



# The State Bar of California

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## **OPEN SESSION**

### **AGENDA ITEM**

**MAY 2020**

### **REGULATION AND DISCIPLINE COMMITTEE III.E**

**DATE:** May 12, 2020

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

**FROM:** Lisa Chavez, Director, Office of Research and Institutional Accountability

**SUBJECT:** Review of Metrics under Purview of the RAD Committee and Discipline System Statistical Report

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### **REGULATION AND DISCIPLINE METRICS PERFORMANCE**

The 2020 Quarterly Metrics Report has been submitted to the Board of Trustees as an attachment to the Executive Director's May 2020 report. The metrics report focuses on Q1 2020. However, results for metrics associated with offices related to the discipline system (Client Security Fund, Lawyer Assistance Program, Office of Chief Trial Counsel, Probation, and State Bar Court) are also reported for 2019. These were not reported in the March 2020 Metrics Report while data was being finalized due to overlap with the publication of the 2019 Annual Discipline Report.

Below is a discussion of metrics under the purview of the Regulation and Discipline Committee where performance targets were not met.

#### **Metric OCTC-3, Maintain annual caseload clearance rate of 1.0 or higher**

Target 1.0; December 2019 and January 2020 performance, .96 and .98 respectively.

These annual caseload clearance rates both reflect the significantly lower than average February 2019 monthly clearance rate that was the result of the transition to the new case management system, Odyssey. In contrast, February and March 2020 annual caseload clearance rates do not include February 2019. Office of Chief Trial Counsel recently implemented quarterly case processing goals to remove the focus from year-end processing. These goals as well as a decline in complaints received have led to consistent

monthly case clearance rates over 100 percent since August 2019. February and March annual caseload clearance rates also reflect this progress.

**Metric SBC-1, Maintain annual caseload clearance rate of 1.0 or higher**

Target 1.0; February and March 2020 performance, .94 and .93 respectively.

Staff has reviewed the cases that resulted in this metric’s performance target not being met and determined that case processing delays were caused by factors outside of the State Bar Court’s control.

**Metric SBC-2A, Hearing Department: 90 percent of cases reach final outcome within timelines**

Target 90 percent; December 2019, January and February 2020 performance, 78, 88, and 83 percent respectively.

**Metric SBC-2B, Hearing Department: All cases reach final outcome within 150 percent of timelines**

Target 100 percent; December 2019, January and February 2020 performance, 93, 97, and 94 percent respectively.

State Bar Court staff has reviewed the cases that resulted in these metrics’ performance targets not being met and determined that case processing delays were caused by factors outside of the State Bar Court’s control. For example, two of most common factors contributing to case delay are the default process and consolidation of a newer case with an older case.

**DISCIPLINE SYSTEM STATISTICAL REPORT**

The Discipline System Statistical Report (DSSR) contains 13 months of data (where applicable) for all metrics reported for offices within the Regulation and Discipline (RAD) Committee’s purview as well as additional analyses that describe important components of the discipline system.

**ATTACHMENT(S) LIST**

- A. Discipline System Statistical Report: May 2020



# The State Bar *of California*

## **Discipline System Statistical Report**

**Prepared by the Office of Research and Institutional Accountability  
May 2020**

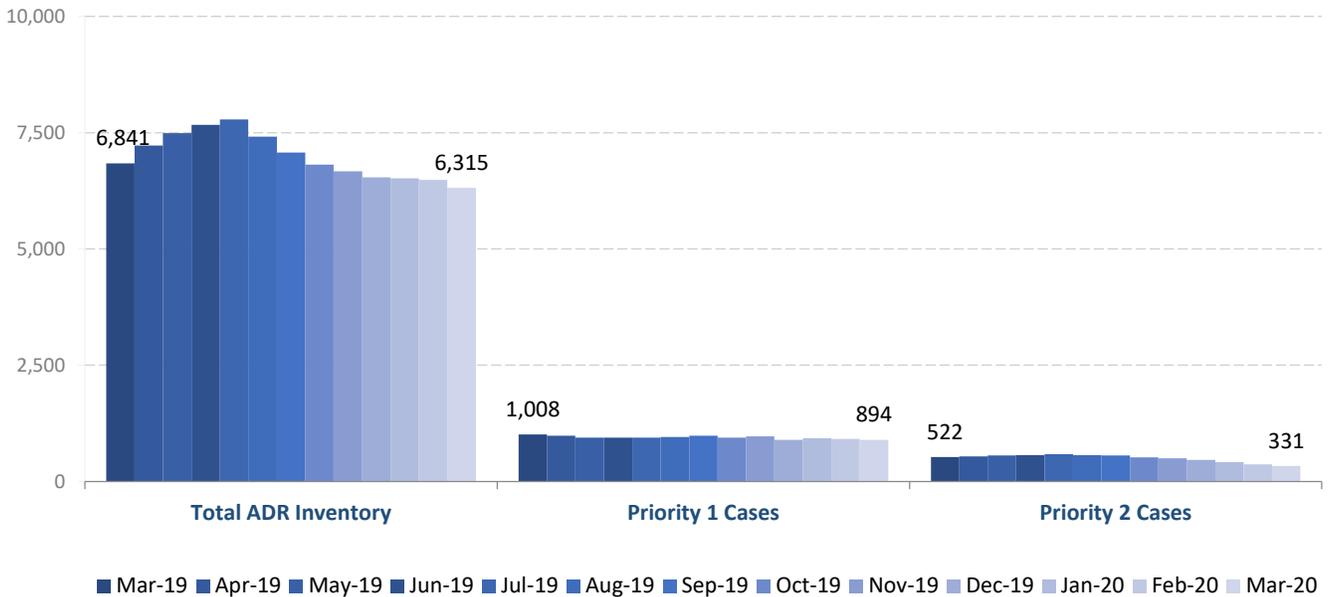
# Office of Chief Trial Counsel

## OCTC Inventory by Stage



Note: This chart lists all cases in the OCTC inventory based on the last day of each month.

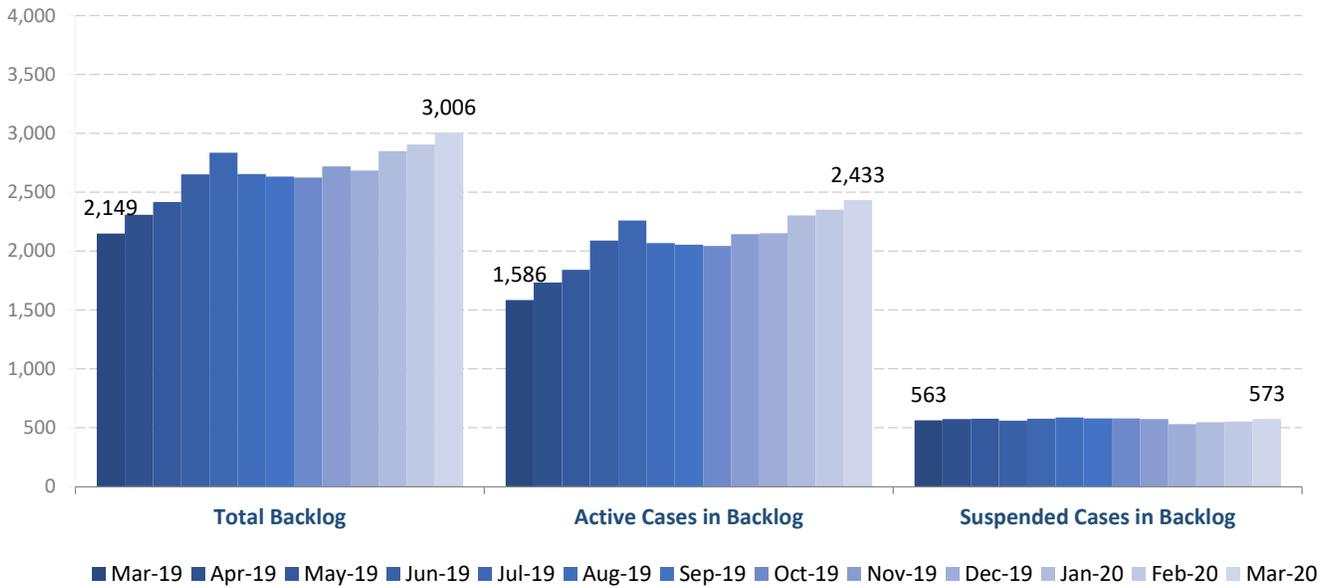
## ADR Inventory: Total, Priority 1 (P1) Cases, Priority 2 (P2) Cases



Note: This chart describes cases that are reported in the Annual Discipline Report (ADR). These cases involve Other Jurisdiction matters (J) that are self-reported, Original (O), Probation Referrals (OPB), Reportable Action matters that do not originate from a third party, opposing counsel and the media, Rule 1-110 violations (H), State Bar Court Orders (OSB) and Rule 9.20 violations (N). Priority 1 (P1) cases are those that present significant, ongoing, or serious potential harm to the public. Priority 2 (P2) includes cases that upon initial review do not appear to present significant, ongoing, or serious potential harm but need an expedited assessment to determine whether they do. If a P2 case is determined to pose serious harm to the public, it is reclassified as P1. Cases that remain in the P2 category are handled by Expeditor attorneys and investigators who seek to resolve the cases quickly and with fewer resources than P1 cases require.

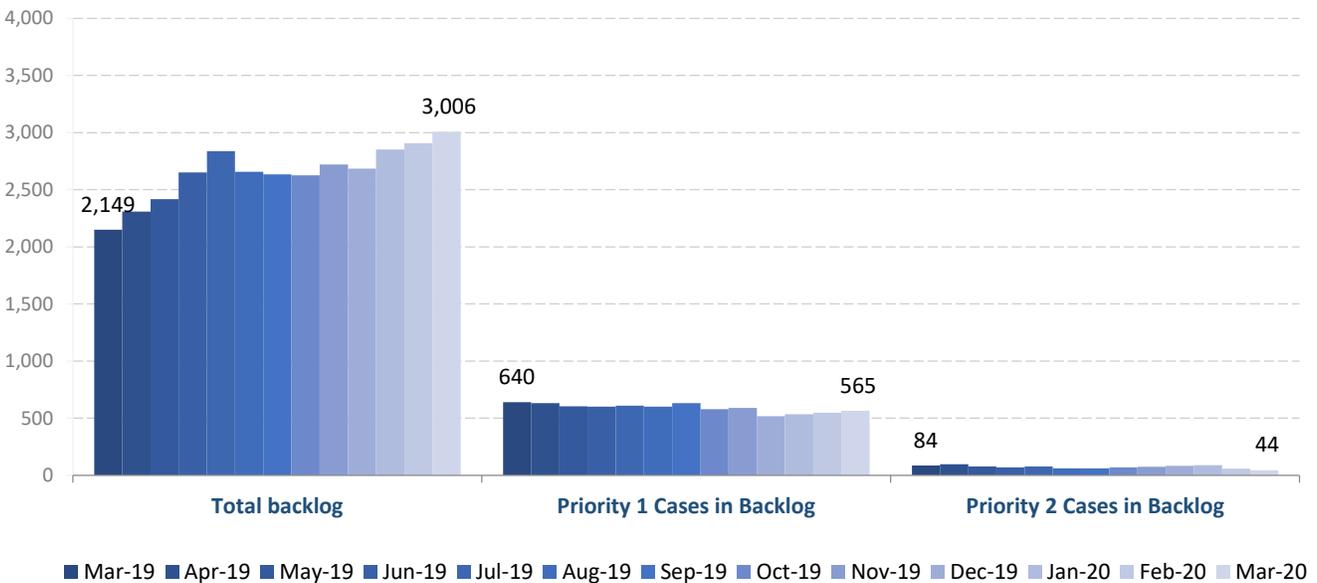
# Office of Chief Trial Counsel

## Backlog: Total, Active, and Suspended Cases



Note: This chart is based on ADR cases as described above. Backlog is defined as cases in inventory over 180 days at month's end. Suspended cases in backlog are those that have been suspended for a variety of reasons. Examples include: attorney is the subject of a current prosecution or is on inactive status awaiting disbarment. Placing cases in suspension status, especially those where an attorney faces multiple complaints and one of which is expected to lead to disbarment, allows OCTC to focus its resources. A small number of backlog cases in active intake are not shown here.

