



The State Bar of California

OPEN SESSION

AGENDA ITEM

REGULATION AND DISCIPLINE COMMITTEE III.B

DATE: January 24, 2020

TO: Members, Regulation and Discipline Committee

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

SUBJECT: Review of Metrics for Offices Within Regulation and Discipline Committee Purview and Discipline System Statistical Report

DISCIPLINE SYSTEM STATISTICAL REPORT

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

RAD METRICS PERFORMANCE

The 2019 October and November Monthly Metrics Report has been submitted to the Board of Trustees as an attachment to the Executive Director's January 2020 report. This agenda item addresses metrics under the purview of the RAD Committee where identified performance targets were not met.

- Metric OCTC-3, Maintain annual caseload clearance rate of 1.0 or higher
 - Target 1.0; October and November performance, .94 and .95 respectively.

The drastic increase in the number of cases received last year and the February go-live of the Odyssey Case Management System has continued to impact case processing. Office of Chief Trial Counsel (OCTC) continues to refine case management system processes and adjust to system capabilities. While this metric has been seasonal in the past, we hope case processing will become less seasonal and more consistent in the future.

- Metric OCTC5-A, Maintain current level of CRU reopens for reasons other than new evidence
 - Target 4 percent; October and November performance, 2 percent and 7 percent respectively.

This metric's value was slightly higher in November because one closed complaint, which involved three separate attorneys and is therefore counted as three cases, was reopened. If this case were counted as one case, the metric's value would have been 4 percent. Given the small number of cases reopened by CRU, an additional reopened case can lead to large variations in the metric as currently formulated. As such, this metric is currently being reevaluated and may be reported on a quarterly or annual basis in the future.

- Metric SBC-2A, Hearing Department: 90 percent of cases reach final outcome within timelines
 - Target 90 percent; October and November performance, 81 and 83 percent respectively.

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

- Metric SBC-2B, Hearing Department: All cases reach final outcome within 150 percent of timelines
 - Target 100 percent; October and November performance, 88 and 97 percent respectively.

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

ATTACHMENT(S) LIST

- A. Discipline System Statistical Report: January 2020**



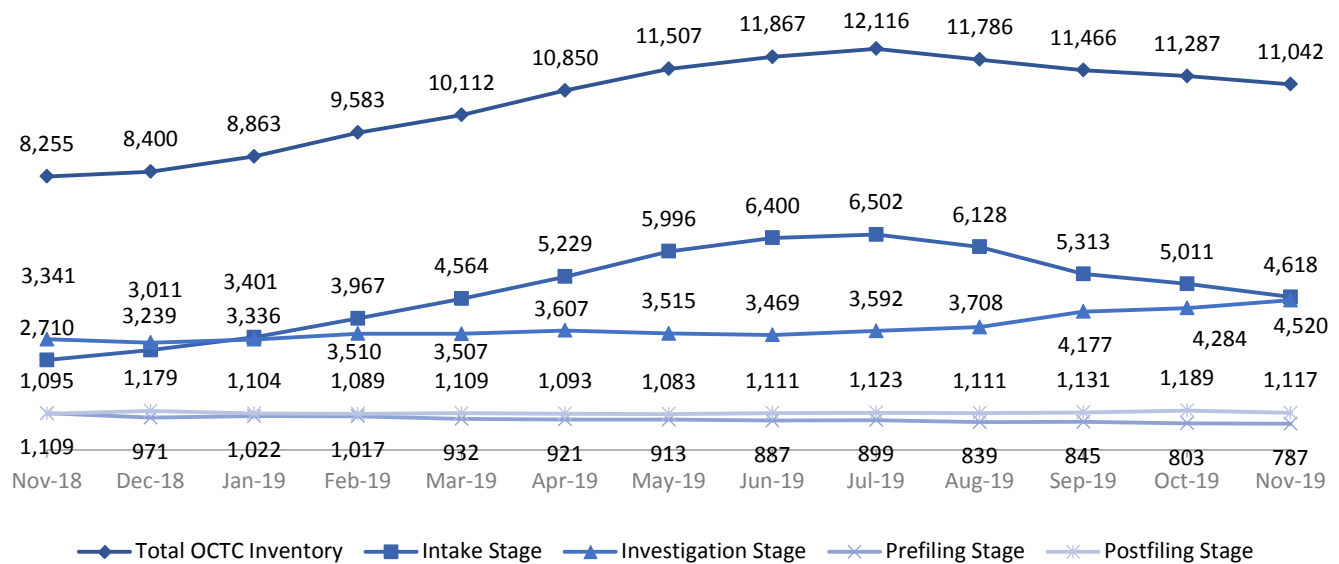
The State Bar *of California*

Discipline System Statistical Report

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

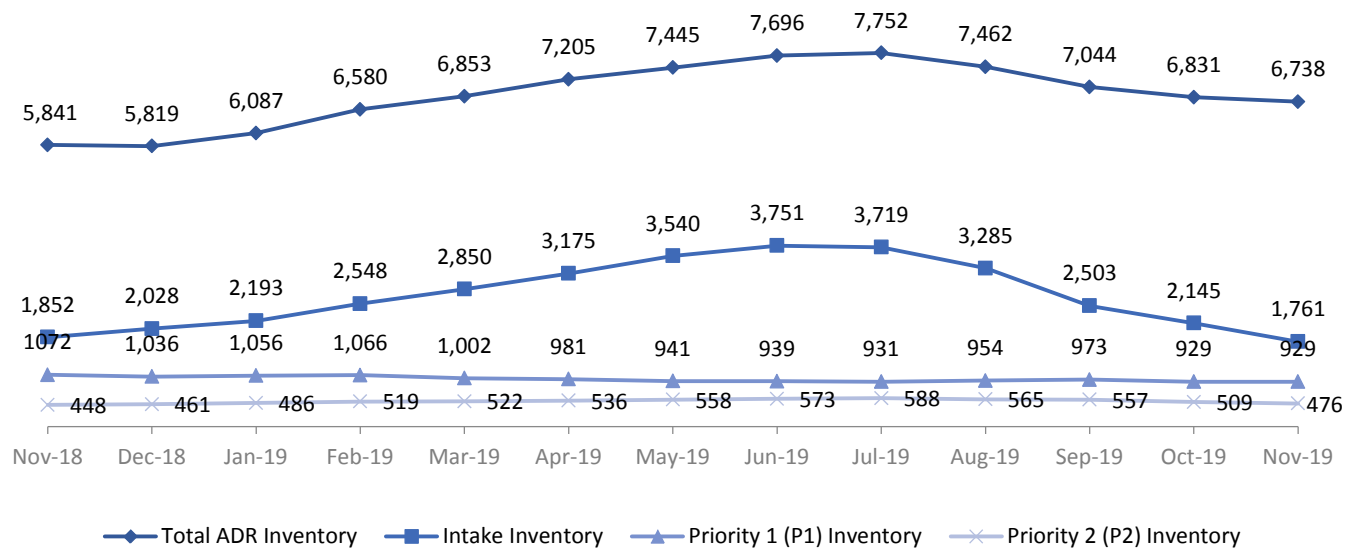
OFFICE OF CHIEF TRIAL COUNSEL

OCTC Inventory by Stage



Note: This chart lists all cases in the OCTC inventory based on the last day of each month. See Appendix A for definitions of each stage.

