



The State Bar *of California*

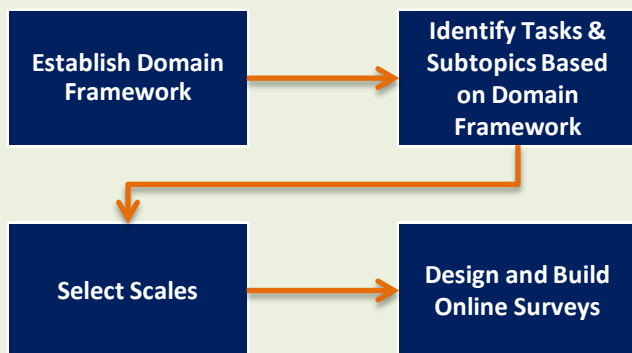
California Attorney Practice Analysis (CAPA) Working Group

October 3, 2019

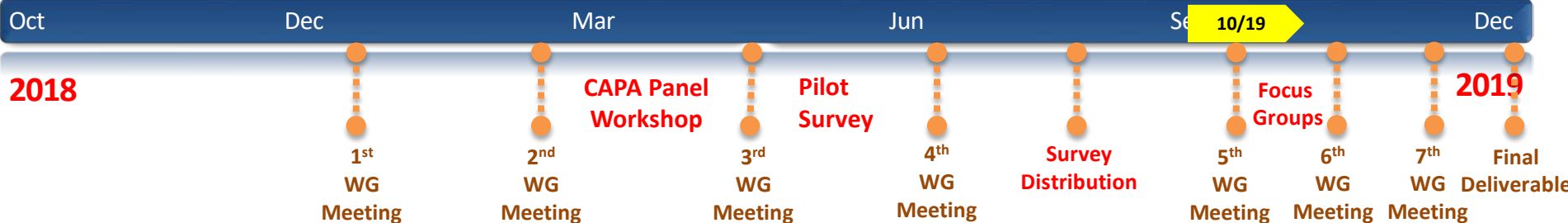
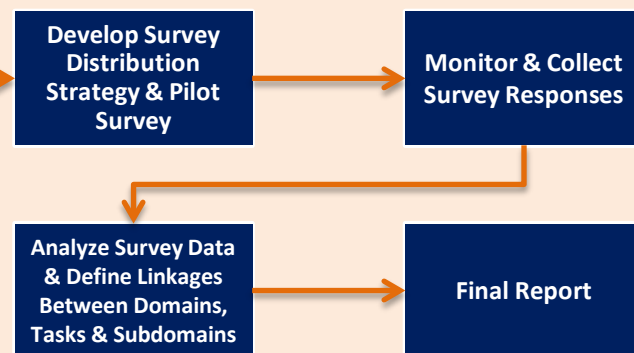


Where are we and what's next?

PHASE I Survey Preparation



PHASE II Survey Deployment & Analysis





Response to Survey

Invited	63,300
Bounced back	511
Actual sample	62,789
Participated	15,029
Percent	23.9%
Percent completion	8.3%



Demographics

Is at least 50% of your law practice in California at this time?

Response	N	Percent
Yes	12,906	87.1%
No	1,914	12.9%
Total	14,820	100.0%



Demographics

For how long have you practiced law?

	N	Percent
0 to 1 year	705	4.7%
2 to 3 years	875	5.9%
4 to 5 years	936	6.3%
6 to 10 years	1,886	12.7%
More than 10 years	10,493	70.4%
Total	14,895	100.0%



Demographics

In which type of the following settings is your primary practice of law?

Practice Setting	N	Percent
Private law firm	8,588	58.2%
Government (federal, state, local)	1,416	9.6%
In-house counsel	1,811	12.3%
District attorney, public defender, legal services, or public interest	814	5.5%
Judiciary (including clerkships)	179	1.2%
Academia	171	1.2%
Other	661	4.5%
Not currently practicing	1,126	7.6%
Total	14,766	100.0%



Demographics

Number of attorneys in your firm or organization.

