



# THE STATE BAR OF CALIFORNIA

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DATE: November 7, 2016  
TO: Members, Committee on Regulation and Discipline Oversight (RAD)  
FROM: Gregory Dresser, Interim Chief Trial Counsel  
SUBJECT: Status Report from the Office of Chief Trial Counsel (OCTC)

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For this status report, I have highlighted key inventory numbers and workflows for 2016, based on statistical information as of October 31, 2016.

### I.

#### October 2016 Month-End Metrics

In addition to the key monthly metrics for October 2016, I have also set forth, below, monthly metrics from previous months in 2016.

#### New Complaints

In October 2016, Intake opened 1172 new cases (complaints from complainants, State Bar-initiated matters (SBIs), and Reportable Actions (RAs)), as follows.

- 967 new complaints from complainants;
- 23 new SBIs; and
- 182 new RAs.

Intake opens cases from different “case initiation” types or sources. Complainant cases are initiated by a complaint from a member of the public. SBIs are opened by OCTC without a complainant, such as when OCTC learns of possible attorney misconduct through media coverage or during the course of a separate disciplinary investigation. RAs are matters where an individual or entity has reported certain activity to OCTC, pursuant to statutory obligations, such as where a financial institution reports insufficient funds in an attorney-client trust account or a superior court reports imposition of certain sanctions against an attorney.

The monthly new case numbers through October 2016, are set forth, immediately below.

<b>2016</b>	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct
Complainant	937	1013	1046	1036	1068	975	1013	1069	1063	967
State Bar Initiated	27	41	49	28	20	35	22	127	132	23
Reportable Actions	180	193	252	208	195	221	209	247	188	182
<b>TOTAL</b>	<b>1144</b>	<b>1247</b>	<b>1347</b>	<b>1272</b>	<b>1283</b>	<b>1231</b>	<b>1244</b>	<b>1443</b>	<b>1383</b>	<b>1172</b>

From January 1 through October 31, 2016, 1470 more complaints were forwarded from Intake to Enforcement than during the same period in 2015. In large part, that increase is attributable to a reorganization in OCTC from Intake to Enforcement of a team that resolves lower-level matters that result, at most, in alternatives to discipline, such as directional letters or warning letters. Additionally, Intake was able to reduce its inventory significantly, resulting in the forwarding of more cases to Enforcement. (As of October 31, 2016, the inventory in Intake was 856. At the same time in 2015, the inventory was 1824.) The end result is that, to date, 417 more cases were forwarded to trial teams in 2016, as compared to 2015, for investigation and assessment for disciplinary charges.

#### Call Center Volume

In October 2016, Intake received 3202 calls to the Complaint Hotline and 11 calls to the Immigration Hotline, for a total of 3213 calls.

The monthly numbers through October 2016 are, as follows.

<b>2016</b>	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct
Complaint Hotline	3224	3552	3668	3519	3276	3493	3074	3817	3503	3202
Immigration Hotline	19	12	12	22	25	9	48	42	24	11
<b>TOTAL</b>	<b>3243</b>	<b>3564</b>	<b>3680</b>	<b>3541</b>	<b>3301</b>	<b>3502</b>	<b>3122</b>	<b>3859</b>	<b>3527</b>	<b>3213</b>

#### Active Inventories

At the end of October 2016, OCTC's month-end inventory of active attorney disciplinary cases that had yet to be filed, closed, or otherwise resolved was 3608:

- 856 cases in Intake;
- 2458 cases in Investigations; and
- 294 cases in Pre-Filing (investigation is complete and matter is with trial counsel to take next steps regarding formal disciplinary charges).

The monthly numbers for active attorney discipline cases through October 2016, are set forth, immediately below.

<b>2016</b>	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct
Intake	1339	1434	1394	1207	958	741	793	825	864	856
Investigation	1579	1602	1845	2049	2291	2515	2532	2673	2605	2458
Pre-Filing	234	221	234	227	233	263	261	280	276	294
<b>TOTAL</b>	<b>3152</b>	<b>3257</b>	<b>3473</b>	<b>3483</b>	<b>3482</b>	<b>3519</b>	<b>3586</b>	<b>3778</b>	<b>3745</b>	<b>3608</b>

At the end of October 2016, OCTC’s backlog inventory was 1501:

- 750 active cases in backlog; and
- 751 suspended cases in backlog.

The monthly backlog numbers through October 2016 are, as follows.

