



## STATE BAR OF CALIFORNIA

## WORKFORCE PLANNING

Report to the Office of the Executive Director

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National Center for State Courts

This document has been prepared under an agreement between the National Center for State Courts (“NCSC,” “National Center,” “Center”) and the State Bar of California (Bar). The National Center is an independent, nonprofit, private corporation, chartered in 1971, targeting the improvement of courts and justice systems nationwide and around the world. This workforce planning study reviews the operations and procedures of the departments of the Bar responsible for its discipline system with the objective of ensuring that the disciplinary functions of the Bar are managed effectively and efficiently to support the primary purpose of the organization: protection of the public. These functions include the Office of the Chief Trial Counsel, the State Bar Court and other units that have a substantial nexus with some aspect of the discipline system, namely the Office of Probation, Member Records and Compliance, the Client Security Fund and the Lawyer Assistance Program. The NCSC also examined staffing levels and business processes in a number of other areas of the Bar’s operations in order to assist the Bar in identifying possible efficiencies that could be realized in these areas in support of a goal of increasing resources for the discipline system. Business process reengineering areas included: High Volume Call Intake, Ethics and Attorney Training, Meeting and Event Support, and Information Technology Support Services. While the recommendations regarding these areas of Bar operations are not included in this report, the information collected will be used by the Bar to inform the implementation phase of workforce planning. The points of view and opinions offered in this report are those of the project consultants as agents of the National Center and do not necessarily represent the official policies or position of the Bar. NCSC grants the Bar a royalty-free, non-exclusive license to produce, reproduce, publish, distribute or otherwise use, and to authorize others to use, all or part of this report for any governmental or public purpose.

## Acknowledgements

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## EXECUTIVE SUMMARY

The State Bar of California (Bar) is a judicial branch agency that operates to ensure that the legal profession serves the people of the state in a manner consistent with the highest standards of professional competence, care, and ethical conduct. It also serves as an administrative adjunct to the California Supreme Court (Supreme Court) on all matters pertaining to the admission, discipline and regulation of California's approximately 250,000 active lawyers.

**The Legislative Mandate.** Business and Professions Code section 6140.16 states:

(a) To align its staffing with its mission to protect the public as provided in Section 6001.1 and to provide guidance to the State Bar and the Legislature in allocating resources, the State Bar shall develop and implement a workforce plan for its discipline system and conduct a public sector compensation and benefits study. The workforce plan and compensation study shall be used to reassess the numbers and classifications of staff required to conduct the activities of the State Bar's disciplinary activities.

(b) The workforce planning shall include the development and recommendation of an appropriate backlog goal, an assessment of the staffing needed to achieve that goal while ensuring that the discipline process is not compromised, and the creation of policies and procedures sufficient to provide adequate guidance to the staff of each unit within the discipline system.

(c) In addition to the requirements in subdivisions (a) and (b), the State Bar shall conduct a thorough analysis of its priorities and necessary operating costs and develop a spending plan, which includes its fund balances, to determine a reasonable amount for the annual membership fee that reflects its actual or known costs and those to implement its workforce plan.

(d) The State Bar shall submit a report on its workforce plan and spending plan to the Legislature by May 15, 2016, so that the plans can be reviewed in conjunction with the bill that would authorize the imposition of the State Bar's membership fee. The report shall be submitted in compliance with Section 9795 of the Government Code. The State Bar shall complete and implement its workforce plan by December 31, 2016.

**Bar Disciplinary Responsibilities.** Although the exact scope of the Bar's discipline system is not defined in statute, for purposes of this report<sup>1</sup> the Bar's disciplinary activities include the following:

- Office of the Chief Trial Counsel (OCTC): investigates and prosecutes attorneys for violations of the Rules of Professional Conduct and State Bar Act;
- State Bar Court (SBC): hears cases in attorney discipline matters and recommends discipline to the Supreme Court;
- Office of Probation (OP): monitors disciplined attorneys who have been ordered to comply with probation or reproof conditions pursuant to orders issued by the Supreme Court or SBC;
- Lawyer Assistance Program (LAP): provides substance abuse and mental health support services to members of the bar;
- Client Security Fund (CSF): reimburses victims of attorney theft and dishonesty; and
- Member Records and Compliance (MRC): maintains the official list and status of attorneys who are licensed to practice law in California, and monitors compliance with membership requirements.

Together, these Departments comprise 317 of the Bar's 530 staff, or 60 percent of the Bar's overall workforce.

**The NCSC Contract.** The Bar contracted with the National Center for State Courts (NCSC) to conduct a workforce planning analysis to include the following elements:

- Documentation of current business processes, workflow, staffing levels and metrics;
- Development of a workforce plan, including recommendations regarding organizational structure and staffing levels that maximize the efficiency and effectiveness of the Bar's discipline system; and
- Examination of whether consolidation of units or functions and/or the reallocation of personnel and resources will improve the efficiency or performance of the discipline system operations of the Bar.

In addition, the Bar's contract with NCSC included several areas for a business process reengineering assessment<sup>2</sup>. That assessment, described briefly in Appendix A, will be completed subsequent to the May 15, 2016, due date for the workforce planning assessment and will inform the implementation of assessment recommendations, slated for December 31, 2016.

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<sup>1</sup> A workforce planning analysis provides an organization with an opportunity to review inter-connected aspects of its organization concurrently. The Departments selected for review work closely together to effectuate the Bar's discipline activities.

<sup>2</sup> Business process reengineering (BPR) involves the redesign of business processes to achieve improvements in efficiency and quality. Appendix A includes the scope of work provided by NCSC, as well as findings and recommendations, with regard to BPR.

**Methodology of the Study.** To conduct this workforce planning study, NCSC consultants took an iterative approach using multiple methods to arrive at its conclusions. A description of the methodology is provided in greater detail in the body of the report, but the main elements of the research included:

- Entry meeting with project sponsors to clarify the scope of work, timeline and task plan;
- Review and evaluation of statutes, rules, data sets, job descriptions, organization charts and other documents that bear on the work of the Bar;
- A survey of the Bar's discipline system employees to capture insights from staff who are most familiar with the work processes and opportunities for improvement;
- Site visits and focused interviews with small groups of Bar staff in Los Angeles and San Francisco;
- Meetings with a steering committee of the Bar to review preliminary recommendations and solicit feedback;
- Delivery of draft recommendations to the Bar for suggestions for further solicitation of feedback; and
- Delivery of the final report.

**General Recommendations.** The report body focuses on recommendations related to each discipline system department studied. In addition to these recommendations, NCSC has identified global areas for organizational improvement as follows:

1. The Bar should operate as one organization rather than multiple departments, as appropriate, particularly as related to sharing of information relevant to advancing various aspects of the discipline system;
2. The Bar should expand overall communication to, from, and among staff;
3. The Bar should increase overall staff knowledge of all/other Bar areas;
4. The Bar should take advantage of updated information technology to improve its operations; and
5. The Bar should eliminate some of its senior management positions and increase the ratio of middle managers and supervisors to line staff.

**Specific Recommendations for the Bar's Discipline Departments.** The body of this report provides specific recommendations for each Department studied. Following is a summary of key recommendations for each:

**Office of the Chief Trial Counsel**

1. Eliminate separate Intake and Enforcement Units;
2. Create intake and enforcement teams with rotational opportunities for staff;
3. Eliminate most complaint-type specific enforcement teams and replace with generic teams;
4. Establish Supervising Attorney positions responsible for team supervision;

5. Empower Supervising Attorneys with decision-making authority; and
6. Establish point-of-action data entry

### **State Bar Court**

1. Provide the Presiding Judge with dedicated administrative support staff, with that staff also responsible for tracking and reporting reinstatement eligibility and final discipline status;
2. Improve reporting on Court performance measures to include analysis of where Court is not meeting articulated standards; and
3. One Court Administrator position should be re-designated as a special projects position.

### **Lawyer Assistance Program**

1. Engage in a strategic planning process for the LAP to determine whether LAP is to be reactive, responsive, and corrective to issues faced, or proactive, by advertising services and sponsoring workshops and orientations about attorneys' stress, addiction, and mental health issues;
2. Assess staffing based on caseload levels;
3. Convert one Case Manager position to Case Manager Supervisor and assess whether or not that position should require a clinical license;
4. Eliminate or repurpose LAP Director position; and
5. Review the use and purpose of the Evaluation Committee, to determine if it is needed as a review entity, or whether it can be eliminated.

### **Office of Probation**

1. Provide monitoring levels based on the seriousness of the case and reduce monitoring requirements based on established pattern of compliance;
2. Discontinue monitoring attorneys who have resigned or who are not subject to discipline;
3. The OP SA position should transition to OCTC and a Supervising Probation Deputy should be created.

### **LAP and Office of Probation**

1. Create Manager over both programs;
2. Develop standardized monitoring protocols;
3. Identify those clinical elements of LAP work that must be done by Case Managers; and
4. Identify ways in which the combined LAP and OP workforce might be leveraged to meet the needs of both programs' clients.

### **Member Records and Compliance**

1. Require approved providers of Continuing Legal Education to electronically certify satisfactory completion of a course or educational program;

2. Implement a policy or, if necessary, promulgate a rule, clarifying that attorneys should be notified of closed complaints and outlining when such complaints may be purged from the OCTC file; and
3. Implement a policy or, if necessary, promulgate a rule regarding who has authority to reinstate an attorney's license.

### **Client Security Fund**

1. Use one vacant CSF FTE or a portion of to support the creation of an administrative support position for the State Bar Court Presiding Judge with the position being responsible for notifying CSF of final discipline; and
2. Improve customer service through standardized proactive communication with applicants regarding case and application status.

### **NEXT STEPS**

The California Legislature and the new leadership at the Bar deserve credit for initiating this evaluation. Bar leaders have demonstrated a clear commitment to working with the judges, management and staff to make the changes needed to enable the Bar to operate efficiently and effectively while supporting the people who work to fulfill the organization's important mission.

Following the delivery of this report to the Legislature, staff at the Bar will begin working to implement the recommendations contained herein. Next steps for implementation of the recommendations include the following:

### **Implementation of Recommendations**

- Review report recommendations with Department Directors, supervisors and line staff;
- Validate assumptions contained in report and recommendations;
- Work with Departments to implement agreed-upon changes; and
- Conduct post-implementation impact analysis and identify and implement any necessary modifications.

### **Time Study**

- Conduct a time study to establish caseload standards for key discipline-system personnel, including OCTC attorneys and investigators, State Bar Court personnel, Probation Deputies and LAP Case Managers

### **Completion of BPR Assessment**

- Identify areas for improved efficiencies;
- Reallocate internal resources to support implementation of discipline system recommendations

## INTRODUCTION AND BACKGROUND

The Bar contracted with NCSC to conduct a workforce planning study pursuant to Business and Professions Code section 6140.16. The Bar is a judicial branch agency that operates to ensure that the legal profession serves the people of the state in a manner consistent with the highest standards of professional competence, care, and ethical conduct. It also serves as an administrative adjunct to the Supreme Court on all matters pertaining to the admission, discipline and regulation of California's approximately 250,000 lawyers.

Although the exact scope of the Bar's discipline system is not defined in statute, for purposes of this report the Bar's disciplinary activities include the following:

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Together, these Departments comprise 317 of the Bar's 530 staff, or 60 percent of the Bar's overall workforce.

## METHODOLOGY

Organizational analysis necessarily involves an important *qualitative* component because organizations invariably succeed and fail because of factors that often defy easy quantification: organizational culture, leadership, lines of authority and communication, staff development, position descriptions and performance management are all essential to the success of an organization. Comprehensive organizational analysis, however, must integrate qualitative and quantitative data. Thus, wherever possible, this study also draws on *quantitative* indicators of workload, performance and resources.

While the California State Bar is unique – among state attorney discipline systems nationally and also in terms of the size and diversity of functions that it performs – it is also possible to evaluate standards and guidelines for attorney discipline systems (published by the American Bar

Association) and to compare components of the Bar to like organizations (the State Bar Court, for example, may be usefully compared to other courts).

In conducting this study, the NCSC project team utilized an iterative, multi-method approach which is essential for capturing and integrating both qualitative and quantitative data on an organization. The NCSC project team met with stakeholders and management at the Bar to confirm the project scope, reviewed all available documentation on the functions, requirements, rules and statutes that govern the Bar, reviewed internal policies and procedures, developed and administered an on-line workforce staff survey to Bar staff, conducted staff interviews during multiple site visits, developed workflow process maps, and reviewed State Bar data on workload, performance, and resources. Throughout the project, the NCSC was in frequent contact with the project liaison to confirm that the project was on track and being conducted in accordance with the Bar's expectations.

The workforce study involved a review of the functions and processes of Bar Departments and the State Bar Court related to attorney discipline. Bar supervisors, managers, and staff of the OCTC, SBC, LAP, CSF, OP, and MRC assisted NCSC with the review.

### ***INTRODUCTORY MEETINGS***

On January 21, 2016, the NCSC project consulting team met by conference call with State Bar leadership to review the overall direction of the workforce planning study.

The NCSC project team made an introductory site visit to San Francisco on February 5. During the visit, the team met with the Workforce Planning Steering Committee; project leader Leah Wilson, the Bar's Chief Operations Officer; the project liaison Justin Ewert, Budget and Performance Analyst; and representatives of the OCTC, SBC, LAP, CSF and MRC. The team also met with the Director of Human Resources and union representatives to discuss how the project would be conducted and to identify reports and background material on the Bar organization that should be reviewed and researched.

The objective of the February site visit was to gain a joint understanding of the purpose of the workforce study in conjunction with the statement of work included in the contract for services between the NCSC and the Bar. Preliminary expectations and project methodology were discussed in addition to the intent of the legislation that supported the need for the study.

### ***THE WORKFORCE PLANNING SURVEY***

Drawing on information gathered during the February site visit, NCSC developed a workforce staff survey for distribution to all Bar staff involved in activities related to the attorney discipline process. The survey solicited views on whether staffing levels are appropriate and where

staffing could be improved; whether the employees have sufficient guidance and clarity to perform their tasks and assignments; whether the business processes for their work assignments are clearly documented and stated; whether they understand their performance expectations; whether there is duplication in work assignments within different operational areas; and whether there are tasks that can be reorganized or reengineered.

The survey instrument captured responses on 14 primary topics regarding operational functions, staffing levels, and performance measures. Survey respondents were asked to mark their level of agreement with a series of statements supplemented by open-ended requests for feedback regarding areas in need of improvement. A copy of the survey is provided as Appendix B.

The Bar distributed the survey to 320 employees, managers and supervisors. 265 (83 percent) responded. The NCSC team compiled the responses and used them to identify areas that required follow-up during the upcoming site visit interviews. The responses were evaluated and used to develop follow-up questions for site visits, guide the on-site observation, and generate recommendations for the final report. Areas of concern along with recommendations for improvement are provided in the body of this report.

### *SITE VISITS*

The NCSC project team conducted eight days of site visits in Los Angeles during the weeks of February 22 and 29 and another eight days of site visits in San Francisco during the weeks of March 21 and March 28. During these 18 days, the NCSC project team conducted structured interviews and focus groups with staff, observed Bar operations, and collected additional data and documentation on the Bar. All of this on-site work focused on understanding current workflow, business processes, staffing levels, outcomes and objectives, and the solicitation of ideas as to how the work of attorney discipline could be conducted more efficiently and effectively.

The NCSC team interviewed approximately 170 State Bar employees, managers, supervisors, and officials, and the Chief Judge of the SBC. Team members interviewed persons who work in each of the six operational departments included in the project scope.

In total, the NCSC project team spent approximately 112 hours interviewing managers, supervisors and employees individually and in groups during the 18 days on-site. An additional five hours of post-site visit interviews were conducted for follow-up purposes. A complete schedule of site visits and interviews is provided as Appendix C.

At the beginning of each interview day, the NCSC team met with the project liaison to discuss the interview schedule and any general feedback from Bar staff. At the end of each interview

day, the team met again with the project liaison and the Chief Operations Officer, when available, to discuss, in general, interview observations, staff reactions, and project progress.

In conjunction with site visit interviews, a member of the NCSC team prepared numerous workflow maps charting in detail the processes used by each of the operational departments, including the SBC. Interview and workflow maps were used along with the workforce staff survey to gain additional understanding of current Bar processes as well as define areas of concern which recommendations for improvement could address.

### **LEGAL AND ORGANIZATIONAL REVIEW**

To further assist with understanding the operations of the Bar under review, the NCSC project team researched and reviewed information from various sources. Some of the major sources were:

- California Code provisions and court rules related to practice, professional conduct, and procedures
- The 2015 State Bar of California Overview
- Descriptions of services provided by each of the involved Departments
- Data and performance reports for each department
- The Justice Management Institute's State Bar Court administrative resource allocation study<sup>3</sup>
- Organization charts and current State Bar job descriptions and classification levels
- Existing procedures manuals and workflow charts
- State Bar statistical reports, including the following:
  - OCTC month-end reports;
  - Deputy Trial Counsel weekly statistical reports;
  - Complaint Analyst statistical reports;
  - Paralegal statistical reports;
  - Second Look inventory reports;
  - Reports re Walker petitions filed;
  - Reports re complaint inventory, backlog, forwarding speed and processing stage;
  - Court monthly statistical reports;
  - OP monthly statistical reports; and
  - Telephone system usage reports.
- California State Auditor's Report 2015-30;<sup>4</sup>
- Organizational charts;

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<sup>3</sup> "State Bar Court Administrative Staff Resource Allocation Study." Report for the State Bar of California by the Justice Management Institute, February 2014.

<sup>4</sup> California State Auditor. *Report 2015-30, The State Bar of California: It Has Not Consistently Protected the Public Through Its Attorney Discipline Process and Lacks Accountability*. Sacramento: June 2015.

- Attorney discipline summary reports, including the following:
  - State Bar Court Statistical Summary of Case Activity 2010-2014;
  - State Bar Court Review Department Statistics 2010 – March 2016;
  - State Bar Court Performance Measures 2015;
  - State Bar Court 2014 Report Court Performance Standards and Assessments;
  - 2015 Annual Report of the Lawyer Assistance Program of the State Bar of California;
  - 2014 State Bar of California Client Security Fund – 2014 Activities Report;
  - 2015 Preliminary Report for Client Security Fund Activities; and
  - State Bar of California Annual Discipline Reports for 2014 and 2015.
- Bar website information.

Each member of the NCSC project team was responsible for integrating and analyzing the information gathered for one or more Departments or services, and preparing the corresponding section of the report. These individual sections were then compiled and edited to prepare a draft report reviewed by representatives of the Bar's Executive Office. Preliminary findings were developed and presented to representatives of all of the Departments of the discipline system on April 22 in San Francisco, with representatives from Los Angeles participating on a video-conference line. Feedback from that meeting was evaluated and, where appropriate, incorporated into this final report.

The organization of the report follows the discipline process which, not coincidentally, roughly tracks the size of the different departments within the Bar. The report begins with the largest of the Bar departments, OCTC, where complaints of attorney misconduct are first received, evaluated and, where appropriate, prosecuted. The next section looks at SBC, the forum in which OCTC files misconduct cases. The SBC is the second largest component of the attorney discipline system as measured by staffing levels. The report then looks at LAP and OP. The report concludes with a discussion of MRC and CSF.

Each section of the report begins with an overview of the functions and responsibilities of the Department, and a description of the current organization of the workflow; these descriptions are followed by observations culled from the NCSC project team's site visit, the staff survey, or external references to similar organizations. Each section concludes with recommendations for operational improvement.

## OFFICE OF THE CHIEF TRIAL COUNSEL

The Board of Trustees of the State Bar has delegated to OCTC exclusive authority to review inquiries and complaints, conduct investigations, and determine whether to file notices of disciplinary charges in the SBC.<sup>5</sup> OCTC is divided into three major units: Intake, Enforcement, and Central Administration. Specific staffing levels for each of these Units is provided immediately below, with a description of the flow of complaints through the process following.

OCTC has over 200 active full-time-equivalent (FTE) staff making it, by far, the largest component of the State Bar Discipline System. OCTC staff make up approximately 40 percent of all Bar employees:

**Office of the Chief Trial Counsel Staff**

Position	Intake	Enforcement	Central Administration	Total
Administrative Assistant I			2	2
Administrative Assistant II			1	1
Administrative Secretary	1	2	3	6
Assistant Chief Trial Counsel	1	4		5
Attorney	14	18		32
Chief Trial Counsel			1	1
Complaint Analyst I	6			6
Complaint Analyst II	12		1	13
Coordinator of Records			17	17
Court Systems Analyst			2	2
Director of Administration			2	2
Executive Secretary			2	2
General Clerk III			4	4
Investigator I		2		2
Investigator II		36		36
Investigator Supervisor		5		5
Legal Secretary			14	14
Paralegal	5	10		15
Secretary II			12	12
Senior Administrative Assistant			3	3
Senior Administrative Supervisor			2	2
Senior Attorney	2	31		33
<b>Total</b>	<b>41</b>	<b>108</b>	<b>66</b>	<b>215</b>

<sup>5</sup> Rules of Procedure of the State Bar of California, Rule 2101

## **Intake Unit**

### *Functions and Responsibilities*

OCTC's Intake Unit is responsible for the initial review of allegations of attorney misconduct and/or unethical behavior. Complaints and inquiries are received from an array of sources. Most complaints begin as telephone inquiries from a member of the public who is generally a past or current client of an attorney or someone who has had questionable interactions with an attorney. Members of the public can contact OCTC through a complaint telephone number staffed by specially trained Complaint Analysts I's. These staff are trained to assist callers in submitting complaints. If the Bar has no jurisdiction, callers may be referred to other resources and provided with contact information for the agency with jurisdiction. Over 40,000 calls per year are handled by OCTC's call center staff. If a violation of the Rules of Professional Conduct appears to have been committed, Complaint Analyst I's direct the caller to submit a formal complaint, either by sending a complaint form to the caller or by directing the caller to the Bar's website: <http://www.calbar.ca.gov>.

Other forms of complaint initiation include self-reported and other reportable actions, as well as Bar-initiated inquiries. State law requires attorneys to self-report when a number of situations occur, including when three or more malpractice lawsuits have been filed against them within twelve months, when a civil judgment is entered against them in a fraud case, or when felony charges have been filed against them. In addition, state law requires other entities to report certain occurrences, such as overdrafts on attorney trust accounts. The Bar may also initiate its own inquiry based on a media story or another source of information.

### *The Current Process*

Once a formal complaint is received, clerical staff in the Central Administration Unit create a physical case file for the complaint, input data in the Bar's computer system, assign an inquiry number, and prepare the files to be assigned by placing them in the assignment drawer. If the inquiry is submitted in a language other than English, it must be translated before it can be assigned and so is sent to a records coordinator in the Central Administration Unit who assigns it to a translator. The translator completes the translation within ten business days of assignment and returns the file to Intake.

A Senior Trial Counsel (STC) in the Intake Unit assigns the files from the assignment drawer to one of the Deputy Trial Counsel (DTC), who serve as "read" attorneys. Approximately 300 complaints are opened per week. The STC assigns cases in batches through the week in an effort to control the flow of cases and equalize caseloads for read attorneys. The process from inquiry opening to assignment to a read attorney is estimated to take several days.

