

## **Enforcement Policy Goals**

**Policy Objective:** To improve the timely resolution of enforcement matters. Over the last several years, the Political Reform Act has been amended in ways that increase the complexity of its requirements for committees and candidates. This has contributed to an increase in the amount of time it takes to investigate and prosecute violations of the Act. It has been observed by the Commission – and others – that enforcement matters now frequently take several years to come to resolution, oftentimes not until after a respondent has been reelected to the office they held at the time a complaint was filed or out of office entirely.

**Proposed Policy/Regulation:** It is the goal of the Enforcement Division to complete investigations and prosecutions of alleged violations of the Act quickly and efficiently. In general, the Enforcement Division should endeavor to complete an investigation and, when warranted, prosecution of a violation within two years of the case being opened, except where circumstances clearly indicate a reason for a longer period of time.

To assist the Enforcement Division in achieving these goals, the Enforcement Chief shall, in consultation with the Chair and Executive Director, establish and maintain a system for the efficient allocation and completion of Enforcement Division workload. The system shall be set forth in writing and periodically reviewed by the Enforcement Chief for the purpose of determining whether refinements are needed based on Division performance.

Copies of the written policies that comprise the system for the allocation and completion of Enforcement workload will be made available to any member of the Commission upon request.

The system shall, at a minimum, provide for:

- a. Fair and efficient allocation of work among Enforcement Division staff, that, among other things, provides for:
  - i. the most complicated legal and factually issues being assigned to senior staff, and less complicated matters assigned to less experienced staff members; and
  - ii. the reassignment of matters to more appropriate staff members if they are determined to involve violations that are more or less complicated than what was believed at the time of initial assignment to staff.
- b. Prioritization of workload. The Commission acknowledges that all cases cannot be worked simultaneously so prioritization should include consideration of the age of the case, the statute of limitations applicable, the priorities of the Commission, as well as participation and contact from the Respondent to resolve the case.
- c. Specific target deadlines for completion of tasks at each stage of an Enforcement matter, including, but not limited to:
  - i. Evaluation of complaints/referrals and recommendations for disposition by Intake;
  - ii. Assignment of staff for investigation of opened cases;
  - iii. Preparation and completion of investigative plans by assigned staff;
  - iv. Issuance of informal and formal requests for information and witness interviews;
  - v. Review of evidence gathered during investigations;
  - vi. Preparation of draft investigative summary reports by Special Investigators;
  - vii. Review and approval of investigative summaries by Supervising Special Investigator;

- viii. Evaluation of investigative summary by Commission Counsel;
  - ix. Drafting closure memos;
  - x. Drafting requests for settlement authority;
  - xi. Review of closure memoranda and requests for settlement authority by the Chief or their designee;
  - xii. Drafting/transmitting closure documents (i.e., advisory, warning, or closure letters);
  - xiii. Drafting/transmitting settlement offers;
  - xiv. Ending settlement discussions and proceeding with PC proceedings (i.e., Respondent has 30 days to respond to FPPC offer; FPPC has 30 days to consider counteroffer by Respondent; Respondent has 30 days to consider FPPC response to counteroffer; negotiations end at 90 days and FPPC proceeds to PC unless Chief determines that good cause exists to permit another 30 days of settlement negotiations);
  - xv. FPPC's production of records to Respondent following Respondent's request for records under FPPC Reg 18361.4 (d)(3);
  - xvi. Prepare closure letter if PC denied;
  - xvii. Drafting and service of accusation if PC found;
  - xviii. If notice of defense is filed, placement of notice of hearing on FPPC meeting agenda and submission of request to OAL to schedule administrative hearing;
  - xix. If no notice of defense is filed,
    - 1. preparation of notice of default and placement on FPPC meeting agenda
    - 2. transmission of demand for payment
    - 3. issuance of closure letter if default paid
    - 4. filing of request for clerk's judgment in superior court if default not paid
    - 5. transmission of default collections paperwork to Administrative division after receipt of clerk's judgment.
- d. Written standards for use by intake staff in evaluating whether to open or close a matter at the intake stage, including but not limited to, when intake staff should request additional information from a complainant or respondent and when intake staff should request assistance on questions of legal interpretation from FPPC attorneys.
- e. Tracking of statutes of limitations applicable to potential violations of the Act under investigation by the Enforcement Division to ensure that Enforcement staff complete their work in accordance with the applicable statute of limitations and minimize the need to seek negotiated tolling agreements. The Enforcement Chief shall publicly report to the Commission on each instance in which the Enforcement Division is unable to pursue a violation of the Act in a matter opened by the Enforcement Division as a result of the statute of limitation running, including an explanation of the circumstances that caused the statute of limitations to run.
- f. Tracking of Enforcement Division compliance with the deadlines and procedures for workload allocation and completion. When feasible, an electronic system should be designed and implemented in a manner that, at a minimum, accepts data entry by staff in real time as tasks are completed and allows the Chief and their designees to generate automated tracking reports such that performance under the policy can be evaluated by

objective metrics for individual staff members, groups of staff members (e.g., investigators, attorneys, PRCs, etc.) as well as the division as a whole in order to evaluate the timelines for update and feasibility.

- g. Periodic management meetings, led by the Chief, to review data tracking information and determine what remedial measures, if any, are needed to ensure/improve compliance with workload allocation and completion processes. Such meetings should occur as often as needed to ensure compliance, but in no event less than once a month.
- h. Periodic reports by the Chief to the Chair and Executive Director on the Enforcement Division's performance under the workload allocation and completion processes, including discussion of any remedial steps taken by the Chief or Enforcement management staff since the last update. The Chief will provide updated reports to the Chair and Executive Director at least monthly, and more frequently if requested.
- i. Biannual reports by the Chief to the Commission, usually in June and January, detailing the Enforcement Division's performance under the workload allocation and completion processes. In addition to any other information requested by the Commission, Chair or Executive Director, the reports by the Chief to the Commission will include detailed information about the Enforcement Division's performance during the reporting period compared to the Enforcement Division's performance during the same period from each of the preceding four years, including but not limited to:
  - i. a comparison of the total number of complaints/referrals received, cases/investigations opened, cases/investigations closed, cases referred to other agencies;
  - ii. a comparison of the average monthly rate of cases/investigations opened, cases/investigations closed, for each class of Enforcement staff (e.g., attorneys, investigators, PRCs, etc.); and
  - iii. a detailed explanation for any differences in Enforcement Division performance during the reporting period compared with the prior years' data.

This update will be in addition to any other informational reports the Commission may direct the Chief to provide concerning the performance of the Enforcement Division.

- j. Implementation of other policies and procedures identified by the Chair, the Commission, Executive Director, Chief, or designees of the Chief that will assist the Enforcement Division in achieving the goals of prioritizing Enforcement resources on complex and high-public harm violations while reducing the overall time Enforcement takes to resolve violations, particularly minor and inadvertent violations of the Act.

