



LEGISLATIVE BUDGET BOARD

Sworn Complaint Enforcement at the Texas Ethics Commission

**PRESENTED TO THE HOUSE COMMITTEE ON
GENERAL INVESTIGATING AND ETHICS**

LEGISLATIVE BUDGET BOARD STAFF

MARCH 2018

Statement of Interim Charge

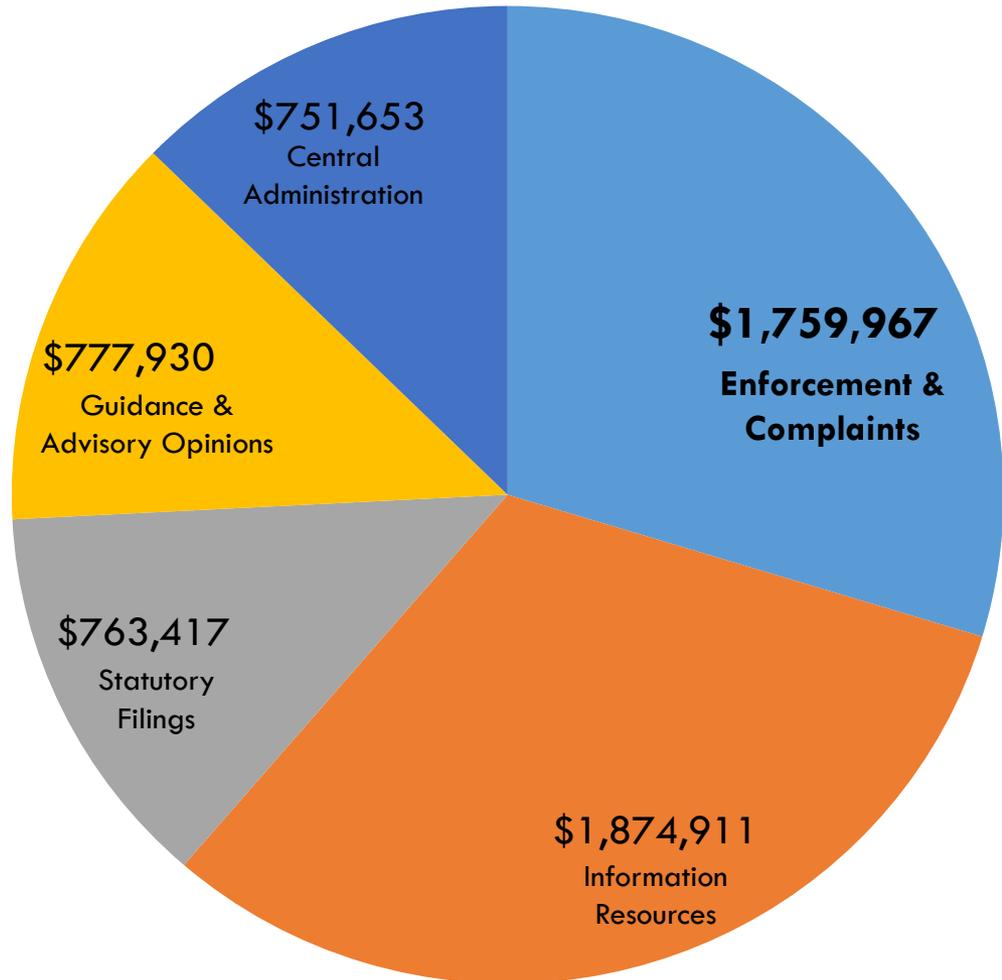
General Investigating and Ethics Charge #5:

Review procedures and processes used at the Texas Ethics Commission. Identify ways to resolve complaints more efficiently.