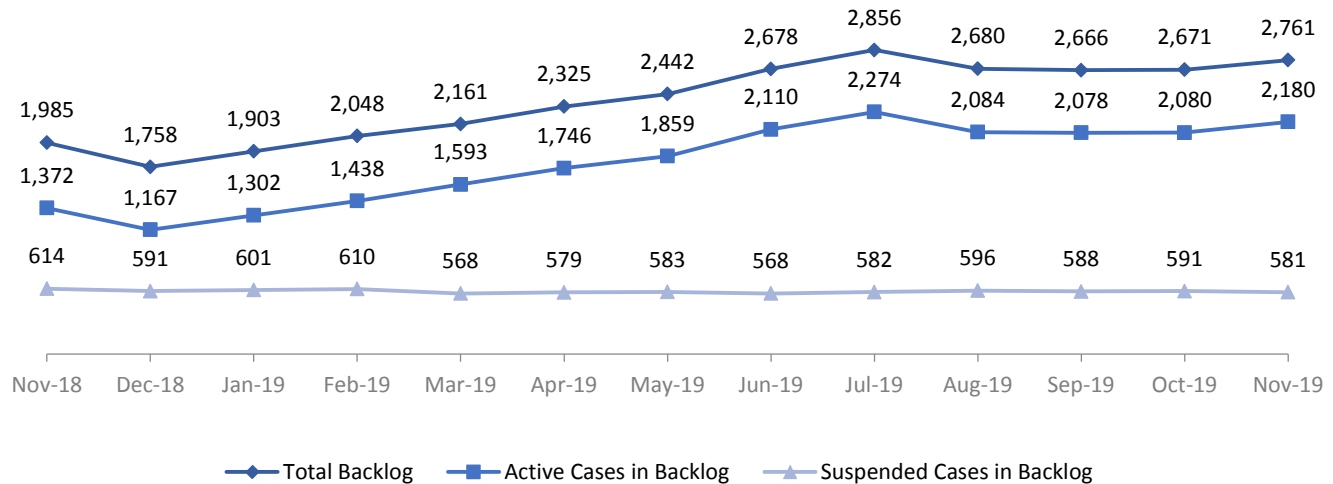
ADR Inventory: Total, Intake, P1, P2 Cases



Note: This chart describes cases that are reported in the statutory mandated reporting of backlog cases as part of the Annual Discipline Report (ADR). See Appendix A for more information as well as definition of Priority 1 and Priority 2 cases. Metric OCTC6, Cases in inventory at month's end.

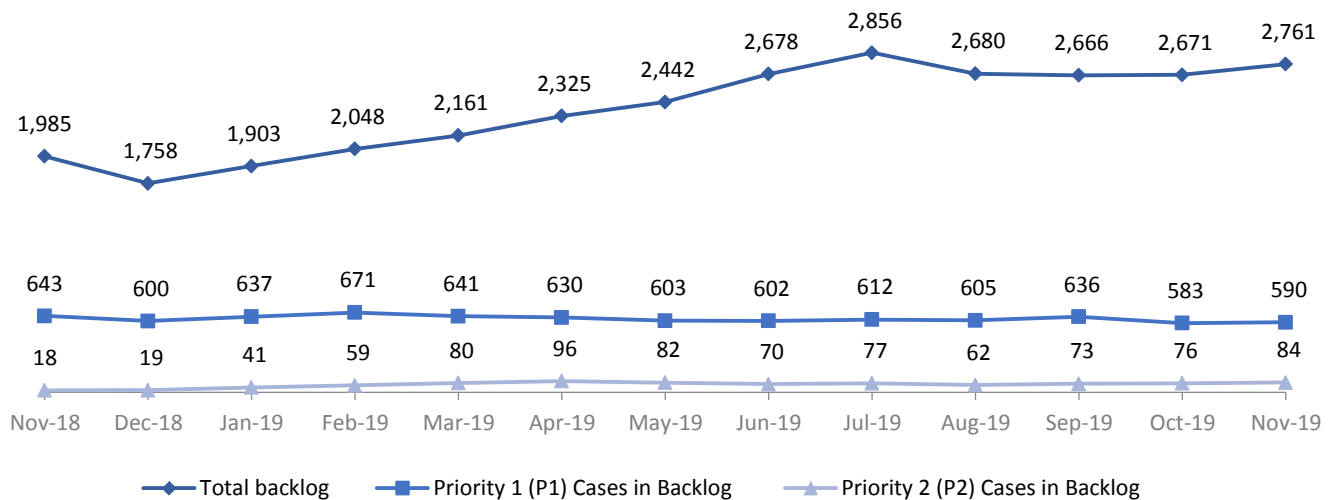
OFFICE OF CHIEF TRIAL COUNSEL

Backlog: Total, Active, and Suspended Cases



Note: This chart is based on ADR cases. Backlog is defined as cases in inventory over 180 days at month's end.

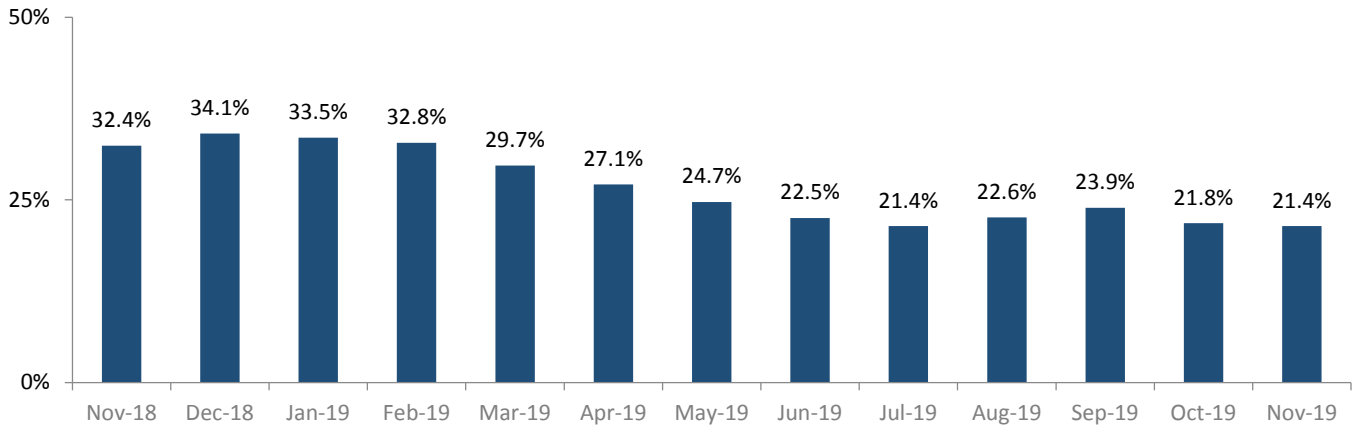
Backlog: Total, P1, and P2 Cases



Note: This chart is based on ADR cases. Backlog is defined as cases in inventory over 180 days at month's end.

