



# The State Bar of California

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## **OPEN SESSION AGENDA ITEM SEPTEMBER 2020 REGULATION AND DISCIPLINE COMMITTEE III.E**

**DATE:** September 24, 2020

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

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

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

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

The 2020 Metrics Report has been submitted to the Board of Trustees as an attachment to the Executive Director's September 2020 report. The metrics report focuses on Q2 2020 and monthly metrics for June and July 2020. Below is a discussion of metrics under the purview of the Regulation and Discipline Committee where performance targets were not met.

#### **Metric OPC-2A, E-Learning courses: 85 percent of participants report that courses met their expectations**

Target 85 percent; Q2 2020 Performance, 76 percent

Based on comments provided in the open comment field of the course feedback survey, the Office of Professional Competence believes that the lower "overall" satisfaction ratings is the result of a course functionality issue experienced by some users. Courses are delivered on an internet-based application and can be periodically affected by users' browsers, browser settings, and operating systems of the many devices participants use to take the E-Learning course. These issues are not experienced by the majority of users. However, those who encounter these issues are more likely to submit a satisfaction survey and this negative experience influences their overall experience, even if their rating of the course content was favorable. Staff will continue to analyze survey responses to learn more about what changes may be made to improve participants' experiences.

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

Target 1.0; June and July 2020 performance, .94 and .91 respectively.

Beginning March 13, 2020, the COVID-19 pandemic and related State Bar building closures to the public required the court to abate roughly 150 cases and resulted in a decline of the court's caseload clearance. During the building closures and following the acquisition of Zoom licenses, the State Bar Court began extensive training to permit the court to conduct remote events, unabate cases, and conduct conferences, trials, and oral arguments. The first remote event occurred on April 21, the first remote oral argument on June 17, and the first remote trial on July 8. The remote appearances program continues today, which has allowed the State Bar Court to limit the number of employees needed to come into the office full-time and allowed the court to keep courtrooms closed. The court has also implemented new practices to comply with interim rule 5.26.1 and accept and file electronic submissions. The court expects the caseload clearance rate to remain irregular for the next several months while the court recovers from the State Bar building closure and related case abatements.

### **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 Committee's purview, as well as additional analyses that describe important components of the discipline system.

### **ATTACHMENT(S) LIST**

- A. Discipline System Statistical Report: September 2020



# The State Bar of California

## Discipline System Statistical Report

Prepared by the Office of Research and Institutional Accountability  
September 2020

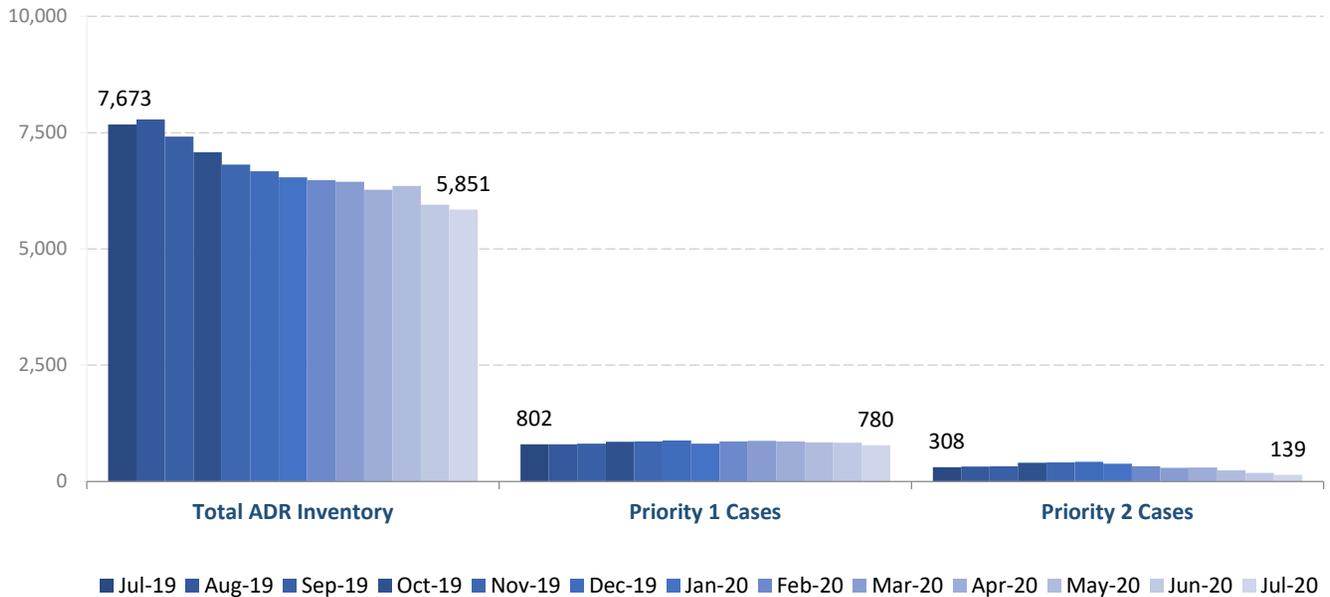
# Office of Chief Trial Counsel

## OCTC Inventory by Stage



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

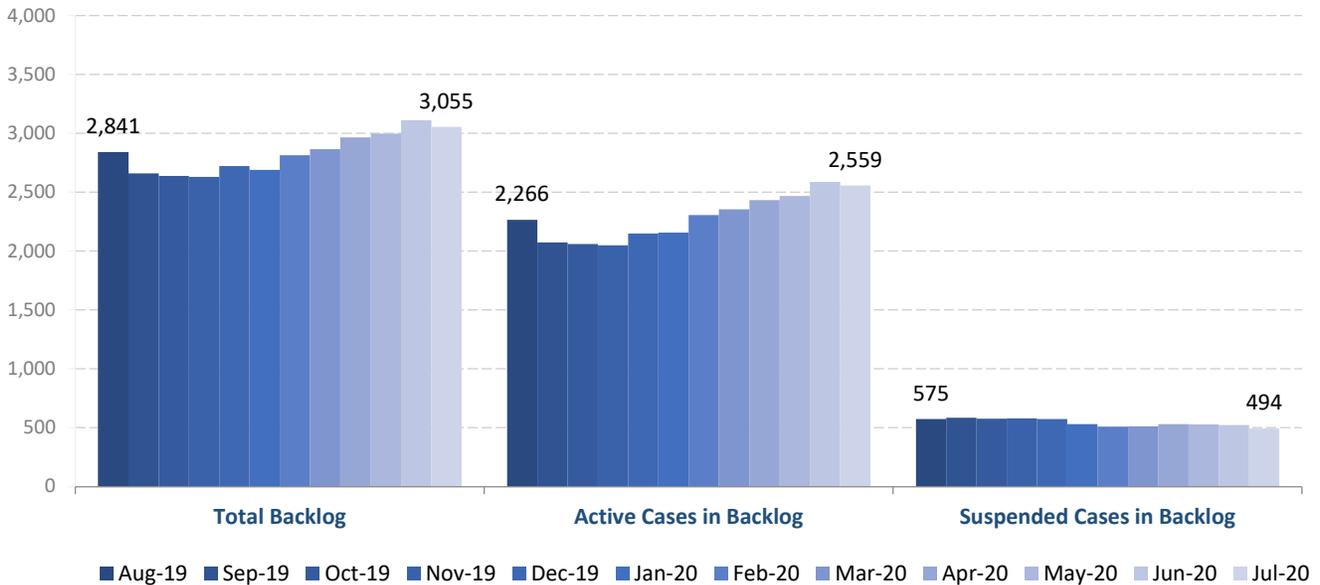
## ADR Inventory: Total, Priority 1 (P1) Cases, Priority 2 (P2) Cases



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.

