



BOARD OF VOCATIONAL NURSING & PSYCHIATRIC TECHNICIANS
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ENFORCEMENT COMMITTEE MEETING MINUTES

October 7, 2016

**BOARD MEMBERS
PRESENT:**

Andrew Moreno, Vice President, Co-Chairman
John Dierking, Public Member, Co - Chairman

STAFF PRESENT:

Dr. Kameka Brown, Executive Officer
Gina Bayless, Enforcement Division Chief
Elizabeth King, Enforcement Analyst

1. CALL TO ORDER.

The Enforcement Committee (Committee) meeting was conducted per teleconference. The meeting was called to order by Dr. Kameka Brown, Executive Office at 3:47 P.M.

2. DISCUSSION AND POSSIBLE ACTION ON ENFORCEMENT COMMITTEE SCOPE. (Attachment A)

The Committee reviewed a draft revision to the Committee Role. Gina Bayless, Enforcement Chief, reported that the draft was updated to add information regarding the Committee's role in oversight functions to ensure performance goals are achieved and guided by the Board's strategic plan.

Committee Discussion:

Mr. Moreno requested clarification regarding the types of policies to be recommended. Ms. Bayless stated that revision to existing policies or the creating of new policies can be reviewed and considered by the Committee.

Mr. Dierking requested that streamlining procedures be added to the Committee role.

Mr. Moreno and Mr. Dierking recommended approval of the revised Committee role.

The Committee will present the Enforcement Committee Role for full review at the November Board meeting.

3. REVIEW OF ENFORCEMENT PERFORMANCE MEASURES Quarter 3 and 4. (Attachments B, C)

The Committee reviewed FY 2015/16 Performance Measure data. This includes Quarter 3 and Quarter 4 data, which was delayed in posting due to BreEZe conversion and reporting issues.

FY 2015/16 Performance Measure data for Quarter 3 and Quarter 4 data is posted on the Department of Consumer Affairs' (DCA) website (http://www.dca.ca.gov/about_dca/cpei/quarterly_reports.shtml).

Committee Discussion:

Ms. Bayless reported that the Board is currently meeting the targets established by the Consumer Enforcement Protection Initiative (CPEI) for Performance Measures (PM) 1, 2, 3, 7 and 8.

The Board is not currently meeting the goal for PM 4. Ms. Bayless stated that as the Board continues to clear the legacy backlog of old cases, improved processing times should be realized. Improvement in PM 4 is anticipated in the next two (2) quarters. FY 2016/17 Quarter 1 PM data should be available in November 2016.

Mr. Dierking asked if the increase to \$1000 for disclosure of convictions is affecting the legacy backlog cases. Ms. Bayless responded the reduction in cases received does assist with overall caseloads and will contribute to reducing processing times. Ms. Bayless reported that legacy backlog cases take longer to complete because of the difficulty in locating witnesses and obtaining records due to the age of the case.

4. REVIEW FISCAL YEAR 2015/16 ENFORCEMENT STATISTICS. (Attachment D)

The Committee reviewed FY 2015/16 Enforcement Statistics and Programs trends as of June 30, 2016. Ms. Bayless reported several areas of improved performance for FY 2015/16. That improvement included significant reductions in the number of complaints received and a large decrease in number of cases pending overall. Pending cases show a reduction from 3,380 to 1,259. Additionally, a 30% decrease in average days to close cases was identified. Intake and investigation time affects PM4. As a result, the identified improvements help PM 4.

Committee Discussion:

Mr. Moreno asked which policies or procedures have helped. Ms. Bayless reported improvements that have helped streamline processes include:

- Creation of a Citation Desk;
- Creation of an Intake Unit;
- Creation of a Fast Track Desk; and
- Increase in the number of stipulated settlements.

Further, implementing changes to the criteria for referring cases from the Licensing Division to the Enforcement Division (Division) and implementation of the October 2015 regulatory change have reduced the volume of cases received.

Mr. Moreno asked if there were other improvements to highlight. Ms. Bayless reported that other notable changes in data include: 440 discipline outcomes completed in FY 2015/16; a significant increase in number of stipulated settlements. This is due to a Task Force Recommendation. These changes indicate the Board is moving in a positive direction. Improved performance is directly related to the hard work and dedication of Division staff. Mr. Moreno and Mr. Dierking commented that the decline in the number of cases pending is a testament to hard work of Division staff.

