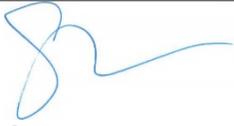


MEMORANDUM

DATE	October 25, 2017
TO	Psychology Board Members
FROM	 Sandra Monterrubio, Enforcement Program Manager Board of Psychology
SUBJECT	Enforcement Report, Agenda Item 13

Please find attached the Overview of Enforcement Activity, detailing statistics for complaints, investigations, and discipline for the current fiscal year. As a reference, attached is the Performance Measures.

For each case review, the Board of Psychology (Board) tracks the processing timeline. The actual processing time is tracked against a recommended timeline, in accordance with a "Performance Measures" report. The Performance Measures establish metrics for processing timelines and illustrates the specific phases of a case review from start to finish.

For cases that result in disciplinary action against a licensee, the Board refers to "Performance Measure (4)", which details the four distinct phases, as follows:

- **PM4a: Intake Only** – This represents the length of time between when the board receives a complaint and when the complaint is assigned to an Enforcement Analyst. When the case is assigned to an Enforcement Analyst, this phase ends.
- **PM4b: Investigation Only** – This represents the length of time that starts when the Enforcement Analyst begins their initial desk review and refers the case to the field for a formal investigation by a sworn investigator. When that field investigation is concluded and the Enforcement Analyst receives the case back from the field, this phase ends.
- **PM4c: Pre-AG Transmittal** – This represents the length of time that starts when the Enforcement Analyst receives the case back from the field investigator and runs

until the Enforcement Analyst refers the case to the Attorney General's Office (AG) for discipline. This phase ends when the Enforcement Analyst transmits the case to the AG.

- PM4d: Post-AG Transmittal – This represents the length of time that starts when the case is accepted by the AG's office. This phase includes the time it takes for the AG to draft an Accusation, set a date for hearing (the number of days that pass before that hearing takes place is counted here as well) and to finally settle the case, either at hearing or through a stipulated settlement negotiated between the board, Respondent and the AG.

For example, as of July 2017, the average processing time was approximately 656 days from intake at the Board through the disciplinary decisions at the AG.

Below is a snapshot of how the average-processing timeline was accumulated:

PM4a: Intake Only – On average, it took four (4) days to assign a new case to an Enforcement Analyst once it had been received at the Board.

PM4b: Investigation Only – On average, it took (523) days for a case to be investigated in the field by a sworn investigator before being returned to the board to decide its disposition. This also includes the time it took for the Enforcement Analyst to complete their initial desk investigation.

PM4c: Pre-AG Transmittal – On average, it took (33) days from the time the case was returned to the board by the investigation unit before the case was referred to the AG by the board. This includes the time before the AG formally accepts the case in its current form.

PM4b: Post-AG Transmittal – On average, it took (99) days from the time the case was referred to the AG for the AG to settle the case, possibly through a hearing or through a board-approved stipulation. This phase ends upon the effective date of the case closure or the date the discipline becomes effective.

**These averages represent the data analysis for the indicated period and a don't necessarily reflect the most current information. The sub-PM averages do not always add up to the overall average due to the way BreEZe rounds the data.*

Staffing

The Board is currently looking to hire a 24-month limited term Associate Governmental Program Analyst to the unit and backfill the Special Investigator position previously occupied by Barbara Tanner. Ms. Tanner accepted an employment position outside of state service. The Associate Governmental Program Analyst will be responsible for desk investigations, assigning experts to review case material, processing Accusations and Stipulated Settlements through the Office of the Attorney General. The Special Investigator will be responsible for investigating the most complex cases, collecting arrest and conviction documents, interviewing witnesses and testifying at hearings. The Enforcement Program Manager will be working with Human Resources to fill both positions within the next 4-6 weeks.

Expert Reviewer Program

The Board will be holding its next Expert training on November 3, 2017, in Los Angeles. The Office of the Attorney General, Division of Investigation, Board staff and a Board Expert will all be presenting at the training.

