



## Agenda Item 9.0

### **Report of the Enforcement/Intervention Committee**

BRN Board Meeting | November 14-15, 2022

Enforcement/Intervention Committee  
November 14-15, 2022

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## Agenda Item 9.1

**Information only:** Enforcement Unit  
and Investigation Unit Update

BRN Board Meeting | November 14-15, 2022

**BOARD OF REGISTERED NURSING  
Agenda Item Summary**

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**AGENDA ITEM: 9.1**

**DATE:** November 14-15, 2022

**ACTION REQUESTED:**     **Information Only:** Enforcement, Intervention & Investigation Update

**REQUESTED BY:**             Patricia Wynne, Esq., Chairperson

**ACCOMPLISHMENTS:**

**General Enforcement and Investigations**

In September 2022, many enforcement and investigations staff attended the National Certified Investigator and Inspector Training (NCIT) basic, 3-day course and in November 2022 they will attend the 3-day specialized course. This course is conducted by Council on Licensure, Enforcement and Regulation (CLEAR) and is a hands-on training and certification program in investigation and inspection techniques and procedures.

We have begun working with National Council of State Boards of Nursing (NCSBN) to participate in a pilot five-year study of alternative to discipline programs for nurses. We will provide data biannually for the next 5 years.

The Office of Organizational Improvement (OIO) continues to work with the Enforcement Division, assessing and mapping out workflows, timeframes, and procedures to streamline and improve internal processes. The OIO team is working with Subject Matter Experts (SMEs) from each unit and staffing level. We will continue to report on the progress of this project in future meetings.

BRN continues to recruit qualified registered nurses with the professional and educational background as Expert Practice Consultants (EPC) to review investigative case materials, prepare written opinions, and evaluate whether an RN deviated from the standards of nursing practice.

The BRN is in critical need of EPCs in the following areas:

- Long Term Care/Skilled Nursing Facility/Geriatric
- Acute Rehabilitation
- Hospice
- Home Health
- OP/Ambulatory/Clinic
- Cosmetic/Botox/Laser

For more information about the Expert Practice Consultant program, please visit the BRN website: <http://rn.ca.gov/enforcement/expwit.shtml>.

Or email us at [Expert.BRN@dca.ca.gov](mailto:Expert.BRN@dca.ca.gov)

## **Complaint Intake**

We have filled our vacant Complaint Intake Staff Services Manager I (SSMI). Alina Shev started in her role on August 8, 2022.

As of October 5, 2022, we have eliminated the alphabetical distribution of all cases and implemented a queue system. This process change will allow for a more even case distribution and decrease the timeframe in which new complaints are processed.

We are now performing a more in-depth initial desk investigation to obtain additional information prior to sending cases to investigations. This process includes cases that do not pose immediate consumer harm and are lacking sufficient information to decide whether the case should remain with BRN investigations or be referred to Division of Investigation (DOI). These duties are in accordance with BRN's Memorandum of Understanding (MOU) with DOI.

## **Investigations**

DOI and BRN continue to follow the Pilot Program initiated in September 2019 that changed case referral guidelines for urgent priority quality of care complaints alleging significant patient harm and/or patient death.

The Pilot was recently reviewed, and recommended changes were made. The updated pilot continues through December 2023.

## **Discipline**

As of October 3, 2022, only 11% of our pending cases have been at the AG's office for more than one year. All hearings through the Office of Administrative Hearings (OAH) continue to be held via an online platform (Microsoft Teams).

We are actively recruiting for the vacant Discipline Manager (SSM I) position.

## **Probation**

We are currently working on a Caseload Redistribution Project. This will allow the distribution of caseload more evenly amongst the monitors and to assist with effective and efficient caseload monitoring.

## **Intervention**

We are in the process of revising the Intervention Evaluation Committee (IEC) Guide. Once the guide is complete, we will be conducting an orientation for all IEC members.

The Intervention Program continues to recruit for IEC members with knowledge and experience in substance use disorder (SUD) treatment and recovery and mental health. Currently, there are several vacancies across the state.

If the Committee approves the recommendations for appointment in Agenda Item Summary 9.4 and the Board approves at the November Board Meeting, several of these vacancies will no longer exist.