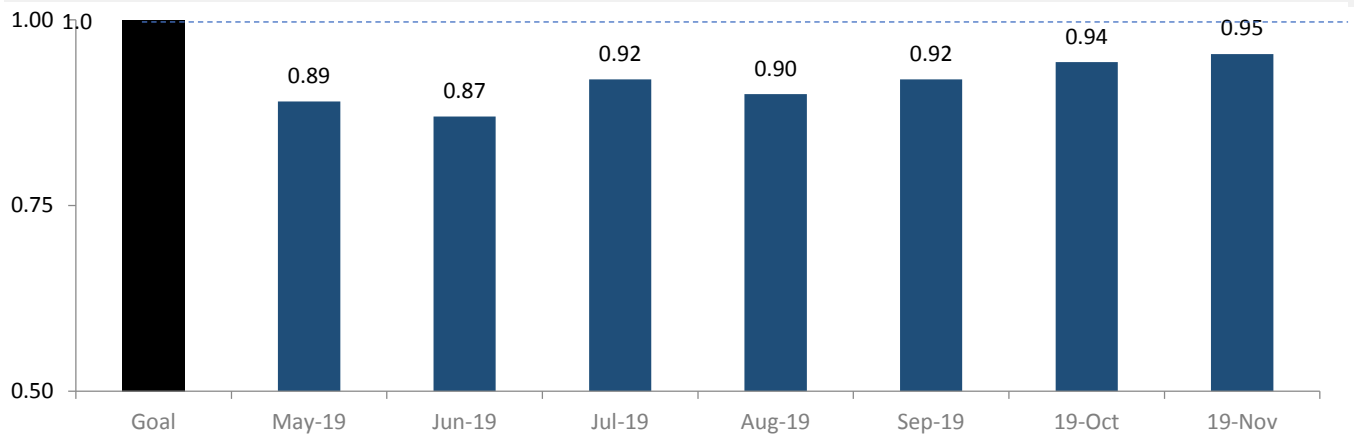
OFFICE OF CHIEF TRIAL COUNSEL

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



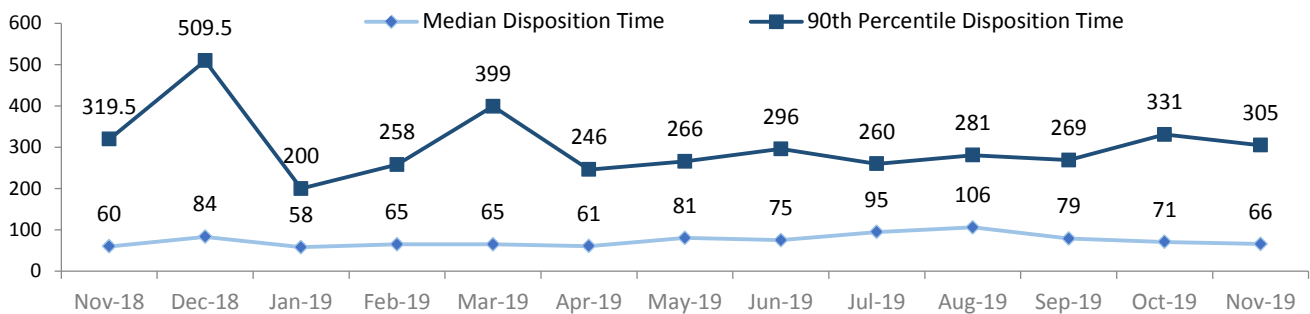
Note: This chart is based on ADR cases. Metric OCTC1, Minimize number of P-1 cases in backlog

Annual Caseload Clearance Rate



Note: This metric is calculated using a 12 month rolling average to smooth out month to month fluctuations. It is a ratio of cases closed to cases opened in a month. Metric # OCTC3, Maintain annual caseload clearance rate of at least 1.0

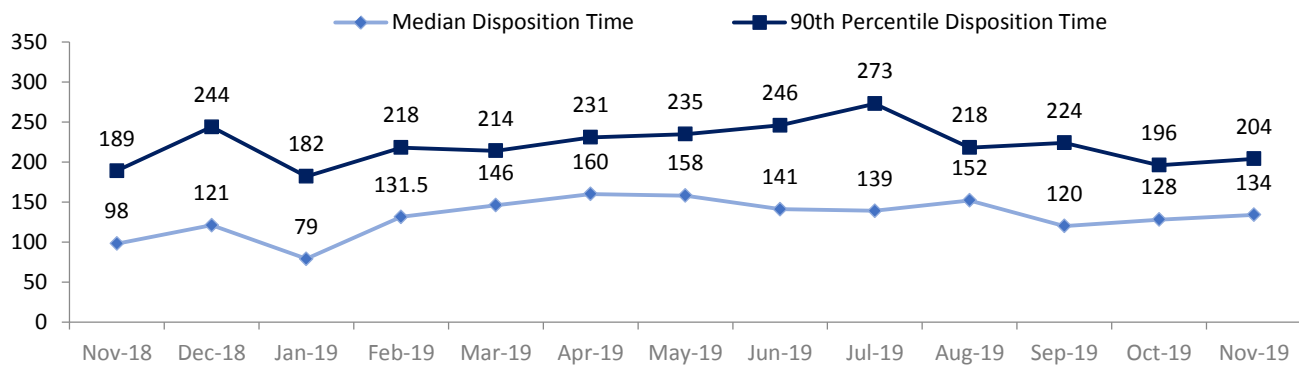
Disposition Times



Note: This chart is based on "ADR" cases. Disposition times calculated as time between case origination and closure. Metric # OCTC4;

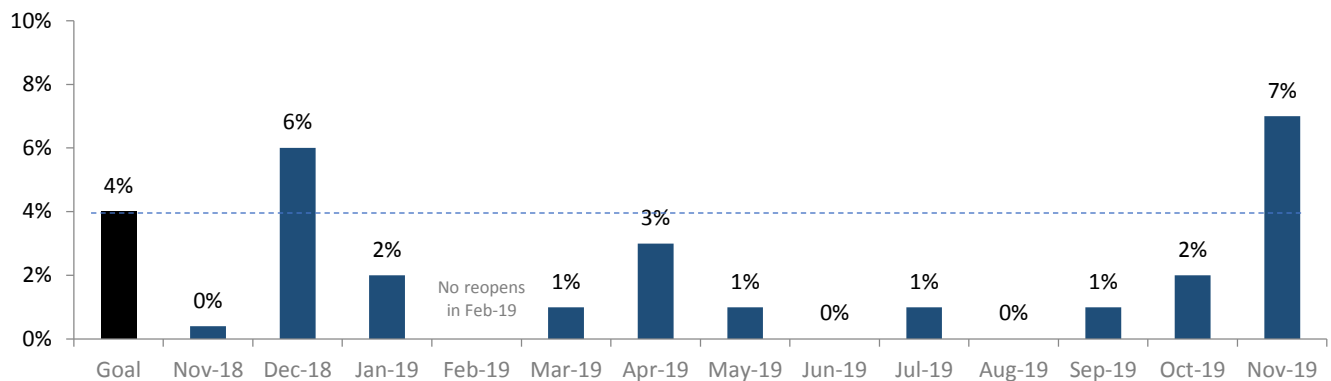
OFFICE OF CHIEF TRIAL COUNSEL

Disposition Times: Priority Two (P2) Cases



Note: Metric # OCTC2 Ensure P-2 cases are processed in an expedited fashion.

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



Note: Metric OCTC5-A, Maintain current level of CRU reopens for reasons other than new evidence (Goal <4%)

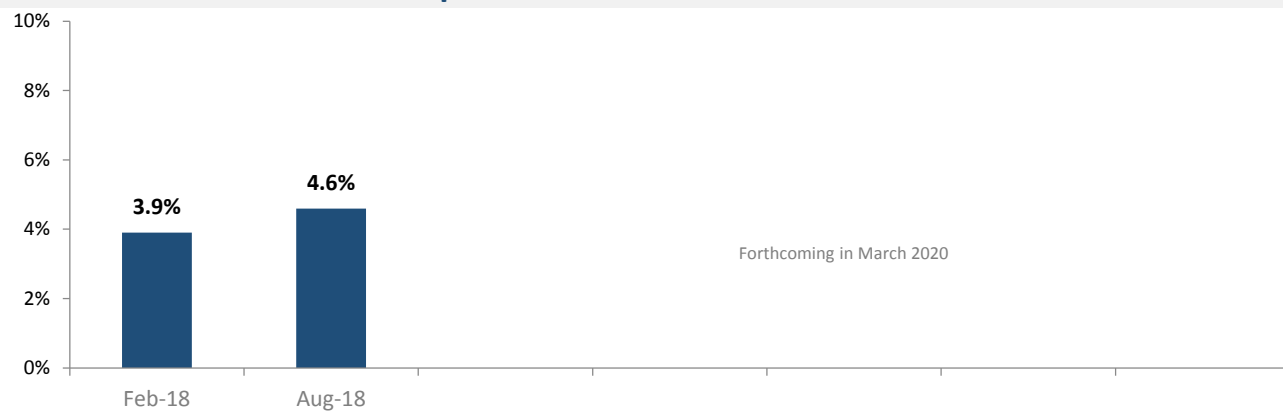
Number of Walker Reopens



Note: Metric OCTC5-B, Maintain current level of Walker reopens.

