



# THE STATE BAR OF CALIFORNIA

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April 30, 2015

Honorable Tani G. Cantil-Sakauye  
Chief Justice of California  
Supreme Court of California  
455 Golden Gate Avenue  
San Francisco, CA 94102-3660

Honorable Jerry Brown  
Governor of California  
State Capitol, Suite 1173  
Sacramento, CA 95814

Honorable Kevin de León  
Senate President pro Tempore  
State Capitol, Room 205  
Sacramento, CA 95814

Honorable Toni G. Atkins  
Speaker of the Assembly  
State Capitol, Room 219  
Sacramento, CA 94249-0046

Honorable Hannah-Beth Jackson  
Chair, Senate Committee on Judiciary  
State Capitol, Room 2032  
Sacramento, CA 95814

Honorable Mark Stone  
Chair, Assembly Committee on Judiciary  
State Capitol, Room 5155  
Sacramento, CA 95814

Dear Chief Justice Cantil-Sakauye, Governor Brown, Senator de León, Assemblywoman Atkins, Senator Jackson, Assemblyman Stone, Members of the Senate Judiciary Committee and Members of the Assembly Judiciary Committee:

Attached is the *Annual Discipline Report* of the State Bar of California for 2014 in fulfillment of the requirements of Business and Professions Code, section 6086.15.

The attorney discipline system is, by far, the largest component of the State Bar, and it plays an indispensable role in carrying out the Bar's mission of public protection. It is the discipline system which receives complaints against attorneys, investigates those complaints, prosecutes them when warranted, and recommends sanctions against attorneys found culpable of misconduct. The performance of the discipline system is a crucial measure of the success of the State Bar as a public regulatory agency.

The *Annual Discipline Report* is a long-standing vehicle for transmitting objective statistical information about the activity and performance of the discipline system to key stakeholders: the Legislature, the Governor, the Supreme Court, and, of course, the public. Since 1986, a key statutory measure for performance of the attorney discipline system is the six-month benchmark for disposing complaints or completing investigations and filing disciplinary charges. Complaints not meeting this benchmark on December 31 in any year constitute the backlog of cases for that year and must be reported in the

*Annual Discipline Report.* Historically, the *Annual Discipline Report* has focused on presenting a snapshot of the inventory of complaints at various stages of the discipline process as of December 31 of each year.

Four years ago, we began supplementing the traditional snapshot with data showing the number of days complaints spend in each stage of the discipline process, measured from when the complaints are received by the State Bar. The report also includes data to show the median time (by days) that complaints spend at each stage. By directly measuring this aspect of performance, we have been able to focus our efforts, not merely on eliminating “backlogs,” but on improving the time required to investigate, prosecute, and adjudicate complaints.

In 2011, the State Bar also made significant changes in the operations of its Office of the Chief Trial Counsel, the prosecutorial arm of the State Bar’s discipline system, to improve performance and, in particular, to address the substantial growth of the backlog in 2009 and 2010, spurred in large part by the thousands of complaints against lawyers involved home-loan modification scams. Between 2010 and 2011, the backlog was reduced from 5,147 to 1,560 cases. Since then, the backlog has grown modestly from year to year. However this growth has reflected an increase in the number of suspended cases; the active case backlog finished 2014 at a low of 261, compared with 361 in the prior year and 2,612 in 2010.

#### *Activity in 2014*

- The State Bar’s Office of Chief Trial Counsel (OCTC) received 16,024 new complaints, reportable actions, and other cases in 2014. System-wide, OCTC opened 16,932 cases in 2014 and closed 17,023, reducing the system-wide case inventory at year’s end by 91, from 6,856 cases to 6,765.
- OCTC’s Intake Unit evaluated 15,497 cases, of which 3,791 were referred to the Enforcement Unit for investigation.
- OCTC completed 3,648 investigations and filed formal charges in 1,008 cases.
- The State Bar Court took action on 1,675 cases, closing 117 and referring 1,558 to the California Supreme Court.
- The Supreme Court disposed of 1,536 disciplinary cases, dismissing 4, remanding one to the State Bar Court, suspending one, and imposing discipline in 1,012. It also granted 508 petitions resignation without charges pending.
- There were 171 attorneys disbarred in 2014, including 55 by reason of default. 263 attorneys were suspended. Disbarred attorneys were found culpable in an average of 2.5 complaints each; suspended attorneys were found culpable in an average of 2.2 complaints each.

#### *Caseload in 2014*

- On December 31, 2014, OCTC had an open caseload of 4,095 active cases, which included 1,796 in the inquiry stage, 1,225 in the investigation stage, 174 in pre-filing, and 900 cases before the State Bar Court.
- The office’s active caseload included a backlog of 261 active cases and 1,712 suspended cases over six months old and not yet filed with the State Bar Court, putting the total backlog a 1,972.

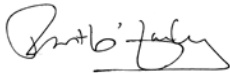
### *Speed of Case Handling in 2014*

- The median time to evaluate a case and refer it for investigation was 21 days.
- The median time to complete an investigation leading to litigation was 155 days.
- The median time between the completion of an investigation and filing formal charges was 74 days.
- The median time from formal filing to a referral to the Supreme Court was 168 days.
- The median *total* time from the receipt of a complaint to filing of formal charges was 263 days.
- The median *total* time from the receipt of a complaint to final disposition by the Supreme Court was 505 days.

### **The Work Ahead**

The operational changes in the State Bar's Office of Chief Trial Counsel the last three years have resulted in improved performance, as the data for 2014 show. However, we realize that more needs to be done to assure that the State Bar is fulfilling its mission to protect the public. The fact remains that half of complaints required 263 days or longer to reach the point of filing disciplinary charges in the State Bar Court. The State Bar remains committed to making the changes needed to do better.

Yours truly,



Robert A. Hawley  
Deputy and Acting Executive Director



# THE STATE BAR OF CALIFORNIA

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**Title of Report:** Annual Discipline Report of the State Bar of California  
**Statutory Citation:** Business and Professions Code, section 6086.15  
**Date of Report:** April 30, 2015

The State Bar of California submitted its *Annual Discipline Report* to the Chief Justice of California, the Governor, the Speaker of the Assembly, the President pro Tempore of the Senate and the Assembly and Senate Judiciary Committees in accordance with Business and Professions Code, section 6086.15. The *Annual Discipline Report* describes the performance and condition of its attorney discipline system in the previous calendar year. The following summary is provided under Government Code, section 9795.

In 2014, the State Bar received 16,023 new complaints against California lawyers. The Office of the Chief Trial Counsel, the State Bar's prosecutorial arm, opened 3,790 new investigations and filed disciplinary charges or stipulations to discipline in 1,613 complaints. Formal discipline was imposed in 1,013 complaints, resulting in the disbarment or suspension of 435 lawyers.

In 2014, the State Bar has continued to timely process complaints and keeps cases from falling into backlog—defined by statute as those open complaints and cases at year's end where the State Bar had not filed disciplinary charges or reached other disposition within six months after receipt of the complaints. As of December 31, 2014, the number of backlog active cases was 263, compared to 2,612 in 2010. This included 157 cases still under inquiry or active investigation, as compared to 1,584 in 2010 and 106 cases, for which the investigation was complete but charges had not yet been filed, significantly lower than the 1,028 cases in 2010.

More detailed information on the complaints, backlog, time for processing complaints, and disciplinary outcomes are contained in the *Annual Discipline Report*. In addition, the report presents summaries of (1) the cost of the discipline system, (2) the condition of the Client Security Fund, and (3) other programs of the State Bar directed at assuring attorney honesty and competency or preventing misconduct.

The full report is available at:

<http://www.calbar.ca.gov/AboutUs/Reports.aspx>

A printed copy of the report may be obtained by calling (916) 442-8018.

# **Attorney Discipline Report For Year Ending December 31, 2014**



**The State Bar of California  
April 30, 2015**

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# INTRODUCTION



## Introduction

Each April, the State Bar of California issues its *Annual Discipline Report*. The State Bar presents this report to the Chief Justice of California, the Governor, the Speaker of the Assembly, the President pro Tempore of the Senate, and the Assembly and Senate Judiciary Committees, for their consideration. It fulfills the requirements of Business and Professions Code, section 6086.15 that the State Bar report annually on the performance and condition of its discipline system.<sup>1</sup>

This report contains detailed statistics and other information about the State Bar's attorney discipline system. It presents data and tables on the numbers of complaints made against California lawyers and the average times for processing complaints through the discipline system for the preceding year. Statistical information is also presented for the four previous years to enable a year-to-year comparison and an overview of the workload and performance of the State Bar's attorney discipline system.

This report also contains information on the costs of the discipline system and the condition of the Client Security Fund, the program established under Business and Professions Code, section 6140.5 to provide some relief and mitigation to victims who have suffered pecuniary losses caused by the dishonest conduct of a California lawyer. Finally, the report includes descriptions of State Bar programs directed at assuring attorney honesty and competence and preventing acts warranting discipline.

The *Annual Discipline Report* is published on the State Bar's website at <http://calbar.ca.gov/AboutUs/Reports.aspx>.

## Statistical Overview

Since 1986, a key statutory measure for performance of the attorney discipline system is the six-month benchmark for disposing complaints or completing investigations and filing disciplinary charges. The following is an overview of the statistical data on the performance of the discipline system for 2014, which are more fully detailed in the tables and data below.

## Activity in 2014

- The State Bar's Office of Chief Trial Counsel (OCTC) received 16,024 new complaints, reportable actions, and other cases in 2014.
- OCTC's Intake Unit processed 15,497 cases, of which 3,791 were referred to the Enforcement Unit for investigation.
- OCTC completed 3,648 investigations, with 1,084 of those having sufficient evidence to support the imposition of discipline against the attorney, and filed formal charges in 1,008 cases.

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<sup>1</sup> A summary of the content required by Business and Professions Code, section 6086.15 and related statutes and the complete text of the provisions may be found in the Appendix.

- The State Bar Court took action on 1,675 cases, closing 117 and referring 1,158 to the California Supreme Court.
- The Supreme Court disposed 1,536 cases, dismissing 4; remanding 1 to the State Bar Court; suspending 1; granting 508 requests for resignations of attorneys without charges pending; and imposing discipline in 1,012 cases.
- The Supreme Court disbarred 171 attorneys in 2014, including 55 by reason of default, and suspended 263 attorneys.

### **Caseload in 2014**

- On December 31, 2014, OCTC had an open caseload of 4,095 active cases, which included 1,796 in the inquiry stage, 1,225 in the investigation stage, 174 in pre-filing, and 900 cases before the State Bar Court.
- The office's active caseload included 261 active cases over six months old, including 39 in inquiry, 116 in investigation and 106 in pre-filing matters.
- The office also had a suspended caseload of 1,816 cases in the investigation or pre-filing stages. Of these, 1,712 were over six months old (including 1,548 investigations and 164 pre-filing cases).
- The office's total backlog, encompassing all active and suspended cases older than six months and not yet formally filed, was 1,973 cases.

### **Speed of Case Handling in 2014**

- The median time to evaluate a case and refer it for investigation was 21 days.
- The median time to complete an investigation having sufficient evidence to support the imposition of discipline against the attorney was 155 days.
- The median time between the completion of an investigation and filing formal charges was 74 days.
- The median time from formal filing to a referral to the Supreme Court was 168 days.
- The median *total* time from the receipt of a complaint to filing of formal charges was 263 days.
- The median *total* time from the receipt of a complaint to final disposition by the Supreme Court was 505 days.

### ***California's Attorney Discipline System***

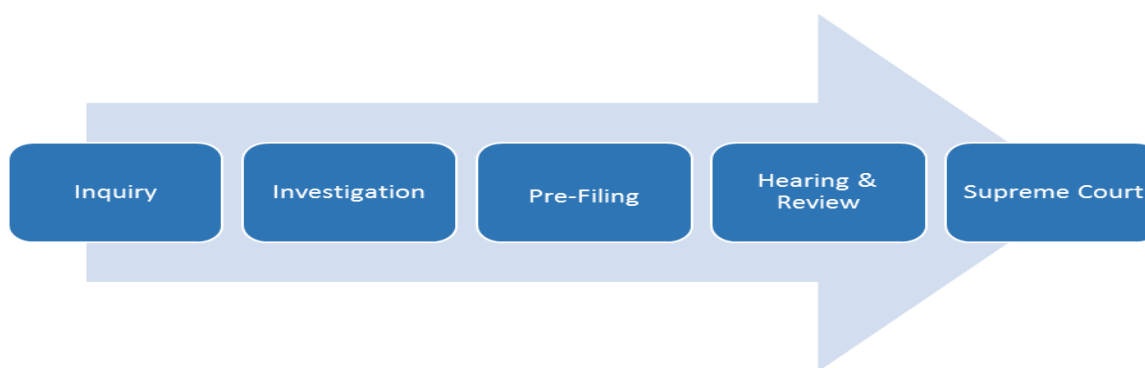
In California, a lawyer is licensed when admitted as a member of the State Bar. Only active members of the State Bar may practice law. The State Bar is a constitutional agency established in the judicial branch. In administering the requirements for admission and discipline of California lawyers, the State Bar is an administrative arm of the California Supreme Court. Under its inherent judicial power to regulate admission and discipline, it is the Supreme Court that admits and disbars, or suspends a lawyer from the practice of law.