Read attorneys determine whether to close the inquiry, refer it to the “Worker Team,” or refer it to the Enforcement Unit for further investigation. There are many variables in determining how quickly an inquiry review read can be completed. Reviews of inquiries regarding attorneys who have been the subject of previous or ongoing complaints can usually be completed quickly. In contrast, inquiries with convoluted facts or with complaining witnesses who are not responsive to requests for additional necessary information can take significantly longer. These inquiries may require some limited investigation, such as calling a complaining witness to obtain certain documents. This limited investigation work is performed by the read attorney or by Complaint Analyst IIs assigned to the Intake Unit’s Worker Team.<sup>6</sup>

Cases involving criminal conviction monitoring, reportable actions from banking or insurance corporations regarding the possible mismanagement of client funds, and unprofessional conduct reported by judges are assigned to a specialized team in the Intake Unit for further review and monitoring purposes.<sup>7</sup> Likewise, a specialized team, comprised of Complaint Analyst II’s and Paralegals, under the lead of a Senior Trial Counsel, is assigned cases involving the unauthorized practice of law and cases involving claims associated with Sections 6180 (death, disbarment, suspension) and 6190 (illness, substance abuse) of the California Business and Professions Code.

If a read attorney designates an inquiry as a “closer,” the read attorney drafts a detailed closing letter. While templates are used in the opening and closing statements of these letters to ensure certain information is conveyed in every case, the body of the letter is written to address the specific allegations made by the complaining witnesses including a discussion of why the allegations do not constitute disciplinable conduct.<sup>8</sup> The read attorney STC reviews the closing letters drafted by newer read attorneys. If necessary, letters are translated. The goal is for read attorneys to draft and mail closing letters within 40 days of the inquiry being opened. Central Administration clerical staff process and mail the letters.

If a read attorney refers an inquiry to Enforcement, Central Administration clerical staff process the referral and set up an Investigation file for assignment.

In 2015, OCTC received 12,307 complaints from members of the public. After review and preliminary investigation, 10,768 cases were closed with no disciplinary action. In 2015, the

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<sup>6</sup> The Worker Team addresses matters that the read attorneys, based on their experience, determine will likely close with a response from the respondent attorney, or which will likely result in non-disciplinary actions, such as the issuance of a warning letter or resource letter. If the Worker Team determines neither of these conditions is met, the matter is forwarded to Enforcement. Note that in late March the Worker Team was transitioned to the Enforcement Unit, and so these procedures have since been changed.

<sup>7</sup> The team handling reportable actions is led by a Senior Trial Counsel and comprised of one DTC and one paralegal. The team handling criminal conviction monitoring is led by the same Senior Trial Counsel and is comprised of paralegals.

<sup>8</sup> Appendix C of the 2015 Attorney Discipline Report published by the Bar on April 29, 2016, contains samples of these letters.

median time from receipt of complaint to closure with no disciplinary action was 52 days, and the average was 15 days.

Looking at other data on staff resources and workload in the Intake Unit, it is possible to come up with more specific workload estimates. Complaint Analyst I's answer the phones. With six staff in this classification and 43,316 calls in calendar year 2015, each Complaint Analyst I handled over 7,000 calls in 2015, on average, a little over 30 calls per day.

**Intake Department: Call Center Workload**

Calls to State Bar Complaint Hotline (2015)	43,316
Complaint Analyst I (Full Time Equivalent)	6
Calls per Analyst (2015)	7,219
Calls per Analyst per Day (220 business days)	32.82

It is more difficult to develop workload estimates for the remainder of the Intake Unit because of the more complex division of labor for managing written complaints. In part, this complexity arises from the fact that Central Administration staff handle an important part of the clerical duties for these cases. In addition, it is unclear how many of the cases actually require the work of Paralegals and Complaint Analysts II. The contribution of management is also less clear at this phase of the work. While the Assistant Chief Trial Counsel and Senior Attorneys in the Intake Unit are essential, it is unclear how much of their time is spent on direct support of line staff, how much is spent actually processing cases, and how much is spent on Bar administration.

Dividing the total number of cases disposed by the Intake Unit in 2015 by the total FTE (assuming that each member of the unit contributes in some way to the totality of the work) provides one estimate of staff contribution. Dividing the number of cases disposed by the number of attorneys and considering the other members of the team as support for the attorney's work provides another method of determining staff contribution. Both estimates are shown below.

**Inquiries Processed in 2015 by Intake Unit**

Total Inquiries Processed by Intake Department	15,796
Inquiries Closed	11,846
Inquiries Forwarded to Other Stage	4,098
Intake FTE (without Call Center)	33
Total Processed per FTE	483
Attorney FTE (including Senior but not Assistant Chief)	14
Total Processed per Attorney FTE	1,139

## Enforcement Unit

### *Functions and Responsibilities*

The Enforcement Unit of OCTC is organized into multiple, specialized divisions in Los Angeles and San Francisco. When a case is referred for further investigation by the Intake Unit, an Intake Attorney reviews the allegations and assigns the file to one of the specialized enforcement divisions, based on a determination if the allegations relate to issues of misappropriation, fraud, performance, conflicts, or unauthorized practice of law.<sup>9</sup> The number, type and location of the current specialized units are:

**Number, Type and Location of Specialized Units**

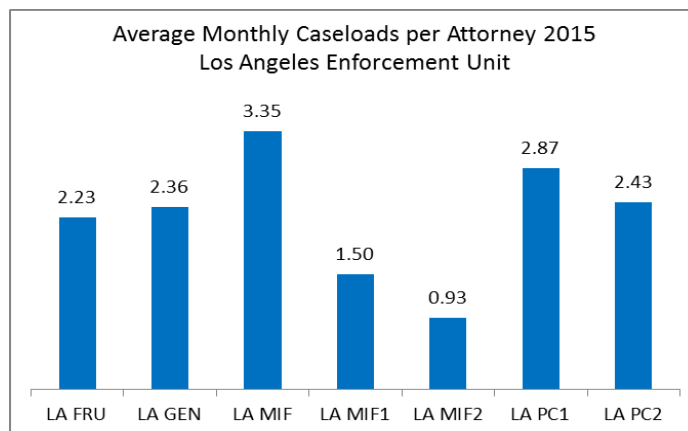
	Los Angeles	San Francisco
Misappropriation & Fraud	2	0
Performance & Conflicts	3	1
Misappropriation & Funds	0	1
Fraud & Unauthorized Practice	0	1
General Unit	1	1
Training Unit	1	0

The exact number of cases handled by each attorney and investigator is difficult to assess – cases are reassigned periodically and a single case may have multiple attorneys or investigators working on it over the life of the case. Further, the data is not currently tracked for each stage of the OCTC-continuum (intake, investigation, pre-filing, post-filing). That said, an analysis of rough estimates of the average monthly caseloads of attorneys and investigators are consistent with the perception of an uneven distribution of the workload in OCTC’s Enforcement Unit.

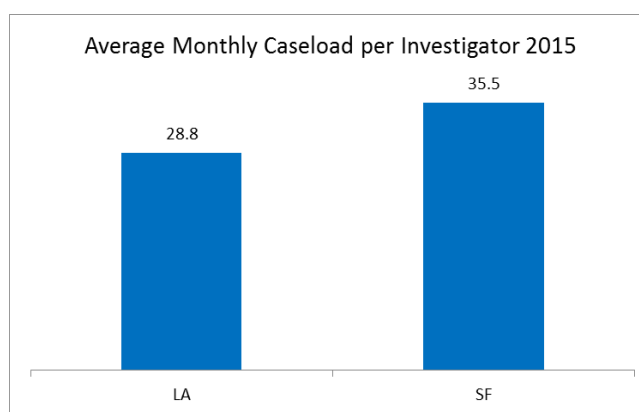
During 2015, the Enforcement Unit in Los Angeles was organized by case-type specialization including: Misappropriations & Fraud (MIF), Performance & Conflicts (PC), a General Unit (GEN) and Fraud and Unauthorized Practice of Law (FRU). The average monthly caseload for attorneys in these units (which reflects cases in pre-filing status only), as illustrated in the following charts, varied from a low of less than one case on average in the Misappropriations & Fraud 2 Unit, to 3.35 cases on average in another of the Misappropriations & Fraud Units; this represents a workload variance of over 300 percent.

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<sup>9</sup> Where there are multiple units responsible for certain types of allegations, assignments are done a wheel, so team caseloads are kept relatively even.



Investigator caseloads are also reported to be distributed unevenly, though the data on investigators' work is more difficult to pin down. While the Los Angeles Enforcement Unit continues to assign investigators to case-type specific units, San Francisco's Enforcement Unit now pools investigators into a single group and work across units, rather than being assigned to one case type. Still, differences between the caseloads of investigators in Los Angeles and San Francisco are apparent with San Francisco investigators handling caseloads that were approximately 25 percent higher than those of investigators in Los Angeles during 2015.



### *The Current Process*

Within each geographic location and enforcement division, Supervising Senior Trial Counsel (SSTC) assign new enforcement files to a specific STC or DTC. An investigator is assigned by the Investigator Supervisor (IS), at times in consultation with the SSTC.

Once assigned, the investigator prepares an investigation plan that is approved by the IS first, and then reviewed and approved by the assigned trial counsel.

The investigation is conducted almost exclusively by OCTC investigators. When the investigation is complete and all evidence has been received, investigation results are

discussed/reviewed with the trial counsel. Following the review, if staff has concluded that there is sufficient information to charge the case, the investigator drafts a statement of the case that is first approved by the IS and then by trial counsel. Other dispositions at this stage could include closure or the issuance of warning letter.

Once the statement of the case is approved, a formal case file is developed, separate from the investigation file. This stage of the disciplinary process is referred to as “Pre-Filing” and involves the preparation of the case for filing in State Bar Court. Trial Counsel prepares a draft Notice of Disciplinary Charges (NDC) and a charging memorandum, both of which must be approved by an SSTC and, then, an Assistant Chief Trial Counsel (ACTC). Then, the draft NDC is forwarded to the respondent attorney along with a letter advising the attorney that he or she is entitled to request and participate in an Early Neutral Evaluation Conference (ENEC), or early settlement conference.

If the attorney seeks an ENEC, trial counsel and the attorney work to schedule it with the State Bar Court (SBC or Court). Trial counsel generally then provides the respondent with pre-filing discovery. Both parties prepare an ENEC statement and lodge it with the Court, setting forth their respective positions. After the ENEC, if the parties reach a settlement, trial counsel prepares a stipulation resolving the case, which must first be approved by an SSTC. The stipulation then goes to the respondent for signature, after which trial counsel files it in SBC.

If a settlement is not reached, trial counsel proceeds to file the NDC and trial proceedings then begin.

Information regarding case activities and actions is generally given to Central Administration Unit staff for data entry into the AS 400 Case Management System throughout this process. To review the intake complaint process and the investigation processes in detail, see Appendix D.

## **OBSERVATIONS AND RECOMMENDATIONS**

**OBSERVATION: *Initial File Creation Process and Ongoing Data Entry.*** Staff report that setting up a new complaint file can take up to five days. Some of this time is due to duplicative entries in the AS 400 Case Management System (CMS) when creating the file and preparing the complaint face sheet.

Once a file and face sheet are created, Central Administration Case Coordinators place new inquiry files in baskets or drawers awaiting pick-up by an STC for review and assignment to a DTC for read/review functions.

After initial creation, cases often come back to these Case Coordinators for system updating. This process can take several days over the life of a case.

**OBSERVATION: *Relationship between the Functions of the Intake and Enforcement Units.*** A recurring response in the workforce staff survey regarding the OCTC Intake Unit centered on combining the functions of Intake with those of the Enforcement Unit. Staff reported cases being delayed in the Intake Unit, little understanding of the work and responsibilities of each Unit, and inefficiencies in the process for handing work off from one Unit to the other.

**OBSERVATION: *Functional Teams and Personnel Management.*** Professional advancement in the Bar, as in many organizations, is often the result of staff displaying excellence in the tasks to which they have been assigned. Unfortunately, excellence in evaluating and prosecuting cases does not always correspond to aptitude for supervising staff and managing operations. Supervisors in OCTC tend to work alongside team members, carrying a caseload themselves, but not always providing the critical functions of guiding and leading staff and building cohesion among team members.

**OBSERVATION: *Enforcement Teams and Investigator Caseloads.*** The use of specialized complaint prosecution units establishes a silo structure within OCTC. While specialized assignments may help develop complaint case review experts, the practice also creates a level of insularity that limits opportunities for professional growth and makes it difficult to equalize workload. Specialized complaint units may also inhibit cross-assignment of staff to address other complaint areas as the workload dictates.

The staff survey and interviews with staff indicated that the caseloads of investigators of the Enforcement Units in the San Francisco and Los Angeles offices are not equal. Reports regarding caseloads of the different, specialized enforcement units confirm this observation. For example, the OCTC Weekly Investigator Summary Report for the week of February 22, 2016, cited the average caseload of San Francisco investigators to be 68 while the average caseload for investigators in the Los Angeles office was 40. While some caseload disparities may be the result of vacant positions, the caseload of the San Francisco investigators is anecdotally reported to be as much as twice that of the Los Angeles investigators on a routine basis.

**RECOMMENDATION: *Eliminate separate Intake and Enforcement Units.*** Create Intake and Enforcement teams to which staff are assigned on a rotational basis and with the expectation that team coverage will reduce the number of hand-offs, reduce the time between case receipt and case assignment, and engender accountability and ownership over the caseload.

**RECOMMENDATION: *Each team should be Supervised by a Supervising Attorney.*** Teams should consist of seven to nine staff comprised of a combination of Attorneys, Investigators,

Paralegals, and at least one clerical support assistant.<sup>10</sup> Adoption of this model will flatten points of supervision, reduce approval times, and foster a culture of collaboration and communication.

**RECOMMENDATION: *Supervising Attorneys should be empowered to exercise significant discretion and decision-making as related to cases and teams.*** Supervising Attorneys should be responsible for general oversight of team functions and individual team member performance related to workload progress. They should have the authority to determine case and trial preparation priorities and how the team addresses those priorities. Approval steps of routine issues related to daily case management including case disposition decisions should go no higher than the Supervising Attorneys, except for highly complex or high-profile cases. Written policies related to team time and production measures should be issued by OCTC Leadership. These policies should include the definition of those limited matters requiring approval beyond the Supervising Attorney. Policy and procedural development should involve representatives from individual teams. Individual teams should also be allowed to make group based decisions related to team assignments and process implementation.

**RECOMMENDATION: *To obtain necessary clerical support staff for the prosecution teams, personnel from Central Administration should be reassigned to support teams.***

**RECOMMENDATION: *Case set-up and some other narrow functions should remain centralized.*** However, changes in the case set-up process should include elimination of reported duplication of information entered in the initial file creation and face sheet preparation process. In addition, a limited number of other functions should remain centralized, including records management and the subpoena process.

**RECOMMENDATION: *Central data staff should assign cases to intake teams on a rotational basis.*** The practice of supervisors and staff returning files to baskets for pick-up should be eliminated and files should be delivered directly to intake teams by central data staff.

**RECOMMENDATION: *Intake teams should identify those cases that will be forwarded for investigation and should make initial complex determinations. Cases should then be assigned to enforcement teams on a rotational basis.*** Equality of assignment of complex cases will assist in “sharing the load” of protracted cases requiring substantial staff time.

**RECOMMENDATION: *Specialized grouping of complaint types should be replaced with a general enforcement team model accepting complaint case assignments of all types.***

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<sup>1010</sup> For purposes of cost modeling, the teams should consist of 2-3 Attorneys, 3 investigators, 1 paralegal, and 1-2 clerical staff.

This will address concerns regarding unequal distribution of work; support the more efficient use of staffing resources; foster staff development and broadened skill sets; reduce process hand-off delays; and accommodate the filing of various allegations within one case.

**RECOMMENDATION: *Some case types should continue to be handled by specialized team(s).*** Some case types are referred to a group of paralegals or a specialized inter-disciplinary team in the Intake Unit, including complaints related to conviction of an attorney for a criminal offense, cessation of effective practice of law in accord with California Business and Professional Code, Section 6180 (death, disbarment, suspension) or Section 6190 (illness, substance abuse), the practice of law by non-attorneys, and reportable actions from financial institutions involving misappropriation or mismanagement of client associated funds.

These case types generally share common features of requiring extensive monitoring and being long-lived. They should continue to be handled by a dedicated team(s). In addition, the process for monitoring criminal complaints against attorneys should be re-assessed, ensuring that staff is taking advantage of news services and computer readable files that allow for a more comprehensive, on-going search for criminal cases involving attorneys.

**RECOMMENDATION: *Establish point-of-action data entry wherever feasible.*** Point-of-action data entry eliminates unnecessary and inefficient hand-offs of tasks by requiring those who take an action (e.g. assignment, approval, correspondence, or contact update) to log the action into the AS400 CMS and directly transfer the file to the next assigned action participant with verbal or written comments, as needed. Training should be provided on point-of-action entry to all staff.

**OBSERVATION: *Call Center.*** The Call Center is staffed by six Complaint Analysts I's each receiving from 30 to 40 complaint-related telephone calls per day. Calls may last from 3 to 30 minutes. The work of these staff is described as a "customer service gatekeeper" receiving and providing vital information regarding the attorney discipline process. The Call Center operates from 9:00 a.m. to 4:00 p.m. From 4:00 to 5:00 p.m. Complaint Analyst I's work on complaint files that can be quickly closed. Those calling for complaint information after 4:00 p.m. receive a recorded message and may leave a message with a request for a return call or a complaint form.

**RECOMMENDATION: *To improve access the Call Center should handle calls until 5:00 p.m.***

**OBSERVATION: *Use of Contract Investigators.*** The need for additional investigators was a central theme of the workforce survey and staff interviews. The continued use of contract investigators was discouraged because contract investigators often leave State Bar employment without completing initiated investigations.

**RECOMMENDATION: *The use of contract investigators should be discontinued. Current contract investigator positions should be converted to standard FTE positions.***

**OBSERVATION: *Spanish Translations.*** Complaint forms and documentation submitted in Spanish are often forwarded to OCTC Spanish-speaking staff for translation. These translations are in addition to the Spanish-speaking staff's normal duties. As a result, the complaint review process can be delayed for as many as ten days depending on the volume of documents in need of translation,

**RECOMMENDATION: *The Bar should employ one or more certified Spanish translators.***

OCTC staff as well as staff of the SBC indicate that having certified Spanish translators available would enhance the attorney discipline process and assist in reducing case outcome delays.

**OBSERVATION: *Though the Bar is working to establish a complex designation, additional levels of case differentiation are needed.*** To effectively utilize attorney and investigator personnel, the American Bar Association's Model Rules for Lawyer Disciplinary Enforcement recommend the adoption of a case classification schedule based on seriousness of the complaint and/or complaint complexity.<sup>11</sup> The State Bar is developing the definition of a complex case that will assist in workload assignments and efficient use of personnel. Defining other complaint categories that could be uniformly addressed early-on through reproof or administrative resolution could help free up resources and time needed to investigate and prosecute more serious allegations.

#### **OTHER MISCELLANEOUS RECOMMENDATIONS**

**RECOMMENDATION: *A single file number should be utilized on all complaint case actions to minimize confusion and simplify file references.***

**RECOMMENDATION: *A secure complaint electronic portal should be developed to enable complaints and supporting documents to be filed electronically and to provide secure e-communications between OCTC staff and involved complaint case participants.***

**RECOMMENDATION: *The use of approved electronic signatures should be authorized within the secure case file information exchange portal.***

**RECOMMENDATION: *The new team structure should be introduced first in the San Francisco Enforcement Unit.*** The San Francisco Enforcement Unit is already operating without specialized prosecution divisions, due to workload volume and investigator vacancies. Taking the San Francisco experience a step further and implementing the generic enforcement team model with direct Supervising Attorney supervision on a pilot basis would provide an opportunity to test the new structure, identify any challenges that arise, and develop strategies and procedures for overcoming them.

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<sup>11</sup> ABA Model Rules for Lawyer Disciplinary Enforcement, as amended August 12, 2002.

## STATE BAR COURT

### *Functions and Responsibilities*

The State Bar Court (SBC) is responsible for hearing all matters related to attorney discipline and regulatory matters and has the authority to impose public and private reprimands upon California attorneys. The SBC may recommend the suspension or disbarment of attorneys found to have committed acts of professional misconduct or convicted of serious crimes.

The SBC operates under the auspices of the California State Supreme Court which reviews all SBC decisions. The SBC operationally has two distinct departments; the Hearing Department, which serves as the trial level of the SBC, and the Review Department, the appellate level of the SBC.

The SBC has 35 FTE and comprises 6.2 percent of the Bar's overall workforce:

**State Bar Court Staff**

Position	No. of Positions
Administrative Assistant II	1
Administrative Specialist III	1
Case Administrator	12
Chief Assistant Court Counsel	2
Court Administrator	2
Court Systems Analyst	2
Court Technical Analyst	1
Deputy Court Clerk IV	2
Lead Data Analyst	1
Legal Secretary	1
Senior Administrative Secretary*	1
Senior Attorney	8
Senior Director - SBC	1
TOTAL	35

\*Currently occupied by person working part-time.

The SBC operates in accordance with Rules of Procedure adopted by the Bar's Board of Trustees. An executive committee appointed by the SBC's Presiding Judge may adopt rules of practice and forms for conducting proceedings within the SBC's jurisdiction. The Presiding Judge provides overall supervision of calendar management and the assignment of judges and is responsible for taking measures to assure the prompt disposition of matters filed in the SBC.<sup>12</sup> The Presiding Judge appoints the Supervising Judge of the Hearing Department, who is

<sup>12</sup> Rules of Procedure of the State Bar Court, Rule 1013.

responsible for supervising calendar management and for consulting with the Presiding Judge to assure efficient functioning of the SBC.<sup>13</sup>

### *The Current Process*

The SBC has processes tailored for several different types of cases. For purposes of this report, the three key processes are those for hearing contested disciplinary matters, reviewing decisions rendered in such matters, and “effectuating” orders (i.e., submitting recommendations for Supreme Court review and processing orders when the SBC recommendation has been affirmed).

Case administrators (CA) in the Hearing Department receive cases for filing either at the window or in mail drops. The CA reviews all documents for completeness and scans all initiating documents. The CA determines the timeline required to process each case, based upon the SBC’s established *Timeline Standards by Case Type*, and sends a Notice of Assignment to the appropriate parties, informing them of scheduled court events. A Hearing Department judge is automatically assigned to the case based on a “wheel” that is maintained by the CAs. The CA produces and sends all notices prior to each court event and prepares appropriate orders after each event.

If a trial is held and a violation is found, a senior attorney in the Hearing Department assists the assigned judge by researching the issues presented by the case, and may assist in preparing a draft decision. The judge hearing the case reviews, edits, and forwards the decision to the CA, who then finalizes it and serves the decision on the parties. If reconsideration is not requested, the matter is forwarded to the Effectuations Unit to close the case and send it to the Supreme Court for review.

