

Enforcement Case Resolution Process Overview

Item 7

Priscilla Njuguna
Enforcement Policy Manager

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Outline

- Enforcement Program Goals
- Procedures:
 - (i) Case Review
 - (ii) Case Management
- Case Prioritization
- Case Resolution
- Available Resources
- Next Steps

Enforcement Program Goals

- **Deterrence:** Remove incentive to violate BCDC laws, policies and regulations.
- **Transparency:** Clearly communicate expectations and ensure that processes are known and understood.
- **Consistency:** Maintain a clear, documented enforcement process that is publicly transparent and consistently applied.
- **Fairness:** Treat violations similar in nature and impact to the Bay and public access similarly (will not necessarily equate to the same outcome) and remove any competitive advantage gained from noncompliance.

Procedures

Initial Contact Letters to Respondents for new alleged violation reports:

- Goals: Timely case resolution, early external state agency coordination

Case Review Procedure:

- Goals: Timely case resolution, effective tracking of progress towards resolution

Case Management Procedure Milestones

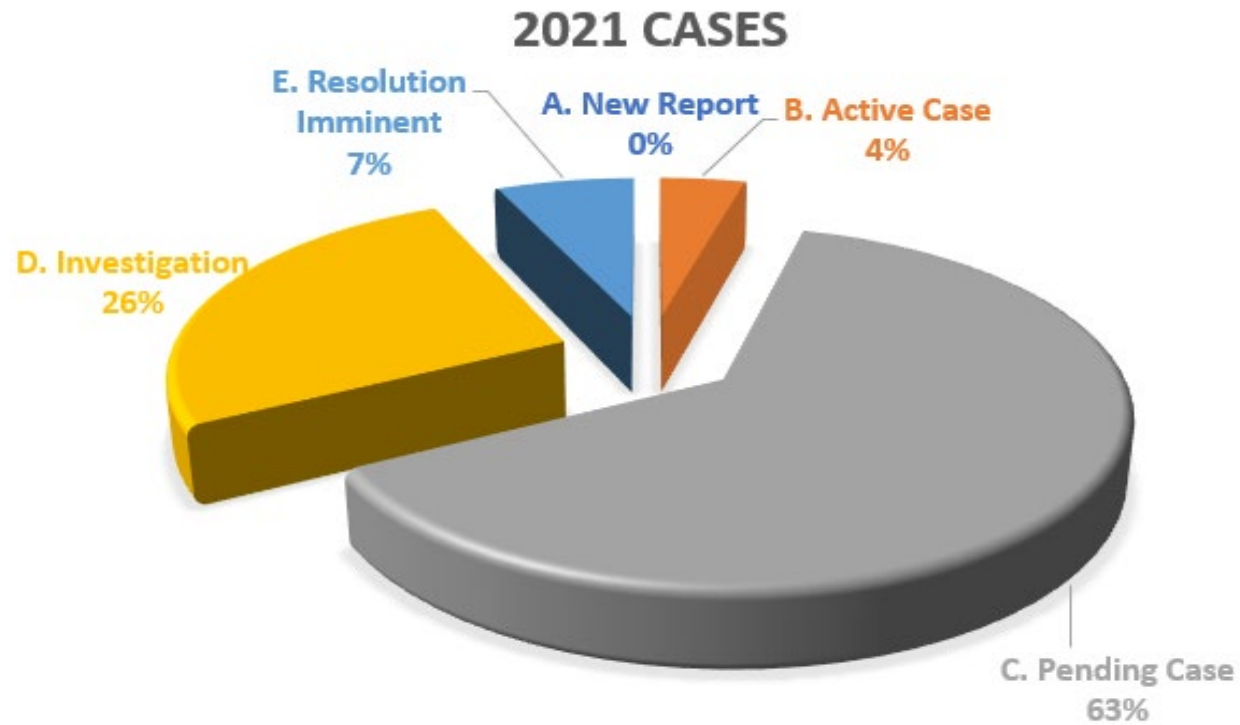
Assignment => Investigation => Negotiation => Resolution

- Goal: Real time tracking of case resolution progress

Case Review Procedures

- The 5ws of a case (who, what, where, when and how)
- How and when complex cases are escalated for resolution and to whom.
- Case status codes –New Report, Active Case, Pending Case, Investigation, Eminent Resolution, Closed/Closed No Violation, Compliance Monitoring.
- Reports—Aged Case, Grouped Case, Paired Case
- Standardized Fines
- Civil Penalties
- Enforcement Committee public hearings
- Commission vote

Case Status Codes



Case Management Procedures

- ❑ Milestones with timelines for case resolution.
 - 1) Assignment (45 days)
 - 2) Investigation (within 100 days from assignment)
 - 3) Negotiation (within 240 days from assignment)
 - 4) Resolution (within 90 days from completing negotiation)
- ❑ Aged Case Status Report
- ❑ Closed Case Report

Case Prioritization

Enforcement Committee direction:

- (a) Significant harm (context, intensity, cumulative violations)
- (b) Most harm to the bay
- (c) Limits on maximum feasible public access
- (d) Unpermitted work that is permissible
- (e) Ethical considerations.

Other approaches to improve case resolution efficiency:

- Grouping Cases by Respondent
- Pairing Cases by Respondent

Available Resources

Database—ongoing data integration to track cases and case resolution progress

Electronic record keeping

Template letters

Certification of Terms and Conditions Compliance Forms

Technical team: Bay Development Design Analysts, Staff Engineer

Next Steps

Ongoing briefings to Enforcement Committee and the Commission on complex cases

Ongoing briefings to Enforcement Committee on old cases

Case Resolution processes—initial contact letters, 35-day notice letters, coordinated enforcement, etc.

Administrative Civil Penalty Policy

Chapter 13 Amendments

Questions?