Mr. Moreno asked for clarification regarding the intake process. Ms. Bayless reported that the Division reviews cases at intake to determine the appropriate assignment for investigation and priority of the case. Cases that do not require interviews but may require follow-up on things such as arrest and conviction records are assigned to the Complaint Unit. Cases involving standards of care or employer mandatory reports that require face to face interviews or subpoenaing of records are assigned to the Investigation Unit. Cases in which patient harm or death are alleged or cases that may result in criminal charges are immediately assigned to the Division of Investigation.

5. FAST TRACK PILOT PROGRAM UPDATE.

The Fast Track Pilot Program was first implemented in March 2015. The goal of the program is to streamline the filing and settlement of specific cases that meet the referral criteria established by the Office of the Attorney General. Typically cases accepted for Fast Track are conviction or "paper" cases that do not require witnesses or additional investigation. This pilot program is currently limited to the San Diego Office of the Attorney General (AG).

Committee Discussion:

Ms. Bayless reported that of the 98 cases referred to the San Diego AG's office in FY 2015/16 only nine (9) were accepted as Fast Track. In an effort to increase the number of cases accepted, a Fast Track desk was implemented on October 3, 2016. The Fast Track desk creates a single point of contact for the transmittal and monitoring of these cases. Fast Track staff will take a more proactive role in communicating with the AG's office to increase the number of cases accepted and discuss the possibility of expanding this program to other AG office locations.

Mr. Moreno requested information relative to the financial impact of the proposed modifications. Dr. Brown responded that a cost savings is anticipated due to the following factors: Fast Track cases require less hours to handle; and, when settled, additional savings is expected due to a lack of expenditures required for administrative hearing.

6. DISCUSSION REGARDING COST RECOVERY AND POTENTIAL BOARD PRESENTATION. (Attachment E)

The Committee reviewed information regarding Cost Recovery. Ms. Bayless reported that cost recovery is requested in all cases except statement of issues (where an applicant has appealed the denial of a license). Cost recovery includes costs related to the investigation and prosecution of a case.

Committee Discussion:

Mr. Moreno asked if Division staff negotiate itemized costs or the total cost recovery amount. Ms. Bayless responded Division staff consider the total costs when discussing a reduction to costs. Financial hardships are considered if this issue is raised during settlement negotiations.

Mr. Dierking asked if cost recovery paid is considered an account receivable. Dr. Brown stated the Board cannot base its budget on cost recovery ordered due to the inability to forecast the amount received. The majority of probationers pay cost recovery in monthly installments. The money goes into our reserves and cannot be spent.

Ms. Bayless stated that failure to pay cost recovery by the end of probation is considered a violation of probation.

7. STAFFING UPDATE.

Dr. Brown reported that the Enforcement Division has an 8% vacancy rate and less than 1% turnover. As a whole, the Board has a 12% vacancy rate.

In the Education Division, we now have six (6) Nurse Education Consultants. The Licensing Division is now staffed with an Evaluation Manager and recruitment for a Support Services Manager is in process. Recruitment is underway for a Special Investigator for the Enforcement Division and a Staff Services Analyst (Retired Annuitant) is scheduled to begin employment soon to assist with the workload assigned to the Probation Unit. By the end of the year, all vacancies are expected to be filled.

8. SUGGESTIONS FOR FUTURE AGENDA ITEMS.

No suggested future agenda items.

9. ADJOURNMENT.

The meeting was adjourned at 4:47 P.M.

Attachment A: Role of Committee

Attachment B: Fiscal Year 15/16 Performance Measures Quarter 3 and 4

Attachment C: Fiscal Year 2015/16 Enforcement Statistics

Attachment D: Cost Recovery Summary

Agenda Item #20, Attachment A

Role of the Enforcement Committee

The Enforcement Committee (Committee) of the Board of Vocational Nursing and Psychiatric Technicians (Board) provides a crucial role in achieving the Board mandate of ensuring consumer protection. The Board President appoints the two (2) member Committee panel.

This Committee's focus and purpose is to provide oversight of the functions and performance of the Board's Enforcement Division. The Committee oversees, develops and recommends policies that advance mission-related goals which are directly guided by the Board's strategic plan.

The Committee reviews and evaluates the Board (Enforcement) statistical reports, while monitoring workload trends to ensure the Board enforcement function is meeting the established goals and guidelines.

The Committee routinely meets quarterly, prior to the Board's public meeting, to compile a *summary report* which is to be presented during the Board's public meeting. The Committee's *summary report* and recommendations are discussed, modified and/or acted upon by the Board during the public meeting.

