

**Senate Committee on Children and Youth,
House Committee on Aging, Children and Youth, Legislative & Military Affairs
Meeting Jointly
July 20, 2016**

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 ADHS 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 followed 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, and is rendered by an impartial hearing official.

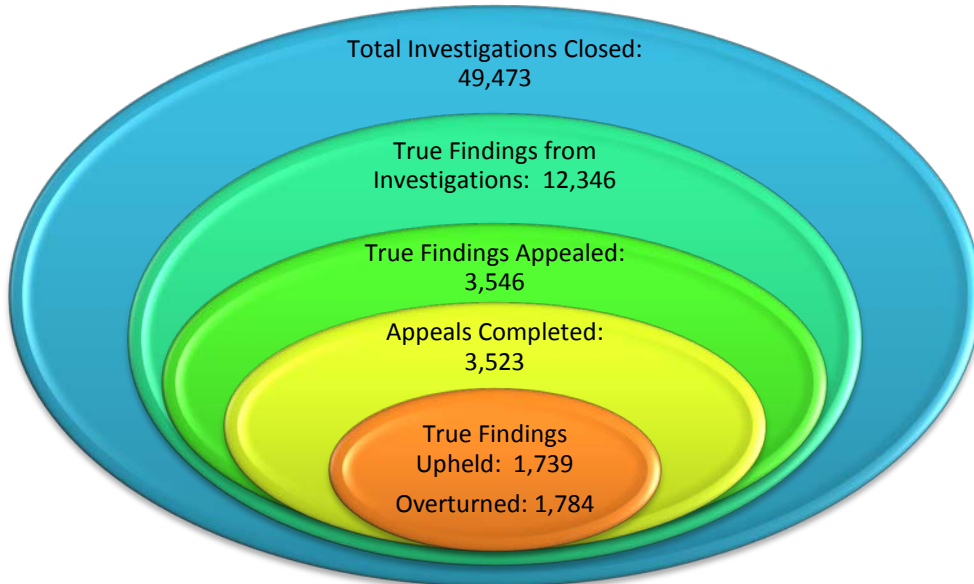
Reconsideration and Judicial Review:

The OAH is a section of the ADHS Office of Chief Counsel and is separate and apart from the ADHS Division of Children and Family Services and the Arkansas State Police 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 ADHS'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 one and three quarters (1.75) state fiscal years of OAH administrative appeals shows that 85.5% of total True Findings made by the ADHS remain as True findings, and 14.5% are overturned through the appeal process. Not all True Findings are appealed. Of those appealed to the OAH, 49% have been upheld and 51% overturned. The following charts depict the investigations, appeals, and outcomes.

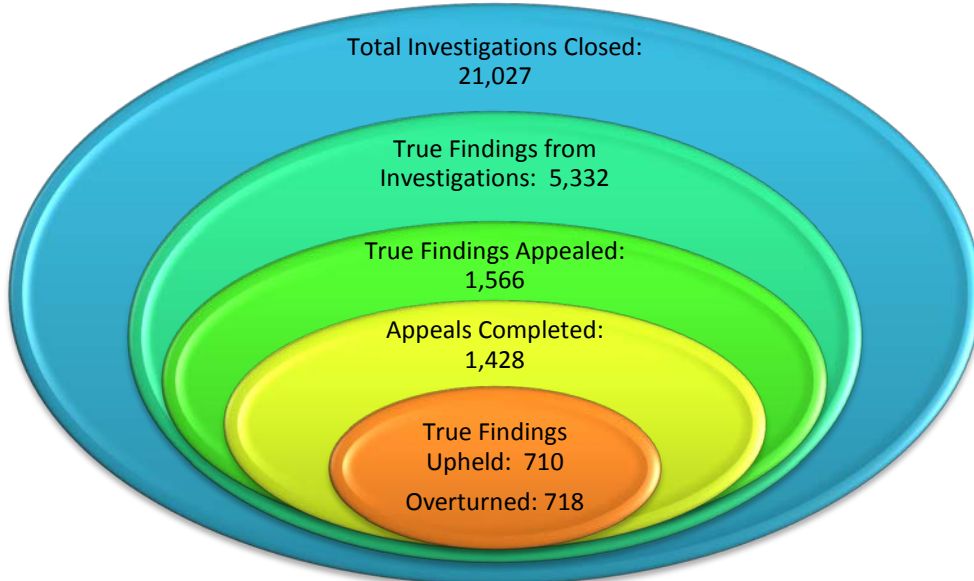
Totals for SFYE 2015 and Three-Quarters of SFYE 2016



Of 12,346 True findings, 1,784 (14.5%) were overturned through the appeal process for the period of July 1, 2014 through March 31, 2016.

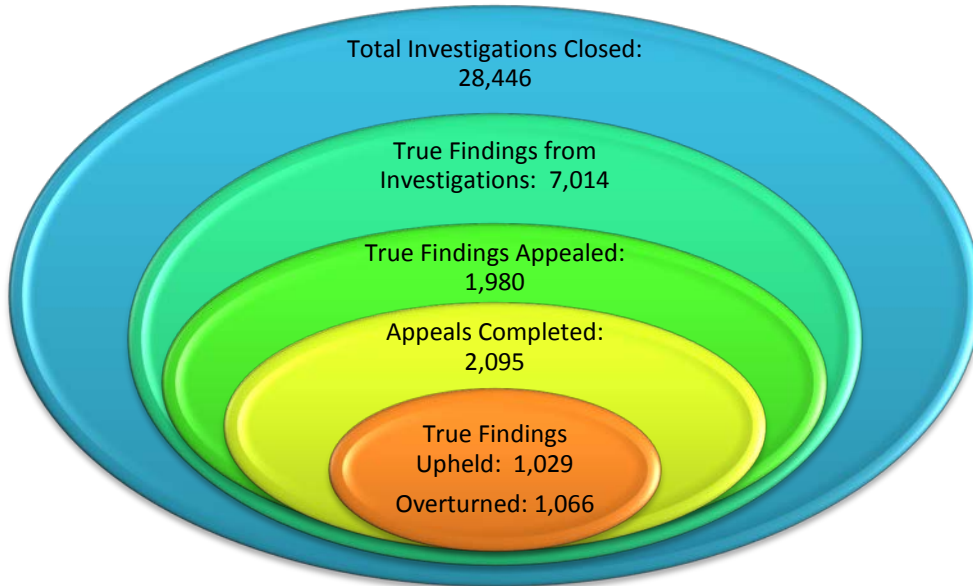
[The next two charts show the breakdown by each State Fiscal Year End period]

Totals for SFYE 2016: First three quarters – July 1, 2015 through March 31, 2016



Of 5,332 True findings, 718 (13.5%) were overturned through the appeal process for the period of July 1, 2015 through March 31, 2016.

Totals for SFYE 2015



Of 7,014 True findings, 1,066 (15.2%) were overturned through the appeal process for the period of July 1, 2014 through June 30, 2015.

Judicial Review Outcomes:

During the period under review, 53 OAH final decisions, or 1.5% of all final decisions, were appealed to the Circuit Court for judicial review. All appeals were from cases upholding the ADHS's True Finding. During the period under review, ADHS notified the OAH of 8 cases which were 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.

