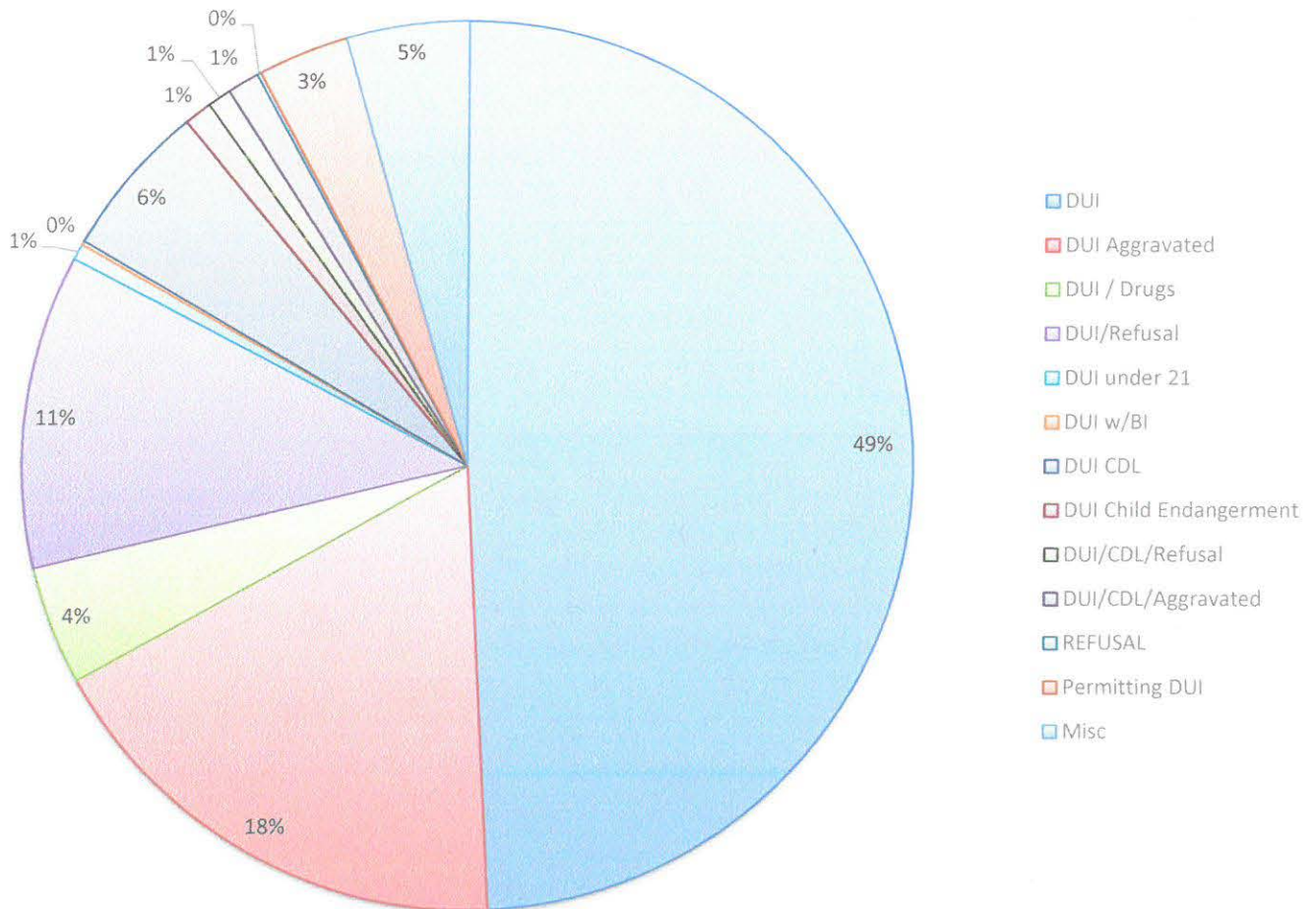


■ Affirmed ■ Reversed ■ Modified

**Fiscal Year 2017 Orders Affirming Order of Revocation by Offense (693)**

<b>Total Orders Entered</b>	<b>693</b>
DUI	341
DUI Aggravated	123
DUI Drugs	30
DUI w/Refusal	79
DUI Under 21 years of age	04
DUI Causing Bodily Injury	01
DUI / Child Endangerment	07
REFUSAL (LS)	01
DUI CDL	39
DUI CDL w/ Refusal	06
DUI CDL Aggravated	08
Knowingly Permitting DUI	23
Misc.	31