## Sasha Linker

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**From:** George Aradi  
**Sent:** Tuesday, November 08, 2022 9:11 AM  
**To:** CommAsst  
**Subject:** "Enforcement Policy Goals" Commission meeting 11/8/2022

Good Morning Committee Members-

George Aradi, Special Investigator, FPPC (since January 2014).

I was only notified of today's meeting yesterday, so please forgive me for not providing a more thorough review of the proposals by the Commission.

I have been a law enforcement officer since 1975. Without a doubt, the quest to bring cases to their logical conclusion is most difficult at the FPPC for several reasons:

- 1) Case load- I have 62 cases and the other 8 Investigators have about the same,
- 2) Attorney's have even more cases,
- 3) Complexity and ever changing laws and regulations the FPPC enforces.

Last year our leadership initiated a push to close older cases and established a timeframe to generally bring cases to their conclusion. This push, we have been told by management, yielded favorable results. It is my view that the current proposals are rather granular and can:

- 1) Lead to disproportionate focus on a "numbers game",
- 2) Give rise to staff anxiety; especially, the "Specific target deadlines" reflected in the proposal,
- 3) Result in misinterpretation of production data (missed deadlines) that can adversely reflect on staff performance.

The current performance evaluation protocols are mostly adequate except for the yearly evaluation by supervisors. I believe evaluations would be more effective if they were conducted quarterly and in-person, which can:

- 1) Render investigative, case resolution and time-management guidance to the Investigators and attorneys,
- 2) Identify obstacles to case resolution--- whether they are caused by a heavy case load, case complexity, inordinate or unprecedented legal challenges, or poor performance. Poor performance can mostly be readily identified by a supervisor by reviewing Salesforce records as well as during the quarterly in-person evaluations.

I am also curious whether the Commission had coordinated the new proposals with the respective unions representing the Enforcement Division.

In my view, this topic boils down to whether efficiency and production goals to can be achieved by increasing staff or through, what appears to be, a complex matrix of prescribed deadlines.

Sincerely,



George J. Aradi  
Special Investigator  
Enforcement Division  
Fair Political Practices Commission  
1102 Q Street, Suite 3000 | Sacramento, CA 95811  
Phone: [REDACTED]  
Email: [REDACTED]  
<http://www.fppc.ca.gov>

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### 3. Enforcement Policy Goals.

Staff: Richard Miadich, FPPC Chair. Over the last several years, the Political Reform Act has been amended in ways that increase the complexity of its requirements for committees and candidates. This has contributed to an increase in the amount of time it takes to investigate and prosecute violations of the Act. To improve the timely resolution of enforcement matters, policy guidelines are being proposed for consideration and adoption by the Commission.

#### Enforcement Policy Goals

##### 1. **FPPC Enf Staff Member** says:

November 8, 2022 at 9:51 am

Our current system puts an immense amount of pressure on staff to complete tasks assigned. As other commenters have stated, we are understaffed, our case loads are unrealistic, and complaints vary anywhere from incorrect advertisement font size to full financial review/audit of committee records, sometimes for years worth of activity. Staff deals with voluminous records regularly that often comes to us in an unorganized and nonsensical manner which requires weeks, if not months, of accounting to untangle. I think policy changes are necessary, but not imposing stricter standards or timelines on Enforcement. California is the third largest state in the country and the FPPC has a skeleton crew to manage all state and local complaints/investigations. It is disheartening to give everything you have to your job and be told that you are still not doing enough. I am afraid that the passionate and talented people I work with will leave the agency if the wrong approach is taken.

##### 0. **FPPC Enf Staff Member** says:

November 8, 2022 at 9:43 am

Completing cases in a timely manner is important, but this proposed guide does not take into consideration factors staff faces on a daily basis. Enforcing this policy would require an increase of staff to give anything close to desired results. For perspective, the Sacramento County Public Defender's Office and DA Office averages 20-30 investigators and that doesn't include attorney or intake staff. Sacramento County ranks #8 in population, around 1.5 million, while LA County ranks #1 at 9 million. For the entire state, 58 counties and 482 municipalities that we overview, there's 10 investigators, 10 attorneys, and 6 intake staff to sort through thousands of cases a year. Often the difficulty of the case isn't revealed until documents are obtained, and new staff is faced with a sharp learning curve because of it. The PRA becoming more complex means our cases have become more complex and cannot be completed with the guidelines on this proposed agenda at our current staff numbers.

##### -1. **N/A** says:

November 8, 2022 at 9:34 am

As a member of the enforcement team for over four years, I can attest to the hard work this division puts in at all levels to ensure we are enforcing the Act to its fullest degree. However, this process takes time, and from an investigation standpoint, it is not a cookie-cutter, one-fits-all process to which an arbitrary timeline can be broadly applied. I am not in favor of compromising our investigations to fit within any timeline beyond that of the applicable Statute of Limitations. This is not how we should aim to resolve cases, and I believe it does the public a disservice in the end. To truly improve the timeline to resolve cases, we must address the case load currently held by our investigators and attorneys. This is the root whatever timeliness concerns the Commission may have, and I believe any kind of arbitrary deadline beyond that of the applicable statute date is only going to hurt the public interest.

##### -2. **FPPC ENF Staff Member** says:

November 8, 2022 at 9:23 am

To improve the timely resolution of enforcement matters, more staff needs to be hired. Attorneys and Investigators are drowning in cases. Each person's caseload is out of control. Other state agencies have no less than 25 investigators working cases, we have 10 investigators. Our caseloads range from 52 – 90 cases per person. Those numbers are not conducive in getting enforcement matters resolved timely. Our caseloads keep on growing due to AdWatch, and pre-election cases. In addition, you can't simply look at a case to determine its complexity until you are in a full investigation. A case deemed "easy" that is given to newer staff to complete, can turn messy in a blink of an eye. Bottom line, if new staff is not hired, the quality of our investigations will be diminished by trying to meet a restrictive timeline.

-3. **FPPC ENF Staff Member** says:

November 8, 2022 at 8:34 am

This new proposed ENF Policy Goals does not appear to take into account the existing backlog of cases, or priority matters such as AdWatch, and pre-election cases. I would hate to see the quality of an investigation, and subsequent prosecution of a case, compromised by trying to meet a specific deadline. The hard truth is that there are just too many cases and too few staff members. Instead of trying to impart timelines, perhaps we should look at the staffing levels and how additional intake staff, investigators and attorneys could have a huge impact on the time it takes for a case to move from intake to prosecution and/or closure. It feels that this incessant tweaking and making adjustments to ENF protocols is suggestive of poor performance by the Enforcement Division and leads to poor morale. There appears to be so little focus on all the good that the ENF staff has done over the years and the impact our hard work has had in fostering the public's trust in our political system.