Expert reviewers are licensed psychologists who perform case reviews for the Board's Enforcement Program and perform Board-ordered psychological evaluations. Expert reviewers must meet the following criteria:

- Have held a valid license for at least three consecutive years prior to submitting an application to become an expert reviewer
- Have an active practice, which is defined as at least 80 hours per month consisting of direct patient care, clinical activity, psychometric testing and/or teaching. However, at least 40 hours must be in direct patient care
- Have three or more years of expertise in specific areas of practice
- Have forensic experience
- Complete an application identifying their top areas of expertise and relevant experience, and sign a statement under penalty of perjury attesting to the application's truthfulness
- Submit a current, dated curriculum vitae ("CV") that documents training, education, relevant experience and current work setting
- Agree to provide copies of publications and/or redacted evaluations, upon request
- Have no prior or current charges or formal disciplinary actions related to any healing arts license, registration, certificate or credential to practice psychology or any other profession or occupation in any state in the United States or foreign country
- Have no criminal convictions, including any that were expunged or dismissed
- Complete the Board's expert training workshop in person and agree to attend subsequent biennial training in order to remain a qualified expert
- Agree to the Board's hourly compensation rates
- Agree to testify at administrative hearings and consult with the Attorney General's Office or investigative staff, whenever necessary
- Agree that the expert reviewer term is two years in length, with an option to apply for renewal at the end of the two-year term

When applying to become an expert reviewer for the Board, each expert must identify their areas of expertise and relevant experience. Their current Curriculum Vitae (CV) must support the identified areas of expertise. The Board is only able to use you as an expert in the areas where they are a qualified expert. Each approved expert reviewer will initially serve a two-year term. At the end of the two-year term, experts wishing to continue to serve as expert reviewers will be required to renew by submitting an expert reviewer application and required documentation.

The Expert Reviewer Program is the backbone of the Board's Enforcement Program, and its effectiveness is vital for fulfilling our legislative mandate to protect California consumers of psychological services from unprofessional, and incompetent practitioners.

Complaint Program

Since July 1, 2017, the Board has received 326 complaints and 11 criminal conviction reports. All complaints received are opened and assigned within nine (9) days of receipt. All cases are reviewed by an enforcement analyst to determine the appropriate action. Attached is the Enforcement Flowchart, detailing the enforcement processes.

Citation Program

Since July 1, 2017, the Board has issued 18 enforcement citations. Citation and fines are issued for minor violations that do not require formal discipline. For example, false or misleading advertising and minor record keeping violations are considered minor violations.

Discipline Program

Since July 1, 2017, the Board has referred 18 cases to the Office of the Attorney General for formal discipline.

Probation Program

Enforcement staff is currently monitoring 52 probationers. Of the 52 probationers, two (2) are out of compliance.

Attachments

Overview of Enforcement Activity
Performance Measures
Enforcement Flowchart

Action Requested

This item is for information purposes only.