Number	N	Percent
1	4,950	34.1%
2 to 5	3,105	21.4%
6 to 10	1,115	7.7%
11 to 25	1,259	8.7%
26 to 50	897	6.2%
51 to 100	812	5.6%
101 to 200	624	4.3%
More than 200	1,740	12.0%
Total	14,502	100.0%



Demographics

Area of Practice ($\geq 3\%$)

Area of Practice	N	Percent
Civil Litigation	4684	11.6%
Business	3605	8.9%
Employment	2639	6.5%
Real Estate	2345	5.8%
Personal Injury	2277	5.6%
Other	2165	5.3%
Criminal	2018	5.0%
Estate Planning	1890	4.7%
Intellectual Property	1809	4.5%
Family Law	1458	3.6%
Landlord and Tenant	1402	3.5%
Appellate	1303	3.2%



Demographics

In which county of California do you work, or do you live outside the state or country?

Region	N	Percent
Northern Region	77	1.5%
Sacramento Area	321	6.4%
Bay Area	1,181	23.7%
Central Valley and Sierra	200	4.0%
Central Coast	202	4.1%
Inland Empire	195	3.9%
Los Angeles County	1,403	28.2%
Orange County	448	9.0%
San Diego County	429	8.6%
Out of state	526	10.6%
Total	4,982	100.0%



Demographics

Race/Ethnicity

Group	N	Percent
American Indian or Alaska Native	62	1.1%
Asian	545	10.0%
Black or African American	156	2.9%
Hispanic, Latino or Spanish	358	6.6%
Native Hawaiian or other Pacific Islander	27	0.5%
White	3,621	66.6%
Other	159	2.9%
Prefer Not to Answer	505	9.3%
Total	5,433	100.0%



Reliability of Areas of Responsibility

Coefficient Alpha estimates internal consistency of the scales

Area of Responsibility	Criticality	Frequency
Establishing and Maintaining Relationships	0.96	0.96
Practice Management and Administration	0.93	0.94
Factual and Legal Analysis	0.95	0.96
Resolutions	0.98	0.98



Reliability of Legal Topics

Legal Topic	Freq	Crit	Legal Topic	Freq	Crit
Admin. Law and Procedure	0.80	0.81	Finance	0.87	0.86
Business Associations	0.94	0.94	Labor and Employment	0.87	0.88
Civil Procedure	0.88	0.89	Legislation and Government	0.83	0.85
Constitutional Law	0.86	0.88	Professional Responsibility	0.80	0.81
Contracts	0.95	0.96	Real Property	0.80	0.83
Criminal Law and Procedure	0.91	0.92	Secured Transactions	0.83	0.85
Environment and Land Use	0.86	0.86	Securities	0.87	0.86
Estate, Trusts, and Probate	0.84	0.87	Tax	0.79	0.80
Evidence	0.86	0.85	Torts	0.84	0.85
Family Law	0.89	0.92	Non-Legal Topics	0.81	0.85



Scales

Frequency

On average, how frequently did you perform this work activity or apply the legal topic in your practice during the last 12 months?

- 0 = Not applicable to my practice
- 1 = Never
- 2 = Rarely (once per year)
- 3 = Sometimes (once per month)
- 4 = Often (once per week)
- 5 = Repeatedly (daily)

Criticality

What degree of harm may result for clients and/or the general public if an attorney is not proficient in the areas of responsibility, competencies, tasks, areas of knowledge, and topics? [Harm may be legal, financial, psychological, or emotional.]

- 0 = Not applicable in my practice
- 1 = No harm at all will result
- 2 = Minimal harm will result
- 3 = Moderate harm will result
- 4 = Substantial harm will result
- 5 = Extreme harm will result



Frequency Ratings

Area of Responsibility	N	Mean	Std
Establishing and Maintaining Relationships	11,033	4.3	1.0
Practice Management and Administration	10,333	3.9	1.2
Factual and Legal Analysis	11,215	4.6	0.8
Resolutions	10,626	4.1	1.0

Criticality Ratings

Area of Responsibility	N	Mean	Std
Establishing and Maintaining Relationships	10,709	3.6	1.2
Practice Management and Administration	10,076	3.6	1.2
Factual and Legal Analysis	11,038	4.4	0.8
Resolutions	10,465	4.0	1.0