IEC #	Area	Member Type
<b>1</b>	Sacramento	Physician
<b>2</b>	Bay Area	Nurse
<b>2</b>	Bay Area	Public
<b>3</b>	Los Angeles	Nurse
<b>3</b>	Los Angeles	Nurse
<b>3</b>	Los Angeles	Physician
<b>4</b>	Orange County	Nurse
<b>4</b>	Orange County	Nurse
<b>4</b>	Orange County	Physician
<b>4</b>	Orange County	Public
<b>6</b>	Palm Springs	Nurse
<b>6</b>	Palm Springs	Physician
<b>6</b>	Palm Springs	Public
<b>7</b>	San Jose	Nurse
<b>7</b>	San Jose	Nurse

IEC #	Area	Member Type
<b>7</b>	San Jose	Physician
<b>7</b>	San Jose	Public
<b>9</b>	Ontario	Nurse
<b>9</b>	Ontario	Physician
<b>9</b>	Ontario	Public
<b>10</b>	San Diego	Nurse
<b>10</b>	San Diego	Nurse
<b>10</b>	San Diego	Nurse
<b>10</b>	San Diego	Physician
<b>10</b>	San Diego	Public
<b>11</b>	N. Coast	Physician
<b>12</b>	N. California	Nurse
<b>12</b>	N. California	Nurse
<b>12</b>	N. California	Nurse
<b>12</b>	N. California	Public

To apply for an IEC position, you can find the application on our website at <https://rn.ca.gov/intervention>

**TABLE A**

<b>Board of Registered Nursing</b>		
	Public Complaints	904
	Convictions/Arrest	263
	Applicants	604
	<b>Total Received</b>	<b>1771</b>
	Complaints Pending	1340
	>1 year	371
	Convictions/Arrests Pending	1035
	>1 year	442
	Applicants Pending	153
	>1 year	13
	Expert Review Pending Referral	19
	>1 year	7
	Expert Review Pending Receipt	36
	>1 year	1
	Total Participants	271
	Intakes	16
	Self-Referral	1
	Board Referral	15
	Closures	29
	Successful	20
	Not Successful	9
	RNs Referred	137
	Accepted	16
	Citations Issued	56
	Informal Conference	
	Modified	0
	Dismissed	0
	Upheld	0
	Amount Ordered	\$51,125.00
	Amount Received	\$46,150.00
	Amount Referred to FTB	\$1,500.00

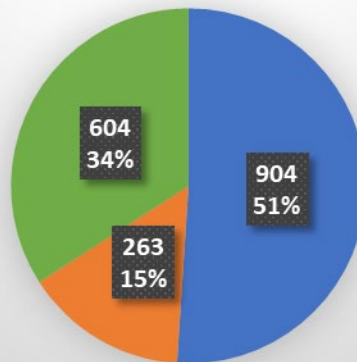
	Amount Received from FTB	\$1,750.00
<b>Discipline</b>	AG Referrals	274
	Cases Pending	
	< 1 Year	372
	> 1 Year	45
	> 2 Year	5
	>1 Year W/O pleading filed	9
	Cases Pending Hearing	126
	Average Days at AG	306
	Pending Board Vote	38
<b>Legal Support</b>	Interim Suspension Orders (ISO)	0
	PC 23	4
	Pleadings Served	
	Accusations	161
	Statements of Issue	5
	Orders to Compel	9
	Petitions to Revoke Probation	23
	Withdrawals of Pleadings	10
	Decisions Adopted	
	Surrenders	42
	Default Revocations	57
	Ordered Revocations	3
	Probation	82
	Public Reprovals	12
<b>Investigations</b>	BRN Cases Referred	223
	Rejected	31
	Supplemental Requested	3
	Triage	13
	BRN Cases Pending	481
	>1 year	24
	BRN Cases Completed	214
	DOI Cases Referred	135
	Rejected	29
	Supplemental Requested	4
	DOI Cases Pending	508
	>1 year	164
	DOI Cases Completed	152
	DOI Pilot Cases Initiated	390



	DOI Pilot Cases Pending	85
	DOI Pilot Case Closed	305
<b>Probation</b>	Active In-State Probationers	637
	Tolled Probationers	435
	Revoked	8
	Surrendered	12
	Completed	48
	Subsequent Cases Pending at AG	
	<1 Year	88
	>1 Years	6
	>2 Years	1
<b>Total Case Processing Time</b>	Average Days to Complete	647
	> 540 Days	58%
	< 540 Days	42%
	DCA goal of 540 days for all healing arts boards	