<b>2016</b>	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct
Active	530	602	639	606	640	673	632	707	705	750
Suspended	964	988	938	984	1019	999	862	799	803	751
<b>TOTAL</b>	<b>1494</b>	<b>1590</b>	<b>1577</b>	<b>1590</b>	<b>1659</b>	<b>1672</b>	<b>1494</b>	<b>1506</b>	<b>1508</b>	<b>1501</b>

Despite the increase of cases to Enforcement (i.e., trial teams) in 2016, OCTC has increased productivity. From January 1, 2016, through October 31, 2016, OCTC closed 2873 investigations, and moved 537 complaints forward for preparation for filing charges, for a total of 3410 investigations resolved. During the same period in 2015, a total of 2555 investigations were resolved (1955 by closure, and 600 by forwarding for preparation for filing charges.) Similarly, OCTC resolved 521 cases—by filing disciplinary charges or by closure—in the pre-filing stage through October 31, 2016, compared to 498 resolutions in 2015. Nonetheless, due to the increase in complaints forwarded to trial teams, OCTC anticipates that the backlog of active cases will be higher in 2016 than it was in 2015.

### Suspended Inventory Details

The majority of suspended cases are suspended due to the likely disbarment of the attorneys involved as a result of other disciplinary cases already filed and pending before the State Bar Court or Supreme Court. As of October 31, 2016, there were 864 cases in suspended status, 751 of which were in backlog status. The 864 suspended cases involved 180 attorneys, 117 of whom are on inactive status or otherwise not entitled to practice law. The reasons for suspension of work in the 864 cases are, as follows.

<b>Suspension Reason</b>	
Default in other matter	233
Expected Disbarment	202
Disbarment Recommendation Filed by SBC	98
Overlapping Litigation	180
Inactive Enrollment Order	151
<b>TOTAL</b>	<b>864</b>

### Audit & Review: Second-Look Requests

Following recommendations by the California State Auditor, the Bar realigned Audit and Review's second-look function from OCTC to the Office of General Counsel (OGC). OCTC has continued to work on the second-look cases that were in its inventory on June 30 until they are all resolved. Effective July 1, 2016, OGC took responsibility for addressing new second-look requests. In September 2016, OGC also took some second-look requests from OCTC's inventory to assist in resolving those cases. Combining the numbers from OGC and OCTC, there were 259 pending second-look requests at the end of September. The median time it took to process a second-look request in September was 40 days. The mean (average) time it took to process a second-look request was 70 days. Complete information related to second-look requests for the month of October was not available at the time this report was drafted.

The monthly second-look inventory numbers for this year are, as follows.

Jan	Feb	Mar	Apr	May	June	July	Aug	Sept
286	334	344	331	323	348	332	278	259

The monthly processing times for 2016 are, as follows.

	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept
Median	93	107	100	94	118	129	113	141	40
Mean	98	131	130	105	146	140	93	160	70

### Walker Petitions

There were five *Walker* petitions filed with the California Supreme Court in October 2016. The Supreme Court granted no *Walker* petitions in October.

The monthly numbers for *Walker* petitions, filed and granted, through October 2016, are, as follows.

<b>2016</b>	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct
Filed*	8	5	3	6	6	1	6	5	6	5
Granted	0	0	0	0	0	0	0	0	0	0

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\*Prior reports counted the number of petitions served on OGC. Beginning with this report, we have updated this chart to instead reflect the number of petitions filed with the Supreme Court. As a result, numbers from January through June vary from earlier reports.

## Trials and Discipline Decisions

OCTC received discipline recommendations from the Hearing Department in October involving 66 cases, as follows.

- 15 by trial decision;
- 31 by stipulation;
- No Alternative Discipline Program decisions;
- 20 by default decision; and
- No dismissal decisions.

In addition, two cases were dismissed by motion of OCTC, and an admonition was issued in one case.

The monthly numbers through October 2016 are set forth, immediately below.

Decision Type	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct
Trial	8	2	4	7	7	5	7	11	3	15
Default Decision	8	7	11	24	8	11	2	13	16	20
Stipulation	32	21	22	25	31	29	25	23	9	31
ADP Decision	11	0	7	0	0	4	8	0	5	0
Dismissal Decision	0	0	0	0	1	0	0	1	0	0

Due to limitations of the State Bar Court's available data, this count is based upon OCTC's internal hand count of the decisions and orders received each month.

## Non-Attorney Complaints

OCTC has dedicated staff in its Intake and Enforcement Units to receive and process complaints against non-attorneys. While OCTC's jurisdiction over non-attorneys is limited compared to that over attorneys, OCTC reviews non-attorney complaints alleging the unauthorized practice of law and may investigate such complaints for specific action, such as (1) to request a superior court to assume jurisdiction over a non-attorney's law practice or (2) to bring civil actions against non-attorneys, pursuant to Business and Professions Code section 6126.7, to seek civil penalties for the unlawful and misleading advertising by the use of words or phrases, such as "notario" or "notario publico." Although, in the past, OCTC was charged with investigating such "notario" cases and OGC was charged with initiating civil actions in viable cases, OCTC now handles the litigation of such cases.

On average, for the past five years, OCTC has received approximately 500 non-attorney complaints annually. In 2015, OCTC received 581 non-attorney complaints. As of October 31, there were 213 non-attorney complaints in investigation and 20 non-attorney complaints pending in Intake. Of those complaints, there were 54 non-attorney complaints related to immigration issues in investigation and 4 non-attorney complaints related to immigration pending in Intake.