Legal Topics

Legal Topic	N	Percent	Legal Topic	N	Percent
Admin. Law and Procedure	1,556	29.7%	Finance	629	12.0%
Business Associations	1,386	26.5%	Labor and Employment	1,478	28.2%
Civil Procedure	2,552	48.7%	Legislation and Government	1,130	21.6%
Constitutional Law	1,239	23.7%	Professional Responsibility	1,784	34.1%
Contracts	2,642	50.4%	Real Property	1,531	29.2%
Criminal Law and Procedure	984	18.8%	Secured Transactions	507	9.7%
Environment and Land Use	485	9.3%	Securities	428	8.2%
Estate, Trusts, and Probate	941	18.0%	Tax	708	13.5%
Evidence	2,019	38.6%	Torts	1,473	28.1%
Family Law	771	14.7%	Total	5,237	100.0%



Legal Topics Frequency & Criticality Ratings

Legal Topic	Frequency			Criticality		
	N	Mean	Std	N	Mean	Std
Administrative Law and Procedure	1540	3.4	1.2	1494	3.9	1
Business Associations	1365	3.3	1.1	1323	3.8	1.1
Civil Procedure	2499	3.8	1.1	2467	4.2	0.9
Constitutional Law	1203	3.5	1.1	1186	4.1	1
Contracts	2581	3.6	1.1	2526	4	0.9
Criminal Law and Procedure	957	3.8	1.3	928	4.3	1
Employment	1437	3.5	1.1	1416	4	1
Environment and Land Use	468	3.1	1.1	458	3.9	1
Estate Planning, Trusts, and Probate	916	3.4	1.2	900	4	1.1
Evidence	1983	3.9	1	1958	4.3	0.9



Legal Topics Frequency & Criticality Ratings

	Frequency			Criticality		
Legal Topic	N	Mean	Std	N	Mean	Std
Family Law	746	3.7	1.3	732	4.1	1.1
Finance	612	3.3	1.1	597	3.8	1.1
Legislation and Government	1097	3.2	1.2	1079	3.6	1.2
Professional Responsibility	1744	4	1	1716	4.4	0.9
Real Property	1473	3.3	1.1	1451	3.9	1
Secured Transactions	489	3.1	1.2	480	3.9	1.1
Securities	414	3.1	1.2	402	4	1.1
Tax	685	3.4	1.2	675	3.9	1.1
Torts	1421	3.7	1.1	1404	4.1	0.9



Legal Topics Ratings by Experience

Legal Topic	Experience	Frequency		Criticality	
		N	Mean	N	Mean
Administrative Law and Procedure	0-1 Years	329	3.2	322	3.7
	2-3 Years	412	3.3	399	3.8
	4-5 Years	378	3.1	360	3.8
	6-10 Years	644	3.1	624	3.8
	More than 10 years	4086	3.1	3951	3.8
Business Associations	0-1 Years	589	3.1	579	3.6
	2-3 Years	519	2.9	516	3.8
	4-5 Years	612	3.1	607	3.6
	6-10 Years	982	3.0	971	3.6
	More than 10 years	6544	3.0	6377	3.8
Civil Procedure	0-1 Years	806	3.3	769	4.2
	2-3 Years	898	3.3	877	4.2
	4-5 Years	784	3.1	773	4.1
	6-10 Years	1529	3.1	1498	4.1
	More than 10 years	11448	3.1	11177	4.1



Legal Topics Ratings by Experience

Legal Topic	Experience	Frequency		Criticality	
		N	Mean	N	Mean
Constitutional Law	0-1 Years	444	2.9	416	3.9
	2-3 Years	583	2.8	568	4.0
	4-5 Years	400	2.9	365	3.9
	6-10 Years	816	3.0	804	3.8
	More than 10 years	5493	2.8	5164	3.9
Contracts	0-1 Years	930	3.3	930	3.8
	2-3 Years	1003	3.3	973	3.9
	4-5 Years	1058	3.5	1042	3.9
	6-10 Years	1905	3.4	1895	3.9
	More than 10 years	14229	3.3	13972	3.9
Criminal Law and Procedure	0-1 Years	302	3.3	288	4.1
	2-3 Years	327	3.3	315	4.2
	4-5 Years	234	3.7	227	4.1
	6-10 Years	540	3.5	525	4.4
	More than 10 years	3823	3.5	3644	4.3



