

HANDOUT #3

**Senate Committee on Children and Youth,
House Committee on Aging, Children and Youth, Legislative & Military Affairs
Meeting Jointly
June 10, 2015 - 10:00 AM – Room 130**

Regulation:

Child Maltreatment cases decided by the Administrative Law Judges (ALJs) in the Office of Appeals and Hearings (OAH) of the Arkansas Department of Human Services (ADHS) are regulated by the Arkansas Child Maltreatment Act, A.C.A. §12-18-101 et seq; Arkansas Administrative Procedure Act, A.C.A. §25-15-101 et seq; DHS Policy 1098, and the Arkansas Code of Judicial Conduct.

Notice of Appeal Rights:

A True Finding of maltreatment for an adult offender is accompanied by a notice advising the alleged offender of the process and the 30-day time frame for filing an administrative appeal. An alleged juvenile offender is automatically referred by the Agency to the OAH for an administrative appeal.

Due Process:

Once an appeal case is opened, the OAH provides the parties with instructions on preparation for the appeal, including the subpoena process, and a written notification of the time, date, and location of the hearings. Due process is allowed in all administrative appeal cases and the parties are allowed to present evidence, examine and dispute evidence presented by the other party, and examine all witnesses. The decision is based upon evidence presented at the administrative hearing.

Reconsideration and Judicial Review:

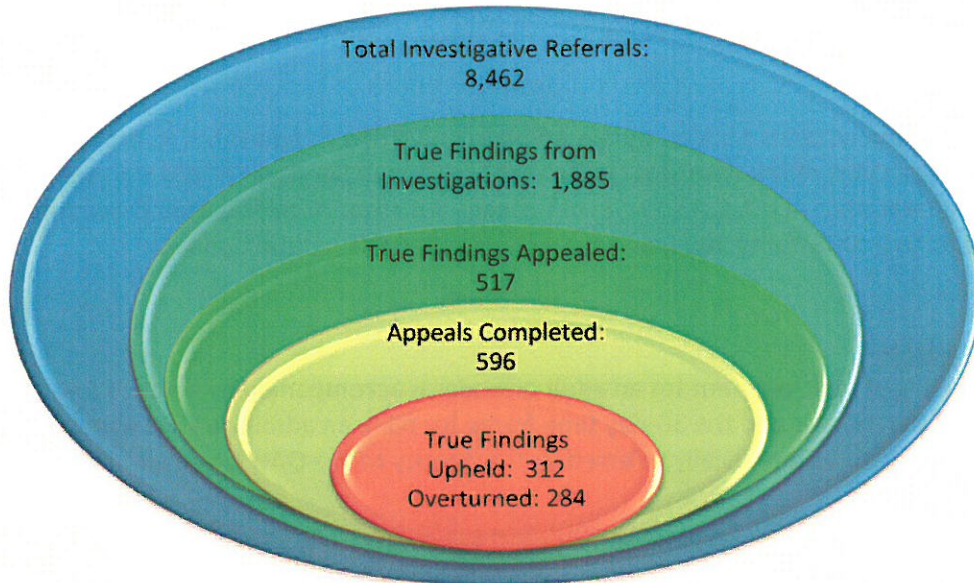
The OAH is a section of the DHS Office of Chief Counsel and is separate and apart from the ADHS Division of Children and Family Services and the Arkansas State Policy Crimes Against Children Division, which each investigate alleged child maltreatment. All maltreatment appeals are decided by an Administrative Law Judge who is an attorney and a neutral decision-maker. Decisions are rendered within the statutory time frames and a written final order is served to the parties. All parties are advised of the process for requesting a Reconsideration of the OAH Final Order through OAH. The OAH final decision is the Agency's final decision in the matter, so parties are also advised of the process to pursue a judicial review of an OAH Final Order through the Arkansas Circuit Courts.

Case Totals and Outcomes:

An analysis of the past three years of OAH administrative appeals shows that 85% of total True Findings made by the ADHS remain as True findings, and 15% are overturned through the appeal process. Not all True Findings are appealed. Of those appealed to the OAH, 52% are upheld and 48% are overturned. The following chart outlines the trends.

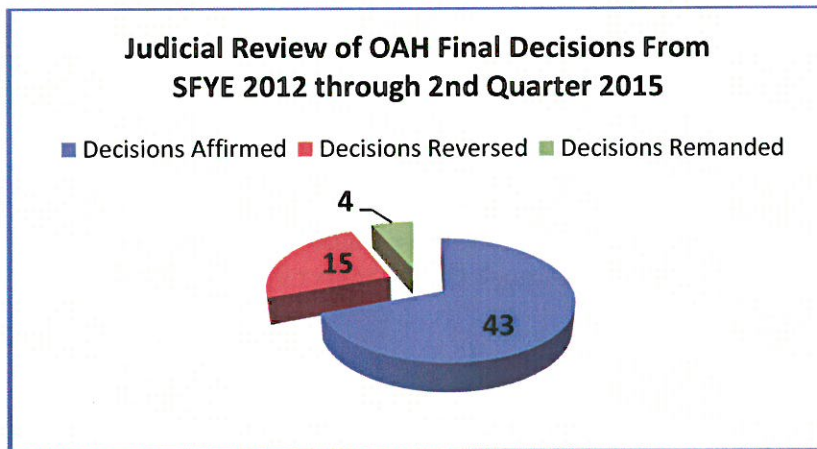
Averages Per Quarter From SFYE 2012 through 2nd Quarter SFYE 2015¹

Below are the quarterly averages of investigative referrals, administrative appeal cases, and outcomes for the past three state fiscal years, plus the first two quarters of the current fiscal year, for a total of 14 quarters.



Judicial Review Outcomes:

Four percent (4%) of OAH final decisions, or about 50 decisions per year, are appealed to the Circuit Court for judicial review. In the period under review, 62 cases have been decided by the higher courts. The following chart shows the total number of OAH decisions that have been Affirmed, Reversed, or Remanded for further action.



¹ **APPEALS COMPLETED** were greater in total than the appeals received due to 2013 legislation that corrected the process for cases placed in a criminal pending status. The OAH was able to more efficiently process cases which had been the subject of criminal investigations or charges.