BOARD OF PSYCHOLOGY
Overview of Enforcement Activity

License & Registration	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17
Psychologist	20,307	21,019	21,527	22,020	22,688	****	20,575	20,024	20,596
Registered Psychologist	324	320	312	320	349	****	280	278	249
Psychological Assistant	1,397	1,429	1,507	1,635	1,727	****	1,701	1,466	1,442
Cases Opened	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17
Complaints Received	786	712	785	747	707	643	900	798	1042
Criminal Conviction Reports Received	72	54	48	70	42	133	72	50	39
Investigations Opened	88	79	83	107	73	505	736	602	771
Cases sent to DA	2	3	3	5	6	0	0	0	0
Cases sent to AG	23	38	37	34	38	41	46	33	45
Filings	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17
Accusations	8	23	21	27	31	27	30	23	27
Statement of Issues	9	8	4	4	2	4	10	5	7
Petition to Revoke Probation	0	0	0	3	1	2	2	3	1
Petitions to Compel Psych. Exam	0	0	1	1	0	1	0	1	0
Petitions for Penalty Relief	3	1	0	1	1	2	0	0	3
Petition for Reinstatement	1	1	0	2	1	1	0	0	2
Petitions for Reconsideration	0	1	0	0	2	0	0	0	0
Filing Withdrawals/Dismissals	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17
Accusations Withdrawn	0	0	2	0	0	2	0	5	0
Accusations Dismissed	0	1	0	1	1	0	1	4	1
Statement of Issues Withdrawn	5	0	2	1	0	0	0	0	1
Citations	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17
Citations Ordered	5	10	9	18	10	6	11	27	32
Disciplinary Decisions	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17
Revocations	1	3	2	4	2	4	2	4	2
Revocation, Stayed, Probation	7	9	12	11	11	11	12	24	16
Revoked, Stayed, Probation, Susp.	3	0	0	0	0	0	0	0	0
Surrender	8	3	2	11	10	10	9	12	26
Reprovals	0	0	1	2	0	2	1	3	3
ISO/TRO/ASO/PC23 Ordered	3	4	1	4	3	2	2	2	1
Statement of Issues-License Denied	1	1	0	1	1	0	2	0	0
Total Disciplinary Decisions	23	20	18	33	27	29	28	45	48
Other Decisions	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17
Statement of Issues-License Granted	4	5	4	3	6	3	1	1	0
Petitions for Penalty Relief Denied	1	0	0	0	0	0	0	0	2
Petitions for Penalty Relief Granted	3	1	1	1	1	1	0	0	1
Petition for Reinstatement Granted	1	0	0	0	1	0	0	0	0
Petition for Reinstatement Denied	0	0	1	1	1	0	0	0	2
Reconsiderations Denied	0	0	1	0	1	0	0	1	0
Reconsiderations Granted	0	1	0	0	1	0	0	0	0
Orders Compelling Psych. Exam	0	0	0	1	0	1	0	0	0
Total Other Decisions	9	7	7	6	11	5	1	2	5
Violation Types	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17
Gross Negligence/Incompetence	5	4	4	3	5	9	7	23	29
Improper Supervision	0	0	1	0	0	1	0	1	0
Repeated Negligent Acts	0	0	0	1	0	6	6	22	31
Self Abuse of Drugs or Alcohol	2	3	3	12	1	8	3	7	15
Dishonesty/Fraud	0	3	0	2	2	3	3	6	8
Mental Illness	1	0	0	0	2	1	0	4	5
Aiding Unlicensed Practice			0	0	0	1	0	1	0
General Unprofessional Conduct	1	1	1	0	2	14	2	5	2
Probation Violation	1	0	0	2	1	2	0	3	26
Sexual Misconduct	6	1	2	6	9	1	1	6	14
Conviction of a Crime	7	9	8	5	5	11	12	18	23
Discipline by Another State Board	1	0	1	1	0	0	0	5	5
Misrepresentation of License Status						1	1	1	1
Professional Standards - Findings						13/14	14/15	15/16	16/17
Abandonment						1	0	0	0
Confidentiality						1	1	1	4
Failure to provide medical records						0	2	1	2
Outside of area of competence						1	0	3	5