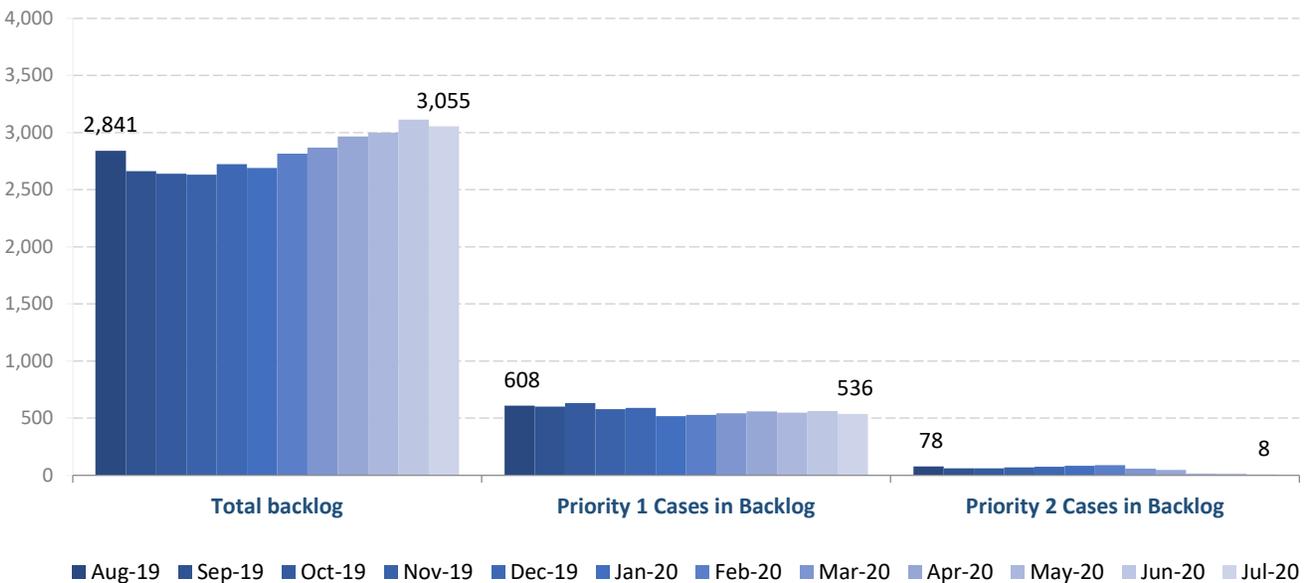
# Office of Chief Trial Counsel

## 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. Data for May 2019 unavailable.

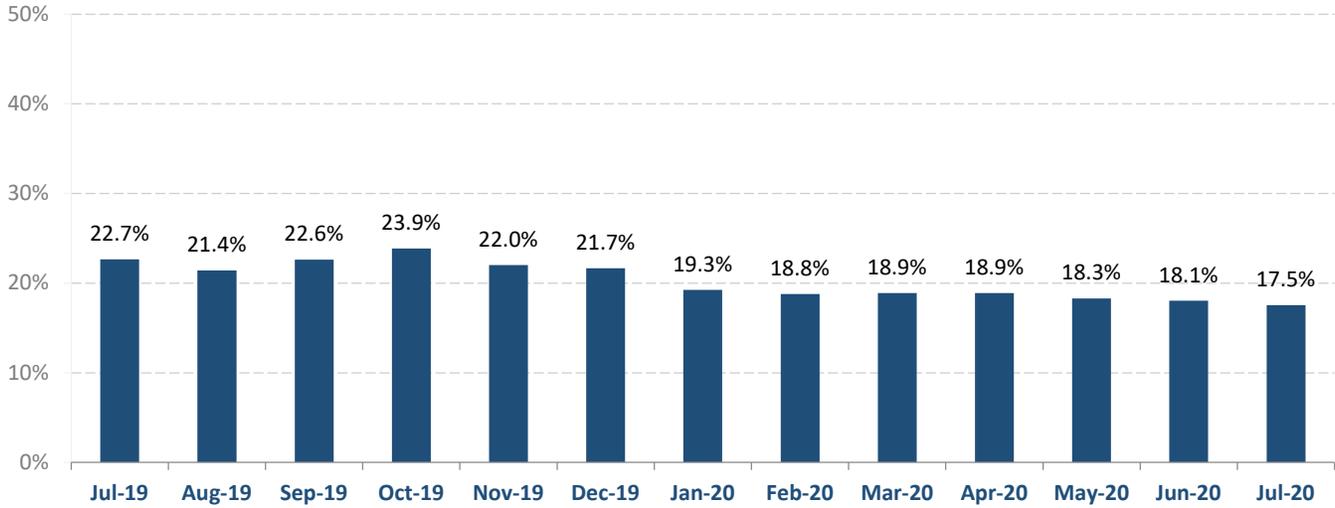
## Backlog: Total, Priority 1 (P1) Cases, and Priority 2 (P2) Cases



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.

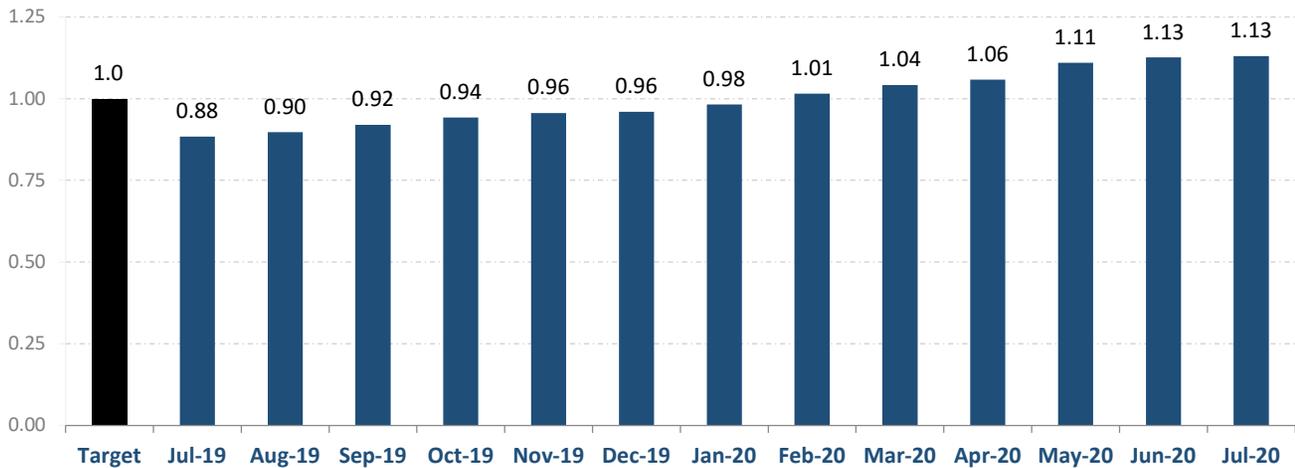
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## Backlog: Percent of Backlog Cases that are Priority 1 (P1) Cases



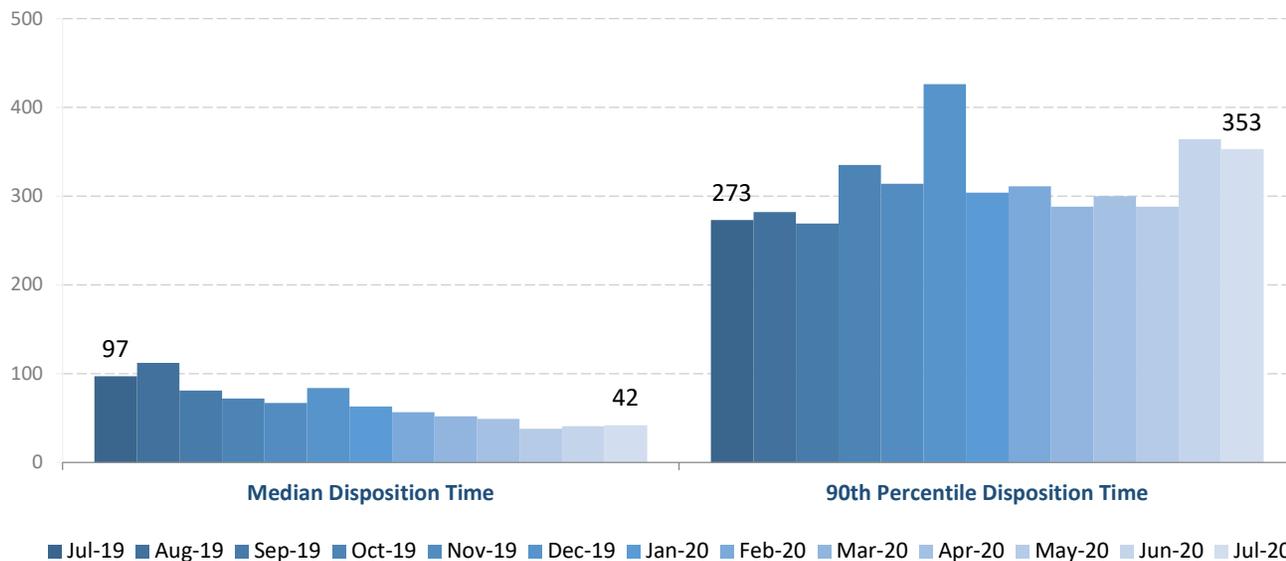
Note: This chart is based on ADR cases as described above. Metric OCTC-1, *Minimize number of P-1 cases in backlog*

## Annual Caseload Clearance Rate



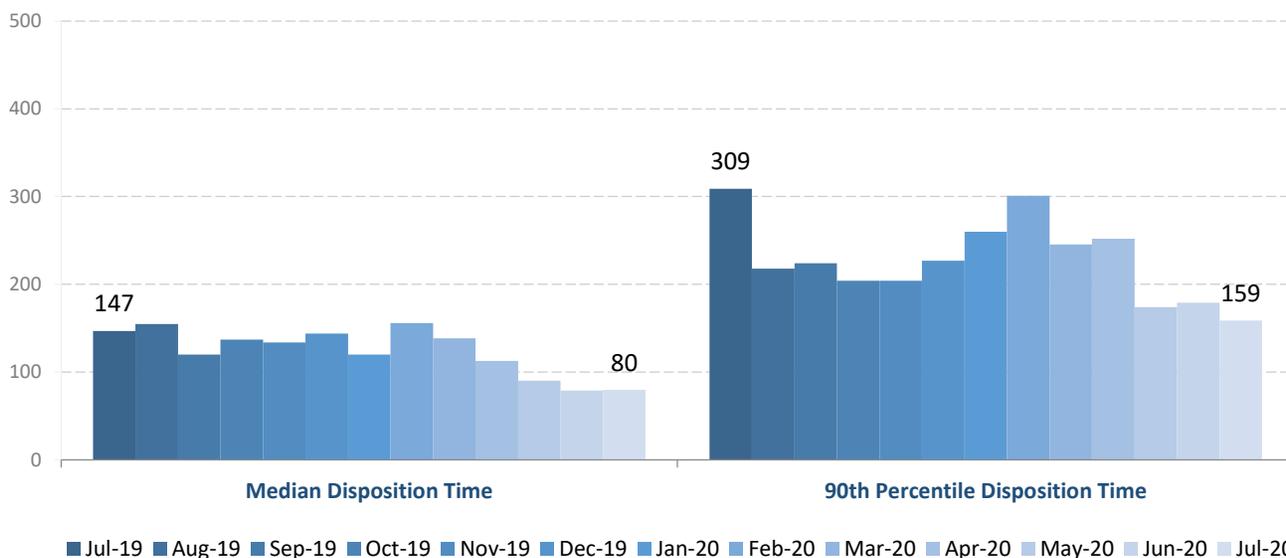
Note: Annual caseload clearance rates are calculated using a 12 month rolling average of monthly caseload clearance rates (ratio of cases closed to cases opened in a month). Metric OCTC-3, *Maintain annual caseload clearance rate of at least 1.0*

