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SIXTH ANNUAL REPORT

This report is submitted to the Administrative Procedure Committee and the Administration Commission in compliance with the requirement of Section 120.70, Florida Statutes.

Utilization of
Hearing Officers

During the calendar year 1979, the Division of Administrative Hearings received 2,542 separate requests for hearings. The requests are broken down by agency as reflected in the attached Appendix. The Division's case load has continued to increase at a rate of approximately ten percent over the number of requests received during the previous calendar year. While the total number of requests for hearings during 1979 reflects a slight decrease from the number of requests during 1978, the total number does not reflect the very real increase in case load. Among the hearings conducted by Hearing Officers of the Division are Baker Act hearings at the various state hospitals.

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These hearings are typically conducted by a single Hearing Officer who appears at the hospital which has requested the hearing and conducts as many as twenty hearings on a given day. Two hundred thirty-five fewer requests for hearing under the Baker Act were received during 1979 as compared with 1978. This decrease has not reduced the amount of time required for the Division to conduct the hearings because the decrease reflects a change in legislation whereby a certain class of patients, sex offenders committed under the provisions of Florida Statutes, Chapter 917, are no longer presented for Baker Act hearings. These hearings typically required very little Hearing Officer time because the patients' legal status made it advantageous for them to remain at the hospital, and they typically waived their right to a hearing. Furthermore, the amount of time required by Hearing Officers to conduct Baker Act hearings has been increased due to legislation requiring that a guardian advocate be appointed for certain patients. Thus, while the number of Baker Act hearings has declined, the time that is required to conduct them has increased.

When the decline in the number of Baker Act hearings is considered, it is apparent that the Division has experienced an increase in cases filed of approximately ten percent over those filed during 1978. A continuation of this trend is expected. Legislation passed by the 1979 Session of the Florida Legislature

with respect to the Department of Professional Regulation will cause an increase in the number of hearings requested by that agency. The legislation became effective July 1, 1979, but the increase in cases is only now becoming apparent due to time required by the Department of Professional Regulation to accommodate the legislative mandates.

With fifteen Hearing Officers, including the Director and Assistant Director, the Division remains able to provide final hearings within ninety days from receipt by the Division of a request for the assignment of a Hearing Officer. In those situations where extraordinary circumstances demand a quicker hearing, the Division is capable of accommodating the requests. In many cases, the final hearing does not occur within ninety days of the receipt of a request; however, in those cases the extension of time is a result of a request for a continuance by one or more of the parties in order that they might have time to fully prepare for complex litigation, to engage in settlement negotiations, or for other similar reasons.

It should be emphasized that ninety days is the maximum period of time within which it is felt that the Division should provide a final hearing. In practice, the Division is able to provide hearings in a shorter time frame if desired by the parties, and typically the final hearing is scheduled within sixty days of the day that the request is received.

The Division is in the process of examining its data processing and word processing needs in order to determine whether automation of these functions would better serve the Division's record keeping, secretarial, and subject matter index functions. It appears that automation would serve benefits in providing agencies and other parties who appear before the Division an effective means of researching prior decisions, and would provide a means for rapid retrieval of statistical data.

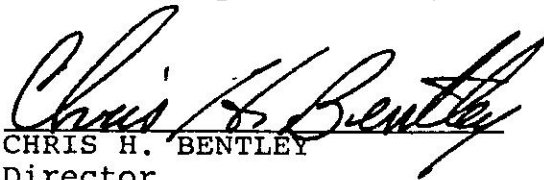
Utilization of Court
Reporters

Agencies have experienced significant expense in hiring court reporters for administrative hearings. Many agencies have utilized less expensive means of preserving the testimony at a final hearing than a live court reporter. The Department of Environmental Regulation, for example, does not retain the services of a court reporter unless another party in a hearing requests it, and in those instances the court reporter's appearance fee is paid by the party who requests the reporter. There are many instances when a live court reporter is preferable to mechanical means of preserving testimony, and in those instances court reporter expenditures are fully justified. Consideration should be given to coordinating the hiring of court reporters by agencies so that the State can pay the lowest possible fee consistent with good service.

Suggested Amendments to the
Administrative Procedure Act

The Administrative Procedure Act has now been in effect for five full years. The hearing function performed by the Division, and other administrative processes appear to be functioning smoothly, and practices under the Administrative Procedure Act have regularized. Section 120.57(1)(a) provides that a Hearing Officer assigned by the Division shall conduct all hearings held in accordance with the section with certain specified exceptions. Several agencies are exempted from the requirement, and utilize their own hearing examiners or hearing officers to conduct hearings. It would be appropriate for the Legislature to consider whether greater economy of time and expense could be realized if all hearing functions, other than hearings conducted by agency heads, were lodged in a single agency.

