



THE STATE BAR OF CALIFORNIA

OFFICE OF THE CHIEF TRIAL COUNSEL

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TO: Members, Committee on Regulation and Discipline Oversight

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

DATE: October 22, 2014

RE: Status Report to RAD

Month-End Metrics

For purposes of this status report, I am highlighting key inventory numbers and workflows based upon statistical information as of September 30, 2014.

Intake: New Cases Initiated

Intake opened 1,282 new cases in September, as follows:

Case Initiation Type:	Month-End Number of New Cases:
Complaints from Complainants	1,039
State Bar Investigations (SBIs)	21
Reportable Actions (RAs)	222
TOTAL	1,282

Intake: Month-End Inventory

The standing inventory of pending matters against individual attorneys was 1,710. A comparison to previous months is as follows:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
1,715	1,764	1,926	1,927	1,926	1,806	1,853	1,840	1,710

Intake: Call Center Volume

Intake staff responded to 4,052 telephone calls from the Complaint Hotline.

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
3,950	3,591	3,794	4,077	4,028	3,826	4,100	3,884	4,052

Investigations: Backlog

There were 236 matters in backlog status out of 1,277 total matters in the active investigation inventory. Eight of the backlog matters are assigned to outside examiners (OEX). The chart below reflects all investigation backlog matters, including those which are with OEX and, therefore, not handled by OCTC.

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Complainant	93	110	85	64	60	219	235	244	204
SBI	16	19	23	19	11	9	10	7	19
RA	20	25	25	14	5	2	1	4	5
OEX	19	15	13	8	9	9	8	7	8
TOTAL	148	169	146	105	85	239	254	262	236

In May, OCTC reported an expected spike in its investigation backlog inventory due to one respondent with approximately 170 complaints. That spike occurred in June – raising the investigation backlog inventory to 239. Of the 236 investigation backlog matters reported for September, 131 were complaints against this one respondent. Another 20 complaints against the same respondent were in the Pre-Filing (Notice Open) backlog inventory for September.

Investigations: Median Time to Complete

The median time it took OCTC to complete an investigation in September was 172 days.

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
179	171	168	159	171	129	135	154	172

Pre-Filing (Notice Open): Backlog

There were 297 matters in backlog out of 365 matters in active pre-filing status.

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Complainant	100	134	171	173	148	139	146	156	186
SBI	26	25	25	18	24	21	17	18	76
RA	34	41	46	45	36	37	35	28	28
Probation Referral	11	14	12	18	9	6	3	3	3
Other Jurisdiction	12	12	12	11	13	10	7	5	4
OEX	0	0	0	0	0	0	0	0	0
TOTAL	183	226	266	265	230	213	208	210	297

Suspended Inventory

There were 1,688 cases in suspended status, involving 199 attorneys. Of the 199 attorneys, 148 of them were on inactive status or otherwise not-entitled to practice law. As a reminder, the majority of suspended cases are expected to close upon receipt of a disbarment order from the Supreme Court.

Suspension Reason	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Default in other matter	127	142	154	145	136	152	166	172	168
Expected Disbarment	888	955	1,024	1,068	1,122	987	1,000	976	976
Disbarment Recommendation	528	314	259	170	215	220	189	236	206
Overlapping Litigation	193	210	245	254	256	257	256	257	261
6007 Order	156	159	105	101	67	66	70	71	77
TOTAL	1,892	1,780	1,787	1,738	1,796	1,682	1,681	1,712	1,688

Audit & Review: Second Look Inventory

There were 500 pending “second look” requests as of September 30, 2014.

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
804	797	722	681	673	650	623	562	500

The median time it took OCTC to process a complaint through Audit & Review (“second look”) was 182 days.

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
301	314	293	276	259	241	228	208	182

Walker Petitions

There were twelve Walker petitions filed, bringing the year-to-date total to 52. During the same time period last year, there were 71 Walker petitions filed.

Trial Level Disciplinary Decisions

OCTC received 111 disciplinary decisions recommending discipline.

Decision Type	# (by SBC proceeding)
By Trial	16
By Default Decision	8
By Stipulation	83
By ADP Decision	4
Dismissal After Trial	0

Goals for 2014-2015

As the Committee on Regulation and Discipline Oversight (RAD) begins the 2014-2015 year, it will continue the good work of past committee members and look to improve upon quality of performance and efficiencies within the discipline system. The past few years have brought about significant change to the State Bar and within the Office of Chief Trial Counsel (OCTC) in particular. While much of that change was necessary, at times, it was also turbulent and stretched staff's time and attention.

I became interim chief in September 2011 and, subsequently, became chief trial counsel in May 2012. That first year was extremely busy and chaotic for OCTC staff. In July 2011, my predecessor and the majority of the OCTC management team departed suddenly from the organization. In August 2011, OCTC staff faced the daunting challenge of a "zero backlog" mandate which meant working through thousands of potential backlog cases within a matter of months. At the time of my arrival, in September 2011, there had been virtually no supervisory or management oversight of the litigation work – with each attorney having full discretion to close or settle cases without review.

