

CAO Survey

EXECUTIVE SUMMARY

OREGON STATE BAR
Client Assistance Office

Survey for the Calendar Year 2004

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INTRODUCTION

The Oregon State Bar House of Delegates passed a resolution at its September 2001 meeting directing the Board of Governors to establish and supervise a comprehensive study of the bar's disciplinary system. Pursuant to that resolution, a task force of one judge, one member of the public and nine lawyers was appointed. Task force members represented different geographical areas, practice settings and practice areas.

The task force completed its study and prepared a written report dated July 15, 2002. The report was presented to the House of Delegates at its 2002 meeting. As a result of that study, the House of Delegates passed a resolution to establish what came to be the Client Assistance Office. Pursuant to this resolution, the Board of Governors promulgated new Bar Rules of Procedure to implement this directive. The rules were presented to the Oregon Supreme Court twice to discuss them and refine them. The Court adopted new Bar Rules of Procedure creating a Client Assistance Office (CAO) on July 9, 2003, effective August 1, 2003. See BR 2.5. Under this rule, the CAO is charged with reviewing all inquiries and complaints, oral and written, about the conduct of attorneys. (Attachment 1).

In the spring of 2005, the CAO began developing a survey intended to explore overall satisfaction with the operation and responsiveness of the CAO from the perspective of both lawyers and clients or third parties (hereinafter referred to as "contacts") who had contact with the CAO. Some thought was given to attempting to conduct a random survey of members and nonmembers who had any contact with the CAO. Ultimately, it was decided to take a random sample of only those who had provided the CAO with an address and most of those would be people who had written to the CAO or from lawyers who had been required to respond in writing to a written inquiry.

The final written survey was mailed July 29, 2005 to 296 individuals who had contacted the CAO in writing and 298 lawyers who had responded to the CAO in writing. The surveys were not identical as the objective was to seek different information from lawyers and members of the public. A total of 231 written responses were received by the return deadline of August 15, 2005. This summary is a compilation of the highlights of the survey results. The complete detailed data can be obtained from the CAO. The first section summarizes information and responses received from lawyers and the second section summarizes information and responses received from members of the public. CAO staff observations and comments are also included.

MEMBER RESPONSES

1) Question: How did you first learn of the CAO?

Key Results:

Correspondence from CAO	43%
Telephone call from CAO	24%
OSB Bar Bulletin	14%
Other	9%
Other Lawyer	5%
Attended CLE	4%
OSB Website	1%

Summary:

In assessing member awareness of the existence of the Client Assistance Office (CAO), more than half of the members responding to the survey were first made aware of the CAO when they were contacted by the CAO staff regarding an inquiry. The CAO staff is determined to increase member awareness prior to contact necessitated by a public inquiry. Currently, OSB Bar Bulletin articles informed 14% of the members, however, the CAO will continue to publicize its function at CLE seminars and will continue to explore other avenues to make members aware of the CAO and its charge.

2) Question: From what type of legal matter did the inquiry regarding your conduct arise?

Key Results:

Criminal law matters	31%
Other	21%
Domestic relations matters	14%
Civil litigation	10%
Personal injury	7%
Probate	5%
Workers' comp.	3%
Real estate	3%
Litigation	2%
Bankruptcy	2%
Conservator/Guardian	2%

Summary:

This coincides with statistics presented in the CAO's 2004 Annual Report in which the year-end statistics showed 26.24% of all matters investigated were criminal matters; 17.19% were domestic relations; and 6.78% were civil disputes.

3) Question: What was the nature of the inquiry about which you were contacted by CAO?

Key Results:

Other	23%
Dishonesty/misrepresentation	16%
Competency/neglect	16%
Communication issues	9%
Fee dispute	7%
Improper conduct by prosecutor	5%
Trial conduct	5%
Conflict of interest	4%
Withdrawal from representation	4%
Return of client file	3%
Allegations of criminal conduct	3%
Disclosing confidences/secrets	3%
Outside legal bounds	1%
Failure to provide accounting	1%

Summary:

The question regarding the nature of the inquiry could be interpreted more subjectively by members than other questions. For example, a contact might complain that their attorney initially provided a very optimistic assessment of the case and then closer to hearing, the attorney altered his/her assessment to offer a pessimistic evaluation. The attorney could perceive the contact as making accusations of "misrepresentation" as opposed to selecting the more general category of "communication issues." In addition, the "Other" category was often followed by comments very specifically stating the *lawyer's perception* that the contact's complaint stemmed from dissatisfaction with the outcome of their matter or with the legal process in general.