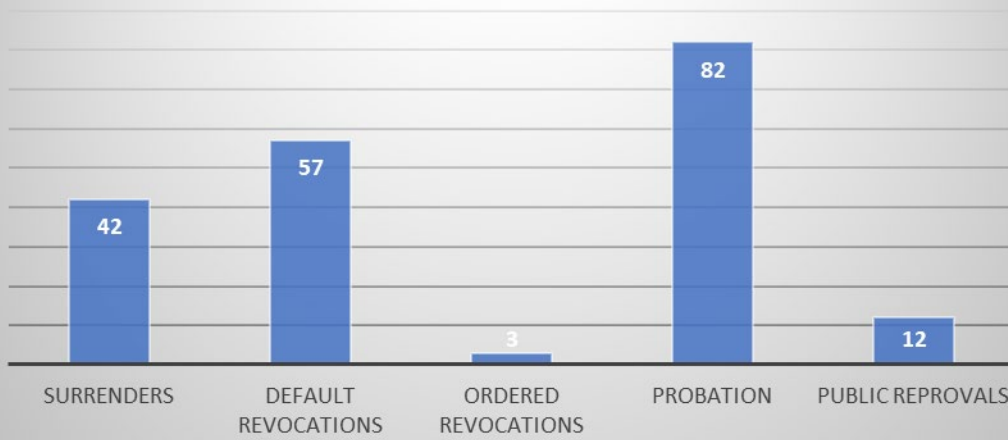
### Graphs Based on Table A

#### Complaints Received

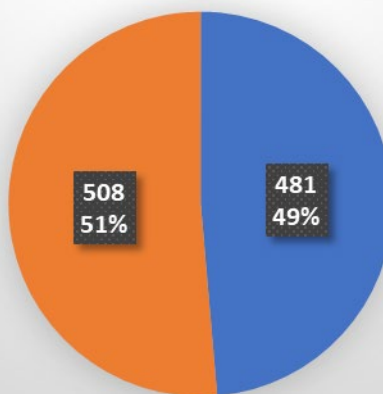


Public Complaints Convictions/Arrest Applicants

#### Decisions Adopted FYTD



#### Investigation Cases Pending



BRN Cases Pending DOI Cases Pending

## BRN Performance Measure YTD 22/23

### TABLE B

Performance Measure 4 - AG Transmittals						
	Case Volume	Intake	Investigation	Pre-AG Time	Post AG Time	Cycle Time
<b>Total/Average</b>	121	8	338	14	281	641
<i>July</i>	67	8	343	8	313	673
<i>August</i>	54	8	332	20	241	601

### TABLE C

<u>All DCA Healing Arts &amp; Health Entities</u> <u>SFY 2021: 12-Month   PM4 - Summary by Board</u>				
	Case Volume	Target	Actual	Variance
<b>Grand Total</b>	2,464	540 Days	839 Day(s)	▲ 299 Day(s)
Acupuncture Board	14	540 Days	866 Day(s)	▲ 326 Day(s)
Board of Behavioral Sciences	117	540 Days	426 Day(s)	▼ -114 Day(s)
Board of Chiropractic Examiners	20	540 Days	914 Day(s)	▲ 374 Day(s)
Board of Psychology	53	540 Days	754 Day(s)	▲ 214 Day(s)
<b><u>Board of Registered Nursing</u></b>	<b><u>891</u></b>	<b><u>540 Days</u></b>	<b><u>690 Day(s)</u></b>	<b><u>▲ 150 Day(s)</u></b>
Board of Vocational Nursing and Psychiatric Technician	222	540 Days	862 Day(s)	▲ 322 Day(s)
California Board of Occupational Therapy	17	540 Days	726 Day(s)	▲ 186 Day(s)
California State Board of Pharmacy	224	540 Days	878 Day(s)	▲ 338 Day(s)
Dental Board of CA	59	540 Days	1266 Day(s)	▲ 726 Day(s)
Dental Hygiene Board	8	540 Days	840 Day(s)	▲ 300 Day(s)
Medical Board of CA	620	540 Days	1028 Day(s)	▲ 488 Day(s)
Osteopathic Medical Board of CA	16	540 Days	933 Day(s)	▲ 393 Day(s)
Physical Therapy Board	31	540 Days	840 Day(s)	▲ 300 Day(s)
Physician Assistant Board	26	540 Days	1237 Day(s)	▲ 697 Day(s)
Podiatric Medical Board of CA	15	540 Days	1183 Day(s)	▲ 643 Day(s)
Respiratory Care Board	42	540 Days	435 Day(s)	▼ -105 Day(s)
Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board	8	540 Days	972 Day(s)	▲ 432 Day(s)
State Board of Optometry	9	540 Days	935 Day(s)	▲ 395 Day(s)
Veterinary Medical Board	72	540 Days	1214 Day(s)	▲ 674 Day(s)