To: Richard C. Miadich, Chair of the Fair Political Practices Commission  
Catharine Baker, Vice Chair  
E. Dotson Wilson, Commissioner  
Abby Wood, Commissioner  
Dr. José A. Gómez, Ph.D., Commissioner  
Galena West, Executive Director  
Angela Brereton, Chief of Enforcement  
Christopher Burton, Assistant Chief of Enforcement

From: Bridgette Castillo, Senior Commission Counsel, Enforcement Division  
Neal Bucknell, Senior Commission Counsel, Enforcement Division  
Jenna Rinehart, Commission Counsel, Enforcement Division  
Alex Rose, Commission Counsel, Enforcement Division  
Marissa Nash, Commission Counsel, Enforcement Division  
Artin Berjikly, Senior Commission Counsel, Enforcement Division  
Jonathan Rivera, Commission Counsel, Enforcement Division

Date: December 12, 2022

### **Enforcement Attorney Input re: the Chair's Recent Enforcement Policy Goals Proposal**

From time to time, the Commission receives public comments at its meetings. These comments almost never come from members of FPPC staff. Yet on the date of the November 2022 election, at a meeting of the FPPC Law and Policy Committee, the Chair presented a proposal, on short notice, entitled “Enforcement Policy Goals” (the EPG proposal)—and seven staff members spoke out in opposition. (See agenda item 3 [here](#), which includes a link to a [comment letter from Special Investigator George Aradi](#)—and a link to [digital comments from five other staff members](#). Also, see the spoken comments from a seventh member of Enforcement Division staff [here](#).)

Two days after that meeting, ten FPPC Special Investigators submitted a joint letter to the Chief of Enforcement, further criticizing the proposal in question.

Less than two weeks later, the LA Times published an article entitled “[California political ethics watchdog is losing its bite](#).” The article included links to the EPG proposal and to the above-noted staff comments. One staffer was quoted as saying: “Our case loads are unrealistic, and complaints vary anywhere from incorrect advertisement font size to full financial review/audit.”

During the Enforcement Division’s meeting on December 1, 2022, Chief Brereton invited staff to meet with Executive Director West about this matter and/or submit written comment. This letter is submitted directly to Executive Director West, Chief Brereton, and Assistant Chief Burton. **Request is made that the Executive Director please forward an electronic copy of this letter to the FPPC Chair, Vice Chair, and Commissioners.** (Recently, the Chair indicated that he intends to re-visit his proposal at the January 2023 Commission meeting. It is unclear if this will be considered as pre-notice or adopted as a policy at that time. As such, it is imperative that this letter is shared with the Commission prior to a decision.)

## **Enforcement Attorneys' Observations and Concerns**

Under the current system of rules, without aggressive and decisive roll back of red tape, no amount of working hours—nor any policy requiring attorneys to touch a case every so many days—will resolve the backlog. However, the Enforcement attorneys are very motivated to resolve the backlog. Respectfully, the following concerns and observations are submitted for your consideration:

1. Currently, about one-half of Enforcement's attorneys have been with the agency for less than two years, and one-half of those individuals less than one year. This leaves the more experienced attorneys to share most of the more time-consuming and difficult cases to resolve, including cases involving Section 1090, conflicts of interest, campaign money laundering, personal use of campaign funds, false reporting of coordinated activity as “independent expenditures,” etc.
2. In the last few years, multiple attorneys left Enforcement with cases in various stages/conditions. Such cases are then transferred to current staff. In many cases, newly-assigned staff must drop their current priorities to handle the reassigned cases, either due to issues with the statute of limitations (SOL)—or direction from management to treat certain cases as high priority. This is a recurring theme in Enforcement, where the attorneys are required to halt one focus and focus on more pressing priorities. (It should be noted that many SOL issues are not connected to the date when a case is received/opened. It is not uncommon for a brand new case to refer to alleged violations that occurred years ago. Thus, it is a better practice to prioritize cases based on the age of the potential violations—not based on the case number.)
3. It is more difficult for Enforcement attorneys to close cases when higher priority items are added to the attorney workload—such as pro-active pre-election efforts, AdWatch duties, ADA remediation of documents, attorney duties under the California Public Records Act, legal analysis to help intake staff, trainings, etc. This was particularly relevant this year. Pre-election efforts and AdWatch are good things, but they are a luxury we cannot afford right now, given the size of the case backlog.
4. Old cases are more difficult to close. Often, the involved parties are mad at the age of such cases, evidence goes stale, and/or there are legal issues/problems with such cases (hence the reason such cases remain open in the first place).
5. While the EPG proposal places the burden of resolving Enforcement's case backlog on staff, this will not be successful with the current system of red tape and large caseloads.

## **Suggestions and Proposed Solutions**

6. To help catch up, for all cases involving violations that occurred three or more years ago—where no probable cause report has been issued—recommend issuing closure letters as to these old violations due to “insufficient resources and the age of the alleged violations.”
7. Before sending out settlement offers, probable cause papers, and similar documents, Enforcement attorneys first must submit their documents for review and approval. Under

current rules, each document first must be submitted to the case investigator for formal review and approval in Salesforce, our paperless, electronic case management system. Next, the document must be submitted to an assigned colleague in Salesforce for peer review (which can be time-consuming for the peer reviewer, and which delays moving the document to the next level of review). After this, most attorneys must submit their document for review to the Assistant Chief of Enforcement in Salesforce. Then, the document must be submitted to the Chief of Enforcement in Salesforce. The Assistant Chief and the Chief may require the document to be resubmitted with changes before granting approval for the document to go to the next stage/level of review. Most attorney documents may not be issued or sent out without going through each of these layers of review, which can take a very long time. Often, it takes weeks or months, to get final approval, especially since the layers of review are serial—not concurrent. Less layers of review and shorter turnaround times would help the attorneys move cases much more quickly. (That said, an attorney should always have the option of requesting peer review from a colleague on an optional, as-needed basis.)

