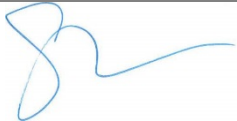


MEMORANDUM

| | |
|----------------|---|
| DATE | June 1, 2017 |
| TO | Board Members |
| FROM |  Sandra Monterrubio, Enforcement Program Manager Board of Psychology |
| SUBJECT | Enforcement Report, Agenda Item 7 |

Enforcement Staff

The Enforcement Unit consists of seven staff which includes an Office Technician, four Enforcement Analysts, a Special Investigator, and a Probation Monitor. The unit has one manager. The Office Technician opens and assigns all complaints received, the Enforcement Analysts perform desk investigations, the Special Investigator conducts formal investigations, and the Probation Monitor effectively monitors all probationers. The manager oversees the unit by meeting with staff to answer case related questions and concerns, reviews and approves cases being referred for formal investigation, formal discipline, and closure.

Responsibilities of the Enforcement Analysts, Special Investigator, and Probation Monitor

The analysts perform desk investigations by reviewing complaints, gathering evidence, and referring cases to subject matter experts; Board Special Investigator; Health Quality Investigative Services (HQIU); and the Division of Investigation (DOI) for formal investigation. The analysts also refer cases to the Office of the Attorney General (OAG) for formal discipline. If a case is referred to a subject matter expert, the analyst provides a complete copy of the case file and requests the expert to opine as to whether or not a violation occurred. If the expert determines there was a violation, the case may result in an educational letter, citation and fine, or formal discipline. If the expert determines the standard of care was acceptable, the case is closed and no further action is anticipated.

The Board's Special Investigator (SI) investigates cases referred by an Enforcement Analyst. The SI interviews the respondent, complainant as needed, witnesses, gathers evidence, and prepares an investigative report detailing the findings of the investigation. Once the investigation is complete, the matter is

referred back to the analyst to determine if there is enough evidence to issue a citation and fine or refer the matter to the OAG for formal discipline. If there is not enough evidence to take an enforcement action, the case is closed.

If a citation and fine is issued, the licensee can appeal the citation through an informal conference and/or request a formal hearing. If an informal conference is requested, the licensee can appear in person at the Board office, submit written argument, or schedule a conference call. Formal hearings are heard before an Administrative Law Judge (ALJ). In these circumstances, the OAG represents the Board. Once the case is heard, the ALJ will write a Proposed Decision and submit his or her recommendation to the Board. The Board members will decide whether to adopt or non-adopt the ALJ's recommendation.

If an investigation determines there is enough evidence to prove the licensee or applicant departed from the standard of care and formal discipline is warranted, the case will be referred to the Office of the Attorney General for a filing of an Accusation or Statement of Issues.

After a licensee or applicant has been disciplined, the subject is placed on probation and monitored by the Board's Probation Monitor.

Complaint Program

Since July 1, 2016, the Board has received 1,042 complaints which is an increase of 31% from last fiscal year. Complaints can be submitted on-line, via fax, or mailed to the Board. All complaints received are opened and assigned to an enforcement analyst. On average, the intake process is completed within seven (7) days of receipt of the complaint.

Investigative Program

In May 2016, the Chief of the Division of Investigation, David Chriss, and Deputy Chief of the Health Quality Investigative Unit, Kathleen Nicholls, met with the Executive Officer and the Enforcement Manager to discuss the prolonged investigative timeframes with HQIU and whether or not the Board would consider a one-year pilot program with DOI in order to reduce investigative timeframes. At that time, investigations through HQIU were taking approximately 24 months to complete. The Board agreed to a one-year pilot program and in July 2016 began referring cases to DOI. To date, approximately 175 cases have been referred to DOI, and the average time to complete those investigations was 12 months. As a result of DOI's ability to significantly reduce investigation timeframes in half, the Board agreed in May 2017 to another one-year contract. The Executive Officer and the Enforcement Manager will meet with DOI representatives every six months to discuss the processing of cases. The Board does continue to refer cases to HQIU that involve sexual misconduct.