When a case is received by the Effectuations Unit, a staff member reviews the file for completeness and creates a Supreme Court transmittal tickler, prepares a checklist and a proposed order for case closure. The case is then forwarded to the Supreme Court for review. When a signed case closure order is received from the Supreme Court, in effect affirming the Hearing Department decision, the case is closed.

If reconsideration or review of a hearing judge’s decision is filed with the Court, the hearing CA prepares the case and sends it to a Review Department CA with an accompanying transmittal letter. If any question arises as to the viability of the request, a senior attorney reviews the file and determines if the matter is acceptable for filing. The CA in the Review Department then ensures that transcripts, and the court schedule are forwarded to the appealing party. Senior attorneys may assist the judges in reviewing the hearing transcripts and preparing a draft opinion

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<sup>13</sup> Ibid, Rule 1014.

for circulation among the other judges in advance of the oral argument. Following oral argument and an opinion by the judges, the opinion is edited as necessary then issued. A party has 15 days to request reconsideration. Once closed, the matter goes to the Effectuation Unit and the Supreme Court for closure as described above.

The Review Department also reviews matters when attorneys violate the California Rules of Professional Conduct regarding felony convictions and moral turpitude. In addition, it reviews resignation requests filed by attorneys with and without charges pending against the attorney.

### *Organization, Workload, and Resources*

As reflected in the table at the beginning of this section, the current staffing level of the SBC is reported at 33 FTE positions including the Chief Administrative Officer. One full time budgeted position is occupied by a Senior Administrative Secretary who is currently working on an approved part-time basis. Although not considered staff, the Hearing Department consists of five Judges, two appointed by the Supreme Court and one each by the Governor, Speaker of the Assembly, and the Senate Committee on Rules. Each judge is assigned two CAs who rotate in and out of the courtroom to allow for the production of notices, motions, and other documents. The CA in the courtroom performs the functions of courtroom clerk, bailiff and court reporter. As stated above, although not considered staff, the Presiding Judge and two review judges decide appeals of Hearing Department decisions and perform other work.

In 2014 the SBC disposed of a total of 746 cases. The SBC has used the Court Performance Standards<sup>14</sup> to evaluate its overall performance since 2004, largely paralleling *CourTools*,<sup>15</sup> and has established a detailed set of timelines setting the number of elapsed days from filing by which each step of the hearing, reconsideration, and review processes must be completed. The goal is to comprehensively measure the SBC's performance on an ongoing basis at a modest cost in time and money.

## **OBSERVATIONS AND RECOMMENDATIONS**

**OBSERVATION: *Court Backlog.*** The SBC has used a Court Performance Standards Assessment to evaluate its overall performance since 2004. The standards provide industry accepted metrics with which to measure the SBC's performance. The SBC provides an annual Assessment Report outlining its overall performance based on the performance measures. The document describes each performance area, provides the operational definition of each metric, the methodology, and the standard in which the SBC measures its performance.

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<sup>14</sup> State Bar of California, 2014 Court Performance Standards and Assessment.

<sup>15</sup> <http://www.courttools.org/Trial-Court-Performance-Measures.aspx>.

The NCSC team reviewed the assessment reports for 2013 and 2014. These reports are made available online and provide valuable information about the performance of the SBC.<sup>16</sup> The reports demonstrate a commitment to transparency and to monitoring the work of the SBC that is laudable. It should be noted, though, that many of the measures, while useful as diagnostic tools, are rarely dispositive. These types of measures are generally helpful for alerting managers to areas that may require their attention or resources.

For example, Measure 2 (Caseload Clearance) specifies a 100 percent clearance rate – that is, the number of cases closed each quarter should equal the number of cases filed. Although neither the Hearing Department nor the Review Department is meeting that goal, it should be noted that the number of cases closed will only consistently equal the number of cases filed if caseload remains constant over a sustained period of time. Thus, while the data in the 2013 and 2014 reports indicates the SBC complied with this standard only during the first quarter of each year, in previous years the SBC was closing substantially more cases than were filed. Failing to meet the 100 percent clearance rate target is only a concern if the SBC runs a consistent deficit on this measure.

On a different indicator of SBC performance, Measure 3 (On-Time Case Processing), the Hearing Department did not meet its standards for completing cases within the established timeline for almost all of 2013 and 2014. The Review Department, during the reporting period, was able to close all cases within 150 percent of the specified time but was not able to meet the standard of completing 90 percent of its cases within 100 percent of the time specified in the timeline during the last two quarters of 2014. The Effectuations Unit failed to meet its goal for the timely processing of cases during the entire reporting period. With regard to the measure requiring that 100 percent of case files meet established criteria for accuracy and completeness, the SBC again did not meet expectations in either 2013 or 2014.

**RECOMMENDATION:** *In order to improve the timeliness of case disposition, the SBC should establish a committee comprised of stakeholders, including OCTC attorneys, defense attorneys, and other appropriate persons, to monitor and improve SBC performance.*

**OBSERVATION: Use of Measures.** Although the metrics and relevant standards included in the annual reports are a valuable means by which to gauge the performance of the SBC, they are not being fully used as tools to help identify problem areas and improve the SBC's performance. The report requires additional analysis to provide a fuller assessment of the SBC's performance as well as documenting the strategies being used to bring the performance into line with the prescribed standards. Accordingly, it is recommended that:

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<sup>16</sup> See State Bar Court of California, 2014 Report, Court Performance Standards and Assessment, <http://www.statebarcourt.ca.gov/Portals/2/documents/CPS2014Final.pdf>

**RECOMMENDATION:** *The SBC's performance data should be used to identify areas of non-compliance, prioritize the identified areas, and prepare appropriate strategies and plans to bring non-compliant elements into compliance.*

**RECOMMENDATION:** *The annual report on Court Performance Standards and Assessment should include, in addition to the data currently reported, the following data:*

- The percentage of disciplinary cases in the past year that went to trial within 125 days and the percentage of cases closed in the Hearing Department within 265 days, to provide a more in depth perspective of how far out cases are scheduled and their likelihood to proceed on the scheduled date and date of closure.
- The percentage of original disciplinary cases that went to oral argument within 245 days and the percentage closed within 355 days.
- The number of pending cases that exceed 200 percent of the goal and 300 percent of the goal.
- The name and number of cases waiting decision that exceed the goal for timeliness.

**OBSERVATION:** *Case Tracking.* Case administrators receive filings, initiate cases, provide all courtroom support and produce all relevant motions and orders. In order to maintain the pace of litigation in the Review Department, CAs use four different tracking methods that are not part of the case management system to run weekly reports.

**RECOMMENDATION:** *Manual ticklers and tickers used outside of the case management system should be identified and then automated within the existing operating system.*

**OBSERVATION:** *Opinion Drafting in the Review Department.* The current process for drafting Review Department decisions involves nine steps, including a review of the draft opinion by the supervisor and other senior attorneys after the draft has already been reviewed and edited by the panel judges. Each step takes up staff time and extends the period needed to issue the opinion and bring the case to conclusion. Following is the current process for drafting opinions:

- Counsel prepares a memo of the facts of the case
- Judge/counsel prepares a draft opinion
- The authoring judge reviews the draft opinion and submits edits
- Panel judges review the draft opinion and submit edits
- A pre-oral conference is held with all judges
- Judges confer and submit any additional edits

**RECOMMENDATION:** *The Review Department judges and supervisor should review the drafting process to determine whether each step is needed to ensure the accuracy, clarity, and quality of each opinion.*

**OBSERVATION: *Administrative Support for the Presiding Judge.*** Administrative support for the Presiding Judge is assigned or spread among both administrative and managerial staff. Although the tasks are necessary and further the mission of the SBC, these additional assignments diminish the ability of these staff persons to perform tasks and assignments related to their duties to process cases filed in the SBC.

**RECOMMENDATION: *The Presiding judge should have dedicated administrative support staff, reallocated from within the SBC or Bar.*** The job title and responsibilities should be determined using the latest job and classification study results.

**OBSERVATION. *Entry of Information Regarding Status Changes.*** Current procedures specify that only the SBC can enter end dates in matters of discipline. Member Records and Compliance (MRC) can enter end dates only in matters that are administrative in nature. When an attorney requests reinstatement from the MRC after suspension by the SBC, an entry must be made into the AS400 by SBC staff that sets an end date to the sanctions. The AS 400 entry provides the go-ahead for the MRC to initiate the status change. Currently one individual in the Effectuations unit is responsible for entering this information. This process does not always occur in a timely manner, because it relies upon this individual's availability. In addition, there is not one clear point of responsibility in the Bar for tracking an attorney's eligibility for reinstatement.

**RECOMMENDATION: *The Presiding Judge's new administrative staff should be given responsibility for monitoring suspended attorneys' eligibility for reinstatement and notifying MRC of eligibility when it occurs, as well as notifying CSF of final discipline orders received from the Supreme Court.***

**OBSERVATION: *Access to Files.*** In order for Review Department attorneys to access an SBC case file, they are required to contact a CA in Los Angeles to pull the file in order to verify or validate court documents.

**RECOMMENDATION: *The new case management system should provide all appropriate users access.*** Until the new system is implemented, scanned court files should be made available to staff in both court locations.

**OBSERVATION: *Court Administrator Function.*** One Court Administrator supervises the day-to-day activities in the Hearing Department in Los Angeles and a second Court Administrator supervises the day-to-day activities in the Hearing Department in San Francisco. The supervisory span of control is 1:7 for the Administrator located in San Francisco and 1:10 for the Administrator assigned to the Los Angeles office. Additionally, it is evident that the bench relies heavily on the individuals in these positions to oversee special projects that are not of sufficient duration to require hiring permanent staff but do require significant SBC knowledge and

expertise. The time dedicated to these special projects diminishes the Administrators' ability to oversee the daily functions of the SBC.

Although there is no set rule for the number of staff a supervisor should supervise, in determining the appropriate span of supervisor control, a balance must be sought among the organization's ability to be flexible, the need to maintain effective communication with subordinates, and the cost. In this instance, two Court Administrators reflects excessive high-level management staffing for a staff size of 17. However, elimination of one of the positions would result in a span of control too large for one Court Administrator alone.

**OBSERVATION: *Staffing Levels.*** When the State Bar was re-established after its 1998 shutdown, the Bar altered its staffing make-up and position descriptions. Positions were created at the highest level of potential responsibility with the thought that staff could work "below" position descriptions and not work "out of class." This allowed flexibility for management and the ability to staff at a lower overall FTE level. A staffing study conducted by The Justice Management Institute (JMI) in February 2014 reviewed the resource allocation of administrative staff in the SBC; that study was presented to NCSC project staff for review. Administrative staff have reported that no substantive change has occurred since the JMI report was concluded. The SBC has many tenured senior court clerk administrative staff who work autonomously with minimal supervision. Although this provides the SBC institutional depth of knowledge, the possibility of losing this depth of knowledge with retirements or long-term illness puts the organization at risk. Succession planning in the SBC has been lacking.

The *Delphi* staffing analysis provided by JMI is the most relevant information currently available regarding the need for staff in the SBC. The purpose of the study was to document the roles and responsibilities of the SBC's administrative and technical staff and to develop an objective, quantifiable measure of the level of effort required to perform the work.<sup>17</sup> There are, however, some limitations to the report that should be addressed. To begin, the report does not capture the resource needs of the SBC as a whole; rather it captures only the workload of *administrative* staff. In addition, the report would benefit from a time-study or other more rigorous methodological approach to estimating staff need.

**RECOMMENDATION: *The JMI Delphi-based case-weight metric using current filings should be used to indicate the level of administrative staffing needed in the SBC.*** If this Delphi-based metric is not considered valid, then a full weighted caseload study should be undertaken.

**RECOMMENDATION: *One person should be designated as the Court Administrator.***

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<sup>17</sup> REPORT for the State Bar of California, State Bar Court Administrative Staff Resource Allocation Study February 2014, pg II.

**RECOMMENDATION:** *One Court Administrator position should be re-designated as a special projects position.*

**RECOMMENDATION:** *Assuming that application of the JMI analysis identifies that fewer administrative staff are needed in the SBC,<sup>18</sup> one or more of these positions should be re-designated as a subordinate supervisor reporting to the Court Administrator, reducing the number of direct reports for the Court Administrator.*

**OBSERVATION: Publication Responsibilities.** The Court Systems Analyst position's primary responsibility is the publishing of the State Bar Court Reporter, Rules of Procedure, and Rules of Practice. This responsibility does not appear to require a full-time equivalent, or an analyst-level, position.

**RECOMMENDATION:** *The responsibility for publishing the State Bar Court Reporter, Rules of Procedure, and Rules of Practice should be transferred to General Services.*

**RECOMMENDATION:** *The duties of the Court Systems Analyst position should be changed to providing administrative support for the unit.*

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<sup>18</sup> Because of the significant drop in OCTC filings in SBC in 2015, it is assumed that application of the JMI analysis will indicate that fewer administrative staff are needed.

## LAWYER ASSISTANCE PROGRAM

### *Functions and Responsibilities*

The Lawyer Assistance Program (LAP), a statutory program, was established under section 6230 of the Business and Professions Code, and is authorized by Rule 3.240 of the Rules of the State Bar of California.<sup>19</sup> LAP became operational in March 2002; its mission is, “To support recovering attorneys in their rehabilitation and competent practice of law; enhance public protection; and, maintain the integrity of the legal profession.”

LAP provides confidential help to Bar members, former members, and applicants with issues affecting their personal or professional life. The LAP provides consultation, counseling, referrals for treatment, and recovery support and monitoring groups addressing stress, anxiety, depression, and substance abuse. LAP program operations are funded by the imposition of a \$10 fee to each Bar member.

The 2015-2016 LAP goals include the following:<sup>20</sup>

- Ensure that funding dedicated for the LAP is effectively deployed in support of the mission of the program;
- Continuously evaluate the effectiveness and cost-effectiveness of LAP services;
- Develop and promote currently relevant MCLE courses and material for members, bar associations, and law firms;
- Develop multiple forms of effective program promotional material targeting members of and candidates for the Bar; and
- Develop and maintain a robust and effective online and social media presence.

According to the 2011 State Auditor findings,<sup>21</sup> the LAP evidenced:

- Poor monitoring procedures and failure to appropriately record and report program participant noncompliance;
- Disparate treatment of noncompliance by program participants; and
- Program outcomes and effectiveness measured solely by percentages of program completion.

### *The Current Process*

The LAP phases consist of an intake process, an interview and evaluation of needs, referral to immediate services and assignment to a group meeting that occurs for multiple weeks, review by an evaluation committee, referral to formal, structured program services, and establishment of ongoing monitoring.

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<sup>19</sup> [http://rules.calbar.ca.gov/Portals/10/documents/Rules\\_Title3\\_Div2-Ch5-LAP.pdf](http://rules.calbar.ca.gov/Portals/10/documents/Rules_Title3_Div2-Ch5-LAP.pdf)

<sup>20</sup> Source: State Bar Committee Matrix, dated January 29, 2016, provided by the Bar’s Chief Operating Officer.

<sup>21</sup> California State Auditor Report dated May 26, 2011, pages 1-2.

LAP processes are triggered by an initial call from the Bar member or employer, a referral from the Committee of Bar Examiners, or a pending or completed disciplinary action. During the telephone intake process, an Administrative Assistant obtains specific demographic and background information, including identifying information, contact information, employer information, the type of law practice, the nature of the problem, the source of the referral and the status of any disciplinary action. The Administrative Assistant refers the call to a Case Manager, assigned by geographic region, who first determines if there is an urgent need for service referral and, if so, makes appropriate referrals. If the matter is not urgent, the Case Manager schedules an in person evaluation meeting with the program applicant.

During the personal interview with the applicant, which may last as long as two hours, the Case Manager gathers additional information, including mental health, substance abuse and medical history, work and spiritual history and any financial issues being encountered by the applicant. The Case Manager notes diagnostic and clinical impressions and updates LAPIS, the LAP case management system. The Case Manager determines if the applicant requires a Program Substance Test and, if so, makes a referral.

Should the participant demonstrate financial need, LAP offers a financial assistance program or loan to the program participant to cover LAP costs for up to 12 months, with interest and monthly payments. LAP monitors loan payments and if the attorney become delinquent, the invoice is referred to the Bar's Finance Department for collection.

Two different plans are prepared for the applicant, as described below:

*Evaluation Plan:* The Case Manager prepares an LAP Evaluation Plan during the application stage. It includes introductory information about the LAP and the applicant; expectations of the participant; deadlines for progress reports to be submitted by physicians, therapists, and any testing facilities; confidentiality provisions; and participant confirmation of expectations. It is signed by the participant, Case Manager and LAP director. Following creation of the Evaluation Plan, the applicant is assigned to a weekly facilitated group meeting, during which an ongoing applicant assessment is conducted by the group facilitator (a licensed mental health professional) and Case Manager. Throughout the application phase and group meetings, the group facilitator reports status updates in LAPIS, as well as to the Case Manager. The Case Manager also observes and monitors the case, possibly observing and enters data into LAPIS about the program applicant.

The applicant begins participation in weekly group meetings, each led and facilitated by a contracted group facilitator. During the meetings, the group facilitator observes and reports, via LAPIS, on the progress of applicant group participation. The facilitator may have discussions with the Case Manager, and the Case Manager may contact the facilitator or conduct personal observations of the session. Throughout, information and updates are made into LAPIS.

*Participation Plan:* After the application stage, the Case Manager presents the case to an Evaluation Committee comprised of the LAP Director, the clinical consultant, a mental health professional and an attorney in recovery (often a prior LAP participant). They review the records, information and status of the applicant to make a determination on whether the program applicant is approved for formal program acceptance. If approved by the Evaluation Committee, the applicant is accepted into a Support LAP program, with minimal program oversight, or into a three-year Monitored LAP program. Based upon the attorney's diagnosis and individual recovery needs, a LAP Participation Plan is drafted by the Evaluation Committee that details the attorney's structured recovery program, including ongoing LAP group meetings, drug testing, and often individual therapy/treatment. Those attorneys being monitored by the SBC or OP must enter the LAP Monitored program. Attorneys in Monitored LAP sign a Release of Information form directing the LAP to provide the SBC or OP with regular Participation Reports detailing their compliance with their LAP Participation Plan.

The average time that a participant is in an LAP Support Program is 773 days. The average time that a participant is in Monitored LAP is 553 days. Appendix D outlines program steps and events.

#### *Organization, Workload and Resources*

According to the 2011 California State Auditor report on the LAP,<sup>22</sup> program data indicates that between program inception and January 2011, the LAP closed 1,302 participant cases which had been open for more than 14 days. Of those, 76 percent were closed due to participant withdrawal, 11 percent were for successful participation, 7 percent were terminated from program, and 3 percent were denied program admittance.

LAP statistics are maintained on the number of intakes, successful program completions, number of attorneys terminated or denied program participation, and the number of LAP outreach presentations. Participants accepted into Monitored LAP are expected to complete 3 years under monitoring. LAP annual reports<sup>23</sup> indicate the statistics on the following pages:

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<sup>22</sup> California State Auditor Report dated May 26, 2011, page 23.

<sup>23</sup> Sources: LAP Annual Reports, 2010, 2012, 2013, 2014, and 2015. Report for 2011 was not available.

**LAP Intake Statistics**

Year	Participants Completing Intake	Participants Completing 3 Years of Program	Participants Denied Program Admittance	Participants Terminated from Program
2010	202	58	9	8
2011	174	n/a	n/a	n/a
2012	179	32	12	4
2013	176	19	4	2
2014	179	10	15	2
2015	127	14	13	2
<b>Total</b>	<b>1,037</b>	<b>133</b>	<b>53</b>	<b>18</b>

Regarding program participants, the following diagnosis areas were represented:<sup>24</sup>

**Program Participant Diagnosis Areas 2010-2015**

Year	Mental Health	Substance Abuse	Dual Diagnosis: Mental Health and Substance
2010	25%	42%	33%
2012	38%	35%	27%
2013	39%	37%	24%
2014	33%	47%	30%
2015	35%	41%	24%

**LAP Referral Sources and Referral Source Caseloads**

	January 2015	June 2015	January 2016	April 2016
State Bar Court – Alternative Discipline Program	25	23	25	27
Committee of Bar Examiners – Bar Applicant	53	51	41	37
Self-Referred – Discipline Pending	35	34	27	24
Self-Referred – No Discipline	19	20	12	16
Self-Referred – Bar Applicant Prior to Submitting Application	8	15	23	21
Disbarred	2	2	2	2
Status Not Yet Determined	14	13	10	9
<b>Total</b>	<b>156</b>	<b>158</b>	<b>140</b>	<b>136</b>

**LAP Case Manager Caseloads**

Case Manager	January 2015	June 2015	January 2016	April 2016
CM 1	34	32	36	35
CM 2	35	41	37	30
CM 3	54	51	39	43
CM 4	33	34	28	28
<b>Total</b>	<b>156</b>	<b>158</b>	<b>140</b>	<b>136</b>

<sup>24</sup> Sources: LAP Annual Reports, 2010, 2012, 2013, 2014, and 2015. Report for 2011 was not available.

**Current Participation:** LAP currently has 136 active participants, 130 of whom are participating in a Monitored program. 31 of the participants have been officially accepted into the Alternative Discipline Program. LAP has approximately 15 successful graduates per year.

#### *Committee Oversight*

The LAP is overseen by a 12-member Oversight Committee<sup>25</sup> composed of:

- Six individuals appointed by the Board of Trustees;
- Four individuals appointed by the Governor (two attorneys and two public members);
- One appointed by the Senate Committee on Rules; and
- One appointed by the Speaker of the Assembly.

#### *Current Staffing Levels*

LAP is managed by a program Director under general oversight of a Bar Senior Director. The Senior Director reports to the Bar's Chief Operating Officer.

**Lawyer Assistance Program Staff**

Position	No. of Positions
Administrative Assistant II	1
Case Manager	4
Court Systems Analyst	1
Director of LAP	1
TOTAL	7

LAP staff members are located in the Los Angeles office. Case assignments are made by geographical regions. A part time, contracted case manager is available to assist with intake in Northern California. The work of all contractors is supervised by the LAP Director.

A Clinical Consultant (board certified psychiatrist and addictionologist) chairs all Evaluation Committee meetings and is available to the LAP Director and case managers between meetings on an as-needed basis for consultation regarding challenging clinical issues with attorney program participants. Interview feedback indicated that most program issues are program related and not clinical in nature.

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<sup>25</sup> The composition of the LAP oversight committee is governed by Business and Professions Code section 6231.

## OBSERVATIONS AND RECOMMENDATIONS<sup>26</sup>

**OBSERVATION: *Lack of Clarity Regarding Program Purpose.*** The LAP was adopted over twelve years ago, being modeled after a medical professional monitoring program. Over recent years, LAP work volumes have decreased, applicant screening and review processes have created interest in the level of and need for increased rigor, and program services and delivery mechanisms have caused Bar leaders to question both program functions and relevance. Further, the LAP client base has shifted to one that is comprised of a significant number of those seeking admission to the Bar, as opposed to licensed attorneys. As a result, interest has developed in revamping and revitalizing program operations or considering the feasibility of outsourcing operations, modifying the manner of monitoring, or some other variation in the operation of LAP. It appears that there is merit in reviewing how the LAP is structured and potentially modifying its operations. However, key questions exist, including whether or not LAP should proactively seek clients, or only monitor cases that come its way, and which clients the program most appropriately serves.