8. In 2016, the FPPC replaced all of its paper case files with Salesforce. Later, this turned out to be pretty nice for remote working (since all files became accessible electronically), but there are a lot of user complaints about Salesforce. For example, if your case has 30 files in it that you want to review, you must click through multiple screens/links for each file that you want to download. If you want to upload multiple files to Salesforce, they must be uploaded separately. There should be a way to download all of the files with a single click, but there is not. There should be drag-and-drop functionality to easily upload several files to Salesforce at once, but there is not. Additionally, complaints in Salesforce are confusing and difficult to decipher. For instance, if a complaint refers to attachments, there are times when the attachment will not be visible to a user. Attorneys who review complaints spend time searching for these attachments, but recently, we realized that if a user does not have certain permissions, the attachments cannot be seen, even though they exist. This leads the reviewer to believe there is no attachment when there is an attachment. These are just some of the examples of problems with Salesforce. It is not an easy program to use. It is slow, cumbersome, and sometimes, downright tedious—especially when trying to close a case (where attorneys are required to use a poorly designed user interface to enter data for all of the violations and purge certain files, which sometimes, the attorneys do not have user permissions to delete). Recommend either fixing the issues with Salesforce or getting a program that will function in a way that is helpful in moving cases.
9. For all documents that may be posted online, Enforcement attorneys are required to go through a process known as ADA remediation to make our documents accessible. Recommend shifting the burden of ADA remediation from attorneys to support staff.
10. Opening new cases that already have old violations—which require immediate prioritization—is disruptive to other priorities. Recommend a policy in favor of not opening new investigations into old allegations, when there is not enough time to complete an investigation and probable cause report before the SOL runs.
11. For cases that cannot be reduced sufficiently for settlement, even when an opposing party wants to settle, we need to have a mechanism to charge some counts and not others under streamline to avoid administrative hearings for cases where the only hold up is about a

portion of the penalty. Along these lines, more discretion should be given to the Chief of Enforcement to resolve cases as streamline stipulations and/or with case closure letters, such as warning letters, advisory letters, and no action closure letters. The current streamline rules are too rigid, unless the Chief of Enforcement is allowed to exercise more discretion.

### **Additional Concerns and Questions**

12. The EPG proposal would set deadlines for almost every single activity that is carried out by Enforcement staff. Upon what data are these deadlines based, in order to avoid being arbitrary creations? Will this policy contemplate the size of caseloads for each attorney or have a cap on the amount of cases that can be assigned to one person? How will the deadlines assist Enforcement? How will these deadlines be tracked? Who will track these deadlines? How is it possible for Enforcement staff to comply with such deadlines, given the size of Enforcement's backlog? How do you know such deadlines will not make the problem worse?
13. If the deadlines say that a case needs to be closed—what happens if the case is not ready to be closed? What happens if the case attorney feels more investigation is needed? This presents issues involving due diligence and attorney ethics. If an attorney is directed to close a case with a letter instead of an Enforcement penalty—will the attorney be allowed to prepare the letter for management's signature if the attorney disagrees with one or more statements in the letter? What if the attorney feels a diligent, proper investigation was not conducted/finished, but the letter suggests otherwise?
14. What happens if the deadlines are not met? This would seem to be inextricable from employee performance and annual reviews regarding productivity. Will the FPPC be negotiating with the Enforcement attorneys' union?
15. Since Salesforce was adopted by Enforcement in 2016, has any report or study ever been done to determine the average turnaround time for attorney documents that are submitted for peer review and supervisor review?
16. Chief discretion/authority and nature of cases – We need to be able to close small violations, old cases, or cases without sufficient evidence with Chief discretion. More egregious and intentional violations should be prioritized, and small violations should be closed (without attorney involvement, if possible). Unprecedented cases from the 2022 election *will compound the backlog*. There were an unprecedented number of complaints last month during the November 2022 election, which will result in a large number of cases opened. On the heels of the backlog, this will only overwhelm an already overwhelmed Enforcement staff. If there is not a fast-paced plan to provide wide Chief discretion to move appropriate cases to closure, this will compound the problem. There are no amount of hours in the day to resolve the current number of cases open.

### **Concurring Comments of Senior Enforcement Attorneys Castillo and Bucknell**

We concur with the above comments and would like to add some of our own. We are the last two rank-and-file Enforcement attorneys who were hired before Gary Winuk served as Chief of Enforcement. Some of our comments are observations about the history of Enforcement's case

backlog, including what worked in the past to control the backlog—and how the current backlog came to be.

The EPG proposal aims to “improve the timely resolution of enforcement matters,” noting that: “Over the last several years, the Political Reform Act has been amended in ways that increase the complexity of its requirements. . . . This has contributed to an increase in the amount of time it takes to investigate and prosecute violations. . . .” (Quotes are from the first paragraph of the full proposal [here](#), as presented on the agenda for the November 8, 2022 meeting of the Law and Policy Committee.)

This language suggests that Enforcement’s current backlog of cases was caused, in substantial part, by the California State Legislature—which amended the Political Reform Act, thereby increasing our workload without providing a corresponding increase to our funding and staffing. We do not dispute that more funding and staffing would be very helpful—especially since the jurisdiction of the FPPC covers the entire State of California—but the above-quoted language ignores many important reasons why Enforcement’s case backlog is so enormous.

The backlog has been an issue for at least 20 years. Previous attempts at solving the problem included case closures *en masse* due to “insufficient resources,” but this only treated the symptom—not the cause—so the backlog returned. (Years ago, there was evidence of these mass closures in old case files and records.)

One Enforcement Chief, Gary Winuk, did have success at maintaining a low backlog. His success can be attributed to rolling back red tape, keeping attorneys focused on more egregious violations of the Act, as a high priority—and using other staff (including law clerks), under the Chief’s supervision, to handle many of the lesser violations (often involving filing/reporting) that otherwise would bog down the attorneys.

Winuk resigned as Chief of Enforcement in February 2015. (Source: Courthouse News Service, article of 2/4/15 entitled, “[FPPC Head of Enforcement Steps Down](#).“)

Galena West became the new Chief, inheriting “469 cases in various stages of resolution.” (Source: [Enforcement Division’s Monthly Report of 3/4/15](#), p. 1.)

During the first five years of West’s tenure as Chief of Enforcement, Enforcement’s case backlog nearly *quadrupled*. (See [FPPC Executive Staff Report of 2/20/20](#), p. 2, reflecting that as of February 2020, right *before* COVID, the backlog had grown from 469 cases to “1,791 cases in various stages of resolution.”)

Enforcement never recovered from this, and COVID did not help. Without a system to close a massive amount of cases in a short period of time, and policies to move a similar amount of cases that are opened annually, this backlog will persist. We are concerned that the stated goals of the EPG proposal are not achievable under current conditions.

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The last paragraph of the above-noted [LA Times article](#) closes with a very important point:

It shouldn't be so hard for the commission and its staff to figure this out. The panel has existed since the 1970s, with effectiveness waxing and waning over time. Look back at what worked in the past [when the backlog was only 469 cases under Chief Winuk] and make it work again. California needs a strong political ethics regulator to hold officials and candidates accountable. The watchdog may not bite every time, but voters should at least hear it bark.

Has any study ever been done to determine what policies were employed by former Chief Winuk to handle the case backlog—that could be implemented today?