As previously described, desk investigations are performed by Enforcement Analysts. Formal investigations are performed by the Board's SI, HQIU, and DOI. Investigations that require a sworn peace officer because of criminal activity or safety concerns are referred to HQIU or DOI, and not the Board's SI.

Citation Program

Since July 1, 2016, the Board has issued 32 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, 2016, the Board has referred 45 cases to the Office of the Attorney General for formal discipline.

Probation Program

There are currently 52 active probationers and 45 tolled probationers. Active monitoring is ensuring that each probationer is complying with each of the terms and conditions of probation which includes, meeting with each new probationer at the onset of probation to discuss all of the terms and conditions of their probation, discussing the status of probation and providing early termination information, conducting a quarterly audit of each probation file, and answering questions from probationers.

There have been 16 individuals whose license/registration has been placed on probation within the last fiscal year. If a probationer is out of compliance, the Board may issue a citation and fine or refer the matter to the Office of the Attorney General for further discipline of their license. For minor violations the probationer will most likely be issued a citation and fine which can include an Order of Abatement to correct the non-compliance. For more egregious violations, or accumulation of minor violations the case would be referred to the Office of the Attorney General for possible revocation or an extension of probation.

The most common probation violations include, but are not limited to the following:

- Failing to check-in to FirstLab (drug testing vendor)
- Missing a selected drug test
- Not obeying all laws
- Failing to notify the Board of any changes in employment
- Failing to submit cost recovery payments
- Missing coursework
- Submitting quarterly reports late

Statistics

Please find attached the Overview of Enforcement Activity displaying complaint, investigation, and discipline statistics for the previous five fiscal years, and the current fiscal year to date. In addition, the most recent Performance Measures have also been included.

Action Requested

This item is for informational 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 | 1,042 |
| 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 |