**RECOMMENDATION: *The Bar should engage in a strategic planning process for the LAP to determine whether LAP is to be reactive, responsive, and corrective to issues faced, or proactive, by advertising services and sponsoring workshops and orientations about attorneys' stress, addiction, and mental health issues.*** This planning process should include an assessment of the current monitoring approach undertaken by the program, which is more administrative than clinical. Lastly, a determination regarding the target client population for the program is needed.

**RECOMMENDATION: *Once program purpose is established, reassess delivery model to include analysis of feasibility of contracting out LAP services.*** This would entail determining which functions should go to one or more contracted providers for program operations, participant oversight, ongoing monitoring, and reporting to a designated Bar manager. It would also require clear definition of which administrative and support tasks would remain within the Bar, if any. If clear performance expectations are embedded in a contract, it may make it easier for the Bar to hold contracted staff to a performance standard. A full risk assessment and review needs to occur, coupled with a cost-benefit analysis, and determination to what degree Bar executive leaders will be able to oversee work of one or more LAP contractors.

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<sup>26</sup> Specific LAP recommendations follow; however NCSC recommends, in another section of this report, better coordination between LAP and OP. To improve coordination, NCSC recommends that the Bar create a supervisor over LAP and a supervisor over OP, while creating a manager position that supervises both OP and LAP.

During this workforce evaluation, it also became clear that the monitoring functions of LAP are parallel with those of OP. Both provide oversight and examination of attorney behavior, program compliance, and as ordered, substance abuse testing and monitoring. The comparable monitoring functions have created the potential for greater alignment and efficiencies in program operations.

**OBSERVATION: *Management of the Lawyer Assistance Program.*** Currently, LAP is overseen by a Senior Executive and a Director; there is a significant difference between the job classification of the LAP Director (grade 55) and the next highest grade level position in LAP, that of the Case Manager, at grade 9. The LAP Director is housed in San Francisco, while all of the program staff are located in the Los Angeles office. The previously existing Case Management Supervisor position, which was based in Los Angeles, was recently vacated via the demotion of that position to Case Manager.

Though there are two levels of high-level management over the program, staff reports a need for more direct supervision of casework, as well as attention to operational reorganization and enhancements, and adherence to Bar policy and operational goals. In order to determine whether or not the supervisor need be a clinician, the current management structure of LAP should be maintained for a period of months, during which time an assessment should be made regarding the utilization of existing contract clinical support.

**OBSERVATION: *Case Manager Caseloads and LAP Staffing Levels.*** The Senior Director, LAP Director, Program Coordinator and four Case Managers are responsible for 136 active participants in the program. This aggregate level statistic translates to individual Case Manager caseload levels ranging from 28-42 cases, with an average caseload size, across all four Case Managers, of 34 cases. Cases are at different stages or phases, which can be best described as being pre- and post- Evaluation Committee. Case stage may indicate variations in the amount of Case Manager rigor, time and effort necessary to monitor. In addition, cases are either in Monitoring or Support status. As discussed below, this status corresponds with a variance in the staffing and resource level needed. LAP Case Manager caseloads are significantly less than those of OCTC Investigators or Probation deputies, two classifications which perform similar work at the Bar.

**RECOMMENDATION: *Adjust staffing based on caseload requirements.*** Application of drug court staffing standards suggests that the recommended range for a Case Manager caseload is 45 to 50 cases.<sup>27</sup> These caseload levels can be achieved by reducing one Case Manager position. In lieu of elimination, however, this position should be converted to a Case Manager Supervisor. The Supervisor position should be based in Los Angeles. The size of the program does not warrant both a Supervisor and a Director; the Director position should be eliminated or re-purposed accordingly.

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<sup>27</sup> Drug Court best practices indicate the maximum/optimal size of a clinical caseload is 50. While there may be differences between Clinical Supervision and the current Case Manager functions, the objective of working toward the 45-50 range will allow the Bar to seek greater economies of scale in the LAP.

In addition, one Case Manager position should be redeployed to San Francisco to address delays in serving clients in the Northern part of the state.

**OBSERVATION: *Clinical versus Monitoring Case Management Functions.*** All LAP staff appear to do a significant amount of paperwork and other administrative tasks as part of the LAP monitoring function. It is not clear how much of the work of the LAP Case Managers is actually clinical in nature, aside from Evaluation and Participation Plan development. Currently, Case Managers must hold clinical degrees.

**RECOMMENDATION: *Identify what within LAP is clinical and what is monitoring, ensuring that Case Managers perform clinical, as opposed to monitoring, activities wherever possible.*** If the program design does not require the current level of clinical staffing, transition away from a requirement that all Case Management staff hold clinical degrees.

**OBSERVATION: *Differentiated Case Management.*** Currently, LAP operates two tracks – Monitored and Support. Monitored LAP involves a plan of structured recovery activities typically including attendance at LAP monitoring group, regular participation in self-help peer support groups and, when appropriate, random drug testing and/or individual therapy. Compliance with this Participation Plan is monitored by a LAP Case Manager. Successful completion of monitored LAP requires a minimum of three years of participation in the program and three years of continuous documented sobriety/recovery. Support LAP includes a similar plan of recovery activities but the participant's compliance with their Support Plan is not monitored by a LAP case manager nor is any compliance documentation maintained by the program. The LAP will not provide verification of a participant's time in Support LAP because their participation and compliance with their Plan has not been documented by the program. For this reason, participants who believe that they may at some point in time need to provide documentation of a period of time in the LAP generally do not opt for Support LAP

The average time for participation in Monitored LAP is 2.12 years; for Support, it is 1.75 years. A review of LAP intake and three-year completion data provided in the introductory section to this chapter suggests that, since 2010, of the 1,037 clients completing LAP intake, only 12.8 percent, or 133, have successfully participated in the program.

**RECOMMENDATION: *LAP should evaluate the differences in monitoring actions required for cases in various phases, and consider establishing differentiated monitoring practices.*** A three-tiered program is specifically recommended as follows:

1. Expedited LAP (or "LAP light") – a simplified and expedited program to provide information and resources for those applicants with less risk. Include initial intake and personal meeting, and referral for self-directed support, with no ongoing staff interaction. Key objective of this track: simple information provision.

2. Modified LAP – a program to provide information, resources and support activities (e.g., group meetings, program referrals) with minimal LAP oversight. Key objective of this track: summary oversight.
3. Monitored LAP – a program to provide the full array of LAP support and monitored functions to include ongoing group participation, testing and reporting. Key objective of this track: structured oversight and accountability by the participant.

For Modified and Monitored LAP, the duration of time in the program should be identified based on assessed needs; a blanket participation period of three years should be discontinued.

**OBSERVATION: *Streamlining of Forms and Processes.*** Initial intake is currently handled in two stages. First, an Administrative Assistant obtains demographic and background information regarding a client; the client is then referred to a Case Manager for additional intake-related activity. LAP Case managers prepare an LAP Evaluation Plan for clients during the intake interview. Subsequent to consideration by the Evaluation Committee, a Participation Plan is completed.

**RECOMMENDATION: *Combine processes and forms for LAP intake, interviews, and program plans.*** Move manual process to automated actions. Program administrative and clerical support functions should be evaluated to determine which are best conducted by the Case Managers, which are best conducted by the Program Coordinator, and which are best conducted by the Administrative Assistant.

In addition, technological solutions are needed. For example, a quality assurance report should be developed in LAPIS in which cases with approaching or elapsed deadlines are automatically flagged for action by the Case Manager.

**OBSERVATION: *Committee Structure.*** The Evaluation Committee has served as the LAP review and approval entity. Staff report that the Evaluation Committee provides a needed level of seriousness to LAP; a significant amount of time and effort is needed to prepare materials for the Committee accordingly, an effort shared by the LAP Director, Case Managers, Program Coordinator, Administrative Assistant, and contract clinical consultant. It is unclear what concrete impact the work of the Evaluation Committee has on individual participant plans or outcomes.

**RECOMMENDATION: *A thorough review should be conducted of the use of the Evaluation Committee, to determine if it needed as a review entity, or whether it can be eliminated, including:***

- Assessment of whether the time and preparation activity required to support it justifies its use and demonstrates a return on investment for program operations;

- To what degree it performs a role of review and monitoring support for program participants;
- The need to have the Committee provide a level of gravity and seriousness to approval for program participation;
- The degree to which it is following clear policies and objectives; and
- The level to which the Evaluation Committee has any direct ownership or responsibility for participant outcomes.

Data on the number of Evaluation Committee meetings held and the number of cases heard at each meeting should be tabulated and published along with the number of cases with sufficient information for program conclusion and the number of cases in which the Evaluation Committee requested or required further action by a) the program participant, b) the Case Manager, or c) some other requested follow up.

**OBSERVATION: *Data Collection and Reporting.*** The current set of metrics used by the LAP is a useful beginning however additional work in this area is needed.

**RECOMMENDATION: *Data Collection and Reporting.***

- Specific case issues should be tracked, including the reasons for referral (substance, mental health, crisis), the numbers of incoming calls to the LAP phone lines, the sources of referral to LAP (voluntary-Bar member, voluntary-Bar applicant, SBC ordered, CBX referred) senior or elder lawyer needs, needs by active/inactive/suspended status, and the number of cases assigned to each case manager and to any contract case management staff, as well as any additional categories related to client needs identified by staff.
- Performance targets for task completion should be developed (e.g., case manager return call to applicant within one hour, conduct of face-to-face intake meeting within one week, referral to weekly support meeting with participant attendance within one week of intake meeting).
- Information on outreach activities should be documented and published (e.g., presentations and briefings for parties external to the Bar) to include the number of events, the audiences, and the nature of inquiries and topics discussed.

**RECOMMENDATION: *Improve payment compliance.*** Attentiveness to financial assistance program payment compliance should be increased through a quality assurance program to run reports on cases either coming due or with upcoming payment deadlines.

## OFFICE OF PROBATION

### *Functions and Responsibilities*

The Office of Probation's (OP) primary responsibility is to monitor respondent attorneys' compliance with court-ordered or agreement-supported conditions of probation. Fulfilling this responsibility is beneficial to the public and to the attorneys. Through probation, respondents are given an opportunity to keep their license to practice law while improving their knowledge and skills in how to professionally practice. Under probation, respondents in need of various types of treatment are required to obtain that care. Complaining witnesses entitled to restitution and protected legal rights have an opportunity to be made whole as respondents adhere to probation conditions.

Disciplined attorneys are required to comply with probation conditions set by the Supreme Court and the SBC. Probation conditions are generally set in accordance with Supreme Court findings associated with Rule 9.20 of the California Rules of Court under which attorneys are suspended, disbarred, or allowed to resign. In addition, the OP monitors attorney compliance with Agreements in Lieu of Discipline and conditions established through the Alternative Discipline Program. Pursuant to Rules of Procedure 5.380-5.388, the OP can initiate probation revocation motions and probation modification requests subject to SBC approval.

### *The Current Process*

The terms and conditions of probation for respondent attorneys are determined by the Supreme Court or by Supreme Court-authorized actions of the SBC. Court orders are forwarded to the OP on a daily basis from which probation cases are established. OP cases may also be established by stipulation and contractual agreements through the Alternative Discipline Program and Agreements in Lieu of Discipline.

The administrative assistant for the OP enters initial case opening information into the AS 400 CMS and creates a paper file for each respondent attorney. OP cases are assigned to probation deputies (PDs) based on the first letter of the respondent's last name. PDs carry an average caseload of 160 to 175 cases. PDs are also referred to as probation monitors in various court orders and probation related documents.

Attorneys subject to discipline requirements are required to self-regulate their compliance with the conditions of probation. As stated in the conditions, respondents must report their compliance progress on a quarterly basis. Within 30 days from the effective date of discipline, respondents are required to contact the OP.

PDs schedule the initial probation meeting with the respondent as soon as possible after the initial contact is made and all probation condition documents have been received. PDs meet with

the respondent either in person or via telephone. When the respondent and PD meet, the importance of complying with probation conditions is discussed along with the requirement to submit quarterly reports with proof of compliance, when required. Proof of compliance is generally provided in the form of a receipt, verification of attendance, or some other official documentation stating the respondent has complied with a particular condition.

There are standard probation conditions for which respondents must prove compliance. Other conditions are based on the individual actions and violations for which the respondent was disciplined. As sworn court officers of the State of California, attorneys must, under the penalty of perjury, prove their compliance with all conditions of probation. Conditions may include participation in substance abuse testing; mental health treatment; payment of restitution; and participation in professional education classes dealing with ethics, professional conduct, law office management, client and/or trust account management; meeting MCLE requirements, and passing the Multistate Professional Responsibility Examination. Respondents are responsible for all associated costs of complying with probation conditions.

There is no supervision or monitoring fee charged to the respondent. PDs do not, as a rule, conduct field work monitoring. All contact with the respondent is either in the office, over the phone, or through written correspondence.

Throughout the period of probation, the PD monitors the compliance level of the respondent. When necessary, PDs may contact other State Bar offices involved with the respondent and discuss the respondent's efforts related to probation condition compliance. Collaborative contacts are often initiated with OCTC, LAP, MRC, SBC, and CSF.

As monitoring checkpoints, PDs contact service, treatment, or testing providers along with agencies or individuals conducting continuing education classes in which the respondent has reported participation or attendance. Release certificates for respondent information are often required. PDs may also contact complaining witnesses (CW) particularly when there is a question regarding restitution payments. Because respondents are required to make restitution payments directly to CWs, PDs may assist respondents in locating CWs.

A respondent, under penalty of perjury, must submit to the OP a written quarterly report on specific dates as set forth in the conditions of probation. It is the responsibility of the PD to review the reports and to determine any areas of non-compliance or questionable compliance for which additional proof may be required. Issues of questionable compliance are reviewed with the Senior Deputy Trial Counsel (SA).<sup>28</sup>

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<sup>28</sup> The Office of Probation is managed by a DTC position originally located in OCTC.

As a quality assurance measure, the SA pulls ten percent of the open case files on a monthly basis and reviews quarterly reports along with the CMS actions logged by the PD assigned to the case. Should a respondent demonstrate non-compliance with his or her conditions of probation, the PD will review the matter with the SA and send a non-compliance letter to the respondent. Should the respondent fail to address the issue of non-compliance, the SA will contact the OCTC Enforcement Unit. The Enforcement Unit may elect to file a new disciplinary case against the respondent or may advise the OP to file a motion to revoke probation.

Depending on the seriousness of the complaint for which discipline was determined necessary, a period of probation can generally last from one to five years. Cases involving substantial restitution payments may last longer.

PDs and the SA reported that documented procedures exist outlining OP performance expectations. Staff also reported that regularly scheduled meetings occur in which ideas are discussed that could improve the overall monitoring efforts of the OP.

#### *Organization, Workload and Resources*

The OP is organizationally associated with the SBC, but is operationally independent of the SBC. Overall management of the OP is performed by the Chief Administrative Officer/Chief Court Counsel for the SBC. Day-to-day supervision is performed by an assigned SA. The SA directs and supervises the performance of PDs and the administrative staff support employee. In addition, the SA monitors the quality of the overall monitoring process and reviews the daily functions of the office while serving as the OP liaison with other Bar departments.

Daily monitoring for compliance with court ordered or agreement authorized conditions of probation and the review of written compliance reports consume the majority of the typical workday. On average, from 10 to 12 probation revocation motions are filed annually. Should a question of compliance arise, a letter of non-compliance forwarded to the respondent attorney generally resolves the issue.

The Supervising Attorney produces a monthly report indicating the number of cases currently in inventory, the number of cases filed by source, and the number of cases closed. The report is reviewed by the Chief Administrative Officer/Chief Court Counsel for the SBC who subsequently reviews the report with the Board of Trustees' Regulation and Discipline Oversight Committee.<sup>29</sup>

The following table provides data from year-end reports for 2015 and 2014, which indicate a level workload for each year.

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<sup>29</sup> Source: Monthly Statistical Reports provided by the Office of Probation

**Office of Probation Caseloads**

	<b>2015</b>		<b>2014</b>	
	Opened	Closed	Opened	Closed
Rule 9.20 <sup>30</sup>	714	681	713	704
Alternative Discipline Program	11	15	17	16
Agreements in Lieu of Discipline <sup>31</sup>	57	53	55	30
Probation/Suspension	247	231	244	293
Reproval	59	60	60	62
Other	1	2	3	4
<b>Total</b>	<b>1,089</b>	<b>1,042</b>	<b>1,092</b>	<b>1,109</b>

- The SA reported that it may take up to three weeks to receive all documents related to court orders and discipline agreements. The objective of the OP is to have the probation case entered into the CMS and catalogued in a paper file within three weeks of the date of ordered discipline or agreement. The SA stated that this objective is achieved in 80 percent of probation cases.
- One hundred percent of new cases are reviewed by the SA and discussed with the assigned PD.
- Respondents routinely contact the OP within the prescribed 30 days of the effective date of the discipline and schedule a meeting with the assigned PD.
- Prior to the closure of a probation case, the SA reviews the probation file for any final compliance need of the respondent. Unresolved compliance issues may be justification for extension of probation.

*Current Staffing Levels*

The OP is currently staffed with eight employees. All staffing positions are filled with non-contract full time employees.

**Office of Probation Staff**

Position	No. of Positions
Administrative Assistant II	1
Probation Deputy	6
Senior Attorney	1
<b>TOTAL</b>	<b>8</b>

<sup>30</sup> Rule 9.20 of the California Rules of Court provides that the Supreme Court may order attorneys subject to disbarment, suspension or resignation to: (1) notify clients, co-counsel, opposing counsel and tribunals of their disqualification to practice law as of the effective date; (2) return to clients any papers, property and unearned fees; and (3) file with the Bar proof of compliance with this rule.

<sup>31</sup> Agreements in lieu of discipline frequently include probationary requirements, which are monitored by OP.

Of the eight OP staff responses to the Workforce Staff Survey statement “Staffing levels for my area of responsibility are appropriate,” one responded “yes” and seven responded “no.” Workforce Staff Survey responses of OP staff cite the need for at least one additional Probation Deputy. The Chief Administrative Officer/Chief Court Counsel for the SBC, and the OP SA believe the current staffing level could be adequate with the installation of a new CMS that enables probation monitoring to be more efficient. At this time, there is no recommendation to increase the number of staff for the OP.

## OBSERVATIONS AND RECOMMENDATIONS

**OBSERVATION. *High Caseloads Limits In-depth Monitoring.*** Individual PDs are tasked with monitoring respondent compliance for approximately 170 cases each. In response to the Workforce Staff Survey statement: “I have sufficient on-the-job time to successfully complete my daily responsibilities,” PO staff had the lowest aggregate response score (2.13) of any Bar program area.<sup>32</sup> Staff interviews and discussions confirmed that staff believe they need more time for compliance monitoring.

**RECOMMENDATIONS: *In order to increase time for staff to monitor compliance with probation conditions, particularly in complex cases, or cases in which specific respondents require a higher level of monitoring, the Bar should reduce the overall number of cases subject to monitoring.*** Taking the following steps will assist in reducing caseload numbers:

- Eliminate the requirement to monitor attorneys whose resignations have been approved by the California Supreme Court.

Once resigned from the Bar, a former attorney is no longer allowed to practice law. Should an attorney request reinstatement, any pending disciplinary action at the time of resignation should be reviewed.

- Eliminate the requirement to monitor compliance with agreements for attorneys who do not have pending disciplinary charges.

Monitoring the conduct of attorneys who are not subject to probation conditions should not be a responsibility of the OP.

- Assign a level of seriousness to each case (e.g. low-level discipline, mid-level discipline, complex high-level discipline) and align the amount and time of monitoring with that level. By devoting less monitoring time to lower level discipline cases, more time will be available to monitor more complex and serious cases. Monitoring levels should correspond with the level discipline imposed by the SBC.

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<sup>32</sup> The average score across all program areas was 3.20.

- Develop a monitoring compliance policy that allows for reduced monitoring based on compliance success. As a recognized evidence-based business practice, probation departments often use a reduction in the need to provide compliance reports and compliance proof as an incentive for consistent successful compliance. In addition to these steps to reduce caseloads, the OP should transition to a process where case assignments are based on level of seriousness of the case and the corresponding level of monitoring required. Equalizing the assignment of complex cases or cases involving recalcitrant respondents would assist PDs in managing other case monitoring tasks, and may allow them to begin actual field-work, as appropriate. Knowing the number of complex type cases could also lead to consideration of other assignment options as currently being recommended for the LAP.<sup>33</sup>

**OBSERVATION. *Use of Technology.*** As reported by OP staff, the OP heavily relies on paper records and files. Utilizing electronic tools would modernize the monitoring process of the OP and assist PDs in daily records monitoring. The increased use of technology would also assist attorney respondents by allowing a greater opportunity to electronically communicate and correspond with DP.

**RECOMMENDATION: *Increase the use of technology in the daily use of electronic records and the need to correspond with respondents.*** In particular:

- The CMS should be upgraded to better support the services of OP and its staff. Use of an updated CMS will provide electronic access to increased information beneficial in creating metric and workload reports. Business decisions can be evidence-based through the convenient use of electronic records tracking. Case assignments could be automated ensuring an equalized assignment of a variety of cases.
- An electronic monitoring portal, through which respondents and PDs can communicate in a secure electronic environment, should be developed. Having such a communication tool would allow important correspondence to quickly pass between respondent and PD. Lengthy reports could be electronically sent, stored, and easily reviewed as an electronic probation record. Reminder notices and questions related to proof of compliance would be provided and addressed in a timely manner. The portal can be developed as part of the upgraded CMS.
- An online or portal capacity, through which treatment and continuing education providers can electronically report the participation of respondents, should be developed. Utilizing this portal, service providers could be asked to efficiently provide proof of compliance, thereby reducing the time and need for contact by a PD questioning compliance.

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<sup>33</sup> OP is working with the SBC to develop a system for early notification of violations, to allow the SBC to modify probation requirements, as appropriate. Attorneys may petition the SBC for early termination of probation upon satisfaction of probation conditions.

Electronic compliance histories could be established and archived for possible future use, if required.

- The use of social media should be tested to remind respondents of the need to comply or provide report information.
- Paper PO records and case files should be converted to electronic records and files as soon as possible. Modern records management practices are best achieved through the use of electronic case files. Access is quicker, easily updated, and much easier to store.

**OBSERVATION. *Need for Exchange of Information.*** PO records need to be shared with other Bar Departments and units. Likewise, the OP needs to have access to other records within the Bar that will assist with daily monitoring responsibilities.

**RECOMMENDATION: *OP staff should be provided electronic monitoring and investigation access to court records, OCTC investigation records, and people-finding software.*** Having this level of access will reduce monitoring time that is often spent in records searches or investigation efforts to obtain information readily available through other Bar resources and online programs.

**RECOMMENDATION: *Discussions with the SBC should be held to determine how best to share information needed by either SBC or the OP.*** Whenever possible, the easiest way to share information is through electronic access and electronic communicate. Discussions with the SBC involving the use of such methods of sharing information would be mutually beneficial.