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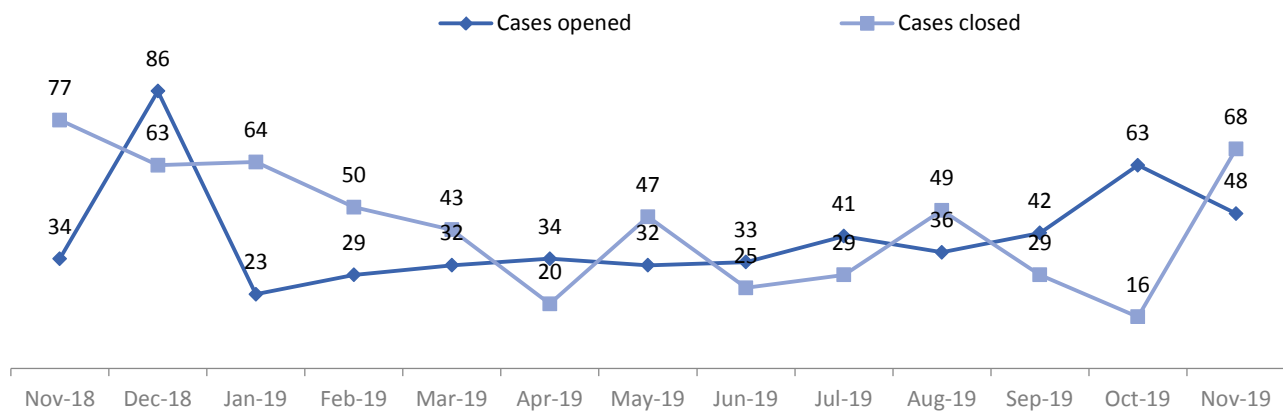
Percent of Random Audit Reopens for Substantive Reason



Note: Metric OCTC5-C; this metric is reported biannually

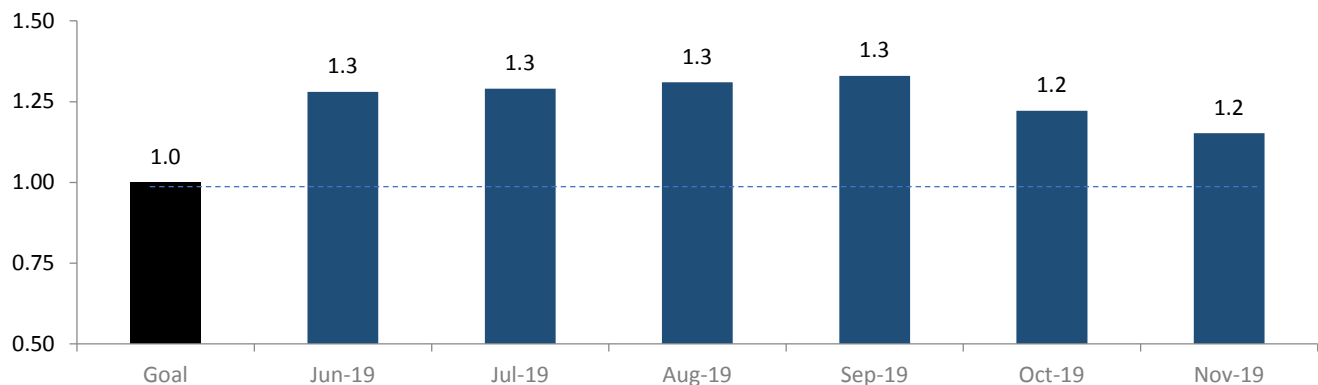
STATE BAR COURT

Cases Opened and Closed



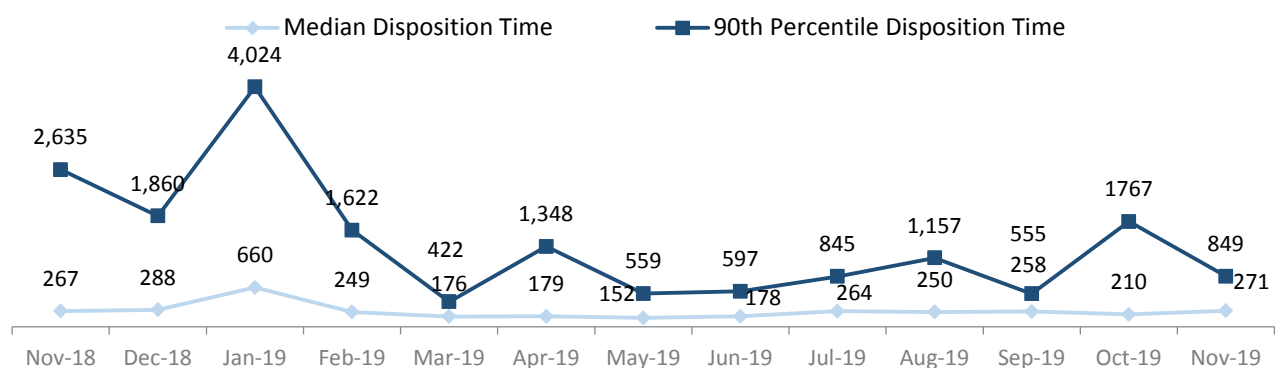
Note: Cases that do not go further than Review-Finality are not included.

Annual Caseload Clearance Rate



Note: Metric # SBC2, Maintain annual caseload clearance rate of at least 1.0

Disposition Times

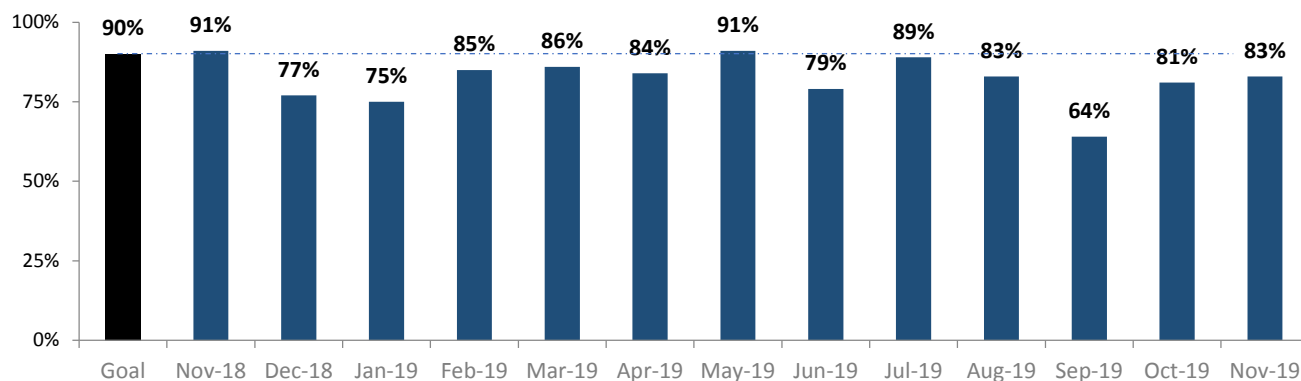


Note: Metric # SBC3, Disposition times calculated as time between case origination and closure, with time spent in Supreme Court not included