Within my first year, I worked with State Bar leadership to address then recent criticism by key stakeholders, including concerns from the Committee of Bar Examiners regarding the quality of OCTC's work in moral character cases, concerns from the California Supreme Court regarding the number of *Walker* petitions filed, and concerns from RAD regarding the number of cases in backlog (potentially 3000 investigations in backlog by December 2011). By 2012, we made great strides addressing each of the aforementioned concerns and received positive feedback from key stakeholders regarding OCTC's improved performance.

Also commencing in 2012 and continuing through 2014, OCTC embarked on a series of significant re-engineering efforts designed to manage backlog more consistently throughout the year, to improve quality control measures within the office, and to improve the training and development of staff. Some of those efforts included:

- Implementation of management oversight/approval process, requiring management approval of charging and settlement decisions;
- Transition to a vertical model of prosecution, enhancing staff accountability and quality of work. The vertical model provides assignment of one attorney to handle the matter from investigation through trial and replaced an assembly line approach to cases, which had involved multiple attorneys handling discreet stages of a case requiring multiple hand-offs before a case went to trial.
- Realignment of senior trial counsel duties, assigning senior trial counsel to moral character and reinstatement cases;
- Re-establishment of an appellate team, ensuring greater consistency and quality of review work;
- Development of managers/executives;
- Development of investigator supervisors;
- Development of attorney supervisors;
- Improvement of attorney and investigator training programs; and
- Establishment of a mentor program for attorneys and investigators.

This year, I hope to continue stabilizing OCTC by focusing on three basic and fundamental performance goals: (1) improving quality of work; (2) improving timeliness and efficiency; and (3) enhancing training and development.

2014-2015 Chief Trial Counsel Goals

1. Improve Backlog Management (Efficiency and Quality)
 - a. Examine time standards
 - b. Examine quality assurance measures
 - c. Work with RAD to examine performance benchmarks
 - d. Work with RAD to examine statutory goal of resolving or filing charges within six months
2. Improve Audit & Review “Second Look” Management (Efficiency and Quality)
 - a. Continue reduction of standing “second look” inventory
 - b. Continue reduction of median time to complete “second look” work
 - c. Examine quality assurance measures
 - d. Work with RAD to examine performance benchmarks
3. Strategic Planning (Efficiency and Quality)
 - a. Examine progress related to the State Bar’s Five-Year Strategic Plan (2012-2016)
 - i. Building initiative in San Francisco
 - ii. Technology initiatives
 1. Implementation of a case management system for OCTC
 2. Implementation of a bar-wide document management system
 - iii. Make necessary planning adjustments after examination
 - b. Identify and address resource needs
 - i. Examine organization structure & staffing needs
 - ii. Examine management roles and fill management positions
 - iii. Examine staff roles and fill staff positions
 - iv. Improve recruitment and outreach efforts
 - v. Work with RAD to ensure sufficient budget and resources
 - c. Training and development
 - i. Continue executive team building and development
 - ii. Develop non-executive supervisor training and development
 - iii. Continue attorney trial skills training
 - iv. Continue staff training and development

Goals in Context – Planning Budget and Development

While the aforementioned goals may seem obvious and exist every year, the focus this year is to build upon specific progress made over the last three years and, more specifically, to achieve a better balance of equally-compelling but often-competing interests.

Backlog Management

OCTC’s backlog is measured against a statutory six-month time standard. More specifically, OCTC must close a complaint or file formal charges based upon the complaint within six months from receipt of the complaint. In 2014, the Board of Trustees adopted a broader definition of “complaint” to include cases opened from a variety of different sources. As a result, in April 2014, the State Bar adjusted its reported number of complaints for the past five years in the State Bar’s annual discipline report.

During this next year, I will work with RAD to evaluate the current time standard, examine existing quality control measures and analyze the common reasons why cases are worked beyond the six-month time

period. This examination will enable us to determine whether the current time standard is reasonable given the work required and to identify necessary steps to ensure both efficiency and quality of work.

Second Look Management

During this next year, I will work with RAD to monitor the reduction of OCTC's second look inventory and improve efficiency.

I will continue to monitor the *Walker* petition activity and examine decisions by the Supreme Court to re-open or uphold OCTC's closure of cases. The Supreme Court is able to consider and review OCTC's work product and justification for closing the case. OCTC transmits its closed case file to Supreme Court staff, upon request, for *Walker* petition review.

Strategic Planning

During the next year, I will work with RAD to improve upon strategic planning, budget and development including, but not limited to, the following:

- In conjunction with the State Bar's Five-Year Strategic Plan (2012-2016), evaluate current progress related to the San Francisco building initiative and technology initiatives – thereafter making necessary adjustments to planning;
- Examine OCTC's staffing needs and management structure. For example, OCTC is currently developing an operational officer position and finishing a two-year pilot program regarding the development of attorney supervisor positions;
- Work with the Office of Human Resources to enhance recruitment efforts and seek to fill key vacancies;
- Build upon OCTC's attorney training unit and trial skills program. OCTC has continued its previous efforts (trial skills workshops) by contracting with an outside litigation trainer this year.
- Improve investigator and staff training programs; and
- Enhance change management skills.