Respectfully, the following observations, suggestions, and proposed solutions are submitted for your consideration, in addition to those outlined above:

17. Enforcement attorneys use various types of documents to move cases forward, including requests for settlement authority, settlement offers, probable cause papers, accusations, memos re: case closure without action, streamline evaluations, case closure letters, etc. However, each of these documents must go through a lengthy review process that includes investigator review, peer review by an assigned colleague, and in most cases, two layers of supervisor review (first with the Assistant Chief of Enforcement, then with the Chief). This is discussed in more detail above. Often, it takes weeks or months, to get final approval.
18. Under Chief Winuk, the first layer of review by the case investigator was informal and could be done on an as-needed basis via email. (It was not required to be done through Salesforce, which was not in use back then.) More importantly: there was no peer review; Chief Winuk made himself the *only* layer of supervisor review; and he followed a stated policy of clearing out his inbox by the *end of each day*. This resulted in attorneys getting their documents back with approval, direction, and feedback *very quickly*—usually within 24 hours. Recommend going back to what worked before, which will help the attorneys build momentum on their cases—and resolve them much more quickly.
19. Currently, each staff member must spend a portion of the workday drafting and submitting a report (known as a daily work log), to that employee's supervisor. The report tracks and itemizes all cases and activities upon which the employee worked that day, down to the nearest quarter-hour. At the beginning or end of each workday, the report must be submitted to that employee's supervisor via email. It is unclear if management is entering the data that gets collected into a database. (If not, the usefulness of the daily reports seems questionable.)
20. Before Chief Winuk, Enforcement attorneys were required to enter information into a database about how they spent their time, on a weekly basis. Chief Winuk eliminated this requirement, almost immediately after starting. As he put it, the time required for each employee to track that information was better spent on moving cases. Recommend returning to this policy, where the focus was on moving cases—rather than tracking time about how cases are moved.

21. Subpoenas help move cases. They are a means to help discover the truth, finish investigations, and achieve settlement. According to the attorney manual, when an investigator wants to issue a subpoena, the investigator must put a “need by” date that is at least six working days in the future, in order to allow time for review by the case attorney, Chief of Enforcement, and the Executive Director (who signs Enforcement’s subpoenas). However, investigators have recounted that the turnaround time to get subpoenas signed is closer to two or three weeks. The public would be better served by a shorter turnaround time. Recommend a policy change in favor of something closer to a 24-hour turnaround for personal appearance subpoenas that do not include requests for documents—or two business days for subpoenas that do include requests for documents.

Thank you for the opportunity to present all of our comments. We hope they are helpful, and as noted above, we are very motivated to resolve Enforcement’s backlog.

**To: Galena West-FPPC Executive Director**

**From: FPPC Special Investigators-ENF**

**Date: 11/30/2022**

**RE: Response to November 17, 2022 FPPC Agenda Item #13 Enforcement Policy Goals for consideration and adoption**

 **Proposed Regulation Projects for 2023**

**13. Enforcement Policy Goals.** Staff: Richard Miadich, FPPC Chair. Over the last several years, the Political Reform Act has been amended in ways that increase the complexity of its requirements for committees and candidates. This has contributed to an increase in the amount of time it takes to investigate and prosecute violations of the Act. To improve the timely resolution of enforcement matters, policy guidelines are being proposed for consideration and adoption by the Commission.

**Enforcement Policy Goals**

**Proposed Enforcement Policy Goals (FPPC Agenda Item #13 Enforcement Policy Goals for consideration and adoption):**

It is the goal of the Enforcement Division to complete investigations and prosecutions of alleged violations of the Act quickly and efficiently. In general, the Enforcement Division should endeavor to complete an investigation and, when warranted, prosecution of a violation within two years of the case being opened, except where circumstances clearly indicate a reason for a longer period of time.

**Analysis of Proposed Policy/Regulation Guidelines-by the FPPC Special Investigators:**

The 2-year completion date with exceptions for cases which require longer periods is assuming implementation at a zero caseload. The proposed FPPC Enforcement Policy Goals do not contain language which takes into account how existing cases would be factored into the 2-year timeline. In addition, the prosed policies goals do not contain language for what happens if the new standards are not met. There is no clear expectation for staff should we fail to meet these standards, nor whether discipline will follow if our cases have to be re-assigned. The FPPC Special Investigators are not opposed to target deadlines but implementation of such without addressing the existing caseloads of the Special Investigators and factoring that into the deadlines, is remiss.

In addition, the language allows staff members success to be dependent upon other staff, as cases are worked by both investigators and attorneys who complete two different functions and have different duty statements. There is no language that specifies what happens if another staff member causes a case to fall outside of a 2-year completion date, and how performance would be separated, which would be very difficult to do considering we are all working on different cases at any given time.

Another variable is that case volume is not fixed and can fluctuate during the year, election cycles, and during proactive assignments. There is no language that reflects accommodations for assigned special projects that take time away from case investigation such as AdWatch, pre-election case priorities,

laundering cases requiring travel, skip traces, SSN Project for non-filers, Collection Skip Traces, etc. Cases worked jointly with local ethics agency and/or law enforcement are not addressed and they take a considerable amount of time to successfully investigate and prosecute. These cases that usually involve public officials, are vital in fostering the public's trust in our political system.

There is also no language to account for staff turnover, which directly affects investigator case load as existing cases have to be reassigned when a staff member leaves. In addition, there is no language to account for the learning curve for new staff or take into consideration for the senior staff who are mentoring newer staff. This also affects workload productivity.

The Commission could be voting in policy that not only sets every investigator up for potential failure, but also allows leadership to add disciplinary action as a result.

**Issues that Impede Quick Case Resolutions:**

- It was noted that the Enforcement Division has increased staffing within the last several years and is at its highest staffing level. However, the Enforcement Division has lost ALL Program Specialists who handled complex bank record reconciliations and financial analysis. This task is now handled by the Special Investigators that perform general bank and financial analysis in lieu of the multifaceted approach taken by an Auditor who possesses formal training, education in accounting, and/or a background in auditing. Despite the noted increased staffing, and Special Investigators resolving a record number of cases last year, the case load of a Special Investigator has more than doubled in the last five years.
- Increased levels of review at various stages prior to case resolution and evolving priorities directed from the Commission. Many times these cases are then kicked back to attorneys and investigators for more work.
- An exponential increase in caseload negatively affects case resolution when you hit the point of saturation. This appears to have happened in 2019 or so.
- It has been pointed out that Mainline case resolutions had severely dropped in 2022 however then stated the Streamline program was supposed to allow for an increase in case resolution and closure. Streamline is not necessarily efficient and most, if not all, streamline cases still undergo a full investigation by the Special Investigator. The Streamline Program also pulls cases that otherwise would have been a Mainline case which reduces the number of Mainline cases reviewed by the Commission.
- The length of time it takes for the Special Investigators to receive records they have requested from the respondents. Issuance of a subpoena is then required which can be a lengthy process, from issuance to the obtaining of records.
- Accepting of 1090 cases, which requires extensive review, investigation, and coordination with District Attorney Offices.

