

# AGENDA ITEM

## MARCH 2017

**DATE:** February 27, 2017

**TO:** Members, Regulation and Discipline Committee

**FROM:** Gregory Dresser, Interim Chief Trial Counsel

**SUBJECT:** Status Report from the Office of Chief Trial Counsel (OCTC)

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### JANUARY 2017 MONTH-END METRICS

For this status report, I have highlighted key inventory numbers and workflows for 2017, based on statistical information as of January 31, 2017. For greater context, I have also included statistical information from calendar year 2016.

#### New Complaints

In January 2017, Intake opened 1259 new cases (complaints from complainants, State Bar Initiated (SBI) matters, and Reportable Actions (RAs)), as follows.

- 971 new complaints from complainants;
- 29 new SBIs; and
- 259 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 complaint, 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 for the period of January 2016 through January 2017, are set forth, immediately below.

	2016												2017
	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan
Complainant	937	1013	1046	1036	1068	975	1013	1069	1063	967	862	873	971
State Bar Initiated	27	41	49	28	20	35	22	127	132	23	20	31	29
Reportable Actions	180	193	252	208	195	221	209	247	188	182	188	226	259
<b>TOTAL</b>	<b>1144</b>	<b>1247</b>	<b>1347</b>	<b>1272</b>	<b>1283</b>	<b>1231</b>	<b>1244</b>	<b>1443</b>	<b>1383</b>	<b>1172</b>	<b>1070</b>	<b>1130</b>	<b>1259</b>

## Call Center Volume

In January 2017, Intake received 3018 calls to the Complaint Hotline and 30 calls to the Immigration Hotline, for a total of 3048 calls.

The monthly numbers for the period of January 2016 through January 2017, are set forth, immediately below.

	2016												2017
	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan
Complaint Hotline	3224	3552	3668	3519	3276	3493	3074	3817	3503	3502	3137	2610	3018
Immigration Hotline	19	12	12	22	25	9	48	42	24	11	14	17	30
<b>TOTAL</b>	<b>3243</b>	<b>3564</b>	<b>3680</b>	<b>3541</b>	<b>3301</b>	<b>3502</b>	<b>3122</b>	<b>3859</b>	<b>3527</b>	<b>3213</b>	<b>3151</b>	<b>2627</b>	<b>3048</b>

## Active Inventories

At the end of January 2017, OCTC's month-end inventory of active attorney disciplinary cases that had yet to be filed, closed, or otherwise resolved was 3349:

- 717 cases in Intake
- 2386 cases in Investigations; and
- 246 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 for the period of January 2016 through January 2017, are set forth, immediately below.

	2016												2017
	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan
Intake	1339	1434	1394	1207	958	741	793	825	864	856	747	763	717
Investigation	1579	1602	1845	2049	2291	2515	2532	2673	2605	2458	2360	2257	2386
Pre-Filing	234	221	234	227	233	263	261	280	276	294	291	255	246
<b>TOTAL</b>	<b>3152</b>	<b>3257</b>	<b>3473</b>	<b>3483</b>	<b>3482</b>	<b>3519</b>	<b>3586</b>	<b>3778</b>	<b>3745</b>	<b>3608</b>	<b>3398</b>	<b>3275</b>	<b>3349</b>

Cases that are resolved in Intake are either closed or forwarded on to Investigation. Cases resolved in Investigation may be closed or forwarded on to the pre-filing stage. Cases in pre-filing may be closed, or filed in State Bar Court. Cases that are closed may be closed with a warning letter or directional letter to the attorney who is the subject of the complaint, or closed for insufficient facts to prove the allegations (or other similar reasons).

From January 2016 through January 2017, the number of cases each month forwarded to the next stage is set forth, immediately below.

	2016												2017
	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan
Intake	329	327	580	584	649	615	475	619	427	342	405	409	471
Investigation	40	37	50	51	47	56	56	61	71	68	70	85	22
Pre-Filing	20	53	32	53	35	38	50	49	64	43	64	112	27
<b>TOTAL</b>	<b>389</b>	<b>417</b>	<b>662</b>	<b>688</b>	<b>731</b>	<b>709</b>	<b>581</b>	<b>729</b>	<b>562</b>	<b>453</b>	<b>539</b>	<b>606</b>	<b>520</b>

The number of cases closed each month is set forth, immediately below.