STATE BAR COURT

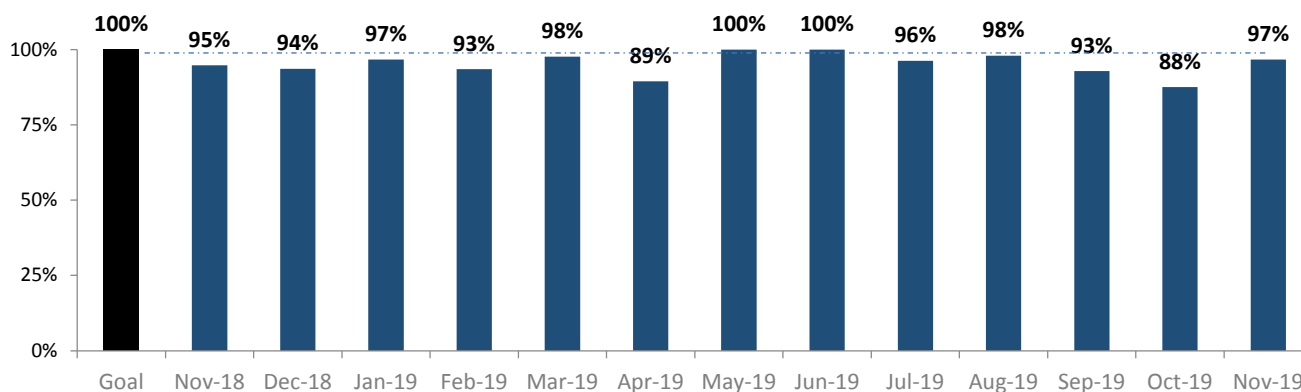
Hearing Department

Percent of Cases that Closed within Timeline Requirements



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

Percent of Cases that Closed within 150% of Timeline Requirements

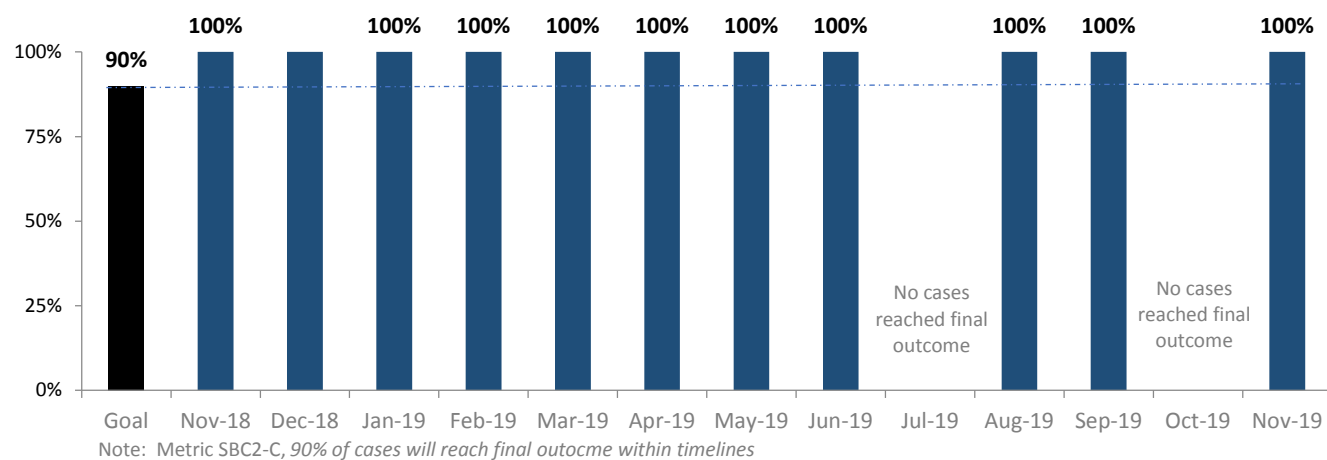


Note: Metric SBC2-B, All cases reach final outcome within 150% of timelines.

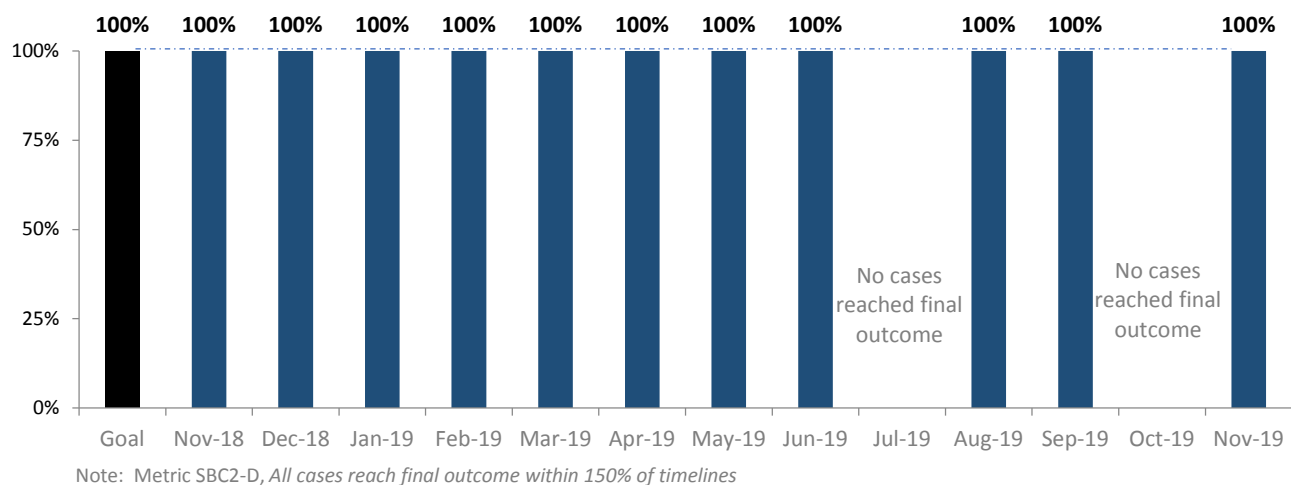
STATE BAR COURT

Review Department

Percent of Cases that Closed within Timeline Requirements



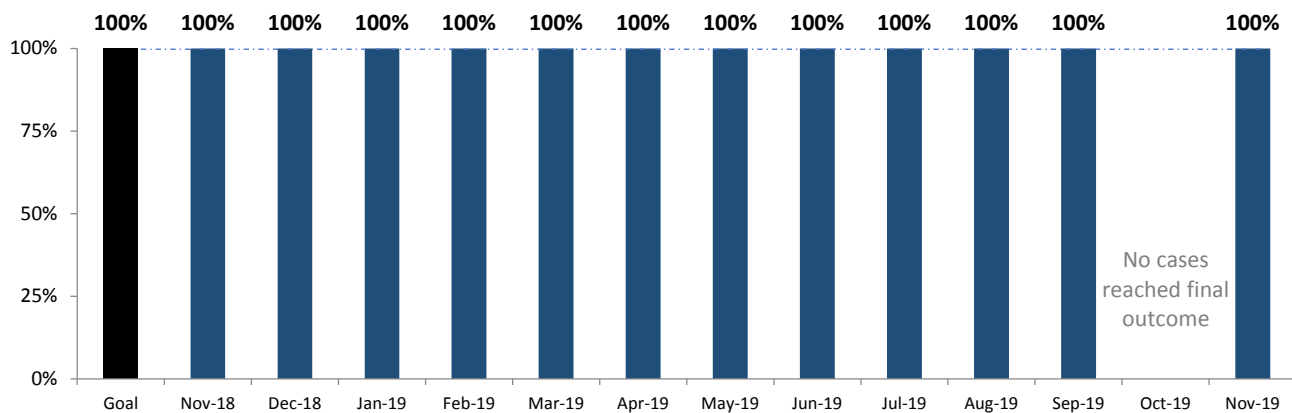
Percent of Cases that Closed Within 150% of Timeline Requirements



STATE BAR COURT

Effectuations

Percent of Cases Processed within Established Timeframes



Note: Metric SBC2-E, Effectuations: 100% of cases processed within established timeframes

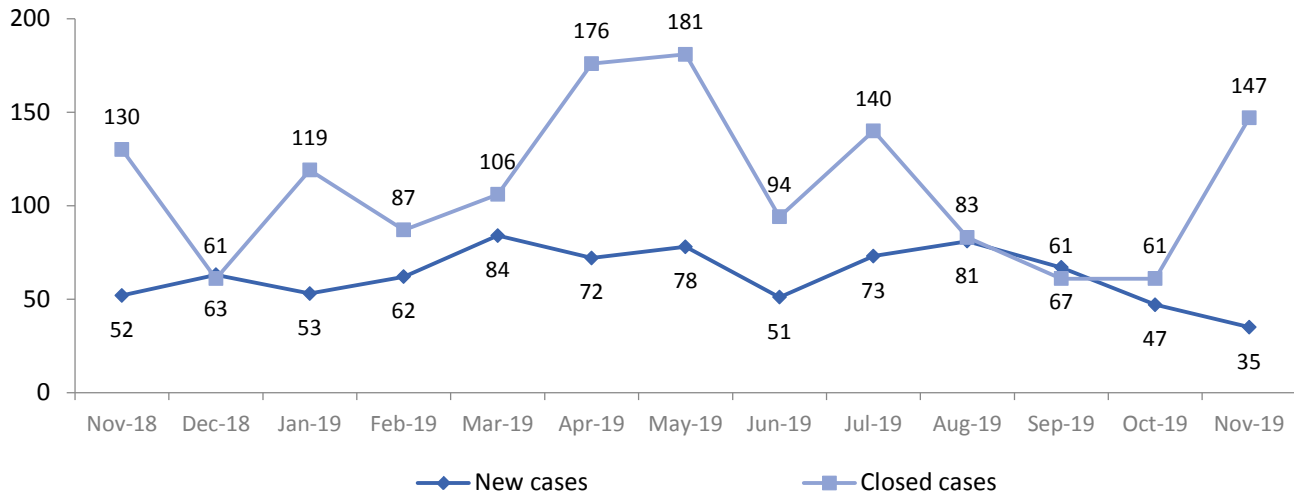
Appeals

	<u>Jan -June 2019</u>	<u>July - Dec 2019</u>
Petitions seeking review:	7	TBD
Petitions granted:	1	TBD
Petitions denied:	6	TBD
Remands:	1	TBD