**Proposed by the FPPC Special Investigators:**

Going forward, the timely resolution of enforcement matters is not just solved by creating deadlines. The potential solution is a comprehensive approach to addressing policies, workflow, autonomy, inventory, and staffing to create an environment where the deadlines are appropriate and achievable. Then performance issues can be justly applied.

The current caseload of the Special Investigators, and how the FPPC Enforcement Policy Goals will be applicable, needs to be addressed prior to adoption. Most investigators have 40-50 active cases. The existing backlog of Intake cases currently being held, needs to be looked at because once these complaints become cases, the SI caseloads will grow exponentially.

Add to the Enforcement staff a full-time auditor to handle complex financial cases and complete bank reconciliations for the Special Investigators which would greatly free up their time, allowing them to focus on their caseloads.

Apply less constraints on subpoena issuance (since Voluntary Compliance productions is taken less seriously and may cause delays and marginal production).

Remove 1090 case responsibility – It took 6 years to complete a case with a violation of 1090. The considerable number of resources and lack of return were never evaluated. Also, this is the only type of case we handle outside of “administrative” handling. We probably need one attorney and a support team member, just for those specialized cases.

Enact an amnesty program to close old cases that have low public harm, or minor violations of the Act.

Failure to meet the set deadlines needs to be addressed and spelled out, as to the ramifications of failing to meet said deadlines, **prior to adoption** of the proposed FPPC Enforcement Policy Goals.

Our Union, the California State Law Enforcement Association (<https://cslea.com/>) needs to be included in the discussions relating to the proposed FPPC Enforcement Policy Goals.

The Special Investigators of the FPPC are open to discussions with the Commissioners prior to the consideration and proposed adoption of the Enforcement Policy Goals. We are not adverse to accountability and deadlines, however a comprehensive review with input from front line employees would be the most appropriate approach to improve efficiency. Implementing blanket deadlines to 30 to 40 cases at a time is not realistic or manageable. Management setting deadlines, and timelines, for 5-6 cases for each Special Investigator, is feasible, but applying the new policy goals to an existing caseload of 50 or more, is inequitable, and not practical.

**Signed:**

**The FPPC Special Investigators:**

George Aradi, Ann Flaherty, Jay Gehres, Kaitlin Osborn, Katelin Angeloni, Kristin Hamilton, Lance Hachigian, Paul Rasey, Roone Petersen, and Alethea Perez

## **INTAKE MEMORANDUM**

December 21, 2022

To: Galena West, Executive Director  
Angela J. Brereton, Enforcement Chief  
From: Tara Stock, Intake Manager  
& Intake Political Reform Consultants (PRCs)

We appreciate and share the Commission's commitment to a swift, fair, and transparent enforcement process. We also understand and share the expectation of the Commission, the media, and the public that enforcement cases be investigated and prosecuted in a timely manner.

The proposed Enforcement Policy Goals ("Goals") are a good starting point. However, we are concerned that too stringent of rules could muddle the efficiency of the Intake PRCs. If the aim of the Goals is to speed up the case closure process, we believe that strict deadlines for action and additional data input may overwhelm the Intake Unit. But we are amenable and open to making changes which could improve our database (Salesforce) to allow tracking of certain dates, complaint/case statuses, or other information as deemed necessary.

Additionally, from the explanation we have received regarding these Goals, it appears that the Commission wants the Goals to set the priorities for staff – rather than the Commission setting the priorities. We think this is misguided. When "everything" that comes into Enforcement is considered a priority, nothing can be a priority.

If the Intake PRCs are given substantive priorities set by the Commission (i.e., what types of Intake-level cases to expedite), PRCs can direct their focus so they are working to ensure that their work-product is in line with the expectations of the public (by proxy of the Commission). We feel it would be helpful for the Commission to give a written policy to the Intake PRCs regarding priorities we should have. There are so many kinds of cases that the PRCs handle, particularly with the codifying of Streamline and the inclusion of "Tier 2" violations, that cases will inevitably sit longer than anticipated because of the limited staffing in the Intake team. Additionally, the PRCs are often overwhelmed by their Complaints and thus do not have time to work on their cases. This is especially true during election seasons. Not only do the number of Complaints received increase significantly, the Intake team is also tasked with the proactive pre-election outreach program, which adds an exponential workload on top of an already large workload. In short, we feel that we need direction on what types of cases the Commission wants to see expedited, not necessarily strict deadlines for action. We also feel that changes could be made to the Intake team and workflow that would help with expediting resolutions on both complaints and cases.

This document contains: **broader suggestions for what could make the Intake Team's workload more efficient, and our thoughts regarding the Commission's proposed Enforcement Policy Goals, as discussed at the November 8, 2022 Law & Policy Meeting.** While the bulk of the Goals relate to Mainline (Investigator/Attorney) cases, some of the sections apply to Intake. They have been excerpted with comments from the Intake Team.

## **Current Workflow**

The “Intake Unit” is currently comprised of one Manager (Tara), three Political Reform Consultants (Ginny, Amber, Laura), and one Staff Services Analyst (Taylor). The Manager and PRCs are assigned a five day period (called our “Intake Week”) where the Manager or PRC is responsible for all complaints and non-filer referrals received by Enforcement during that week. The person on Intake is also tasked with receiving incoming phone calls to Enforcement and responding to the e-mails received by our general mailbox, [complaint@fppc.ca.gov](mailto:complaint@fppc.ca.gov).

There are three types of complaints: Sworn, Non-Sworn, and Anonymous. Sworn complaints have strict statutory deadlines that must be adhered to (3 days to send a notification letter; 14 days to inform the complainant of the intended action on their complaint).

Non-filer referrals are received from State/Local filing officers, and include many types (The most common are Campaign (Form 460/470) Non-filer and Statement of Economic Interest (Form 700) Non-filer, in addition to many others). Currently, the Manager and PRCs have no control over the complaints/referrals that are received during their week. Everything is assigned to the person who is “on Intake” that week.

Consequently, a new PRC with limited experience and knowledge of the Political Reform Act will receive complaints and referrals that cover *all potential violation types* of the Act. Being a PRC in Intake can feel like “trial by fire” – there are so many types of complaints and non-filer referrals, it is a scramble to educate and train the PRCs to handle their assigned workload. Further, the Manager does not know what their PRC’s whole workload is comprised of.

After a complaint or non-filer referral is reviewed by the Manager or Intake PRC, we make a recommendation to the Enforcement Chief as to whether it should be opened into an Enforcement case. Cases with a lower violation type that fits in to the Streamline Program (and does not need to go to a “full investigation”) are often considered “Intake Level” cases -- and are assigned to the PRC who reviewed the complaint and opened the case. With the codifying of the Streamline Program<sup>1</sup> and the recent inclusion of “Tier 2” Streamline violations<sup>2</sup>, many cases are now considered “Intake Level”. Consequently, both new and seasoned PRCs have caseloads that run the gamut of possible violations of the Act. In short, the PRC’s own knowledge of the Act can become the bottleneck that prevents a timely resolution on a complaint or case.