Agency Appropriations by Strategy

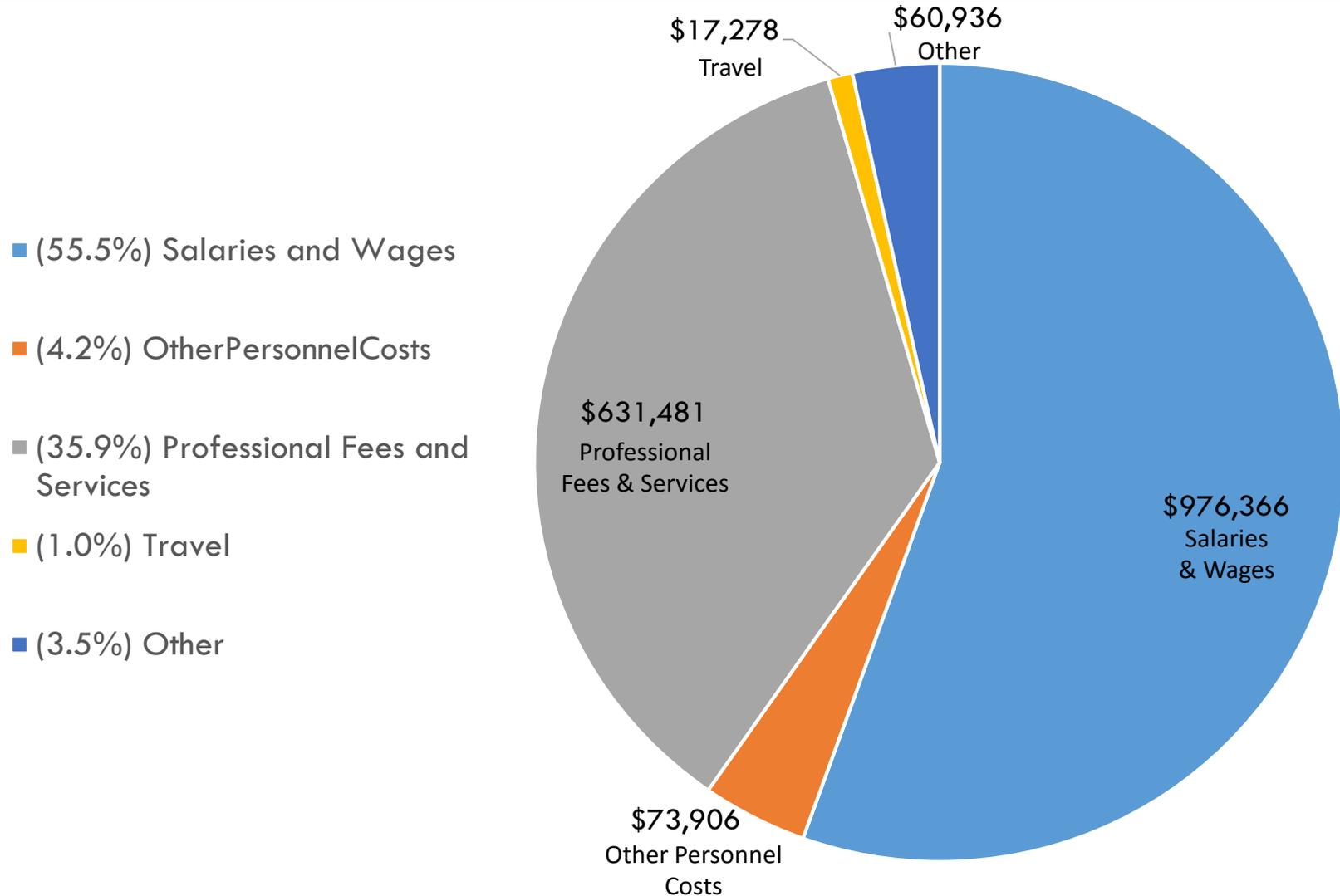
2018-2019 General Appropriations Act

- (29.7%) Respond to Complaints and Enforce Applicable Statutes
- (31.6%) Information Resources
- (12.9%) Serve as the Repository for Statutorily Required Information
- (13.1%) Respond to Requests for Guidance/Advisory Opinions
- (12.7%) Central Administration