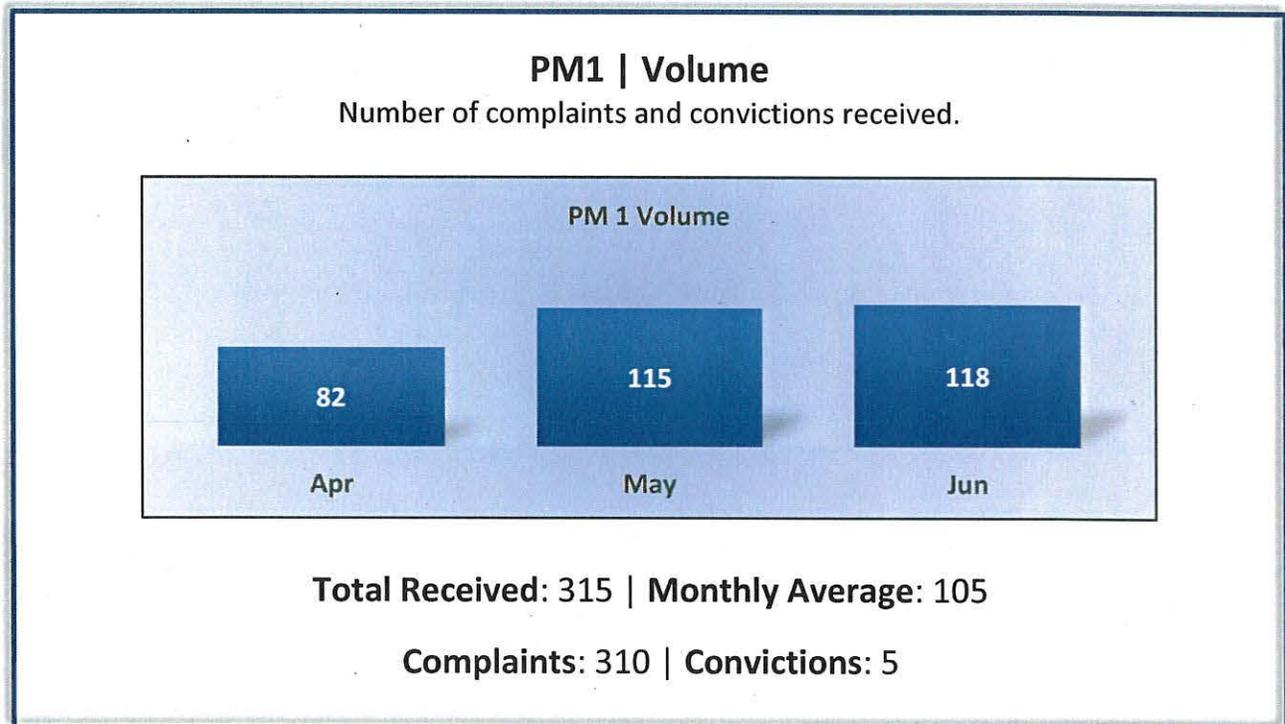
*Statistics through October 23, 2017

****Statistics unavailable

Enforcement Performance Measures

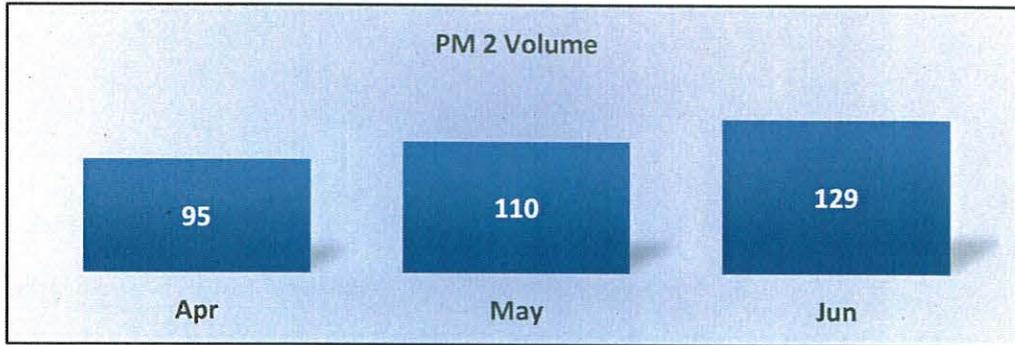
Q4 Report (April - June 2017)

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.



