
CASE PROCESSING OVERVIEW

DEPARTMENT OF CONSUMER AFFAIRS



Bureau of Automotive Repair

BILL THOMAS
ENFORCEMENT OPERATIONS BRANCH
BAR ADVISORY GROUP MEETING
APRIL 18, 2019

BAR CASE PROCESSING DAYS

- DCA Consumer Protection Enforcement Initiative (CPEI)
 - Goal to impose discipline = 540 days from initiation of investigation
- https://www.dca.ca.gov/publications/annual_reports.shtml
- DCA Annual Reports
 - FY 2017/18 Report, pp. 34 to 38
 - 808 days to impose discipline from initiation of investigation to decision effective date
 - 648 from closure of investigation to decision effective date
 - FY 2016/17 Report, pp. 32 to 36
 - 719 days to impose discipline from initiation of investigation to decision effective date
 - 607 from closure of investigation to decision effective date

INITIATION OF INVESTIGATION

- Field Office determines violations of the Automotive Repair Act have occurred. Information can come from:
 - Complaint trends revealing a pattern of violations
 - Auto Body Inspection Program
 - Anonymous tips
 - Smog Check inspection data
 - Other sources

INVESTIGATION PROCEDURES

- In consultation with the Field Office supervisor, the investigating Program Representative will gather evidence about violations. Techniques such as the following may be employed:
 - Undercover vehicle operations
 - Video surveillance
 - Advertising review
 - Review of ARD documents

REPORT WRITING

- Once sufficient evidence is obtained, a report is written detailing the investigation and the exhibits.
- Report reviewed by Field Office supervisor for:
 - Grammar and spelling
 - Formatting
 - Factual information
 - Evidence supporting the allegations
 - Accuracy of the exhibits

HEADQUARTERS REVIEW

- Once approved at the Field Office, the report is forwarded to the Enforcement Operations Branch (EOB) for quality assurance check and approval. EOB reviews the following:
 - Grammar and spelling
 - Formatting
 - Factual information
 - Evidence supporting the allegations
 - Accuracy of the exhibits

SUBMITTAL TO ATTORNEY GENERAL

- Once the report is final, it is submitted to the AG Licensing Section where the following will occur:
 - Case assignment to a Deputy Attorney General (DAG)
 - DAG review for sufficient evidence to sustain an accusation
 - Prepare accusation for BAR review
 - EOB Case Analysts compare the accusation to the investigative report for accuracy
 - Case Analyst works with the DAG to make any necessary edits

ACCUSATION FILING

- Once the final draft of the accusation is completed, it is presented to the Chief of the Bureau for final approval and signature.
 - Accusation is 'filed' when the Chief signs it
 - Signed accusation is returned to the DAG who executes service of the accusation upon Respondent
 - When served, the accusation is accompanied by several, legally required documents
 - One of these documents is a blank Notice of Defense

ADDRESSING THE ACCUSATION

- Respondent's options once served with an accusation:
 - File Notice of Defense (NOD) within 15 days and request a hearing before an Administrative Law Judge (ALJ)
 - File NOD within 15 days and request settlement of the matter
 - Elect not to file NOD
- If NOD is not received timely, the Director will issue a Default Decision against Respondent

HEARING PROCESS

- If a hearing is requested, the following will occur:
 - DAG works with Respondent to set a mutually agreeable hearing date
 - Both parties present evidence to the ALJ
 - At the close of the hearing, the matter will be formally submitted to the ALJ to prepare a Proposed Decision

PROPOSED DECISION

- ALJ has 30 days to submit a Proposed Decision to the Bureau. The Bureau then follows these steps:
 - Proposed Decision and Accusation are forwarded to Department of Consumer Affairs' Legal Affairs Division (DCA Legal) for review on behalf of the Director
 - Director will generally take one of the following actions on the Proposed Decision
 - Adopt the Proposed Decision (as written) as the Director's Decision
 - Reject the Proposed Decision and determine the matter based upon the record
 - Reject and remand the matter to the ALJ to take additional evidence

ENFORCEMENT OF ORDER

- The final Director's Decision will be sent back to BAR for service and enforcement:
 - BAR will serve the decision on all parties and their counsel
 - Decision takes effect on date stated in Director's Decision (usually 30 days after the date of service)
 - BAR will enforce the decision as detailed in the Order, which may include Probation, Suspension or Revocation
 - Probation may include:
 - Cost recovery
 - Training
 - Suspension
 - Revocation

QUESTIONS AND COMMENTS

Submit questions and/or comments to:

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