Legal Topics Ratings by Experience

Legal Topic	Experience	Frequency		Criticality	
		N	Mean	N	Mean
Environment and Land Use	0-1 Years	419	3.2	396	3.8
	2-3 Years	427	3.3	420	4.1
	4-5 Years	420	3.2	406	4.0
	6-10 Years	691	3.1	680	3.9
	More than 10 years	5122	3.0	4953	3.9
Estate Planning, Trusts, and Probate	0-1 Years	96	2.5	92	3.0
	2-3 Years	205	2.9	199	3.9
	4-5 Years	100	2.4	97	4.0
	6-10 Years	167	2.5	163	3.7
	More than 10 years	1744	2.7	1662	3.9
Evidence	0-1 Years	152	3.1	152	3.9
	2-3 Years	161	3.3	158	3.9
	4-5 Years	202	3.1	195	4.1
	6-10 Years	283	3.2	268	3.9
	More than 10 years	2828	3.1	2736	4.0



Legal Topics Ratings by Experience

Legal Topic	Experience	Frequency		Criticality	
		N	Mean	N	Mean
Family Law	0-1 Years	354	3.7	355	4.2
	2-3 Years	453	3.6	452	4.3
	4-5 Years	386	3.7	383	4.3
	6-10 Years	707	3.6	701	4.1
	More than 10 years	5837	3.6	5736	4.2
Finance	0-1 Years	141	3.4	136	4.1
	2-3 Years	193	3.4	187	3.9
	4-5 Years	161	3.2	160	3.7
	6-10 Years	339	3.6	335	4.0
	More than 10 years	2415	3.4	2324	4.1
Labor and Employment	0-1 Years	118	3.4	117	3.6
	2-3 Years	155	2.8	156	3.6
	4-5 Years	150	3.1	148	3.6
	6-10 Years	292	3.1	288	3.5
	More than 10 years	2754	3.1	2686	3.7



Legal Topics Ratings by Experience

Legal Topic	Experience	Frequency		Criticality	
		N	Mean	N	Mean
Legislation and Government	0-1 Years	258	2.7	250	3.3
	2-3 Years	334	3.2	331	3.7
	4-5 Years	303	3.2	291	3.5
	6-10 Years	511	3.0	510	3.3
	More than 10 years	3357	3.0	3233	3.5
Professional Responsibility	0-1 Years	479	3.9	474	4.4
	2-3 Years	604	3.9	598	4.3
	4-5 Years	466	3.8	458	4.3
	6-10 Years	856	3.9	848	4.3
	More than 10 years	5361	3.8	5281	4.3
Real Property	0-1 Years	202	3.0	190	3.7
	2-3 Years	212	3.2	213	3.8
	4-5 Years	235	3.2	228	4.0
	6-10 Years	380	3.1	373	3.8
	More than 10 years	3855	3.0	3763	3.8



Legal Topics Ratings by Experience

Legal Topic	Experience	Frequency		Criticality	
		N	Mean	N	Mean
Secured Transactions	0-1 Years	36	3.0	35	3.6
	2-3 Years	39	3.4	39	4.1
	4-5 Years	55	3.1	55	3.9
	6-10 Years	85	3.2	85	4.0
	More than 10 years	1042	3.0	1028	4.0
Securities	0-1 Years	79	3.0	76	3.8
	2-3 Years	50	2.8	50	3.9
	4-5 Years	102	2.9	103	3.9
	6-10 Years	207	3.1	202	3.7
	More than 10 years	1393	2.8	1349	3.9
Tax	0-1 Years	108	3.2	106	3.9
	2-3 Years	87	2.9	86	3.8
	4-5 Years	114	2.9	107	3.8
	6-10 Years	166	3.4	164	3.9
	More than 10 years	1567	3.2	1527	3.9