PM2 | Intake – Volume

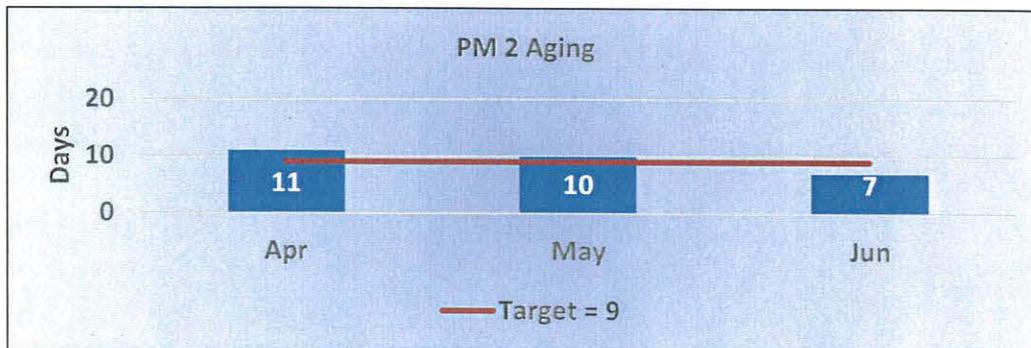
Number of complaints closed or assigned to an investigator.



Total: 334 | Monthly Average: 111

PM2 | Intake – Cycle Time

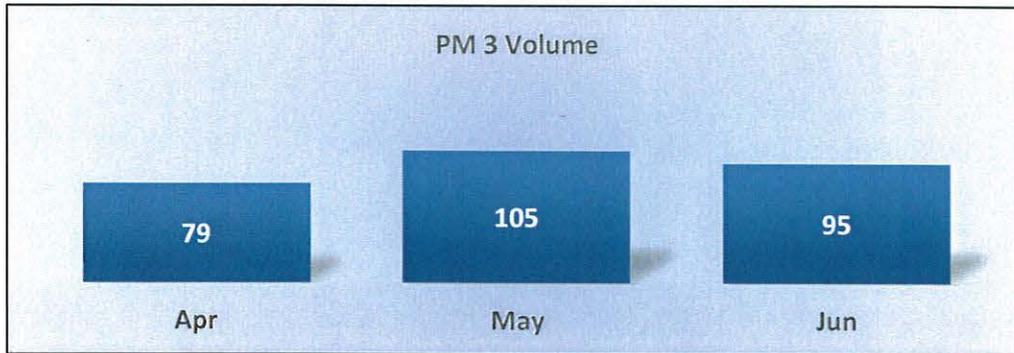
Average number of days from complaint receipt, to the date the complaint was closed or assigned to an investigator.



Target Average: 9 Days | Actual Average: 9 Days

PM3 | Investigations – Volume

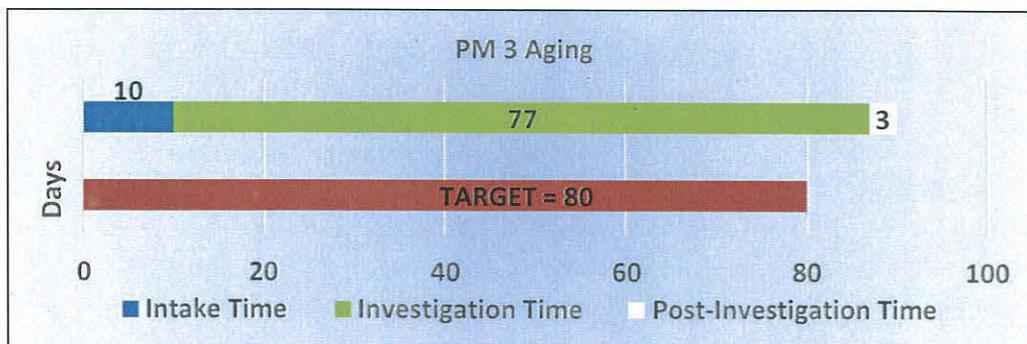
Number of investigations closed (not including cases transmitted to the Attorney General).



