



# Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

## Investigation Processes Audit Report 24-03

Internal Audit Division  
June 2024



## Investigation Processes Audit, 24-03

### Executive Summary

The Enforcement Division (ENF) of the Texas Department of Motor Vehicles (TxDMV or Department) investigates consumer complaints dealing with motor vehicles, motor carriers, and lemon law matters. ENF processes cases from consumers, law enforcement and other agencies on the business practices of dealers, manufacturers, converters, and motor carriers. ENF also provides education and training opportunities to licensees. The objectives of this audit were to evaluate the intake process for complaints, the method for how investigations are prioritized, and the actions taken on investigation results.

#### WHAT WE FOUND

The audit found that ENF processes are at a Level 3 – Established: The function achieves its purpose in an organized way, following established processes, but those processes may not be consistently followed or well communicated. The Internal Audit Division (IAD) issued four results related to the audit objectives.

- **Result #1:** Complaint priority levels can be better defined and used to effectively manage cases.
- **Result #2:** While there is consistency in investigation documentation, opportunities exist to strengthen case communication and oversight.
- **Result #3:** Actions and penalties were enforced, but penalties were not always assessed within established guidelines.
- **Result #4:** Key performance indicators were accurately reported but could be expanded to provide more visibility.

#### WHAT WE RECOMMEND

IAD made eight recommendations in this audit related to the following areas:



Updating procedures to better define complaint priority levels and provide training to ensure consistency.



Working with the Information Technology Services Division to ensure system flags and notifications are set up properly



Establishing processes for timely notices to be sent to ensure efficient case closure.



Ensuring that introductory and closure emails are provided to complainants.



Considering the expansion of Key Performance Indicators for more transparency.



Making sure that penalties assessed in cases are within the ranges in the Disciplinary Matrix or providing comments that support decisions.

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## Background

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The Enforcement Division (ENF) of the Texas Department of Motor Vehicle (TxDMV or The Department) enforces statutes and administrative rules affecting the motor vehicle distribution, salvage, and motor carrier industries. This includes laws governing the transportation of household goods, oversize/overweight motor carrier permits, and motor vehicle dealer advertising. The division is also responsible for administering the state's lemon law program and for recommending best practices to assist tax assessor-collector offices and TxDMV Regional Service Centers.

ENF has 55 investigators, 12 attorneys, and two case advisors to handle complaints dealing with motor vehicles, motor carriers, and lemon law matters. In fiscal year 2023, ENF received 23,000 cases and closed over 20,000 cases on these types of complaints.


### Motor Vehicle Complaints

 Motor vehicle dealers, whether franchise, independent, unlicensed or salvage dealers, have allegedly violated one of the statutes or rules regulated by the agency. The number one motor vehicle violation investigated by ENF is the failure to properly or timely apply for title. Other violations investigated include frauds, premise violations, and tag and plate violations.

### Motor Carrier Complaints

 Motor carriers who failed to maintain current insurance requirements for their license, or complaints against household goods carriers that have allegedly failed to fulfill terms of a contract with a consumer. Motor Carrier complaints also include violations of the size/weight restrictions of a permit or license.

### Lemon Law Complaints

 Complaints from the public about manufacturers that fail to fulfill the terms of a new vehicle warranty.

The scope of the audit was September 2022 to January 2024 (time period) and included complaints investigated by ENF's Motor Vehicle Section. During the time period, ENF closed a total of 17,303 cases and had 8,346 cases open as of January 2024.

### Strengths

- ENF started the process of updating its procedures to ensure that investigations are conducted in a timely manner and that documentation is uniform.
- ENF is working with licensees to settle cases and reduce the need for hearings which could potentially lead to shorter case closure times.
- ENF has processes in place to ensure that penalties are collected and forwarded to collections when necessary.
- ENF ensured Key Performance Indicators were accurately reported.

### Audit Engagement Team

The audit was performed by Angel Flores (Principal Internal Auditor), Sonja Murillo (Senior Internal Auditor), and Salem Chuah (Internal Audit Director).

## Audit Results

### Audit Results #1: Complaint priority levels can be better defined and used to effectively manage cases.

**Priority Levels.** ENF assigns priority levels to complaints it receives, which provides investigators with a timeframe in which an investigation should be completed. In 17 (38 percent) of 45 cases, ENF did not ensure that the complaint was assigned the appropriate priority level.

