



THE STATE BAR OF CALIFORNIA

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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)

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

I.

December 2016 Month-End Metrics

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

New Complaints

In December 2016, Intake opened 1130 new cases (complaints from complainants, State Bar-initiated matters (SBIs), and Reportable Actions (RAs)), as follows.

- 873 new complaints from complainants;
- 31 new SBIs; and
- 226 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 December 2016, are set forth, immediately below.

2016	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Complainant	937	1013	1046	1036	1068	975	1013	1069	1063	967	862	873
State Bar Initiated	27	41	49	28	20	35	22	127	132	23	20	31
Reportable Actions	180	193	252	208	195	221	209	247	188	182	188	226
TOTAL	1144	1247	1347	1272	1283	1231	1244	1443	1383	1172	1070	1130

From January 1 through December 31, 2016, 1663 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 December 31, 2016, the inventory in Intake was 763. At the same time in 2015, the inventory was 1643.) The end result is that, 492 more cases were forwarded to trial teams in 2016, as compared to 2015, for investigation and assessment for disciplinary charges.

Call Center Volume

In December 2016, Intake received 2610 calls to the Complaint Hotline and 17 calls to the Immigration Hotline, for a total of 2627 calls.

The monthly numbers through December 2016 are, as follows.

2016	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Complaint Hotline	3224	3552	3668	3519	3276	3493	3074	3817	3503	3202	3137	2610
Immigration Hotline	19	12	12	22	25	9	48	42	24	11	14	17
TOTAL	3243	3564	3680	3541	3301	3502	3122	3859	3527	3213	3151	2627

Active Inventories

At the end of December 2016, OCTC's month-end inventory of active attorney disciplinary cases that had yet to be filed, closed, or otherwise resolved was 3275:

- 763 cases in Intake;
- 2257 cases in Investigations; and
- 255 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 December 2016, are set forth, immediately below.

2016	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Intake	1339	1434	1394	1207	958	741	793	825	864	856	747	763
Investigation	1579	1602	1845	2049	2291	2515	2532	2673	2605	2458	2360	2257
Pre-Filing	234	221	234	227	233	263	261	280	276	294	291	255
TOTAL	3152	3257	3473	3483	3482	3519	3586	3778	3745	3608	3398	3275

At the end of December 2016, OCTC's backlog inventory was 1414:

- 634 active cases in backlog; and
- 780 suspended cases in backlog.

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

2016	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Active	530	602	639	606	640	673	632	707	705	750	758	634
Suspended	964	988	938	984	1019	999	862	799	803	751	778	780
TOTAL	1494	1590	1577	1590	1659	1672	1494	1506	1508	1501	1536	1414

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 December 31, 2016, there were 867 cases in suspended status, 780 of which were in backlog status. The 867 suspended cases involved 177 attorneys, 108 of whom are on inactive status or otherwise not entitled to practice law. The reasons for suspension of work in the 867 cases are, as follows.

Suspension Reason	
Default in other matter	205
Expected Disbarment	235
Disbarment Recommendation Filed by SBC	88
Overlapping Litigation	182
Inactive Enrollment Order	157
TOTAL	867

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 154 pending second-look requests at the end of 2016. The median time it took to process a second-look request in December 2016 was 46 days. The mean (average) time it took to process a second-look request was 107 days.

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

Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
286	334	344	331	323	348	332	278	259	232	198	154

The monthly processing times for 2016 are, as follows.

	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Median	93	107	100	94	118	129	113	35	40	38	34	46
Mean	98	131	130	105	146	140	93	76	70	73	86	107

Walker Petitions

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

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

2016	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Filed*	8	5	3	6	6	1	6	5	6	5	9	6
Granted	0	0	0	0	0	0	0	0	0	0	0	0

*Prior to the November 2016 report, reports counted the number of petitions served on OGC. This chart now reflects 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 December involving 34 cases, as follows.

- 1 by trial decision;
- 21 by stipulation;
- 3 Alternative Discipline Program decisions;
- 9 by default decision; and
- No dismissal decisions.

In addition, one case was dismissed by motion of OCTC.

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

Decision Type	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Trial	8	2	4	7	7	5	7	11	3	15	10	1
Default Decision	8	7	11	24	8	11	2	13	16	20	2	9
Stipulation	32	21	22	25	31	29	25	23	9	31	13	21
ADP Decision	11	0	7	0	0	4	8	0	5	0	4	3
Dismissal Decision	0	0	0	0	1	0	0	1	0	0	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 December 31, there were 149 non-attorney complaints in investigation and 30 non-attorney complaints pending in Intake. Of those complaints, there were 50 non-attorney complaints related to immigration issues in investigation and 5 non-attorney complaints related to immigration pending in Intake.