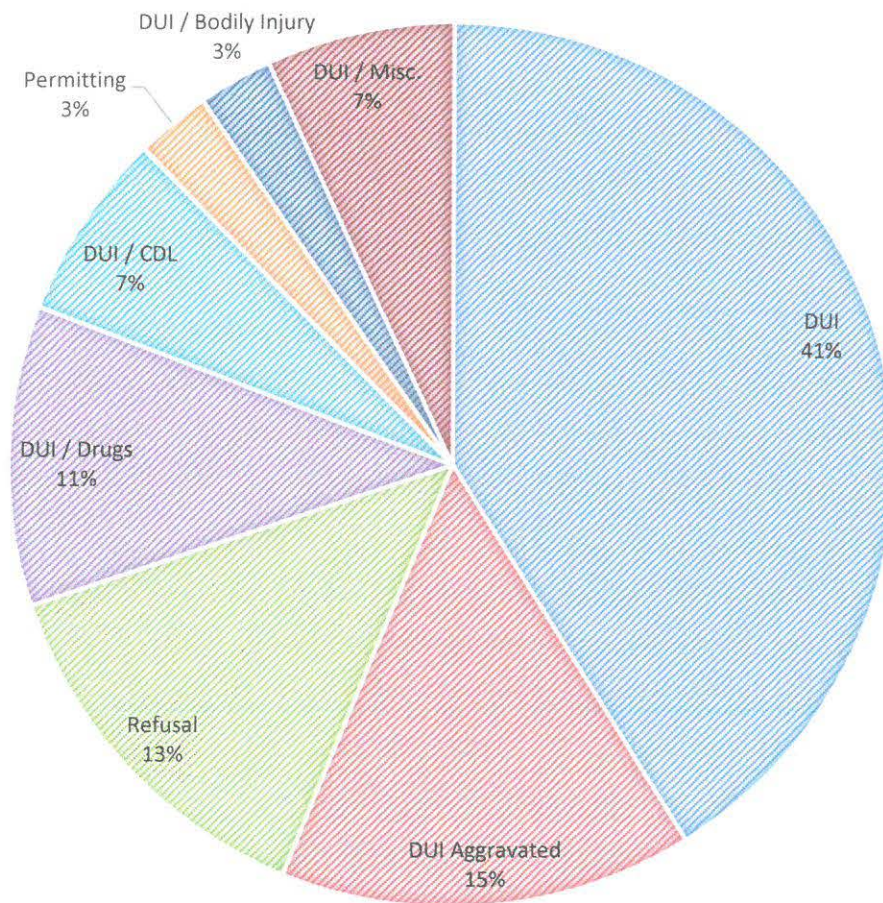
**ORDERS AFFIRMING REVOCATION ORDERS - 693**



Fiscal Year 2017 Orders Reversing Order of Revocation by Alleged Offense (73)	
<b>Total Orders Entered</b>	<b>73</b>
DUI	30
DUI Aggravated	11
Refusal	10
DUI / Drugs	08
DUI with CDL	05
Knowingly Permitting	02
DUI / Bodily Injury	02
DUI Misc.	05

## ORDERS REVERSING REVOCATION ORDERS 73

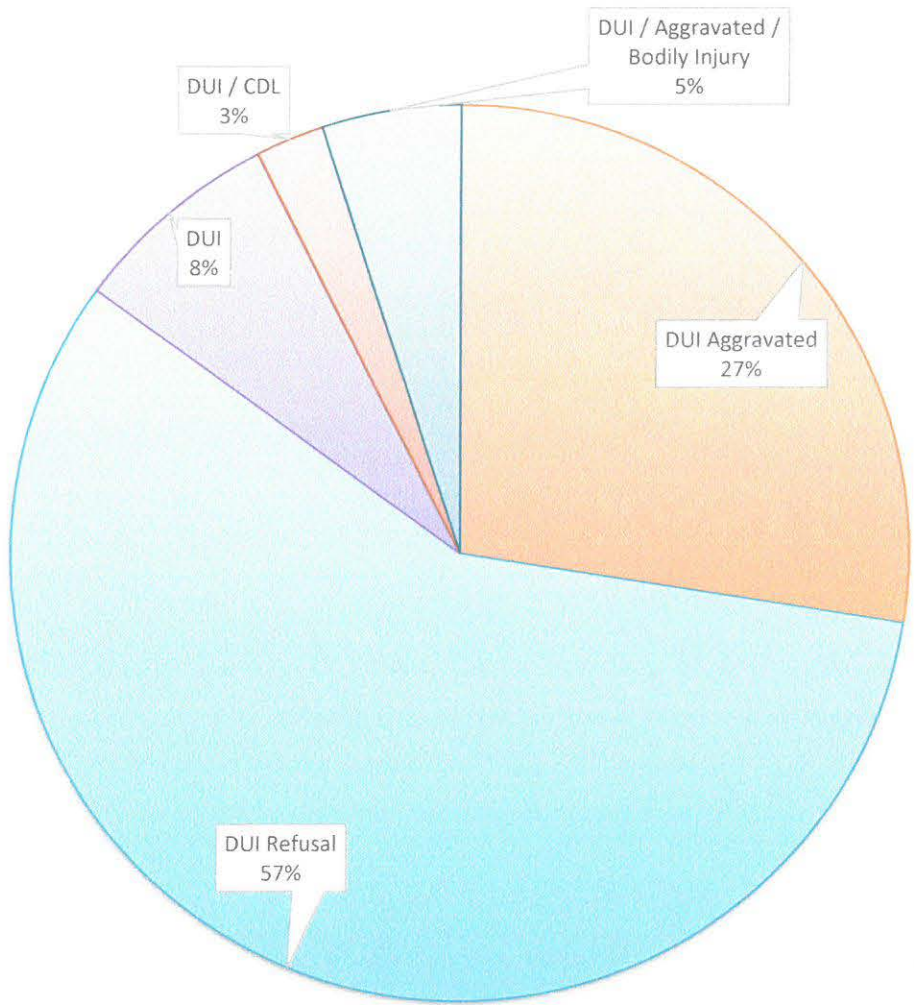
■ DUI 
 ■ DUI Aggravated 
 ■ Refusal 
 ■ DUI / Drugs 
 ■ DUI / CDL 
 ■ Permitting 
 ■ DUI / Bodily Injury 
 ■ DUI / Misc. 
 ■



Fiscal Year 2017 Orders Modifying Order of Revocation by Alleged Offense (41)	
<b>Total Orders Entered</b>	<b>41</b>
DUI / Aggravated	11
DUI / Aggravated / Bodily Injury	2
DUI / Refusal	23
DUI / CDL	01
DUI	03
DUI / Child Endangerment	01

