

AGENDA ITEM III B

MARCH 2017

DATE: March 3, 2017

TO: Members, Regulation and Discipline Committee
Members, Board of Trustees

FROM: Dag MacLeod, Director, Office of Research & Institutional Accountability

SUBJECT: Discipline System Data: Proposed Modification of RAD Reports

EXECUTIVE SUMMARY

At its January, 2017 planning meeting, the Board of Trustees called for Bar staff to synthesize the information provided to the Board and its committees. This report provides an inventory of the data that are provided to RAD and makes preliminary recommendations to modify the data. The recommendations for this report are limited to the data reported to RAD monthly by the Office of the Chief Trial Counsel (OCTC), State Bar Court, Office of Probation, and Client Security Fund. Intermittent reports from the Lawyer Assistance Program, Mandatory Fee Arbitration and Professional Competence will be evaluated and added to the recommendations at a later date.

BACKGROUND

In a typical month, the Committee on Regulation and Discipline (RAD) receives 25 pages of tables and graphs reporting on various quantitative measures of the discipline system. The information comes from the Office of the Chief Trial Counsel, State Bar Court, Office of Probation, and Client Security Fund. Intermittent reports, usually coinciding with an in-person meeting of RAD and the Board, are also provided by the Lawyer Assistance Program, Mandatory Fee Arbitration, and the Office of Professional Competence, adding as many as 40 additional pages to these reports.

There is not, currently, a standard format for the data, nor are there consistent time periods over which the data are reported. The documentation regarding the data is also limited. There is not currently a glossary of terms nor is there a clear rationale for what is presented to RAD and why.

The status quo is one in which Bar staff spend often a considerable amount of time creating reports that may not assist the Board or members of RAD in fulfilling their responsibilities. There is not a formal process for reviewing the data on an on-going basis, for flagging issues of interest to the Board and members of RAD, or for identifying issues that are not captured in the

data and should be added. Instead, the items are normally presented on the consent agenda as “status updates” and are rarely discussed.

DISCUSSION

Before getting into the detailed analysis and recommendations, a number of general principles can be articulated as goals for the presentation of the data:

- 1) Create a glossary of key terms and definitions of the various data elements. The work of the various components of the discipline system is highly technical and the meaning of the data presented is not self-evident. A glossary of terms is needed to include definitions of specific data elements as well as information about why the data elements matter;
- 2) Present a 13-month moving window of data wherever possible. As a rule, reports currently delete data from previous year. As a result, the first reports of the year often have no context. Previous-year data should be retained. A 13-month moving window will provide context for any given month and allow for a comparison with where the Bar stood in the same month during the previous year;
- 3) Distinguish between Presentation Graphics and Reference Tables. Excessive detail can obscure larger trends that are more meaningful to the Board and RAD. If detail is valuable, keep it in reference tables rather than graphs.

Page / Table or Graph Name / Contents	Recommendation
Page 1 / Simplified Metrics for the California State Bar – 6 Graphs showing a) OCTC Backlog, b) Median Time to disposition of Investigations and 2 nd Look cases, c) 2 nd Look Inventory, d) Walker Petition Activity e) CSF Payouts and f) CSF Applications Received	a) <u>Modify</u> the “Backlog” chart to distinguish more clearly between active and inactive backlog and phase of case processing where the backlog is located; add alternative backlog measures based on Backlog Working Group’s recommendations for a 197 or 243 day backlog standard; b) <u>Modify</u> the “Median Time” to disposition chart to separate 2 nd look data from Investigation data; c) <u>Replace</u> the “Second Look Inventory” chart. These data are redundant, they’re reported on page 8 and page 17. Report only once. d) <u>Replace</u> the “Walker Activity” chart: These data are also redundant, they’re reported on pages 9 and 17. In addition, this chart is misleading because i) it uses annual data <i>except</i> for the current year and; ii) “Walker Activity” refers to cases filed with OGC. The universe of Walker <i>Petitions</i> is not included. Pull this data from the Supreme Court and report once. e) <u>Move</u> the “CSF Payouts” graph. Larger question of order and presentation needs to be addressed. Unclear why CSF is here. f) <u>Move</u> the “CSF Applications Received” graph. See e) above.
Page 2 / Active Complaint Inventory	<u>Eliminate</u> : Pie chart provides same information as the first graph on the Simplified Metrics page. Report once, provide monthly totals rather than snap-shot. Add a backlog trend line to a new graph of OCTC Caseload and Inventory.
Page 3 / Active & Suspended Complaint Inventories, Combined	<u>Eliminate</u> : Redundant: it duplicates (in a slightly reorganized manner) data reported on page 10. If direct comparison between <i>total</i> Active and Suspended inventory is valuable, re-work this on page 10 and/or move to

