

Report 2015-030 Recommendation 10 Responses

Report [2015-030](#): State Bar of California: It Has Not Consistently Protected the Public Through Its Attorney Discipline Process and Lacks Accountability (Release Date: June 2015)

Recommendation #10 To: Bar of California, State

To provide independent oversight of the Office of the Chief Trial Counsel and assurance that it properly closes its case files, the audit and review unit should report to an individual or body that is separate from the chief trial counsel, such as the executive director or the board.

Agency Response*

On November 12, 2015, State Bar staff discussed the status of this Recommendation with State Auditor staff; the State Bar suggested an alternative approach to realizing the objectives and intent of the Recommendation, while retaining the existing reporting structure for the Audit and Review Unit. State Auditor staff indicated that they would provide feedback regarding the Bar's proposal; on December 17, 2015, a reminder regarding the need for that feedback was sent to the State Auditor. The estimated completion date for this Recommendation is tbd given the Bar's proposal to retain the existing reporting structure for the Unit.

- **Response Type†:** 6-Month
- **Estimated Completion Date:** to be determined
- **Response Date:** December 2015

California State Auditor's Assessment of Status: Pending

We discussed this matter with the State Bar to give it feedback on the options for implementing the recommendation. According to the State Bar, the Audit and Review unit will be transitioning to the Office of the General Counsel (OGC). Work is underway to prepare for the transition.

Agency Response*

The State Bar will study options to reorganize the audit and review unit to provide greater independence of some its major functions. A separate, bar-wide audit unit, which conducts analysis and internal audits of the Office of Chief Trial Counsel and other State

Bar operations, may be a more appropriate mechanism for providing oversight. However, housing this function in the office of the executive director and including the authority to conduct "second-looks" at closed complaints to direct that they be reopened is problematic. Under existing law, the chief trial counsel serves under the regulation and discipline oversight committee of the board and not under the direction of the chief executive officer. The procedure of the State Bar's former complainants grievance panel and later discipline audit panel, both of which had independent authority to review and recommend the reopening of closed files, proved to be ineffective, creating instead more delays and frustrations for complainants. In 2001, the Legislature repealed the provision requiring an independent panel and permitted the State Bar to adopt Rule 2601 of the Rules of Procedure delegating the discretion to reopen cases back to the Office of Chief Trial Counsel.

- **Response Type†:** 60-Day
- **Estimated Completion Date:** 11/20/2015
- **Response Date:** August 2015

California State Auditor's Assessment of Status: Pending

Our recommendation is intended to ensure independence of the audit and review unit. The State Bar's proposal of a separate, bar-wide unit, would likely satisfy our recommendation as long as the unit does not report to the chief trial counsel.

[All Recommendations in 2015-030](#)

†**Response Type** refers to the interval in which the auditee is providing the State Auditor with their status in implementing recommendations made in an audit report. Auditees must submit a response regarding their progress in implementing recommendations from our reports at three intervals from the release of the report: 60 days, six months, and one year or subsequent to one year.

*Agency responses received after June 2013 are posted verbatim.