## **Proposed Changes – Intake Unit**

We think this could be an opportunity for changes in the way the Intake Unit runs. Specifically:

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<sup>1</sup> Regulation 18360.1 and 18360.2

<sup>2</sup> Regulation 18360.3

- 1. Instead of the Intake Manager being included on the Intake rotation, letting the Intake Manager review the incoming complaints and then assign them to a PRC, rather than have a PRC be responsible for “whatever is received on their week”.**
  - a. This would give the Manager the ability to slowly train a PRC on specific sections of the Act over time. The Manager could also create “subject matter expert” PRCs, and the Manager would be able to keep the most complex complaints for their own review.
  - b. This would give the Manager the ability to immediately review and reject complaints that do not contain a violation of the Act.
  - c. Currently, it is a detriment to Enforcement if a lesser experienced PRC is reviewing a complex complaint that they have no familiarity with, as the PRC is unable to “issue spot” and identify potential violations.
- 2. Rejecting complaints with no (or very minimal) violations of the Act**
  - a. Intake receives many non-sworn and anonymous complaints which contain little information or evidence to substantiate the made allegations. Current unofficial policy conflicts with the regulations here – Regulation 18360 states that a complaint may be rejected if it does not contain sufficient evidence. But our policy has been to contact the complainant (when possible) to get more information about what they are alleging. In these situations, PRCs have been obligated or told to use any hint of information the complainant provided in order to interpret the complaint. As a standard, the PRCs would like more leniency on when Intake may reject a complaint due to lack of evidence.
  - b. Enforcement will open a case on any violation of the Act, no matter how small. The PRCs would like more leniency on rejecting complaints where the violation is *de minimis*.
- 3. Removing some “types” of cases from the PRCs, even though the violations fall into the Streamline Program. These are the cases that drag due to outstanding legal questions or the complexity of the law that is applied. We propose removing these subject matter cases from Intake:**
  - a. Statement of Economic Interest (Form 700) Non-Reporter
    - i. These cases often have outstanding legal questions (which is often why the economic interest was not reported/disclosed in the first place, and is the subject of an Enforcement complaint). These cases would be better resolved with an Attorney.
  - b. Advertisements
    - i. These cases can be complex since the sections of the Act that govern advertisements are so nuanced. There are often outstanding legal questions on ad rules, and PRCs are asked to communicate with Enforcement Attorneys on a resolution. These cases would be better resolved with an Attorney from the onset.
  - c. Cases with more than 1-2 violation types
    - i. A case that includes violations across multiple subject areas (for example: campaign nonfiler, campaign late reporter, and committee naming) will take

much longer to resolve due to the complexity of the case. These cases would be better resolved with a junior level Attorney.

In short: simpler cases with minimal legal questions can be resolved easily/efficiently, and will allow the Intake PRC to resolve their cases quicker.

#### 4. Adding “Intake Attorneys”

- a. When the Respondent for an “Intake Level” case does not respond to multiple contact attempts from the PRC, the case will be transferred to an Enforcement attorney for prosecution/compliance. If the PRCs could transfer their lower level cases to (junior level?) Intake Attorneys, the Intake attorney would gain necessary experience on lower level cases/violations.
- b. Intake Attorneys could also handle the types of cases that are eligible for Streamline but should be moved from Intake (see 3(a) and 3(b) above).

### **Proposed Changes - Updates to the Complaint Portal**

In theme with making the process more transparent for the public, information about the Enforcement Process or filing a Complaint should be easily available and digestible to complainants without the need for staff interaction/hand-holding. **Some complainants have no sense of the level of or quality of information they should provide;** the Commission should make clear that complainants need to provide specific information and that we will not investigate complaints with only generic information or no information at all.

This could be achieved without a Regulatory change – perhaps the Commission could amend the Enforcement Complaint page/portal to add clarity about what the complainant should submit with their complaint. The PRCs would be happy to assist with brainstorming these ideas, because we feel it would substantially cut down the amount of time the PRC spends interacting with soon-to-be-complainants. A summary of some ideas is below:

- Complaint about an advertisement/mailer – *please provide a copy of the advertisement*
- Complaint about conflicts of interest – *please provide information about the date of the governmental decision(s) made; any relevant agendas; the nature of the official’s financial (or other) interest, etc.*
- Complaint about Form 700s – *please provide copies of the Form 700s*
- A statement on the website that “Multiple Complaints About the Same Issue” do not need to be filed. Complainants are not aware that when they band together to file complaints on the same issue against the same Respondent(s), they are slowing down the PRCs processing of those complaints. Each complaint must be evaluated to see if the subject matter is the same, if the evidence is the same, and if all the allegations are the same.
  - For reference, Intake received 19 complaints during a 30 day period on substantially the same conduct regarding one County official.
    - 5 Sworn complaints, 1 Non-Sworn, and 13 Anonymous. This is duplicative work for the PRCs, when many of the complaints were the same.

- A re-statement that a Sworn Complaint will be notified within 14 days of their sworn complaint's submission. Too often Intake will receive "Status Request" e-mails after only 1-2 days have passed since the complainant filed their complaint.

## **Proposed Policy - Amnesty**

The Intake Unit is in favor of an "amnesty" policy for SEI Nonfiler cases, where the Respondent's missing SEIs are from 2017, 2018, or 2019, *and* the Respondent has left office/is no longer in a public position. These cases could be resolved with Warning Letters for the missing Annual and Leaving Office SEIs, which would give the Respondent a "prior violation," and make them eligible for an automatic Tier 1 Streamline penalty should they be referred to Enforcement in the future. This would help tremendously with the backlog of old SEI referrals/cases currently sitting with Intake.

## **"Goals" -- Proposed Policies + Comments**

Proposed Policy/Regulation: It is the goal of the Enforcement Division to complete investigations and prosecutions of alleged violations of the Act quickly and efficiently. **In general, the Enforcement Division should endeavor to complete an investigation and, when warranted, prosecution of a violation within two years of the case being opened, except where circumstances clearly indicate a reason for a longer period of time.**

The PRCs agree that 2 years of time should be enough to resolve an "Intake Level" case. However, case progression is delayed by a multitude of factors, such as:

- New staff
  - We ask our PRCs to be experts in the Political Reform Act, but the Act is a very complex body of law. Our Intake Team is comprised of mostly newer staff, and the longest serving PRC has been with Enforcement for only ~4 years. A possible solution to this would be to 1) limit the types of cases that stay with Intake PRCs, and 2) let the Intake Manager assign complaints, to grow a PRC's knowledge base over time.
- Complaint volume
  - During an election year, PRCs will receive up to 30 sworn complaints on their Intake weeks. There are some weeks where PRCs can only draft and send letters, because of the strict statutory deadlines for action. In these busy times, the PRC's time is not elastic, and PRCs do not have a choice between working on their sworn complaints or working on cases.
- Passionate complainants
  - At any given time, PRCs may deal with intense interest from an outside source (typically a complainant) who will drain time from the PRCs via repeated e-mails, phone calls, and demands for action. By being "public-facing" and immediately responsive to e-mail and phone, PRC's time is drained from working on their cases.
- Volume

- There are areas of the Act with a high rate of violation (e.g. advertisement disclosure violations). These are generally easy cases but doing this volume of these cases means that other cases (especially with non-responsive Respondents) will be put off beyond the proposed 2-year deadline. Moving “advertising cases” away from the PRC workload would solve this.
- Necessary Hand Holding
  - Once a matter is opened into a case, Intake PRCs work with many Respondents who simply do not understand their obligations under the Act. Working with a Respondent takes time and can stretch a case resolution over many months, particularly if the PRC must send the Respondent for help from the FPPC’s Advice Team.