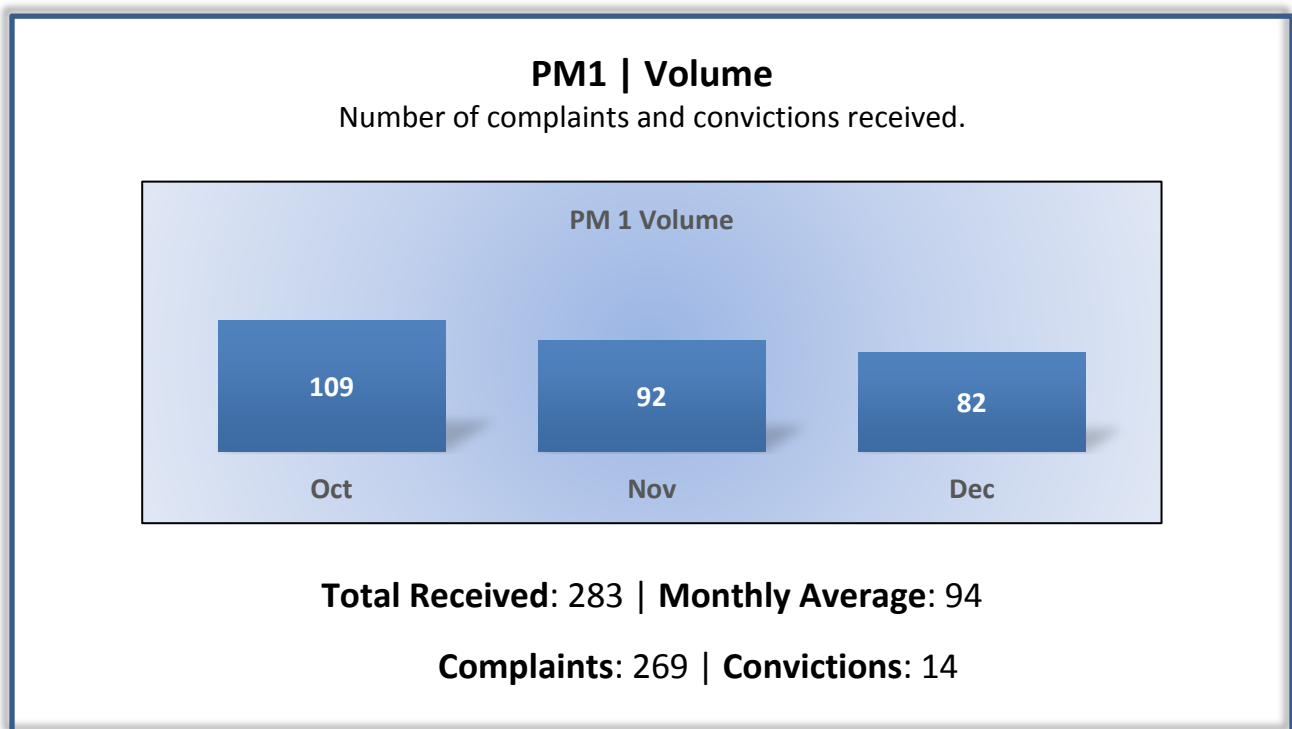
*Statistics through May 26, 2017

****Statistics unavailable

Enforcement Performance Measures

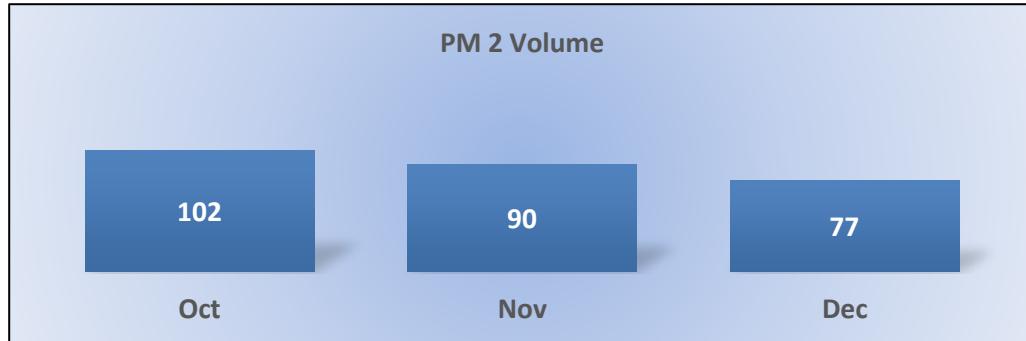
Q2 Report (October - December 2016)

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.



PM2 | Intake – Volume

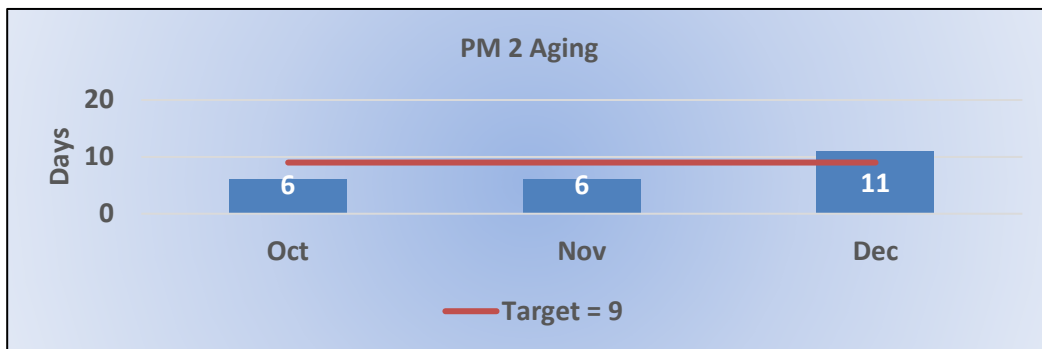
Number of complaints closed or assigned to an investigator.