**TABLE D**

<b>FY 2021/2022 APRN Disciplinary Actions by Certification</b>						
	Public Repeval	Surrender	Probation	Revocation	Interim Suspension Order (administrative)	Suspension (criminal)
<b>RN</b>	<b>21</b>	<b>33</b>	<b>108</b>	<b>31</b>	<b>1</b>	<b>3</b>
<b>CERTIFICATION TYPE</b>						
Public Health Nurse	6	13	33	8	1	1
Psych Mental Health Nurse	0	0	0	1	0	0
Clinical Nurse Specialist	1	1	3	1	0	0
Nurse Anesthetist	0	4	5	3	0	0
Nurse Practitioner	7	8	33	9	0	1
Nurse Practitioner Furnishing	7	7	32	9	0	1
Nurse Midwife	0	0	1	0	0	0
Nurse Midwife Furnishing	0	0	1	0	0	0

If you would like more information on our enforcement statistics, please go to  
[https://www.dca.ca.gov/data/enforcement\\_performance.shtml](https://www.dca.ca.gov/data/enforcement_performance.shtml)

**NEXT STEPS:**

Continue to Monitor

**PERSONS TO CONTACT:**

Shannon Johnson, Enforcement Division Chief  
 (916) 515-5268

## **ENFORCEMENT PROCESS STATISTICS**

### **REFERENCE GUIDE**

#### **Complaint Intake**

- Complaints Received
  - The total number of public complaints received. This includes other state agencies and Boards.
- Convictions/Arrests
  - The total number of complaints received due to an arrest and/or subsequent conviction. These are reported by Criminal Offender Record Information (CORI) from the California Department of Justice (DOJ).
- Applicants
  - The total number of applications received from Board of Registered Nursing (BRN or Board) licensing, in where the applicant disclosed a previous criminal history or discipline by another state board.
- Complaints Pending
  - The number of complaints that are pending in the Complaint Intake Unit (CIU).
- Convictions/Arrests Pending
  - The number of Convictions/Arrests that are pending in CIU.
- Applicants Pending
  - The number of Applicants that are pending in CIU.

#### **Intervention**

- Total Participants
  - The current number of participants in the Intervention Program.
- Self-Referrals
  - The number of referrals in where the RN has contacted the Intervention Program on their own, without a complaint being filed.
    - Declined
      - The number of self-referrals that decided to decline the Intervention Program after receiving program information.
    - Accepted
      - The number of self-referrals that have accepted and entered the Intervention Program.
- Board-Referrals
  - The number of referrals in where the RN received an invitation by the Board, based on a complaint that involved drugs, alcohol or mental illness.
    - No Response

- The number of Board referrals that didn't respond to the invitation.
- Declined
  - The number of Board referrals that decided to decline the program after receiving program information.
- Accepted
  - The number of Board referrals that have accepted and entered the program.
- Terminations
  - The number of RN's that were terminated from the program for any reason.
- Successful Completions
  - The number of RN's that were able to successfully complete the program.