ORDERS MODIFYING REVOCATION ORDERS

41

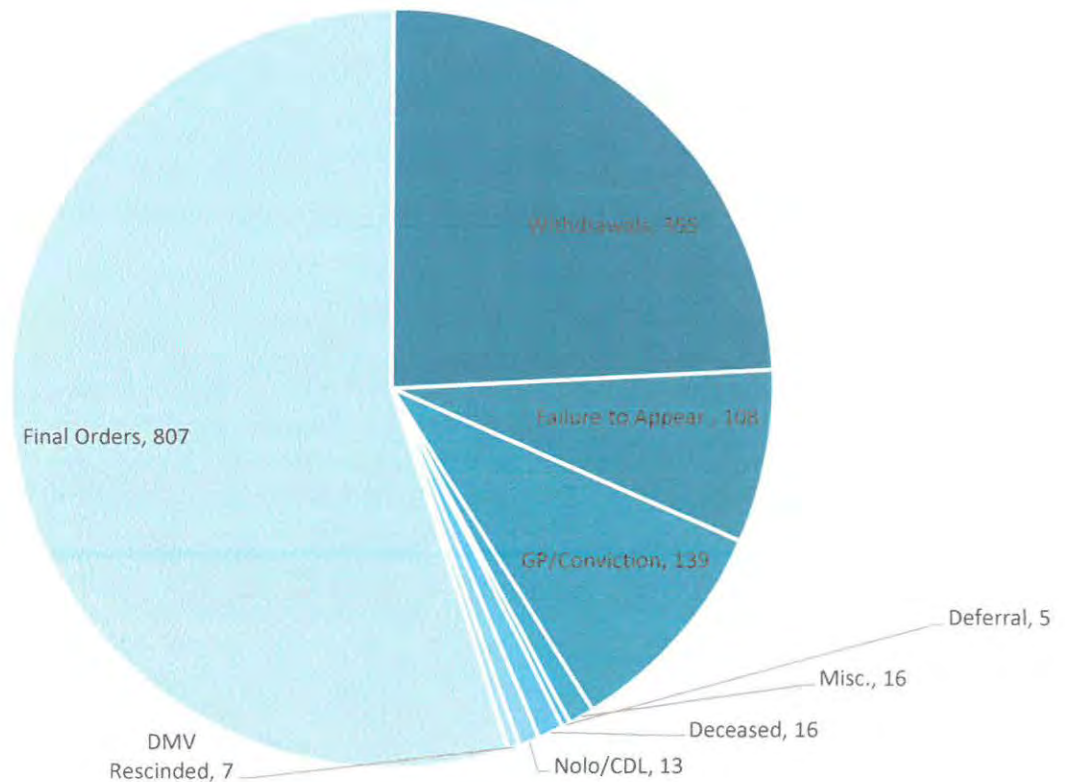


## RESOLUTION OF WRITTEN OBJECTIONS

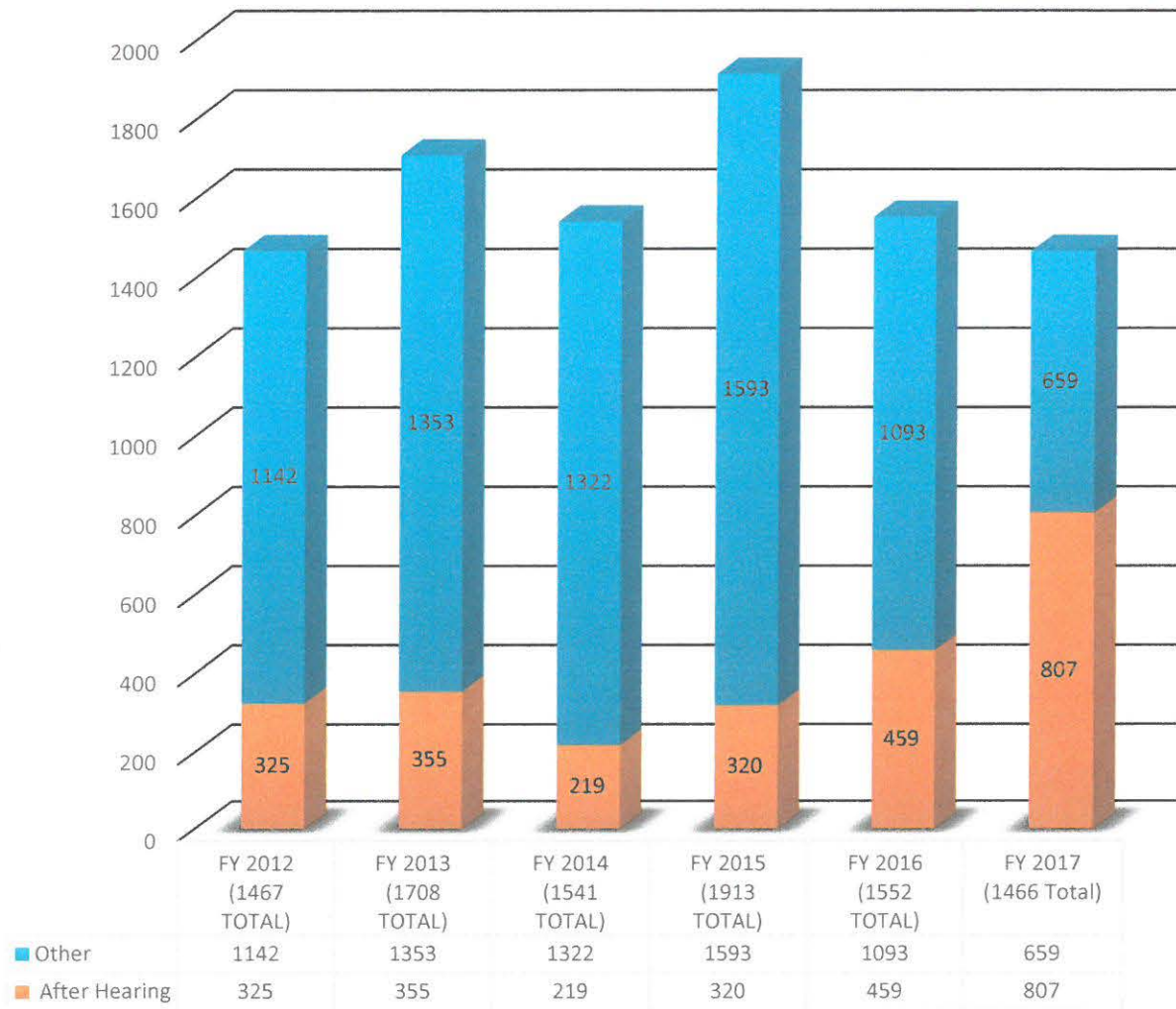
In addition to the Final Orders entered after an administrative hearing, the OAH Legal Department is also responsible for generating Orders issued as a result of withdrawals of the written objection, failure of the Petitioner to appear at the administrative hearing, the Petitioner's entry into the deferral program, convictions or guilty pleas to the parallel criminal charge, death of the Petitioner, and the withdrawal of the revocation order by the DMV. During Fiscal year 2017, OAH issued Orders which resolved a total of one thousand four hundred sixty-six (1,466) Written Objections.