Respectfully submitted,



CHRIS H. BENTLEY
Director
Division of Administrative
Hearings

ANALYSIS OF AGENCY REQUESTS FOR HEARING
OFFICERS FOR CALENDAR YEAR 1979

<u>AGENCY</u>	<u>NO. OF CASES</u>
<u>Department of Administration</u>	
Career Service Commission.....	1
Florida Land and Water Adjudicatory Commission.....	4
Division of Retirement.....	8
Division of State Planning.....	1
	<u>14</u>
<u>Department of Agriculture and Consumer Services</u>	15
<u>Department of Business Regulation</u>	1
Division of Alcoholic Beverages and Tobacco.....	114
Division of General Regulation.....	4
Division of Hotels and Restaurants.....	44
Division of Land Sales and Condominiums.....	13
Division of Pari-Mutuel Wagering.....	16
	<u>192</u>
<u>City of Clearwater</u>	<u>1</u>
<u>Department of Commerce</u>	
Public Employees Relations Commission.....	3
	<u>3</u>
<u>Department of Community Affairs</u>	<u>6</u>
<u>Office of the Comptroller</u>	49
Department of Banking and Finance.....	11
Securities Commission.....	3
	<u>63</u>
<u>Department of Corrections</u>	<u>7</u>
<u>Department of Criminal Law Enforcement</u>	<u>1</u>
<u>Del-Trail Fire Control Tax District No. 9</u>	<u>1</u>
<u>Duval County</u>	<u>2</u>
<u>Department of Education</u>	3
Bureau of Blind Services.....	1
Brevard County School Board.....	2
Broward County School Board.....	9
Clay County School Board.....	1
Dade County School Board.....	32
DeSoto County School Board.....	1

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	<u>NO. OF</u> <u>CASES</u>
Duval County School Board.....	2
Board of Education.....	4
Escambia County School Board.....	1
Flagler County School Board.....	1
Florida State University.....	3
Gilchrist County School Board.....	1
State Board of Independent Colleges and Universities....	1
Lee County School Board.....	19
Leon County School Board.....	1
Manatee County School Board.....	1
Miami-Dade Community College.....	4
Orange County School Board.....	1
Palm Beach County School Board.....	1
Pinellas County School Board.....	9
Polk County School Board.....	2
Professional Practices Council.....	47
Santa Rosa County School Board.....	1
Sumter County School Board.....	1
University of Florida.....	4
Vocational, Technical, Trade and Business Schools.....	13
Washington County School Board.....	1
	<u>167</u>
<u>Department of Environmental Regulation.....</u>	<u>165</u>
<u>Game and Fresh Water Fish Commission.....</u>	<u>1</u>
<u>Department of General Services.....</u>	<u>16</u>
<u>Department of Health and Rehabilitative Services</u>	
Hospitals (Baker Act):	
Anclote Manor Hospital.....	86
Florida State Hospital.....	427
Hillsborough Community Medical Health Center.....	13
Jackson Memorial Hospital Institute.....	1
Northeast Florida State Hospital.....	84
North Florida Evaluation and Treatment Center.....	140
South Florida State Hospital.....	185
Tampa Heights Hospital.....	1
G. Pierce Wood Memorial Hospital.....	91 (1023)
Non-Baker Act:	
Broward County Health Department.....	1
Child Care Licensing Program.....	1
Miscellaneous.....	221
Mental Health Board.....	1
Youth Services Program Office.....	1
Vocational Rehabilitation Programs Services.....	1
	<u>1254</u>
<u>Department of Highway Safety and Motor Vehicles.....</u>	<u>2</u>

	<u>NO. OF</u> <u>CASES</u>
<u>Department of Insurance</u>	<u>58</u>
<u>Department of Labor and Employment Security</u>	<u>22</u>
<u>Department of Legal Affairs</u>	<u>7</u>
<u>Department of Natural Resources</u>	6
South Florida Water Management District.....	4
	<u>10</u>
<u>Department of Professional Regulation</u>	5
Board of Accountancy.....	8
Board of Architecture.....	3
Board of Chiropractic Examiners.....	11
Florida Construction Industry Licensing Board.....	35
Board of Cosmetology.....	1
Board of Dentistry.....	12
Florida Electrical Contractors Industry Licensing Board.....	4
Board of Funeral Directors and Embalmers.....	7
Board of Medical Examiners.....	12
Board of Nursing.....	57
Board of Nursing Home Administrators.....	1
Board of Optometry.....	3
Board of Osteopathic Medical Examiners.....	10
Board of Pharmacy.....	5
Board of Podiatry Examiners.....	1
Board of Professional Engineers and Land Surveyors.....	3
Board of Psychology Examiners.....	4
Board of Real Estate.....	97
Board of Veterinary Medicine.....	4
	<u>283</u>
<u>Public Service Commission</u>	<u>11</u>
<u>Department of Revenue</u>	<u>43</u>
<u>Department of State</u>	2
Division of Corporations.....	1
Division of Elections.....	1
Division of Licensing.....	62
	<u>66</u>
<u>Department of Transportation</u>	<u>132</u>
	GRAND TOTAL: <u>2542</u>