**OBSERVATION. *Management and Supervision of the Office of Probation.*** The section of this report discussing the LAP includes the recommendation that there should be one overall manager for monitoring activities by both LAP and OP staff. That recommendation is reaffirmed here. The OP is currently managed by a Senior Trial Counsel repurposed from OCTC, rather than a Supervising Probation Deputy. This position currently spends a significant amount of time reviewing the work of PD's. A pattern of routine errors suggests training and performance management needs; supervisors should not routinely spend substantial amounts of time auditing the work product of subordinate staff.

**RECOMMENDATION: *The OP SA position should be converted to a Supervising Probation Deputy.*** The current SA position should be reassigned to an OCTC intake or enforcement team.

**RECOMMENDATION: *In conjunction with management recommendation in the LAP section, a manager position should be established with the responsibility for managing both OP and LAP.*** Management duties shared between the two departments would result in personnel savings as well as efficiencies of scale in high level oversight of compliance monitoring. Probation conditions may include active participation in LAP sponsored programs and treatment services

resulting in a level of shared monitoring for specific cases. Centralized management may lead to more opportunities to have a form of centralized monitoring.

**OBSERVATION. *Measurements of Compliance and Effectiveness.*** Use of metrics associated with OP process objectives appears limited. Adding the measuring methods discussed in the following recommendations may assist with determining the overall success of current monitoring methods and practices. Having such information will assist with daily monitoring and management duties and complies with the elements of evidence based decision making.

**RECOMMENDATIONS: *Tracking the amount of restitution paid to CWs through the efforts of the OP will help measure the benefit of monitoring.*** Restitution payments are extremely important to the victims of disciplined attorneys. Knowing the impact of monitoring payments would be beneficial when considering if improved monitoring techniques are needed.

**RECOMMENDATION: *Survey respondents to determine how monitoring practices could be more beneficial to respondents and CWs.*** Though it may appear antithetical in concept, knowing what respondent attorneys think of OP's monitoring process may lead to improved relations and improved processes.

**RECOMMENDATION: *Track recidivism rates of past respondents to help determine if more effective monitoring methods can be developed.***

**RECOMMENDATION: *PDs should be provided with subpoena authority in order to timely obtain records validating compliance.***

## THE LAWYER ASSISTANCE PROGRAM AND THE OFFICE OF PROBATION

The NCSC has identified similarities in the work that the LAP and the OP perform. Both the LAP and the OP are responsible for assisting and supporting attorneys in their rehabilitation and for enhancing public protection and maintaining the integrity of the legal profession. While LAP participants enter the program voluntarily and OP participants enter the program primarily pursuant to discipline and as mandated by the Court, both the LAP and the OP provide counseling, referrals, and consultation, make arrangements for treatment, and monitor compliance.

### *Organization, Workload and Resources*

**Comparison – Probation and LAP Operations**

<b>Program Features or Elements</b>	<b>Office of Probation (OP)</b>	<b>LAP</b>
<b>Staffing and Caseload</b>	6 Probation Deputies (grade 7) 960-1,050 cases 160-175 cases/deputy	4 Case Managers (grade 9) 145 active participants 36 cases per case manager
<b>Source of Program Cases</b>	<ul style="list-style-type: none"> <li>• Court Order</li> <li>• Negotiated Agreement</li> </ul>	<ul style="list-style-type: none"> <li>• Self-Referral or Employer Referral</li> <li>• SBC Ordered</li> <li>• CBX Directed</li> <li>• OCTC Referral</li> </ul>
<b>Program Conditions Set By:</b>	<ul style="list-style-type: none"> <li>• Court Order</li> <li>• Negotiated Agreement Terms</li> </ul>	<ul style="list-style-type: none"> <li>• Direct Interview/Interaction with Case Manager</li> <li>• Set by Case Manager; approved by Evaluation Committee</li> </ul>
<b>Program Services</b>	<ul style="list-style-type: none"> <li>• Monitors respondent's compliance with conditions ordered by the Court or agreed to within OCTC</li> </ul>	<ul style="list-style-type: none"> <li>• Immediate "crisis" referral</li> <li>• Assignment to facilitated group</li> <li>• Referral to Services <ul style="list-style-type: none"> <li>○ Mental Health</li> <li>○ Psychiatric</li> <li>○ Medical</li> <li>○ Addiction Treatment</li> <li>○ Substance Testing</li> <li>○ Support Groups</li> </ul> </li> </ul>
<b>Monitoring Conducted By</b>	Probation Deputy, with input and supervision by Supervising Attorney re legal issues, etc.	Case Manager w/input from Group Facilitator
<b>Monitoring Methods</b>	<ul style="list-style-type: none"> <li>• Compliance reports <ul style="list-style-type: none"> <li>○ Quarterly for compliance with State Bar Act, Rules of Professional Conduct, probation in underlying criminal matter, etc.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Compliance reports</li> <li>• Group Facilitator Input</li> <li>• Participant quarterly Reporting</li> <li>• Case manager input</li> </ul>

**Comparison – Probation and LAP Operations**

Program Features or Elements	Office of Probation (OP)	LAP
	<ul style="list-style-type: none"> <li>○ Monthly or as ordered for AA meetings, therapy, etc.</li> <li>● No Field Monitoring or Work</li> <li>● Verification with doctors, banks, labs, restitution payees, criminal courts, AA, banks, other Bar departments</li> </ul>	

**Department Head Responsibilities**

Probation Senior Attorney – Grade 17 <sup>34</sup>	LAP Director – Grade 55 <sup>35</sup>
<ul style="list-style-type: none"> <li>● Helps the Senior Director with budget issues and expenses</li> <li>● Reviews time cards to include leave taken</li> <li>● Reviews overtime</li> <li>● Audits a 10% sample of PD files each month</li> <li>● Handles facility issues</li> <li>● Does occasional department plan review</li> <li>● Coordinates with other departments – SBC, OCTC, MRC, OGC etc.</li> <li>● Trains new staff</li> <li>● Works with IT</li> <li>● Does performance evaluations</li> <li>● Maintains documents in hard copy and electronically related to case progress and office operations (shared drive with PDs)</li> <li>● Creates monthly and annual reports</li> <li>● Reviews new and to-be closed cases</li> <li>● Reviews or creates respondent correspondence</li> <li>● Prepares motions related to amended probation conditions and revocations</li> <li>● Reviews PDs activity notes in AS 400</li> <li>● Handles complaints about PDs</li> <li>● Maintains probation manual</li> <li>● Meets with staff to discuss methods by which the OP can improve</li> <li>● Assigns new cases and directs PDs</li> <li>● Sets priorities for the office</li> </ul>	<ul style="list-style-type: none"> <li>● Serves under direction of Sr. Director</li> <li>● Serves as member of Bar Executive Staff</li> <li>● Directs and manages the boards, commissions, committees, contractors, experts and others associated with LAP</li> <li>● Maintains effective working relationships with external constituencies</li> <li>● Administers the LAP Oversight Committee</li> <li>● Assists in budget preparation</li> <li>● Develops and maintains funding sources for LAP programs</li> <li>● Manages and directs LAP resources and operations</li> <li>● Plans, organizes, directs the LAP</li> <li>● Supervises, hires, and terminates assigned staff</li> <li>● Conducts reviews of LAP staff</li> <li>● Manages and directs administrative staff support</li> <li>● Develops and implements policies, procedures, plans for LAP operations</li> <li>● Formulates and implements short-term and long term goals for LAP efficiency and efficacy</li> <li>● Initiates inter-office projects, programs and activities</li> <li>● Provides clinical and policy guidance and staff assistance to Board of Trustees, LAP Oversight Committee, facilitators, and staff</li> </ul>

<sup>34</sup> Based on interview alone as this position is filled by a G17 Senior Attorney, which is not a PO-specific classification.

<sup>35</sup> Based on job description.

While the two units perform different types of assessment and monitoring activities, there is a significant level of similarity to the work as well as to the job duties of the individuals responsible for unit management; this nexus suggests that better coordination and integration of the units could lead to efficiencies, including improved distribution of work across a combined group of staff.

As noted in the respective separate LAP and OP chapters of this report, recommendations applicable to both units include:

- Establishment of Supervising Case Manager and Supervising Probation Deputy positions;
- Elimination of Director of LAP position;
- Transfer of Senior Attorney position from OP to OCTC; and
- Establishment of a Manager position responsible for both LAP and OP.

**Once LAP and OP are integrated, the Bar should:**

- Determine appropriate caseload levels for Case Managers and Probation Deputies;
  - Does the variance in the work support the significant differences in current per FTE caseload levels?
- Determine whether the nature of the work of the two units supports the continuation of a two grade level variance between Case Managers and PD's;
- Determine how and whether workload can be shared across Case Manager, Probation Deputy and support staff, such that some staff support both units' activities;
- Create standard and parallel monitoring protocols and check lists for both OP and LAP to include standard periodic reporting, electronic compliance report submittal;
- Determine whether field monitoring responsibilities should be added to PD duties to increase levels of oversight for high-need or high-risk clients;
- Assess the current use of evidence based assessment and supervision (or lack thereof) in both units. Evidence based management (or supervision) refers to the use of data, metrics and statistics to make evaluative, risk based and treatment decisions. The Bar should take immediate actions to implement evidence based practices. This will entail expanding upon current evaluation techniques, and creating new protocols to assess client, probationer, and program participants. The Bar should consider adopting techniques also used in drug court operations:<sup>36</sup>
  - Complementary array and provision of treatment and services;
  - Comprehensive use of substance testing and monitoring;
  - Responsive supervision and the use of sanctions and rewards;
  - Use of a multidisciplinary teams; and
  - Processes for ongoing review, monitoring and evaluation (to include intermediate "check points").

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<sup>36</sup> From *Adult Drug Court Best Practices, Volume II*, National Association of Drug Court Professionals, 2015.

## MEMBER RECORDS AND COMPLIANCE

### *Functions and Responsibilities*

The Member Records and Compliance (MRC) Department, also known as the Member Services Center, is responsible for collecting, maintaining, verifying and properly disseminating information regarding the membership of the Bar. MRC helps analyze and implement various administrative and compliance issues important to the Bar, its members, and the public. MRC maintains data on Bar members and produces, on request, certificates of standing. MRC also monitors compliance with Minimum Continuing Legal Education (MCLE) Requirements. MRC, as custodian of Bar member records, routinely provides information, sometimes in response to subpoenas, to the SBC and OCTC.

Attorneys may pay fees, update personal information and report MCLE compliance by using an online portal – *My State Bar Profile*, which is maintained by MRC.

While MRC has many responsibilities related to maintaining attorney records, including the operation of a Call Center, this workforce planning analysis covers only its responsibilities related to the disciplinary process. Disciplinary related responsibilities include recording and reporting any changes in an attorney's disciplinary status (e.g., active, inactive, suspended, or disbarred)<sup>37</sup>, issuing certificates of standing, and monitoring compliance with MCLE requirements.

### *The Current Process*

**Reinstatements.** On a daily basis, an MRC associate runs an AS400 report to identify whether an attorney's suspension has reached its end date. For any disciplinary suspensions that are projected to end on that day, MRC must send an e-mail to MRC's liaison at SBC to verify that all conditions of reinstatement (as monitored by the OP) have been met. This frequently results in delays in being able to change the status in AS400. If the attorney is required to pay discipline costs as a condition of reinstatement, MRC also checks with the Billing Department before recommending to the Court that the suspension entry be ended.

**Resignations.** MRC also receives requests for resignations from members. Before accepting a resignation, MRC checks with OCTC to make sure that there are no pending charges.

**Certificates of Standing with Complaint Check.** Attorney members, after providing identification, may request a Complaint Check as part of their request for a certificate of standing. (Certificates of standing are typically public documents and may be requested by

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<sup>37</sup> Members may be suspended or placed on inactive status for failure to complete Mandatory Continuing Education requirements, failure to pay dues, failure to comply with family or child support obligations, failure to pay taxes, or for professional misconduct. Suspensions are ordered by the State Bar Court.

anyone; those with Complaint Checks can only be requested by the attorney member him or herself.) MRC checks the AS400 to learn of any disciplinary complaints. If not, a certificate is mailed after verifying the address and after notarizing, if requested. If the AS400 shows that the attorney has a complaint, MRC sends a packet (an authorization and ID, a cover letter, the formal request, and a certificate of standing form) to OCTC's Intake Unit to investigate. OCTC will then send a verified summary of complaints and Certificate of Standing to the attorney, with notification of mailing to MRC. Most Certificates of Standing are issued on the same day as received. MRC does not now track how long it takes to receive Certificates of Standing back from OCTC.

**Mandatory Continuing Legal Education Compliance.** All active members of the Bar must complete 25 hours of continuing education within a 36-month period of time. Failure to do so will result in the member being placed on inactive status. The 190,000 active Bar members are permanently assigned to one of three 36-month compliance groups on the basis of the first letter of their last name at the date of admission. The three year compliance period begins on the first day of February and ends three years later on the last day of January. A member must report MCLE compliance no later than the day following the end of the compliance period.

MRC receives MCLE affidavits from approximately 60,000 attorneys, 1/3 of the Bar, every year. MRC audits 10 percent of these attorneys annually. MRC contacts attorneys selected for audit and asks for proof of compliance. If proof is provided, the audit ends satisfactorily. If not provided, MRC requires members to make up any deficiency, otherwise the member is administratively enrolled on inactive status. If non-compliance, whether eventually satisfied or not, is not a "significant failure," the audit is ended. If it is significant, whether eventually satisfied or not, MRC refers the matter to OCTC Intake for investigation, sending all documents in a paper file. Approximately 5 percent of audited members' affidavits have problems serious enough for referral to OCTC Intake for further investigation. Over the years, MRC has analyzed audit results and identified high risk groups. In recent years, this data has informed staff on which groups might be audited at a higher percentage rate for the following year's audit cycle. This targeted auditing has translated in more referral files to OCTC.

#### *Organization, Workload and Resources*

MRC is staffed by a Managing Director, two Senior Administrative Supervisors, one Lead Data Analyst, one Senior Administrative Assistant, three Member Services Representatives, seven Member Services Associates and four Administrative Assistant I's. Together, these 21 positions comprise four percent of the Bar's workforce.

**Member Records and Compliance Staff**

Position	No. of Positions
Administrative Assistant I	4
Administrative Assistant II	1
Lead Data Analyst	1
Managing Director, MRC	1
Member Services Associate	7
Member Services Representative	3
Senior Administrative Assistant	1
Senior Administrative Supervisor	3
TOTAL	21

**OBSERVATIONS AND RECOMMENDATIONS**

**OBSERVATION. *MCLE Reporting.*** The receipt and auditing of attorney MCLE compliance affidavits creates substantial work for MRC staff in December, January and February of each year. Some MRC staff believe that additional staff, perhaps temporary employees, are needed during those months.

**RECOMMENDATION: *Require approved providers of Continuing Legal Education to electronically certify satisfactory completion of a course or educational program.*** This change will dramatically decrease the time needed to record and audit MCLE compliance.

**OBSERVATION. *MCLE Audits.*** MRC makes approximately 225 referrals to OCTC Intake for further investigation following its own audit of attorney affidavits. When a referral is made, MRC prints out all documents and sends a paper file to the Intake Unit.

**RECOMMENDATION: *MRC should send files to the Intake Unit electronically.*** This change will reduce time used to refer matters for further investigation.

**OBSERVATION. *Tracking Disciplinary Status.*** MRC, OCTC, SBC, the OP and CSF staff spend a significant amount of time attempting to keep track of and responding to inquiries from complainants, CSF applicants, and respondents about current disciplinary status. This includes the status of any pending complaints being investigated by OCTC and the status of any pending cases filed with the SBC.

OP does not consistently notify MRC when a respondent's probationary period has been successfully completed.

**RECOMMENDATION:** *Provide MRC with authority and direction to access AS 400 data in the Office of the Chief Trial Counsel and other departments, and provide training to MRC staff on how to read and interpret the data on the AS400.* This change, in addition to vesting responsibility for tracking reinstatement eligibility with a new SBC administrative position, will reduce the time that MRC staff spends contacting other departments and units to obtain information on the status of disciplinary complaints so that MRC can issue timely Certificates of Standing and reinstatements.

**OBSERVATION. *Certificates of Standing.*** When a request for a Certificate of Standing is received and the AS400 reveals that the attorney has a complaint, MRC now sends a packet to OCTC's Intake Unit with a request to investigate and send a verified summary of complaints and Certificate of Standing to the attorney, with notification of mailing to MRC. MRC does not have a good system to track whether OCTC responds.

**RECOMMENDATION:** *Once system access is provided to MRC staff, the practice of sending packets to OCTC's Intake Unit for investigation and preparation of verified Certificates of Standing should cease; MRC staff should assume this responsibility.*

**OBSERVATION. *Certificates of Standing.*** When a complaint is closed by OCTC's Intake Unit for lack of merit, the attorney is not notified that a complaint was filed. Yet, OCTC includes these complaints in the attorney's record even if it had been closed many years back. The attorney is then surprised to learn of the complaint when he/she requests a Certificate of Standing. Members of the Bar get upset when caught by surprise that they cannot provide a "clean certificate".

**RECOMMENDATION:** *Implement a policy or, if necessary, promulgate a rule, clarifying that attorneys should be notified of closed complaints and outlining when such complaints may be purged from the OCTC file.*

**OBSERVATION. *Reinstatement.*** Based on interviews with MRC and Probation staff, it is not clear who has the authority to reinstate an attorney's license. MRC has been told by "someone at Intake" that MRC can reinstate only with approval by the SBC. This lack of clarity creates confusion and unnecessary delay in attorney reinstatements.

**RECOMMENDATION:** *Implement a policy or, if necessary, promulgate a rule regarding who has authority to reinstate an attorney's license. This change will reduce delays in attorney reinstatement.*

**RECOMMENDATION:** *Upon implementation of a new case management system, require OCTC, the SBC, OP and CSF to electronically notify MRC of every action that impacts the attorney's*

***disciplinary status, including when a complaint is forwarded to the Enforcement Unit, and when it is filed in the SBC.*** The notification should automatically be sent when an entry is made in the department and it should automatically populate the attorney's electronic MRC file, which should capture:

- All continuing education courses completed
- All complaints filed with OCTC and the status of that complaint
- All cases filed with the SBC and the status of the case
- All probation conditions and their status
- All CSF applications filed and their status

***RECOMMENDATION: All persons within the Bar who need access to the attorney file in order to fulfill their job responsibilities should have access to the attorney's MRC file.*** The public should not have access to any information in the MRC file that it does not currently have.

## CLIENT SECURITY FUND

### *Functions and Responsibilities*

The Client Security Fund (CSF) supports the Bar's goal of protecting the public by alleviating injury to legal consumers, and promoting public confidence in the legal profession. The primary objective of the CSF is to promote confidence in the legal profession by reimbursing clients for the dishonest conduct of lawyers that rises to the level of theft, or is tantamount to theft. The State Bar web site identifies CSF as a "public service of the California legal profession."<sup>38</sup>

The CSF, which is a discretionary fund, reimburses clients up to \$100,000 for losses due to attorney theft or acts tantamount to theft. It does not cover losses caused by attorney incompetence, negligence or malpractice. In recent years most of the applications have requested reimbursement for unearned fees (in 2014 88% of applications paid were for unearned fees).

To qualify for reimbursement, an applicant must establish that the respondent attorney has been disbarred, disciplined, or voluntarily resigned from the Bar.<sup>39</sup> The CSF is separate from and does not participate in disciplinary proceedings. The CSF is financed by a \$40 statutory assessment that is part of the annual active attorney membership fee; inactive members pay a \$10 assessment. A seven-person Client Security Fund Commission (CSFC), appointed by the Board of Trustees, administers the CSF and has the final authority to determine whether to grant applications.<sup>40</sup>

### *Current Process*

Clients who assert that they have suffered losses may learn about the CSF from other Bar departments, from telephone inquiries, from participation in the disciplinary process, from Bar public town hall meetings, or from the Bar web site. A client (applicant) may request reimbursement by submitting an application to the CSF at the Los Angeles Office of the Bar. Applications received in the Bar's San Francisco office are forwarded to CSF in Los Angeles.

CSF staff send an acknowledgment letter, perform data entry and then perform an initial screening and review of Bar computer records to determine the disciplinary status of the attorney (respondent). The file is assigned to a paralegal for further research/investigation to determine if the application falls within the CSF's jurisdiction. If not within jurisdiction, a closing letter is sent to the applicant. The application is held as pending until there is final discipline issued by the California Supreme Court, or the discipline complaint is otherwise resolved. Once the discipline is final, the case is assigned to an attorney to conduct further investigation, interviews and document review.

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<sup>38</sup> <http://www.calbar.ca.gov/Attorneys/LawyerRegulation/ClientSecurityFund.aspx>

<sup>39</sup> Client Security Fund rules, Rule 3.432

<sup>40</sup> Ibid. Rule 3.421

After investigation, the CSF attorney, when there is sufficient proof and when the application meets program criteria, may prepare a Notice of Intention to Pay and serve it on the respondent. If the respondent does not object within 30 days, CSF pays the reimbursement amount to the applicant.<sup>41</sup> If the respondent objects, the CSF attorney drafts a Tentative Decision for the CSF Commission to review at one of its 6 meetings a year. Once the Commission approves the Tentative Decision, the Tentative Decision is served on the applicant and respondent. Both parties are notified of their right to object to the Tentative Decision. If objections are filed, the Commission reviews the objections, and the entire administrative record and any request for an oral hearing. After this review the Commission issues its Final Decision, grants an oral hearing, or requests additional information. Most applications are decided on the documents without an oral hearing. The Final Decision of the Commission is the final action of the State Bar. If a party disagrees with the Final Decision, the party may seek judicial review in the Superior Court.

The Office of Finance issues the actual reimbursement checks after receiving signed check requests from CSF.

Appendix D indicates CSF program steps.

#### *Organization, Workload and Resources*

The CSF Department currently records and reports applications received, denied, paid and outstanding, and categories for type of misconduct (misappropriation, loan and unearned fees). The following table provides a comparison of applications and payments from 2010 and 2014:

<b>Client Security Fund Applications and Payments</b>		
	2010	2014
Applications Received and Filed	3,875	1,554
Applications Paid	267	1,152
Applications Pending at Year End	6,112	5,674
Total Amount Paid	\$3,331,124	\$9,031,386

There was an increased number of filings beginning in 2009, fueled by the nation-wide loan modification crisis. Payouts from the increased caseload spiked in 2013, with \$11,054,532 paid to applicants.<sup>42</sup> The number of filings in 2014 is more aligned with the historical average of annual filings. Payments may be affected by the timing of approval for case payout (after disciplinary action is concluded), the amount and size of payouts (in 2009 the maximum reimbursement amount was raised to \$100,000, up from the prior reimbursement cap of \$50,000), and the amount of funds available in the CSF.

<sup>41</sup> Ibid. Rule 3.442

<sup>42</sup> Client Security Fund 2014 Activities Report

**Phone Calls.** CSF staff estimate that 7,800 phone calls were received at the CSF in 2015, an average of approximately 30 per day.