4) Question: By what means were you initially contacted by CAO?

Key Results:

<u>Mail</u>	<u>68%</u>
<u>Telephone</u>	<u>29%</u>
<u>Other</u>	<u>3%</u>

Summary:

As previously stated, all members surveyed had received a written inquiry concerning their conduct. However, the CAO contacted some members initially by telephone and subsequently followed up with them in writing. Not all of the surveyed members were asked to respond to the inquiry. Some simply received correspondence that served as notification of the inquiry and evidence of the CAO's dismissal of the matter.

5) Question: In your contact(s) with CAO, did you feel you were treated in a professional and courteous manner?

Key Results:

<u>Strongly agree/somewhat agree</u>	<u>91%</u>
<u>Disagree somewhat/strongly disagree</u>	<u>5%</u>
<u>Uncertain</u>	<u>4%</u>

Summary:

The vast majority of members felt the CAO staff treated them in a professional, courteous manner.

6) Question: In your contact(s) with CAO staff, did you feel the staff member was knowledgeable about the rules of professional conduct?

Key Results:

<u>Strongly agree/somewhat agree</u>	<u>89%</u>
<u>Disagree somewhat/strongly disagree</u>	<u>3%</u>
<u>Uncertain</u>	<u>8%</u>

Summary:

Again, the vast majority of members surveyed thought the CAO staff was knowledgeable about the rules. The CAO believes that to properly apply the Oregon RPCs, the staff needs to continue to expand their familiarity with the

details of specific areas of practice. One way the CAO accomplishes this is by inviting attorneys and judges to share their expertise and discuss common concerns with the CAO attorneys and staff. These interactive sessions have included, among other topics, probate, workers' compensation, domestic relations and bankruptcy. These sessions will continue periodically each year.

7) Question: Did you feel you were allowed a fair opportunity to present your account of the matter and respond to the comments of the complaining party?

Key Results:

<u>Strongly agree/somewhat agree</u>	<u>89%</u>
<u>Uncertain</u>	<u>11%</u>

Summary:

The majority of attorneys gave the CAO high marks for allowing them a fair opportunity to present their account of the matter and respond to comments of the complaining party. The 11% uncertainty could be attributable to members not understanding bar procedures. Without knowledge of the overall mechanics of the screening process, it is reasonable that a party may not have faith that the process was conducted in a standardized, consistent manner. Some comments suggested the CAO should provide a better explanation of procedures. These comments have been noted and support the above theory. Strategies are being developed to improve in this area.

8) Question: If applicable, did CAO staff adequately explain procedures and what to expect from the process?

Key Results:

<u>Strongly agree/somewhat agree</u>	<u>63%</u>
<u>Uncertain</u>	<u>10%</u>
<u>Strongly disagree/somewhat disagree</u>	<u>6%</u>
<u>Not applicable</u>	<u>21%</u>

Summary:

The combined percentages of those who were uncertain with those who disagreed that there was an adequate explanation (16%) is an indication that improvements should be made. The CAO is developing strategies to improve in this area.

9) Question: If your contact with CAO staff was by telephone, did you feel that the CAO staff assisted in resolving the situation?

Key Results:

<u>Strongly agree/somewhat agree</u>	<u>82%</u>
<u>Disagree somewhat</u>	<u>4%</u>
<u>Uncertain</u>	<u>14%</u>

Summary:

With regard to resolving the situation between the attorney and the contact, the vast majority of attorneys agreed that the CAO staff was of assistance in resolving the conflict.

10) Question: Did CAO staff handle the inquiry or complaint in a timely manner?

Key Results:

<u>Strongly agree/somewhat agree</u>	<u>86%</u>
<u>Disagree somewhat/strongly disagree</u>	<u>8%</u>
<u>Uncertain</u>	<u>6%</u>

Summary:

It is important to note that several members expressed extreme dissatisfaction with the timeliness of the process and in so doing provided sufficient detail that enabled staff to review their particular inquiry. In these matters, the CAO processed the matter within two weeks of receipt and the disposition was a referral to Disciplinary Counsel's Office (DCO) for further investigation. It became apparent that the attorneys did not understand the formal passing of the inquiry from the jurisdiction of the CAO to the jurisdiction of DCO. Their dissatisfaction with the timeliness of the process was with the entire process. There are significant differences in the processes, policies and timelines between the CAO and the DCO that are not obvious to parties outside the bar. It seems there is a lack of understanding that the CAO is simply the screening and initial investigative arm of the process, while the DCO is the more extensive investigative and prosecutorial arm of the process. Those particular surveys will be shared with DCO, and the CAO is taking steps to better explain the process to all involved.