In California's attorney discipline system, all communications and information concerning the conduct of California lawyers are first received by the State Bar's Office of the Chief Trial Counsel. OCTC investigates those complaints involving allegations of professional misconduct and may initiate and prosecute disciplinary proceedings in the State Bar Court. The Hearing Department of the State Bar Court conducts evidentiary hearings and renders a decision with

findings and recommendations of discipline that are reviewable by the Review Department of the State Bar Court. The State Bar Court's final decision and accompanying record in each case are then transmitted to the Supreme Court. In cases where the State Bar Court recommends the suspension or disbarment of a lawyer, the Supreme Court undertakes an independent determination of the discipline to be imposed. Discipline occurs with a final decision and order of the Supreme Court.

To inform the Legislature, the Governor, and the Supreme Court on the performance of the discipline system, the tables in the *Annual Discipline Report* are organized to show the numbers and ages of complaints as they are processed through each stage of the attorney discipline system.

### ***Stages of the Discipline System in Processing of Complaints***



#### **Five Stages of the Attorney Discipline Process**

The attorney discipline system is described in the *Annual Discipline Report* in five major stages: **Inquiry, Investigation, Pre-Filing, Hearing & Review**, and finally, imposition of **Supreme Court**. The following briefly explains each of these stages and how a complaint proceeds from one stage to the next.

#### **Inquiry**

The process begins after receipt of a written complaint in OCTC's Intake Unit. OCTC then conducts an inquiry to review and evaluate the complaint, any supporting documents, and other information to determine whether a complaint merits a full investigation. A complaint that presents sufficient information or allegations of misconduct against a lawyer ("respondent"), which if proved could result in discipline, will be advanced to the investigation stage.

#### **Investigation**

At this stage, investigations are carried out by professional investigators in OCTC, with the guidance and supervision of OCTC attorneys. Investigators may interview witnesses and respondents, subpoena and analyze bank records, obtain court documents, and otherwise develop the evidence needed to determine whether to bring disciplinary proceedings in the

State Bar Court. An OCTC attorney reviews the results of each investigation. After any determination to proceed with disciplinary proceedings, the complaint advances to the pre-filing stage.

When multiple complaints are made against the same respondent, OCTC may select and prosecute only some of the complaints likely to result in disbarment. In such investigations, the remaining complaints may be “abated” or “held.” If OCTC is successful in obtaining disbarment, prosecution of the suspended investigations will no longer be warranted and the remaining complaints will be closed. However, if the respondent is not disbarred, OCTC may re-open any suspended investigations.

If a respondent is the subject of a criminal prosecution or a related civil action for the same misconduct, OCTC may suspend its investigation until the criminal proceedings have been concluded.

### **Pre-Filing**

When OCTC determines that a completed investigation presents sufficient evidence to support the imposition of discipline against the respondent, a Notice of Disciplinary Charges is prepared for filing in the State Bar Court. Before filing charges, OCTC attempts to negotiate a stipulation to facts and proposed discipline. At this point, both OCTC and the respondent have the right to request an Early Neutral Evaluation Conference (ENE). To facilitate an early stipulated outcome, in an ENE, a State Bar Court judge orally evaluates the facts and charges, and potential for imposing discipline.

### **Hearing and Review**

After the filing of disciplinary charges, OCTC prosecutes the case in a trial in the Hearing Department of the State Bar Court. The Hearing Department’s decision with findings and a recommendation of discipline of the respondent may be appealed to the State Bar Court’s Review Department. If there is no appeal, or the appeal is unsuccessful, there is a final decision of the State Bar Court. When a final decision of the State Bar Court includes a recommendation that the respondent be suspended or disbarred, the State Bar Court’s decision and record of its proceeding is prepared and formally transmitted to the Supreme Court, and the case then passes to the next stage for the imposition of discipline.

### **Supreme Court**

Upon the filing of the State Bar Court’s decision and the record, the Supreme Court conducts its own independent determination and action. Discipline is imposed when the Supreme Court issues its final order or decision.

### ***Discipline System Terminology***

The State Bar Act (Bus. & Prof. Code, §§ 6000 et seq.) and Rules of Procedure adopted by the Board of Trustees of the State Bar to govern proceedings in the State Bar Court include definitions of many technical terms used in the State Bar’s discipline system. (See e.g., Rules of the State Bar, rule 5.4.) Definitions of some of those key terms as used in this report are presented here.

***Inquiry*** refers to the evaluation of a written complaint after its receipt by the Intake Unit of OCTC. The purpose of an inquiry is to determine whether an investigation or other action is warranted based on information relating to alleged professional misconduct. OCTC first assigns an inquiry number to each complaint and then a case number to each complaint when an investigation is opened.

***Case, complaint.*** *Case* refers to a *complaint* and other matters counted for purposes of reporting the number of cases or caseload in the discipline system. **Each complaint or matter against a lawyer is counted as one case.**<sup>2</sup> ***Complaint*** refers to a written communication received by OCTC alleging misconduct by a California lawyer. When an inquiry determines that a complaint has sufficient allegations or information to show misconduct, which if proved, could result in discipline, an *investigation* may be opened. *Complaint* has also included a ***State Bar initiated (SBI)*** complaint, which is a matter opened by OCTC based on information about possible attorney misconduct received from anonymous sources or media reports. Beginning in 2014, to provide more detail on caseload of the discipline system, the Annual Discipline Report has included in the count of cases other matters that are not reported by a ***complainant***, but are opened by OCTC based on other information it receives, including: (1) matters self-reported by attorneys or reported by other sources (*reportable actions*);<sup>3</sup> (2) matters opened for possible violation of requirements for demand letters sent by an attorney to a prospective defendant in an action for violation of construction-related accessibility standards (Bus. & Prof. Code, § 6106.2); and (3) probation revocation matters or proceedings against disciplined lawyers in violation of probation.<sup>4</sup>

***Complainant*** refers to the person who makes a written complaint against a lawyer.

***Investigation*** is the process during which OCTC gathers, evaluates, and reviews evidence and information about a complaint against a lawyer.

***Respondent*** is a California lawyer who is the subject of an inquiry, complaint, investigation or a disciplinary proceeding in the State Bar Court.

***Notice of Disciplinary Charges*** (or “*disciplinary charges*”) means the papers or “initial pleading” that is filed to begin the disciplinary proceeding in the State Bar Court against a lawyer. The Notice of Disciplinary Charges provides notice of the rules, statutes, or orders the lawyer is alleged to have violated. Notice of Disciplinary Charges has also been referred to by statute as a “*notice to show cause*” and “*formal charges*.” Each filing of a Notice of Disciplinary Charges may consolidate and include multiple complaints against a lawyer. The State Bar Court

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<sup>2</sup> Beginning with the *Annual Discipline Report* for 2010, as recommended in the California State Auditor Report No. 2009-030 (July 2009), at pp. 36-40, each case or complaint opened against a lawyer is counted and included as a separate case in the data and tables in this report.

<sup>3</sup> Business and Professions Code, section 6086.15, subdivision (a)(3)&(4) requires reporting of matters from other sources, which in prior years was provided in a separate section of the *Annual Discipline Report*. These other matters continued to be reported in the “Reportable Actions” section of the *Annual Discipline Report*, where the number of matters is listed by source.

<sup>4</sup> When a disciplined lawyer violates probation, OCTC is permitted to initiate a new disciplinary complaint (Bus. & Prof. Code, § 6068, subd. (k)). Alternatively, the State Bar’s Office of Probation may initiate a probation revocation proceeding in the State Bar Court under the State Bar’s Rules of Procedure. (Rules of the State Bar, rule 5.310.)

treats the filing as a single case. However for consistency of reporting the State Bar's process of handling complaints, **each complaint against a lawyer continues to be counted as one complaint** throughout the discipline system.<sup>5</sup>

**Stipulation to Discipline** refers to settlement by the stipulation to facts, conclusions of law, and disposition reached between OCTC and a respondent under Rules of the State Bar, rule 5.56. A Stipulation to Discipline must first be approved by the State Bar Court and then transmitted to the Supreme Court for its final determination if the discipline recommended is greater than a reproof. The State Bar Court approves and finalizes a Stipulation to Discipline recommending a reproof.

**Alternative Discipline Program** or **ADP** refers to the program in which a respondent with substance abuse or mental health issues may participate upon approval of a State Bar Court judge. Among the conditions for acceptance into ADP is the respondent's consent into the State Bar's program for treating lawyers impaired by substance abuse or mental illness,<sup>6</sup> the judge's approval of a stipulation to facts and conclusions of law, evidence that the respondent's substance abuse or mental health issue contributed to the misconduct, and any other condition the judge may impose. The State Bar Court judge's order approving an application to participate in ADP will include a statement of the range of low and high discipline that may be imposed if the respondent is successful or unsuccessful in completing the program.

**Disciplinary Proceeding** means a proceeding in the State Bar Court for the purpose of seeking the imposition of discipline against a respondent.

**Backlog** is the statutory term referring to the status of a complaint or case based on time goals set by the Legislature for the processing of complaints in the discipline system. For purposes of the *Annual Discipline Report*, Business and Professions Code, section 6086.15 defines *backlog of cases* as "including, but not limited to, the number of complaints as of December 31 of the preceding year that were pending beyond six months after receipt without dismissal, admonition, or the filing of a notice [of disciplinary charges]." The *backlog* is used as a key benchmark for the performance of the discipline system. This definition is consistent with Business and Professions Code, section 6140.2, which states: "The State Bar shall set as a goal the improvement of its disciplinary system so that no more than six months will elapse from the receipt of complaints to the time of dismissal, admonishment of the attorney involved, or the filing of formal charges by the State Bar Office of [the Chief] Trial Counsel."

**Abatement** refers to the procedure and grounds in the State Bar Court to stay a disciplinary proceeding after the filing of disciplinary charges. (Rules of the State Bar, rules 5.50 – 5.52.) OCTC may *abate* its investigation of a complaint and not initiate disciplinary proceedings in the State Bar Court for the same reasons. In some circumstances with multiple complaints against a respondent, OCTC may suspend or "hold" the investigation of some of the complaints, if it determines that prosecution of other complaints is likely to result in disbarment of the lawyer. In the *Annual Discipline Report*, investigations of complaints *held* or *abated* by OCTC are referred to collectively as **suspended matters**. **Suspended matters** pending more than six months from

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<sup>5</sup>See *ante*, fn. 2.

<sup>6</sup> The State Bar's **Lawyers Assistance Program** is a separate treatment program established under Business and Professions Code, sections 6230 et seq.

receipt without the filing of disciplinary charges are counted and included in the backlog under Business and Professions Code, section 6086.15.

**CASELOAD AND  
SPEED OF HANDLING  
COMPLAINTS BY STAGE**



## Caseload and Speed of Handling Complaints by Stage

Every year the State Bar's attorney discipline system receives more than ten thousand new complaints. At any point in time, OCTC has over a thousand open complaints under inquiry, along with hundreds of open investigations, pre-filing matters, and cases in the State Bar Court. In addition, there are hundreds of State Bar Court decisions that are transmitted, or about to be transmitted, to the Supreme Court for its review and determination.

This section details the inventory and age of complaints as they flow through the five stages of the discipline system. The inventory by volume and age of the number of complaints-in-process at each stage are combined to show the caseload and speed of handling of complaints throughout the discipline system. For each stage, data is presented in the following tables.<sup>7</sup>

### Inventory of Matters

These tables show inventory of matters by the number of complaints and age (by months and years) from the date on which a complaint was first received by OCTC. In the inquiry, investigation, and pre-filing stages, those complaints, which are not closed and fail to meet the six-month the statutory benchmark for filing of disciplinary charges, are included in the count of backlog cases reported in the next section of this report. In these tables for the inquiry, investigation, and pre-filing stages, the number of non-backlog and backlog complaints are shown in the subtotals. The inventory is also shown by time (by months and years) from date a matter enters to the date it exits any stage.