## 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)

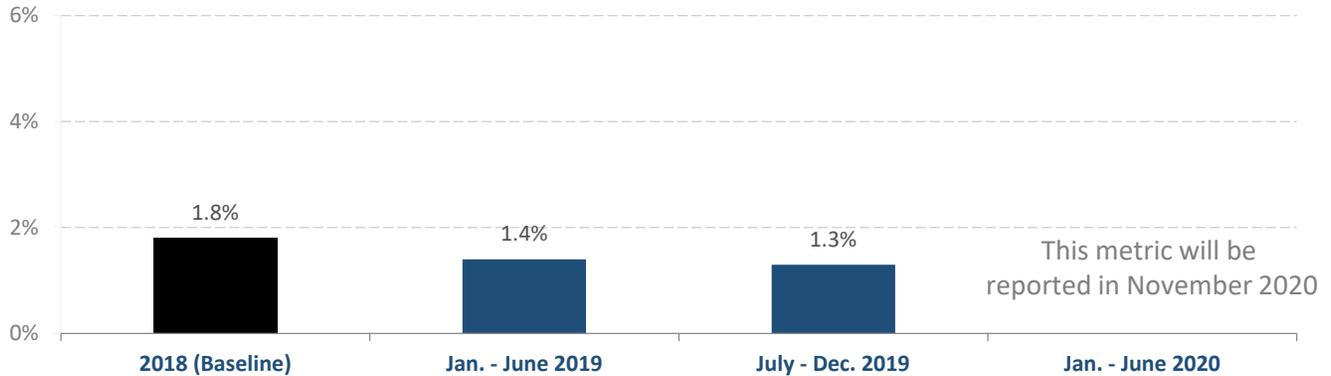
## Case Disposition Times: Priority Two (P2) Cases



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.

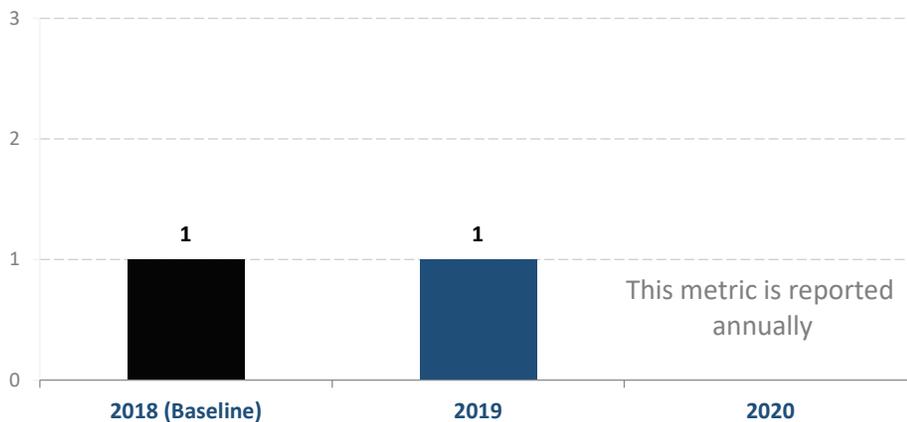
# Office of Chief Trial Counsel

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



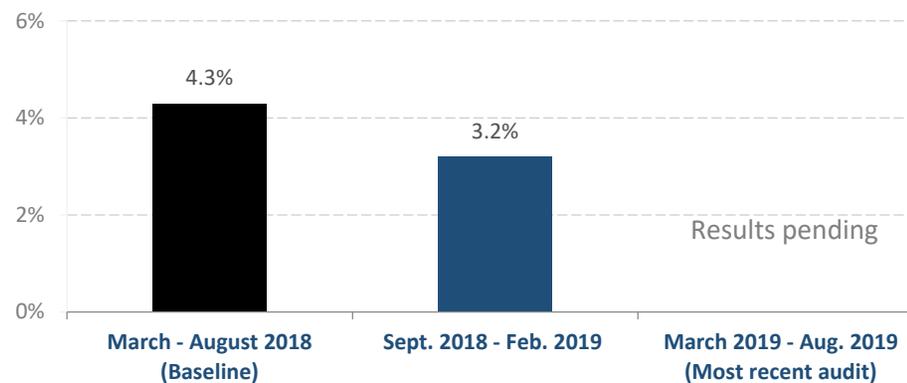
Note: Metric OCTC-5A, Maintain current level of CRU reopens for reasons other than new evidence

## Number of Walker Reopens



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

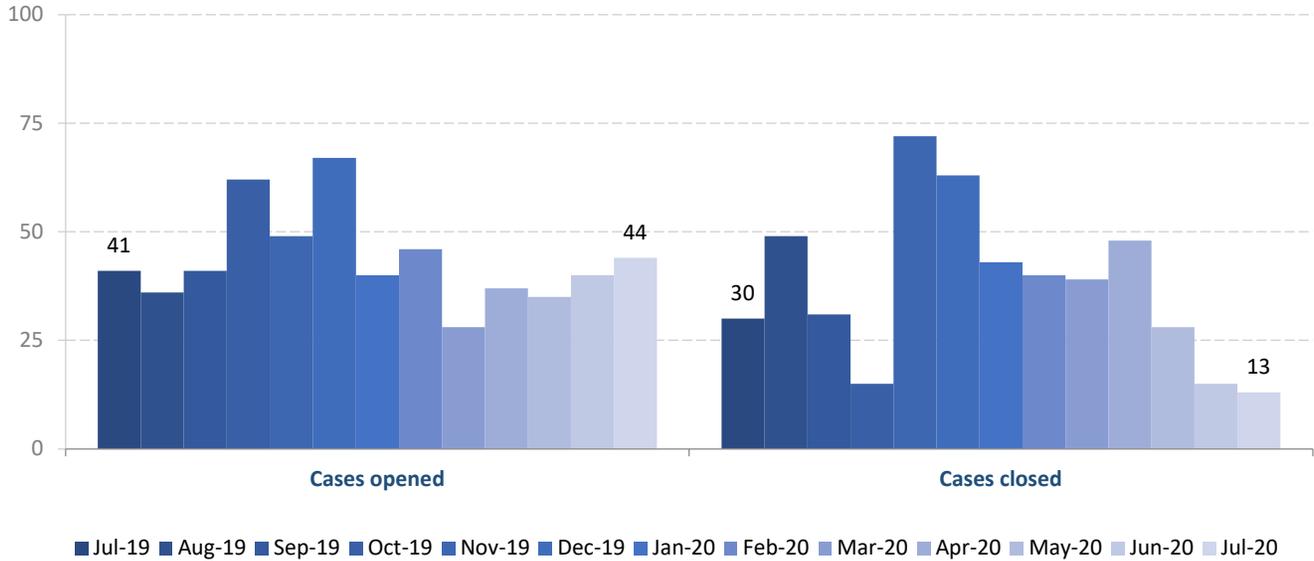
## Percent of Random Audit Reopens for Substantive Reason



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



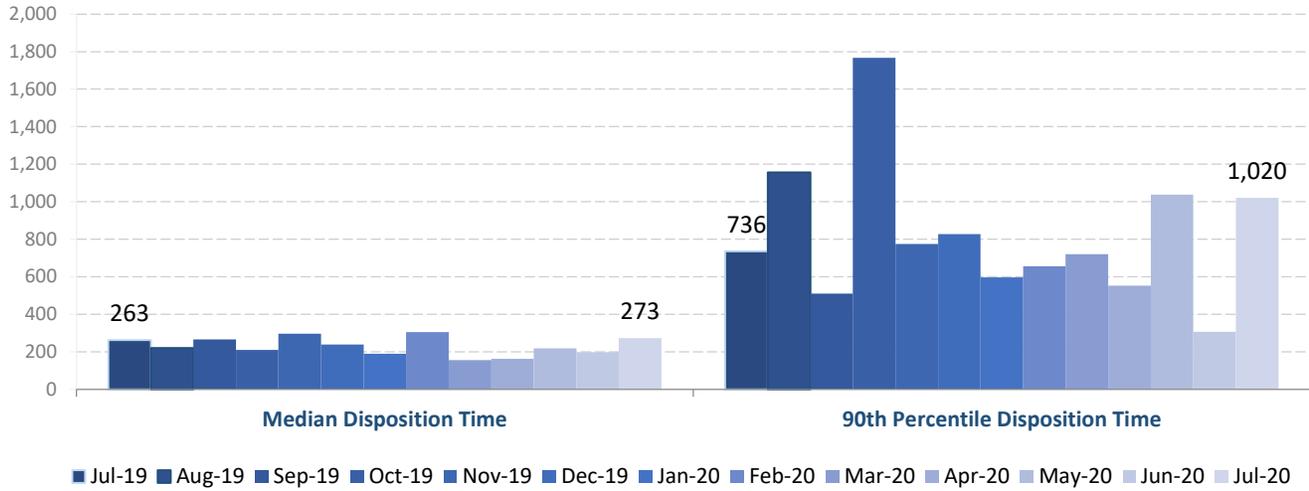
## Annual Caseload Clearance Rate



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 in the State Bar Court and closure, with time spent in Supreme Court not included. Metrics SBC-3A, SBC-3B, Case disposition times (median and 90th percentile)

