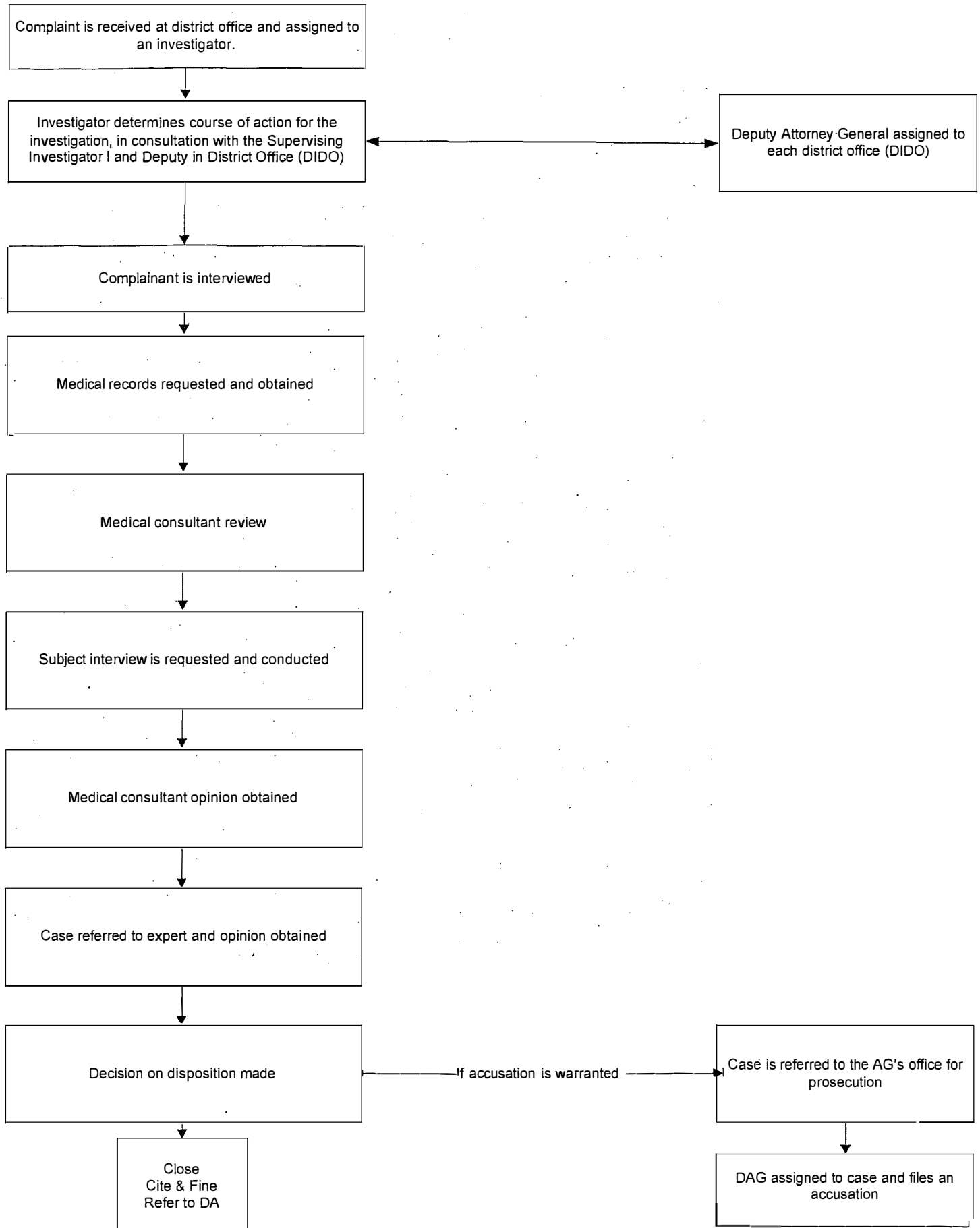


Investigative Process Before Vertical
Enforcement and Prosecution
(Prior to 01/01/06)