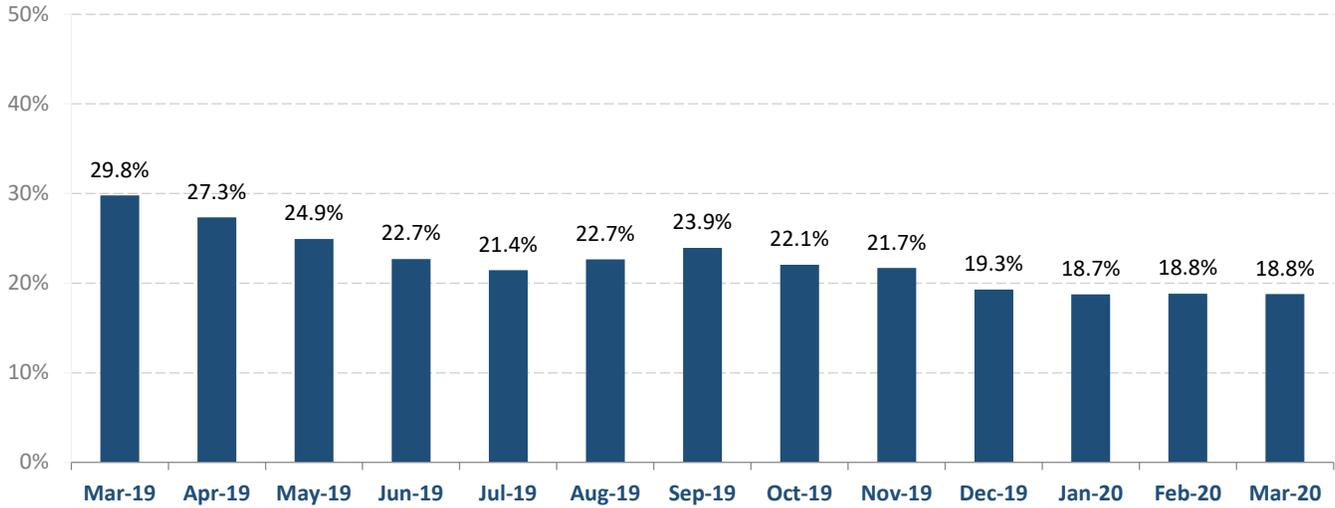
## Backlog: Total, Priority 1 (P1) Cases, and Priority 2 (P2) Cases



Note: This chart is based on ADR cases as described above. Backlog is defined as cases in inventory over 180 days at month's end. See above for descriptions of Priority 1 and Priority 2 cases.

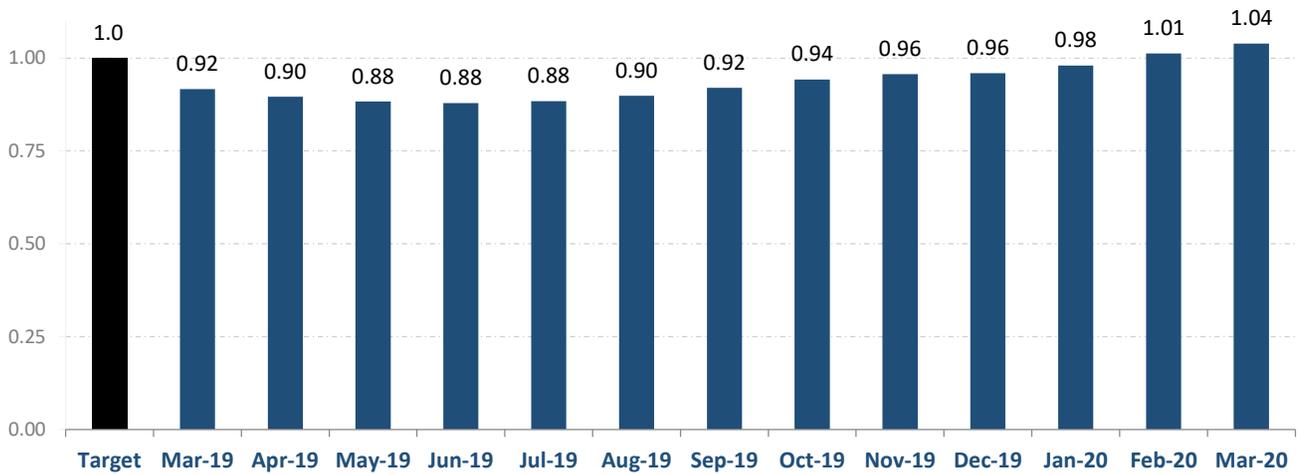
# Office of Chief Trial Counsel

## Backlog: Percent of Backlog Cases that are Priority 1 (P1) Cases



Note: This chart is based on ADR cases as described above. Metric OCTC-1, *Minimize number of P-1 cases in backlog*

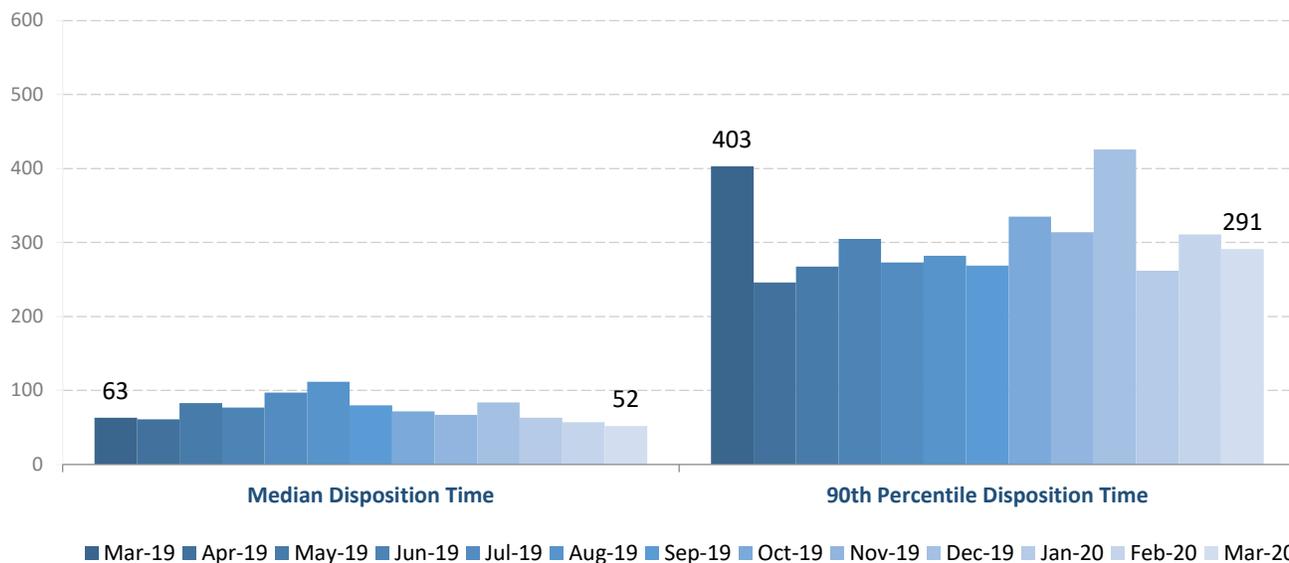
## Annual Caseload Clearance Rate



Note: Annual caseload clearance rates are calculated using a 12 month rolling average of monthly caseload clearance rates (ratio of cases closed to cases opened in a month). Metric OCTC-3, *Maintain annual caseload clearance rate of at least 1.0*

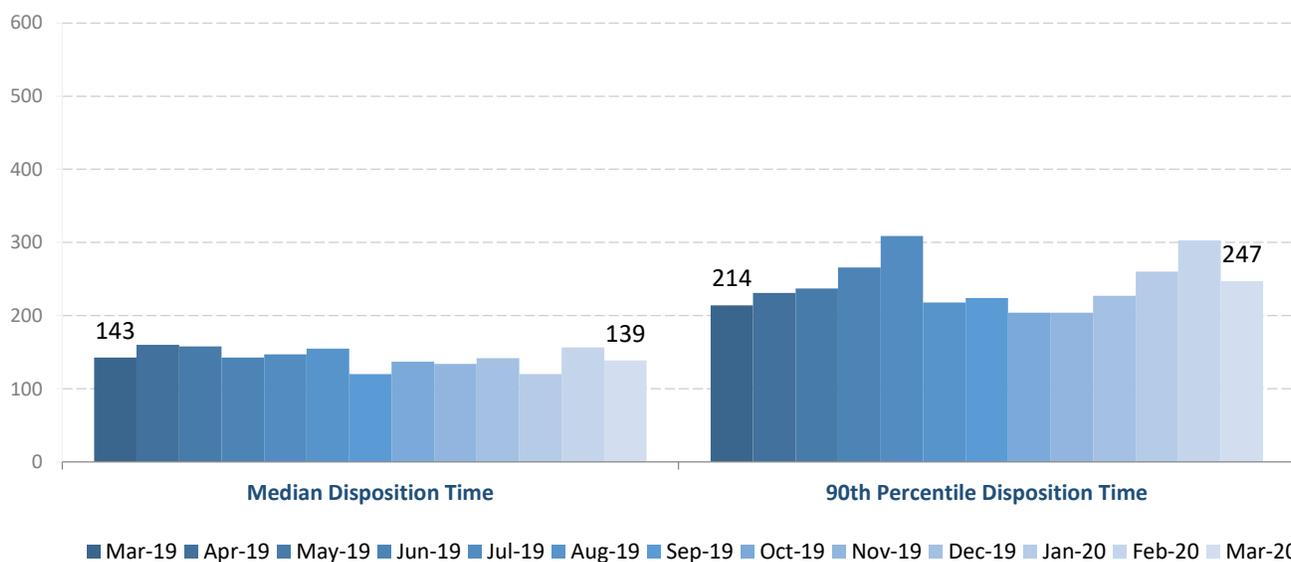
# Office of Chief Trial Counsel

## Case Disposition Times



Note: This chart is based on ADR cases as described above. Disposition times are calculated as days between case origination and closure. Metrics OCTC-4A & OCTC-4B, Case disposition times (median and 90th percentile)