Total: 279 | Monthly Average: 93

PM3 | Investigations – Cycle Time¹

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

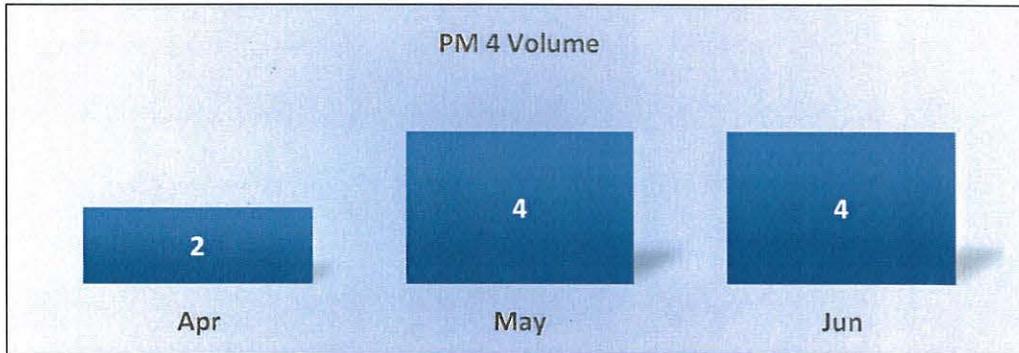


Target Average: 80 Days | Actual Average: 92 Days

¹ Due to rounding, there might be small discrepancies between the PM3 "Actual Average", and the sum of the individual case stages (i.e., Intake time + Investigation time + Post-Investigation time).

PM4 | Formal Discipline – Volume

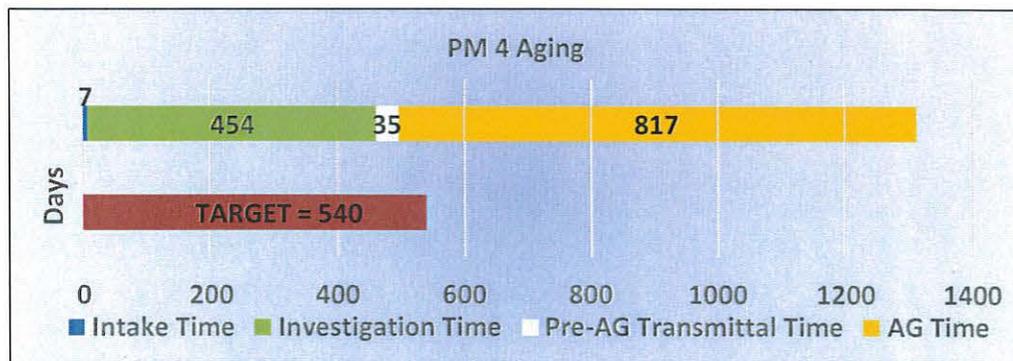
Cases closed after transmission to the Attorney General for formal disciplinary action. This includes formal discipline, and closures without formal discipline (e.g., withdrawals, dismissals, etc.).



Total: 10 | Monthly Average: 3

PM4 | Formal Discipline – Cycle Time²

Average number of days to close cases after transmission to the Attorney General for formal disciplinary action. This includes formal discipline, and closures without formal discipline (e.g., withdrawals, dismissals, etc.).

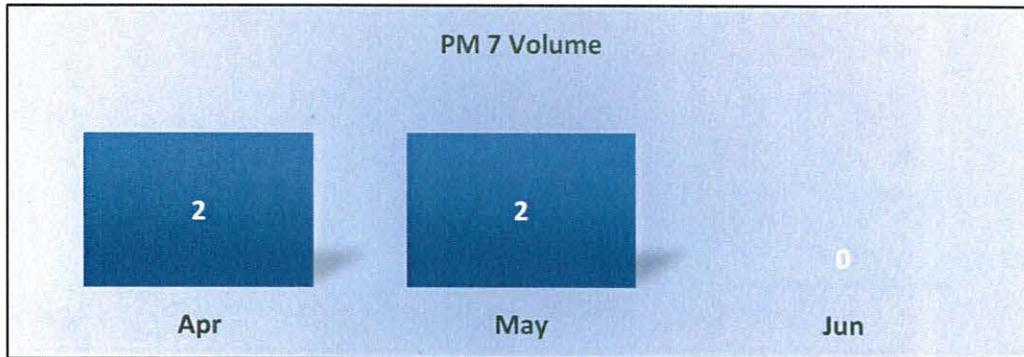


Target Average: 540 Days | Actual Average: 1,306 Days

² Due to rounding, there might be small discrepancies between the PM4 "Actual Average", and the sum of the individual case stages (i.e., Intake time + Investigation time + Pre-AG Transmittal time + AG time).