**Fiscal Year 2017 Resolution of Written Objections (1466)**

Total Orders Entered	1466
Final Orders	807
Withdrawals	355
Failure to Appear	108
Deferrals	5
Guilty Pleas/Conviction	139
Deceased	16
Nolo/CDL	13
DMV Rescinded	7
Misc.	16

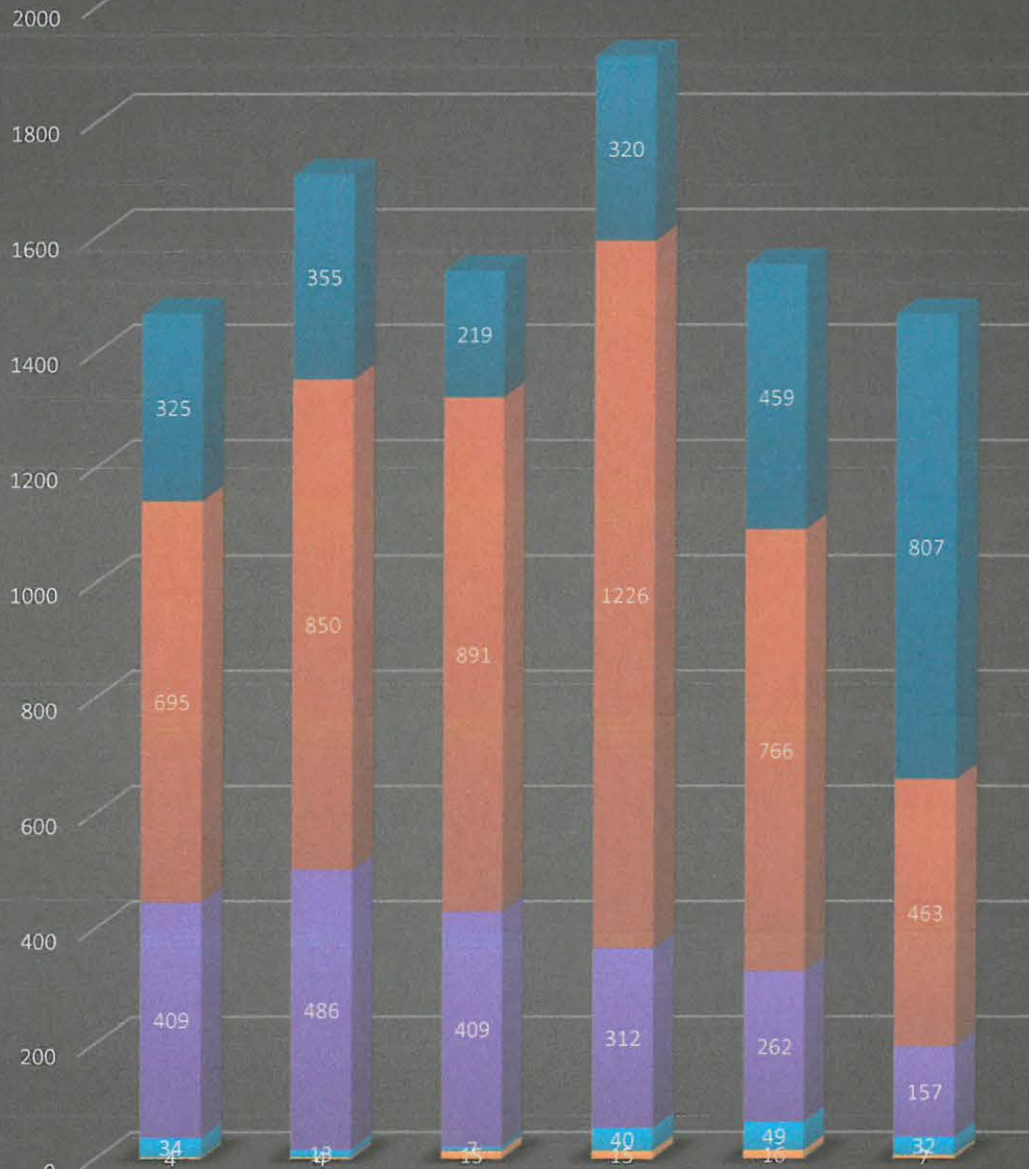


## Overview of All Orders Issued During Fiscal Year 2012 Through Fiscal Year 2017



**NOTE:** There was a significant increase in the number of withdrawals processed during Fiscal Year 2015 because of the passage Senate Bill 434 / Deferral Program.