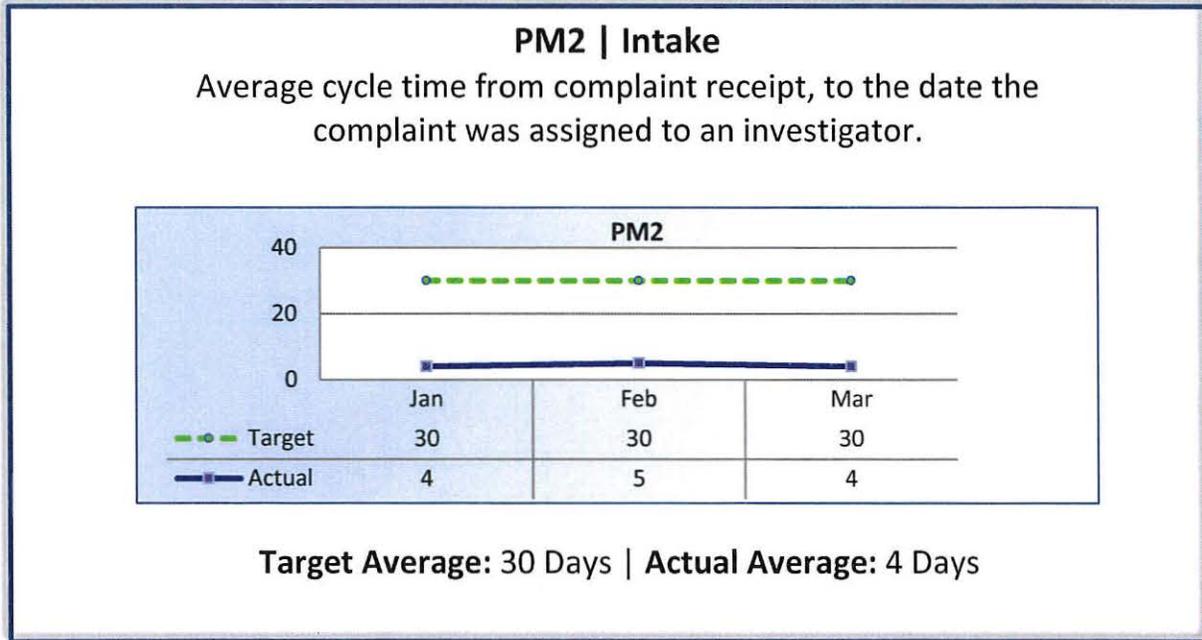
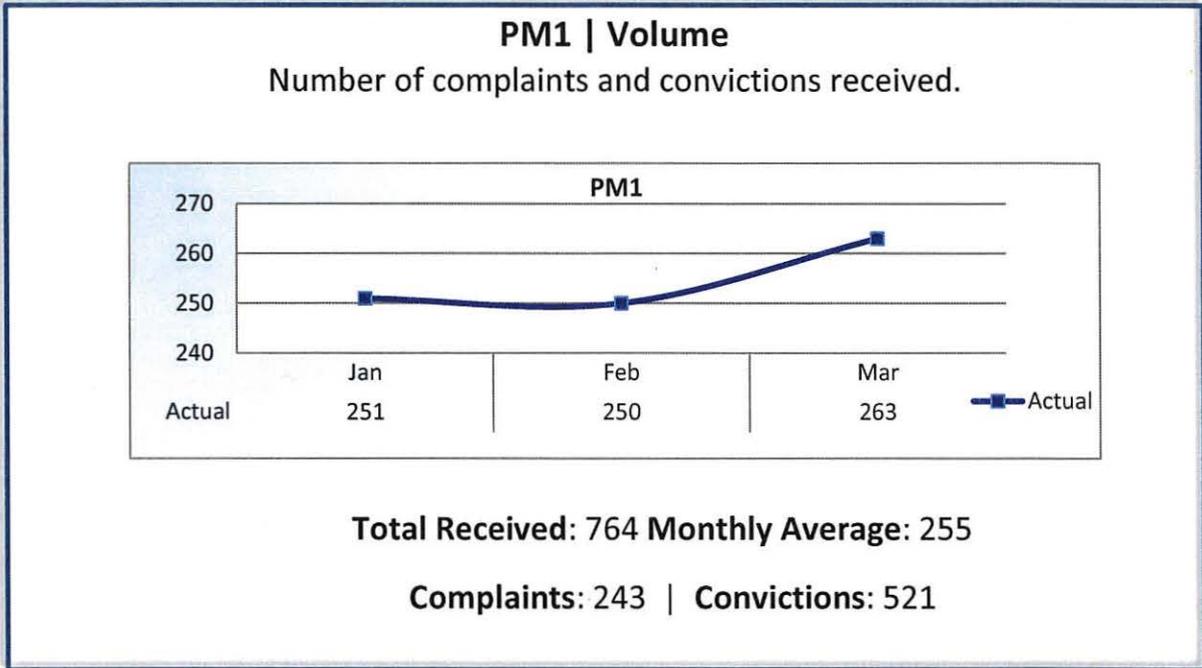
Department of Consumer Affairs