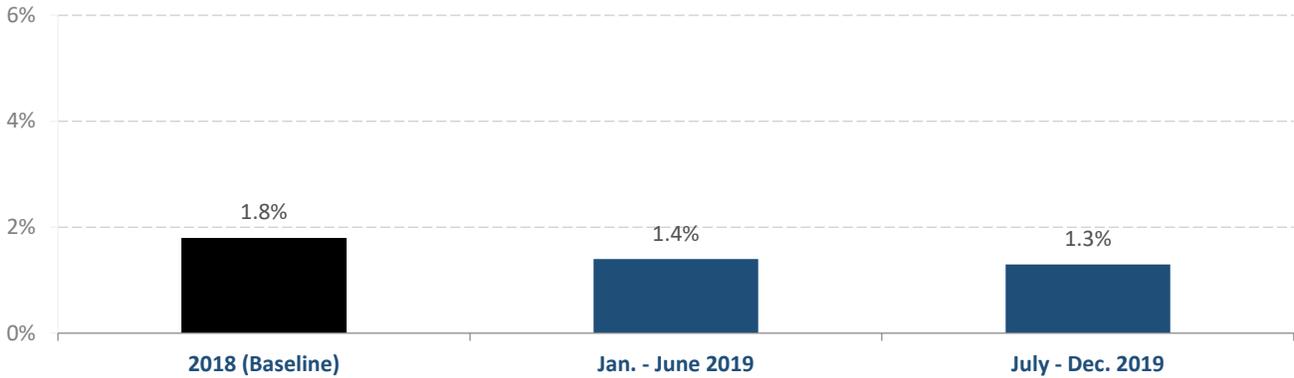
## Case Disposition Times: Priority Two (P2) Cases



Note: This chart is based on ADR cases as described above. Disposition time is calculated as days between case origination and closure. Age at disposition for P2 cases includes time spent before assignment to P2 as well as time spent before the creation of the prioritization system. P2 cases may be initially assigned a P4 priority code where there is a lack of resources to handle P2 cases.

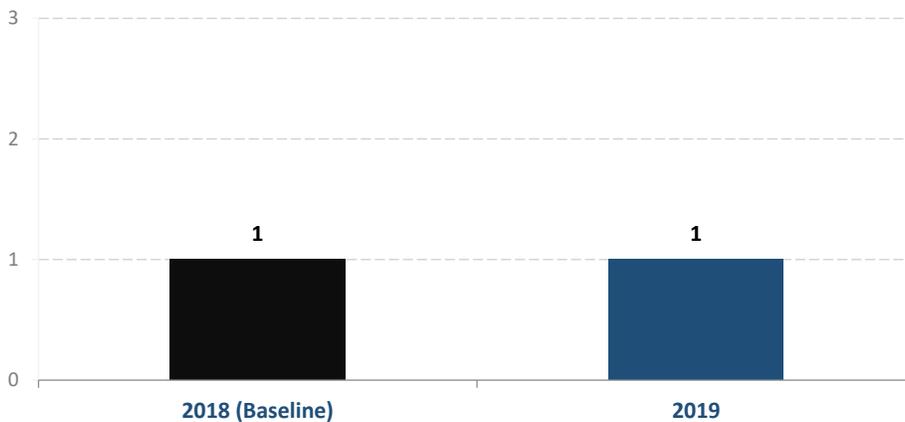
# Office of Chief Trial Counsel

## Percent of Complaint Review Unit Reopens for Reasons Other than New Evidence



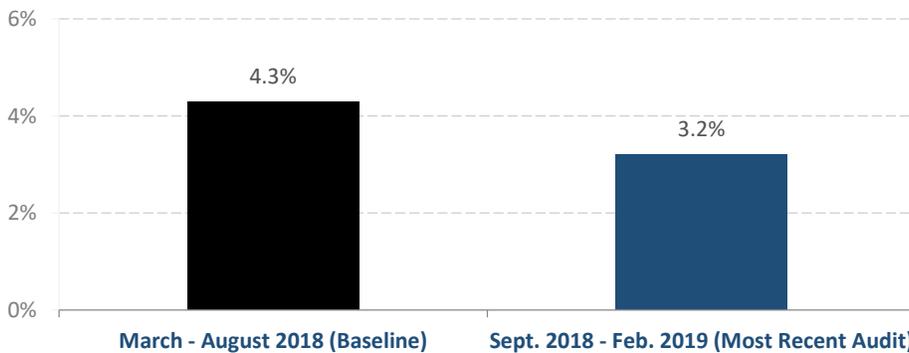
Note: Metric OCTC-5A, Maintain current level of CRU reopens for reasons other than new evidence

## Number of Walker Reopens



Note: Metric OCTC-5B, Maintain current level of Walker reopens

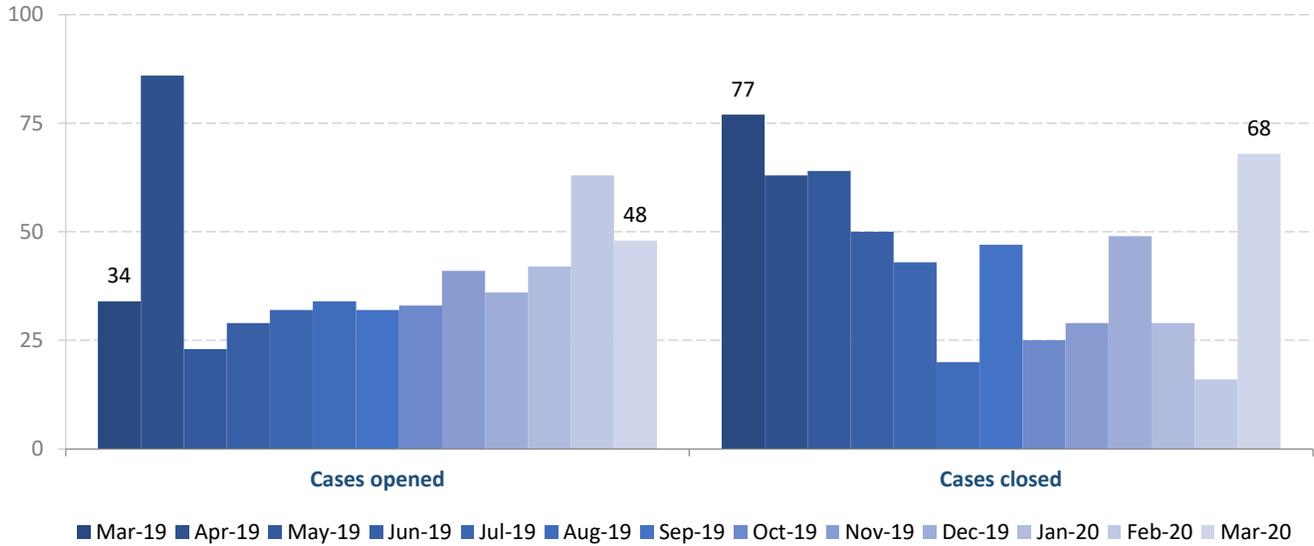
## Percent of Random Audit Reopens for Substantive Reason



Note: Per Policy Directive 2006-02, up to 250 closed OCTC case files are randomly selected twice a year for an audit. The files are audited to ensure that cases are closed, investigated, and/or prosecuted appropriately. Metric OCTC-5C, Decrease the number of random audit reopens for substantive reasons

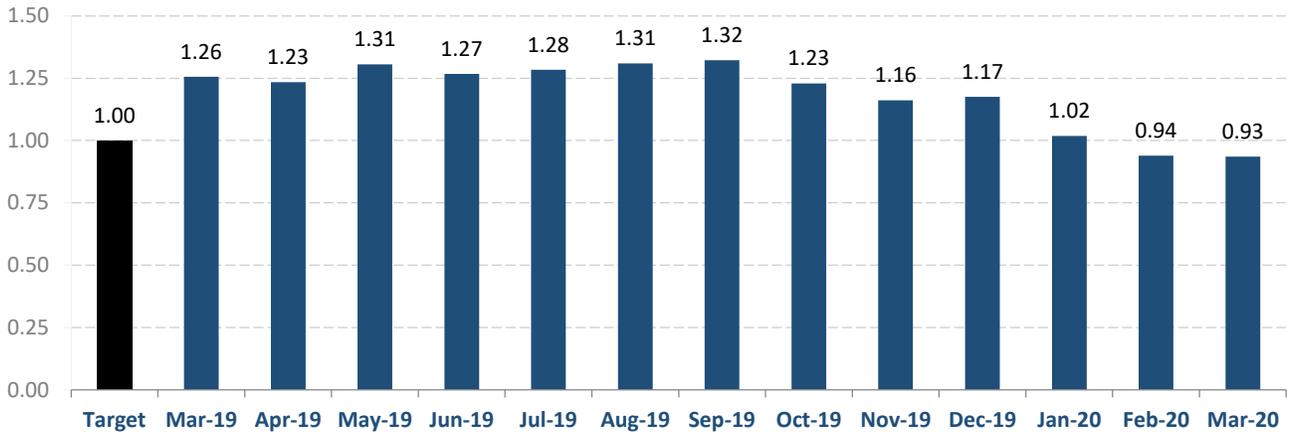
# State Bar Court

## Cases Opened and Closed



Note: Cases that do not go further than Review-Finality are not included.

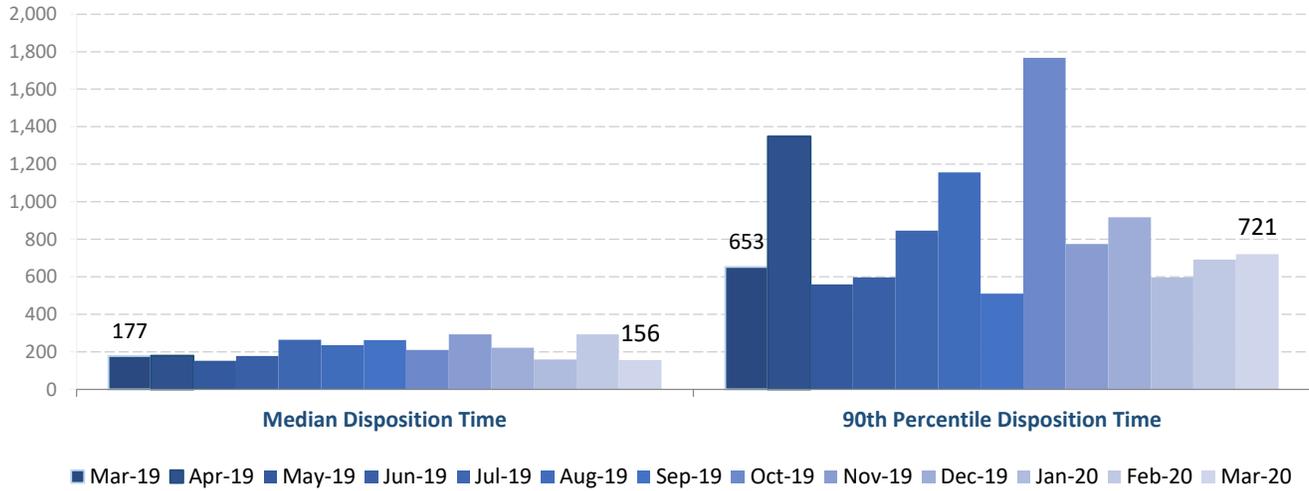
## Annual Caseload Clearance Rate



Note: Annual caseload clearance rates are calculated using a 12 month rolling average of monthly caseload clearance rates (ratio of cases closed to cases opened in a month). Metric SBC-1, Maintain annual caseload clearance rate of at least 1.0