## Overview of All Orders Issued (by Resolution) for Fiscal Year 2012 Through Fiscal Year 2017

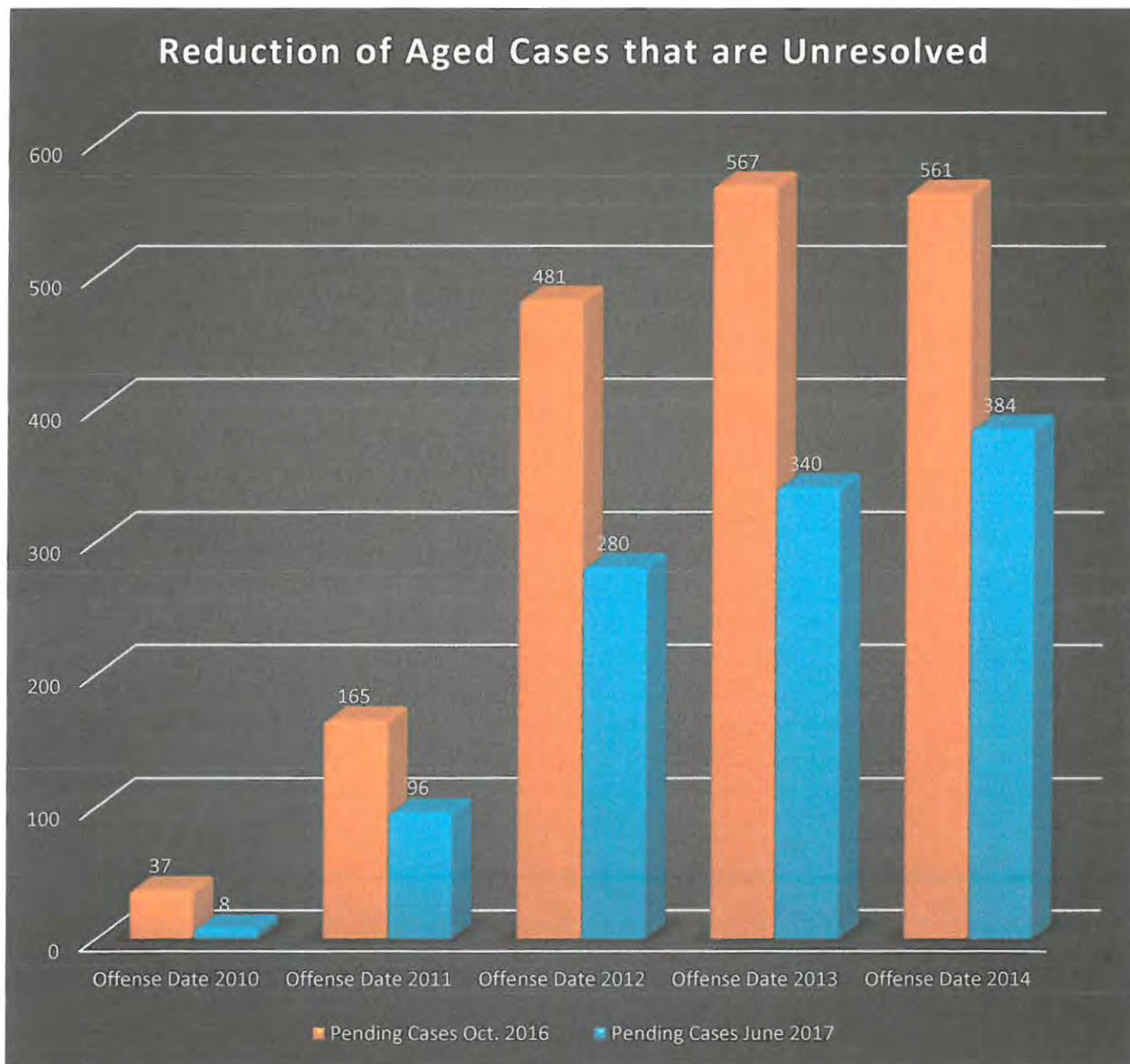


	FY 2012 (1467 Total)	FY 2013 (1708 Total)	FY 2014 (1541 Total)	FY 2015 (1913 Total)	FY 2016 (1552 Total)	FY 2017 (1466 Total)
Final Orders	325	355	219	320	459	807
WD/FTA	695	850	891	1226	766	463
GP/Deferrals	409	486	409	312	262	157
Misc.	34	13	7	40	49	32
DMV Rescinded	4	4	15	15	16	7



## SHIFTING AGENCY POLICY REGARDING ISSUANCE OF FINAL ORDERS

Initially, it was the goal of OAH to ensure that the time period existing between the date that the evidentiary hearing is conducted and the subsequent issuance of a final order does not exceed nine (9) months. However, the newly appointed Chief Hearing Examiner changed the prior administration's emphasis on issuing Final Orders within ninety (90) days from the date of the administrative hearing to prioritizing cases based upon the date of the alleged DUI offense. Even during a short timeframe, October 2016 to June 2017, this reformation of Agency policy has resulted in a significant reduction in the number of aged cases pending resolution before this Agency. The chart below illustrates the reduction in the total number of pending cases with an alleged offense date in 2010 through 2014 as of October 2016 (orange) to the total number of pending cases with an alleged offense date in 2010 through 2014 as of June 2017 (turquoise).