Board of Vocational Nursing and Psychiatric Technicians

Performance Measures

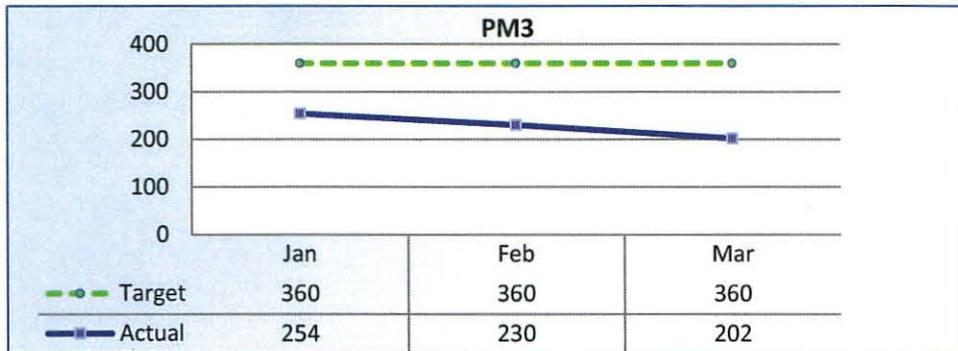
Q3 Report (January – March 2016)

To ensure stakeholders can review the Board’s progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.



PM3 | Intake & Investigation

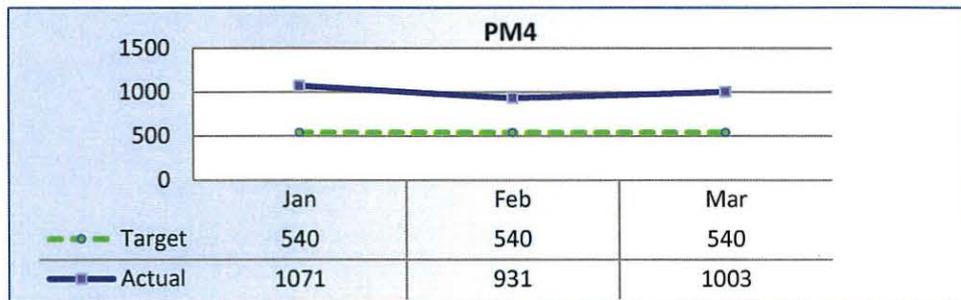
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 360 Days | Actual Average: 228 Days

PM4 | Formal Discipline

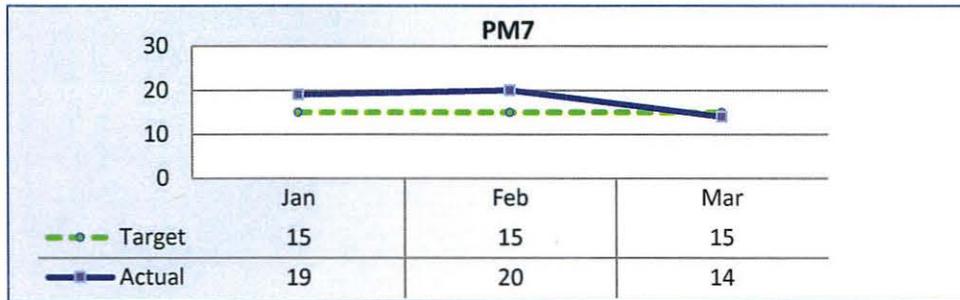
Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)



Target Average: 540 Days | Actual Average: 998 Days

PM7 | Probation Intake

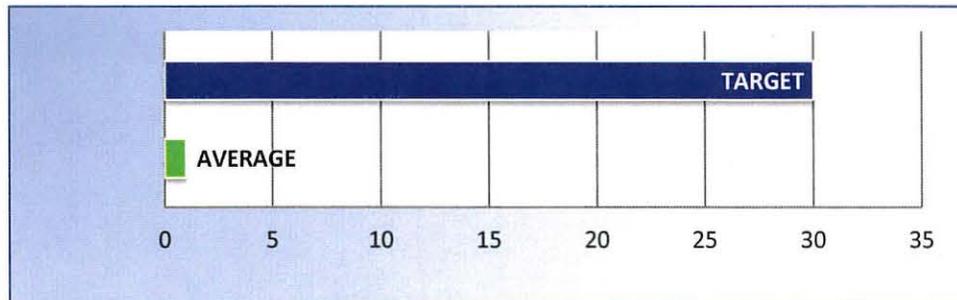
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 15 Days | Actual Average: 18 Days

PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.



