

AGENDA ITEM

181 May

DATE: May 10, 2012

TO: Members, Audit Committee
Members, Board of Trustees

FROM: Members, Task Force on Discipline System Metrics and Monitoring

SUBJECT: Task Force on Discipline System Metrics and Monitoring recommendations for OCTC Metrics

EXECUTIVE SUMMARY

The State Bar established the Task Force on Discipline System Metrics and Monitoring on September 18th, 2011, and charged it with “recommend[ing] changes and improvements in how we can measure and report on the OCTC’s productivity.” At its first meeting, on November 4th, 2011, the Task Force unanimously adopted a workplan and scope which defined three deliverables: (a) a recommended set of five to ten key metrics; (b) a report explaining the purpose and rationale for each recommended metric; (c) draft legislative language to bring the State Bar Act into alignment with the recommended metrics.

This agenda item represents the Task Force’s recommendations for each of the three deliverables and requests that the Audit Committee approve them and forward them on to the full Board for adoption. Board members with questions about this matter may contact John Chiappetta at (415) 538-2208 or John.Chiappetta@calbar.ca.gov.

BACKGROUND

At its annual organizational meeting on September 18, 2011, the State Bar’s Board of Governors adopted the recommendation of incoming State Bar President John Streeter to establish a Discipline Metrics and Monitoring Task Force. The Task Force was charged, “(i) to review our current practices and capabilities for measuring productivity the area of discipline, (ii) to examine the form and the frequency in which such data is reported to the Regulation, Admissions and Discipline Committee (RAD) and to the Board as a whole, and (iii) to recommend changes and improvements in how we can measure and report on the OCTC’s productivity.”

ISSUE

Whether to adopt the OCTC metrics and narrative identified in this agenda item.

DISCUSSION

At its first meeting, on November 4th, 2011, the Task Force unanimously adopted a project scope and work plan. The adopted scope identified three deliverables to be produced:

- a. A recommended set of between five and ten key metrics to be reported on a regular basis to the Committee on Regulation, Admissions and Discipline (RAD) and to the full Board.
- b. A report explaining the purpose and rationale for each metric recommended, as well as how the required data will be obtained. If the necessary data cannot be obtained (or can be obtained only at excessive cost) from the existing systems, the necessary systems improvements will be identified.
- c. Draft legislative language to amend the State Bar Act to bring it into conformity with the recommended key metrics.

Over the following months, the Task Force held in-depth discussions of a variety of topics related to its charge, including:

- The processes and workflow within the discipline system, and within the Office of Chief Trial Counsel in particular;
- The history of the State Bar's discipline system, some of the controversies related to it, and the evolution of the concept of the system's "backlog" of unresolved complaints;
- The different dimensions of performance and performance metrics, including quantity, quality, and timeliness metrics;
- Pros and cons of statistical summary measures, including means, medians, and standard deviations;
- Issues arising from aggregating data across differing types of cases, differing levels of complexity, and differing levels of severity of misconduct.

At its final meeting on April 12th, 2012, the Task Force considered staff's proposal for the set of metrics to be used for monitoring the discipline system going forward. The Task Force adopted the staff proposal and voted to recommend that the Audit Committee do the same and forward its recommendation to the full Board of Trustees. At the same meeting, the Task Force also considered recommending legislation to clarify the statutory goals for the timeliness of complaint handling and to align the required content of the Annual Discipline Report with the recommended metrics. After

extensive discussion, the Task Force concluded that it was not necessary to propose new legislation at this time, but that legislation may be appropriate in the future, once the State Bar has had the opportunity to work with the proposed metrics in day-to-day practice.

In this agenda item, the Task Force presents its recommendations for a manageable number of OCTC metrics (Attachment A), along with explanatory narrative (Attachment B).

FISCAL / PERSONNEL IMPACT:

None.

RULE AMENDMENTS:

None.

BOARD BOOK IMPACT:

None.

RECOMMENDATION

The Task Force recommends that the Audit Committee and the full Board adopt the recommended OCTC metrics and narrative.

PROPOSED BOARD COMMITTEE RESOLUTION:

Should the Audit Committee agree with the above recommendation, the following resolution would be appropriate:

RESOLVED, that the Audit Committee recommends that the Board adopt the OCTC metrics and narrative proposed by the Task Force on Discipline System Metrics and Monitoring.

PROPOSED BOARD OF TRUSTEES RESOLUTION:

Should the Board concur with the Audit Committee's recommendation, the following resolutions would be in order:

RESOLVED, that upon the recommendation of the Audit Committee, the Board hereby adopts the recommended OCTC metrics and narrative proposed by the Task Force on Discipline System Metrics and Monitoring.