PM7 | Probation Intake – Volume

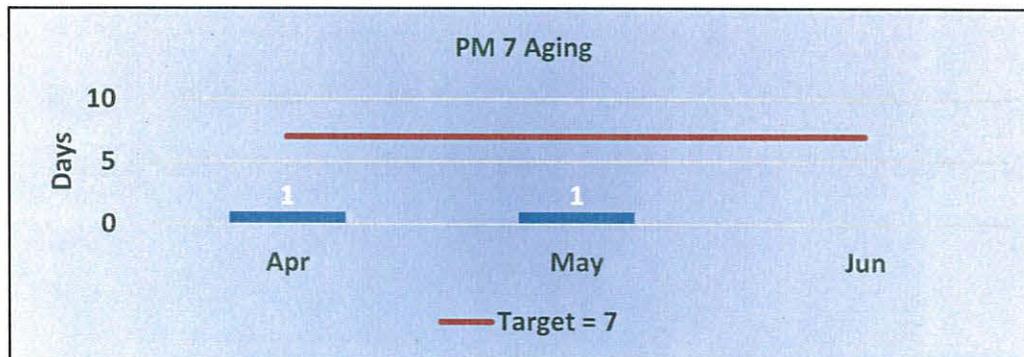
Number of new probation cases.



Total: 4

PM7 | Probation Intake – Cycle Time

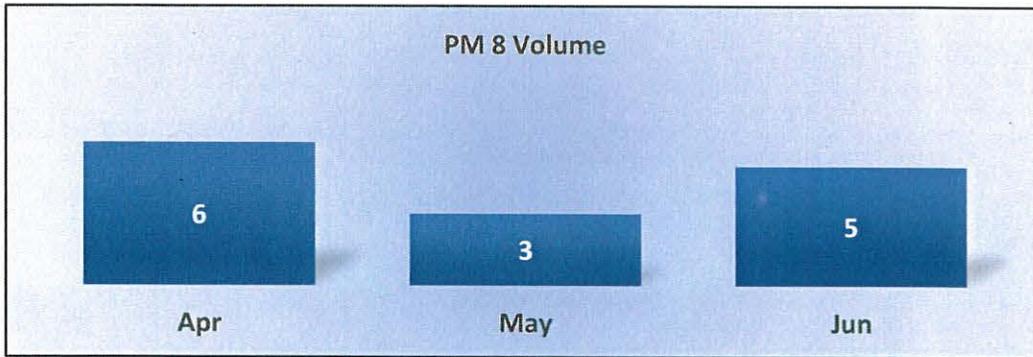
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 7 Days | Actual Average: 1 Day

PM8 | Probation Violation Response – Volume

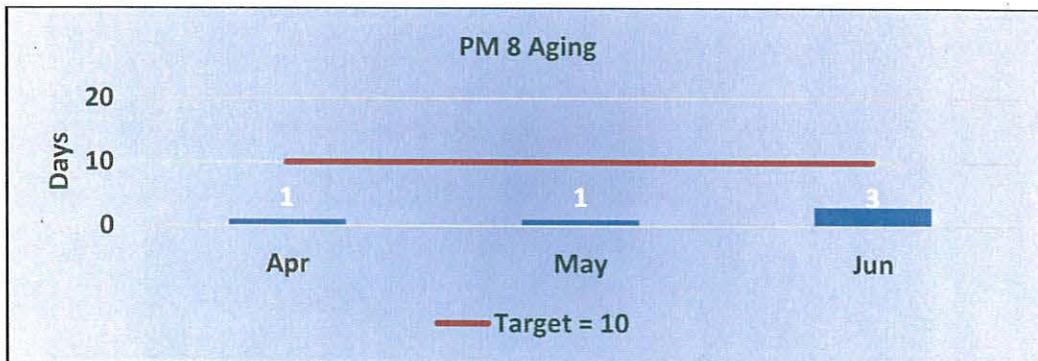
Number of probation violation cases.