Target Average: 30 Days | Actual Average: 1 Day

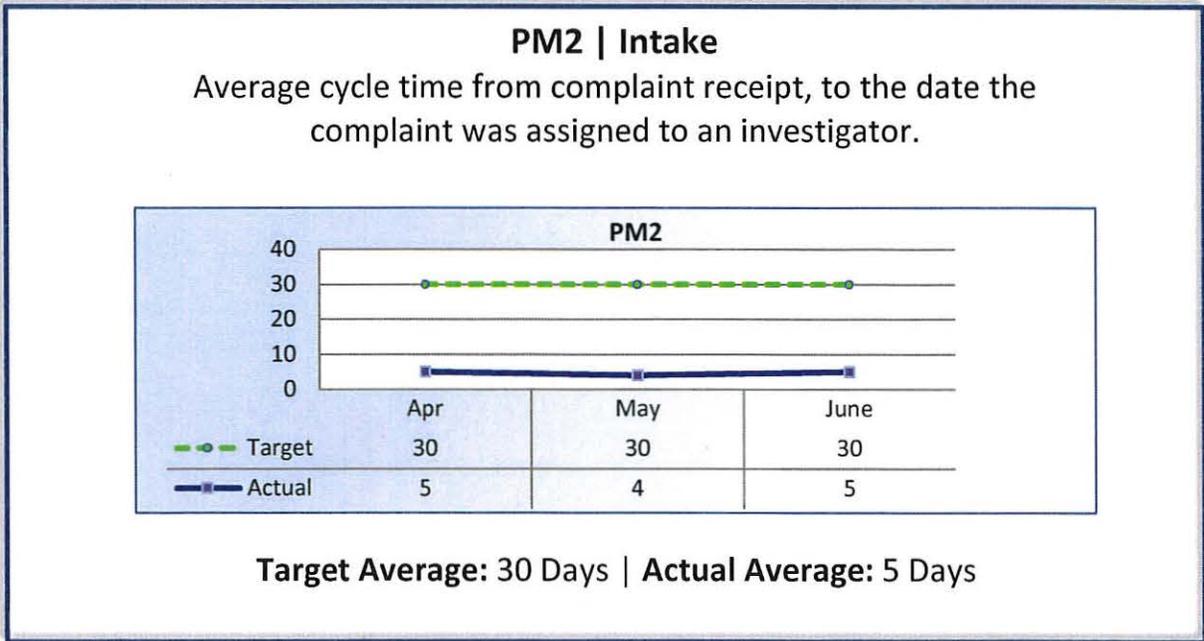
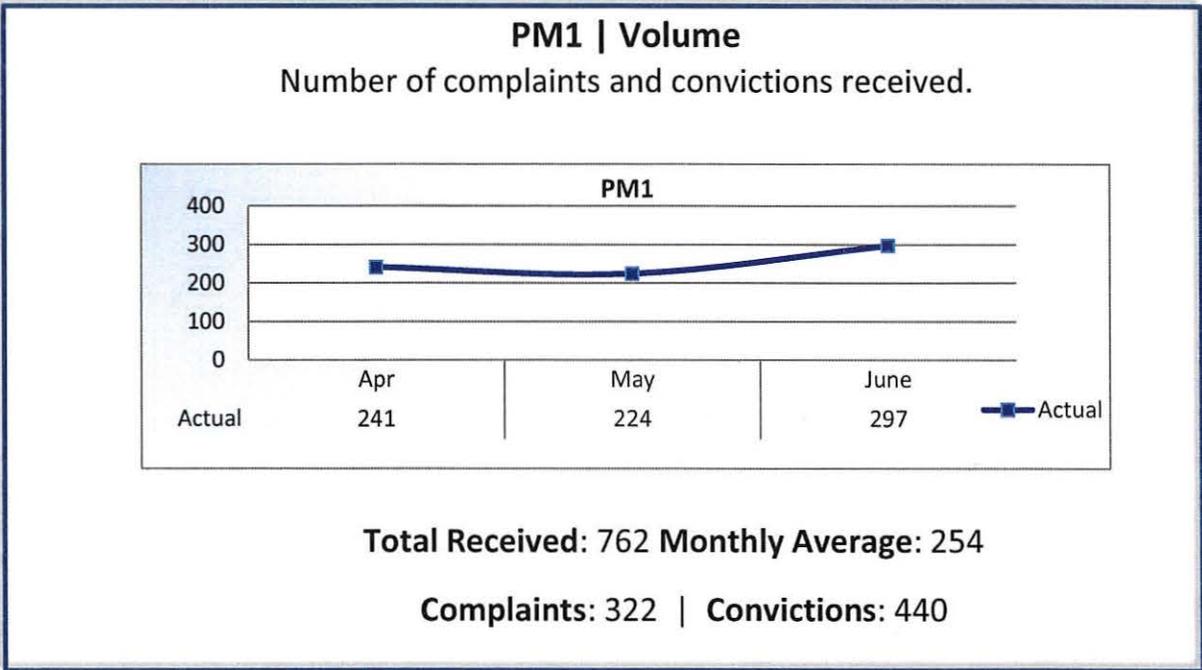
Department of Consumer Affairs