**Attorney Caseload.** Each CSF attorney, including the Director, maintains a caseload of 300-600 cases, and often more.

**Payments.** In 2014, 1,020 payments (88 percent) were made for unearned fees; 127 payments (11 percent) were made for misappropriation; and 5 payments were made for loans and investments (fewer than 1 percent). Since the inception of the CSF in 1972, the Fund has reimbursed approximately \$130 million. As of the end of 2014, the CSF balance was \$2,208,554, down from a total of \$13,943,060 in 2010. CSF payments (payouts) are impacted by the CSF fund balance, and approved payments may be deferred.

### *Current Staffing Levels*

The CSF program is staffed by 9 FTE with one vacancy; all staff persons are located in the Los Angeles office.

Client Security Fund Staff	
Position	No. of Positions
Administrative Assistant II	1
Administrative Secretary	1
Director of CSF	1
Paralegal	2
Records Coordinator*	1
Senior Administrative Supervisor	1
Senior Attorney	2
TOTAL	9

\*Currently vacant

## **OBSERVATIONS AND RECOMMENDATIONS**

**OBSERVATIONS: *Current processes are inefficient.*** CSF work is negatively impacted by heavy reliance on manual processes and the need to wait to receive status information from OCTC before taking action. Current processes are significantly inefficient, with CSF staff conducting a manual inquiry by reviewing OCTC records in the AS400 database every 30 days to determine the status of the disciplinary proceeding. While the number of case filings has dropped 40 percent, and the number of pending cases 20 percent, from five years ago, the time spent on case status checking has not declined.

Staff interview and observation suggested that in addition to OCTC status checks, CSF has many manual processes and staff spend an unusual amount of time on inefficient communications with clients, maintaining and locating paper files on pending cases, and keeping track of documents.

The CSF currently receives about 7,800 calls per year from applicants requesting application materials and inquiring about the status of their applications. While CSF sends a comprehensive acknowledgment letter when an application is filed, it does not proactively provide updates to applicants regarding the status of their applications while disciplinary action is pending and prior to the case proceeding to the CSF Commission.

**RECOMMENDATION:** *Use one vacant CSF FTE or a portion of to support the creation of an administrative support position for the State Bar Court Presiding Judge.* In addition to supporting the Presiding Judge, this position will be responsible for notifying CSF of final discipline.

**RECOMMENDATION:** *A protocol for ongoing email interaction from CSF to and from applicants should be established.* This could be managed to ensure that each applicant had an established email account and CSF approved access with CSF staff for email use, and a secured method of contact.

Email should be used to begin providing proactive applicant notification of the status of discipline cases and applications throughout the life of the case, to ensure that applicants are kept informed, improve customer service, and reduce applicant status check calls.

**RECOMMENDATION:** The current “pending drawer” manual process of holding cases awaiting discipline outcomes should become an electronic file and listing. Prior to that happening, all open CSF cases should be maintained or stored in a single location, whether awaiting discipline, currently in the investigation stage or awaiting CSFC review and approval. Making this change will reduce time maintaining and locating paper files.

**RECOMMENDATION:** *The current manually-maintained spreadsheet of pending and awaiting cases should be migrated to an automated database with links to data from OCTC.*

**RECOMMENDATION:** *CSF staff should be given access to the OCTC CMS and files for investigation and documentation purposes.*

**OBSERVATION:** *There are currently three vacant positions in CSF. After a summary review of CSF operations, the unit does not appear to need additional staff.* In some instances, it appears that there is a second set of clerical hands “touching” work unnecessarily. Examples include doing data entry into the AS400 when it might be done more efficiently and timely by the attorney working on the matter, or document preparation with no real need for clerical assistance.

**RECOMMENDATION:** *Evaluate the current vacancy in the Records Coordinator position to determine if the tasks can be absorbed by the Administrative Assistant and the Administrative*

**Secretary.** Review of this position should be coupled with targeted task simplification, cross-training, and redundancy elimination.

**OBSERVATIONS: *Metrics and Objectives.*** All current reporting should continue, and additional reporting should be considered.

**RECOMMENDATION: *Create and publish more detailed reports on pending cases, including:***

- The number of CSF applications pending awaiting disciplinary action by OCTC and/or by the SBC;
- The length of time a case is in the system. Goals/objectives for each stage of the process should be established and compliance with those goals measured, including:
  - Time from filing of the application to completion of initial screening;
  - Time from initial screening to a determination by CSF whether to send a closing letter and the number and percentage of applications closed by a closing letter;
  - Time from filing an application to Notice of Intent to Pay Letter sent to respondent and the number of Intent to Pay Letters sent;
  - Time from filing an application to tentative case decision made by the CSF Commission; and
  - Total time from the filing of an application to closure by the CSF Commission.

#### **OTHER MISCELLANEOUS RECOMMENDATIONS**

**RECOMMENDATION: *Assess the benefit and timing of proposing an increase in the CSF fee that is assessed as part of annual member fees.*** Small incremental increases (e.g., increasing from the current \$40 to \$42) could assist. Interviews indicated that the Bar has already begun consideration of using funding reserves from another area (LAP) to underwrite CSF payment needs.

**RECOMMENDATION: *Establish a process whereby data is exported from the AS400 for CSFC meeting preparation and document information.*** This will eliminate manual steps in the transmission of files and documents.

## APPENDIX A

### BUSINESS PROCESS REENGINEERING

The scope of work in the Request for Proposal issued by the Bar in December 2015 included the following section regarding Business Process Reengineering (BPR) BPR involves the redesign of business processes to achieve improvements in efficiency and quality.

Work with the Workforce Planning Steering Committee to finalize additional areas to be included in the business process reengineering assessment. At a minimum, the scope of the business process reengineering assessment will include:

- a. High Volume Call Intake: multiple areas within the State Bar handle a high daily call volume, including Admissions, Member Records, Lawyer Referral Services, Ethics Hotline, IOLTA Compliance, and Reception.
- b. Ethics Training and Technical Assistance: ethics training and technical assistance is provided by several entities within the State Bar including OCTC, Legal Services, General Counsel (OGC), and Education.
- c. Other Training for Attorneys: Legal Services, Education, OCTC, and Bar Relations provide attorney training.
- d. Meeting and Event Support: Admissions, General Services, Bar Relations, Legal Services and Education provide catering, meeting planning, and conference support.
- e. Information Technology (IT) Support Services: technical support analysts are housed or contracted in the following non-IT Departments: OGC, SBC, and Admissions. Web support services are provided by IT, Communications, and Member Records.

The Bar contracted with NCSC to apply its expertise in organizational analysis BPR to conduct this study to identify efficiencies that might allow the Bar to redeploy personnel resources to implement anticipated recommendations regarding increasing discipline system staffing. Preliminary analysis suggests that such efficiencies may be gained by transitioning high volume call intake to a centralized Call Center, as well as by consolidating meeting and event support and IT services. Further evaluation is warranted before implementation of these recommendations. Following is a summary of the initial observations and recommendations in these areas:

#### **HIGH VOLUME CALL INTAKE**

**OBSERVATIONS:** *Processes are outdated and inefficient.* Several Bar departments have high volume call lines operated through an automatic call distribution system. While each department operates within its known area of expertise, functional duplications exist. There is a need to reaffirm that all call center functions, and staff working in those functions, understand and support the overall Bar mission and vision.

**RECOMMENDATION:** *Create a single, centralized call center.* Train call center staff to provide assistance in commonly requested areas, with appropriate access to membership database. For

APPENDIX A  
BUSINESS PROCESS REENGINEERING

questions that cannot be answered by call center staff, callers should be routed to a subject matter expert in the appropriate Department.

**RECOMMENDATION:** *Extend the hours that call center lines are answered.* In addition, provide a standard message for after-hours calls.

**RECOMMENDATION:** *Reduce the number of telephone numbers listed on the Bar's website.* All callers should be directed to call one central number.

**RECOMMENDATION:** *Develop standardized metrics for ongoing evaluation of services provided by call center.* Regularly reassess staffing and training needs based on these metrics.

**RECOMMENDED NEXT STEPS:** *Convene a working group develop protocols for centralized Call Center.* The working group should consist of experienced staff from each Department that currently has a high volume call center; the group should be tasked with documenting current practices, identifying training requirements, and developing evaluation metrics.

## **ETHICS TRAINING AND TECHNICAL ASSISTANCE**

**OBSERVATIONS:** *Ethics training and technical assistance is provided by several different Departments in the Bar, each of which serves a specialized function.* While improvements to some specific areas can be made, it is not recommended that these services be combined under a single Department. The Bar would benefit from cross-Departmental sharing of information regarding ethics training and technical assistance that is provided by each department.

**RECOMMENDATION:** *Continue the provision of the Ethics Hotline to Bar members.* However, review the staffing levels for this function and modernize current operational processes.

**RECOMMENDED NEXT STEPS:** *Program information regarding ethics training and available publications should be regularly exchanged between all program areas of the Bar.* Consideration should be given to expanding the ethics section of the Bar's website to allow attorneys to anonymously ask ethics related questions and to suggest ethics training topics or additional publications.

## **OTHER TRAINING FOR ATTORNEYS**

**OBSERVATIONS:** *OCTC, OPC, and OLS offer a variety of ethics trainings and technical assistance, yet each office has a pinpoint purpose and/or clientele for which ethics training is specifically customized.* There appears to be a lack of routine sharing of information involved in presenting training programs.

**RECOMMENDATION:** *Create a barwide annual training and education plan and strategy.*

APPENDIX A  
BUSINESS PROCESS REENGINEERING

## MEETING AND EVENT SUPPORT

**OBSERVATIONS:** *An estimated 25 staff persons at the Bar have some level of responsibility for meeting and event planning.* Differences in practices among Bar Departments leads to inefficiencies and inconsistency with the services provided.

**RECOMMENDATION:** *Standardize and centralize all offsite meeting and event planning.* Meeting and event support should be provided by the General Services department.

**RECOMMENDED NEXT STEPS:** *Develop a protocol for centralized meeting support.* Following are some key steps in this process:

- Prepare an inventory of all meeting and event planning practices, providers, software, and technology in use;
- Establish standards for site selection and develop protocols that will lead to consistency;
- The level of independence and autonomy for obtaining non-competitively procured, contracted providers and facilities should be decreased; and
- A method of providing *ad hoc* or emergency support should be provided for all Bar functions that are held at off-site locations.

## TECHNOLOGY SUPPORT SERVICE

**OBSERVATIONS:** *The Information Technology Department (IT) is not adequately staffed to respond to immediate IT needs with Bar Departments.* As a result, Departments have developed in-house specialists to provide internal support.

**RECOMMENDATION:** *Differentiate between individuals performing data analysis or data queries and those providing technical support.* Reassign individuals providing technical support to the IT Department.

**RECOMMENDATION:** *IT staff should function as a pool however individual Departments should have a key contact.* Staff should be cross-trained, in order to be able to support the general needs of all Bar Departments. Expertise in specific Departmental needs should be developed by identified IT staff, as appropriate.

APPENDIX B  
WORKFORCE PLANNING SURVEY

**State Bar of California Workforce Planning Survey**

\* Please complete this survey by 5 PM, Thursday February 18, 2016.

1. Which division do you work in?

- |   |   |
|---|---|
| <input type="radio"/> State Bar Court: Review             | <input type="radio"/> OCTC: Appeals                       |
| <input type="radio"/> State Bar Court: Hearing            | <input type="radio"/> OCTC: Management                    |
| <input type="radio"/> State Bar Court: Effectuations      | <input type="radio"/> OCTC: Central Administration        |
| <input type="radio"/> State Bar Court: Tech/Admin Support | <input type="radio"/> OCTC: Data Analysis                 |
| <input type="radio"/> State Bar Court: Management         | <input type="radio"/> Member Records and Compliance (MRC) |
| <input type="radio"/> OCTC: Intake                        | <input type="radio"/> Client Security Fund (CSF)          |
| <input type="radio"/> OCTC: Investigations                | <input type="radio"/> Lawyers Assistance Program (LAP)    |
| <input type="radio"/> OCTC: Litigation - Trials           | <input type="radio"/> Probation Unit                      |
| <input type="radio"/> OCTC: Audit and Review              |   |

\* Please provide your name:

\* 2. Staffing levels for my area of responsibility are appropriate

- ☐ Yes
- ☐ No

2a. If no, please provides comments on where staffing areas could be improved.

\* 3. Overall, I would describe the staffing levels for the Bar to be:

- ☐ Sufficient as is - we have sufficient staff to do our functions
- ☐ Insufficient as is - we do not have enough staff to get work done
- ☐ Enough staff but assigned poorly or with wrong allocations to areas

APPENDIX B  
WORKFORCE PLANNING SURVEY

3a. Name areas where there is insufficient staffing:

3b. Name areas where functions are overstaffed:

\* 4. Please indicate your current level of agreement to the following statement:

	Strongly Disagree	Disagree	Neither Agree or Disagree	Agree	Strongly Agree	N/A or Don't Know
a. I have sufficient on-the-job time to successfully complete my daily responsibility.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

APPENDIX B  
WORKFORCE PLANNING SURVEY

State Bar of California Workforce Planning Survey

\* 5. There is documentation (instructions and information) for my work tasks and assignments.

☐ Yes

☐ No

5a. If no, please provide comments on how documentation can be improved.

\* 6. Business processes for my work assignment and area are clearly documented and stated.

☐ Yes

☐ No

6a. If no, please provide comments on how the processes can be improved.

\* 7. I know and understand the performance measures and expected outcomes for my area.

☐ Yes

☐ No

7a. If no, how can expected performance outcomes be made more clear and precise for you?

APPENDIX B  
WORKFORCE PLANNING SURVEY

\* 8. What performance metrics do you think need to be in place for your tasks?

\* 9. Are there duplications in work assignments, work tasks and duties assigned to different operational areas?

☐ Yes

☐ No

9a. If yes, please describe where there are duplications.

\* 10. Are there areas where tasks can be reorganized and reengineered?

☐ Yes

☐ No

10a. If yes, please describe areas for reorganization of tasks.

10b. If yes, please describe areas for reengineering.

APPENDIX B  
WORKFORCE PLANNING SURVEY

State Bar of California Workforce Planning Survey

\* 11. What work assignments or areas could be centralized for better operation?

\* 12. What work assignments or areas could be decentralized for better operation?

\* 13. Are there work functions that need to be grouped differently than currently done? Please explain.

\* 14. In what functions, and areas, can technology be better used, or deployed, so that automation helps you complete your tasks?

APPENDIX C  
SCHEDULE OF SITE VISITS AND INTERVIEWS

Los Angeles Office

Monday, 2/22	Tuesday, 2/23	Wednesday, 2/24	Thursday, 2/25	Friday, 2/26
<i>Office of the Chief Trial Counsel</i> – Intake <ul style="list-style-type: none"> <li>• Management</li> <li>• Read Team Attorneys</li> <li>• Walk-through Observation <ul style="list-style-type: none"> <li>– Case Assignments &amp; Data Entry</li> </ul> </li> </ul>	<i>Office of the Chief Trial Counsel</i> – Intake <ul style="list-style-type: none"> <li>• Administration</li> <li>• Worker Team <ul style="list-style-type: none"> <li>– Attorney</li> <li>– Complaint Analysts</li> </ul> </li> <li>• Criminal Conviction Monitoring <ul style="list-style-type: none"> <li>– Paralegal</li> </ul> </li> <li>• Sanctions/Reportable Actions/Court Complaints <ul style="list-style-type: none"> <li>– Attorney</li> <li>– Paralegal</li> </ul> </li> <li>• UPL/Non-Attorney/ Cessation of Practice <ul style="list-style-type: none"> <li>– Attorney</li> <li>– Paralegal</li> <li>– Complaint Analyst</li> </ul> </li> </ul>	<i>Office of the Chief Trial Counsel</i> – Enforcement <ul style="list-style-type: none"> <li>• Attorneys</li> <li>• Supervising Attorneys</li> <li>• Investigators</li> <li>• Investigator Supervisor</li> </ul>	<i>Office of the Chief Trial Counsel</i> – Enforcement <ul style="list-style-type: none"> <li>• Attorneys</li> <li>• Supervising Attorney</li> <li>• Investigators</li> <li>• Investigator Supervisors</li> </ul> <i>Office of the Chief Trial Counsel</i> – Central Administration <ul style="list-style-type: none"> <li>• Enforcement Administration</li> </ul>	<i>Office of the Chief Trial Counsel</i> – Central Administration <ul style="list-style-type: none"> <li>• Chief Trial Counsel</li> <li>• Enforcement Administrative Team <ul style="list-style-type: none"> <li>– Coordinator of Records</li> <li>– Legal Secretary</li> <li>– Data Analyst</li> </ul> </li> </ul>

Monday, 3/2	Tuesday, 3/1	Wednesday, 3/2	Thursday, 3/3	Friday, 3/4
<i>Office of the Chief Trial Counsel</i> – Intake <ul style="list-style-type: none"> <li>• Complaint Analyst</li> <li>• Supervising Attorney</li> </ul>	<i>Office of Probation</i> <ul style="list-style-type: none"> <li>• Managers</li> <li>• Deputies</li> <li>• Administration</li> </ul> <i>Lawyer Assistance Program</i> <ul style="list-style-type: none"> <li>• Director</li> <li>• Administration</li> <li>• Case Manager</li> </ul>	<i>Client Security Fund</i> <ul style="list-style-type: none"> <li>• Managers</li> <li>• Administration</li> <li>• Attorneys</li> </ul>	<i>State Bar Court</i> <ul style="list-style-type: none"> <li>• Managers</li> <li>• Administration</li> <li>• Case Administrators</li> <li>• Attorneys</li> </ul>	<i>Lawyer Assistance Program</i> <ul style="list-style-type: none"> <li>• Administration</li> </ul>