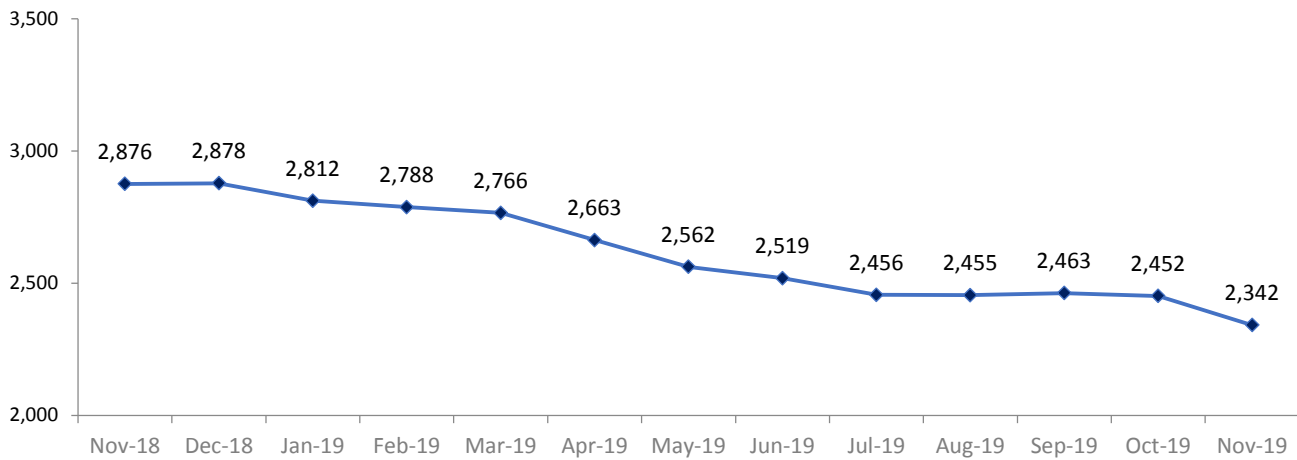
Note: Metric SBC4, Track number of appeals filed by Q2 2019; maintain current levels of reversals and remands

CLIENT SECURITY FUND

New and Closed Cases



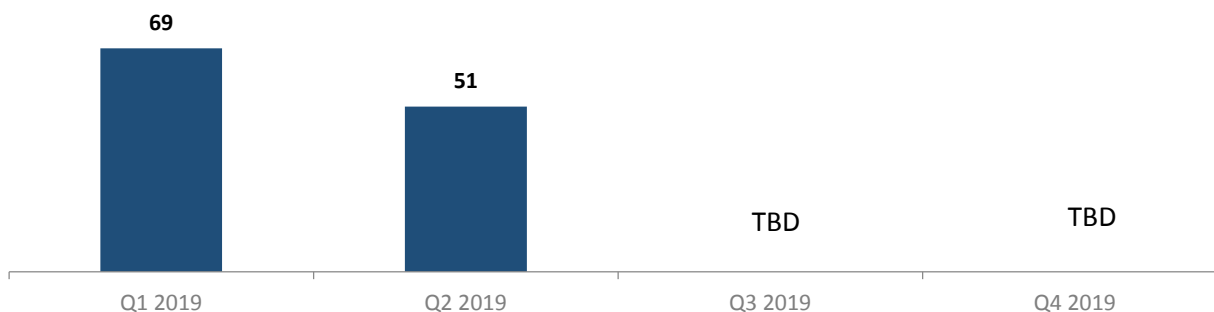
Case Inventory



PROBATION

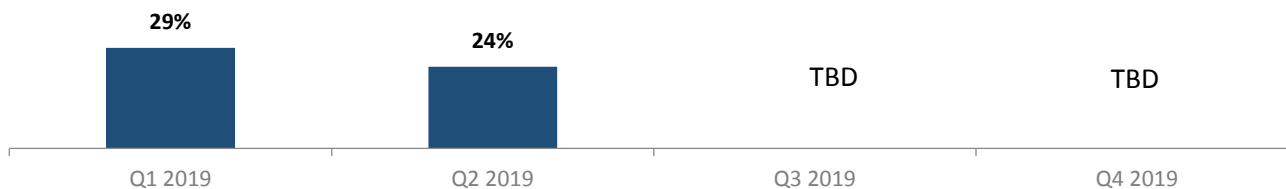
Note: Probation Metrics are undergoing a significant review and will be completed by March 2020.

Number of Probation Cases Closed



Note: Case types included are 9.20 matters without Supreme Court numbers, Probation, and Reproval.

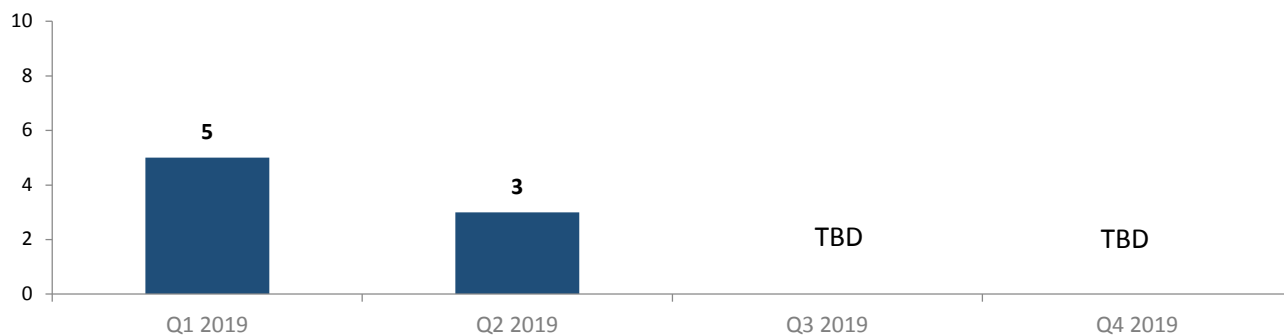
Successful Probation Completion Rates



Note: Metric P1, *Probation Successful Completion Rate*. "Successful Completion" tracks whether the respondent completed the ordered condition (including "During Actual" and "And Until" conditions, except for Standard 1.2(c)(1)).

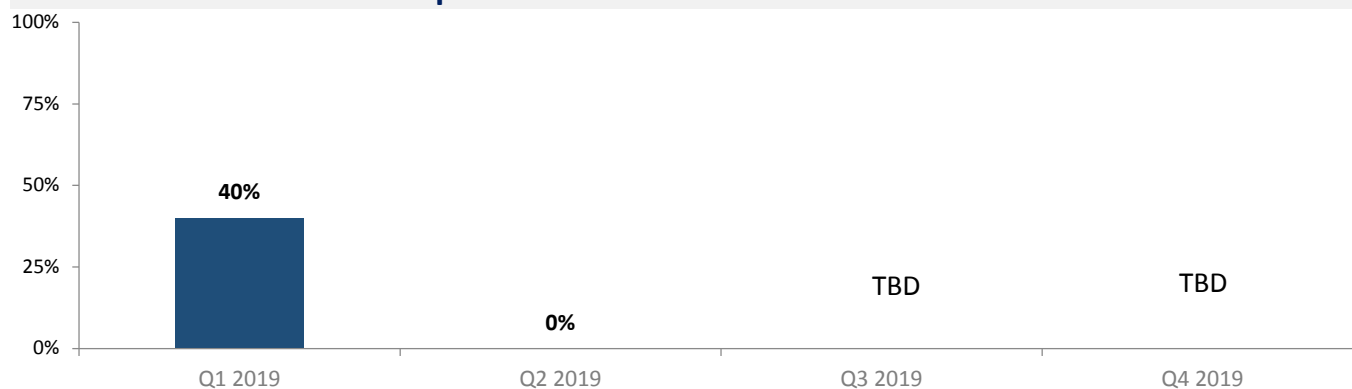
PROBATION

Number of Restitution Orders



Note: This excludes the following restitution orders: (1) "Completed Payment on 'And Until' Conditions on Restitution Orders", (2) "Incomplete Payment on 'And Until' Conditions on Restitution Orders", and (3) "Neither Successful nor Unsuccessful".