Board of Vocational Nursing and Psychiatric Technicians

Performance Measures

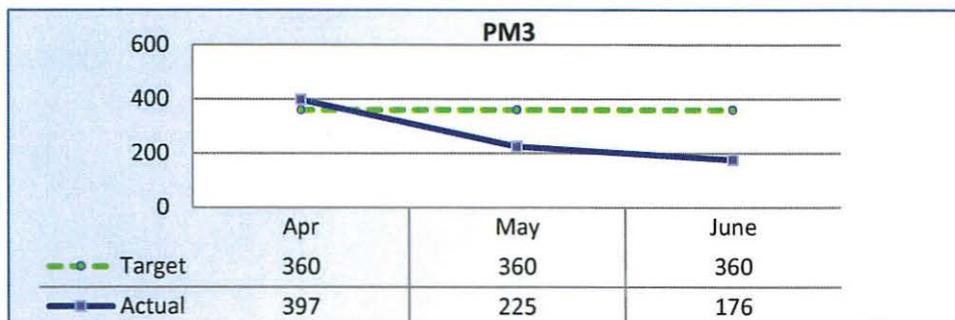
Q4 Report (April - June 2016)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.



PM3 | Intake & Investigation

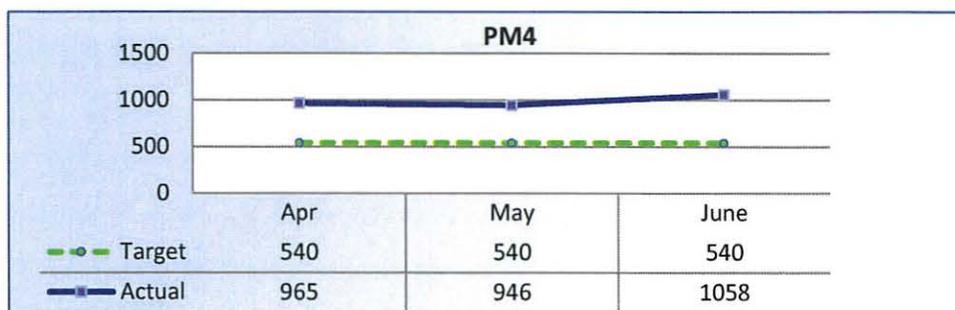
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 360 Days | Actual Average: 276 Days

PM4 | Formal Discipline

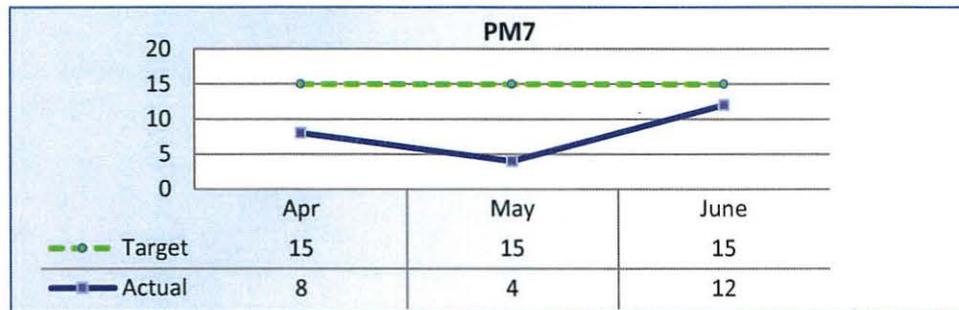
Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)



Target Average: 540 Days | Actual Average: 1,003 Days

PM7 | Probation Intake

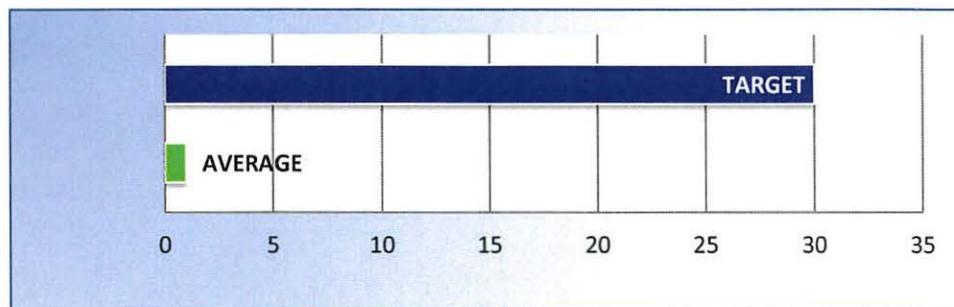
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 15 Days | Actual Average: 6 Days

PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.