## Appeals

	<u>Jan.–June 2019</u> (Baseline)	<u>July–Dec. 2019</u>	<u>Jan.–June 2020</u>
<b>Petitions seeking review:</b>	7	6	This will be reported in November 2020
<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: Case Closure and Timeline Requirements

	Number of Cases	Cases Closed Within Timeline Requirements		Cases Closed Within 150% of Timeline Requirements	
		Number	Percent	Number	Percent
		Jul-19	28	25	89%
Aug-19	48	41	85%	47	98%
Sep-19	30	18	60%	27	90%
Oct-19	15	12	80%	13	87%
Nov-19	64	54	84%	62	97%
Dec-19	57	45	79%	53	93%
Jan-20	41	34	83%	40	98%
Feb-20	40	33	83%	38	95%
Mar-20	35	35	100%	35	100%
Apr-20	47	42	89%	44	94%
May-20	25	21	84%	23	92%
Jun-20	15	15	100%	15	100%
Jul-20	13	13	100%	13	100%
<b>Targets:</b>			90%		100%

Metric SBC2-A, 90% of hearing department cases reach final outcome within timelines  
 Metric SBC2-B, All hearing department cases reach final outcome within 150% of timelines

## Review Department: Case Closure and Timeline Requirements

	Number of Cases	Cases Closed Within Timeline Requirements		Cases Closed Within 150% of Timeline Requirements	
		Number	Percent	Number	Percent
		Jul-19	0	0	n/a
Aug-19	3	3	100%	3	100%
Sep-19	3	3	100%	3	100%
Oct-19	0	0	n/a	0	n/a
Nov-19	7	7	100%	7	100%
Dec-19	5	5	100%	5	100%
Jan-20	5	5	100%	5	100%
Feb-20	3	3	100%	3	100%
Mar-20	1	1	100%	1	100%
Apr-20	3	3	100%	3	100%
May-20	3	3	100%	3	100%
Jun-20	0	0	n/a	0	n/a
Jul-20	0	0	n/a	0	n/a
<b>Targets:</b>			90%		100%

Metrics SBC-2C, 90% of review department cases reach final outcome within timelines  
 Metric SBC-2D, All review department cases reach final outcome within 150% of timelines

# State Bar Court

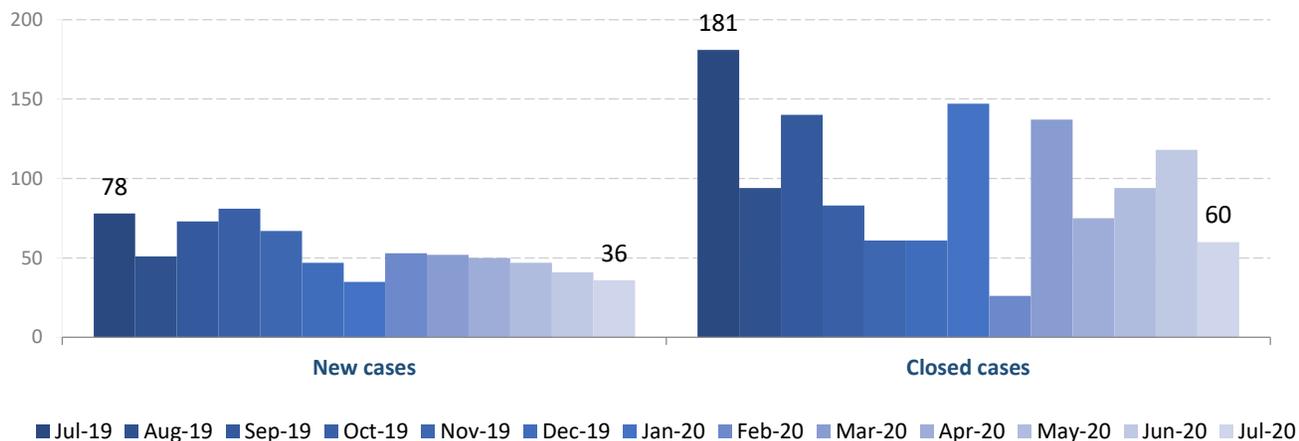
## Effectuations: Case Closure and Timeline Requirements

	Number of Cases	Cases Closed Within Timeline Requirements	
		Number	Percent
Jul-19	18	18	100%
Aug-19	40	39	98%
Sep-19	16	16	100%
Oct-19	0	0	n/a
Nov-19	50	50	100%
Dec-19	49	49	100%
Jan-20	28	28	100%
Feb-20	27	27	100%
Mar-20	19	19	100%
Apr-20	23	23	100%
May-20	20	20	100%
Jun-20	7	7	100%
Jul-20	7	7	100%
<b>Targets:</b>			<b>100%</b>

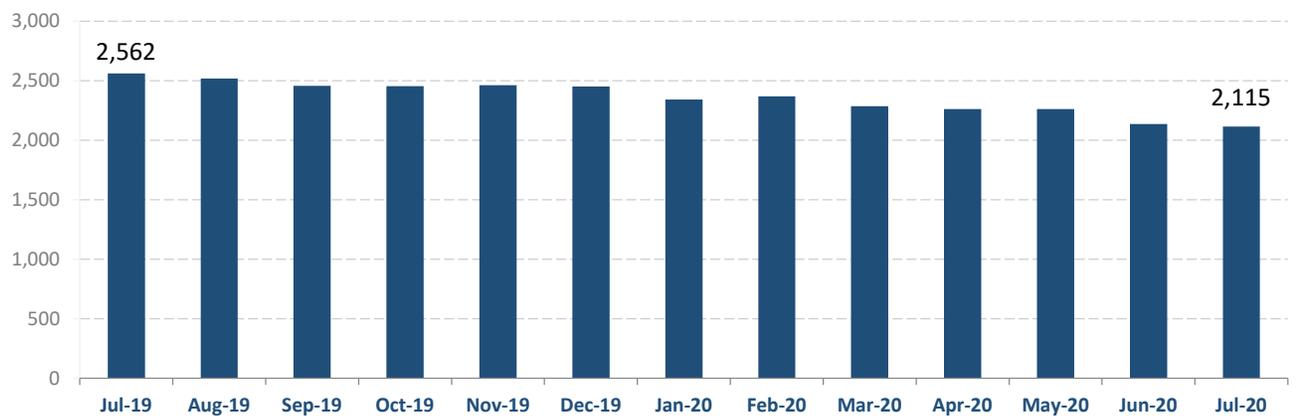
Metric SBC-2E, 100% of effectuations processed within established timeframes