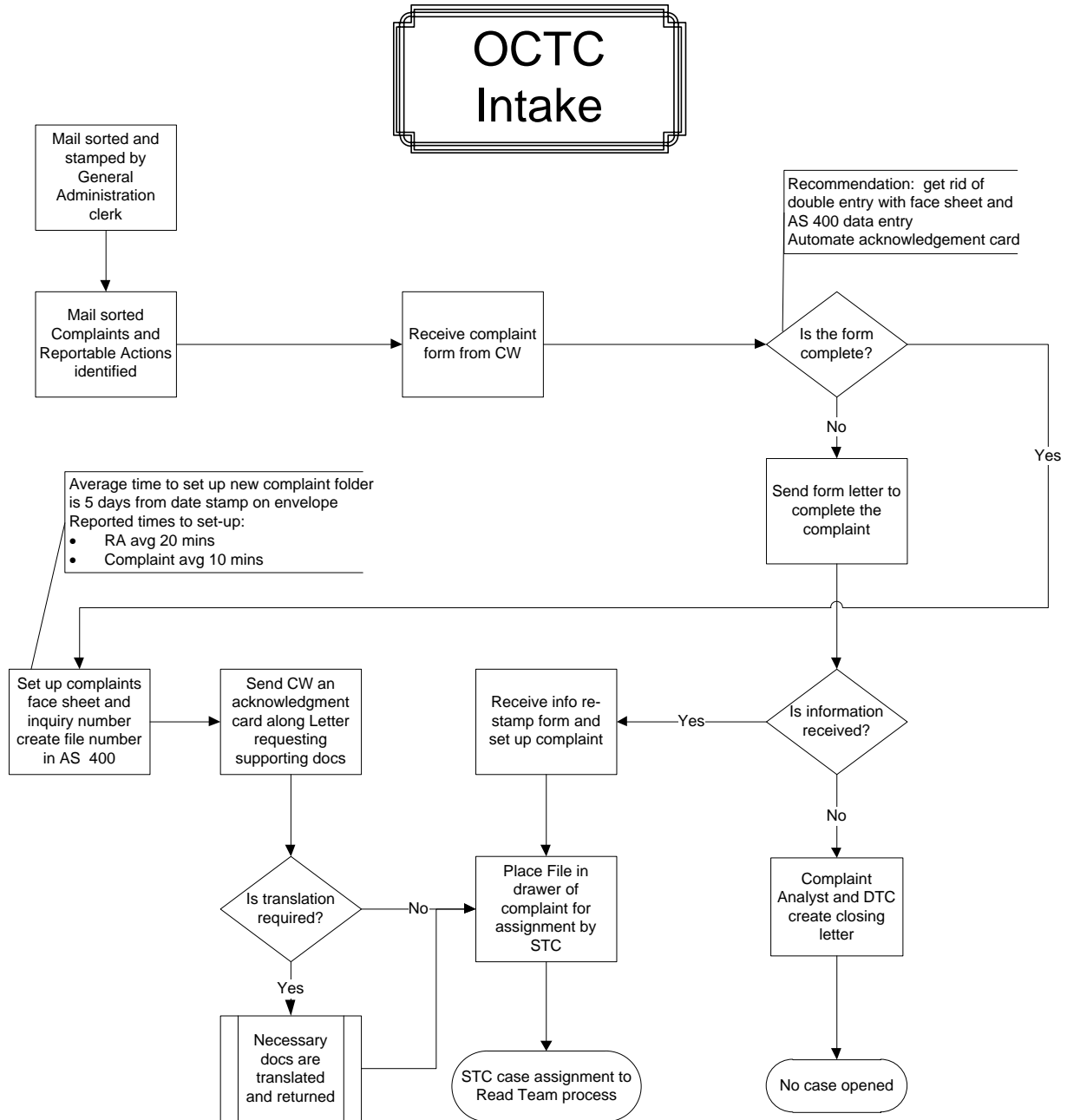
APPENDIX C  
SCHEDULE OF SITE VISITS AND INTERVIEWS

San Francisco Office

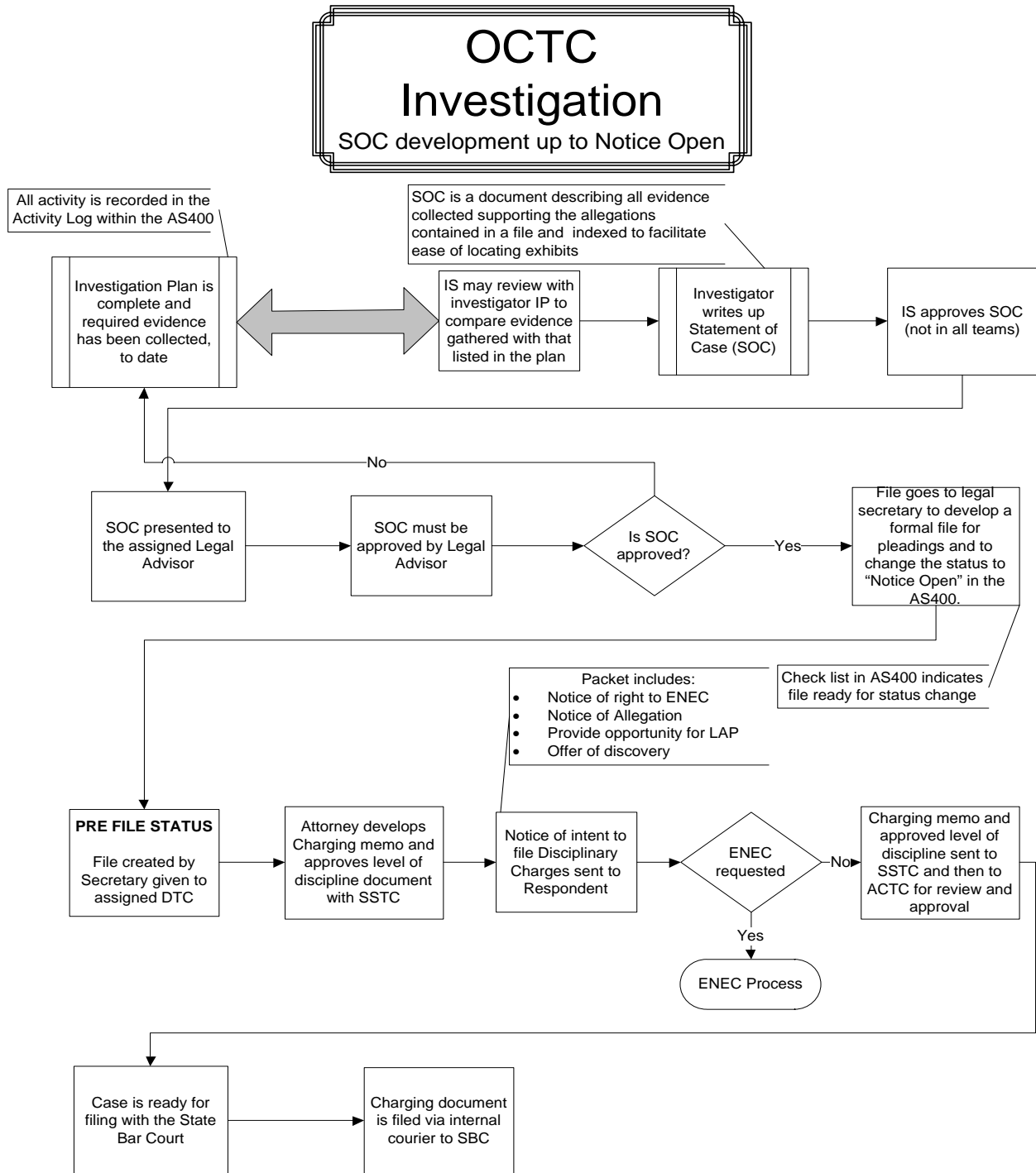
Monday, 3/21	Tuesday, 3/22	Wednesday, 3/23	Thursday, 3/24	Friday, 3/25
<i>Office of the Chief Trial Counsel</i> – Enforcement <ul style="list-style-type: none"> <li>• Attorneys</li> <li>• Investigators</li> </ul>	<i>Office of the Chief Trial Counsel</i> – Enforcement <ul style="list-style-type: none"> <li>• Attorneys</li> <li>• Investigators</li> <li>• Paralegals</li> </ul> <i>Office of the Chief Trial Counsel</i> – Central Administration <ul style="list-style-type: none"> <li>• Legal Secretaries</li> <li>• Coordinator of Records</li> </ul> <i>State Bar Court – Administration</i> <ul style="list-style-type: none"> <li>• Data Analyst</li> </ul>	<i>Office of the Chief Trial Counsel</i> – Enforcement <ul style="list-style-type: none"> <li>• Attorneys</li> <li>– General Unit</li> <li>– Appeals</li> <li>– Audit &amp; Review</li> </ul> <i>State Bar Court</i> <ul style="list-style-type: none"> <li>• Administrator</li> <li>• Chief Court Counsel</li> <li>• Secretary</li> </ul>	<i>State Bar Court</i> <ul style="list-style-type: none"> <li>• Data Analysts</li> <li>• Administrative Assistant</li> <li>• Secretary</li> <li>• Administrative Specialist</li> </ul> <i>Member Services – Enforcement</i> <ul style="list-style-type: none"> <li>• Administrative Assistant</li> <li>• Member Services Associate</li> <li>• Administrative Supervisor</li> </ul>	<i>Office of the Chief Trial Counsel</i> – Enforcement <ul style="list-style-type: none"> <li>• Investigator</li> </ul>

Monday, 3/28	Tuesday, 3/29	Wednesday, 3/30
<i>Office of the Chief Trial Counsel</i> – Enforcement <ul style="list-style-type: none"> <li>• Assistant Chief Trial Counsel</li> <li>• Attorney</li> </ul>	<i>Office of the Chief Trial Counsel</i> – Enforcement <ul style="list-style-type: none"> <li>• Attorneys</li> </ul> <i>State Bar Court</i> <ul style="list-style-type: none"> <li>• Senior Director</li> </ul>	<i>State Bar Court</i> <ul style="list-style-type: none"> <li>• Presiding Judge</li> <li>• Effectuations</li> <li>– Court Administrator</li> <li>• Administration</li> <li>– Secretary</li> </ul> <i>Office of the Chief Trial Counsel</i> – Central Administration <ul style="list-style-type: none"> <li>• Director of Administration</li> </ul>

## APPENDIX D WORKFLOWS



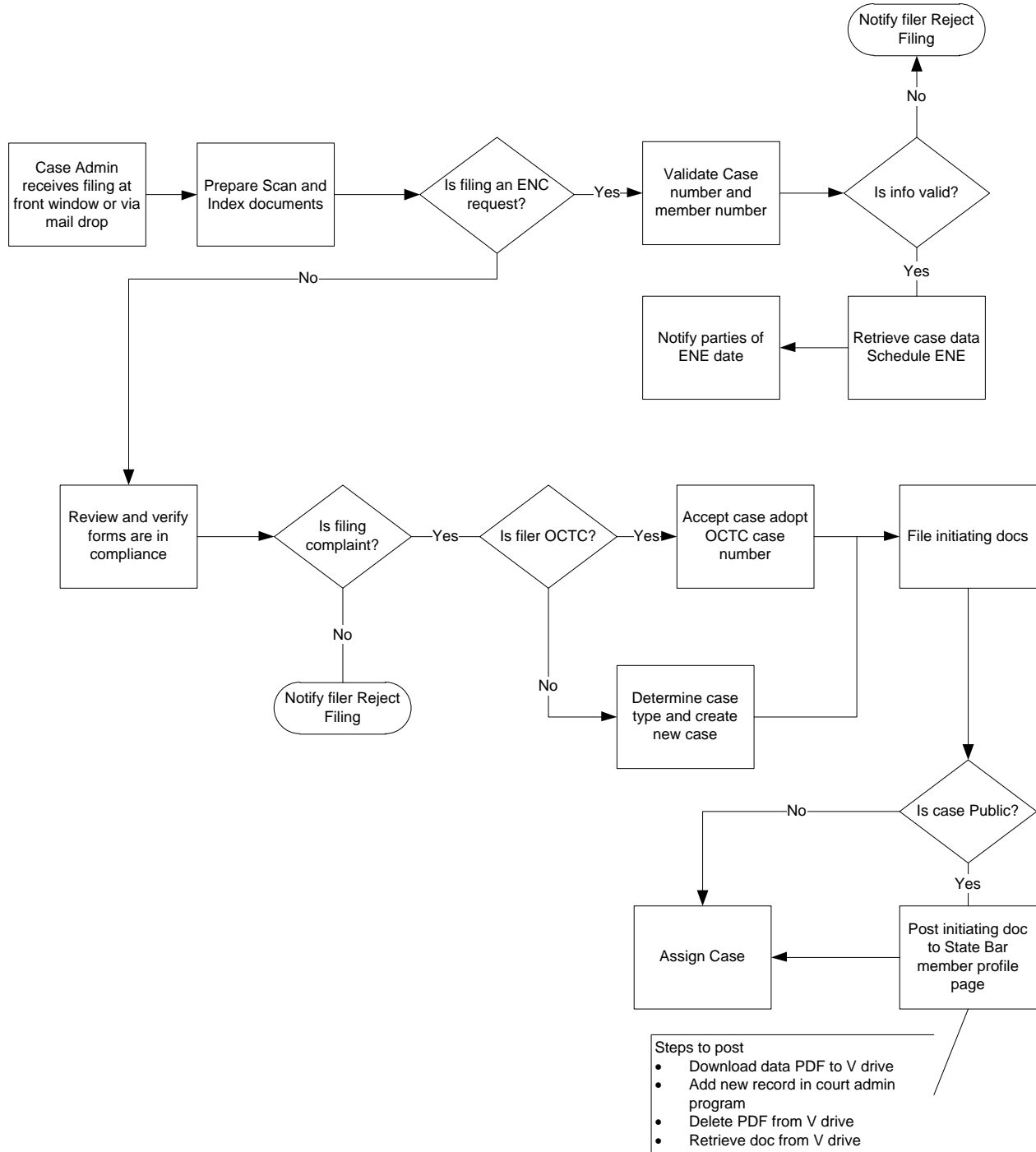
## APPENDIX D WORKFLOWS



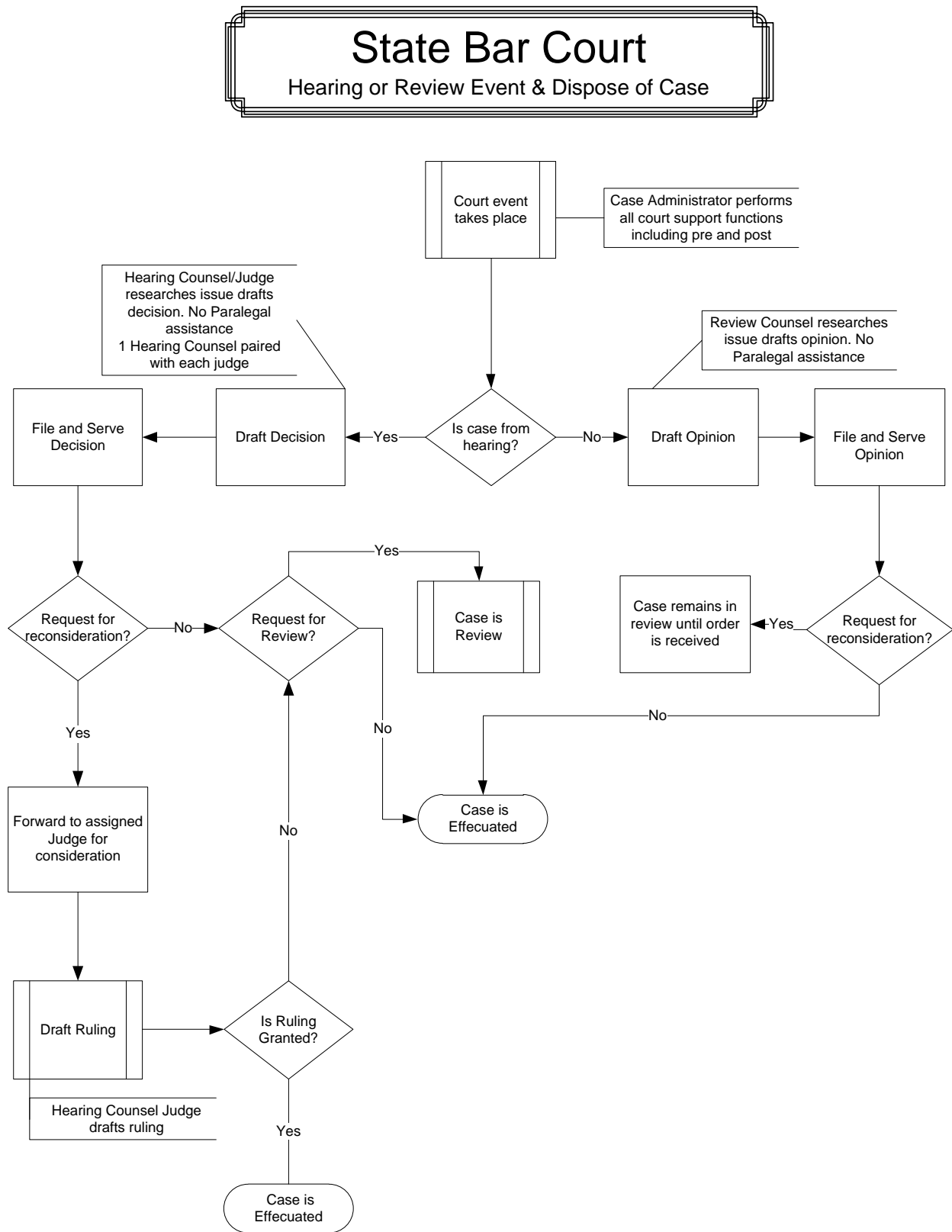
APPENDIX D  
WORKFLOWS

# State Bar Court

## Case Initiation



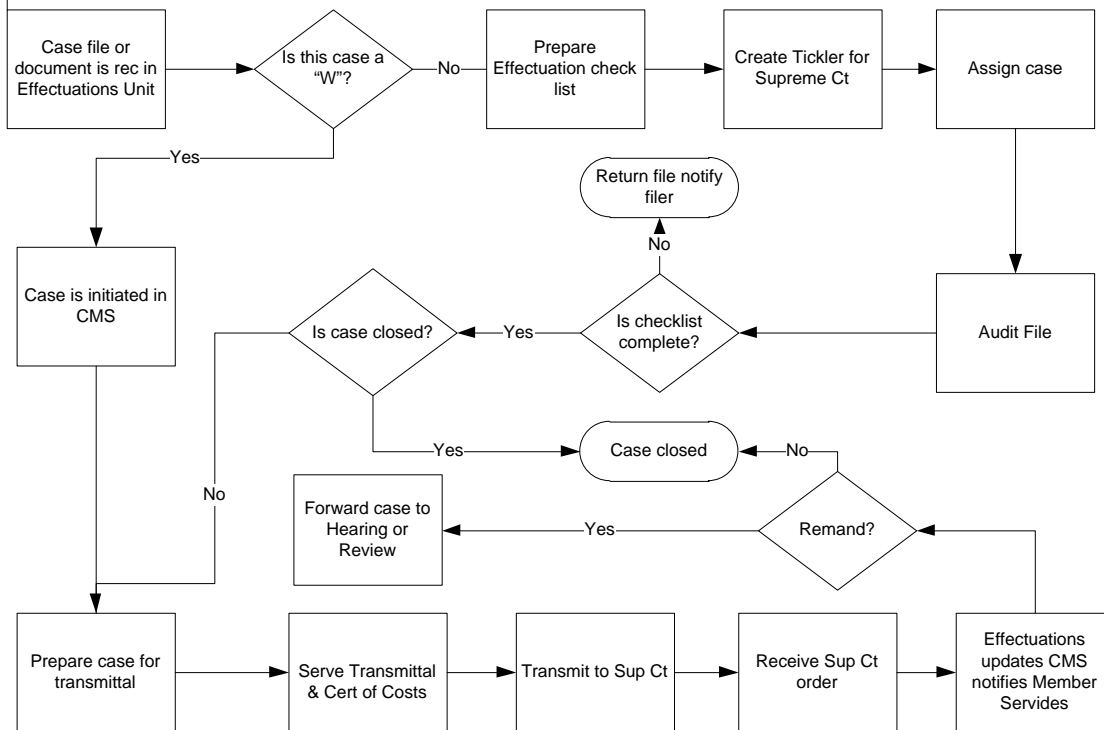
APPENDIX D  
WORKFLOWS



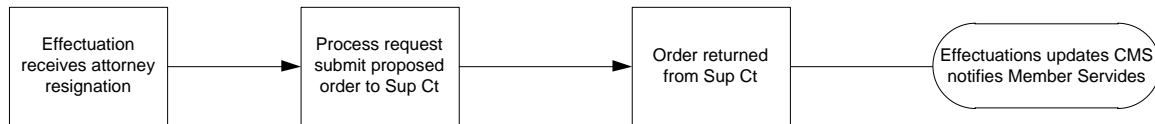
## APPENDIX D WORKFLOWS

### State Bar Court Effectuations

Cases processed in 30 days from receipt  
3 FTE in Department  
Grade 9 Position – additional responsibilities  
as liaison to Sup Ct and Mem Srv



### Attorney Voluntary Resignation – Without Charges Pending



### Additional Responsibilities

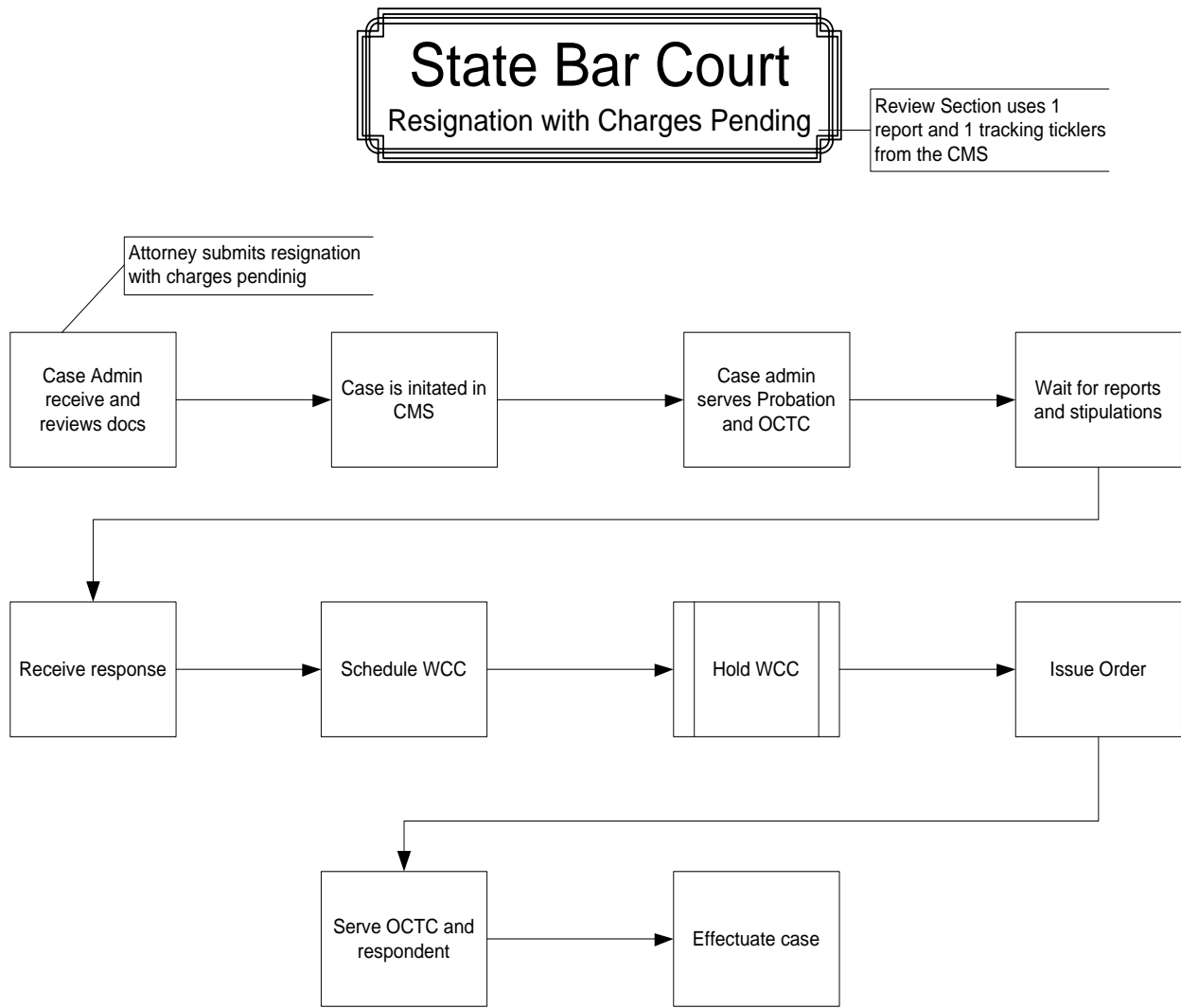
Research to correct errors in the record

