



THE STATE BAR OF CALIFORNIA

OFFICE OF THE CHIEF TRIAL COUNSEL

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TO: Members, Committee on Regulation, Admissions and Discipline Oversight

FROM: Jayne Kim, Chief Trial Counsel, Office of the Chief Trial Counsel

DATE: October 31, 2012

RE: OCTC Status Report to RAD

I. Performance Report Summary

During my first year as Chief Trial Counsel, the Office of Chief Trial Counsel (OCTC) made significant changes to its organizational structure and developed improved control measures to address both productivity and quality concerns. More specifically, OCTC management focused on three essential areas for improvement during the past year:

Training and Development: Commencing in 2012, OCTC began implementing improved staff training and development programs, which includes monthly attorney & paralegal continuing legal education sessions, on-going trial skills training, mentorship programs for new attorneys and investigators and collaborative “summits” with other regulatory and law enforcement agencies.

Accountability and Oversight: Commencing in 2012, OCTC transitioned to a vertical model of prosecution to increase staff accountability and to provide a more consistent and efficient handling of cases. In addition, OCTC implemented new policies requiring management review and approval of all charging and filing decisions.

Backlog Management: Following the elimination of investigation backlog in 2011, OCTC continued the management of its investigations backlog, in part, through the use of “lead” investigators. The lead investigators are experienced investigators who supervise and assist investigative staff in analyzing and completing investigations. The lead investigators carry individual caseloads and report to OCTC management regarding specific and office-wide backlog concerns.

Although OCTC is proud of its progress in the aforementioned areas, our work continues as we embark on further re-engineering efforts to improve our overall performance. As discussed further below, OCTC is preparing for the implementation of a new case management system and continues to manage its backlog inventories on a regular basis.

A. Monthly Reporting to RAD

Commencing in January 2012, OCTC began providing RAD with month-end backlog and output reports. Committed to transparency in our performance measures and work product, I have worked closely with the RAD Chair and Vice Chair to ensure adequate reports and to address any areas of note or concerns.

Moreover, this past year, I worked closely with the Metrics Task Force and Budget Director John Chiappetta regarding the development of specific OCTC performance measures, which will be included in the State Bar's Annual Discipline Report.

B. Supreme Court Return of Cases to State Bar Court

This year the Supreme Court remanded 24 matters to the State Bar Court for further consideration of the recommended discipline. These 24 matters involved a stipulation by the parties that had been approved by the State Bar Court and transmitted to the Supreme Court. Thereafter, OCTC requested another 24 matters to be returned to the State Bar Court in light of the remand order and for further consideration of the recommended discipline. The Supreme Court denied OCTC's request on procedural grounds but returned 18 of the requested 24 matters to the State Bar Court.

To date, the status of the first 24 matters are as stated below and the subsequent 18 matters are in various stages before the State Bar Court:

- Six matters have settled with a new stipulation approved by the State Bar Court,
- Six matters have proceeded to trial – one decision filed and the remainder waiting decision,
- One matter has been abated due to the respondent's default in another proceeding, and
- Eleven remain pending for trial.

C. MCLE False Compliance Referrals

This year, the State Bar audited 1% of the compliance cycle ending February 2011. From that audit, OCTC received 27 referrals involving possible false reporting of MCLE compliance to the State Bar. Where formal charges have been filed, the Notice of Disciplinary Charges (NDC) alleges a single violation of Business and Professions Code section 6106 (committing an act involving moral turpitude or dishonesty) and where stipulated settlements have been lodged with the State Bar Court, the proposed stipulation involves a single violation of Business and Professions Code section 6106.

Due to confidentiality and other issues, I will report generally about the status of the 27 cases but will not address any specific case or provide further details in this report.

- Six cases have resulted in the filing of a NDC and are pending before the State Bar Court,
- Two stipulated settlements have been lodged with the State Bar Court and are pending approval by the State Bar Court,
- One Agreement in Lieu of Discipline has been executed and forwarded to the Office of Probation for monitoring,
- Three matters have been closed, and
- 15 matters are pending in OCTC at various pre-filing stages.

II. Standing Inventories (as of October 29, 2012)

A. Backlog Inventory

As of October 29, 2012, OCTC's backlog numbers stood as follows:

Month	Investigation Backlog	Notice Open Backlog
Oct. 29, 2012	50	353
Sept	53	327
Aug	56	301
Jul	53	223
Jun	42	200
May	76	187
Apr	55	197
Mar	46	249
Feb	31	181
Jan	21	200

B. Walker Petitions

As of October 29, 2012, there have been a total of 80 Walker petitions filed with the Supreme Court this year. In comparison, there were 193 petitions filed in 2011 and 435 petitions filed in 2010.

Monthly	Petitions Filed
As of Oct. 29, 2012	4
Sept	5
Aug	9
Jul	3
Jun	11
May	10
Apr	8
Mar	5
Feb	17
Jan	8

Annual	Petitions Filed
As of Oct. 29, 2012	80
2011	193
2010	435
2009	203
2008	172
2007	209
2006	133
2005	87
2004	112
2003	195

III. 2012 Board Action Items

In January 2012, the Board of Trustees identified the following OCTC action points intended to raise the standards for discipline: (1) enhanced integration of OCTC enforcement with law enforcement and (2) increased detection and prosecution of professional misconduct.

As a result, this past year, OCTC identified experienced staff to act as law enforcement liaisons – communicating and coordinating investigatory efforts with law enforcement agencies and other prosecutorial offices. OCTC also identified select staff to act as standing court representatives – communicating with local and federal courts in California about attorney misconduct concerns. OCTC believes that having consistent and centralized channels of communication will not only facilitate collaborative dialogue but help identify emerging trends and areas of concern.

IV. Technology Initiative

This year, OCTC is preparing for the implementation of a new case management system. The State Bar's Information Technology Department will be working with Sustain to define service levels and to prepare a detailed project plan and training plan. We anticipate a project kick-off session to be scheduled in early November.

V. Conclusion

OCTC continues with re-engineering efforts to improve its efficiency and performance. Through the fair and timely investigations of complaints, OCTC intends to continue managing its backlog year-round and remains committed to protecting the public from unethical attorneys. We have made significant strides this past year and look forward to a new year of further stabilization.