### Flow of Matters

These tables show the number of complaints at the beginning of the year, the number of complaints entering and leaving during the year, and the remaining inventory of complaints at year-end on December 31.

### Disposition of Closed Matters

At the inquiry, investigation, or pre-filing stage, a complaint may be closed and no longer counted in the caseload for various reasons. These tables include the following explanations of the reasons for closing complaints.

***Informal Action:*** Complaints may be closed with a *directional or warning letter* to the respondent. A *directional letter* points out there is a potential for future violation if specified conduct is not corrected and may reference resources the respondent can consult to ensure future compliance with professional standards. A *warning letter* advises a respondent of the OCTC opinion that professional misconduct has occurred; it warns the respondent not to continue or repeat the conduct, but advises that because of the present circumstances or minor nature of the infraction, there will be no prosecution at this time.

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<sup>7</sup> The statistics and information in these tables are generated from each of the thousands of individual cases in the discipline system. New or more complete information in some cases may later become available after a report has been issued or there may be corrections to errors in data entry. For these reasons, the data presented in the report may slightly differ from some of the tables in a prior year's report.

***Referral:*** Complaints may be closed if a complainant or the underlying matter is referred elsewhere for resolution. For example a complaint may be referred to the mandatory fee arbitration program, if the matter is a dispute over the fees charged by the complainant's lawyer; to an alternative dispute resolution mediation program sponsored by a local bar association for resolving lawyer-client related disputes; or to the criminal justice system if criminal conduct is alleged.

***Duplicative:*** Complaints may be closed if they were opened in error or if they involve the same matters as another complaint.

***Resigned, Disbarred in Other Matter:*** Complaints may be closed if the Supreme Court accepts the respondent's resignation, which has been tendered while the complaints are pending. Complaints may be closed if the respondent is disbarred in another case.

***Closed with No Action:*** Complaints may be closed with no action if they are without merit, there is insufficient evidence to support or prove the allegations, or the complainant refuses to cooperate.

***Other:*** Complaints may be closed if the complainant and respondent have resolved the underlying dispute and OCTC has determined that prosecution of disciplinary proceedings is not warranted. Complaints may also be closed because of the death of the respondent.

## **Age of Matters**

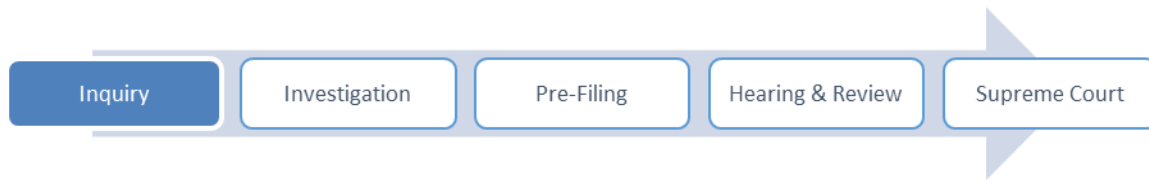
The age of matters, by median days and 90th percentile, is presented for complaints by Age at Exit (by days) and by Time in Stage (by days). Age at Exit refers to the number of days from when a complaint was received until it proceeds out of the stage. Time in Stage refers to the number of days a complaint is in anyone of the five stages. .

## **Active and Suspended Matters**

For the investigation, pre-filing, and hearing and review stages, the tables on the inventory, flow, disposition of closed, and age of matters are presented as *active* or *suspended*.

Processing of a complaint in the investigation stage or pre-filing stage may be *suspended*. When there are multiple complaints against a single respondent, OCTC may determine select prosecution of complaints likely to result in the disbarment of the respondent. Investigation of the remaining complaints will be suspended. If disbarment is not obtained, the suspended complaints may be re-opened. If the respondent is disbarred, the suspended investigation will be closed. OCTC may also suspend an investigation upon notification by a criminal prosecutor until the conclusion of a pending criminal investigation or proceeding against the respondent for the same misconduct. Similarly at the hearing and review stage, on motion by OCTC, a respondent, or its own motion, the State Bar Court may abate and stay the proceeding in part or in whole.

## ***Inquiry Stage***



The majority of disciplinary actions originate with complaints filed by members of the public. For every written complaint received by OCTC, its Intake Unit opens and conducts an inquiry – a review of the complaint itself, as well as the supporting documentation and surrounding circumstances – to determine whether a formal investigation is warranted. In some instances, this determination can be made quickly based on the allegations and facts presented by the complainant. In other cases, Intake will contact the parties for additional information. If a complaint is not advanced to the formal investigation stage, it was either referred elsewhere; the parties resolved the underlying matter; OCTC issued a directional or warning letter to the respondent; or it was closed without action.

**Table 1: Inquiry Stage – Inventory of Matters as of December 31**

<b>Age of Case</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
0 - 90 Days	2,182	2,612	1,755	1,178	1,696
91 Days to 6 Months	<u>137</u>	<u>247</u>	<u>104</u>	<u>13</u>	<u>61</u>
Non-Backlog	2,319	2,859	1,859	1,191	1,757
6 Months to 1 Year	60	33	54	26	19
1 - 2 Years	35	32	54	40	14
2 - 3 Years	9	5	5	10	4
3 - 4 Years	2	2	3	0	2
4 - 5 Years	0	0	0	2	0
Over 5 Years	<u>5</u>	<u>3</u>	<u>0</u>	<u>0</u>	<u>0</u>
Backlog	111	75	116	78	39
<b>Total Inventory</b>	<b>2,430</b>	<b>2,934</b>	<b>1,975</b>	<b>1,269</b>	<b>1,796</b>

<b>Time in Stage</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
0 - 90 Days	2,182	2,612	1,755	1,178	1,696
91 Days to 6 Months	137	247	104	13	61
6 Months to 1 Year	60	33	54	26	19
1 - 2 Years	35	32	54	40	14
2 - 3 Years	9	5	5	10	4
3 - 4 Years	2	2	3	0	2
4 - 5 Years	0	0	0	2	0
Over 5 Years	5	3	0	0	0
<b>Total Inventory</b>	<b>2,430</b>	<b>2,934</b>	<b>1,975</b>	<b>1,269</b>	<b>1,796</b>

**Table 2: Inquiry Stage – Case Flow of Matters January 1 – December 31**

<b>Case Flows</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Inventory (January 1)	5,200	2,430	2,934	1,975	1,269
Complaints Received	17,386	15,719	14,820	13,048	12,744
Reportable Actions	3,379	2,764	2,987	2,928	2,856
State Bar Initiated	505	426	333	411	424
Other Sources	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Inflows	21,270	18,909	18,140	16,387	16,024
Closed	17,163	13,061	14,599	12,424	11,706
To Investigation	6,877	5,344	4,500	4,668	3,791
To Other Stages	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>0</u>
Total Outflows	24,040	18,405	19,099	17,093	15,497
<b>Inventory (December 31)</b>	<b>2,430</b>	<b>2,934</b>	<b>1,975</b>	<b>1,269</b>	<b>1,796</b>

**Table 3: Inquiry Stage – Disposition of Closed Matters**

<b>Disposition of Closed Cases</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Informal Action	1,204	1,305	1,578	1,524	1,473
Referral	309	207	267	275	191
Duplicative	1,162	891	919	696	590
Resp. Disbarred or Resigned	1,783	494	538	528	495
Closed, No Action	12,510	10,013	11,095	9,300	8,865
Other	195	151	202	101	92
<b>Total Closed</b>	<b>17,163</b>	<b>13,061</b>	<b>14,599</b>	<b>12,424</b>	<b>11,706</b>

**Table 4: Inquiry Stage – Age of Matters (Age at Exit)**

Age at Exit (days)	2010	2011	2012	2013	2014
All Cases					
Median Age	60	50	38	30	43
90th Percentile	149	107	97	58	59
Closed					
Median Age	71	63	45	36	48
90th Percentile	185	112	101	58	59
To Investigation					
Median Age	41	21	16	14	21
90th Percentile	87	72	58	56	58

**Table 5: Inquiry Stage – Age of Matters (Time in Stage)**

Time in Stage (days)	2010	2011	2012	2013	2014
All Cases					
Median Age	60	50	38	30	43
90th Percentile	149	107	97	58	59
Closed					
Median Age	71	63	45	36	48
90th Percentile	185	112	101	58	59
To Investigation					
Median Age	41	21	16	14	21
90th Percentile	87	72	58	56	58

## ***Investigation Stage***



A complaint alleging misconduct that could result in discipline, if proved, will be advanced to the investigation stage. Investigations are carried out by professional investigators in OCTC, with the guidance and supervision of OCTC attorneys. Investigators may interview witnesses and respondents, subpoena and analyze bank records, obtain court documents, and otherwise develop the evidence needed to determine whether to bring disciplinary proceedings against the respondent in State Bar Court. An OCTC attorney reviews the results of each investigation and determines whether to advance the matter to the pre-filing stage. If not, the complaint may be closed without action or with non-disciplinary action, or may be referred elsewhere.

## Active Matters

**Table 6: Investigation Stage - Inventory of Active Matters as of December 31**

<b>Age of Case</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
0 - 90 Days	925	617	522	639	473
91 Days to 6 Months	<u>930</u>	<u>649</u>	<u>507</u>	<u>761</u>	<u>636</u>
Non-Backlog	1,855	1,266	1,029	1,400	1,109
6 Months to 1 Year	1,095	17	23	73	73
1 - 2 Years	340	13	7	22	25
2 - 3 Years	24	1	6	6	12
3 - 4 Years	8	0	0	3	5
4 - 5 Years	4	0	1	1	0
Over 5 Years	<u>2</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
Backlog	1,473	31	37	105	116
<b>Total Inventory</b>	<b>3,328</b>	<b>1,297</b>	<b>1,066</b>	<b>1,505</b>	<b>1,225</b>
<b>Time in Stage</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
0 - 90 Days	1,399	944	669	866	756
91 Days to 6 Months	839	344	383	576	411
6 Months to 1 Year	849	9	6	51	50
1 - 2 Years	225	0	8	6	5
2 - 3 Years	11	0	0	6	2
3 - 4 Years	4	0	0	0	1
4 - 5 Years	1	0	0	0	0
Over 5 Years	0	0	0	0	0
<b>Total Inventory</b>	<b>3,328</b>	<b>1,297</b>	<b>1,066</b>	<b>1,505</b>	<b>1,225</b>



**Table 7: Investigation Stage – Case Flow of Active Matters January 1–December 31**

<b>Case Flows</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Inventory (January 1)	3,007	3,328	1,297	1,066	1,505
New Cases	6	3	2	3	3
From Inquiry	6,877	5,344	4,500	4,668	3,791
From Other Stages	<u>345</u>	<u>583</u>	<u>217</u>	<u>146</u>	<u>330</u>
Total Inflows	7,228	5,930	4,719	4,817	4,124
Closed	3,503	4,007	2,220	1,980	2,564
Suspended	1,614	1,595	1,192	1,123	737
To Pre-filing	1,571	2,145	1,485	1,229	1,084
To Other Stages	<u>219</u>	<u>214</u>	<u>53</u>	<u>46</u>	<u>19</u>
Total Outflows	6,907	7,961	4,950	4,378	4,404
<b>Inventory (December 31)</b>	<b>3,328</b>	<b>1,297</b>	<b>1,066</b>	<b>1,505</b>	<b>1,225</b>

**Table 8: Investigation Stage – Disposition of Closed Matters (Active)**

<b>Disposition of Closed Cases</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Informal Action	336	317	174	214	303
Referral	211	397	180	137	183
Duplicative	246	233	68	50	86
Resp. Disbarred or Resigned	26	32	18	2	5
Closed, No Action	2,596	2,838	1,723	1,519	1,949
Other	88	190	57	58	38
<b>Total Closed</b>	<b>3,503</b>	<b>4,007</b>	<b>2,220</b>	<b>1,980</b>	<b>2,564</b>

**Table 9: Investigation Stage – Age of Matters (Active) by Age at Exit**

<b>Age at Exit (days)</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
All Cases					
Median Age	204	198	132	135	164
90th Percentile	452	523	188	196	258
Closed					
Median Age	207	207	133	149	167
90th Percentile	463	513	184	193	228
Suspended					
Median Age	140	94	45	31	67
90th Percentile	336	384	165	130	231
To Pre-filing					
Median Age	268	259	163	168	181
90th Percentile	514	595	214	230	337