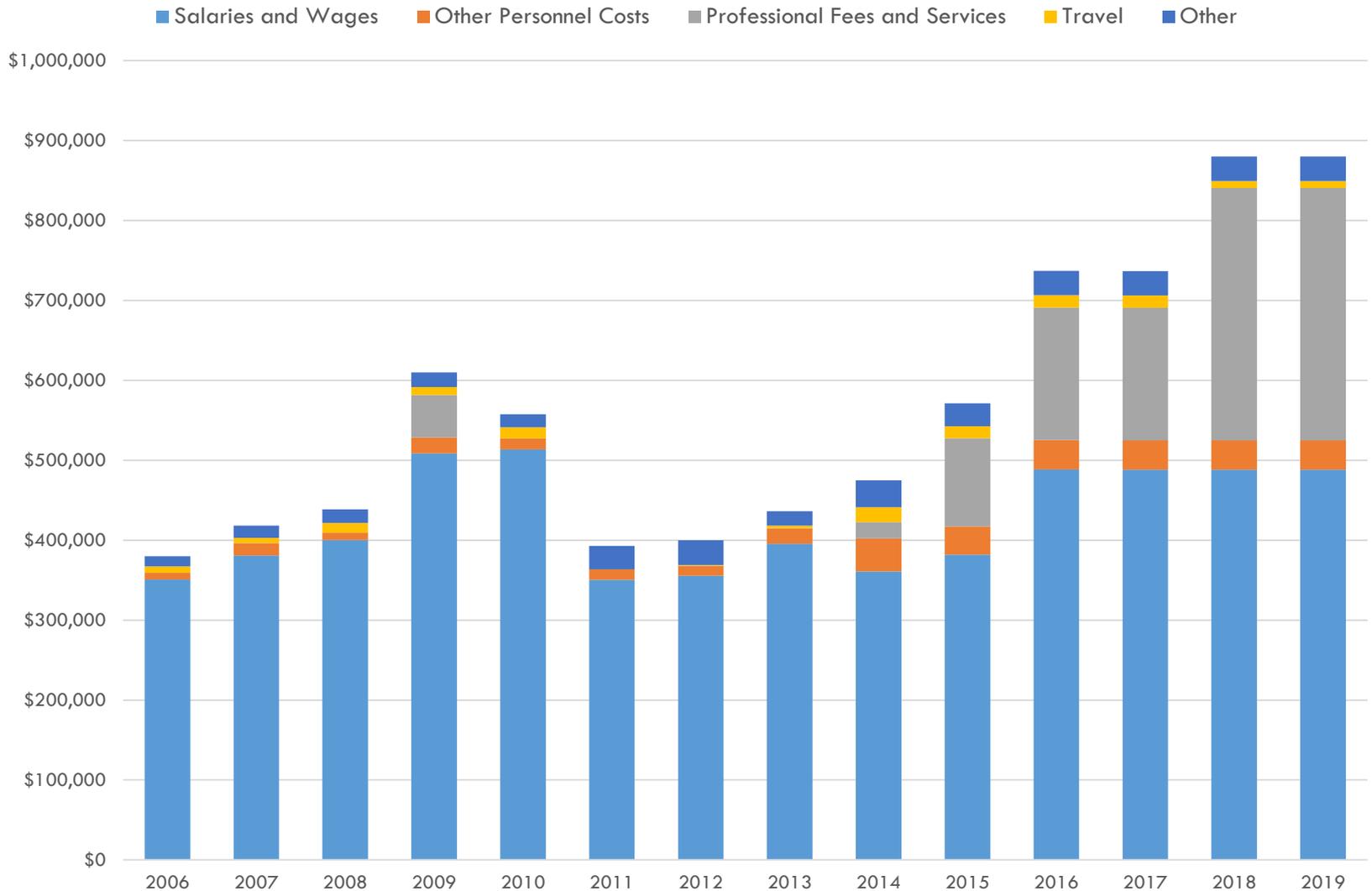
Enforcement Strategy Funding

Fiscal Years 2018-2019 By Objects of Expense



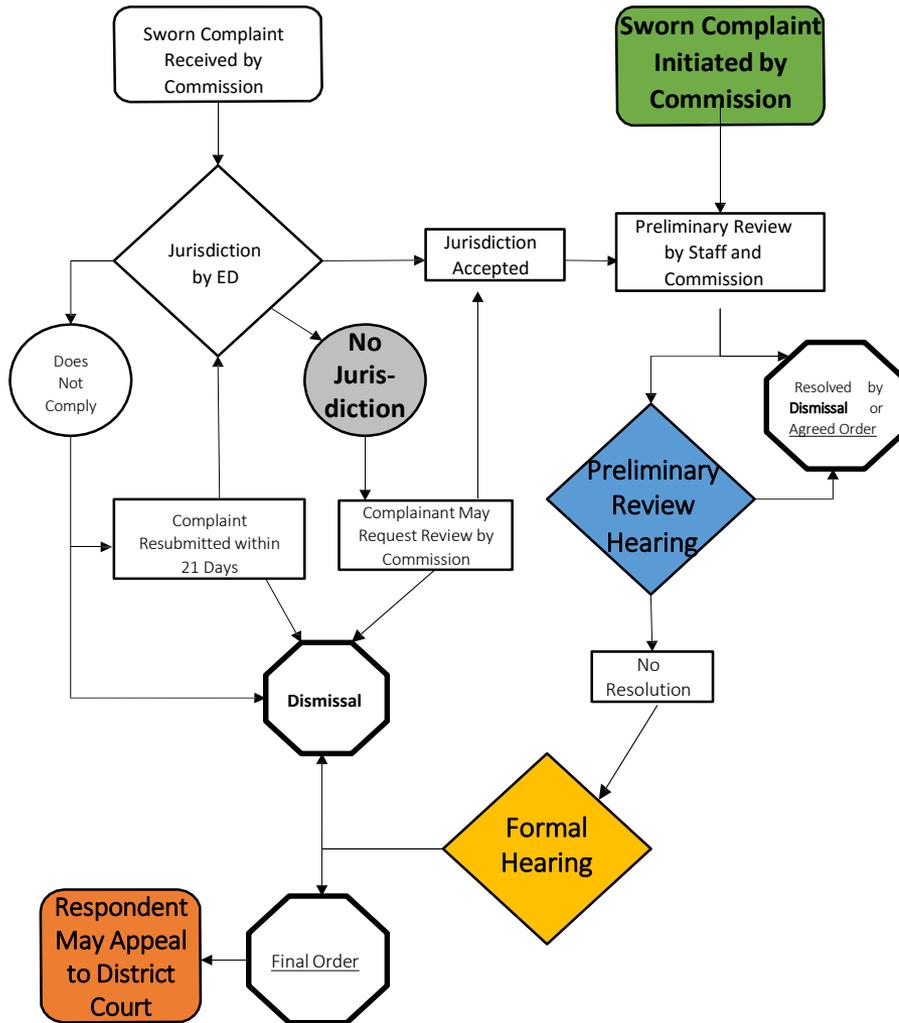
Enforcement Strategy Funding

Fiscal Years 2006 – 2019 By Objects of Expense



TEC Enforcement Process

Fiscal Year 2011-Present Trends and External Costs



NUMBER OF COMPLAINTS PER STEP BY FISCAL YEAR

Fiscal Year	Step 1	Step 2	Step 3	Step 4	Step 5
2011	17	0	27	0	0
2012	20	0	25	0	0
2013	16	0	24	1	0
2014	20	0	15	2	1
2015	26	22	10	0	0
2016	25	7	13	0	0
2017	15	0	30	1	0
2018*	17	1	7	0	0
TOTALS	156	30	151	4	1

FISCAL YEAR 2014 EXTERNAL COSTS PER COMPLAINT†

Outside Counsel Fee			\$20,249
Court reporter	\$3,044	\$3,889	
Travel Expenses	\$1,589	\$1,996	
Office Supplies		\$1,252	
Certified Copies		\$559	
Witness Fees	\$44		
Presentation Printing		\$405	
Subpoenas	\$427	\$200	
Misc.	\$10	\$132	
TOTAL COST	\$5,114	\$8,433	\$20,249