MBC

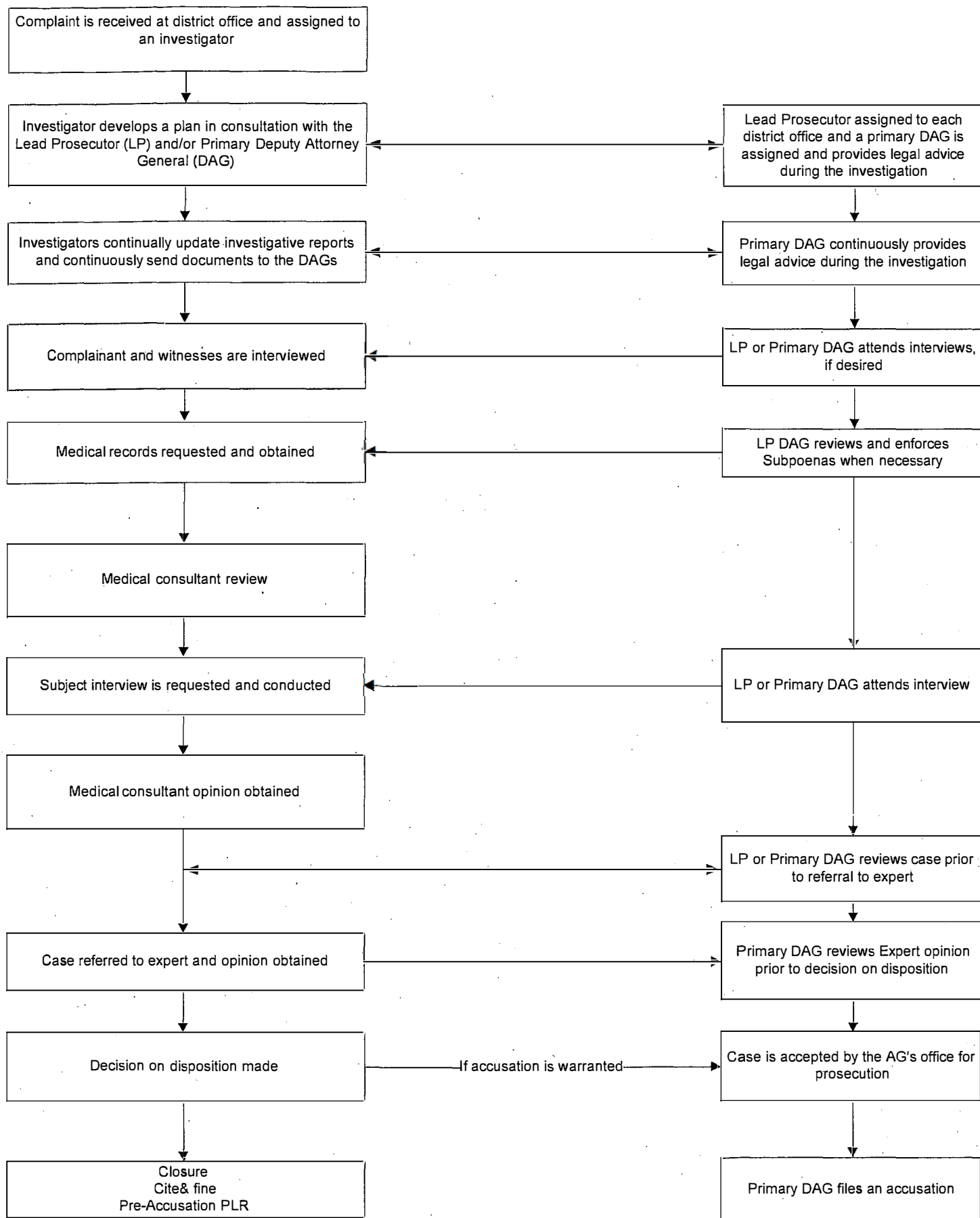
AG's Office



Investigative Process After Vertical
Enforcement and Prosecution
(After 01/01/06)

MBC

AG's Office



VERTICAL ENFORCEMENT PROGRAM

Process Overview

Government Code section 12529.6

The three principle elements of the “vertical enforcement and prosecution model” established by Government Code section 12529.6 can be briefly summarized as follows:

- Each physician and surgeon complaint referred to a district office of the board for investigation shall be simultaneously and jointly assigned to an Investigator and to a Deputy Attorney General (DAG) in HQE. The DAG is responsible for prosecuting the case if the investigation results in the filing of an accusation.
- The joint assignment of the Investigator and Deputy Attorney General shall exist for the duration of the disciplinary matter.
- During the assignment, the Investigator so assigned shall, under the direction but not the supervision of the Deputy Attorney General, be responsible for obtaining the evidence required to permit the Attorney General to advise the board on legal matters such as whether the board should file a formal accusation, dismiss the complaint for a lack of evidence required to meet the applicable burden of proof, or take other appropriate legal action. (Gov.Code, section 12529.6, subd. (b).)

The Vertical Enforcement Team

- ▶ The “vertical enforcement model” is based on the team concept with each member working together with other members to achieve the common goal of greater public protection for the people of California.
- ▶ The development of a cohesive and positive team based on respect for the vital roles played by each team member is critical to the success of this program.
- ▶ Primary/Trial Deputy Attorneys General work closely with the Investigator and Medical Consultant team members during the investigation. They provide legal advice and direction to investigators as the case progresses.

The Vertical Enforcement Team (cont'd.)

- ▶ Lead Prosecutors are assigned to specific Board district offices, act as the principal liaison to that office, are jointly assigned with the Primary Deputy on each case and act as the Primary Deputy Attorney General when so assigned. Lead Prosecutors provide assistance onsite with investigative tools such as subpoena enforcement.
- ▶ Supervising Deputy Attorneys General oversee and monitor investigations within their respective geographical areas, and supervise the prosecution of cases when disciplinary charges are filed.