**Table 10: Investigation Stage – Age of Matters (Active) by Time in Stage**

Time in Stage (days)	2010	2011	2012	2013	2014
All Cases					
Median Age	150	146	95	104	127
90th Percentile	388	399	161	172	183
Closed					
Median Time in Stage	146	153	96	116	126
90th Percentile	399	400	157	168	176
Suspended					
Median Time in Stage	106	66	25	13	43
90th Percentile	299	302	143	110	170
To Pre-filing					
Median Time in Stage	200	176	127	147	155
90th Percentile	452	461	174	186	212

## Suspended Matters

**Table 11: Investigation Stage - Inventory of Suspended Matters as of December 31**

<b>Age of Case</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
0 - 90 Days	33	228	76	101	18
91 Days to 6 Months	<u>222</u>	<u>264</u>	<u>175</u>	<u>485</u>	<u>76</u>
Non-Backlog	255	492	251	586	94
6 Months to 1 Year	638	242	286	330	344
1 - 2 Years	1,362	475	433	401	795
2 - 3 Years	180	245	192	289	213
3 - 4 Years	80	36	161	27	91
4 - 5 Years	21	27	14	141	14
Over 5 Years	<u>12</u>	<u>13</u>	<u>18</u>	<u>31</u>	<u>91</u>
Backlog	2,293	1,038	1,104	1,219	1,548
<b>Total Inventory</b>	<b>2,548</b>	<b>1,530</b>	<b>1,355</b>	<b>1,805</b>	<b>1,642</b>
<b>Time in Stage</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
0 - 90 Days	376	473	186	294	123
91 Days to 6 Months	596	302	154	388	115
6 Months to 1 Year	412	216	439	374	420
1 - 2 Years	967	347	331	450	731
2 - 3 Years	166	155	102	139	130
3 - 4 Years	23	20	128	20	86
4 - 5 Years	6	16	6	126	12
Over 5 Years	2	1	9	14	25
<b>Total Inventory</b>	<b>2,548</b>	<b>1,530</b>	<b>1,355</b>	<b>1,805</b>	<b>1,642</b>

**Table 12: Investigation Stage – Case Flow of Suspended Matters  
January 1–December 31**

<b>Case Flows</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Inventory (January 1)	1,413	2,548	1,530	1,355	1,805
From Investigation	1,614	1,595	1,192	1,123	737
From Other Stages	<u>5</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>0</u>
Total Inflows	1,619	1,596	1,194	1,124	737
Closed	260	1,919	1,269	652	712
To Investigation	141	323	48	22	24
To Pre-filing	52	311	52	0	164
To Other Stages	<u>31</u>	<u>61</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Outflows	484	2,614	1,369	674	900
<b>Inventory (December 31)</b>	<b>2,548</b>	<b>1,530</b>	<b>1,355</b>	<b>1,805</b>	<b>1,642</b>

**Table 13: Investigation Stage – Disposition of Closed Matters  
(Suspended)**

<b>Disposition of Closed Cases</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Informal Action	0	1	0	0	1
Referral	0	0	6	0	0
Duplicative	4	4	1	0	3
Resp. Disbarred or Resigned	224	1,838	1,228	638	694
Closed, No Action	27	62	33	13	14
Other	5	14	1	1	0
<b>Total Closed</b>	<b>260</b>	<b>1,919</b>	<b>1,269</b>	<b>652</b>	<b>712</b>

**Table 14: Investigation Stage – Age of Matters (Suspended) by Age at Exit**

Age at Exit (days)	2010	2011	2012	2013	2014
All Cases					
Median Age	326	581	337	508	621
90th Percentile	998	885	816	1,098	1,711
Closed					
Median Age	342	629	331	524	545
90th Percentile	1,017	951	778	1,099	874
To Investigation					
Median Age	396	511	723	238	729
90th Percentile	1,142	876	1,749	407	1,465
To Pre-filing					
Median Age	214	359	387	0	1,711
90th Percentile	739	567	994	0	1,725
To Hearing & Review					
Median Age	148	543	0	0	0
90th Percentile	698	706	0	0	0

**Table 15: Investigation Stage – Age of Matters (Suspended) by Time in Stage**

Time in Stage (days)	2010	2011	2012	2013	2014
All Cases					
Median Age	166	382	275	447	549
90th Percentile	708	800	538	922	1,642
Closed					
Median Age	202	470	275	459	453
90th Percentile	764	822	538	922	699
To Investigation					
Median Age	207	225	468	141	648
90th Percentile	833	597	1,687	401	1,172
To Pre-filing					
Median Age	137	242	224	0	1,642
90th Percentile	429	476	749	0	1,667
To Hearing & Review					
Median Age	117	254	0	0	0
90th Percentile	118	672	0	0	0

## ***Pre-Filing Stage***



Once an investigation is complete and OCTC has made a determination to proceed against the respondent, OCTC then prepares to litigate the case in the State Bar Court. The Notice of Disciplinary Charges against a respondent is drafted at this stage. Depending upon the circumstances, OCTC may attempt to negotiate a stipulation to discipline. The respondent or OCTC may also request an Early Neutral Evaluation Conference (ENE) to facilitate a stipulated outcome. In some cases in an ENE, the State Bar Court judge may refer a respondent to the Alternative Discipline Program. If an early resolution cannot be reached, OCTC will proceed to file formal charges.



## Active Matters

**Table 16: Pre-Filing Stage – Inventory of Active Matters as of December 31**

Age of Case	2010	2011	2012	2013	2014
0 - 90 Days	32	17	43	24	34
91 Days to 6 Months	<u>53</u>	<u>18</u>	<u>83</u>	<u>42</u>	<u>34</u>
Non-Backlog	85	35	126	66	68
6 Months to 1 Year	293	135	216	122	78
1 - 2 Years	518	79	40	45	16
2 - 3 Years	159	16	11	8	6
3 - 4 Years	50	2	2	3	3
4 - 5 Years	7	2	2	0	2
Over 5 Years	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>1</u>
Backlog	1,028	234	272	178	106
<b>Total Inventory</b>	<b>1,113</b>	<b>269</b>	<b>398</b>	<b>244</b>	<b>174</b>

Time in Stage	2010	2011	2012	2013	2014
0 - 90 Days	600	240	264	112	129
91 Days to 6 Months	140	23	105	84	30
6 Months to 1 Year	121	5	21	28	10
1 - 2 Years	193	1	8	18	4
2 - 3 Years	55	0	0	2	0
3 - 4 Years	3	0	0	0	1
4 - 5 Years	1	0	0	0	0
Over 5 Years	0	0	0	0	0
<b>Total Inventory</b>	<b>1,113</b>	<b>269</b>	<b>398</b>	<b>244</b>	<b>174</b>

**Table 17: Pre-Filing Stage – Case Flow of Active Matters January 1 – December 31**

Case Flows	2010	2011	2012	2013	2014
Inventory (January 1)	1,540	1,113	269	398	244
New Cases	234	224	217	175	176
From Investigation	1,571	2,145	1,485	1,229	1,084
From Other Stages	<u>112</u>	<u>429</u>	<u>169</u>	<u>24</u>	<u>219</u>
Total Inflows	1,917	2,798	1,871	1,428	1,479
Closed	888	1,107	333	307	252
Suspended	187	244	110	101	111
To Hearing & Review	1,264	2,255	1,293	1,170	1,008
To Other Stages*	<u>5</u>	<u>36</u>	<u>6</u>	<u>4</u>	<u>178</u>
Total Outflows	2,344	3,642	1,742	1,582	1,549
<b>Inventory (December 31)</b>	<b>1,113</b>	<b>269</b>	<b>398</b>	<b>244</b>	<b>174</b>

\*In 2014, 172 of 178 matters to Other Stages involved a single attorney, which were returned to Investigation Stage.

**Table 18: Pre-Filing Stage – Disposition of Closed Matters (Active)**

Disposition of Closed Cases	2010	2011	2012	2013	2014
Informal Action	288	323	101	119	131
Referral	6	37	13	2	3
Duplicative	25	33	7	9	11
Resp. Disbarred or Resigned	4	7	12	1	1
Closed, No Action	550	673	180	162	103
Other	15	34	20	14	3
<b>Total Closed</b>	<b>888</b>	<b>1,107</b>	<b>333</b>	<b>307</b>	<b>252</b>

**Table 19: Pre-Filing Stage – Age of Matters (Active) by Age at Exit**

Age at Exit (days)	2010	2011	2012	2013	2014
All Cases					
Median Age	539	389	228	249	267
90th Percentile	1,194	846	528	463	1,712
Closed					
Median Age	697	422	242	273	244
90th Percentile	1,302	917	574	504	547
Suspended					
Median Age	394	309	211	203	210
90th Percentile	1,000	639	380	386	289
To Hearing & Review					
Median Age	463	389	225	249	263
90th Percentile	1,147	833	512	456	608

**Table 20: Pre-Filing Stage – Age of Matters (Active) by Time in Stage**

Time in Stage (days)	2010	2011	2012	2013	2014
All Cases					
Median Time in Stage	233	65	62	93	59
90th Percentile	859	393	166	246	199
Closed					
Median Time in Stage	405	78	65	92	70
90th Percentile	897	475	172	245	196
Suspended					
Median Time in Stage	154	70	57	64	47
90th Percentile	632	208	203	151	110
To Hearing & Review					
Median Time in Stage	191	62	62	97	74
90th Percentile	830	374	163	247	217

## Suspended Matters

**Table 21: Pre-Filing Stage – Inventory of Suspended Matters as of December 31**

<b>Age of Case</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
0 - 90 Days	11	6	0	0	5
91 Days to 6 Months	<u>10</u>	<u>42</u>	<u>5</u>	<u>1</u>	<u>5</u>
Non-Backlog	21	48	5	1	10
6 Months to 1 Year	23	42	40	43	38
1 - 2 Years	77	69	81	70	69
2 - 3 Years	58	41	11	22	34
3 - 4 Years	68	18	22	4	14
4 - 5 Years	7	11	9	16	0
Over 5 Years	<u>9</u>	<u>1</u>	<u>4</u>	<u>12</u>	<u>9</u>
Backlog	242	182	167	167	164
<b>Total Inventory</b>	<b>263</b>	<b>230</b>	<b>172</b>	<b>168</b>	<b>174</b>
<b>Time in Stage</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
0 - 90 Days	59	127	42	27	38
91 Days to 6 Months	21	24	15	27	14
6 Months to 1 Year	66	22	49	34	41
1 - 2 Years	79	39	40	49	41
2 - 3 Years	33	15	23	8	31
3 - 4 Years	3	1	2	20	1
4 - 5 Years	2	2	1	2	6
Over 5 Years	0	0	0	0	0
<b>Total Inventory</b>	<b>263</b>	<b>230</b>	<b>172</b>	<b>167</b>	<b>172</b>

**Table 22: Pre-Filing Stage – Case Flow of Suspended Matters  
January 1 – December 31**

<b>Time in Stage</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
0 - 90 Days	59	127	42	27	38
91 Days to 6 Months	21	24	15	27	14
6 Months to 1 Year	66	22	49	34	41
1 - 2 Years	79	39	40	49	41
2 - 3 Years	33	15	23	8	31
3 - 4 Years	3	1	2	20	1
4 - 5 Years	2	2	1	2	6
Over 5 Years	0	0	0	0	0
<b>Total Inventory</b>	<b>263</b>	<b>230</b>	<b>172</b>	<b>167</b>	<b>172</b>

**Table 23: Pre-Filing Stage – Disposition of Closed Matters  
(Suspended)**

<b>Disposition of Closed Cases</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Informal Action	0	1	2	0	0
Resp. Disbarred or Resigned	81	212	148	92	75
Closed, No Action	2	17	1	5	7
Other	0	1	2	1	0
<b>Total Closed</b>	<b>83</b>	<b>231</b>	<b>153</b>	<b>98</b>	<b>82</b>

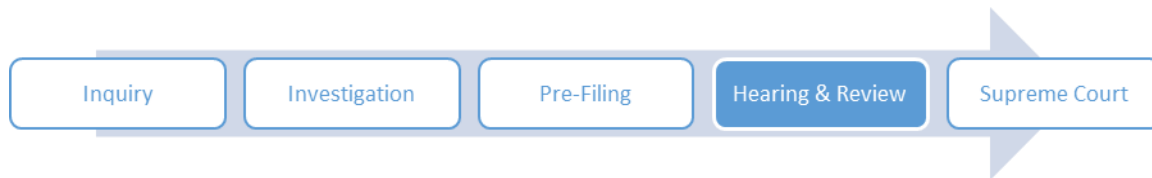
**Table 24: Pre-Filing Stage – Age of Matters (Suspended) by Age at Exit**

Age at Exit (days)	2010	2011	2012	2013	2014
All Cases					
Median Age	742	783	659	609	658
90th Percentile	1,125	1,430	1,395	1,025	1,718
Closed					
Median Age	623	769	656	608	629
90th Percentile	1,175	1,436	1,266	1,166	1,311
To Pre-filing					
Median Age	911	1,279	874	793	1,710
90th Percentile	963	1,341	1,020	0	1,722

**Table 25: Pre-Filing Stage – Age of Matters (Suspended) by Time in Stage**

Time in Stage (days)	2010	2011	2012	2013	2014
All Cases					
Median Age	188	324	259	428	441
90th Percentile	514	870	785	568	1,635
Closed					
Median Age	257	324	259	407	441
90th Percentile	514	870	785	568	965
To Pre-filing					
Median Age	161	301	318	0	1,635
90th Percentile	384	466	0	0	1,635

## Hearing & Review Stage



The Hearing and Review stage commences when OCTC files either a stipulation to discipline – if one has been reached – or a Notice of Disciplinary Charges in the State Bar Court.