Copy Requests

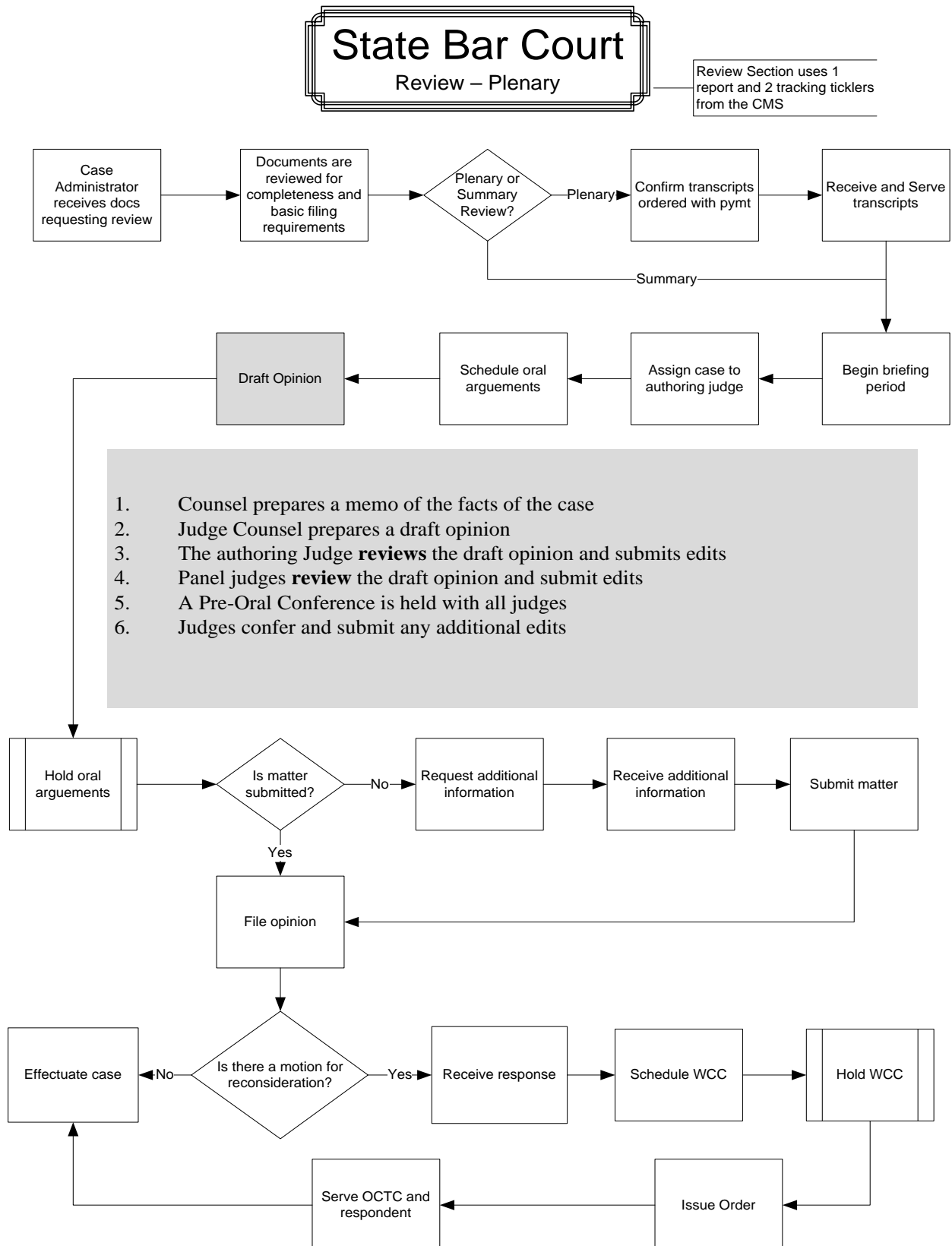
Transcript requests

Notification to ABA of ordered attorney discipline

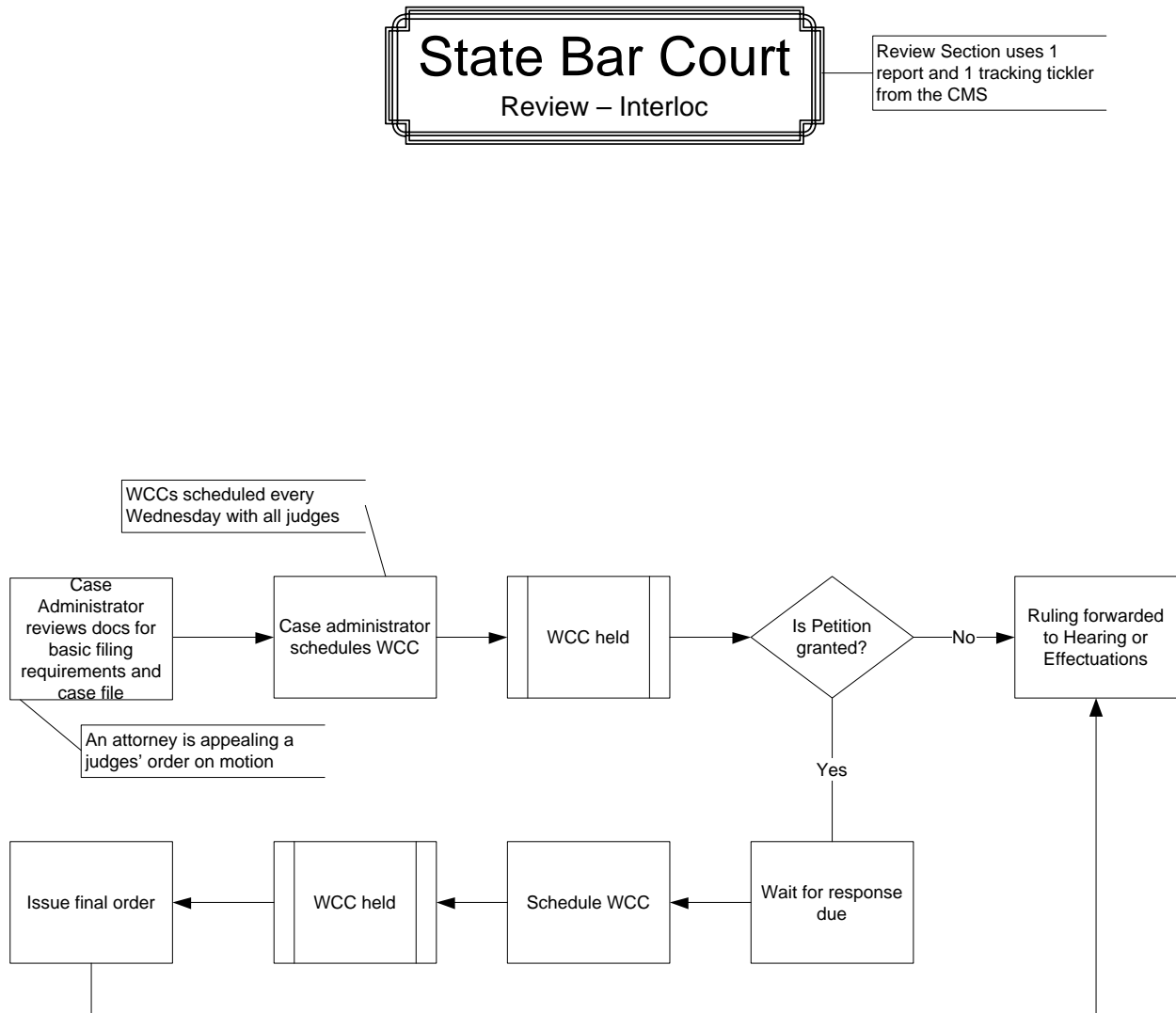
APPENDIX D  
WORKFLOWS



## APPENDIX D WORKFLOWS



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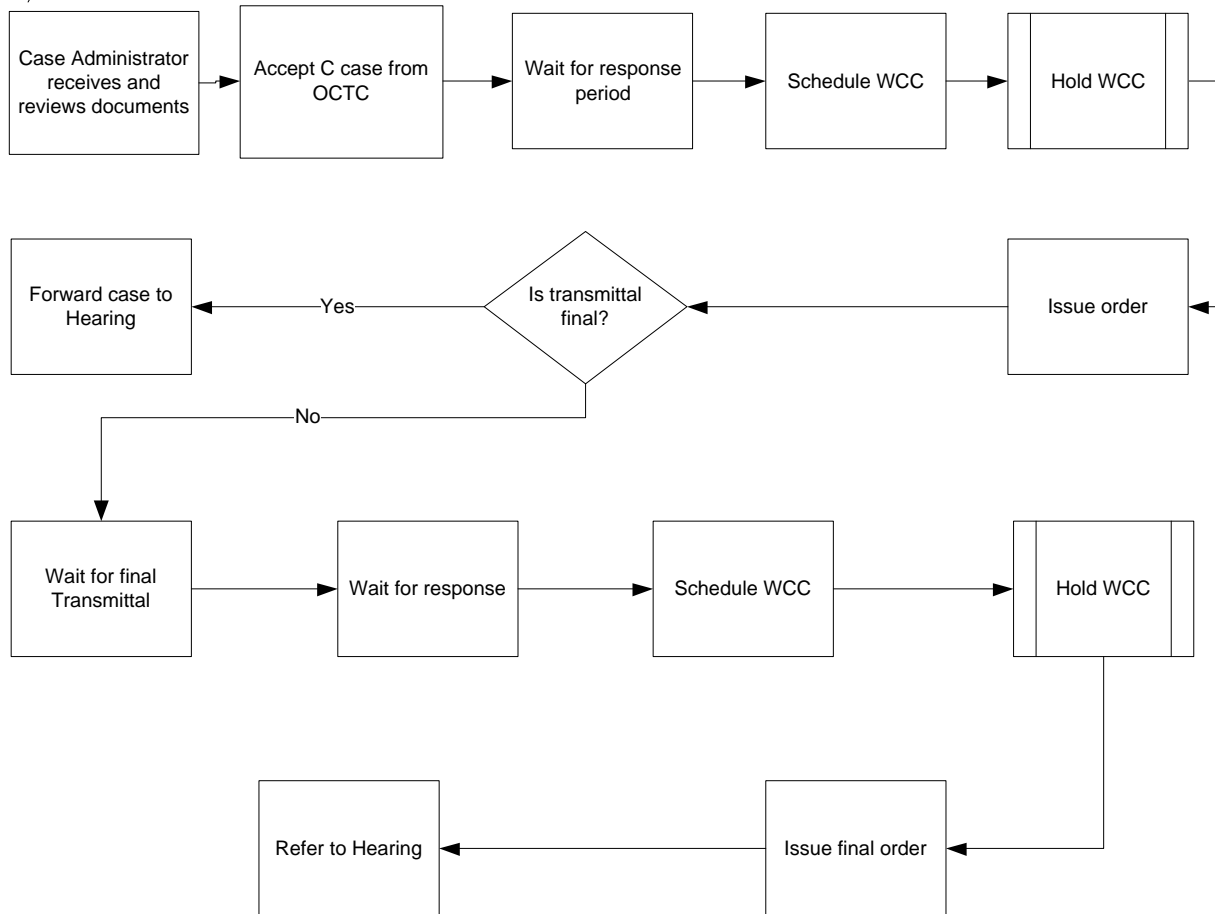
APPENDIX D  
WORKFLOWS

# State Bar Court

## Review – C cases

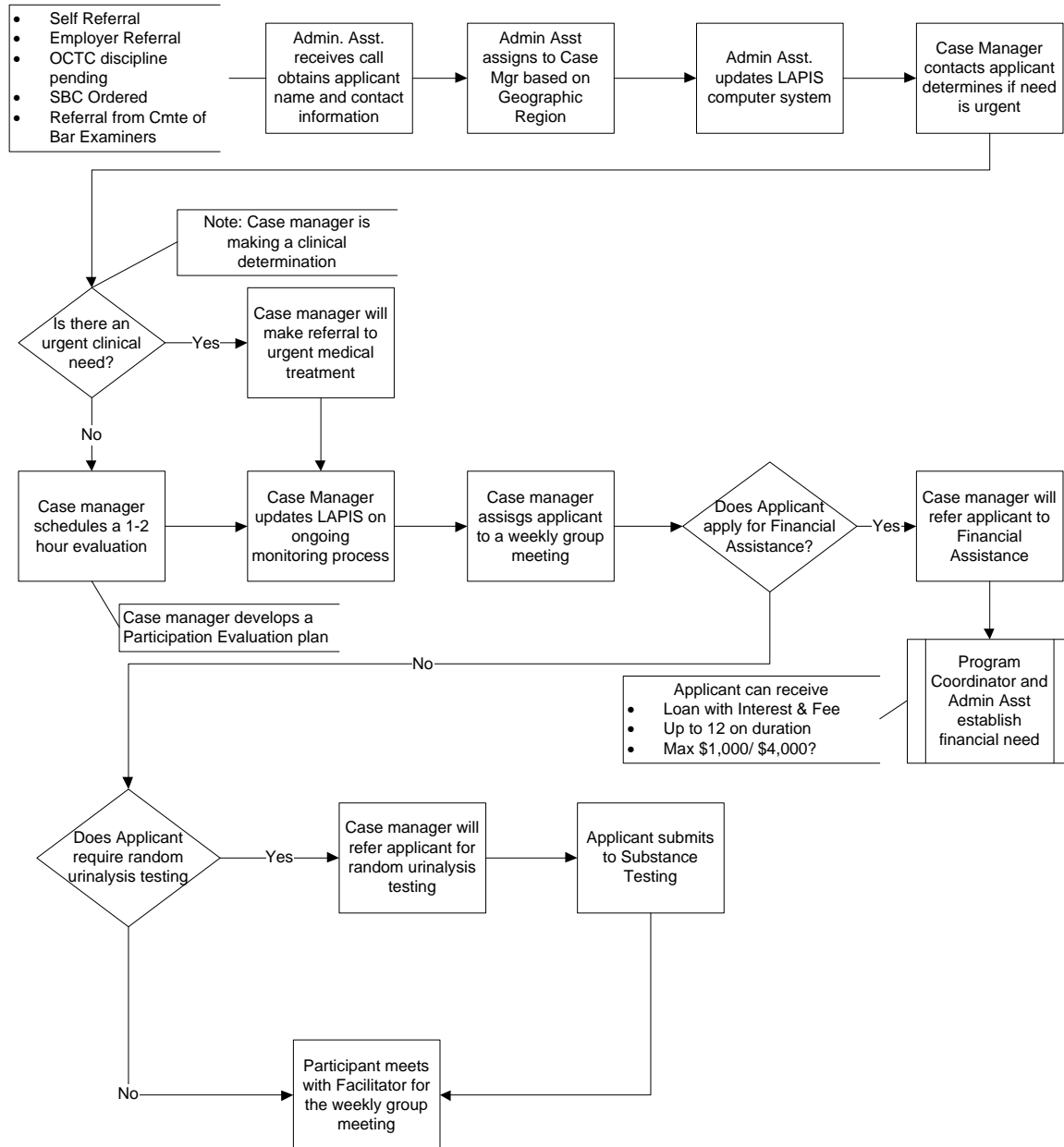
Review Section uses 1  
report and 1 tracking tickler  
from the CMS

Conviction referral comes  
directly from paralegal in  
Intake

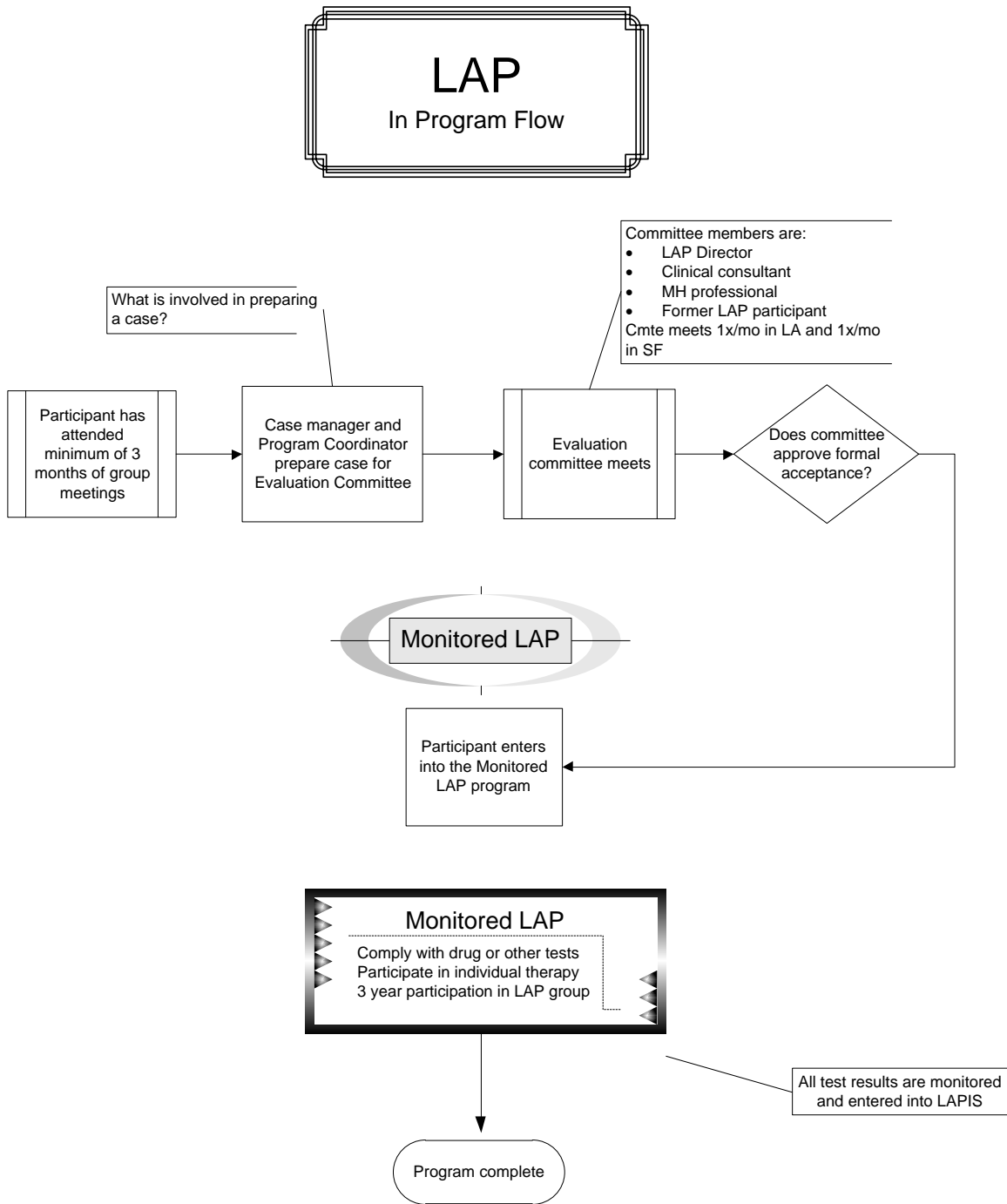


## APPENDIX D WORKFLOWS

### LAP Initial Referral Flow



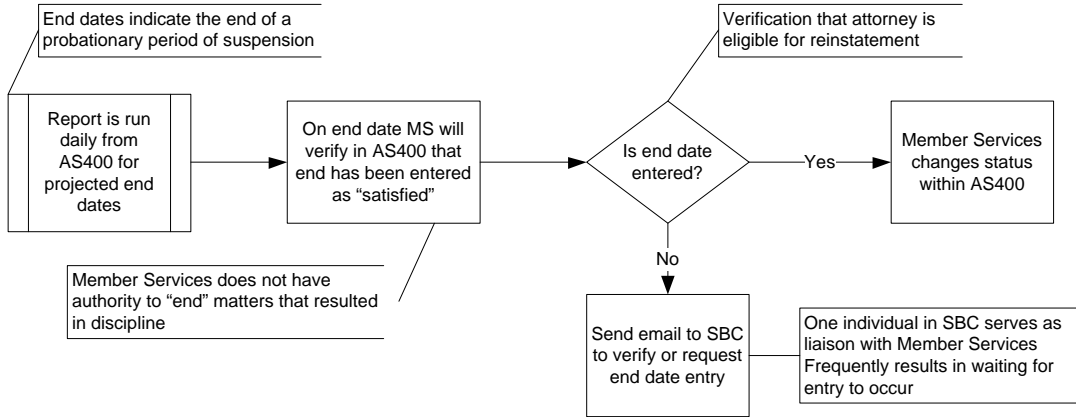
## APPENDIX D WORKFLOWS



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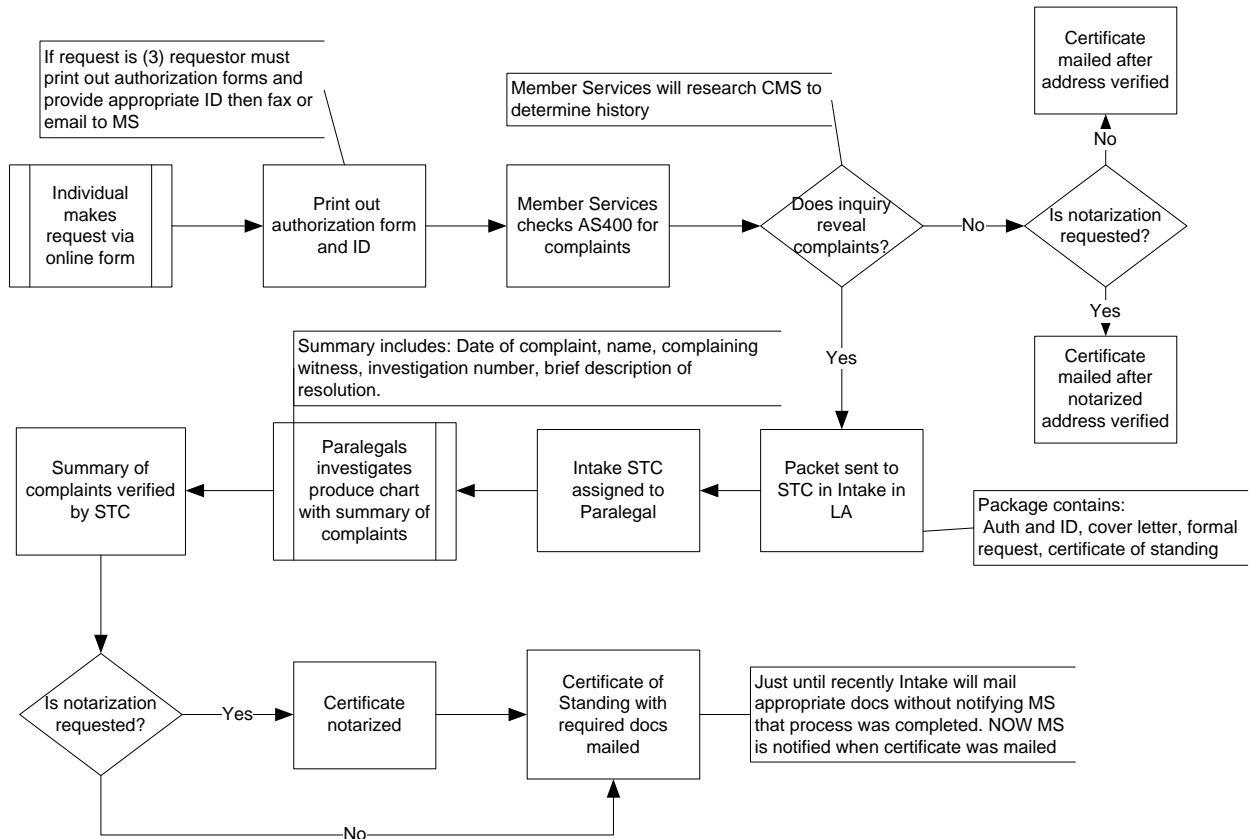
### Member Services Enforcement Intersects

#### Status Changes



#### Certificate of Standing

- 1) **Standard Certificate**
- 2) **Standard Certificate – notarized (foreign)**
- 3) **Certified Complaint Certificate** (includes additional confidential information)

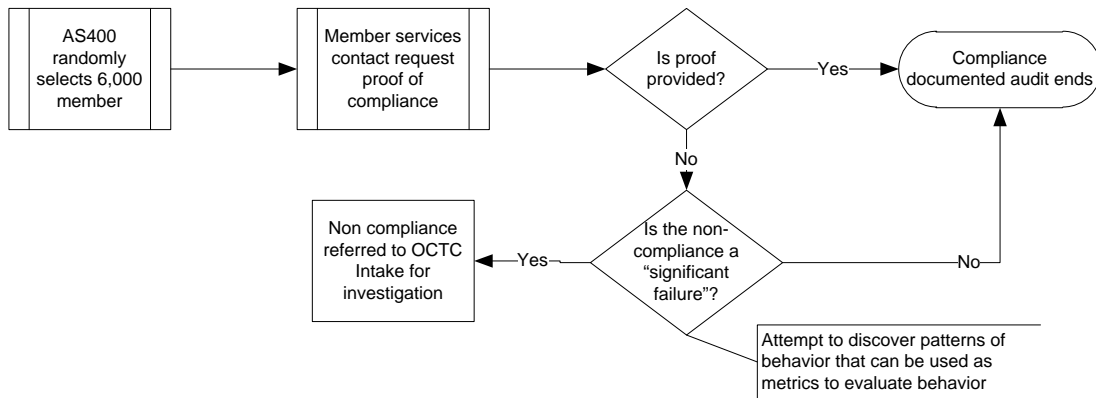


## APPENDIX D WORKFLOWS

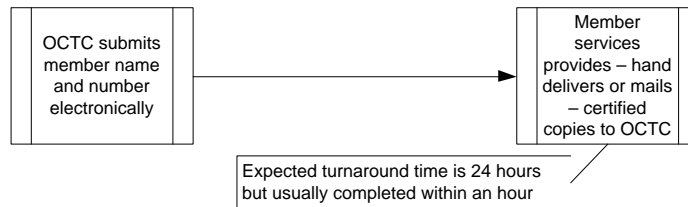
### Member Services Enforcement Intersects

#### MCLE Audit

Every year approximately 60,000 members, 1/3 of the active membership, are required to complete their MCLE requirements. Ten percent (6,000) of this total are audited to ensure compliance.



#### OCTC Member Records Request



## Client Security Fund