# Client Security Fund

## New and Closed Cases

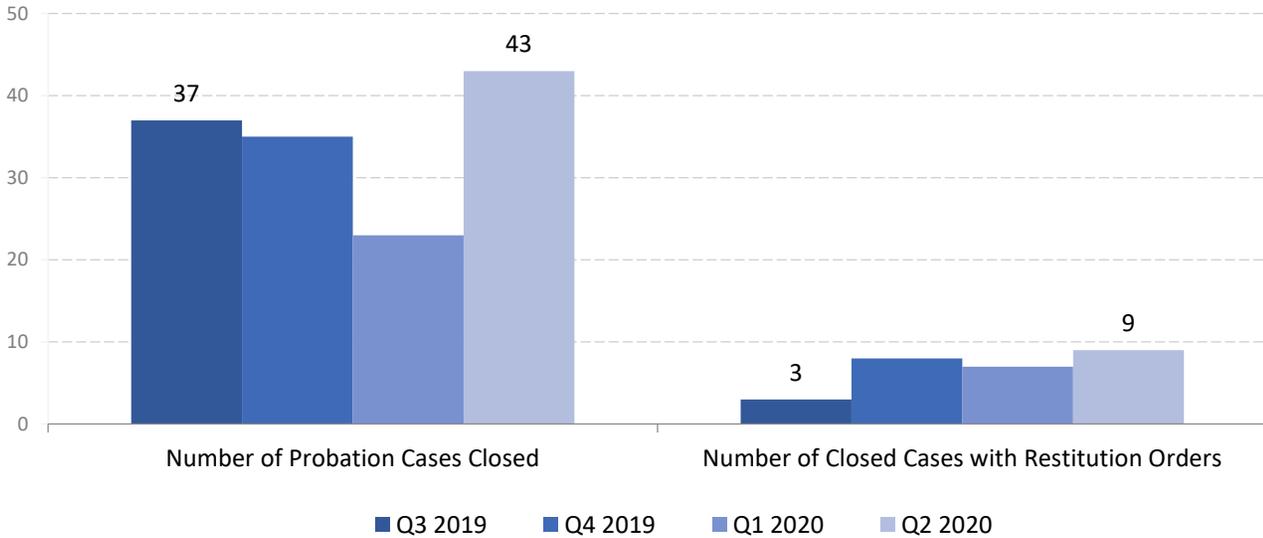


## Case Inventory



# Probation

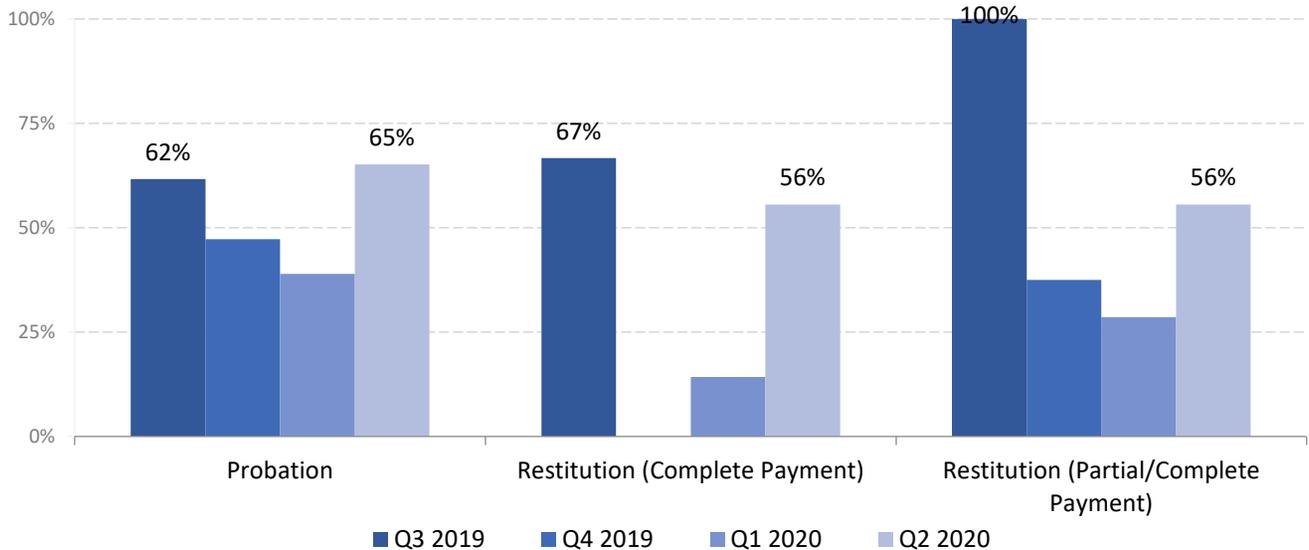
## Cases Closed



b  
h

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

Below are analyses of post-disposition outcomes by four types of dispositions: Resource Letter, Warning Letter, Reprimand (both public or private) and Probation. Four outcomes were analyzed: new complaint received, new complaint investigated, new case filed with State Bar Court, and, discipline imposed. Disciplines counted include: participation in the Alternative Discipline Program, reprimand, probation, or disbarment. All complaint types are considered, including probation violations. The year listed is when the Respondent received their disposition.

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

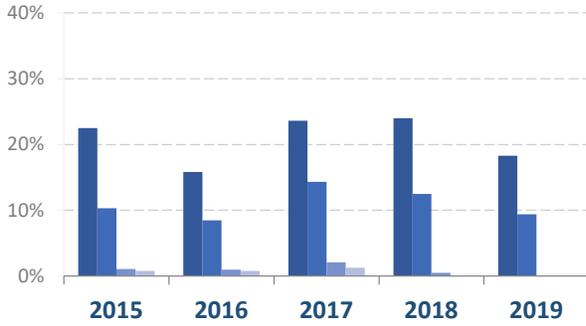
	<u>Resource</u> <u>Letter</u>	<u>Warning</u> <u>Letter</u>	<u>Reprimand</u>	<u>Probation</u>	<u>Total</u>
2015	262	594	57	282	1,195
2016	386	539	53	220	1,198
2017	237	572	51	172	1,032
2018	192	617	38	163	1,010
2019*	191	514	37	226	968

\* Cases disposed in first three quarters only.

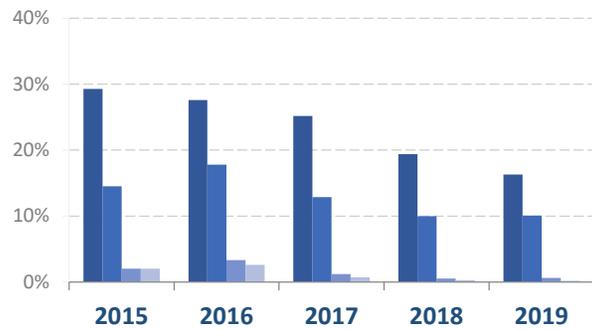
# Post-Disposition Outcomes

## Within 6 Months of Disposition

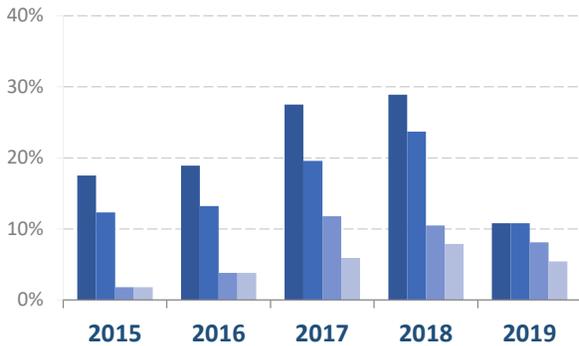
Resource Letter



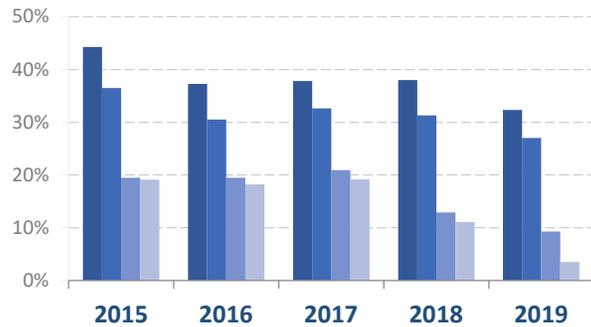
Warning Letter



Reproval



Probation

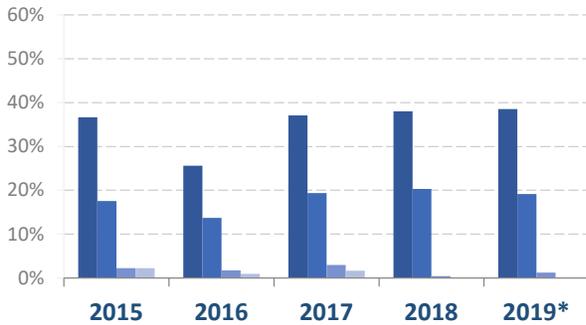


■ New Complaint Received  
 ■ New Complaint Investigated  
 ■ New Case Filed with State Bar Court  
 ■ New Discipline Imposed

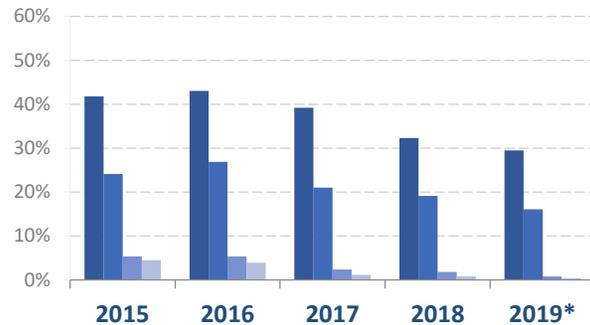
# Post-Disposition Outcomes

## Within 12 Months of Disposition

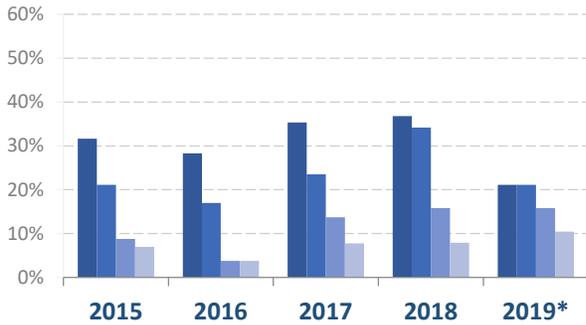
Resource Letter



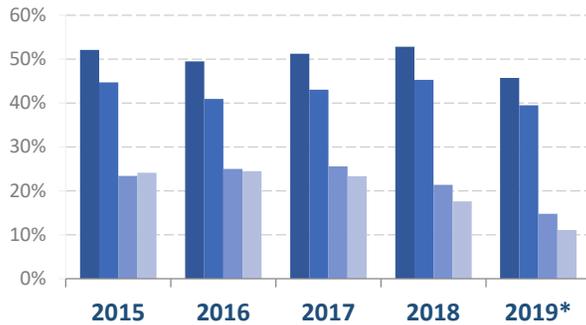
Warning Letter



Reproval



Probation



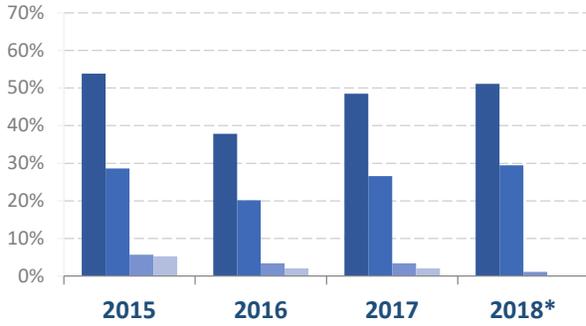
■ New Complaint Received 
 ■ New Complaint Investigated 
 ■ New Case Filed with State Bar Court 
 ■ New Discipline Imposed

\* Cases initially disposed in first quarter only.