If a stipulation to discipline is filed, a hearing judge in the State Bar Court Hearing Department must determine if the stipulation is fair and adequately protects the public.

If disciplinary charges are filed, pre-trial discovery and motion practice, and trial will be conducted in Hearing Department of the State Bar Court. At this stage, a respondent may be referred to the Alternative Discipline Program. After a trial, the hearing judge renders a decision with findings of fact and a recommendation of discipline if the respondent is found culpable of the alleged misconduct. A respondent or OCTC may appeal the decision of the Hearing Department to the State Bar Court Review Department, in which case the Review Department’s decision on appeal will constitute the final decision of the State Bar Court. When there is no appeal, the Hearing Department’s decision will become the final decision of the State Bar Court.

For any State Bar Court decision recommending the disbarment or suspension of a respondent, State Bar Court staff prepares a certified copy of the decision, together with the record of the proceedings, for transmittal to the Supreme Court. The number of matters transmitted is shown below in Table 27 in the category “To Supreme Court.”

*(NOTE: At this stage, when filed in the State Bar Court, complaints against a lawyer are procedurally consolidated and opened under the lead case number. In its tracking of cases, the State Bar Court counts the consolidated complaints as one case. However, for consistency, the tables in this section continue to count each complaint separately.)*

## Active Matters

**Table 26: Hearing & Review Stage - Inventory of Active Matters as of December 31**

<b>Age of Case</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
0 - 90 Days	32	42	34	42	30
91 Days to 6 Months	34	96	66	57	39
6 Months to 1 Year	147	395	382	346	278
1 - 2 Years	335	514	399	438	291
2 - 3 Years	186	187	285	141	152
3 - 4 Years	128	28	74	42	38
4 - 5 Years	78	17	9	19	16
Over 5 Years	70	8	7	7	56
<b>Total Inventory</b>	<b>1,010</b>	<b>1,287</b>	<b>1,256</b>	<b>1,092</b>	<b>900</b>

<b>Time in Stage</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
0 - 90 Days	520	1,056	598	544	462
91 Days to 6 Months	169	155	304	199	153
6 Months to 1 Year	141	35	275	129	94
1 - 2 Years	127	41	76	216	113
2 - 3 Years	34	0	3	2	76
3 - 4 Years	6	0	0	2	0
4 - 5 Years	13	0	0	0	2
Over 5 Years	0	0	0	0	0
<b>Total Inventory</b>	<b>1,010</b>	<b>1,287</b>	<b>1,256</b>	<b>1,092</b>	<b>900</b>



**Table 27: Hearing & Review Stage – Case Flow of Active Matters  
January 1 – December 31**

<b>Case Flows</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Inventory (January 1)	867	1,010	1,287	1,256	1,092
From Pre-filing	1,264	2,255	1,293	1,170	1,008
From Suspended	429	317	564	316	337
From Other Stages	<u>545</u>	<u>607</u>	<u>600</u>	<u>449</u>	<u>604</u>
Total Inflows	2,238	3,179	2,457	1,935	1,949
Closed	156	204	148	151	117
Suspended	201	456	539	389	447
Supreme Court	1,718	2,165	1,722	1,555	1,558
To Other Stages	<u>20</u>	<u>77</u>	<u>79</u>	<u>4</u>	<u>19</u>
Total Outflows	2,095	2,902	2,488	2,099	2,141
<b>Inventory (December 31)</b>	<b>1,010</b>	<b>1,287</b>	<b>1,256</b>	<b>1,092</b>	<b>900</b>

**Table 28: Hearing & Review Stage – Disposition of Closed Matters  
(Active)**

<b>Disposition of Closed Cases</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Informal Action	0	0	0	0	1
Discipline Imposed	70	144	91	47	46
Dismissed	54	44	32	73	52
Terminated	19	2	13	9	11
Other	13	14	12	22	7
<b>Total Closed</b>	<b>156</b>	<b>204</b>	<b>148</b>	<b>151</b>	<b>117</b>

**Table 29: Hearing & Review Stage – Age of Matters (Active) by Age at Exit**

Age at Exit (days)	2010	2011	2012	2013	2014
All Cases					
Median Age	624	576	412	433	390
90th Percentile	2,081	1,631	946	1,048	946
Closed					
Median Age	573	435	338	423	442
90th Percentile	1,666	1,162	724	861	783
Suspended					
Median Age	736	554	420	351	373
90th Percentile	1,602	1,354	715	876	868
Effectuation / Sup Ct					
Median Age	623	616	422	491	399
90th Percentile	2,220	1,769	992	1,076	1,002

**Table 30: Hearing & Review Stage – Age of Matters (Active) by Time in Stage**

Time in Stage (days)	2010	2011	2012	2013	2014
All Cases					
Median Age	117	70	107	182	148
90th Percentile	477	320	196	401	511
Closed					
Median Time in Stage	70	36	50	141	133
90th Percentile	262	176	176	268	286
Suspended					
Median Time in Stage	173	75	128	99	103
90th Percentile	442	174	169	250	462
Effectuation / Sup Ct					
Median Time in Stage	107	75	113	190	168
90th Percentile	482	390	223	442	580

## Suspended Matters

**Table 31: Hearing & Review Stage - Inventory of Suspended Matters as of December 31**

<b>Age of Case</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
0 - 90 Days	0	1	0	0	0
91 Days to 6 Months	1	9	4	6	6
6 Months to 1 Year	23	67	42	62	44
1 - 2 Years	16	160	186	153	155
2 - 3 Years	71	96	55	68	137
3 - 4 Years	78	27	41	33	47
4 - 5 Years	86	31	15	28	19
Over 5 Years	114	49	42	51	50
<b>Total Inventory</b>	<b>389</b>	<b>440</b>	<b>385</b>	<b>401</b>	<b>458</b>
<b>Time in Stage</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
0 - 90 Days	44	147	109	100	99
91 Days to 6 Months	10	153	114	74	82
6 Months to 1 Year	68	74	36	88	77
1 - 2 Years	175	48	107	63	121
2 - 3 Years	45	5	4	61	25
3 - 4 Years	23	10	3	2	41
4 - 5 Years	23	0	10	3	2
Over 5 Years	1	3	2	10	11
<b>Total Inventory</b>	<b>389</b>	<b>440</b>	<b>385</b>	<b>401</b>	<b>458</b>

**Table 32: Hearing & Review Stage – Case Flow of Suspended Matters January 1 – December 31**

<b>Case Flows</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Inventory (January 1)	694	389	440	385	401
From Hearing & Review	201	456	539	389	447
From Other Stages	<u>2</u>	<u>29</u>	<u>3</u>	<u>1</u>	<u>4</u>
Total Inflows	203	485	542	390	451
Closed	59	86	33	58	55
To Hearing & Review	429	317	564	316	337
Supreme Court	19	31	0	0	1
To Other Stages	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
Total Outflows	508	434	597	374	394
<b>Inventory (December 31)</b>	<b>389</b>	<b>440</b>	<b>385</b>	<b>401</b>	<b>458</b>

**Table 33: Hearing & Review Stage – Disposition of Closed Matters (Suspended)**

<b>Disposition of Closed Cases</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Discipline Imposed	14	5	0	4	1
Dismissed	5	10	13	9	8
Terminated	38	71	20	45	45
Other	2	0	0	0	1
<b>Total Closed</b>	<b>59</b>	<b>86</b>	<b>33</b>	<b>58</b>	<b>55</b>

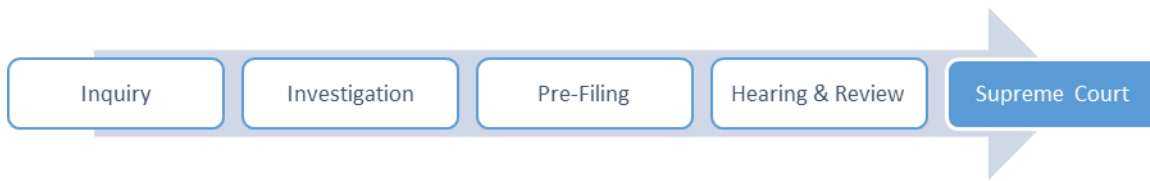
**Table 34: Hearing & Review Stage – Age of Matters (Suspended) by Age at Exit**

Age at Exit (days)	2010	2011	2012	2013	2014
All Cases					
Median Age	1,926	1,420	667	523	546
90th Percentile	2,928	2,313	1,254	1,324	1,402
Closed					
Median Age	1,603	1,273	691	711	918
90th Percentile	2,680	2,033	1,816	1,350	1,315
To Hearing & Review					
Median Age	1,975	1,570	673	505	531
90th Percentile	2,989	2,354	1,170	1,324	1,546

**Table 35: Hearing & Review Stage – Age of Matters (Suspended) by Time in Stage**

Time in Stage (days)	2010	2011	2012	2013	2014
All Cases					
Median Time in Stage	909	609	196	168	195
90th Percentile	1,724	1,236	421	881	805
Closed					
Median Time in Stage	371	468	293	157	498
90th Percentile	1,378	877	571	616	587
To Hearing & Review					
Median Time in Stage	909	652	196	168	192
90th Percentile	1,698	1,413	407	881	805

## ***Supreme Court***



This stage commences after transmittal of a State Bar Court final decision to the Supreme Court. An appeal to the Supreme Court to review a decision of the State Bar Court may be filed within 60 days of the filing of the certified copy of the State Bar Court’s decision. The Supreme Court exercises its independent judgment as to the weight and sufficiency of the evidence and as to the discipline to be imposed. Under California Rules of Court, rule 9.18(b), if no appeal is filed, the recommendation of the State Bar Court will be filed as an order of the Supreme Court. This last stage is complete when the Supreme Court’s final order on discipline is implemented.

The age of complaints in the discipline stage as of December 31, 2013, like those in each of the other stages, is measured from when a complaint was first received in the discipline system.

*(NOTE: A case transmitted to the Supreme Court may include consolidated complaints against the attorney and, as in the State Bar Court, is counted as a single case. However, for consistency in this report, the complaints are counted separately.)*

**Table 36: Supreme Court Stage - Inventory of Matters as of December 31**

<b>Age of Case</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
0 - 90 Days	0	7	4	1	20
91 Days to 6 Months	16	33	2	9	7
6 Months to 1 Year	168	93	27	51	48
1 - 2 Years	253	209	85	130	198
2 - 3 Years	81	82	62	113	70
3 - 4 Years	78	41	28	46	25
4 - 5 Years	30	20	6	20	7
Over 5 Years	97	30	8	2	21
<b>Total Inventory</b>	<b>723</b>	<b>515</b>	<b>222</b>	<b>372</b>	<b>396</b>

<b>Time in Stage</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
0 - 90 Days	569	471	197	336	343
91 Days to 6 Months	150	42	25	36	51
6 Months to 1 Year	4	2	0	0	2
1 - 2 Years	0	0	0	0	0
2 - 3 Years	0	0	0	0	0
3 - 4 Years	0	0	0	0	0
4 - 5 Years	0	0	0	0	0
Over 5 Years	0	0	0	0	0
<b>Total Inventory</b>	<b>723</b>	<b>515</b>	<b>222</b>	<b>372</b>	<b>396</b>



**Table 37: Supreme Court Stage – Case Flow of Matters January 1 – December 31**

<b>Case Flows</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Inventory (January 1)	347	723	515	222	372
From Post-filing (Active)	1,718	2,165	1,722	1,555	1,558
From Suspended	19	31	0	0	1
From Other Stages	<u>113</u>	<u>20</u>	<u>5</u>	<u>20</u>	<u>1</u>
Total Inflows	1,850	2,216	1,727	1,575	1,560
Closed	1,439	2,418	1,840	1,423	1,534
Remanded	35	6	180	1	1
Suspended	0	0	0	1	1
To Other Stages	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Outflows	1,474	2,424	2,020	1,425	1,536
<b>Inventory (December 31)</b>	<b>723</b>	<b>515</b>	<b>222</b>	<b>372</b>	<b>396</b>

**Table 38: Supreme Court Stage – Disposition of Closed Matters**

<b>Disposition of Closed Cases</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Discipline Imposed	1,100	2,035	1,508	1,065	1,012
Resignations Granted*	302	336	314	355	508
Dismissed	21	42	17	1	4
Terminated	0	4	1	2	0
Other	16	1	0	0	10
<b>Total Closed</b>	<b>1,439</b>	<b>2,418</b>	<b>1,840</b>	<b>1,423</b>	<b>1,534</b>

\*These are requests for resignations by attorneys who have no disciplinary matters pending, but whose request must be transmitted to the Supreme Court for its approval with a proposed order accepting the resignation prepared by the State Bar Court.