According to ENF, eLicensing, the Department's complaint tracking system for motor vehicle cases, will automatically assign cases a priority level based on predetermined criteria that may not be working as intended. Further, multiple Assistant Chief Investigators assign priority levels to incoming cases and may use their discretion in considering factors such as the dealer's violation history, the dealer's current open cases, how late title transfers are occurring, and how many customers the late title transfers are affecting. There may also be limited training for assigning priority levels amongst Assistant Chief Investigators to ensure uniformity of applying priority levels to incoming complaints.

**Investigation Completion.** ENF closed a total of 17,303 cases between September 2022 and January 2024. On average, all cases were closed in 271 days. (see **Figure 1**). Specifically, high priority cases were closed with a median of 49 days and low priority cases were closed with a median of 385 days.

**Figure 1** also shows the average and median days cases have been with investigators. As cases progress from investigators to attorneys, there may be required minimum waiting periods defined in ENF's procedures which the Department cannot control that impacts the total complaint closure time. Cases with investigators take on average 132 days to complete both high and low priority cases with the median being 23 days and 74 days, respectively.

**Figure 1: Cases and Closure Time**

Priority Level	Total Cases	Average days to close	Median days to close	Average days with Investigator	Median days with Investigator
High	2,428	177	49	132	23
Medium	12	361	266	124	13.5
Low	14,863	286	385	132	74
<b>Total</b>	<b>17,303</b>	<b>271</b>	<b>266</b>	<b>132</b>	<b>23</b>

According to ENF, there was a high volume of temporary tag complaints which increased the number of high priority cases. The procedures include criteria on days to complete high, medium, and low priority cases:

- High priority cases involving public safety, red flag referrals or premise cases should be completed in 30 days.

- Medium priority cases involving licensee conducting business outside of license classification or licensee offering and/or selling off their license location to be completed in 60 days.
- Low priority cases involving advertising cases and any other case that does not fall into the other two categories to be completed in 90 days.

Separately, only 12 (0.07 percent) of 17,303 closed cases were assigned a medium priority level with almost all cases assigned either as high or low priority levels. Limiting the use of priority levels to only two or not assigning the appropriate priority level to complaints could cause ineffective allocation of resources to resolve consumer damages.

According to ENF, not every case can be given a high priority level. When Assistant Chief Investigators are performing the intake process, they tend to view cases in high or low priority and therefore there is limited use of other categories.

The June 2019 Sunset Advisory Commission Report directed the Department to identify and implement methods to reduce its complaint resolution timeframes and to develop clear guidance and criteria for prioritizing investigations. Additionally, the Texas Transportation Code 1003.0055(a) states “The department shall maintain a system to promptly and efficiently act on complaints filed with the department.”

### Recommendations

1. The Enforcement Division should revise its procedures for assigning complaint priority levels to include additional factors taken into consideration (e.g., dealer violation history, number of customers affected, etc.) and expand the use of priority levels. The Department should also conduct training to ensure the consistency of assigning complaint priority levels.
2. The Enforcement Division should work with the Information Technology Services Division to ensure that the automatic assignment of priority levels in eLicensing, if used, is working as intended.

## Audit Results #2: While there is consistency in investigation documentation, opportunities exist to strengthen case communication and oversight.

**Investigations.** ENF generally ensured that cases were documented uniformly in accordance with its procedures (see **Figure 2**). Specifically, 27 (90 percent) of 30 cases had all elements of an investigation completed.

**Figure 2:** Documentation elements for investigations



**Opening/Closing E-mails.** ENF provides each complainant with an acknowledgement email that provides the following information:

- Inform the complainant that the complaint has been received
- A case has been opened by TxDMV
- The case number
- Assigned investigator name and contact details
- Complainant responsibilities

ENF did not consistently ensure that opening and closing emails to the complainant were provided as stated in its procedures. Specifically, 5 (23 percent) of 22 cases were missing an opening and/or a closing e-mail.

**90-day Status Updates.** Auditors determined that only 6 of 30 cases took longer than 90 days to complete the investigation process therefore requiring periodic updates. However, ENF did not consistently provide updates. Specifically, 4 (67 percent) of 6 cases did not have any updates provided despite having the option for periodic status updates selected. In addition, one case that did not require updates received updates after the closing email was provided.