Source: Texas Ethics Commission

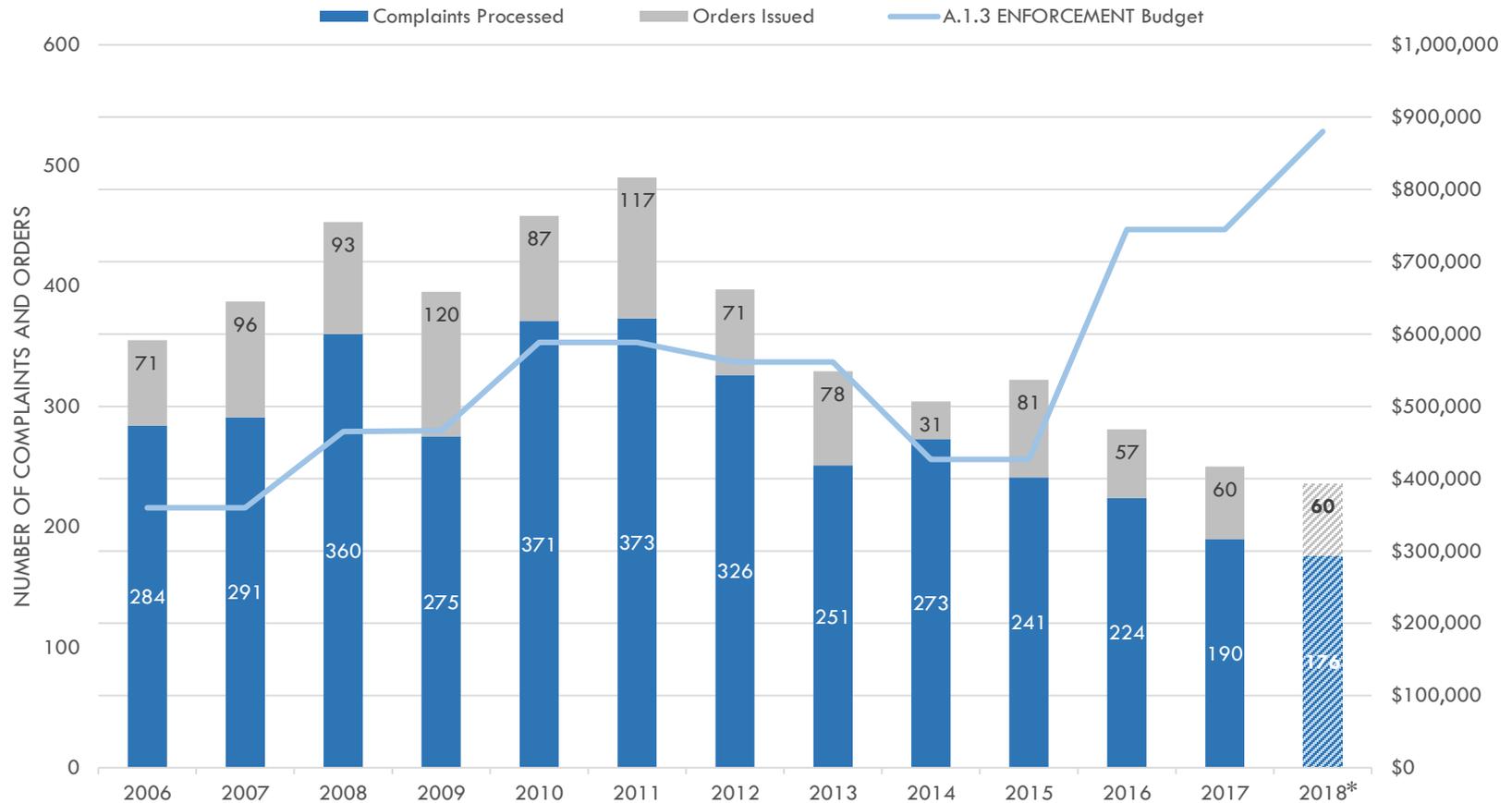
* Fiscal Year 2018 through 3/15/2018

† The costs listed are actual fees paid to outside parties for one complaint processed in FY 2014. TEC does not log the internal cost/hours spent per step.

Enforcement Trends: All Funds

Fiscal Year 2006 to 3/15/2018

COMPLAINTS PROCESSED AND ORDERS ISSUED
Compared to All Funds for Strategy A.1.3 Enforcement