**Table 39: Supreme Court Stage – Age of Matters by Age at Exit**

<b>Age at Exit (days)</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
All Cases					
Median Age	828	703	570	569	505
90th Percentile	2,276	1,990	1,153	1,187	1,164
Closed					
Median Age	842	700	557	568	505
90th Percentile	2,305	1,983	1,195	1,187	1,164

**Table 40: Supreme Court Stage – Age of Matters by Time in Stage**

<b>Time in Stage (days)</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
All Cases					
Median Age	99	101	128	105	106
90th Percentile	109	107	185	113	122
Closed					
Median Time in Stage	99	101	127	105	106
90th Percentile	109	107	185	113	122

## **BACKLOG OF CASES**

## Cases in Backlog

Business and Professions Code, section 6086.15 defines *backlog* of cases within the discipline system as “including, but not limited to, the number of complaints as of December 31 of the preceding year that were pending beyond six months after receipt without dismissal, admonition, or the filing of a [Notice of Disciplinary Charges].” The complaints in backlog are those cases that do not meet the goal for processing a complaint under Business and Professions Code, section 6140.2, which states: “The State Bar shall set as a goal the improvement of its disciplinary system so that no more than six months will elapse from the receipt of complaints to the time of dismissal, admonishment of the attorney involved, or the filing of formal charges by the State Bar Office of [the Chief] Trial Counsel.” The State Bar tracks the backlog with three subcategories.

- ***Inquiry Stage.*** This subcategory reports the number of backlog complaints at the inquiry stage of the discipline system.
- ***Investigative Stage.*** This subcategory includes the complaints in backlog that also did not meet the goal in Business and Professions Code, section 6094.5 for OCTC to complete an investigation within six months after receipt of the complaint. The *active matters* in this subcategory are those cases where work is ongoing, and *suspended matters*, where the case is *held* or *abated* and the matter has not been disposed of within the six-month period of Business and Professions Code, section 6140.2. In the previous *Annual Discipline Reports*, the total number of *active matters* in this subcategory and those at the *inquiry stage* was sometimes referred to as the *investigative backlog*.<sup>8</sup>
- ***Pre-Filing Stage.*** This refers to the number of complaints in backlog at the *pre-filing stage* where OCTC has completed the investigations, but the drafting of notice of disciplinary charges is pending and not filed within the six-month goal of Business and Professions Code, section 6140.2. This includes both *active* and *suspended* matters. The *active matters* in this subcategory of the backlog were referred to in previous *Annual Discipline Reports* as complaints in “*notice-open*.”

As noted above (*ante*, p. 5), to provide more comprehensive information on the caseload, the State Bar includes additional matters in the count of cases. The backlog of by case types is shown in Table 42: Backlog by Stage and Source. Those cases opened for possible violation of requirements for demand letters sent by an attorney to a prospective defendant in an action for violation of construction-related accessibility standards (Bus. & Prof. Code, § 6106.2) are

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<sup>8</sup> Business and Professions Code, section 6094.5, subdivision (a) states in pertinent part: “It shall be the goal and policy of the disciplinary agency to dismiss a complaint, admonish the attorney, or forward a completed investigation to the Office of the Trial Counsel within six months after receipt of a written complaint.”

included in the category of *State Bar Initiated* complaints.<sup>9</sup> Those cases opened from self-reported matters by lawyers or from reports by other sources are included in the category *Reportable Actions* except that cases opened from the reports of discipline against the attorney by another professional or occupational disciplinary agency or licensing board<sup>10</sup> are counted in the category *Other Jurisdictions*. All probation revocations matters are included in the category *Probation Referrals*.

**Table 41: Backlog by Stage and Active and Suspended Status**

Stage and Status	2010	2011	2012	2013	2014
Inquiry Stage	111	75	116	78	39
Investigation Stage					
Active Matters	1,473	31	37	105	116
Suspended Matters	2,293	1,038	1,104	1,219	1,548
Pre-filing Stage					
Active Matters	1,028	234	272	178	106
Suspended Matters	242	182	167	167	164
<b>Total Backlog</b>	<b>5,147</b>	<b>1,560</b>	<b>1,696</b>	<b>1,747</b>	<b>1,973</b>

<sup>9</sup> The matters opened under Business and Professions Code, section 6106.2 are added only to 2013 and do not affect the data for other years in the report. The statute became effective on January 1, 2013 (Stats. 2012, ch. 383 [Sen. Bill No. 1186], § 1).

<sup>10</sup> See Bus. & Prof. Code, §§ 6002.1, subd. (a)(3); 6068, subd. (o)(6).

**Table 42: Backlog by Stage and Source**

Stage and Source	2010	2011	2012	2013	2014
Inquiry					
Complaints	3	1	0	1	0
State Bar Initiated	0	0	0	0	0
Reportable Actions	<u>108</u>	<u>74</u>	<u>116</u>	<u>77</u>	<u>39</u>
Sub-Total	111	75	116	78	39
Active Investigations					
Complaints	1,183	10	10	32	77
State Bar Initiated	45	0	5	13	14
Reportable Actions	<u>245</u>	<u>21</u>	<u>22</u>	<u>60</u>	<u>25</u>
Sub-Total	1,473	31	37	105	116
Suspended Investigations					
Complaints	2,028	955	1,043	1,140	1,457
State Bar Initiated	89	40	31	25	25
Reportable Actions	<u>176</u>	<u>43</u>	<u>30</u>	<u>54</u>	<u>66</u>
Sub-Total	2,293	1,038	1,104	1,219	1,548
Active Pre-Filing					
Complaints	800	195	210	63	71
State Bar Initiated	52	8	19	32	14
Reportable Actions	148	26	37	67	19
Probation Referrals	10	0	1	7	0
Other Jurisdictions	14	4	5	9	2
Other / NA	<u>4</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>
Sub-Total	1,028	234	272	178	106
Suspended Pre-Filing					
Complaints	132	121	148	147	118
State Bar Initiated	12	8	2	4	10
Reportable Actions	74	37	3	3	24
Probation Referrals	20	11	12	9	10
Other Jurisdictions	<u>4</u>	<u>5</u>	<u>2</u>	<u>4</u>	<u>2</u>
Sub-Total	242	182	167	167	164
<b>Total Backlog</b>	<b>5,147</b>	<b>1,560</b>	<b>1,696</b>	<b>1,747</b>	<b>1,973</b>

## **DISCIPLINARY OUTCOMES**

## Disciplinary Outcomes

Business and Professions Code, section 6086.15, subdivision (a)(6), requires the *Annual Discipline Report* to report on formal disciplinary outcomes<sup>11</sup> imposed after the filing of disciplinary charges. The following tables show the disciplinary outcome by the number of complaints and by the number of respondents.<sup>12</sup>

**Table 43: Disciplinary Outcomes**

Disciplinary Outcomes	2010	2011	2012	2013	2014
By Respondent					
Disbarment	121	175	154	150	116
Disbarment Due to Default	0	0	6	57	55
Suspension	<u>371</u>	<u>503</u>	<u>282</u>	<u>217</u>	<u>263</u>
Respondents Disciplined	492	678	442	424	434
By Case					
Disbarment	279	600	550	375	276
Disbarment Due to Default	0	0	11	222	151
Suspension	<u>820</u>	<u>1,435</u>	<u>947</u>	<u>468</u>	<u>585</u>
Cases Resulting In Discipline	1,099	2,035	1,508	1,065	1,012

<sup>11</sup> Private and public reprimands are also disciplinary outcomes, but Business and Professions Code, section 6086.15, subdivision (a)(7), provides that reprimands be included in this report in the section on *Informal Disciplinary Outcomes*.

<sup>12</sup> When disciplinary proceedings are initiated in the State Bar Court, the Notice of Disciplinary Charges may be consolidated and may include multiple complaints against a respondent. The State Bar Court tracks its cases by the case number of the first listed complaint. For consistency of reporting the State Bar's processing complaints at each stage of the discipline system, **each complaint against a respondent continues to be counted as one complaint** throughout the *Annual Discipline Report*, including this section on the disciplinary outcome of those complaints.



## **REPORTABLE ACTIONS**

## Reportable Actions

California law requires the reporting of certain actions or events involving lawyers to the State Bar.

- **Lawyers** in California have a duty under Business and Professions Code, section 6068, subdivision (o), to self-report the following actions to the State Bar:
  - (1) The filing of three or more lawsuits in a 12-month period against the lawyer for malpractice or other wrongful conduct committed in a professional capacity.
  - (2) The entry of judgment against the lawyer in a civil action for fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity.
  - (3) The imposition of judicial sanctions against the lawyer, except for sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars (\$1,000).
  - (4) The bringing of an indictment or information charging a felony against the lawyer.
  - (5) The conviction of the lawyer, including any verdict of guilty, or plea of guilty or no contest, of a felony, or a misdemeanor committed in the course of the practice of law, or in a manner in which a client of the lawyer was the victim, or a necessary element of which, as determined by the statutory or common law definition of the misdemeanor, involves improper conduct of the lawyer, including dishonesty or other moral turpitude, or an attempt or a conspiracy or solicitation of another to commit a felony or a misdemeanor of that type.
  - (6) The imposition of discipline against the lawyer by a professional or occupational disciplinary agency or licensing board, whether in California or elsewhere.
  - (7) Reversal of judgment in a proceeding based in whole or in part upon misconduct, grossly incompetent representation, or willful misrepresentation by the lawyer.
- **Banks** under Business and Professions Code, section 6191.1, must report to the State Bar any time a properly payable instrument is presented against a lawyer's trust account containing insufficient funds.
- **Insurers and brokers of professional liability insurance** must report under Business and Professions Code, section 6086.8, subdivision (b), every claim or action for damages against a lawyer for fraud, misrepresentation, breach of fiduciary duty, or negligence committed in a professional capacity.
- **Courts,**<sup>13</sup> under Business and Professions Code, sections 6086.7 and 6086.8, must notify the State Bar of any of the following:
  - (1) A final order of contempt imposed against a lawyer that may involve grounds

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<sup>13</sup> The final report of the California Commission on the Fair Administration of Justice in 2008 (<http://www.ccfaj.org/documents/CCFAJFinalReport.pdf>) recommended changes in Canon 3D(2) of the California Code of Judicial Ethics, which included seven categories of egregious misconduct by a lawyer in a criminal proceeding that a judge should report to the State Bar. In 2010, the State Bar's Chief Trial Counsel stated that this information would be included in the *Annual Discipline Report*, and OCTC prepared reporting codes in its case management system to track the information. However, the amended canon did not include reporting in the categories recommended by the CCFAJ. See Cal. Code Jud. Ethics, Canon 3D(2), as amended eff. January 1, 2013.

warranting discipline under this chapter. The court entering the final order shall transmit to the State Bar a copy of the relevant minutes, final order, and transcript, if one exists.

(2) Whenever a modification or reversal of a judgment in a judicial proceeding is based in whole or in part on the misconduct, incompetent representation, or willful misrepresentation of a lawyer.

(3) The imposition of any judicial sanctions against an attorney, except sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars (\$1,000).

(4) The imposition of any civil penalty upon a lawyer pursuant to Section 8620 of the Family Code.