## APPEALS OF OFFICE OF ADMINISTRATIVE HEARINGS ORDERS

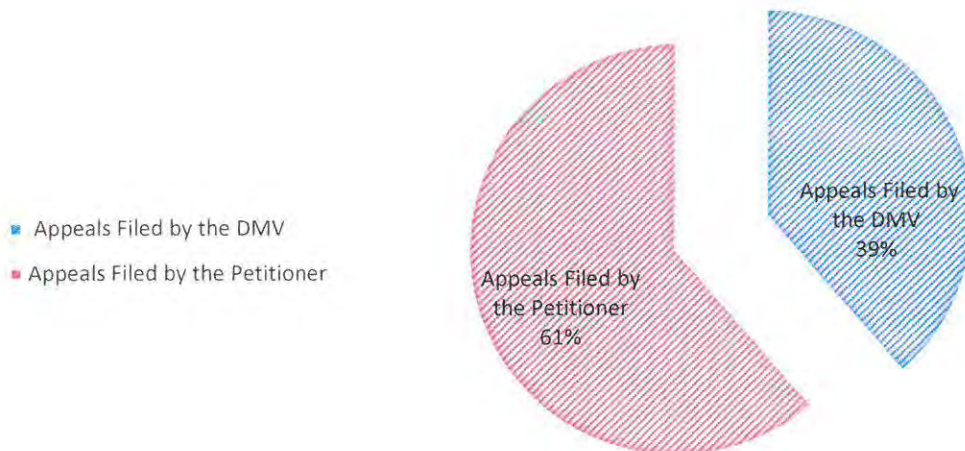
After the issuance of the “Decision of the Hearing Examiner and Final Order of the Chief Hearing Examiner”, either party aggrieved by the Final Order may petition for appeal in Circuit Court in accordance with the provisions of West Virginia Code §29A-5-4. Once OAH is notified that an appeal of the administrative order has been filed, the OAH Legal Department is responsible for preparing a certified copy of the record of the case, including a transcript of the administrative hearing, and filing the same along with a Statement of Matters with the appropriate Circuit Clerk within ninety (90) days. During Fiscal Year 2017, seventy (70) appeals of Final Orders entered by OAH have been filed in various Circuit Courts throughout the State. Twenty-seven (27) appeals were filed by the DMV and forty-three (43) appeals were filed by the Petitioner.

\*Orders issued by the Circuit Court may be appealed to the West Virginia Supreme Court. The OAH Legal Department is responsible to monitor these appeals, obtain the decisions entered by the Supreme Court, and advise the Hearing Examiners and other staff of the relevant effect of these Orders.

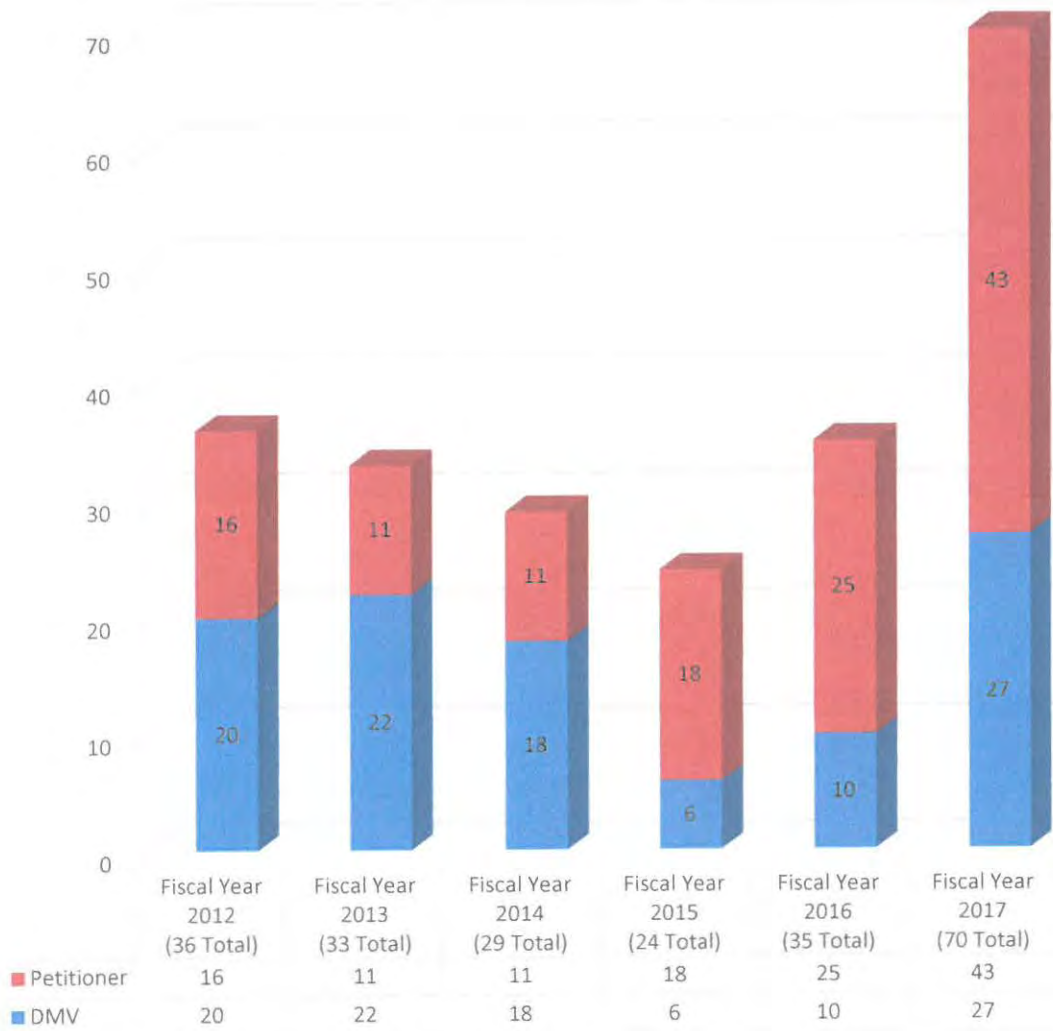
<b>Fiscal Year 2017 Appeals of OAH Final Orders (70)</b>	
Final Orders Entered After Hearing	807
TOTAL Appeals Filed	70
Appeals Filed by the DMV	27
Appeals Filed by the Petitioner	43

### FINAL ORDERS APPEALED

70



## Overview of Appeals of Final Orders for Fiscal Year 2012 Through Fiscal Year 2017



**MATTERS PENDING BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS**

There are currently two thousand five hundred four (2,504) cases pending before OAH. Of these one hundred seventy-five (175) are pending scheduling by the OAH Docketing Department; nine hundred sixty-seven (967) are pending an administrative hearing; the remaining one thousand three hundred sixty-two (1,362) cases are pending the submission of a draft Final Order by the Hearing Examiners or are pending review, approval and issuance by the Agency. It is important to note that of the total number of all matters pending before the OAH between Fiscal Year 2012 and Fiscal Year 2017, only twenty-two percent (22%) are currently unresolved.