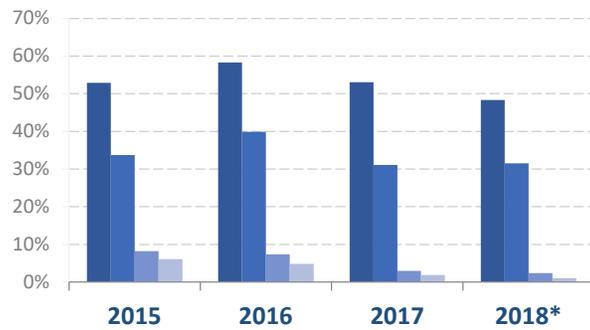
# Post-Disposition Outcomes

## Within 24 Months of Disposition

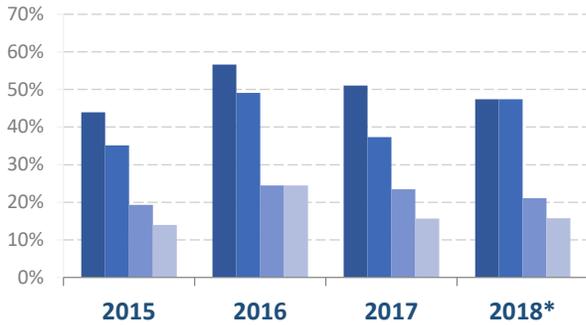
### Resource Letter



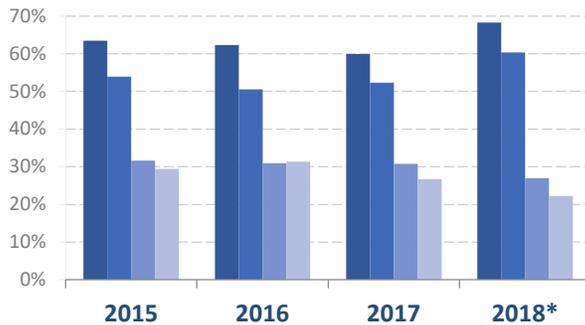
### Warning Letter



### Reproval



### Probation



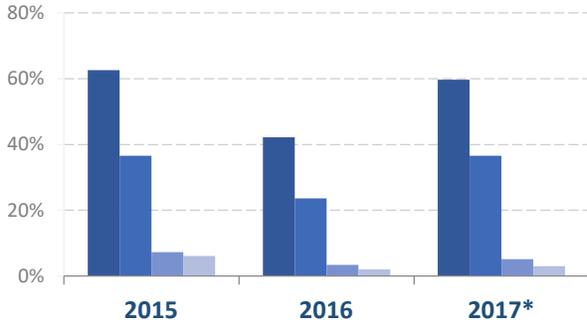
■ New Complaint Received 
 ■ New Complaint Investigated 
 ■ New Case Filed with State Bar Court 
 ■ New Discipline Imposed

\* Cases initially disposed in first quarter only.

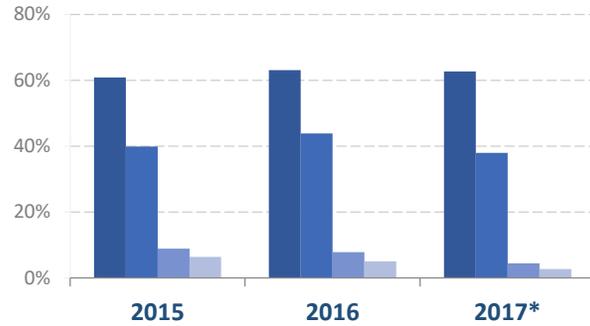
# Post-Disposition Outcomes

## Within 36 Months of Disposition

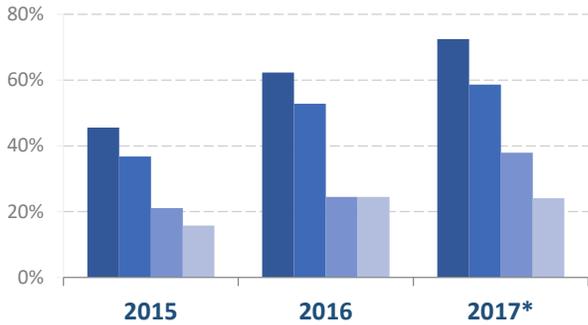
Resource Letter



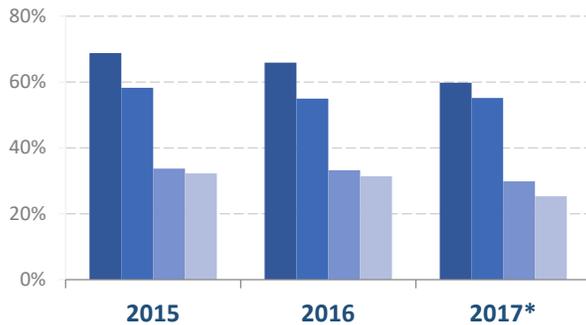
Warning Letter



Reproval



Probation



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

\* Cases initially disposed in first quarter only.

## Complaining Witness Survey

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

Survey questions address issues of access and fairness. 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" using a five point scale where 1=strongly disagree and 5 = strongly agree.

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. Over 2,000 responses across all quarters were analyzed.

The analyses compare two groups of Complaining Witnesses:

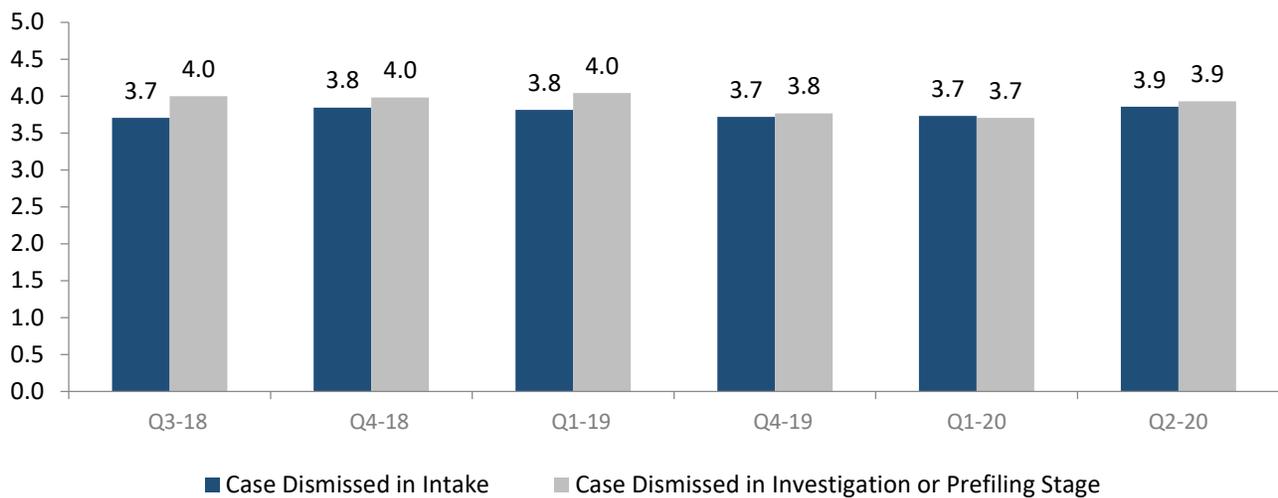
- \* those whose complaints were dismissed during intake dismissed during the **intake** stage
- \* those whose complaints were dismissed during the **investigation** or **prefiling** stage

# Complaining Witness Survey

## Access Questions

- \* 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.

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



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

# Complaining Witness Survey

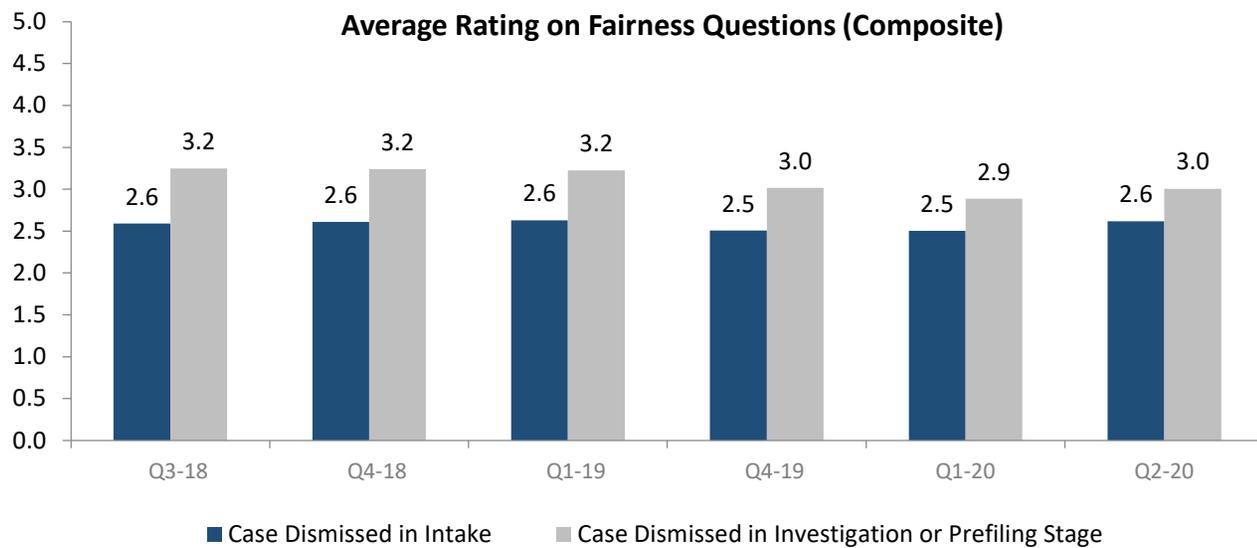
## Fairness Questions

\* 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.