If the Commission wishes for all Intake level cases to be resolved within 2 years, then perhaps the PRCs should be allowed to transfer their “cases older than 2 years” to new staff/Junior level attorneys for settlement/prosecution/resolution.

To assist the Enforcement Division in achieving these goals, the Enforcement Chief shall, in consultation with the Chair and Executive Director, establish and maintain a system for the efficient allocation and completion of Enforcement Division workload. ... The system shall, at a minimum, provide for: ... **Specific target deadlines for completion of tasks at each stage of an Enforcement matter, including, but not limited to:**

**i. Evaluation of complaints/referrals and recommendations for disposition by Intake**

The PRCs agree that it has been an unofficial Intake policy that sworn complaints be resolved within 90 days. This has been our guiding principle when evaluating a sworn complaint. Generally, PRCs meet this deadline, with some exceptions (i.e., the Enforcement Chief requires more time to consider the allegations, so the complaint lingers past the 90th day). The PRCs propose keeping, and adopting as a policy, the 90-day deadline for sworn complaints.

For other kinds of complaints (anonymous and non-sworn), we are open to proposed deadlines for these types. If we allow the Manager to assign complaints to PRCs, it would make it so that the PRCs are not immediately swamped with anonymous/non-sworn complaints “on their Intake week.” This would in turn allow for additional breathing room, and more time for the PRC to send a letter of inquiry or do more internet research in a timely manner.

**Specific target deadlines for completion of tasks at each stage of an Enforcement matter, including, but not limited to:**

- xii. Drafting/transmitting closure documents (i.e., advisory, warning, or closure letters)**
- xiii. Drafting/transmitting settlement offers**

The PRCs are not certain that “specific deadlines” for transmitting settlement documents would change our workload. In late November, each PRC had 100+ open cases, and 130+ open complaints. If the Commission wants complaints resolved during specific deadlines, then cases will need to wait.

Additionally, PRCs can be overwhelmed with “Spinoff Case” (see: early 2022, when a PRC opened ~25 Major Donor Spinoff cases stemming from an Enforcement investigation in to 2018 activity). Most of those cases required the Respondent to file an outstanding Form 461, which required significant hand-holding by the PRC to get that compliance, in addition to juggling the other active complaints and cases. Sticking a deadline to those spinoff cases (i.e., “settlement document/WL sent within X amount of days”) would be too much stress all at once.

**Written standards for use by intake staff in evaluating whether to open or close a matter at the intake stage, including but not limited to, when intake staff should request additional information from a complainant or respondent and when intake staff should request assistance on questions of legal interpretation from FPPC attorneys.**

PRCs are not sure if having a “chart of guidelines” would be helpful, and would like to think that the Commission would trust its PRCs judgement when the PRC makes a recommendation on a complaint. Intake PRCs lean on each other for guidance about the complaint they are reviewing, and frequently ask other PRCs for comparable complaints. PRCs communicate directly with the Chief regarding all Enforcement complaints, and the Chief makes the final decision on whether the complaint should be rejected or opened into a case. It does not make sense to add another “Chart” that PRCs have to remember to check.

Regarding “when Intake staff should request assistance on questions of legal interpretation” – the PRCs will farm out their complaints for an attorney’s review/analysis if the complaint alleges violations of:

- Conflicts of Interest Rules (§87100 et seq.)
- Government Code §1090
- Mass Mailing at Public Expense/Public Mailer complaints

The above could be codified in the Goals.

Tracking of Enforcement Division compliance with the deadlines and procedures for workload allocation and completion. When feasible, **an electronic system should be designed and implemented in a manner that, at a minimum, accepts data entry by staff in real time as tasks are completed and allows the Chief and their designees to generate automated tracking reports such that performance under the policy can be evaluated by objective metrics for individual staff members**, groups of staff members (e.g., investigators, attorneys, PRCs, etc.) as well as the division as a whole in order to evaluate the timelines for update and feasibility.

If this is found to be necessary by the Commission, this tracking should be done in a way that does not require too much added staff time to input the data in a separate system. If the goal is efficiency, added tasks to the Intake Team will not help us reach that goal. The PRCs feel that there are already so many items to track and “fill in” in Salesforce, that we are not sure if *more items to track* would be beneficial. However, there are a few fields that could assist the PRCs. For examples, Salesforce fields for **Cases** for:

- “Date PREP Offer Sent”
  - “Date 1<sup>st</sup> Streamline Settlement Offer Sent”
  - “Date 2<sup>nd</sup> Streamline Offer Sent”
  - “Date Referred to Attorney for Analysis”

Currently, the above statuses are written in the “Case Comments” box, which is not very useful if the Commission is wanting to generate reports.

For **Complaints**, we could have separate drop-down status fields for each complaint (e.g. “waiting on response from respondent”, “waiting for more information from complainant”, “drafting memo for review”). These are things that are already a part of our current workflow and would not be difficult to track in Salesforce.

These are other items that could be added into the body of the complaint rather than just appearing in the files of the complaint (therefore harder to search for specifically):

- Letter of Inquiry/3 day letter sent
  - Need More Time Letter Sent
  - Request for Attorney Analysis sent
  - Response from respondent received
  - Request for Information or Compliance Sent.

It should be feasible for the Commission to work with the Salesforce system we have to create changes that could track these items.

Additionally, the PRCs think some items in Salesforce could be retooled for better user functionality. For instance, some of the drop-down menus are not alphabetized or in numerical order (see: “Violations” section of a case, which is not alphabetized).

## Data Regarding Complaints/Referrals:

Complaints Received	564	1,352	744	1,390	606	1,353
Referrals Received	1,616	1,529	1,950	1,518	1,751	1,630
Total	2,180	2,881	2,694	2,908	2,357	2,983

1,353 complaints received in 2022 = ~339 complaints reviewed/resolved per Intake member