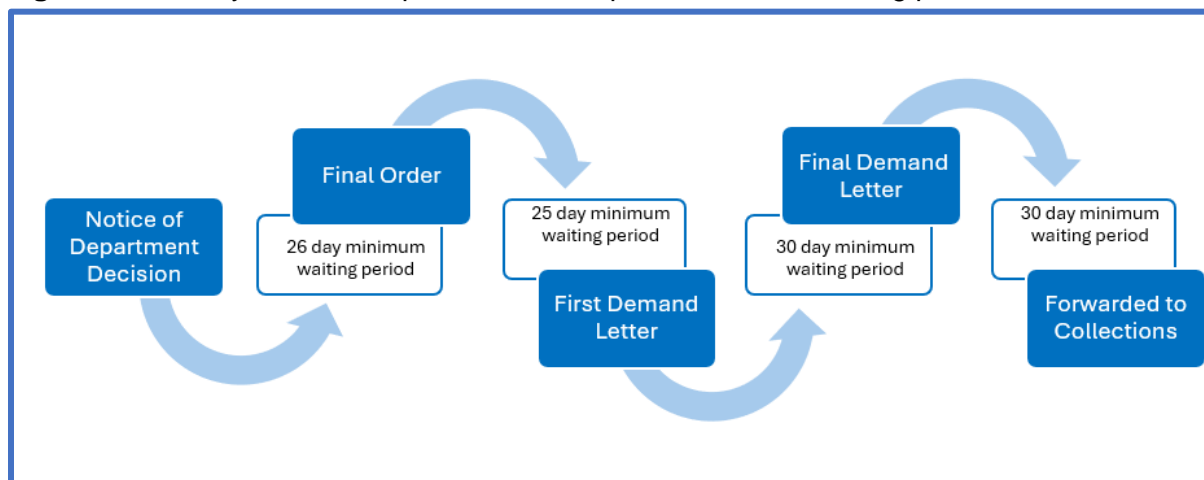


The 90-day status update provides the complainants with periodic status updates regarding the complaint while the closing email provides the complainants with information concerning how their case concluded. Not providing these updates could cause additional work for investigators as complainants could be unaware of the progress of the case and may contact investigators for updates.

According to ENF, periodic status updates are automated by eLicensing and investigators have the option to deselect the option for periodic status updates when they believe the notification could interfere with the pending investigation.

**Contested Cases.** In 4 (25 percent) of 16 contested cases where additional notices were sent after the Notice of Department Decision (NODD), ENF took 15 to 46 days longer than the minimum waiting period to proceed in its process which impacts complaint closure times (see **Figure 3**).

**Figure 3:** Attorney notification process with required minimum waiting periods



According to ENF, the respondent is often given additional time to resolve violations because it reduces the need for a hearing or from having to forward the penalty assessed to collections for non-payment.

### Recommendations

3. The Enforcement Division should ensure that investigation results are documented consistently.
4. The Enforcement Division should ensure that opening and closing emails are provided to complainants. It should also update the opening email template to include all elements stated in its procedures.

5. The Enforcement Division should work with the Information Technology Services Division to ensure that the 90-day status updates are sent appropriately (e.g., sent if cases are over 90 days and ceased when closing email has been sent).
6. The Enforcement Division should ensure that it sends all notices after the minimum waiting period in instances where doing so may reduce case closure times (e.g., non-responsive cases).

## **Audit Results #3: Actions and penalties were enforced, but penalties were not always assessed within established guidelines.**

**Actions and/or Penalties Completed or Collected.** ENF ensured actions and/or penalties were completed or collected. Of the 30 cases reviewed:

- 23 cases had a penalty collected and/or license revoked
- 7 cases had a license revoked and/or forwarded to collections

According to eLicensing, out of the 30 cases, ENF assessed a total of \$372,122 in penalties and revoked six dealer licenses. Further, ENF collected \$151,122 of the total penalties assessed and forwarded the remaining total of \$221,000 associated with five cases to collections following the process.

**Assessing Penalties.** ENF generally applied the disciplinary matrix when assessing penalties on its cases. However, 6 (20 percent) of 30 closed cases did not have a final penalty assessed within the range provided in the disciplinary matrix. These six cases had final penalties that were 50 to 75 percent less than the stated minimum.

In the six cases, case notes indicated that respondents reached out to ENF attorneys and negotiated with the attorney for a reduced penalty amount. However, the disciplinary matrix ensures visibility into the Department's enforcement decisions and clear understanding among licensees regarding expected penalties.