# State Bar Court

## Disposition Times



Note: Disposition time is calculated as days between case origination and closure, with time spent in Supreme Court not included. Metrics SBC-3A, SBC-3B, Case disposition times (median and 90th percentile)

## Appeals

Jan.–June 2019  
(Baseline)

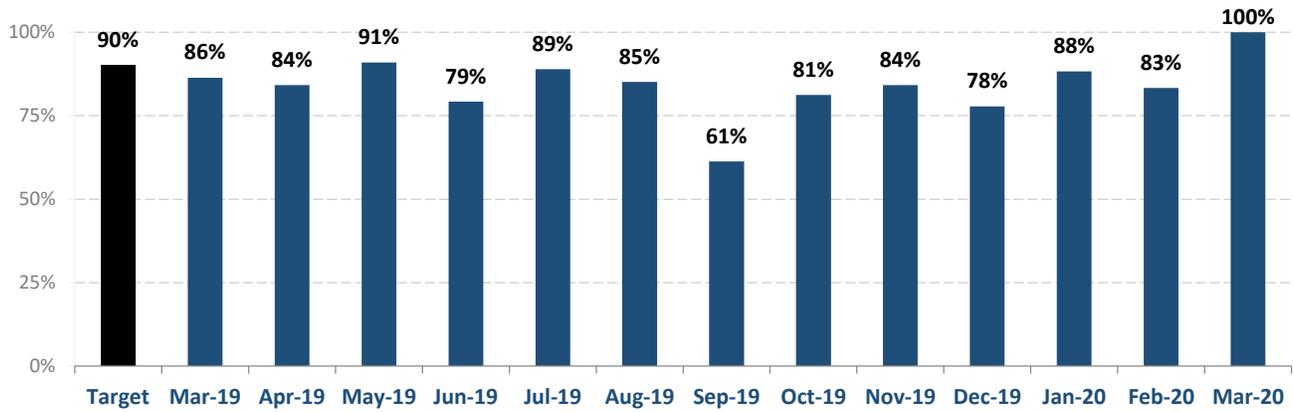
July–Dec. 2019

<b>Petitions seeking review:</b>	7	6
<b>Petitions granted:</b>	1	0
<b>Petitions denied:</b>	6	4
<b>Remands:</b>	1	0

Note: Metrics' SBC-4A, 4B, 4C, 4D, Maintain current levels of reversals and remands

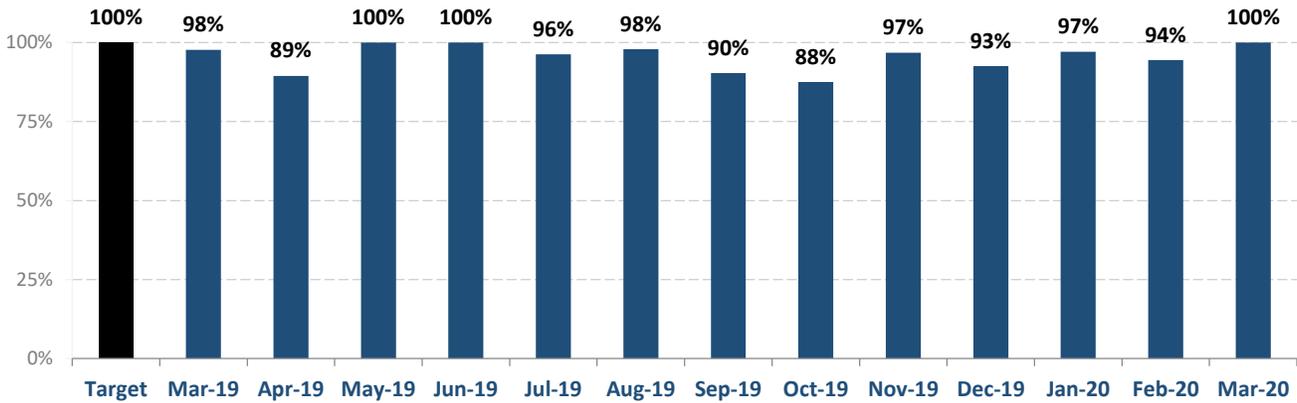
# State Bar Court

## Hearing Department: Percent of Cases that Closed within Timeline Requirements



Note: Metric SBC2-A, 90% of hearing department cases reach final outcome within timelines

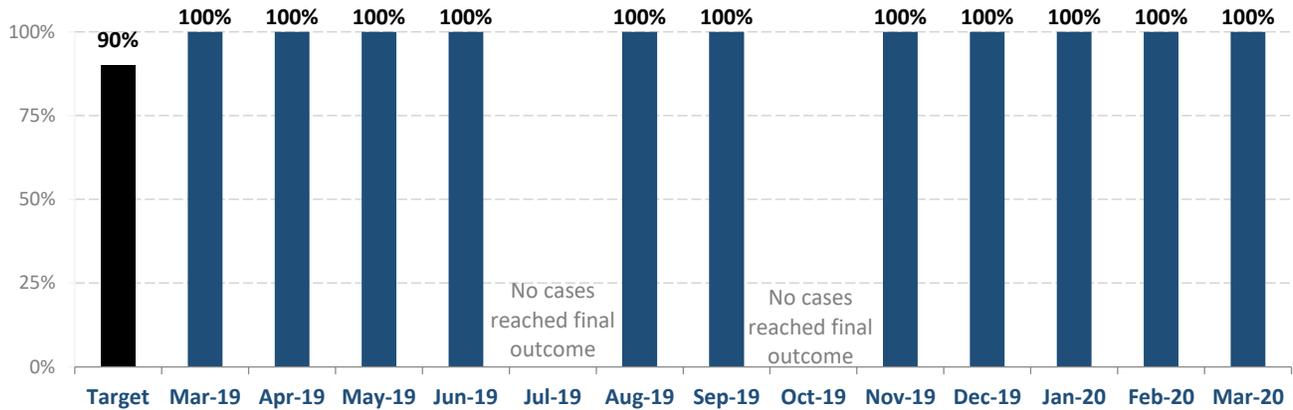
## Hearing Department: Percent of Cases that Closed within 150% of Timeline Requirements



Note: Metric SBC2-B, All hearing department cases reach final outcome within 150% of timelines

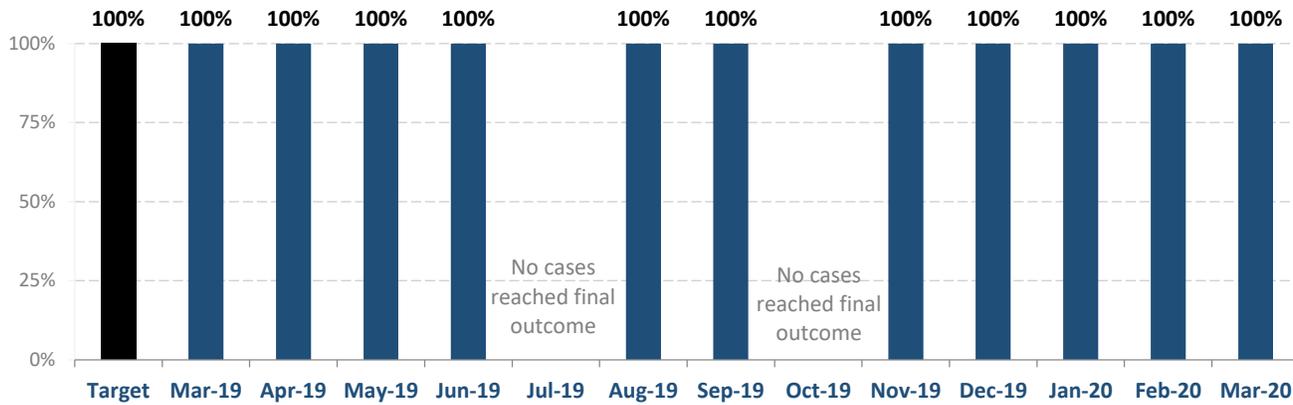
# State Bar Court

## Review Department: Percent of Cases that Closed within Timeline Requirements



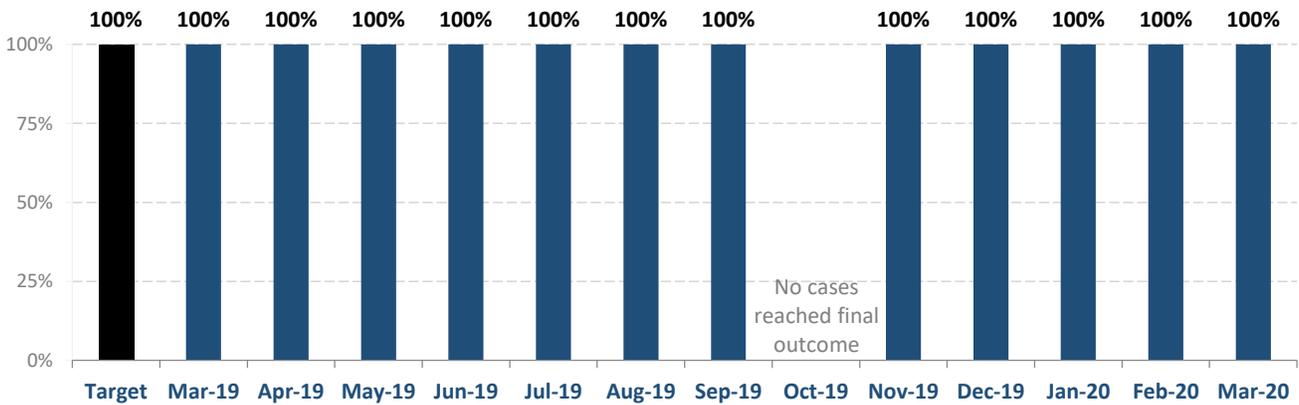
Note: Metric SBC-2C, 90% of review department cases reach final outcome within timelines

## Review Department: Percent of Cases that Closed Within 150% of Timeline Requirements



Note: Metric SBC-2D, All review department cases reach final outcome within 150% of timelines

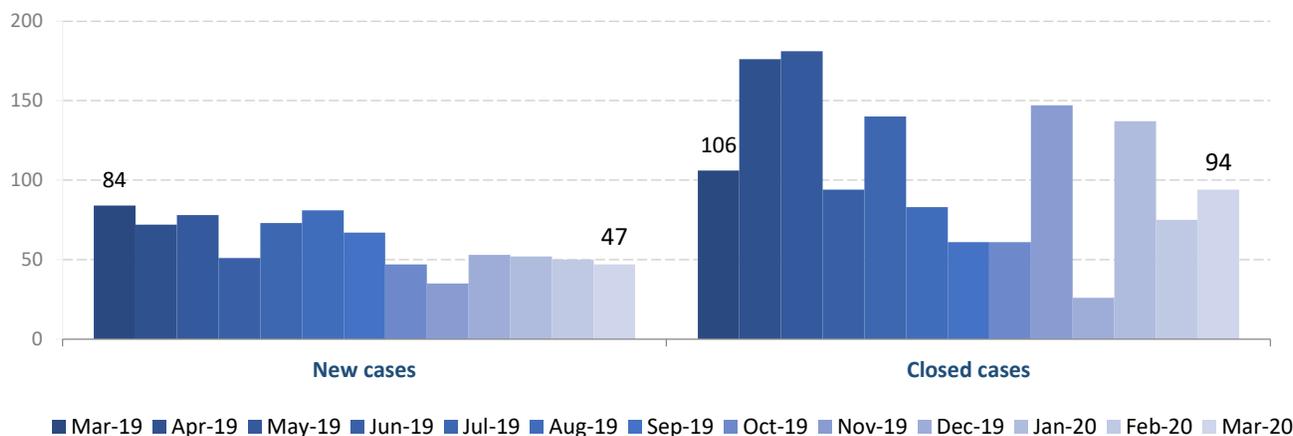
## Effectuations: Percent of Cases Processed within Established Timeframes