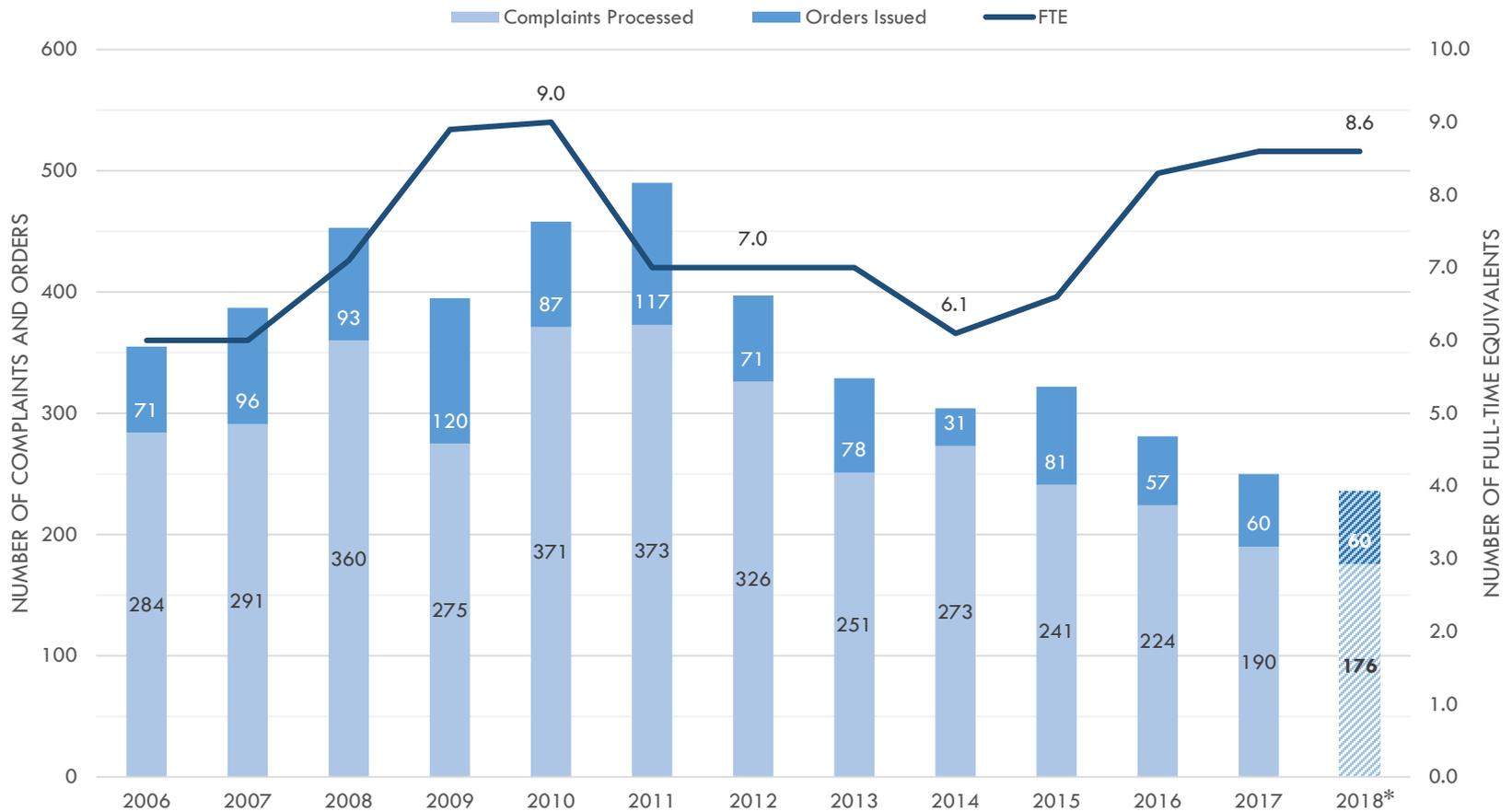


Note: While additional funds have been added to TEC's Enforcement Strategy, the Commission's overall 2018-2019 budget was reduced from the 2016-2017 biennium by \$0.2 million, or 3 percent.

Enforcement Trends: FTE

Fiscal Year 2006 to 3/15/2018

COMPLAINTS PROCESSED AND ORDERS ISSUED
Compared to FTE for Strategy A.1.3 Enforcement