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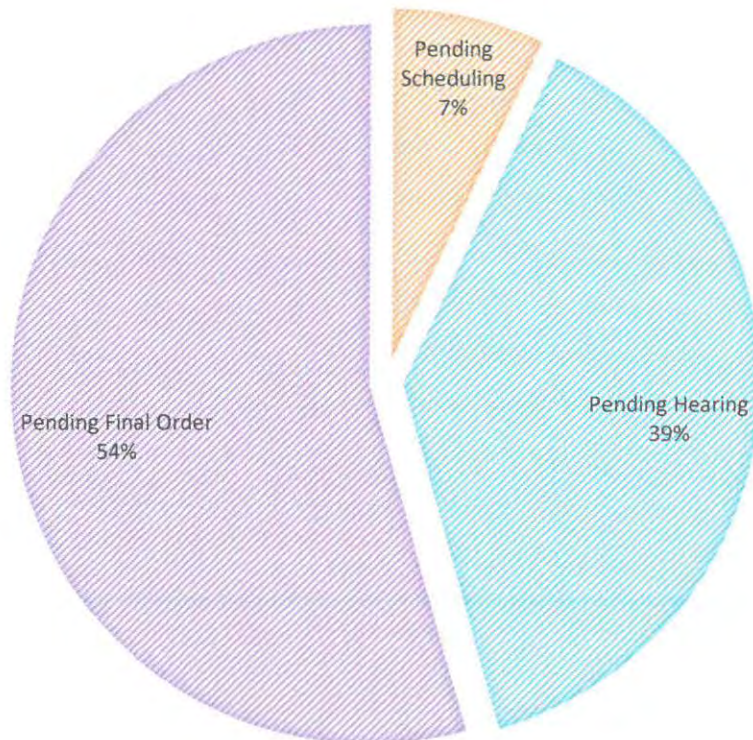
**FISCAL YEAR 2017 TOTAL OPEN CASES - 2504**

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Pending Scheduling	175
Pending Hearing	967
Pending Final Order	1362

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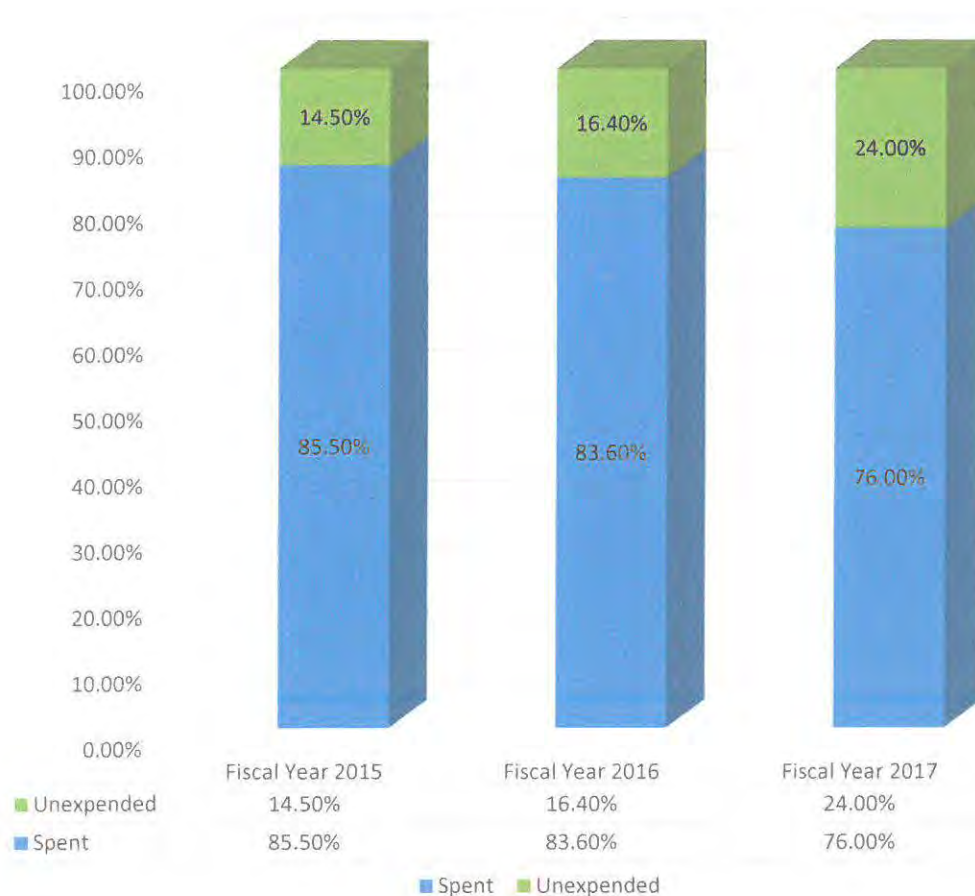
**TOTAL OPEN CASES - 2504**



## BUDGET ANALYSIS

Since its inception, the Office of Administrative Hearings has consistently operated with a surplus. For example, during Fiscal Year 2015, the Office of Administrative Hearings used only 85.5% of its operating funds, leaving 14.5% unexpended. In Fiscal Year 2016, the agency expended only 83.6% of its budget, which left a surplus of 16.4%. At the end of Fiscal Year 2017, the Agency had expended 76% of its annual budget, leaving a surplus of \$462,456.52 (24%). It is noted, however, that filling critical vacant positions within the Agency will result in an increase in the amount of funds expended during the upcoming Fiscal Year. In addition, the Agency anticipates that it will be necessary to purchase several new computers and other various equipment which will also result in a decrease in the surplus funds during Fiscal Year 2018.