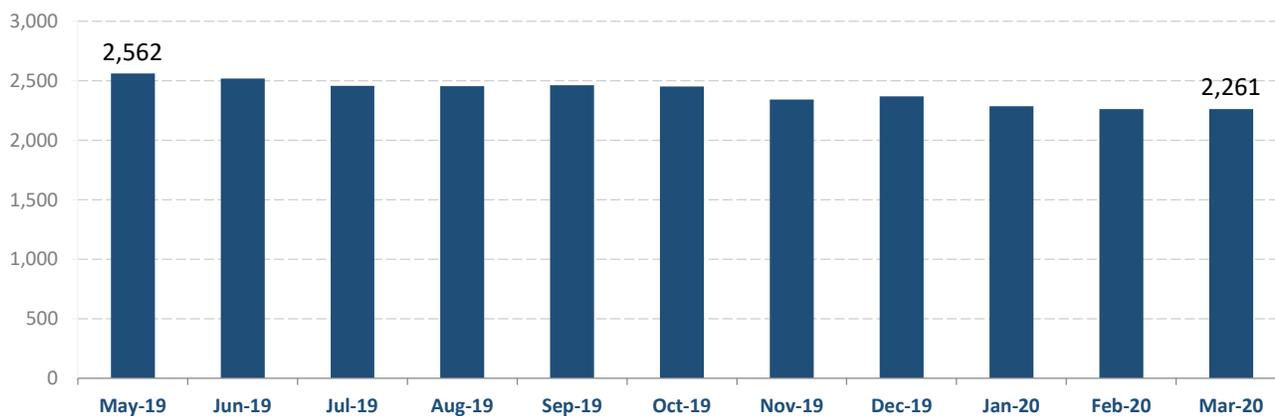
Note: Metric SBC-2E, 100% of effectuations processed within established timeframes

# Client Security Fund

## New and Closed Cases

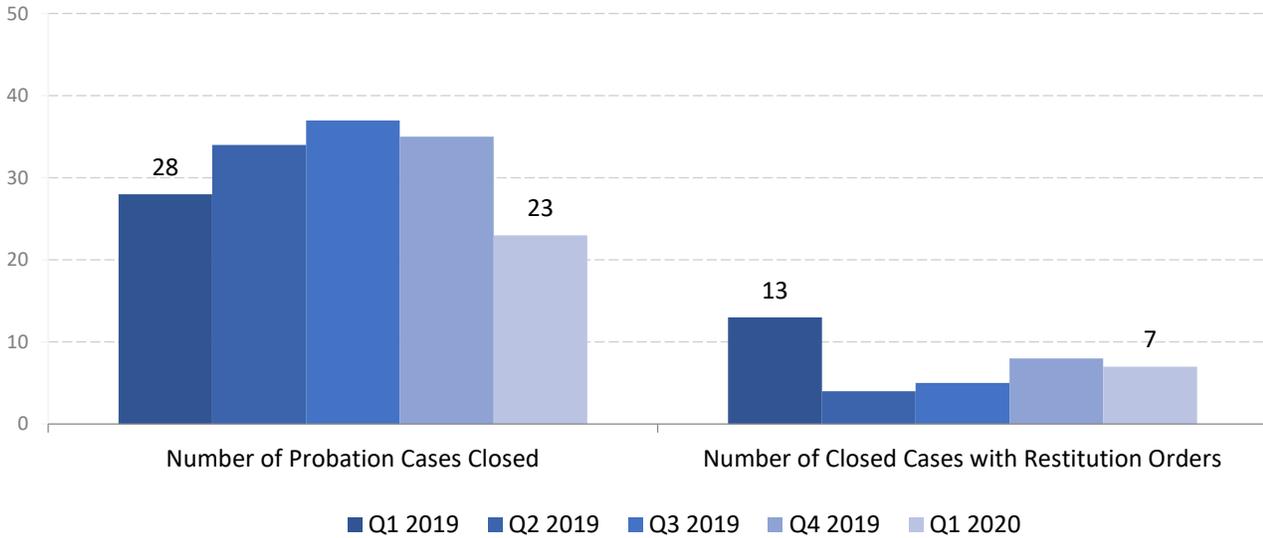


## Case Inventory



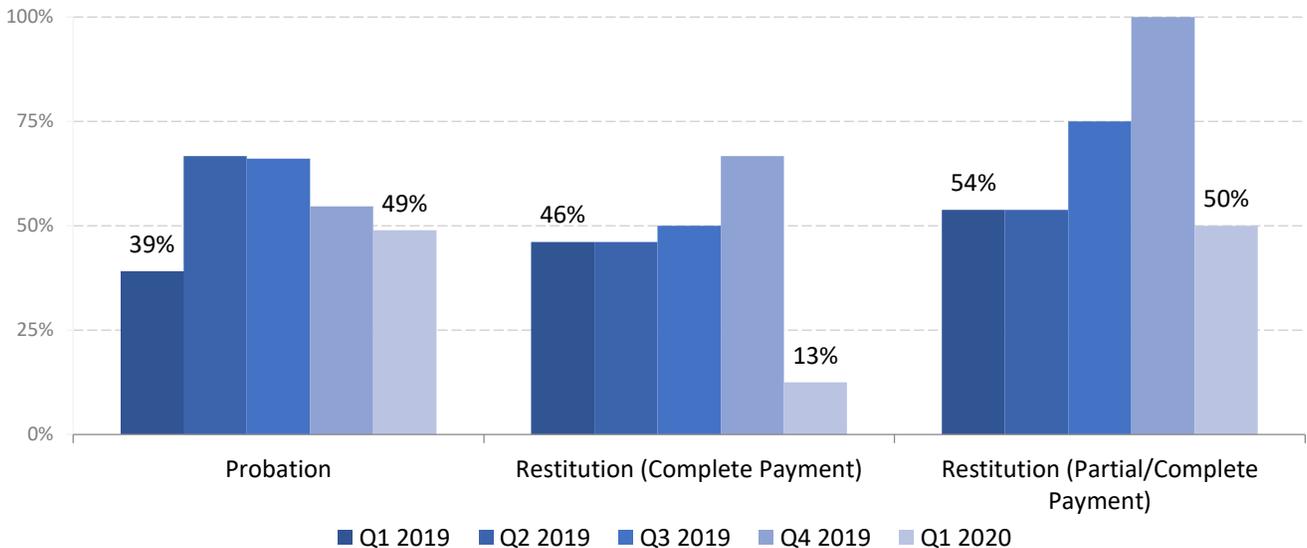
# Probation

## Cases Closed



Note: Cases included are 9.20 matters without Supreme Court numbers, Repeal, and Probation cases which have conditions ordered to be completed.

## Successful Completion Rates



Note: Metric P-1, *Probation Successful Completion Rate*: Case types included for this metric are 9.20 matters without Supreme Court numbers, Repeal, and Probation cases which have conditions ordered to be completed. "Successful Completion" tracks cases in which the ordered conditions were completed timely or without being referred (including "During Actual" and "And Until" conditions, except for Standard 1.2(c)(1)). "Incomplete 'And Until' and 'During Actual' orders" are not counted as "Unsuccessful Completion" because no due date is ordered. Cases in which conditions were not completed but which were not referred because (1) the respondent was disbarred in an unrelated matter; (2) the respondent resigned with charges pending; or (3) the respondent is deceased or presumed deceased are also counted as neither successful nor unsuccessful. Metric P-2, *Successful Completion of Restitution*: Case types included for this metric are Repeal and Probation cases which have restitution orders. "Complete Payment" includes cases in which the Office of Probation has proof of full payment on or before the closing date. "Partial Payment" includes cases in which the Office of Probation has proof of partial payment made on or before the closing date. Cases in which the Office of Probation has no proof of any payment made on or before the closing date are counted as "No Payment".

# Post-Disposition Outcomes

In 2020 staff will explore issues related to recidivism. Below are preliminary analyses of outcomes by four dispositions: Resource Letter, Warning Letter, Repeval (both public or private) and Probation. Three outcomes were analyzed: new complaint received, new complaint investigated, new case filed with State Bar Court. All complaint types are considered, including probation violations. Forthcoming analyses will explore whether a complaint results in a judgment. The year listed is when the Respondent was disciplined.

## Number of Respondents Included in Samples by Disposition and Year Disciplined

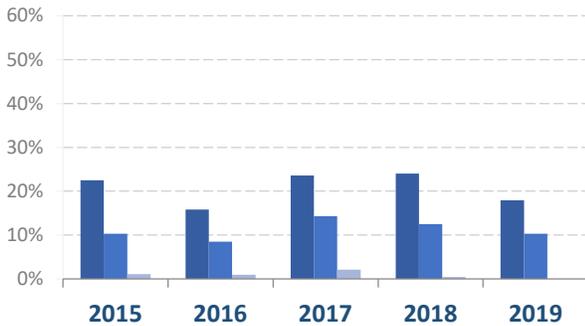
	<u>Resource Letter</u>	<u>Warning Letter</u>	<u>Repeval</u>	<u>Probation</u>	<u>Total</u>
2015	262	594	57	282	1,195
2016	386	539	53	220	1,198
2017	237	572	51	172	1,032
2018	192	617	38	163	1,010
2019*	78	252	19	127	476

\* First two quarters of 2019 only

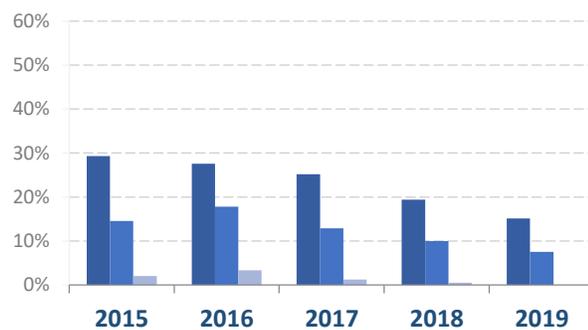
## Within 6 Months of Disposition

■ New Complaint Received ■ New Complaint Investigated ■ New Case Filed with State Bar Court