Target Average: 30 Days | Actual Average: 1 Day



DATE: October 6, 2016

TO: Enforcement Committee Members

FROM: Gina Bayless
Enforcement Division Chief

SUBJECT: Enforcement Statistics

Overview of Enforcement Activity and programs trends as of June 30, 2016:

Intake:

- FY 2014/15 to FY 2015/16: Number of Complaints Received decreased by 36%, from 5,416 to 3,452.

All Investigation:

- We have achieved significant decreases in the number of cases pending. From FY 2014/15 to FY 2015/16, we achieved a 63% decrease in total number of cases pending and a 30% decrease in average days to close all cases.

Desk Investigations:

- FY 2014/15 to FY 2015/16: Number of Pending Desk Investigations decreased by 76%, from 2,518 desk investigations pending to 602 desk investigations pending.

Non-Sworn Investigations:

- FY 2014/15 to FY 2015/16: Number of Non-Sworn Investigations Pending decreased by 48.56%, from 731 non-sworn investigations pending to 376 non-sworn investigations pending.

Sworn Investigations:

- FY 2014/15 to FY 2015/16: Decrease in Average Days to Close largely due to the differences in reporting between the CAS and BreEZe systems*. Weighted average between CAS and BreEZe data for average days to close therefore not applicable.

Discipline:

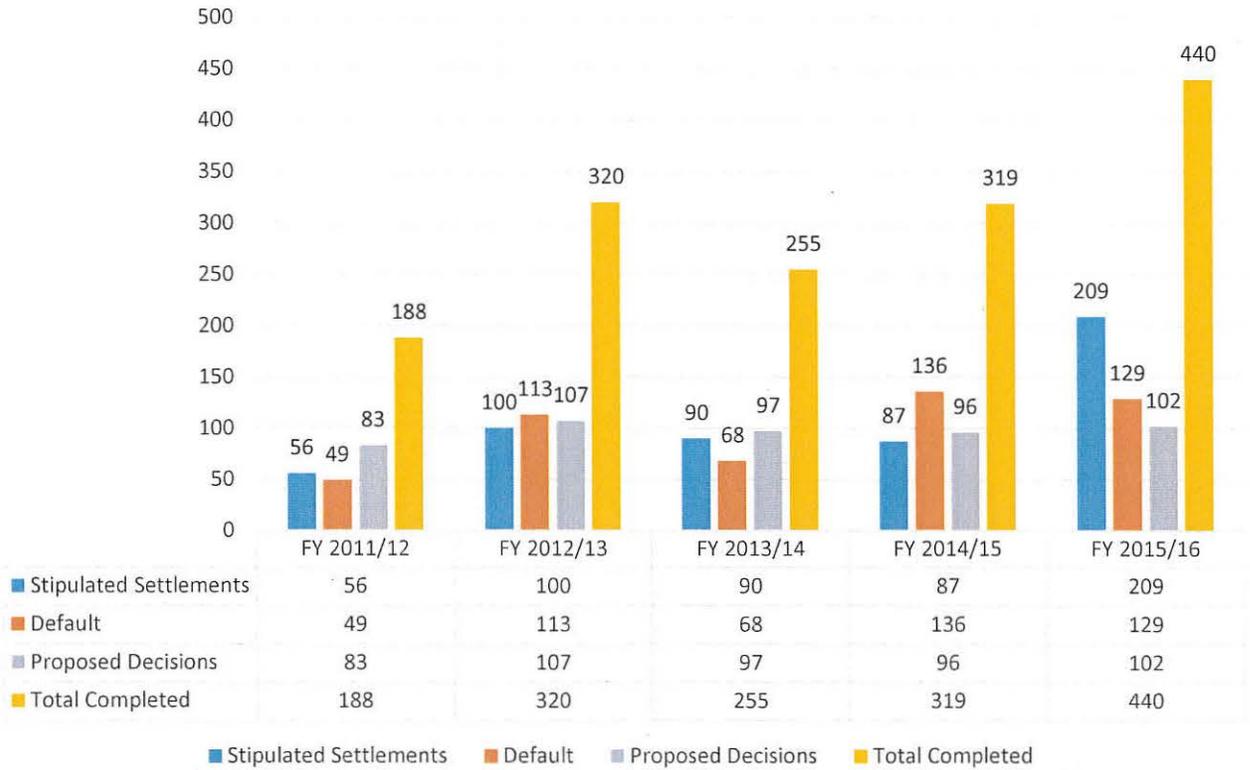
- Number of AG Cases Pending has decreased by 32% from FY 2014/15 to FY 2015/16.