Total: 14

PM8 | Probation Violation Response – Cycle Time

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



Target Average: 7 Days | Actual Average: 2 Days



California

PSYCHOLOGY

ENFORCEMENT FLOWCHART



COMPLAINT DESK INVESTIGATION
Complaint is assigned to Enforcement Analyst/Special Investigator to determine:

- If immediate investigation is needed. If yes, refer complaint to appropriate district office.
- Whether the complaint is within the Board's jurisdiction. If not, refer to the appropriate agency.
- If more information is needed, the analyst requests this from the complainant.
- Whether the complaint involves care provided by the licensee. If so, patient records and a response are obtained and reviewed by a psychology expert.
- Whether a minor violation of the laws and regulations has occurred. If so, the psychologist is contacted and advised of the violation to achieve compliance, or the matter is referred for a citation and fine.
- Whether a serious violation (extreme departure) of the laws and regulations has occurred. If so, the complaint is referred for a formal investigation.



INVESTIGATION
If following review by a psychology expert it is determined that a serious violation (extreme departure) of the laws and regulations has occurred, the case is referred to a Medical Board district office for investigation. Upon completion, the file may be:

- Closed, but retained for one year if no violation is confirmed.
- Closed but retained for five years because the complaint is found to have merit, but lacks sufficient evidence to take action.
- Referred to the Attorney General's Health Quality Enforcement Section to determine whether to initiate disciplinary action.
- Referred for other non-disciplinary action, or criminal action.

CITATION & FINE
Minor violations of the laws and regulations may result in administrative citation and fine rather than formal disciplinary action. Minor violations include:

- Failure to provide patient records.
- Practicing with an expired license.
- Misleading advertisement.
- Failure to properly supervise a psychological assistant.



ATTORNEY GENERAL
If the assigned Deputy determines the case meets the legal standard of clear and convincing evidence, the Deputy drafts formal charges (Accusation), and a hearing is scheduled. During the pre-hearing conference, a stipulated settlement of the charges/penalties may be accepted by both sides. If this occurs, a hearing is not needed. In some cases, the Board may direct the Deputy to file a petition to compel the licensee to submit to a competency examination or a psychological evaluation before the filing of an Accusation.

BOARD VOTE
The stipulated settlement is reviewed by the Board of Psychology, who have the option to:

- Adopt the stipulated settlement;
- Reduce or increase the penalty. In this instance, if the requested changes are not accepted by the parties, the case will proceed to a hearing.

CRIMINAL PROSECUTION
A completed investigation may be referred to a local district or city attorney for prosecution of suspected criminal violations.



ADMINISTRATIVE HEARING
If the licensee contests the charges, the case is heard by an Administrative Law Judge (ALJ), who then drafts a proposed decision.

BOARD VOTE
The proposed decision is reviewed by the Board of Psychology, who have the option to:

- Adopt the decision as proposed;
- Reduce the penalty and adopt the decision; or,
- Increase the penalty and adopt a decision.

In this instance, the Board must read the entire record of the hearing prior to acting. The psychologist is given the opportunity to submit written arguments.

APPEAL
Psychologist may petition for reconsideration of a decision for 30 days after it is adopted. Thereafter, psychologist may petition for reinstatement of a revoked license, reduction of terms of penalty, or termination of probation. Various time periods apply before petitions can be filed with the Board. Final decisions may be appealed to the Superior Court, the District Court of Appeal, and to the California Supreme Court.