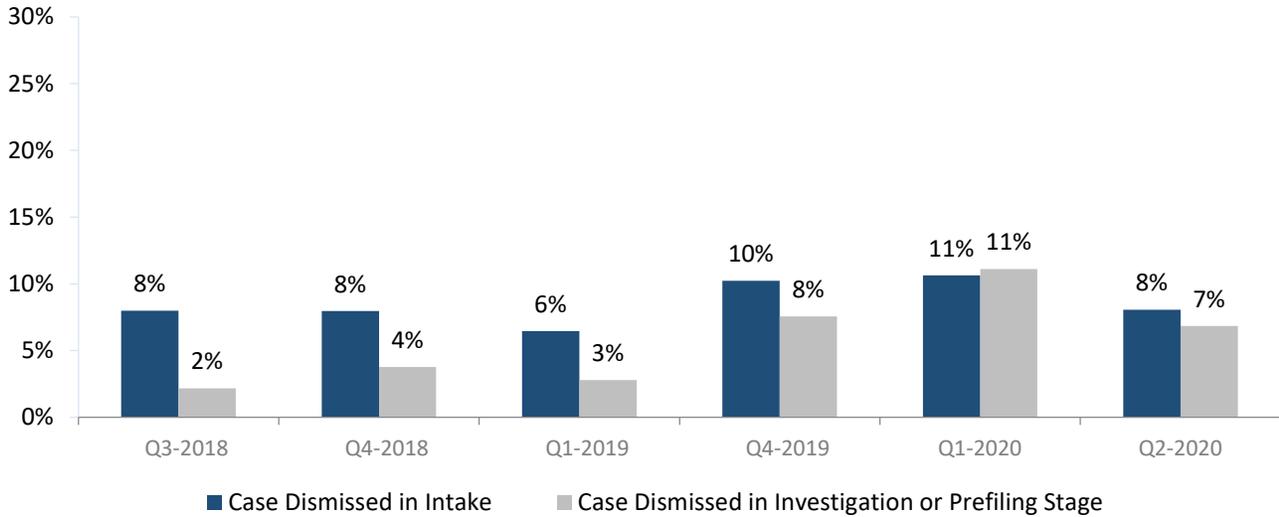
*Note:* Data not available in Q2 and Q3 2019 due to the transition to Odyssey.

## Complaining Witness Survey: Access Ratings

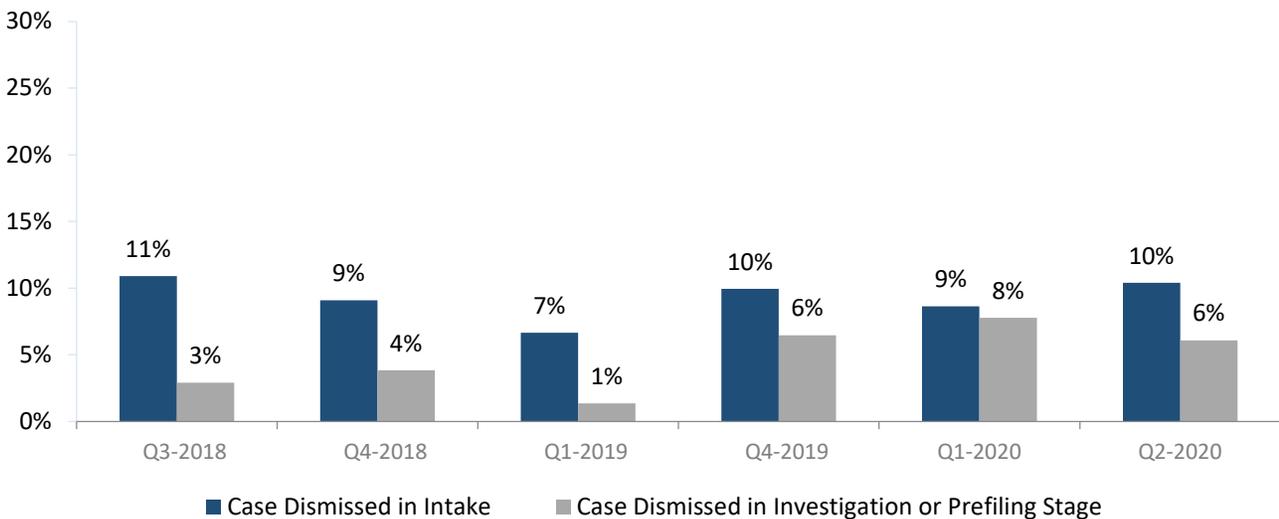
### Percentage of CWs that Responded to **Access** Questions with a Rating of 1 (strongly disagree)

(Higher percentages indicate more dissatisfied CWs)

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



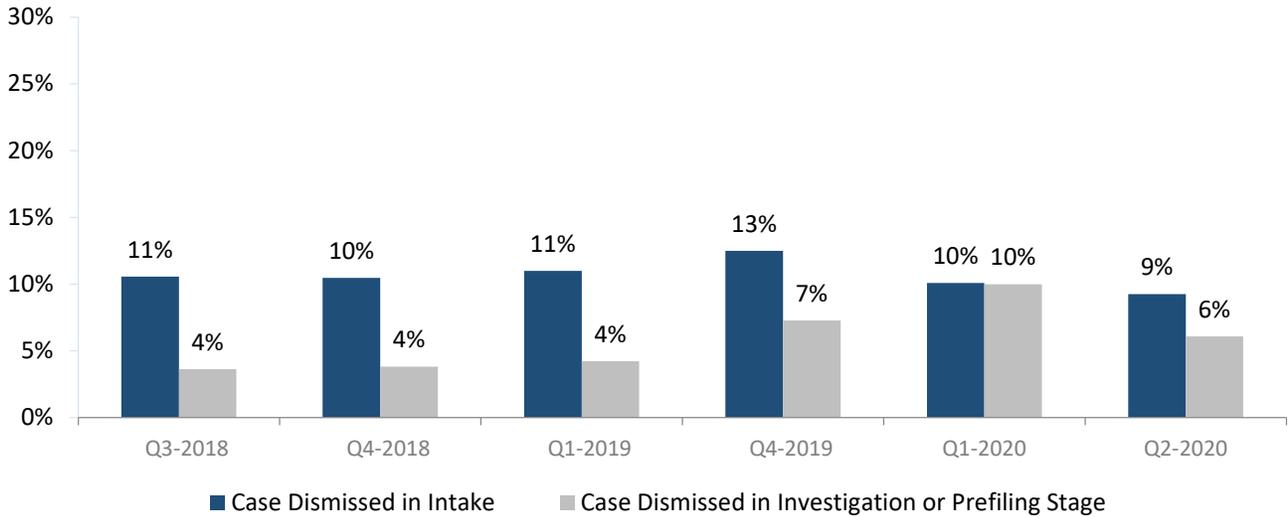
**The instructions and information on the website about filing a complaint were clear and easy to understand.**



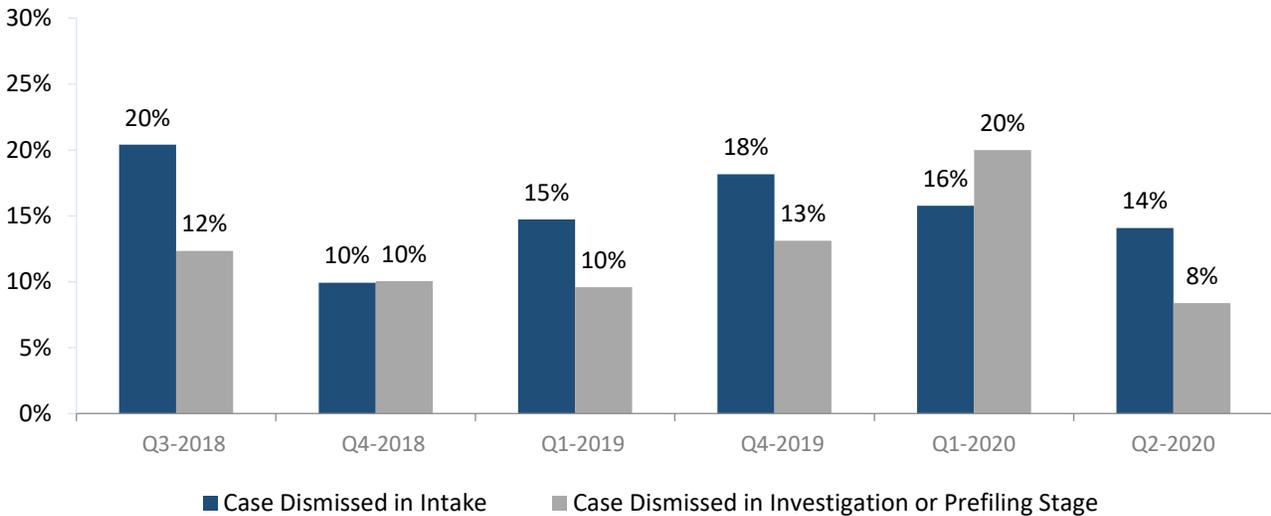
## Complaining Witness Survey: Access Ratings

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

The 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.