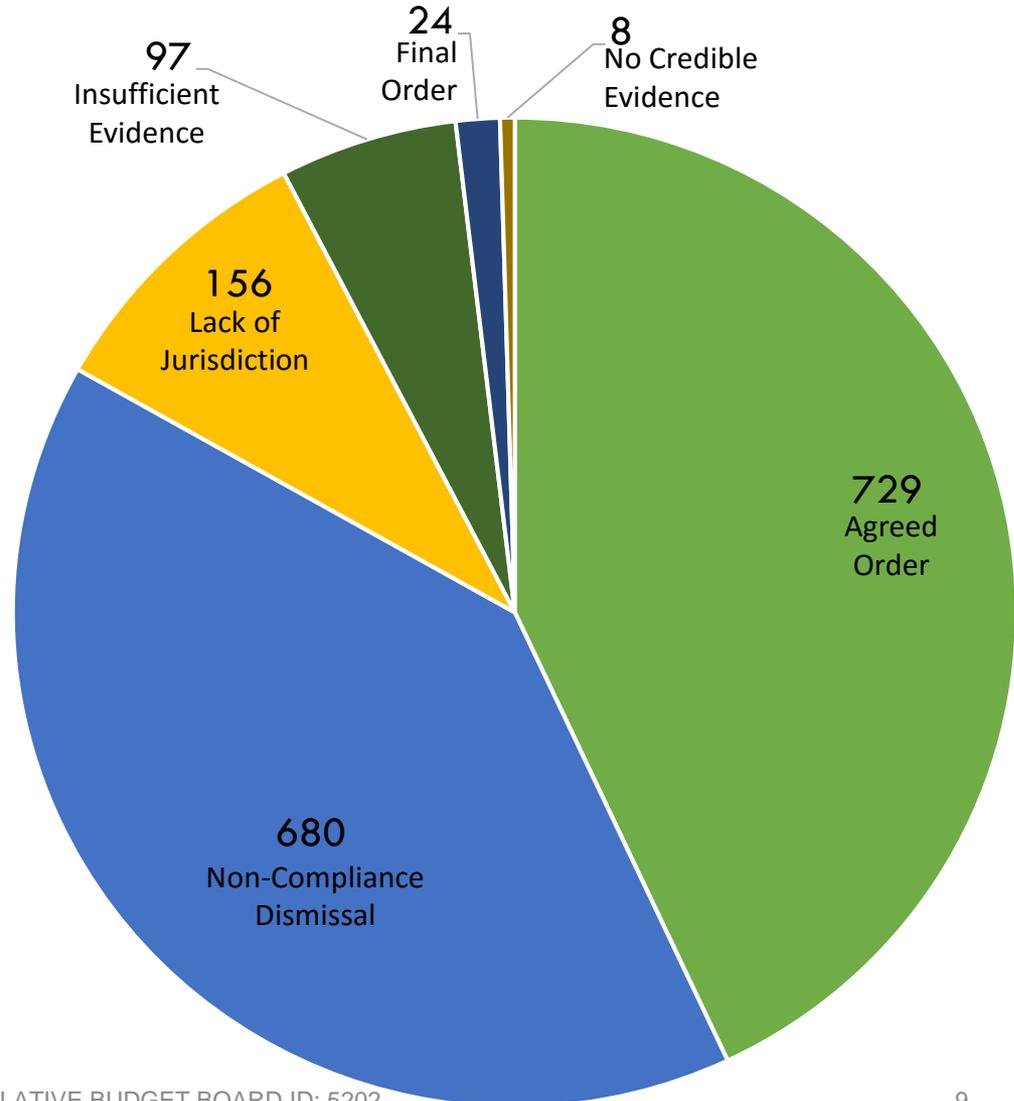


Note: While additional funds have been added to TEC's Enforcement Strategy, the Commission's overall 2018-2019 budget was reduced from the 2016-2017 biennium by \$0.2 million, or 3 percent.

Enforcement Performance: Resolutions

TEC Resolution of Sworn Complaints Fiscal Years 2011 to 3/15/2018

- (43.0%) Number of sworn complaints resolved by the commission through an agreed order
- (40.1%) Number of sworn complaints dismissed for noncompliance with statutory form requirements
- (9.2%) Number of sworn complaints dismissed for lack of jurisdiction
- (5.7%) Number of sworn complaints dismissed after a finding of a lack of sufficient evidence to determine whether a violation within the jurisdiction of the commission has occurred
- (1.4%) Number of sworn complaints resolved by the commission through a Final Order
- (0.5%) Number of sworn complaints dismissed after a finding of no credible evidence of a violation