According to ENF, when attorneys apply the matrix when reviewing violations, they only ensure that they do not exceed the maximum amount stated. ENF attorneys also give the respondent credit against the penalty amount for costs the respondent incurred for resolving the issue with the complainant leading to a lower amount than stated in the established matrices.

ENF's procedures state that the agreed final order penalty amounts must be within the disciplinary matrix guidelines, unless a comment is entered into the case citing the reason for the deviation.

### **Recommendations**

7. The Enforcement Division should ensure that penalties assessed in cases are within the range provided in the Disciplinary Matrix or document the justification to support assessing a penalty outside the range.

## **Audit Results #4: Key performance indicators were accurately reported but could be expanded to provide more visibility.**

ENF administrative staff collect and report Key Performance Indicators (KPIs) to Department management and the Board. The goal for the total number of motor vehicle cases in progress longer than two years is 4 percent or less. For the audit period of September 1, 2022 through January 31, 2024, ENF reported 1 percent to 5 percent of cases that are in progress longer than two years.

Auditors reviewed supporting documentation for 6 of the 17 months within the audit scope period and determined that KPIs were supported and accurately reported.

Other Texas regulatory agencies have metrics such as the percentage of complaints resolved within six months and average time (days) for resolution with pre-determined goals. For example, one agency has a goal of closing 65 percent of complaints within six months while another agency has a goal of 90 percent with the average days for resolution being 192 and 100 days, respectively. Also, the June 2019 Sunset Advisory Commission Report directed the Department to revise and expand KPIs and annual enforcement reports to better assess effectiveness and efficiency and provide more visibility of the enforcement program. Examples included the average number of days to resolve a complaint, the complaint type, and the actions taken on complaints among other measures. Reporting on these measures could allow ENF to effectively allocate resources and identify inefficiencies or other issues.

### **Recommendations**

8. The Enforcement Division should consider revising and expanding its key performance indicators to provide more visibility.

## **Appendix 1: Objectives, Scope, Methodology, and Rating Information**

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### **Objectives**

The objectives of this audit were to evaluate the intake process for complaints, the method for how investigations are prioritized, and the actions taken on investigation results.

### **Scope and Methodology**

The scope of the audit included closed motor vehicles cases from September 2022 to January 2024 and open motor vehicles cases as of January 2024.

Information and documents evaluated in the audit included the following:

- Interviewed Enforcement Division (ENF) senior management, investigators, attorneys and administrative staff.
- Obtained and analyzed ENF motor vehicle closed cases
- Selected a sample of 30 closed and 15 open motor vehicle cases
- Analyzed penalties assessed, collected and forwarded to collections
- Reviewed case details in eLicensing
- Developed complaint notification process flowchart
- Reviewed Transportation and Occupations Code to identify statutes relevant to audit
- Reviewed the ENF's procedures and disciplinary matrices
- Obtained ENF's Key Performance Indicators reported and supporting documentation
- Reviewed Key Performance Indicators reported by licensing state agencies

This audit was included in the Fiscal Year 2024 Internal Audit Plan. IAD conducted this performance audit in accordance with Generally Accepted Government Auditing Standards and in conformance with the Internal Standards for the Professional Practice of Internal Auditing. Those standards require that IAD plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions based on our audit objectives. IAD believe that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

### **Report Distribution**

In accordance with the Texas Internal Auditing Act, this report is distributed to the Board of the Texas Department of Motor Vehicles, Governor's Office of Budget, Planning, and Policy, Legislative Budget Board, and the State Auditor's Office.

### **Ratings Information**

#### **Maturity Assessment Rating Definition**

IAD derived the maturity assessment ratings and definitions from the Control Objectives of Information and Related Technologies (COBIT) 5 IT Governance Framework and Maturity Model, the Enterprise Risk Management (ERM) Maturity Model, and the ISACA Maturity Model. The model was adapted for assurance audit purposes and does not provide a guarantee

against reporting misstatement and reliability, non-compliance, or operational impacts. The ratings and definitions are provided in Table 1.