11) Question: Were you satisfied overall with the CAO staff's handling of the inquiry or complaint?

Key Results:

<u>Strongly agree</u>	<u>72%</u>
<u>Somewhat agree</u>	<u>15%</u>
<u>Uncertain</u>	<u>6%</u>
<u>Disagree somewhat</u>	<u>4%</u>
<u>Strongly disagree</u>	<u>3%</u>

Summary:

Most lawyers expressed overall satisfaction with the process. Based on comments made and responses to other questions in the survey, those who expressed dissatisfaction were primarily concerned with dismissed complaints remaining on their record and the CAO staff having little "real world experience in the nitty gritty that makes up criminal/domestic" practice.

12) Question: Would you recommend CAO services to a client or colleague, if appropriate?

Key Results:

<u>Strongly agree/somewhat agree</u>	<u>79%</u>
<u>Disagree somewhat/strongly disagree</u>	<u>5%</u>
<u>Uncertain</u>	<u>16%</u>

Summary:

A high percentage of attorneys who responded to the survey would recommend the CAO's services to a client or a colleague, if appropriate. Many attorneys commented they felt the CAO sides with clients and not lawyers. This could account, in part, for the 16% that expressed uncertainty in response to this question. As will be noted later in this summary, many non-lawyer contacts similarly felt that the CAO sides with attorneys, rather than clients.

13) Question: Do you feel the CAO process is an improvement over the prior complaint process?

Key Results:

Strongly agree	48%
Somewhat agree	10%
Disagree somewhat/strongly disagree	1%
Uncertain	41%

Summary:

Supporting comments indicate that many respondents had no prior experience with the former complaint process.

NON-LAWYER CONTACT RESPONSES

1) Question: How did you find out about the bar as a resource?

Key Results:

Referrals	
<u>(1) Friend</u>	<u>10%</u>
<u>(2) Government Agency</u>	<u>9%</u>
<u>(3) Legal Aid Program</u>	<u>5%</u>
Learned of the OSB through lawyer's office	19%
<u>Internet</u>	<u>12%</u>
<u>The Yellow Pages</u>	<u>7%</u>
<u>Other</u>	<u>38%</u>

Summary:

The CAO is currently producing written materials to assist the public and members and is exploring new ways to make these materials more readily available. CAO lawyers are expanding their public outreach efforts, such as presentations to rotary clubs and other civic organizations to familiarize the public with the CAO.

2) Question: How did you learn of the CAO?

Key Results:

<u>Other</u>	<u>36%</u>
<u>OSB switchboard</u>	<u>27%</u>
<u>Letters by regular mail</u>	<u>13%</u>
<u>Internet</u>	<u>12%</u>
<u>Discovered CAO through lawyer's office</u>	<u>5%</u>
<u>Letters/fax/e-mail forwarded to CAO</u>	<u>3%</u>
<u>Came to the bar center</u>	<u>3%</u>
<u>OSB Referral and Information Service</u>	<u>1%</u>

Summary:

When non-lawyer contacts were asked how they learned about the Client Assistance Office, "other" was the highest percentage with 36% of respondents listing personal accounts such as "knew already" or "Civil Court." The CAO is in the final stages of developing brochures designed to communicate useful information to the public, such as tips for hiring a lawyer and a procedural overview of the CAO.

3) Question: Why did you call the bar? (Pick as many as applicable).

Key Results:

Complain about lawyer's conduct	23%
Complain about opposing party's lawyer	11%
Lawyer committed malpractice	10%
Lawyer not responsive/no communication	10%
Other	15%
Requested lawyer's complaint history	6%
Complained about a judge	6%
Lawyer would not return their file	6%
Needed to find a lawyer	5%
Lawyer refused to refund retainer; stole money	4%
Needed legal advice	2%
Fee dispute	1%
Unable to contact lawyer (deceased; left practice)	1%

Summary:

Some comments regarding this question described specific attorney conduct that may or may not have fit into the above categories. Some marked "Other" and made accusations of attorney theft for which we had provided a category. Others described bad or rude behavior, which was not one of the above choices. The other comments were specific in nature and therefore varied from one another too substantially to show a trend.