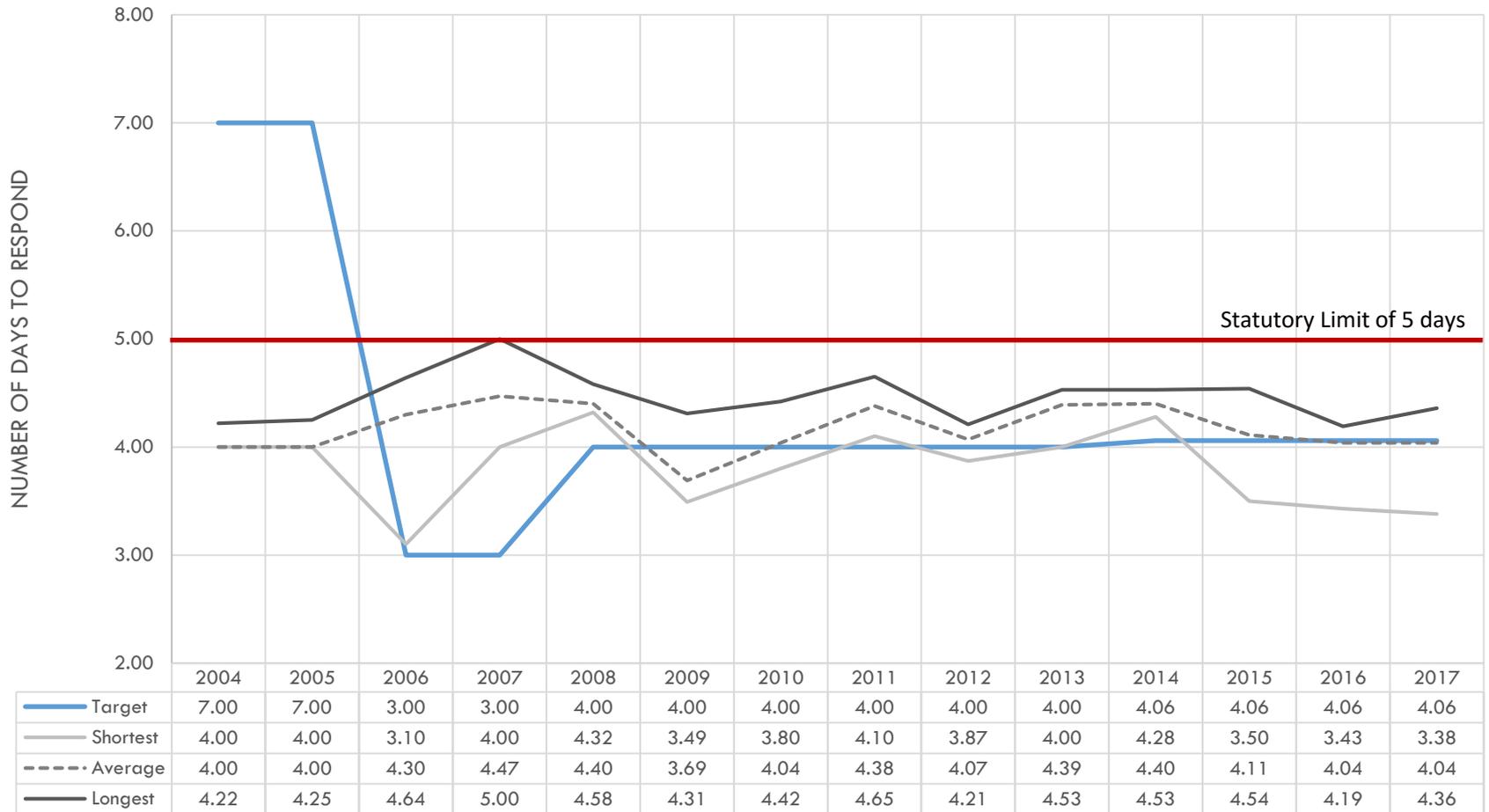


Source: Texas Ethics Commission

Enforcement Performance: Timeliness

Fiscal Years 2004-2017

QUARLTRY COMPLAINT RESPONSE TIMES



TEC Statutory Changes

Government Code Section 571.073 requires TEC to submit suggestions on how to improve statute relating to the agency's function. These reports are submitted every two years to the Office of the Governor and to the Legislature. **The following are previously submitted suggestions relating to sworn complaints that have not yet been enacted:**

2014 Recommendation No. 4: Groundless Sworn Complaints

Section 571.176 of the Government Code defines a frivolous complaint as a complaint that is groundless and brought in bad faith or is groundless and brought for the purpose of harassment. Modify the definition of a frivolous complaint by redefining the term "groundless complaint" to mean a complaint that does not allege a violation of law that is material, non-technical, or non-clerical on its face. In the alternative, remove the term "groundless" from the definition of a frivolous complaint, which would render a complaint frivolous if it is brought either in bad faith or for the purpose of harassment.

2016 Recommendation No. 10: Confidentiality of Sworn Complaints

Amend Section 571.140 of the Government Code to clearly allow a respondent or a respondent's counsel to waive confidentiality regarding a sworn complaint filed against the respondent. This would clearly allow a respondent or respondent's counsel to publicly discuss the sworn complaint, including the substance and allegations made in the complaint and the processing and resolution of the complaint.



LEGISLATIVE BUDGET BOARD

Contact the LBB

Legislative Budget Board

www.lbb.state.tx.us

512.463.1200