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Backlog	graphic presentation.
Page 4 / Active Complaint Inventory – Investigations & Pre-filing (NTS) Stages Backlog by Case Initiation Type	<u>Eliminate</u> : Redundant: it duplicates (in a slightly reorganized manner) data reported on page 10. If backlog percentages are valuable, re-work this on page 10 and/or move to graphic presentation. Place backlog percentages on a new graph of OCTC Caseload and Inventory.
Page 5 / Active Complaint Inventory – Investigations & Prefiling (NTS) Stages. Two graphs: a) Active Investigation State, b) Active Pre-Filing Stage.	<u>Eliminate</u> : Pie charts are snap-shots and include only two of the three phases of case processing. Per modification to data from Page 4 and Page 2, add monthly time-series data to the new graph of OCTC Caseload and Inventory. Leave detail re: SBIs, RAs, etc., in reference tables and present two categories across three phases in the graphs: Inventory & Backlogged Inventory.
Page 6 / Speed of Forwarding Complaints	<u>Eliminate</u> : Redundant. Data are currently reported on pages 12, 13 and 14. If valuable to have the summary of speed of case forwarding for each phase compiled in a single place, use a monthly time-series based on pages 12, 13 and 14.
Page 7 / Second Look Inventory	<u>Eliminate</u> : Redundant. Data are currently reported on page 1c (Simplified Metrics for 2 nd Look Inventory) and on pages 16 and 17.
Page 8 / Walker Petitions	<u>Eliminate</u> : Redundant. Data are currently reported on page 17. Data are also incomplete because Walker Petitions Served on OGC are not the entire universe of Walker Petitions. Pull data from Supreme Court Web site to get complete count of Walker Petitions and correct this within OCTC tables.
Page 9 / OCTC Month-End Report: Backlog by major phase of case processing.	<u>Supplement</u> : Create a graph showing backlog by active, suspended and at each major phase of case processing. Keep data in reference table at end of document. For the graph, eliminate the detail on SBI, RA and other subcategories, keep that in the reference table.
Page 10 / OCTC Month End Report: Measures of cases with other pending matters in INV or NTS status, Suspended Inventory.	<u>Eliminate / Discuss</u> : There appears to be something <i>potentially</i> valuable here in that some of these data are attempting to distinguish between the number of <i>cases</i> and the number of <i>respondents</i> . Without an explanation, and as currently calculated, though, it's not clear that this actually accomplishes what is intended. The reasons for suspended inventory are interesting. But does anyone look at them?
Page 11 / OCTC Month End Report: Intake Inventory and Call Center Calls Received	<u>Modify / Discuss</u> : Create a graph to show all inventory – in Intake, Investigations, and Prefiling – in a single place. For the graph, eliminate the detail re: SBI, RA and other subcategories. Create a separate graph to show case-processing times in a single place. Unclear what to do with the call center data. "Complaint Analysts" who used to work in the call center have been reassigned; the call center will soon become a central "switchboard" for the Bar.
Page 12 / Inventory, Workflow and Age of Inventory - Investigations	<u>Supplement</u> : These data appear useful and should be reorganized, presented graphically at a high-level (no detail on SBI, RA, and other subcategories) with the detail contained in a reference table at the end of the report.
Page 13 / Inventory, Workflow and Age of Inventory – Pre-Filing	<u>Supplement</u> : These data appear useful and should be reorganized, presented graphically at a high-level (no detail on SBI, RA, and other subcategories) with the detail contained in a reference table at the end of the report.
Page 14 / New cases initiated in Hearing	<u>Modify / Discuss</u> : It's unclear how the filings data align with the previous page workflow data, in particular Pre-filing data on "forwarded to another

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Department (Inflow); Discipline Decisions or Orders (Outflow); Non-Disciplinary Decision.	stage.” Discipline decision seems to need some additional definition: Does “Discipline recommendation” mean a finding in favor of OCTC or is it a neutral term, simply marks the fact <i>that</i> a decision was reached? Eliminate the Non-Disciplinary Decision table: 14 cases represented across 72 cells doesn’t make sense.
Page 15 / Plenary Review Opinion by Review Department; Interlocutory Order by Review Department	<u>Modify / Discuss</u> : Need better definitions to cover what’s being presented here. Unclear if the Plenary review Opinion Outflow belongs in table format, 96 cells almost half of which are zeros; Same for Interlocutory Order Outflow: very little data spread across a lot of cells.
Page 16 / Audit & Review Second Look Requests	<u>Supplement</u> : Create a single page graph to present this information including both 2 nd look information and the Walker Petition data. Present Walker Petitions submitted to the Supreme Court, <i>not</i> served on OGC.
Pages 17-19 / State Bar Court Performance Measures	<u>Modify</u> : Create a graph showing these data. Separate annual numbers from monthly. Retain monthly numbers from previous year so that monthly numbers in January have some context. Don’t combine annual totals with totals that are less than a year.
Pages 20-22 / Office of Probation Monthly Statistical Report	<u>Modify</u> : Create a graph showing the data; retain monthly numbers from previous year to provide context; eliminate white space to allow for the three pages to be condensed into one.
Page 23-25 / Client Security Fund Data	<u>Modify</u> : Create a graph showing the data; retain monthly numbers from previous year to provide context; eliminate white space to allow for the three pages to be condensed into one.

ATTACHMENT(S) LIST

A. Monthly RAD Reports