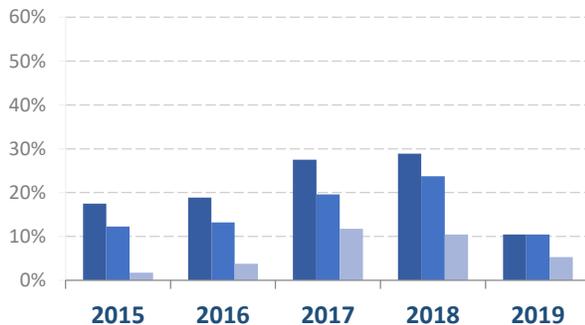
Resource Letter



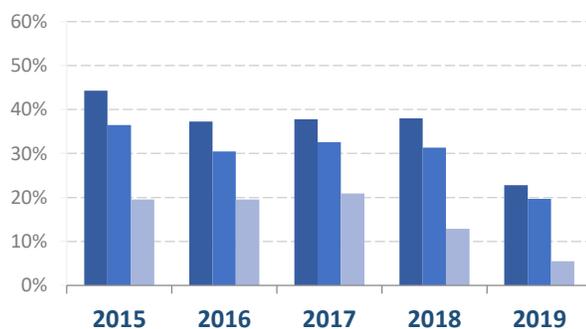
Warning Letter



Repeval



Probation

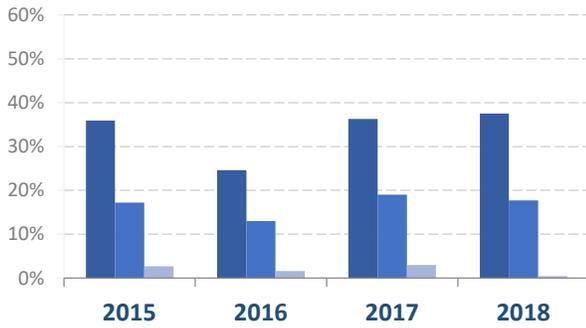


# Post-Disposition Outcomes

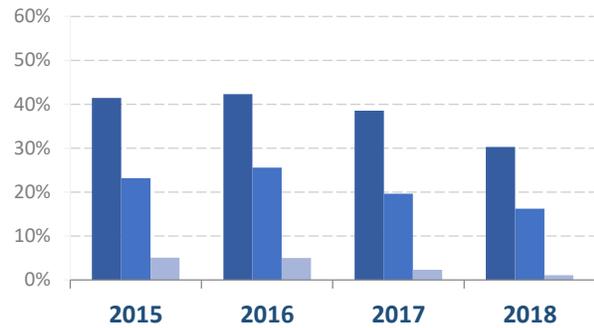
## Within 12 Months of Disposition

■ New Complaint Received  
 ■ New Complaint Investigated  
 ■ New Case Filed with State Bar Court

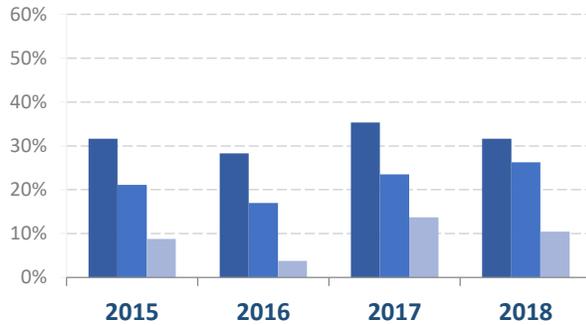
**Resource Letter**



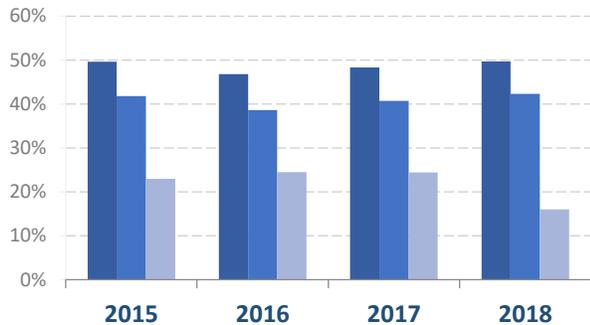
**Warning Letter**



**Reproval**



**Probation**

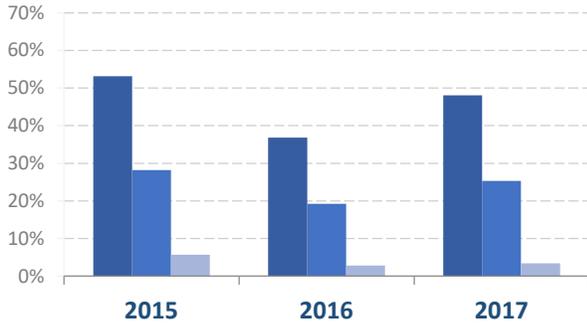


# Post-Disposition Outcomes

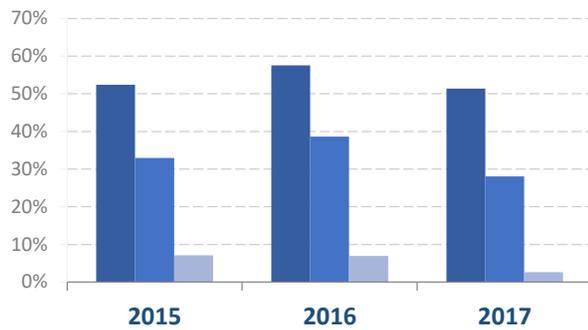
## Within 24 Months of Disposition

■ New Complaint Received ■ New Complaint Investigated ■ New Case Filed with State Bar Court

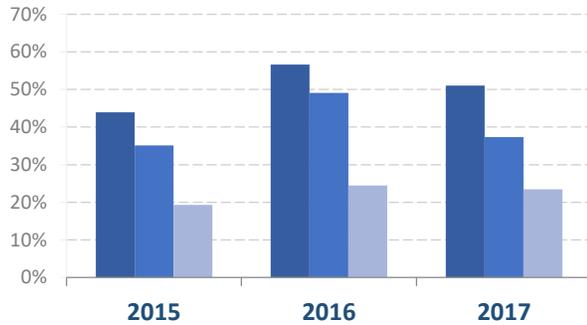
### Resource Letter



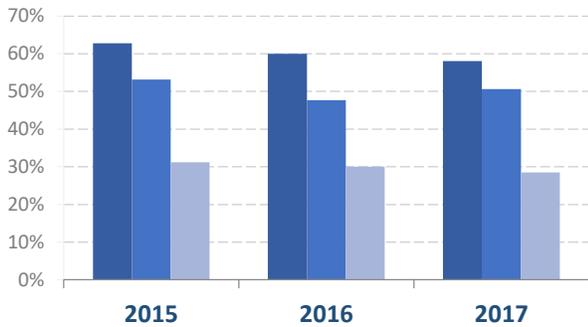
### Warning Letter



### Reproval



### Probation

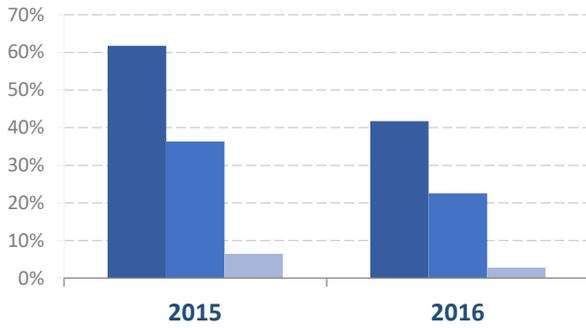


# Post-Disposition Outcomes

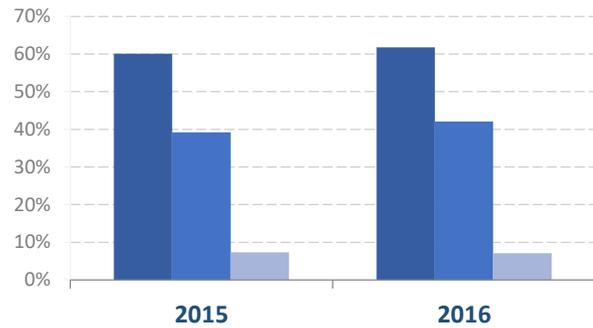
## Within 36 Months of Disposition

■ New Complaint Received ■ New Complaint Investigated ■ New Case Filed with State Bar Court

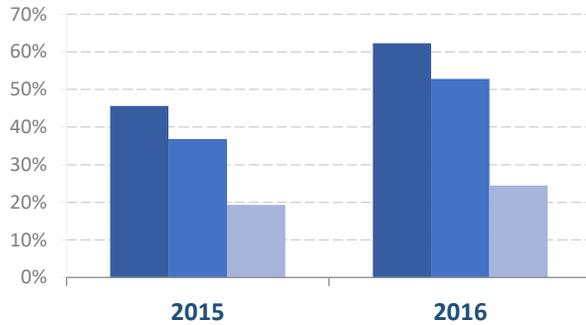
**Resource Letter**



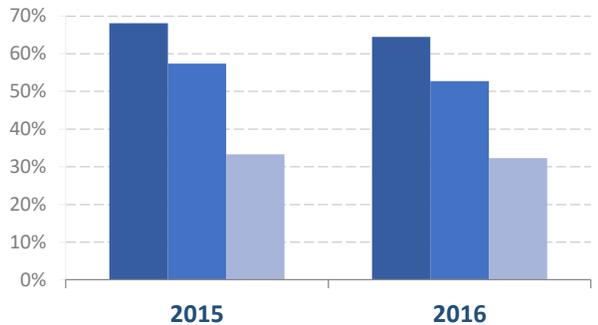
**Warning Letter**



**Reproval**



**Probation**



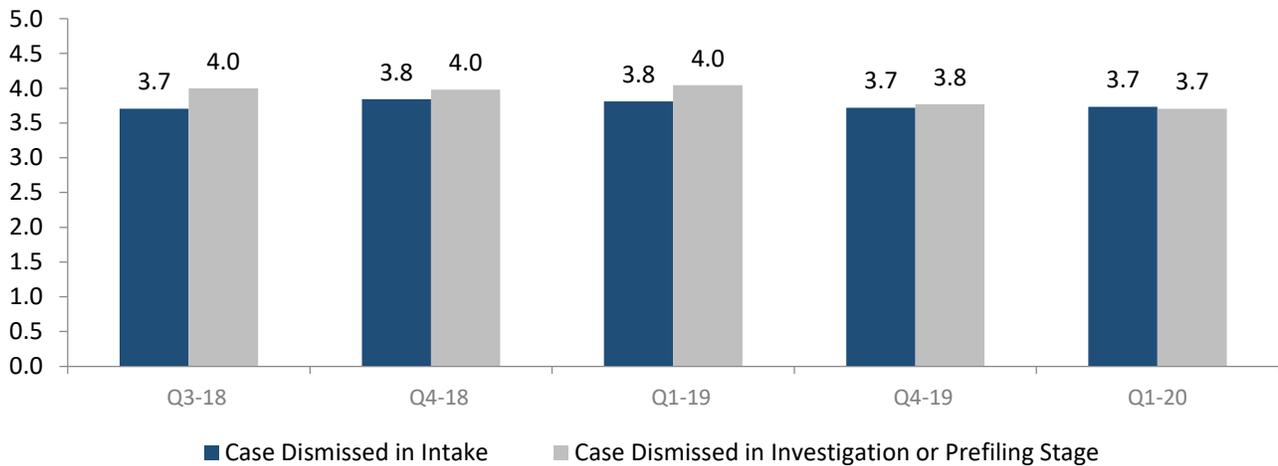
# Complaining Witness Survey

The State Bar offers Complaining Witnesses (CW) the opportunity to share information about their experience filing a complaint via an online survey. The purpose of this survey is to learn assess CW's views of access and fairness of the State Bar's discipline system.