### **Citation & Fine**

- Citations Issued
  - The total number of citations issued.
- Formal Hearing
  - The number of hearings requested by the RN. The formal hearing is transmitted to the Attorney General's Office (AGO) and is heard by an Administrative Law Judge (ALJ). The results of this hearing would be either modify, dismiss or uphold the citation.
- Informal Conference
  - The number of informal conferences conducted after an appeal is made by the Respondent. The results of the informal conference would be either modify, dismiss or uphold the citation.
- Amount Ordered
  - The total fine amount that has been ordered from all citations issued during the Fiscal Year (FY).
- Amount received
  - The total fine amount received by the Board during the FY.
- Amount referred to Franchise Tax Board (FTB)
  - The total amount of fines referred to FTB, in an attempt to retrieve the fines through California Income tax.
- Amount received from FTB
  - The total amount of fines received from FTB from California Income tax.

### **Discipline**

- Attorney General (AG) referrals
  - The total number of cases referred to the AG.
- Cases pending

- The total number of cases that are pending a final disposition in the disciplinary process.
- Cases pending hearing
  - The total number of cases that are awaiting a hearing before an ALJ.
- Average days at AGO
  - This is the average number of days that cases are at the AGO for prosecution.
- Pending Board vote
  - The total number of cases that are awaiting a vote by the Board.

### **Legal Support**

- Interim Suspension Order (ISO)
  - Licenses suspended by an Administrative Law Judge due to the seriousness of the allegations in advance of the filing of an accusation and pending a final determination of the licensee's fitness to practice and provide nursing care.
- Penal Code 23 (PC23)
  - Licenses suspended from practice as a registered nurse or restricted in how he or she may practice registered nursing ordered by a judge during a criminal proceeding.
- Pleadings served
  - The total number of pleadings that have been served. This includes Accusations, Statements of Issue, Orders to Compel and Petitions to Revoke Probation.
- Withdrawals of pleadings
  - The total number of pleadings that the Board has withdrawn, and no action was taken.
- Decisions adopted
  - The total number of final Decisions that were adopted by the Board. This includes Surrenders, Default Revocations, Ordered Revocations, Probation and Public Reprovals.

### **Investigations**

- BRN cases referred
  - This is the total number of cases that were referred to BRN Investigations.
  - Rejected
    - The total number that were rejected. Rejected cases are either referred to Division of Investigation (DOI), per Consumer Protection Enforcement Initiative (CPEI), closed or sent for citation.
  - Supplemental requested
    - The total number of cases that needed additional investigation for evidence or interviews. These are normally requested by BRN staff, AG or Expert.
  - Triage

- The total number of cases that require additional information and discussion to determine the CPEI level, before assignment to either BRN Investigations or DOI.
- BRN cases pending
  - Total number of cases pending with BRN Investigations.
    - The total number of cases pending that are over 1 year old with BRN Investigations.
- BRN cases completed
  - The total number of cases that have been completed by BRN Investigations.
- DOI cases referred
  - This is the total number of cases that were referred to DOI.
  - Rejected
    - The total number that were rejected. Rejected cases are either referred to BRN Investigations per Consumer Protection Enforcement Initiative (CPEI), closed or sent for citation.
  - Supplemental requested
    - The total number of DOI cases that needed additional investigation for evidence or interviews. These are normally requested by BRN staff, AG or Expert.
- DOI cases pending
  - Total number of cases pending with DOI
    - Cases over 1 year old
      - The total number of cases pending that are over 1 year old with DOI.
- DOI cases completed
  - The total number of cases that have been completed by DOI.
- DOI pilot cases initiated
  - The total number of cases that were sent to BRN for investigation, that were outside the CPEI guidelines, and would have normally been sent to DOI for investigation.
- DOI pilot cases pending
  - The number of cases that were referred to DOI and are still pending completion.
- DOI pilot cases closed
  - The number of cases that were referred to DOI and have been completed.

### **Probation**

- Active in state probationers
  - The total number of current/active in state probationers.
- Tolled probationers



- The total number of probationers that reside outside of California. These probation cases are placed on hold until the RN returns to California.
- Revoked
  - The total number of probationers that have been revoked.
- Surrendered
  - The total number of probationers that have surrendered their license.
- Completed
  - The total number of probationers that have successfully completed probation.
- Subsequent cases pending at AGO
  - The total number of probationers that have had subsequent discipline and transmitted back to the AG for further disciplinary action.
    - Over 1 year
      - The number of probationary cases that have been pending at the AGO for over 1 years.
    - Over 2 years
      - The number of probationary cases that have been pending at the AGO for over 2 years.