### GENERAL BUDGET ANALYSIS



**FEES COLLECTED**

On December 1, 2016, and in accordance with the Agency’s Legislative Rules, the Office of Administrative Hearings implemented the assessment of a fifty-dollar filing fee for each written objection filed. During the last six months of Fiscal Year 2017, the Agency collected 17,850 from these Filing Fees. The projected revenue associated with the filing fee is in excess of \$45,000 per fiscal year.

The Office of Administrative Hearings also assesses fees for providing audios and transcripts of administrative hearings and for the preparation of a Certified File/Statement of Matters when appeals are filed:

<b>Fiscal Year 2017 Current Invoices:</b>		<b>\$</b>	<b>27,891.77</b>	<b>[31,281.77]</b>
Audios:	135		\$1680.15	
Petitioner	22		\$660.00	
DMV	113		N/C	<b>[3,390.00]</b>
Transcripts:	2		\$1,020.15	
Petitioner	2		\$1,020.15	
DMV	0		00.00	
Statement of Matters:	70		25,191.47 <sup>2</sup>	
Petitioner	43		15,210.15	
DMV	27		9,981.32	

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<sup>2</sup> A significant number of the Statement of Matters filed with the Circuit Court did not include the transcript because the Purchasing Division of the WVDOT determined that the contract with the outside transcription company was invalid. Subsequently, the transcripts were prepared and submitted as a supplemental filing.

## **ACCOMPLISHMENTS OF THE OFFICE OF ADMINISTRATIVE HEARINGS**

### **Docketing:**

OAH continues to strive to improve and streamline the internal docketing system to ensure an efficient scheduling process for all matters before OAH. Such efforts have resulted in affording the OAH Docketing Department, currently consisting of five (5) employees, the ability to accurately process nine hundred seventy-two (972) Written Objection/Hearing Request forms during the last reporting period and to schedule (or reschedule after a continuance was granted) four thousand seven hundred forty-six (4,746) administrative hearings.

### **Administrative Hearings:**

The Hearing Examiners are assigned to specific geographical regions throughout the State and are required to travel to various DMV regional offices to conduct hearings. OAH continues to realign the Hearing Examiners' areas of assignment in an effort to decrease the amount of travel time expended, and the number of State vehicles assigned. As a result, the OAH fleet has been reduced to six (6). Such realignment has also resulted in a decrease in the number of unresolved and/or pending cases in several areas.

### **Final Orders:**

OAH has implemented the use of a more streamlined Final Order format. While still a "work in progress", the use of this format has resulted in a significantly higher number of Orders being issued. During Fiscal Year 2016, OAH issued one thousand five hundred fifty-two (1,552) Final Orders, four hundred fifty-nine (459) after the administrative hearing was conducted. However, during Fiscal Year 2017, the Legal Department has issued eight hundred seven (807) Final Orders after administrative hearing, which is an increase of seventy-six percent (76%).

The following Final Order Comparison graph illustrates the significant increase in the number of Final Orders entered after evidentiary hearing between the 2016 Fiscal Year (459) and Fiscal Year 2017 (807).



Final Order Comparison graph below illustrates the significant increase in the number of Final Orders entered after an evidentiary hearing between Fiscal Year 2012 and Fiscal year 2017.



**Appeals:**

Finally, when a party files an appeal of the Final Order issued by the Chief Hearing Examiner of the Office of Administrative Hearings, the Legal Department is responsible to prepare and file a certified copy of the administrative record with the Circuit Clerk. During Fiscal Year 2017, the Legal Department prepared and filed administrative records for seventy (70) appeals, which is a significant increase from prior years.



## GOALS AND OBJECTIVES

OAH has defined the following specific goals and objectives:

Revise the Agency's organizational chart to establish a fifth paralegal position and reduce the overall number of staffing positions. This change will allow for continued improvement in the issuance of final orders in an expeditious manner and reduce the overall agency expenses incurred for salaries and associated benefits.

Expand the electronic file system and reassign certain responsibilities regarding updating the electronic file to the Hearing Examiners, which will allow the Legal Department to assign additional duties to the OAH and increase productivity.

Continue to realign the geographic locations assigned to each Hearing Examiner so as to reduce travel time and travel costs.

Continue to streamline the process utilized to process Final Orders and to revise the Final Order format. This should result in increased productivity, and the expeditious issuance of consistent Final Orders.

Evaluate assignment of duties to the paralegals in the Legal Department and the current procedure associated with the review of recommended final orders and the compilation of a certified record.

Continue to conduct seminars for the Hearing Examiners and other staff members to ensure adequate training and consistent recommended decisions from the Hearing Examiners and paralegals.

Purchase software to enable the audio recordings of administrative hearings to be sent to the requesting party via electronic transmission, which would result in a significant reduction in the time expended by the Legal Department responding to such requests.

Resume efforts to complete and implement the use of "template" Orders, which would be quickly generated by the mainframe database system in instances where a written objection is resolved through a withdrawal of the request for an administrative hearing, the Petitioner's election to participate in the deferral program, the entry of a guilty plea or other such manner that does not require an administrative hearing.