4) Question: In your initial contact with a CAO staff member, did you speak with an intake coordinator or a CAO staff lawyer? (IC = Intake Coordinator)

Key Results:

Unsure of who they spoke to (IC or lawyer)	51%
Indicated they spoke to an IC	17%
Felt the question did not apply to their situation	16%
Spoke to both IC and lawyer	9%
Spoke only to a CAO lawyer	7%

Summary:

Most contacts did not know whether their initial contact with the CAO was with a lawyer or a CAO intake coordinator. It is possible that some respondents could not specifically recall their first contact with the CAO, which could contribute to the high count for this response.

5) Question: In your initial contact(s) with a CAO staff member(s), how comfortable did you feel speaking with that person?

Key Results:

<u>Very/somewhat comfortable</u>	<u>45%</u>
<u>Somewhat/very uncomfortable</u>	<u>12%</u>
<u>Uncertain</u>	<u>24%</u>
<u>Not applicable</u>	<u>19%</u>

Summary:

Considering the catalyst for the contact with the CAO was likely a rather unpleasant, emotional or difficult situation, 45% is a positive response to the question. (See Non-Lawyer Contact Responses, Page 10, Question 3)

6) Question: In your contact(s) with CAO staff, were you treated with respect and in a courteous manner?

Key Results:

<u>Strongly/somewhat agree</u>	<u>66%</u>
<u>Somewhat/strongly disagree</u>	<u>21%</u>
<u>Uncertain</u>	<u>13%</u>

Summary:

Comments on this issue included an expressed desire on the part of contacts to have an opportunity to have direct contact with the CAO staff, a better understanding of the make up and qualifications of the CAO staff, and that CAO dismissal letters should offer a more detailed explanation for the dismissal. On the other hand, some comments provided were quite positive, such as calling the process fair, courteous and most helpful, and that the CAO was exceptional and provided excellent customer service.

7) Question: Did CAO staff respond to you in a timely manner?

Key Results:

<u>Agreed CAO responded timely</u>	<u>69%</u>
<u>Did not agree</u>	<u>19%</u>
<u>Uncertain</u>	<u>12%</u>

Summary:

A majority of those surveyed were satisfied with the timeliness of the CAO process. (See also Member Responses, Page 6, No. 10)

8) Question: In your contact(s) with CAO staff, did you feel the staff member was knowledgeable and provided you with helpful information?

Key Results:

<u>Agree/strongly agree</u>	<u>52%</u>
<u>Disagree/strongly disagree</u>	<u>29%</u>
<u>Uncertain</u>	<u>19%</u>

Summary:

Although the majority of responses were positive, there is clearly room for improvement. The first part of this question references “knowledge” and was addressed by Page 4, Question 6 in the member survey portion. The second part asks whether the contact was provided with helpful information. It is possible that there was little help the CAO could offer some people. The CAO is working on improving its links to outside resources and its ability to quickly provide that information to the public. However, some problems are simply so far outside the CAO’s jurisdiction that the CAO is unable to provide a realistic solution.

9) Question: By the time your contact with CAO staff was concluded, did you feel that CAO staff had attempted to understand your concerns?

Key Results:

<u>Agree/strongly agree</u>	<u>46%</u>
<u>Disagree/strongly disagree</u>	<u>43%</u>
<u>Uncertain</u>	<u>11%</u>

Summary:

Emphasizing to a non-lawyer contact that the CAO staff has read and understood all of their issues is important. The time/cost effectiveness of making written *acknowledgment* of each of a complainant's specific concerns—even *those concerns that appear to be peripheral, non-jurisdictional issues* (such as dissatisfaction with their treatment by prison guards or requests for information from agencies outside the bar)—is being discussed. The written acknowledgment included in the CAO attorney's response could be a helpful means of reassuring the complainant that they are being heard even if the office has no solution to their dilemma.

10) Question: Did you feel CAO staff cared about you and your concerns?

Key Results:

Agree/strongly agree	38%
Disagree/strongly disagree	46%
Uncertain	16%

Summary:

The respondents to this survey had contacted the CAO in writing. *The majority of the contacts with the public processed by the CAO are by telephone.* These calls are resolved through listening to the callers' problems, clarifying their options, offering referrals, sharing information and assisting the callers to a satisfactory resolution. Therefore, the CAO's primary successes are preventative in nature and no written complaint is ever received. The contacts in these instances have **not** been included in this survey.