Legal Topics Ratings by Experience

Legal Topic	Experience	Frequency		Criticality	
		N	Mean	N	Mean
Torts	0-1 Years	293	3.3	285	4.1
	2-3 Years	327	3.4	326	4.1
	4-5 Years	216	3.3	212	4.0
	6-10 Years	537	3.3	525	3.9
	More than 10 years	4945	3.3	4841	4.0



Area of Responsibility Comments:

Establishing and Maintaining Relationships

Establishing the Client Relationship

- No tasks missing or reinforcing importance of subdomain (512/1425)
- Limited applicability for types of practice (>100)
- Must be aware of ethics in this area (12)

Maintaining the Client Relationship

- No tasks missing or reinforcing importance of subdomain (474/986)
- Explain relevant law to client
- Understand client's background, goals

Communicating with Others

- No tasks missing or reinforcing importance of subdomain (402/729)
- Communicate with courts
- Coordinate with other client representatives
- Consequences of failure to disclose properly



Area of Responsibility Comments: Practice Management and Administration

Practice Management

- No tasks missing or reinforcing importance of subdomain (350/643)
- Ensure training for subordinates
- When to terminate relationship with client
- Creating and maintaining image of firm

Case or Matter Management

- No tasks missing or reinforcing importance of subdomain (316/535)
- Assessing performance in a case (post-case eval)
- Develop legal theories
- Maintain communication with clients about case budget

Supervision and Collaboration

- No tasks missing or reinforcing importance of subdomain (302/514)
- Communicate with junior staff about caseload, work/life balance
- Written communication with co-counsels about fee splitting



Area of Responsibility Comments:

Factual and Legal Analysis

Issue Spotting and Fact Gathering

- No tasks missing or reinforcing importance of subdomain (269/510)
- Conflicts of interest
- Third party rights and privileges
- Drafting briefs and motions

Research and Investigation

- No tasks missing or reinforcing importance of subdomain (277/454)
- Analyze probable changes in the law
- Apply known facts to the law
- Identifying experts

Issue Drafting and Writing

- No tasks missing or reinforcing importance of subdomain (263/452)
- Draft settlement documents with addenda
- Draft judicial opinions



Area of Responsibility Comments: Resolutions

Counsel/Advice	Negotiating and Closing	Alternative Dispute Resolution	Litigation
<ul style="list-style-type: none"> • No tasks missing or reinforcing importance of subdomain (249/415) • Notion of counselor at law disappearing • Advise clients about rules re: disclosure, confidentiality, and admissibility of communications 	<ul style="list-style-type: none"> • No tasks missing or reinforcing importance of subdomain (241/395) • Attend to client's changing attitude re: "saving the deal" vs. "losing the deal" bc of legal cautions 	<ul style="list-style-type: none"> • No tasks missing or reinforcing importance of subdomain (251/409) • Persuade opposing counsel to engage in ADR after analyzing benefits/drawbacks • Alternative sentencing 	<ul style="list-style-type: none"> • No tasks missing or reinforcing importance of subdomain (221/419) • Interlocutory review • Preparing final, tentative rulings • Reviewing jury instructions



Legal Topics Comments: Missing Areas

- Bankruptcy
- Civil Rights
- Healthcare Law
- Immigration
- Insurance
- Intellectual Property
- International Law & Regulation
- Juvenile Law
- Privacy and Security
- Workers' Compensation
- None missing (171)



Making Sense of the Data:

What Are the Implications for the Bar Exam?

Some Preliminary Questions:

- What is the purpose of the bar exam?
- What is tested currently? Why? How?
- Who are the stakeholders? What are their interests?
- What are the issues with the current bar exam?
- Are there problems with the current content framework?
- What improvements in the content framework are desired by stakeholders?
- What do the findings about Legal Topics suggest about relative emphasis in the new content framework?
- What do the findings about Areas of Responsibility suggest about relative emphasis in the new content framework?
- What is the best way to assess Legal Topics?
- What is the best way to assess Areas of Responsibility?

Give these questions thought before the next Working Group meeting.