Total: 269 | Monthly Average: 90

PM2 | Intake – Cycle Time

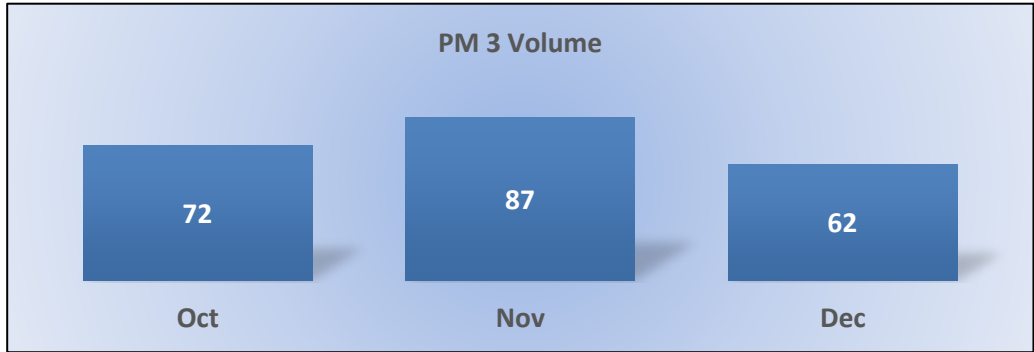
Average number of days from complaint receipt, to the date the complaint was closed or assigned to an investigator.



Target Average: 9 Days | Actual Average: 7 Days

PM3 | Investigations – Volume

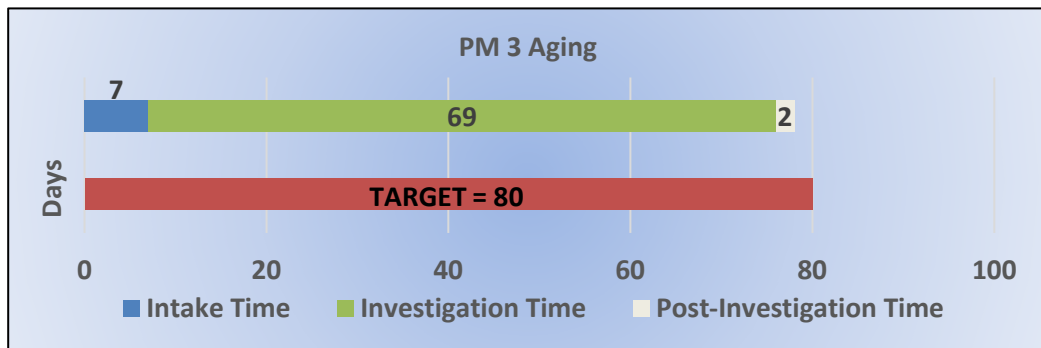
Number of investigations closed (not including cases transmitted to the Attorney General).



Total: 221 | Monthly Average: 76

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.)