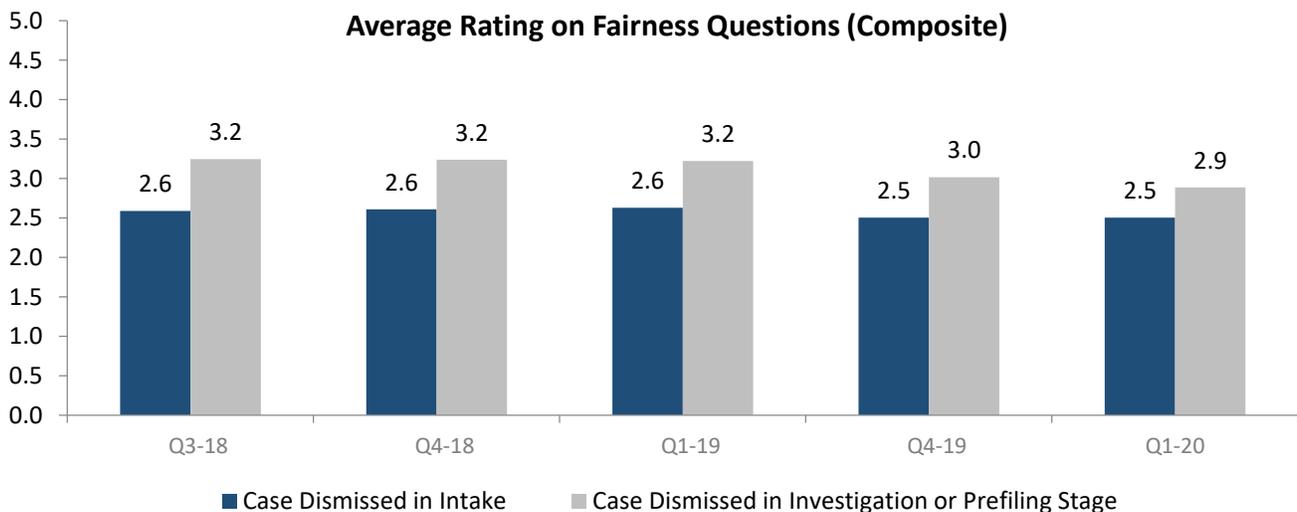
CW are asked, "Please tell us about your experience with how the State Bar handled your complaint by indicating how strongly you agree or disagree with each of the following statements" and to respond using a five point scale where 1=strongly disagree and 5 = strongly agree.

See Appendix A for the list of survey questions as well as additional methodological details.

**Average Rating on Access Questions (Composite)**



**Average Rating on Fairness Questions (Composite)**



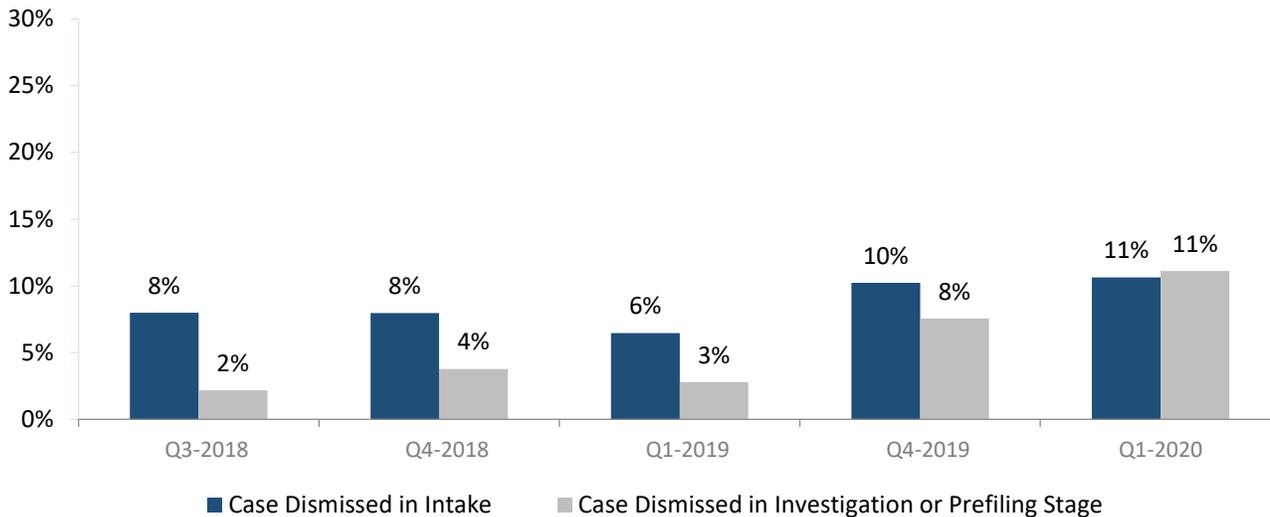
*Note:* Data not available in Q2 and Q3 2019 due to the transition to Odyssey.

# Complaining Witness Survey: Access Ratings

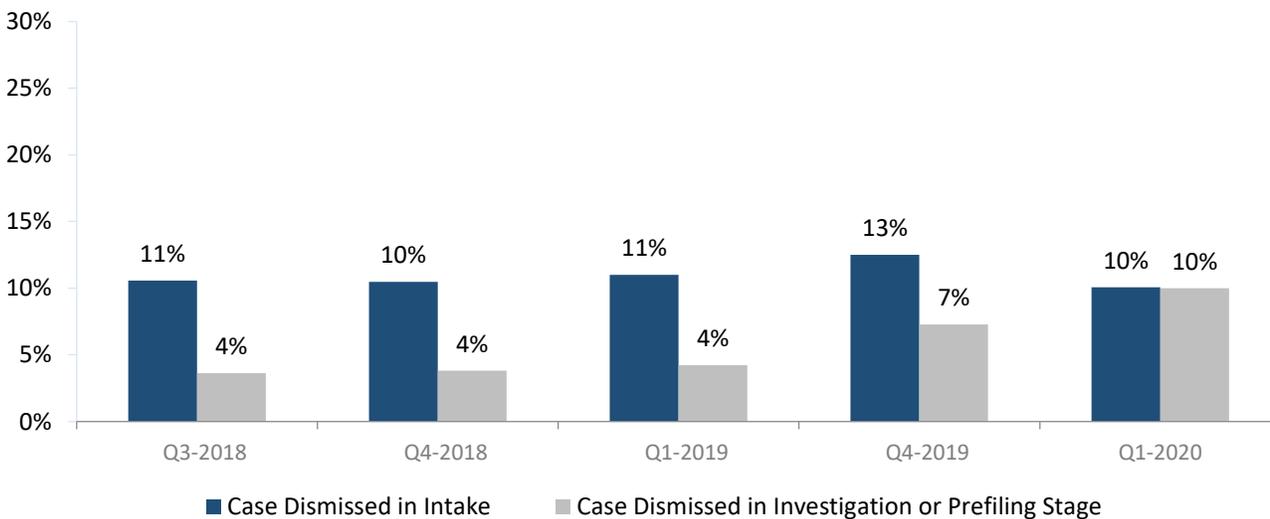
Percentage of CWs that Responded to **Access** Questions with a Rating of 1 (strongly disagree)

(Higher percentages indicate more dissatisfied CWs)

**It was easy to find the complaint form on the State Bar's website.**



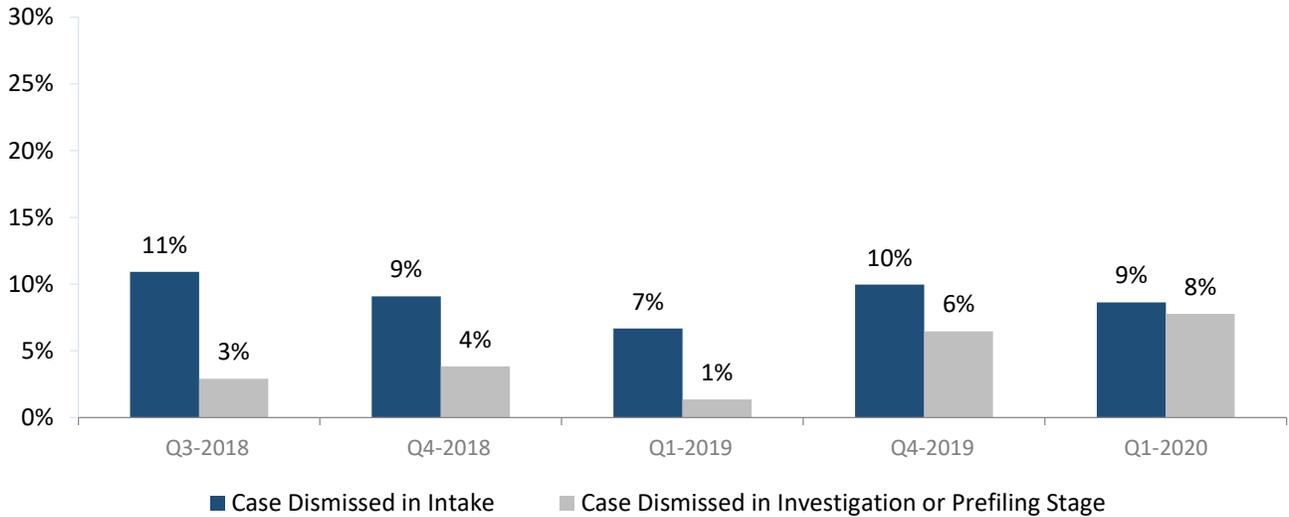
**The website provided useful information about how to file a complaint.**



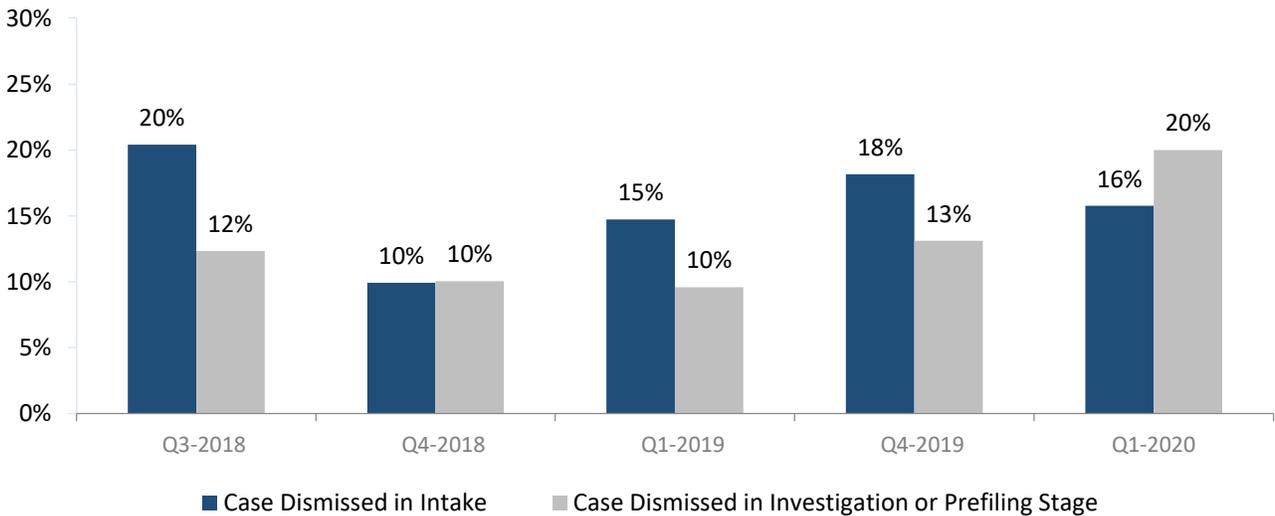
## Complaining Witness Survey: Access Ratings

Percentage of CWs that Responded to **Access** Questions with a Rating of 1 (strongly disagree)  
 (Higher percentages indicate more dissatisfied CWs)

The instructions and information on the website about filing a complaint were clear and easy to understand.