Successful Restitution Completion Rates

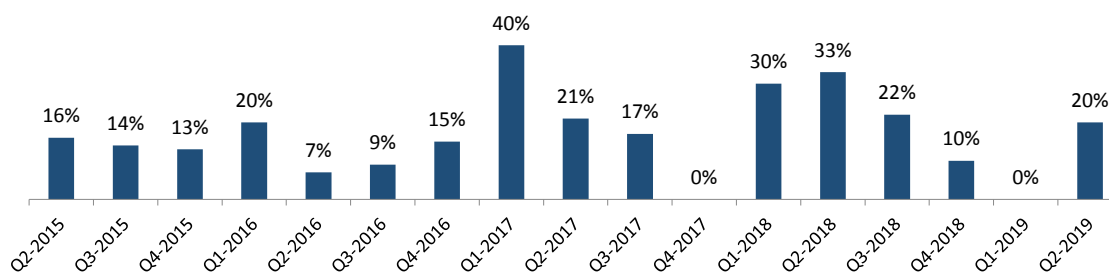


Note: Metric P2, Probation Successful Completion of Restitution

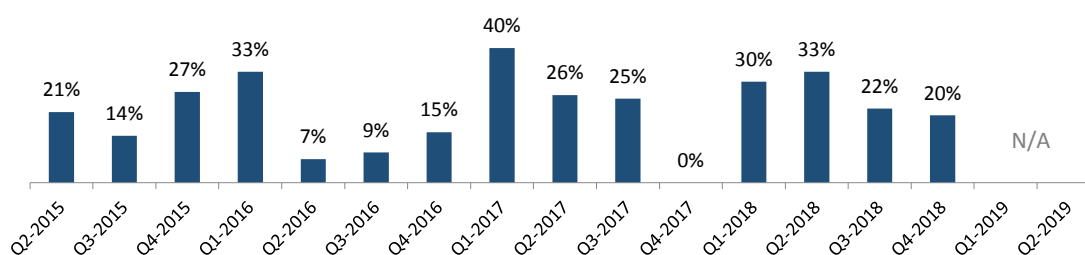
RECIDIVISM

Respondents Who Were Disciplined by Reproval (Private or Public)

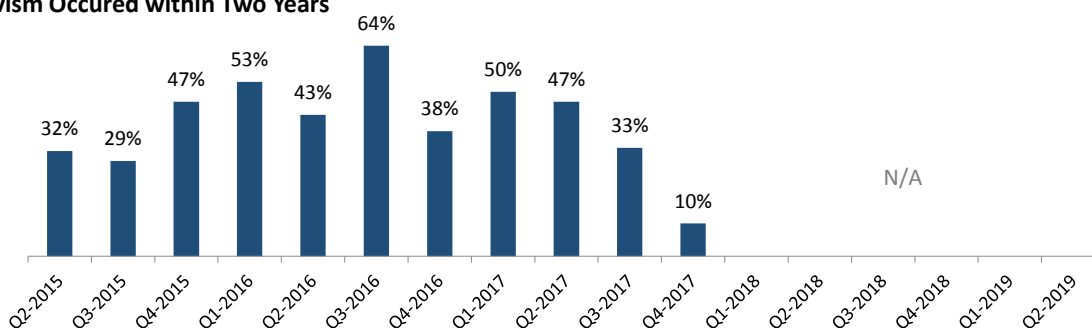
Recidivism Occured within 6 Months



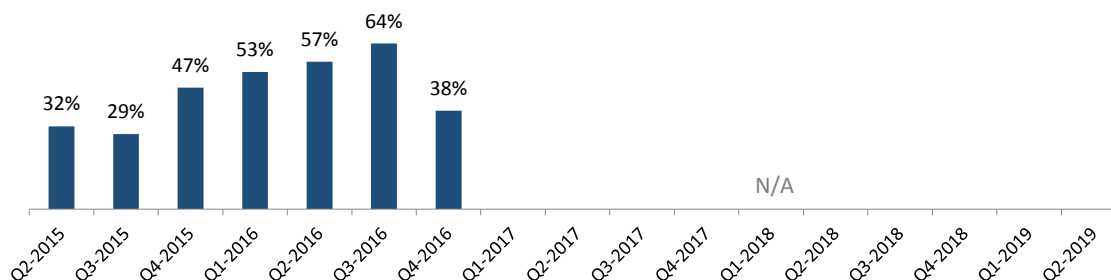
Recidivism Occured within One Year



Recidivism Occured within Two Years



Recidivism Occured within Three Years

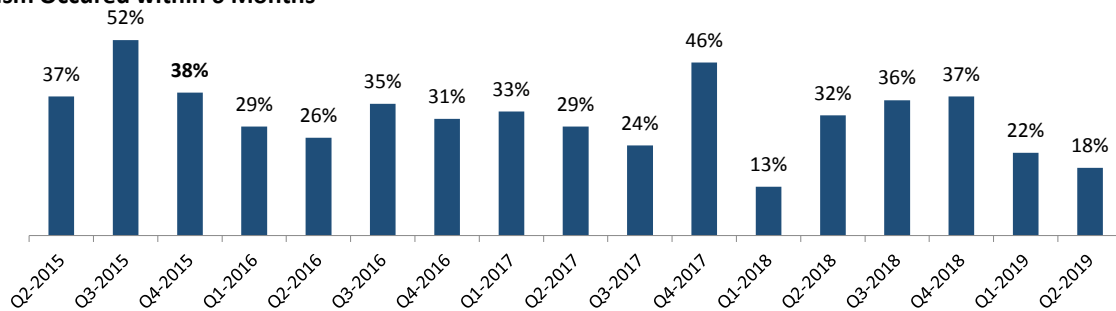


Note: Recidivism defined as an instance when a complaint against a Respondent has moved to the investigation stage. All complaint types are considered, including probation violations. Forthcoming analyses will explore alternative definitions of recidivism, including considering whether a complaint results in a judgement. The quarter/year listed is when the Respondent was disciplined. "N/A" denotes "non-applicable" due to the time frame analyzed. On average 12 Respondents were disciplined by a reproval each quarter during the time period analyzed.