	2016												2017
	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan
Intake	1138	836	822	907	923	866	760	833	943	869	805	743	874
Investigation	197	215	217	215	266	280	336	380	378	389	401	402	248
Pre-Filing	6	6	12	12	4	3	9	9	13	10	14	19	10
<b>TOTAL</b>	<b>1341</b>	<b>1057</b>	<b>1051</b>	<b>1134</b>	<b>1193</b>	<b>1149</b>	<b>1105</b>	<b>1222</b>	<b>1334</b>	<b>1268</b>	<b>1220</b>	<b>1164</b>	<b>1132</b>

At the end of January 2017, OCTC's backlog inventory was 1562:

- 792 active cases in backlog; and
- 770 suspended cases in backlog.

The monthly backlog numbers for the period of January 2016 through January 2017, are set forth, immediately below.

	2016												2017
	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan
Active	530	602	639	606	640	673	632	707	705	750	758	634	792
Suspended	964	988	938	984	1019	999	862	799	803	751	778	780	770
<b>TOTAL</b>	<b>1494</b>	<b>1590</b>	<b>1577</b>	<b>1590</b>	<b>1659</b>	<b>1672</b>	<b>1494</b>	<b>1506</b>	<b>1508</b>	<b>1501</b>	<b>1536</b>	<b>1414</b>	<b>1562</b>

### 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 January 31, 2017, there were 845 cases in suspended status, 770 of which were in backlog status. The 845 suspended cases involved 171 attorneys, 107 of whom are on inactive status or otherwise not entitled to practice law. The reasons for suspension of work in the 845 cases are, as follows:

Suspension Reason	
Default in other matter	198
Expected Disbarment	234
Disbarment Recommendation filed by SBC	75
Overlapping Litigation	177
Inactive Enrollment Order	161
<b>TOTAL</b>	<b>845</b>

The monthly numbers of cases suspended in investigations and in pre-filing, from January 2016 through January 2017, are, as follows.

	2016												2017
	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan
Investigations	60	43	59	93	69	58	63	40	49	29	26	29	16
Pre-Filing	2	10	0	11	9	3	10	7	7	17	4	3	3

## 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, 2016, until they are all resolved. OCTC anticipates all of its second-look inventory will be resolved no later than the end of March 2017. Combining the numbers from OGC and OCTC, there were 102 pending second-look requests as of January 31, 2017. The median time it took to process a second-look request was 42 days. The mean (average) time it took to process a second-look request was 93 days.

The monthly second-look inventory numbers for the period of January 2016 through January 2017, are, as follows.

2016												2017
Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan
286	334	344	331	323	348	332	278	259	232	198	154	102

The month processing times for the period of January 2016 through January 2017 are, as follows.

2016													2017
	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan
Median	93	107	100		118	129	113	35	40	38	34	46	42
Mean	98	131	130	105	146	140	93	76	70	73	86	107	93

## Walker Petitions

There were 12 *Walker* petitions filed with the California Supreme Court in January 2017. The Supreme Court granted no *Walker* petitions in January 2017.

The monthly numbers for *Walker* petitions, filed and granted, for the period of January 2016 through January 2017, are, as follows.

2016													2017
	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan
Filed	8	5	3	6	6	1	6	5	6	5	9	6	12
Granted	0	0	0	0	0	0	0	0	0	0	0	0	0

## Trials and Discipline Decisions

OCTC received discipline recommendations from the Hearing Department in January 2017 involving 52 cases, as follows.

- 10 by trial decision;
- 30 by stipulation
- 0 Alternative Discipline Program decisions;
- 12 by default decision; and
- 0 dismissal decisions

In addition, 2 cases were dismissed by motion of OCTC.

The monthly numbers for the period of January 2016 through January 2017, are set forth, immediately below.

Decision Type	2016												2017
	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan
Trial	8	2	4	7	7	5	7	11	3	15	10	1	10
Default Decision	8	7	11	24	8	11	2	13	16	20	2	9	12
Stipulation	32	21	22	25	31	29	25	23	9	31	13	21	30
ADP Decision	11	0	7	0	0	4	8	0	5	0	4	3	0
Dismissal Decision	0	0	0	0	1	0	0	1	0	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 in relation to non-attorneys is limited compared to that over attorneys, OCTC reviews non-attorney complaints alleging the unauthorized practice of law and may investigate 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. As of January 31, 2017, there were approximately 149 non-attorney complaints in Investigation and approximately 17 non-attorney complaints pending in Intake. Of those complaints, there were 54 non-attorney complaints related to immigration issues in Investigation and 4 non-attorney complaints related to immigration pending in Intake.