The fact that the contacts surveyed have usually had no prior assistance from the CAO as described above, and have submitted written complaints as their first interaction with the CAO, is indicative of a pool of contacts who may have 1) reached the wrong venue for their issue, or 2) have found no satisfactory option short of filing a bar complaint. Frustrated contacts at this point in the process could be associating whether or not the CAO cared with whether or not their complaint was validated and the attorney sanctioned. In addition, written correspondence can be perceived as a cold, distancing method of addressing concerns. It is important to take into account the unique complexion of this survey pool when attempting to measure contact satisfaction and the sensitivity level of the CAO staff.

11) Question: If applicable, did CAO staff adequately explain procedures or alternatives to you or otherwise attempt to provide assistance to you?

Key Results:

<u>Agree/strongly agree</u>	<u>35%</u>
<u>Disagree/strongly disagree</u>	<u>40%</u>
<u>Not applicable</u>	<u>14%</u>
<u>Uncertain</u>	<u>11%</u>

Summary:

Improvement in the CAO's method of explaining procedures to members and the public as well as improvement in the CAO's ability to access and provide alternative resources to the public are issues topping CAO's agenda. "Not applicable" and "Uncertain" round out the remaining 25% of responses received.

12) Question: Did you feel you were allowed a fair opportunity to present your concerns and respond to the comments of the lawyer?

Key Results:

<u>Agree/strongly agree</u>	<u>51%</u>
<u>Disagree/strongly disagree</u>	<u>41%</u>
<u>Uncertain</u>	<u>8%</u>

Summary:

Without knowledge of the overall mechanics of the screening process, it is reasonable that a party may not have faith that the process was conducted in a fair and consistent manner. Comments suggesting the CAO should provide a better explanation of procedures have been noted and strategies are being developed to improve in this area.

13) Question: Are you satisfied with the service you received from CAO staff?

Key Results:

<u>Agree/strongly agree</u>	<u>38%</u>
<u>Disagree/strongly disagree</u>	<u>53%</u>
<u>Uncertain</u>	<u>9%</u>

Summary:

Unfortunately, asking people if they were satisfied with the service they received was a loaded question. If a person's complaint was dismissed, it is highly likely they indicated they were not satisfied. In 2004, the CAO found credible evidence of an allegation of unethical conduct in only 11.89% percent of all inquiries received. The remaining inquiries were either dismissed or referred to alternate resources. As mentioned earlier, it is not unreasonable to suggest a strong correlation between satisfaction and results. If the bar did something for a contact, they were likely satisfied. If their complaint was dismissed, they were likely dissatisfied.

14) Question: Would you recommend CAO services to a friend or colleague, if appropriate?

Key Results:

<u>Agree/strongly agree</u>	<u>43%</u>
<u>Disagree/strongly disagree</u>	<u>39%</u>
<u>Uncertain</u>	<u>18%</u>

Summary:

Similar to the attorneys who indicated they believed the CAO was "a service to clients," many contacts commented they perceived the CAO as "aligned with attorneys." A contact perceiving the CAO as biased in favor of attorneys is bound to be reluctant to say they would recommend the services of the CAO.

Attachment I

Rules of Procedure

January 1, 2005

Rule 2.5 Intake and Review of Inquiries and Complaints by Client Assistance Office.

(a) Client Assistance Office. The Bar shall establish a client assistance office, separate from that of Disciplinary Counsel, that shall receive and review all inquiries and complaints, oral and written, about the conduct of attorneys.

(1) If an inquiry or complaint, either on its face or after investigation by the client assistance office, does not raise an actual complaint of misconduct, the client assistance office will retain the inquiry or complaint and attempt to resolve for the person making the inquiry or complaint the concerns expressed therein, to the extent possible and as resources permit. A decision by the client assistance office that an inquiry or complaint does not raise an actual complaint of misconduct may be appealed to General Counsel. The decision of General Counsel is final.

(2) If an inquiry or complaint does raise an actual complaint of misconduct, it shall be considered a disciplinary complaint and the client assistance office shall refer the matter to Disciplinary Counsel.

(b) Actual Complaint of Misconduct Defined. An actual complaint of misconduct exists when the client assistance office determines that there is credible evidence to support an allegation that misconduct has occurred.

(Rule 2.5 amended by Order dated January 17, 1992.)

(Rule 2.5(g) amended by Order dated October 10, 1994.)

(Rule 2.5(c), (f), (g), and (h) amended by Order dated June 5, 1997, effective July 1, 1997.)

(Rule 2.5(a), (b), (c), (d), (f), (h) and (i) amended by Order dated February 5, 2001.)

(Rule 2.5(a) and (b) added and former Rule 2.5(b) through (i) renumbered 2.6 by Order dated July 9, 2003, effective August 1, 2003.)



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