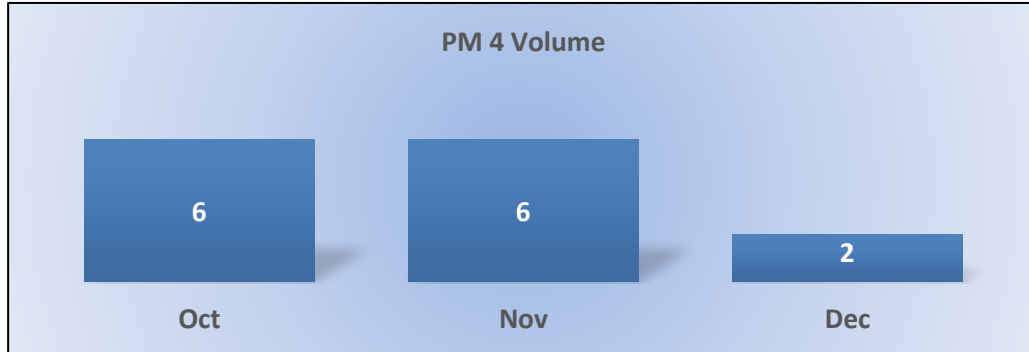


Target Average: 80 Days | Actual Average: 76 Days

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

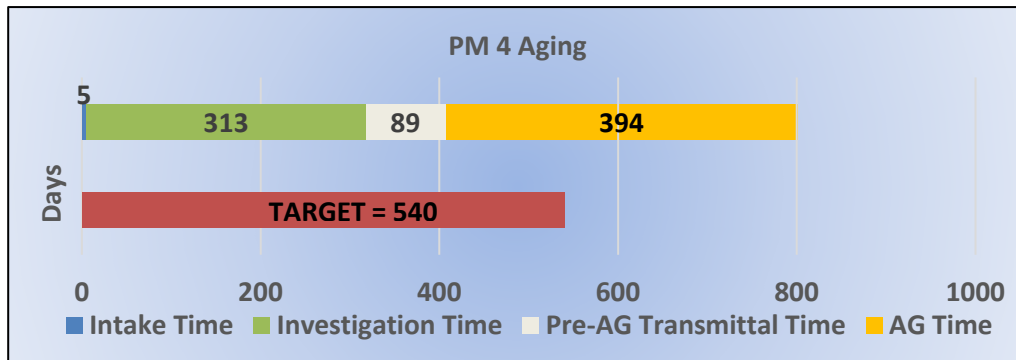
Cases closed after transmission to the Attorney General for formal disciplinary action. This includes formal discipline, and closures without formal discipline (e.g., withdrawals, dismissals, etc.).



Total: 14 | Monthly Average: 5

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.).

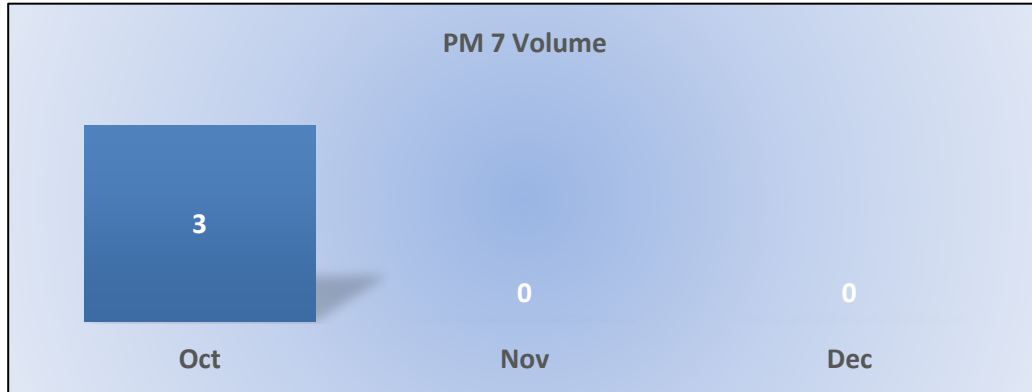


Target Average: 540 Days | Actual Average: 797 Days

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

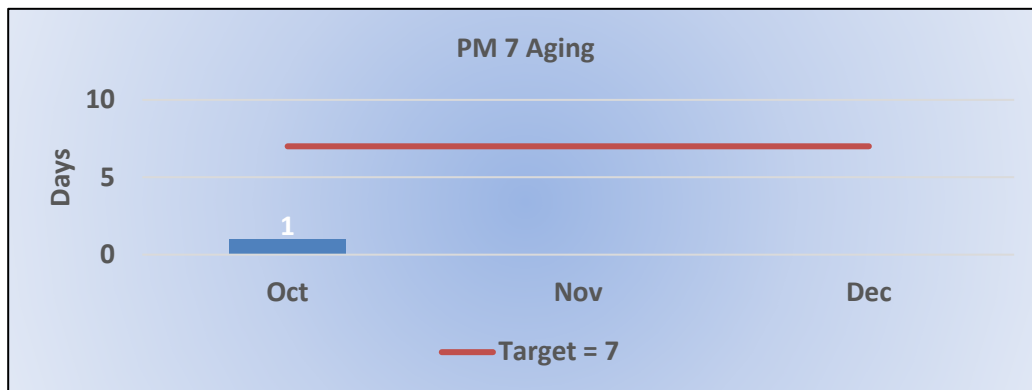
Number of new probation cases.



Total: 3

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.

The Board did not have any probation violations this quarter.

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.

The Board did not have any probation violations this quarter.