Table 1. Maturity Assessment/Process Capability Rating Definitions

Rating	Name	Definition
<b>1</b>	Minimal	The function may have policies and procedures established for some activities but relies on intuition and handles issues on an ad-hoc basis.
<b>2</b>	Informal and Reactive	The function achieves its purpose with basic processes and activities that are not very organized or followed.
<b>3</b>	Established	The function achieves its purpose in an organized way, following established processes, but those processes may not be consistently followed or well communicated.
<b>4</b>	Predictable	The function fully achieves its purpose, is well-defined, and its performance is quantitatively measured. The function is fully integrated within the Department, the function has full resources to achieve business objectives, and policies and procedures are regularly improved.
<b>5</b>	Optimized	The function fully achieves its purpose, is well-defined, and its performance is quantitatively measured. There is continuous improvement that is pursued, and technology is heavily leveraged to automate workflow and improve quality and effectiveness of processes.

## **Appendix 2: Management Response and Action Plan**

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The Enforcement Division provided the following response:

Recommendation	Responsible Department and Section/Unit	Department Response	Completion Date
1. The Enforcement Division should revise its procedures for assigning complaint priority levels to include additional factors taken into consideration (e.g., dealer violation history, number of customers affected, etc.) and expand the use of priority levels. The Department should also conduct training to ensure the consistency of assigning complaint priority levels.	Enforcement Division Motor Vehicle, Investigative Section	<p>The division will revise its standard operating procedures to change guidance on how priority levels are assigned as well as the expanded use of the medium priority level.</p> <p>The division will ensure supervisors are trained in the usage of the new priority levels to ensure consistent assignment of priority levels.</p>	August 1, 2024
2. The Enforcement Division should work with the Information Technology Services Division to ensure that the automatic assignment of priority levels in eLicensing, if used, is working as intended.	Enforcement Division, Motor Vehicle Investigative Section	The division will file one or more tickets with ITSD to ensure that the system is correctly assigning priority levels to incoming complaints.	August 1, 2024
3. The Enforcement Division should ensure that investigation results are documented consistently.	Enforcement Division, Motor Vehicle Investigative Section	The division will reinforce training concerning documentation at investigator trainings.	October 1, 2024
4. The Enforcement Division should ensure that opening and closing emails are provided to complainants. It should also update the opening email template	Enforcement Division, Motor Vehicle Investigative Section	The division will revise standard operating procedures to document the instances where opening or closing emails will be sent and what elements should be contained in said emails.	August 1, 2024



Recommendation	Responsible Department and Section/Unit	Department Response	Completion Date
to include all elements stated in its procedures.			
5. The Enforcement Division should work with the Information Technology Services Division to ensure that the 90-day status updates are sent appropriately (e.g., sent if cases are over 90 days and ceased when the closing email has been sent).	Enforcement Division, Motor Vehicle Investigative Section	The division will file one or more tickets with ITSD to ensure that quarterly status updates are sent appropriately.	August 1, 2024
6. The Enforcement Division should ensure that it sends all notices after the minimum waiting period in instances were doing so may reduce case closure times (e.g., non-responsive cases).	Enforcement Division, Motor Vehicle Attorney Section	The division will reinforce attorney training concerning when to issue notices. In instances were sending a notice after the minimum waiting period will reduce case closure times or are otherwise consistent with the interests of justice, the division will do so.	July 1, 2024
7. The Enforcement Division should ensure that penalties assessed in cases are within the range provided in the Disciplinary Matrix or provide/document aggravating and/or mitigating factor(s) to support assessing a penalty outside the range.	Enforcement Division, Motor Vehicle Attorney Section	The division has already implemented procedures whereby if an attorney seeks to assess a penalty lower than what is found in the disciplinary matrix the attorney will document in objective terms why the deviation is justified. Legal staff have additionally been trained on what constitutes "objective justification."	July 1, 2024
8. The Enforcement Division should consider revising and expanding its key performance indicators to provide more visibility.	Enforcement Division Director	Prior to issuance of the Sunset Report, the division KPIs were based on average days to case resolution. The metrics were amended following the issuance of the Sunset Report to place focus on overall case processing time frames. The	September 1, 2024

Recommendation	Responsible Department and Section/Unit	Department Response	Completion Date
		<p>division currently maintains internal monthly metrics on both investigator and attorney case processing. Additionally, the division's Annual Report includes case open and close counts, the source and disposition of complaints, days to resolution, violation type and volume, and reimbursements to consumers.</p> <p>Existing metrics aside, the division will explore additional measures that may provide more visibility into program efficacy.</p>	