The written instructions that were included with the complaint form were clear and easy to understand.

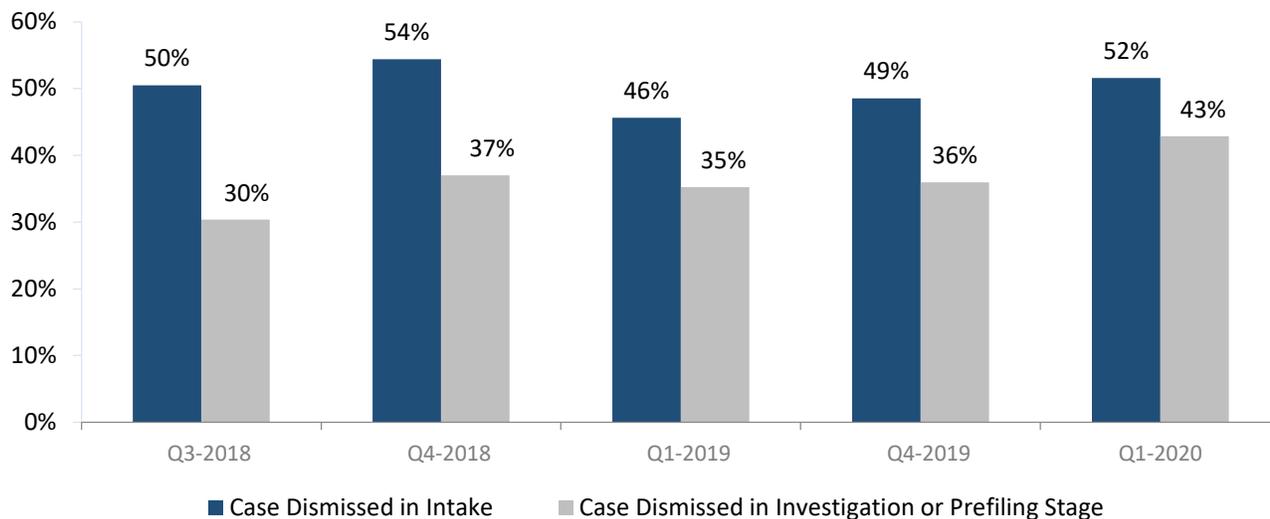


*Note:* Data not available in Q2 and Q3 2019 due to the transition to Odyssey.

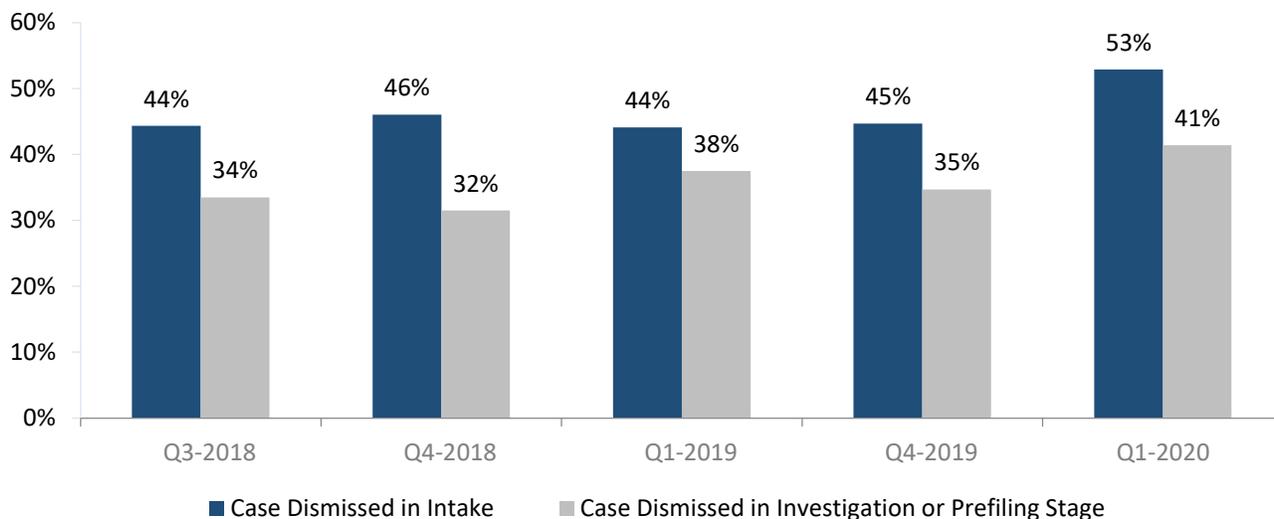
# Complaining Witness Survey: Fairness Ratings

Percentage of CWs that Responded to **Fairness** Questions with a Rating of 1 (strongly disagree)  
 (Higher percentages indicate more dissatisfied CWs)

**The communication from the State Bar addressed the issues raised in my complaint, even if I did not agree with the decision to close my case.**



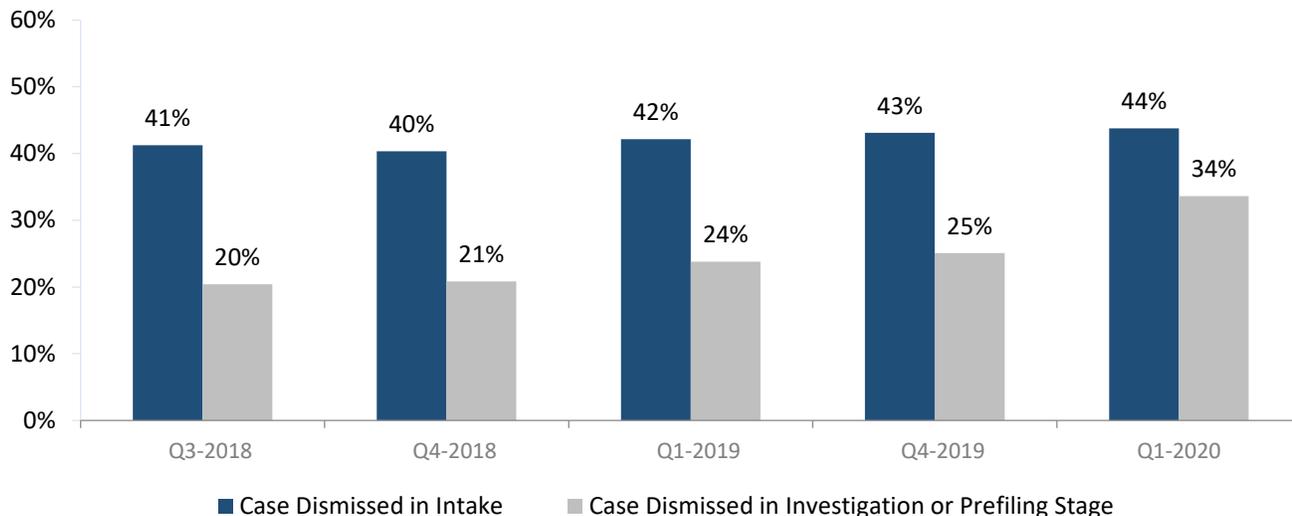
**The State Bar explained in a way that I was able to understand why they closed my case, even if I did not agree with this decision.**



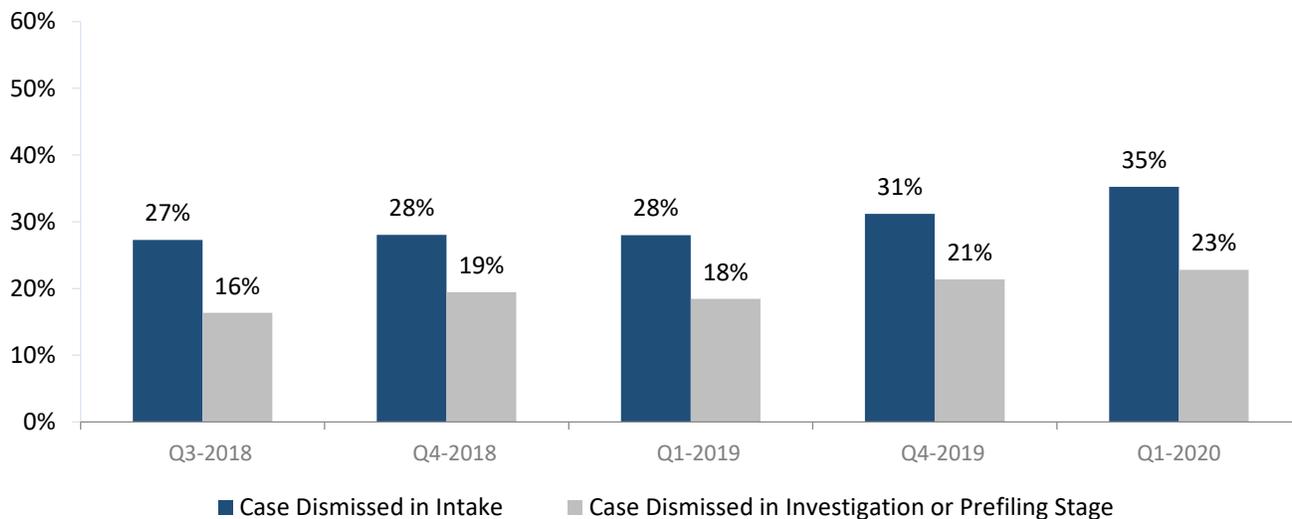
# Complaining Witness Survey: Fairness Ratings

Percentage of CWs that Responded to **Fairness** Questions with a Rating of 1 (strongly disagree)  
 (Higher percentages indicate more dissatisfied CWs)

**I was given the opportunity to submit additional information about my complaint.**



**State Bar staff treated me with courtesy and respect.**



*Note:* Data not available in Q2 and Q3 2019 due to the transition to Odyssey.

# Appendix A

## Complaining Witness Survey

Complaining Witnesses (CW) are invited to participate in a survey via a letter they receive that describes the outcome of their complaint. Those with email addresses are invited to participate via email. Contact via email ceased during spring 2019 when the new data management system Odyssey went live but was resumed in October 2019. Nearly 2,000 responses across all quarters were analyzed.

The analyses compare two groups of Complaining Witnesses:

- \* those whose complaints were dismissed during intake dismissed during the **intake** stage
- \* those whose complaints were dismissed during the **investigation** or **prefiling** stage

## Survey Questions

### Access

- \* It was easy to find the complaint form on the State Bar's website.
- \* The instructions and information on the website about filing a complaint were clear and easy to understand.
- \* The website provided useful information about how to file a complaint.
- \* The written instructions that were included with the complaint form were clear and easy to understand.

### Fairness

- \* I was given the opportunity to submit additional information about my complaint.
- \* State Bar staff treated me with courtesy and respect.
- \* The State Bar explained in a way that I was able to understand why they closed my case, even if I did not agree with this decision.
- \* The communication from the State Bar addressed the issues raised in my complaint, even if I did not agree with the decision to close my case.