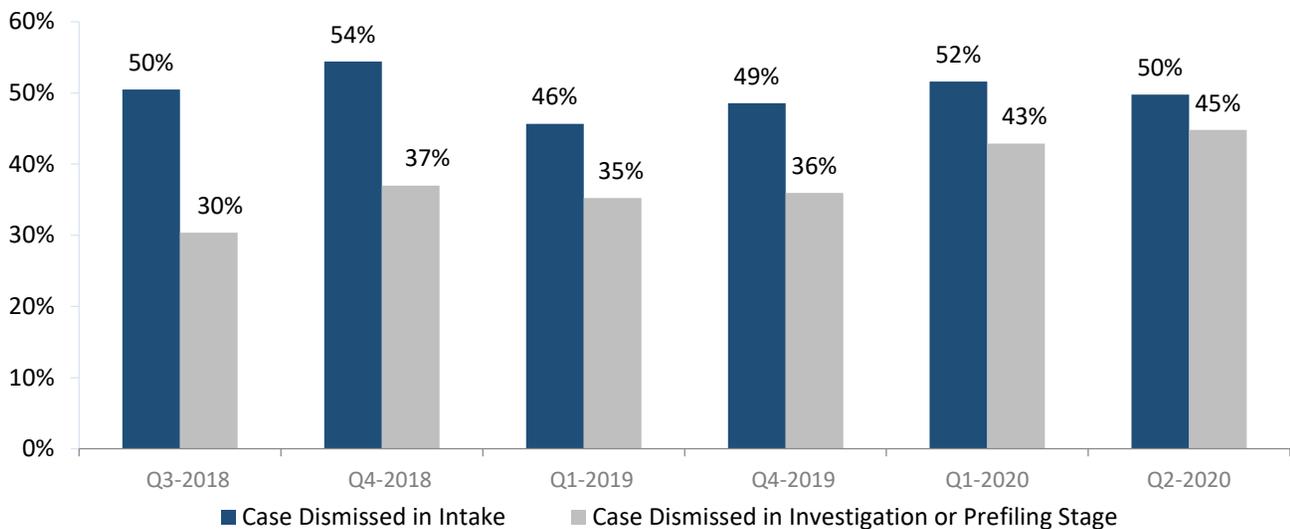


*Note:* Data not available in Q2 and Q3 2019 due to the transition to Odyssey.

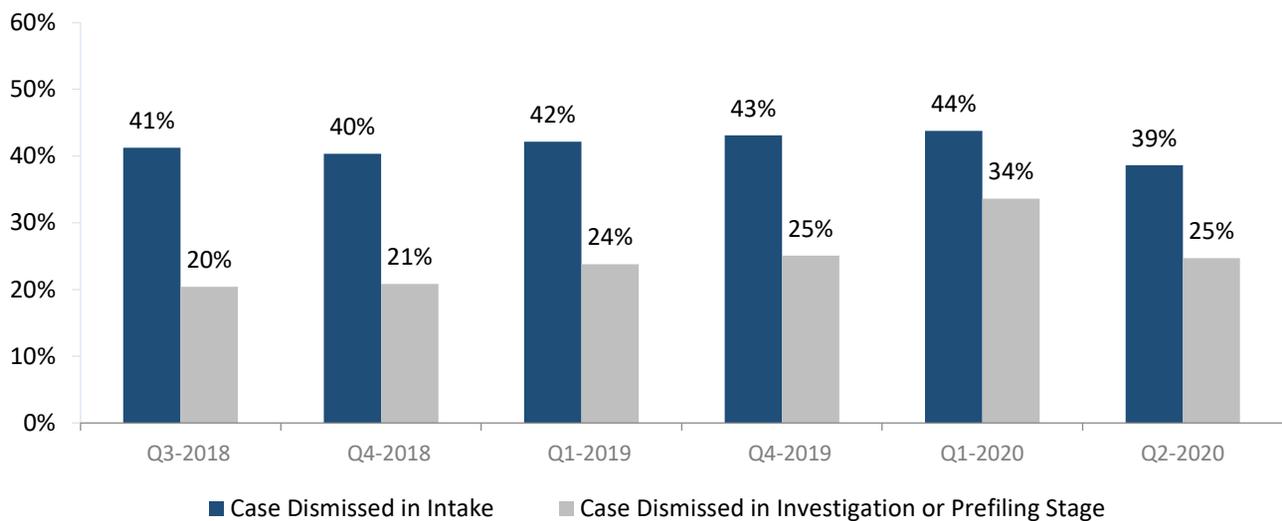
# Complaining Witness Survey: Fairness Ratings

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.



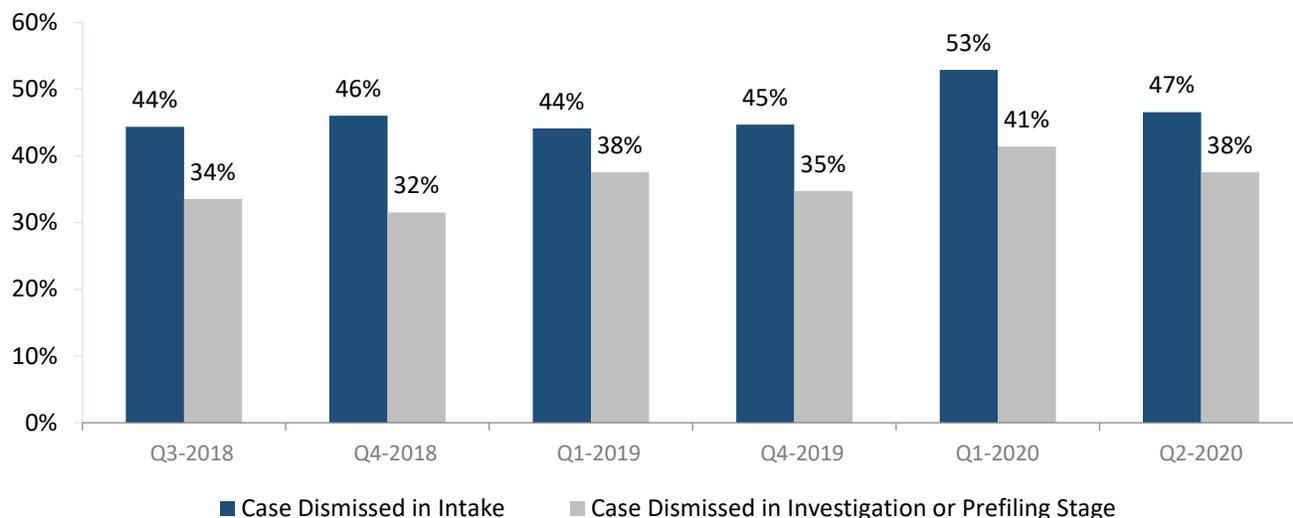
I was given the opportunity to submit additional information about my complaint.



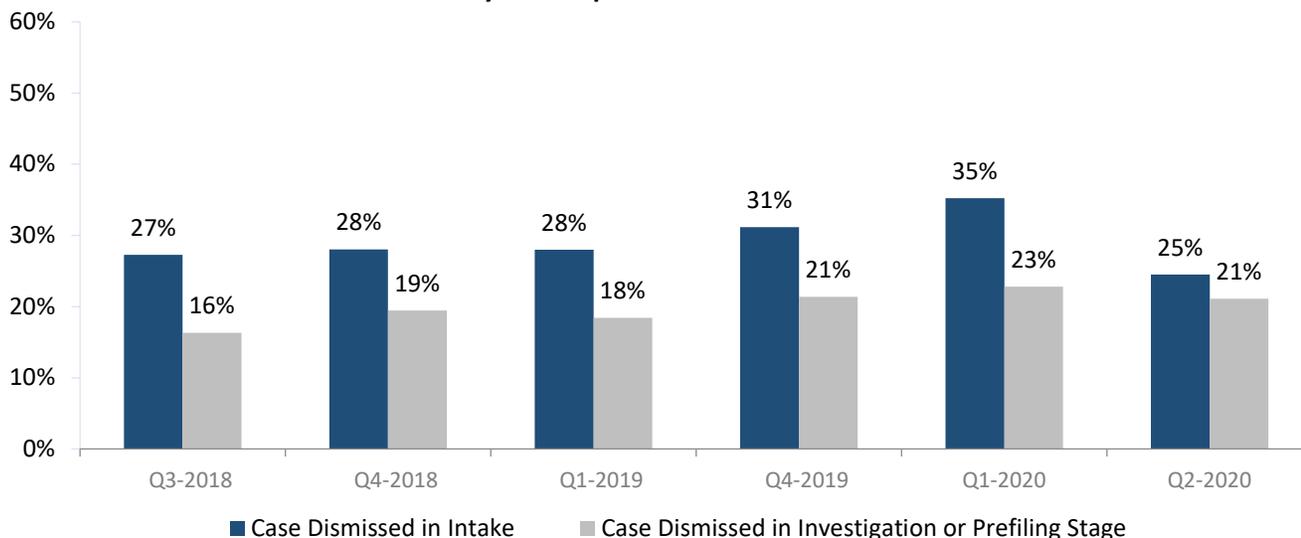
# Complaining Witness Survey: Fairness Ratings

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

**The 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.**



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



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