(5) The rendering of a judgment that a lawyer is liable for any damages resulting in a judgment against the attorney in any civil action for fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity.

In addition, the State Bar may receive reports of actions or events not required by the foregoing provisions. The following table summarizes the number of reportable actions received by the State Bar.<sup>14</sup>

**Table 44: Reportable Actions by Source**

Source	2010	2011	2012	2013	2014
Lawyer Self-Reports	166	151	176	137	186
Banks	2,927	2,338	2,415	2,310	2,228
Insurers	140	105	183	315	248
Courts	130	147	126	108	132
Other Sources	<u>16</u>	<u>23</u>	<u>87</u>	<u>58</u>	<u>62</u>
Total Received	3,379	2,764	2,987	2,928	2,856
Forwarded to Investigation	1,049	545	238	529	385

<sup>14</sup> A district attorney, city attorney or other prosecuting attorney must notify OCTC of the pendency of an action against charging a defendant who is a California lawyer with a felony or misdemeanor. (Bus. & Prof. Code, § 6101, subd. (b).) After any conviction, the court clerk of the court must transmit a certified copy of the conviction to the State Bar. (Bus. & Prof. Code, § 6101, subd. (c).) These reports are included in “criminal conviction monitoring” and reported in the section below on *Informal Discipline Outcomes*.

## **INFORMAL DISCIPLINE OUTCOMES**

## Informal Discipline Outcomes

Business and Professions Code, section 6086.15, subdivision (a)(7), requires the *Annual Discipline Report* to include the “number and types of informal discipline outcomes, including petitions to terminate practice, interim suspensions and license restrictions, criminal conviction monitoring, letters of warning, private reprovals, admonitions, and agreements in lieu of discipline.”

### Definition of Terms

- ***Petitions to Terminate Practice.*** Under Business and Professions Code, sections 6180 and 6190, OCTC may petition a superior court and obtain an order to assume jurisdiction over the law practice of a lawyer who has been disbarred, suspended, becomes inactive, or who has become incapable of practicing law because of excessive use of alcohol or drugs, physical or mental illness, or infirmity or other cause.
- ***Interim Suspensions and License Restrictions.*** Under grounds in Business and Professions Code, section 6007, the State Bar Court may order a respondent be placed on *involuntary inactive status*. While on involuntary inactive status, the lawyer may not practice law. This status has been referred to as a “temporary or interim suspension.” (See *Conway v. State Bar* (1989) 47 Cal.3d 1107.) In lieu of involuntary inactive enrollment, the State Bar Court may place other restrictions on the lawyer’s license to practice law.
- ***Criminal Conviction Monitoring.*** After the criminal conviction of any lawyer, OCTC will initiate a conviction matter in the State Bar Court by filing a certified copy of the record of conviction. The criminal conviction is monitored until it becomes final and then disciplinary proceedings are held under Business and Professions Code, sections 6101 and 6102 and California Rules of Court, rule 9.10. The State Bar Court may place a respondent under *interim suspension* upon the filing of the certified record of the criminal conviction until the conviction is final, if the conviction was a felony or a crime involving moral turpitude.
- ***Private or Public Reproval.*** Under Business and Professions Code, section 6078, the State Bar Court may discipline a respondent by reproval, privately or publicly, for misconduct not warranting a suspension or disbarment. Under State Bar Rule 5.127(C), a private reproval is confidential and not disclosed if it is imposed as part of a stipulation and settlement before the filing of disciplinary charges. A private reproval, however, is disclosed if imposed after the filing of a Notice of Disciplinary Charges. (State Bar Rule 5.127(D).) The Supreme Court’s review of a reproval may be sought by a petition; if no petition is filed or if the petition is denied, the reproval is imposed as discipline.
- ***Admonition.*** The State Bar Court may *admonish* a respondent when the misconduct involves no dishonesty, moral turpitude, or other serious offense; is not intentional or occurs under mitigating circumstances; results in no significant harm; and did not cause a pecuniary loss subject to reimbursement by the Client Security Fund. (State Bar Rule 5.126.)

- ***Letters of Warning.*** OCTC may resolve a complaint during the inquiry or investigation stage by issuing a *warning letter* to the respondent expressing the opinion of OCTC that misconduct not requiring prosecution has occurred and warning not to continue or to repeat the conduct.
- ***Agreements in Lieu of Discipline.*** OCTC may “[m]ake agreements with respondents in lieu of disciplinary proceedings, regarding conditions of practice, further legal education, or other matters.” These agreements for minor infractions may be in any subsequent proceeding involving the lawyer. (Bus. & Prof. Code, § 6092.5, subd. (i).)

**Table 45: Informal Disciplinary Outcomes**

Informal Disciplinary Outcomes	2010	2011	2012	2013	2014
Petitions to Terminate Practice	7	18	8	11	23
Interim Suspensions & License Restrictions	24	32	24	20	30
Interim Suspensions After Criminal Convictions	51	59	49	51	49
New Criminal Conviction Monitoring Matters	158	143	132	141	149
Private Reprovals, Restricted	28	46	27	14	19
Private Reprovals, Public Disclosure	9	16	15	7	6
Public Reprovals	53	55	27	37	36
Admonitions	0	0	0	0	10
Warning Letters	772	873	546	588	684
Agreements in Lieu of Discipline	24	26	27	23	53
<b>Total</b>	<b>1,126</b>	<b>1,268</b>	<b>855</b>	<b>892</b>	<b>1,059</b>

## **COSTS OF THE DISCIPLINE SYSTEM**

## Costs of the Discipline System

The *Annual Discipline Report* must include an accounting of the cost of the discipline system. (Bus. & Prof. Code, § 6086.15, subd. (a)(11).)

**Table 46: Direct Costs of the Discipline System by Function**

Costs of the Discipline System	2010	2011	2012	2013	2014
<b>General Fund</b>					
Chief Trial Counsel	25,735,735	29,012,071	26,585,837	26,772,904	27,378,462
Probation	689,263	734,242	804,307	919,219	963,776
Mandatory Fee Arbitration	580,172	598,573	606,667	603,478	631,382
State Bar Court	6,557,586	6,836,581	6,860,154	7,108,017	7,155,103
Professional Competence	<u>2,176,917</u>	<u>1,584,017</u>	<u>1,555,476</u>	<u>1,601,636</u>	<u>1,607,507</u>
General Fund Direct Costs	35,739,673	38,765,484	36,412,441	37,005,254	37,736,230
Allocated Support Services Costs	14,935,538	17,029,205	15,293,225	15,542,207	15,703,437
<b>General Fund Total</b>	<b>50,675,211</b>	<b>55,794,689</b>	<b>51,705,666</b>	<b>52,547,460</b>	<b>53,439,667</b>
<b>Client Security Fund</b>					
Program Administration	1,230,143	1,342,821	1,269,140	1,723,842	1,743,747
Grant Payments	<u>2,910,804</u>	<u>7,348,156</u>	<u>6,368,899</u>	<u>10,714,529</u>	<u>8,552,566</u>
Client Security Fund Direct Costs	4,140,947	8,690,977	7,638,039	12,438,371	10,296,313
Allocated Support Services Costs	388,312	508,162	515,918	580,355	684,923
<b>Client Security Fund Total</b>	<b>4,529,259</b>	<b>9,199,139</b>	<b>8,153,957</b>	<b>13,018,726</b>	<b>10,981,236</b>



## **CONDITION OF THE CLIENT SECURITY FUND**

## **Condition of the Client Security Fund**

The *Annual Discipline Report* must include a description of the condition of the Client Security Fund, including an accounting of payouts. (Bus. & Prof. Code, § 6086.15, subd. (a)(10).)

Established in 1972, this State Bar sponsored fund is designed to help protect consumers of legal services by relieving or mitigating pecuniary losses caused by the dishonest conduct of California lawyers. This program helps in protecting California's legal consumers.

Beginning with claims for losses occurring in 2009, the fund may reimburse up to a maximum of \$100,000. Previously, the maximum reimbursement was capped at \$50,000.

Between 2005 and 2008, the Client Security Fund (CSF) program received about 1,100 applications per year. However, in 2009, the loan modification fraud crisis spurred a dramatic surge in CSF applications. Over 3,000 new applications were received in 2009 and almost 4,000 were received in 2010. The rate of new applications has declined every year since then, but, even in 2014, applications remained 40% above the 2005-8 level.

As a consequence, the Client Security Fund has drawn down its reserves from \$11.4 million at the beginning of 2010 to \$2.2 million at the end of 2014. At year end, there were 5,674 open applications for CSF assistance. Based on past experience, the State Bar estimates that payouts related to these applications will eventually total \$17.6 million. At current revenue levels, it will take approximately three years to collect sufficient funds to finance these grants.

**Table 47: Client Security Fund Activity**

<b>Client Security Fund Financial Condition</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Beginning Balance*	11,391,730	13,943,059	11,921,822	11,105,023	5,575,541
Revenue	7,080,588	7,177,902	7,337,158	7,489,244	7,614,250
Operating Expenses	1,618,455	1,850,983	1,785,058	2,304,197	2,428,670
Grant Payouts	<u>2,910,804</u>	<u>7,348,156</u>	<u>6,368,899</u>	<u>10,714,529</u>	<u>8,552,566</u>
Net Change	2,551,329	-2,021,237	-816,799	-5,529,482	-3,366,986
Ending Balance*	13,943,059	11,921,822	11,105,023	5,575,541	2,208,555
Applications Open January 1	2,997	6,112	7,345	7,801	6,342
New Applications Filed	3,875	3,411	2,767	2,228	1,554
Applications Processed	<u>760</u>	<u>2,178</u>	<u>2,311</u>	<u>3,687</u>	<u>2,222</u>
Net Change	3,115	1,233	456	-1,459	-668
Applications Open December 31	6,112	7,345	7,801	6,342	5,674
Est. Future Payouts on Open Applications	11,620,745	19,137,103	26,743,285	21,020,037	17,597,961

All figures in dollars except numbers of applications.

\*2010 and 2011 beginning and ending balances are adjusted to conform to the presentation used in the State Bar's audited financial statements for 2012 and thereafter.

## **ASSURANCE AND PREVENTION PROGRAMS**

## Assurance and Prevention Programs

The *Annual Discipline Report* is required to include a description of the programs of the State Bar directed at assuring honesty and competence by lawyers or at preventing acts warranting discipline. (Bus. & Prof. Code, § 6086.15, subd. (a)(8) & (a)(9).) The following is a brief description of some of those programs.

### *Professional Competence*

The Office of Professional Competence operates the Ethics Hotline to respond to questions about the ethical obligations and duties of lawyers practicing in California. In 2014, the Ethics Hotline received and responded to more than 14,000 calls—which together with return or follow-up calls totaled more than 21,300 calls—to provide references to applicable provisions of the Rules of Professional Conduct, the State Bar Act, or case law.

The Office of Professional Competence also monitors compliance by attorneys with statutory restrictions on demand letters sent to a potential defendant in a construction-related disability access claim, as established under laws enacted in Senate Bill No. 1186 (Stats. 2012, ch. 383). Under SB 1186, the Office of Professional Competence also prepares and submits a separate report each year on July 31 to the Legislature and the Chairs of the Senate and Assembly Committees on Judiciary on 1) the number of investigations opened to date on a suspected violation of subdivision (b) or (c) of Civil Code section 55.31, restricting demands for money and statements of monetary liability; and 2) whether any disciplinary action resulted from the investigation, and the results of that disciplinary action.<sup>15</sup>

### *Other Regulatory or Legal Education Programs*

Other programs involving regulating the practice of law in California, legal education and competence include:

- ***Multijurisdictional Practice Program (MJP)***. Regulates out-of-state lawyers who live in California who register with the State Bar and perform limited legal services as in-house counsel for corporations or to provide practice with legal aid organizations to the poor. As of December 31, 2014, there were 11 legal services lawyers and 1,221 in-house counsel registered in the MJP program. (Cal. Rules of Court, rules 9.45 – 9.48 and State Bar Rules.)
- ***Out-of-State Attorney Arbitration Counsel (OSAAC)***. Allows out-of-state lawyers to represent parties in arbitration proceedings in California. In 2014, 636 out-of-state lawyers filed OSAAC applications with the State Bar. (Cal. Rules of Court, rule 9.43 and State Bar Rules.)
- ***Pro Hac Vice Program***. Assists the California courts in the application of out-of-state lawyers appearing in California state courts. In 2014, 2,458 out-of-state lawyers filed pro hac vice applications with the State Bar. (Cal. Rules of Court, rule 9.40.)