### **Total Case Processing Time**

- Average days to complete
  - The average days currently taking to complete a case from complaint receipt to final Decision
    - Over 540 days
      - The percentage of cases that BRN **is not** meeting the DCA goal of 540 days for case completion.
    - Under 540 days
      - The percentage of cases that BRN is meeting the DCA goal of 540 days for case completion.
  - *Note – DCA's goal for all healing arts boards **is** to complete on an average of 540 days or less.*

### **Table A**

Enforcement and Investigation statistical data FY to date. See guide above for reference.

### **Table B**

BRN's Performance Measure 4, FY to date, by month. This is an average of case time from complaint intake to final disposition, broken down by intake, investigation, pre-AG and post AG time.

- Case volume is the total number of cases received in that month.
- Intake is the average time for intake to process and refer to investigation.
- Investigation is the average time for an investigation of the case.
  - This includes desk investigation, BRN investigation and DOI investigation.
- Pre AG time is the average amount of time from the closure of the investigation to AG referral.
- Post AG time is the average time from AG referral to final disposition of the case.
  - This includes the AG time, hearing, Board vote and case processing.
- Average total time is the average of a case from complaint intake to final disposition.

### **Table C**

This is DCA's reported Performance Measure 4, which is the formal disciplinary cycle time for all DCA entities.

More information on DCA's enforcement reports can be found at <https://www.dca.ca.gov/data/enforcement.shtml>

### **Table D**

This table depicts the number of RN's disciplined that also hold an advanced practice certification. The RN's may hold multiple certifications. For example, if a RN is placed on probation and they hold a PHN, NP and NPF, the table will show a discipline for each of the certifications held.



## Agenda Item 9.2

### **Discussion and Possible Action Regarding Appointment and Reappointment of Intervention Evaluation Committee (IEC) Members**

BRN Board Meeting | November 14-15, 2022

**BOARD OF REGISTERED NURSING**  
**Agenda Item Summary**

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**AGENDA ITEM:** 9.2  
**DATE:** November 14-15, 2022

**ACTION REQUESTED:** Discussion and possible action regarding appointment of Intervention Evaluation Committee Members

**REQUESTED BY:** Patricia Wynne, Esq., Chairperson

**BACKGROUND:**

In accordance with Business and Professions Code section [2770.2](#), the Board of Registered Nursing is responsible for appointing persons to serve on an Intervention Evaluation Committee (IEC). Each IEC is composed of three registered nurses, one physician and one public member who possess knowledge and expertise in substance use disorder or mental health.

**APPOINTMENT:**

Below are the names of the candidates being considered for appointment to their respective IEC. The applications and Curricula Vitae were provided to the Committee for their review and consideration. If approved, their terms will expire as noted below.

Name	Member Type	IEC	Type	Term Expiration
Dean Rischel, PhD	Public	2	New Appointment	30-Jun-26
Jhonna Porter, RN	Nurse	3	New Appointment	30-Jun-26
James Luzano, MD	Physician	3	New Appointment	30-Jun-26
Gia Gittleson, RN	Nurse	4	New Appointment	30-Jun-25
Randolph Holmes, MD	Physician	4	New Appointment	30-Jun-26
Judy Speak, RN	Nurse	6	New Appointment	30-Jun-26
Richard Skaff, PhD	Public	6	New Appointment	30-Jun-26
Julius Musenze, MD	Physician	6	New Appointment	30-Jun-26
Andrew Berger, PhD	Public	7	New Appointment	30-Jun-25
Joseph Ortiz, PhD	Public	9	New Appointment	30-Jun-26
David Liu, MD	Physician	9	New Appointment	30-Jun-26
Bradley Webster, RN	Nurse	10	New Appointment	30-Jun-24
Victoria Pon Tell, RN	Nurse	10	New Appointment	30-Jun-25

Maureen Gatt, PhD	Public	10	New Appointment	30-Jun-26
Uzo Ogbodo, RN	Nurse	12	New Appointment	30-Sep-25
Martha Sparling, RN	Nurse	12	New Appointment	30-Jun-25
Valerie Milner, MFT	Public	12	New Appointment	30-Jun-23

**NEXT STEPS:**

Continue recruiting efforts

**PERSON TO CONTACT:**

Shannon Johnson, Enforcement Division Chief  
(916) 515-5265