- The decrease in License Applications Denied and SOIs Filed is due to new Applicant Referral Procedures. Applicant cases received decreased from 3,320 to 739.

Overview of Enforcement Activity						
Enforcement Volume	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17
Intake						
Complaints Received	673	717	647	561	1061	
Arrest/Conviction Reports	4,975	4,307	5,150	4,855	2391	
Total Complaints Received	5,648	5,024	5,797	5,416	3,452	
Investigations Assigned						
Desk Investigations	5,301	4,637	5,413	5,344	3,325	
Non-Sworn Investigation	759	712	451	443	365	
Sworn/DOI Investigations	97	15	0	130	373	
Total Complaints Assigned for Investigation	6,157	5,364	5,864	5,450	4,063	
Investigations Pending						
Desk Investigations	4,105	3,667	3,745	2,518	602	
Non-Sworn Investigations	514	954	911	731	376	
Sworn/DOI Investigations	157	81	14	131	281	
Total Investigations Pending	4,776	4,702	4,670	3,380	1,259	
Investigations Completed						
Desk Investigations	4,768	4,876	5,249	6,251	4,827	
Non-Sworn Investigations	272	251	494	513	541	
Sworn/DOI Investigations	106	91	68	17	189	
Total Investigations Completed	5,146	5,218	5,811	6,781	5,557	
Average Days to Complete Investigations						
Desk Investigations	289	246	224	419	236	
Non-Sworn Investigations	315	509	584	601	713	
DOI Investigations	682	771	899	948	416	
Overall Average Days to Complete Cases	298	267	262	435	304	
Closed Without Discipline	4,813	4,950	5,400	6,486	5,152	
Average Days to Close	281	253	242	432	296	
Formal Discipline						
Cases Referred to AG's Office	401	285	370	290	364	
Cases Pending at AG	648	549	593	503	342	
Accusations Filed	251	217	237	284	257	
Statement of Issues Filed	82	68	50	69	30	
Petition to Revoke	20	15	14	19	25	
Total Disciplinary Actions Completed¹	188	320	255	319	440	
Average Days to Complete Discipline	1,018	1,080	1,103	1,129	1,005	

¹ Does not include Petition for Reinstatement, Petition for Reduction of Penalty/Early Termination, or Citation Appeals. 2016 measures Imposed Date.

Discipline Cases Completed



Agenda Item #20, Attachment E



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

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MEMORANDUM

DATE	October 6, 2016
TO	Enforcement Committee Members
FROM	Gina Bayless Enforcement Division Chief
SUBJECT	Cost Recovery

Pursuant to Business and Professions Code Section 125.3, the Board is authorized to request that its licensees who are disciplined through the administrative process reimburse the Board for its costs of investigating and prosecuting the cases. Cost recovery is requested regardless of whether the case is settled by stipulation or proceeds to an administrative hearing.

During the settlement process, the Board may offer to reduce costs as an incentive to settle a case prior to a hearing. This strategy is beneficial to all parties in that hearing costs and time to resolve the matter are reduced, the individual may continue to practice while on probation, and the individual's violations and probation terms are publicly disclosed sooner.

Probationers are afforded a payment schedule to satisfy the cost recovery, spreading the payments throughout the probation term. However, compliance with cost recovery is also a condition of probation. Non-compliance with this condition may result in the case returning to the Office of the Attorney General to seek revocation or to extend the probation term until the cost recovery is paid in full.

Cost recovery is not always collected in disciplinary cases that resulted in the surrender of a license. Often, one of the terms in the final order accepting the license surrender requires that the cost recovery must be paid in full, if the individual were to reapply to the Board. In these situations, the individual may never reapply and the Board will not collect the cost recovery.

The board does not have the authority to seek cost recovery in a statement of issues case (where an applicant has appealed the denial of his or her application).

Cost Recovery (Dollars in Thousands)		
	FY 2014/15	FY 2015/16
Cases Recovery Ordered	141	205
Amount of Cost Recovery Ordered	\$532	\$623
Amount Collected	\$169	\$183