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<sup>15</sup> A copy of that report may be found at <http://www.calbar.ca.gov/AboutUs/Reports.aspx>.

- ***Foreign Legal Consultant Program.*** Regulates persons who are licensed to practice law in a foreign jurisdiction and allows them to register and engage in the limited practice of law of that country in California. At the end of 2014, 69 such lawyers from over 30 different foreign jurisdictions were registered as foreign legal consultants. (Cal. Rules of Court, rule 9.44 and State Bar Rules.)
- ***Practical Training of Law Students Program.*** Regulates law students who may provide limited legal services under a California lawyer's supervision. In 2014, 3,966 students (2,538 students submitting new applications and 528 students submitting recertification applications) applied to the program. (Cal. Rules of Court, rule 9.42 and State Bar Rules.)
- ***Legal Specialization Program.*** Administers the requirements for California lawyers to become certified specialists in one or more of 11 areas of law. Certified specialists must pass a written exam, possess special education and experience, undergo peer review, and recertify every five years. By the end of 2014, 4,678 lawyers were certified specialists and another 372 were certified by five other organizations accredited by the State Bar. (Cal. Rules of Court, rule 9.35 and State Bar Rules and Standards.)
- ***Minimum Continuing Legal Education (MCLE) Providers Program.*** Authorizes education providers to offer courses to lawyers to meet their requirements of completing MCLE. In 2014, 1,649 providers submitted Single Activity Provider applications, 65 providers submitted Multiple Activity Provider applications for the first time, and 477 providers submitted Multiple Activity Provider renewal applications. (Bus. & Prof. Code, § 6070, Cal. Rules of Court, rule 9.31 and State Bar Rules.)
- ***Minimum Continuing Legal Education (MCLE) Compliance.*** Tracks and enforces California lawyers' compliance with their continuing legal education requirements every three years. Approximately 65,000 attorneys were due to report MCLE compliance in 2014. In July, the State Bar placed 525 lawyers on involuntary inactive status for failure to comply with MCLE reporting requirements. In November, an additional 134 members were placed on involuntary inactive status for noncompliance with an MCLE Audit. (Bus. & Prof. Code, § 6070 and State Bar Rules.)
- ***Lawyer Referral Services (LRS) Certification Program.*** Certifies services that refer potential clients to California lawyers. To qualify for certification, an LRS must verify that its lawyers have sufficient experience and training, agree to fee arbitration for dispute resolution and possess certain liability coverage. At the end of 2014, there were 51 certified lawyer referral services operating in California. (Bus. & Prof. Code, § 6155 and State Bar Rules.)
- ***Lawyers Assistance Program (LAP).*** LAP is established under Business and Professions Code, section 6230 et seq. for treating lawyers with impairments due to substance abuse or mental illness. The State Bar submits a separate report to the Legislature each year on March 1 that includes the number of cases accepted, denied, or terminated, and the expenditures related to LAP.<sup>16</sup>

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<sup>16</sup> A copy of the 2014 LAP report may be found at <http://www.calbar.ca.gov/AboutUs/Reports.aspx>.

- ***Probation.*** The Office of Probation monitors the compliance of disciplined lawyers on probation. In 2014, the number of cases ranged between 970 and 1,042 per month. Probation referred 135 lawyers to OCTC for possible discipline for failing to meet the terms of their probation, and filed 14 motions to revoke probation.<sup>17</sup>
- ***Mandatory Fee Arbitration Program.*** This statewide program received 79 requests to arbitrate fee disputes between lawyers and clients, and closed 72 cases. The State Bar reimbursed local bar associations participating in the program for 1,124 Mandatory Fee Arbitration matters that were assigned to the local bar programs. Arbitration awards, in favor of clients, that remain unpaid may be enforced through a process administered by the program and brought in State Bar Court. In 2014, 42 requests for enforcement and refund payments were made to 27 clients. The State Bar Court placed four lawyers on involuntary inactive enrollment for failing to pay a fee arbitration award. Staff also handled 3,716 calls from the public, attorneys and local bar associations about the Mandatory Fee Arbitration process.

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<sup>17</sup> Probation matters are included in the case tables of this report.

# APPENDIX



## Appendix A

### ***Contents of the Annual Discipline Report***

Business and Professions Code, section 6086.15 and related statutes specifies the inclusion of the following categories of information:

- (1) The *backlog of cases*.
- (2) The number of *inquiries* and *complaints* and their disposition.
- (3) The number of matters that a lawyer must self-report to the State Bar, including:
  - The filing of three or more lawsuits against the attorney in a 12-month period for professional negligence or wrongful conduct;
  - Entry of judgment against the attorney for fraud, misrepresentation, breach of duty or gross negligence;
  - Disciplinary action by another agency;
  - Reversal of a judgment based on attorney misconduct; and
  - Any conviction of a crime.
- (4) The number of matters reported to the State Bar by other sources, including banks, courts, and insurance providers.
- (5) The speed of complaint handling and dispositions by type.
- (6) The number and types of filed notices to show cause and formal disciplinary outcomes.
- (7) The number and types of informal discipline outcomes, including petitions to terminate practice, interim suspensions and license restrictions, criminal conviction monitoring, letters of warning, private reproofs, admonitions, and agreements in lieu of discipline.
- (8) A description of the programs of the State Bar directed at assuring honesty and competence by attorneys.
- (9) A description of the programs of the State Bar directed at preventing acts warranting discipline.
- (10) A description of the condition of the Client Security Fund, including an accounting of payouts.
- (11) An accounting of the cost of the discipline system by function.

## ***Text of Applicable Sections of the Business and Professions Code***

### **§ 6086.15. Annual Discipline Report**

(a) The State Bar shall issue an Annual Discipline Report by April 30 of each year describing the performance and condition of the State Bar discipline system. The report shall cover the previous calendar year and shall include accurate and complete descriptions of all of the following:

(1) The existing backlog of cases within the discipline system, including, but not limited to, the number of complaints as of December 31 of the preceding year that were pending beyond six months after receipt without dismissal, admonition, or the filing of a notice to show cause, and tables showing time periods beyond six months and the number in each category and a discussion of the reason for the extended periods.

(2) The number of inquiries and complaints and their disposition.

(3) The number and types of matters self-reported by members of the State Bar pursuant to subdivision (o) of Section 6068 and subdivision (c) of Section 6086.8.

(4) The number and types of matters reported by other sources pursuant to Sections 6086.7 and 6086.8.

(5) The speed of complaint handling and dispositions by type.

(6) The number and types of filed notices to show cause and formal disciplinary outcomes.

(7) The number and types of informal discipline outcomes, including petitions to terminate practice, interim suspensions and license restrictions, criminal conviction monitoring, letters of warning, private reproofs, admonitions, and agreements in lieu of discipline.

(8) A description of the programs of the State Bar directed at assuring honesty and competence by attorneys.

(9) A description of the programs of the State Bar directed at preventing acts warranting discipline.

(10) A description of the condition of the Client Security Fund, including an accounting of payouts.

(11) An accounting of the cost of the discipline system by function.

(b) The Annual Discipline Report shall include statistical information presented in a consistent manner for year-to-year comparison and shall compare the information required under subdivision (a) to similar information for the previous three years. The report shall include the general data and tables included in the previous reports of the State Bar Discipline Monitor where feasible.

(c) The Annual Discipline Report shall be presented to the Chief Justice of California, to the Governor, to the Speaker of the Assembly, to the President pro Tempore of the Senate, and to the Assembly and Senate Judiciary Committees, for their consideration and shall be considered a public document.

#### **§ 6068. Duties of Attorney**

It is the duty of an attorney to do all of the following:

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(o) To report to the agency charged with attorney discipline, in writing, within 30 days of the time the attorney has knowledge of any of the following:

(1) The filing of three or more lawsuits in a 12-month period against the attorney for malpractice or other wrongful conduct committed in a professional capacity.

(2) The entry of judgment against the attorney in a civil action for fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity.

(3) The imposition of judicial sanctions against the attorney, except for sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars (\$1,000).

(4) The bringing of an indictment or information charging a felony against the attorney.

(5) The conviction of the attorney, including any verdict of guilty, or plea of guilty or no contest, of a felony, or a misdemeanor committed in the course of the practice of law, or in a manner in which a client of the attorney was the victim, or a necessary element of which, as determined by the statutory or common law definition of the misdemeanor, involves improper conduct of an attorney, including dishonesty or other moral turpitude, or an attempt or a conspiracy or solicitation of another to commit a felony or a misdemeanor of that type.

(6) The imposition of discipline against the attorney by a professional or occupational disciplinary agency or licensing board, whether in California or elsewhere.

(7) Reversal of judgment in a proceeding based in whole or in part upon misconduct, grossly incompetent representation, or willful misrepresentation by an attorney.

(8) As used in this subdivision, “against the attorney” includes claims and proceedings against any firm of attorneys for the practice of law in which the attorney was a partner at the time of the conduct complained of and any law corporation in which the attorney was a shareholder at the time of the conduct complained of unless the matter has to the attorney's knowledge already been reported by the law firm or corporation.

(9) The State Bar may develop a prescribed form for the making of reports required by this section, usage of which it may require by rule or regulation.

(10) This subdivision is only intended to provide that the failure to report as required herein may serve as a basis of discipline.

**§ 6086.7. Notification to State Bar of Court Actions, Judgments, Sanctions, or Civil Penalties Against Attorneys**

(a) A court shall notify the State Bar of any of the following:

(1) A final order of contempt imposed against an attorney that may involve grounds warranting discipline under this chapter. The court entering the final order shall transmit to the State Bar a copy of the relevant minutes, final order, and transcript, if one exists.

(2) Whenever a modification or reversal of a judgment in a judicial proceeding is based in whole or in part on the misconduct, incompetent representation, or willful misrepresentation of an attorney.

(3) The imposition of any judicial sanctions against an attorney, except sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars (\$1,000).

(4) The imposition of any civil penalty upon an attorney pursuant to Section 8620 of the Family Code.

(b) In the event of a notification made under subdivision (a) the court shall also notify the attorney involved that the matter has been referred to the State Bar.

(c) The State Bar shall investigate any matter reported under this section as to the appropriateness of initiating disciplinary action against the attorney.

**§ 6086.8. Judgments for Actions Committed in a Professional Capacity; Claims or Actions for Damages; Reports to State Bar**

(a) Within 20 days after a judgment by a court of this state that a member of the State Bar of California is liable for any damages resulting in a judgment against the attorney in any civil action for fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity, the court which rendered the judgment shall report that fact in writing to the State Bar of California.

(b) Every claim or action for damages against a member of the State Bar of California for fraud, misrepresentation, breach of fiduciary duty, or negligence committed in a professional capacity shall be reported to the State Bar of California within 30 days of receipt by the admitted insurer or licensed surplus brokers providing professional liability insurance to that member of the State Bar.

(c) An attorney who does not possess professional liability insurance shall send a complete written report to the State Bar as to any settlement, judgment, or arbitration award described in subdivision (b), in the manner specified in that subdivision.

**§ 6091.1. Overdrafts and Misappropriations from Attorney Trust Accounts; Reports by Financial Institutions**

(a) The Legislature finds that overdrafts and misappropriations from attorney trust accounts are serious problems, and determines that it is in the public interest to ensure prompt detection and investigation of instances involving overdrafts and misappropriations from attorney trust accounts.

A financial institution, including any branch, which is a depository for attorney trust accounts under subdivision (a) or (b) of Section 6211, shall report to the State Bar in the event any properly payable instrument is presented against an attorney trust account containing insufficient funds, irrespective of whether or not the instrument is honored.

(b) All reports made by the financial institution shall be in the following format:

(1) In the case of a dishonored instrument, the report shall be identical to the overdraft notice customarily forwarded to the depositor, and shall include a copy of the dishonored instrument, if such a copy is normally provided to depositors.

(2) In the case of instruments that are presented against insufficient funds but which instruments are honored, the report shall identify the financial institution, the attorney or law firm, the account number, the date of presentation for payment, and the date paid, as well as the amount of overdraft created thereby. These reports shall be made simultaneously with, and within the time provided by law for notice of dishonor, if any. If an instrument presented against insufficient funds is honored, then the report shall be made within five banking days of the date of presentation for payment against insufficient funds.

(c) Every attorney practicing or admitted to practice in this state shall, as a condition thereof, be conclusively deemed to have consented to the reporting and production requirements of this section.

(d) Nothing in this section shall preclude a financial institution from charging an attorney or law firm for the reasonable cost of producing the reports and records required by subdivisions (a) and (b).