Improved Policies and Procedures

- ▶ Vertical Enforcement and Prosecution Manual, published in July 2011 imposes strict deadlines on investigators and deputies for completing important tasks.
- ▶ Joint training of investigator and deputies has enhanced the cohesiveness of the Vertical Enforcement Team.
- ▶ Expedited review of subpoenas for medical record procurement.
- ▶ No continuance of administrative hearings policy expedites resolution of administrative cases.
- ▶ On going medical expert reviewer training will improve the quality of medical expert opinions and enhance the resolution of cases.

Improved Public Protection

- ▶ Decreased the number of days required to obtain Interim Suspension Orders (ISO) from an average of 51 one days in 2005 to an average of 30 days in the current year.
- ▶ Increased the number of Penal Code Section 23 Orders obtained to an average of 36 in each of the last three years.

Improved MBC efficiency

- ▶ Decreased average number of days to complete complainant interview. Previously more than 100 days. Currently, 89 days.
- ▶ Decreased average number of days to complete Subject physician interview. Previously, 66 days. Currently, 51 days.
- ▶ Decreased average number of days to acquire medical records with release. Previously, 95 days. Currently, 64 days.
- ▶ Decreased average number of days to acquire medical records via Subpoena. Previously, 124 days. Currently, 82 days.

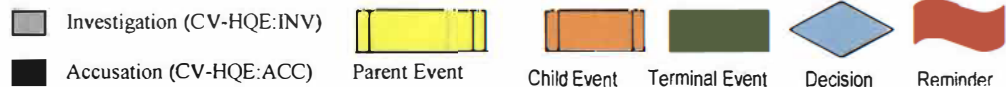
Improved HQE Efficiency

- ▶ Decreased the number of Accusations withdrawn. Previously, Average of 34 withdrawals per year. Currently, Average of 17 withdrawals per year.
- ▶ Decreased number of Accusations Dismissed. Previously, Average of 11 dismissals per year. Currently, Average of 8 dismissals per year.
- ▶ Increased percentage of cases settled without hearing. 65% in 2005 versus 77% in 2011.

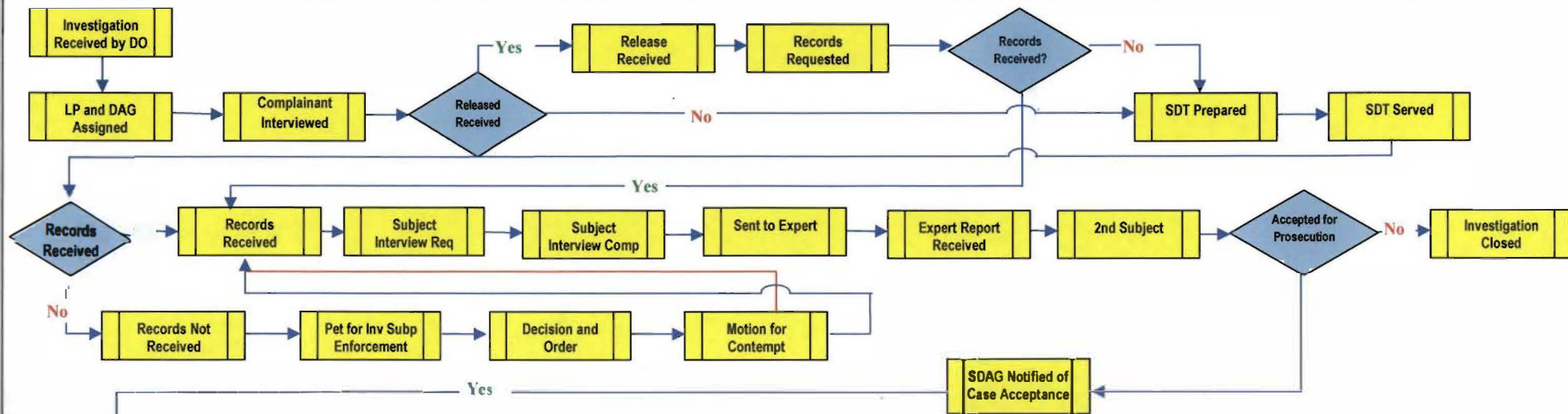
Conclusion

- ▶ Improved Public Protection.
- ▶ Improvements in the investigation and prosecution stages.
- ▶ Investigation and prosecution process continues to be impacted by external forces.

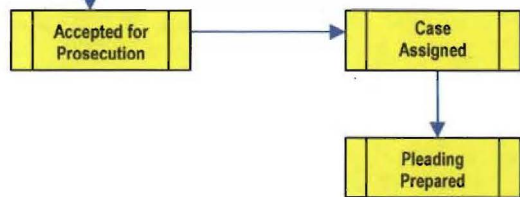
Vertical Enforcement: Investigation an Accusation Flow Chart



Investigation



Accepted Case



Case Work (Accusation)