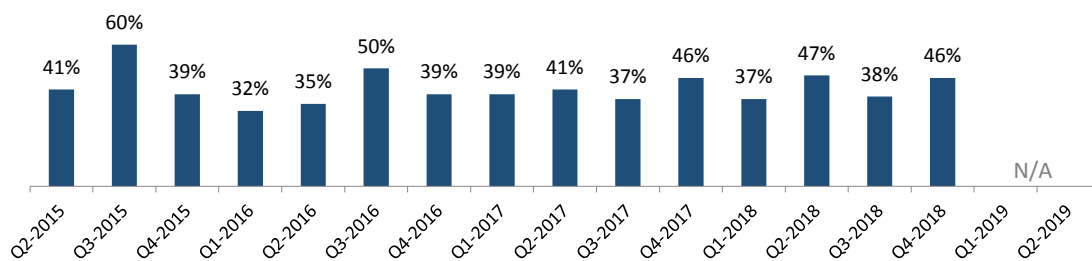
RECIDIVISM

Respondents Who Were Disciplined by Probation

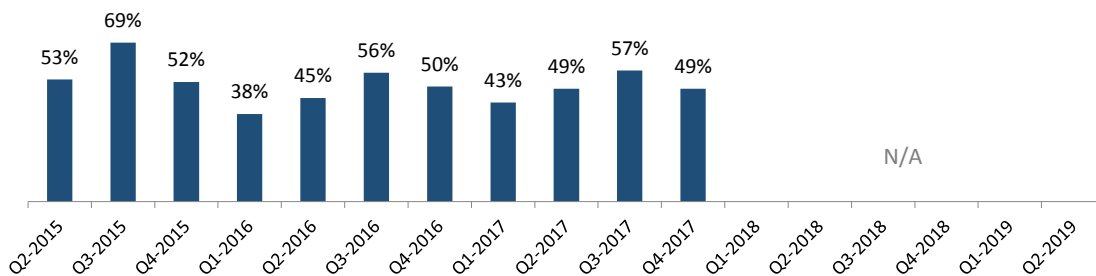
Recidivism Occured within 6 Months



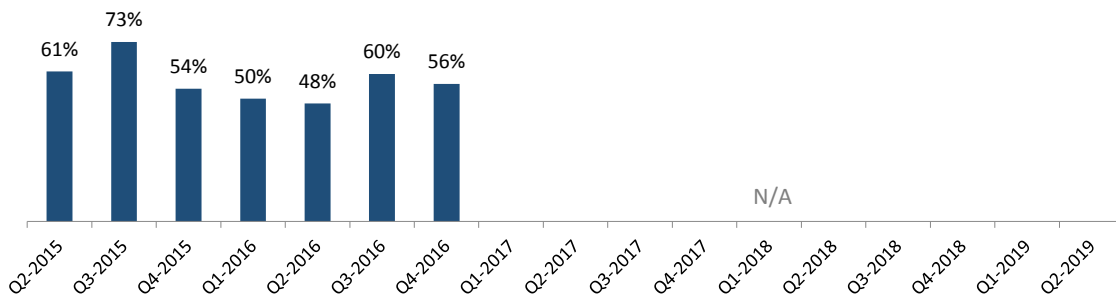
Recidivism Occured within One Year



Recidivism Occured within Two Years



Recidivism Occured within Three Years



Note: Recidivism defined as an instance when a complaint against a Respondent has moved to the investigation stage. All complaint types are considered, including probation violations. Forthcoming analyses will explore alternative definitions of recidivism, including considering whether a complaint results in a judgement. The year/quarter listed is when the Respondent was initially disciplined. N/A" denotes "non-applicable" due to the time frame analyzed. On average, 52 Respondents were disciplined by probation each quarter during the time period analyzed.

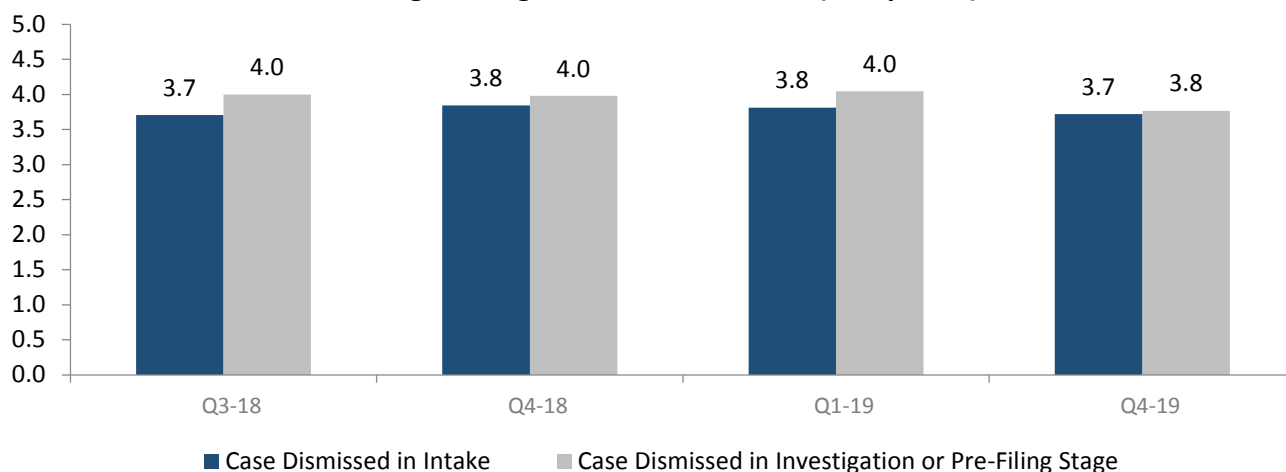
COMPLAINING WITNESS SURVEY

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

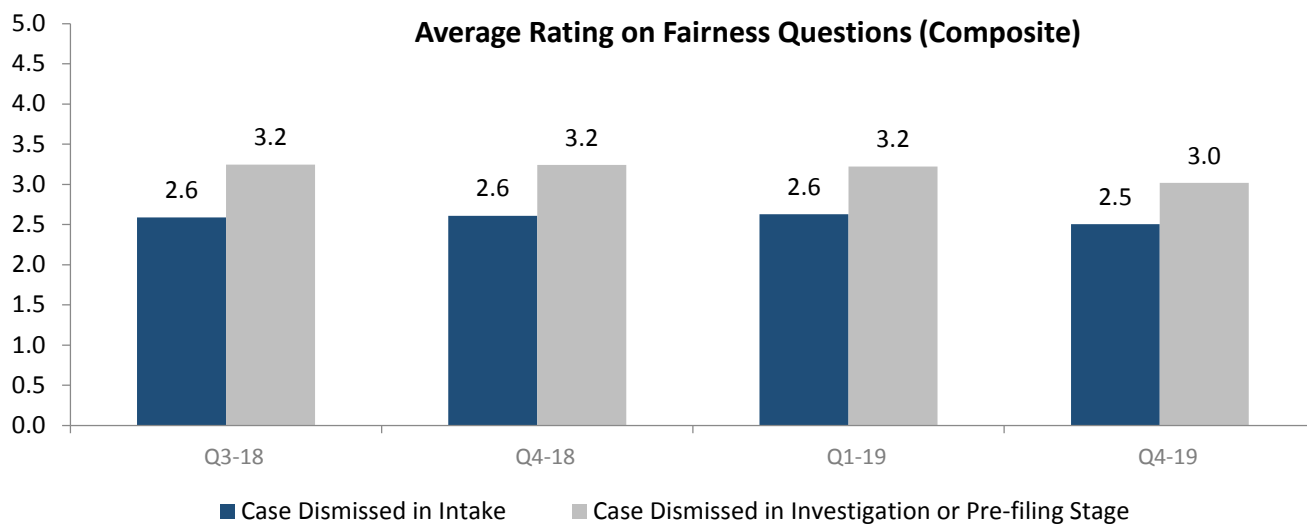
CW are asked, "Please tell us about your experience with how the State Bar handled your complaint by indicating how strongly you agree or disagree with each of the following statements" and to respond using a five point scale where 1=strongly disagree and 5 = strongly agree.

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

Average Rating on Access Questions (Composite)



Average Rating on Fairness Questions (Composite)



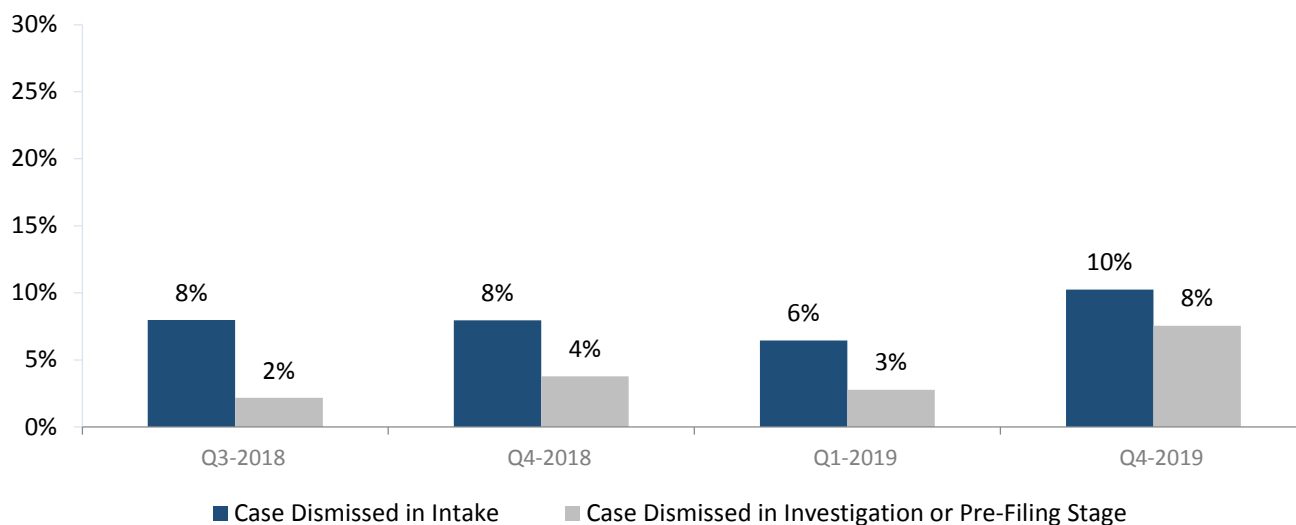
Note: Data not available in Q2 and Q3 2019 due to the transition to Odyssey.

COMPLAINING WITNESS SURVEY QUESTIONS WITH LOWEST RATINGS

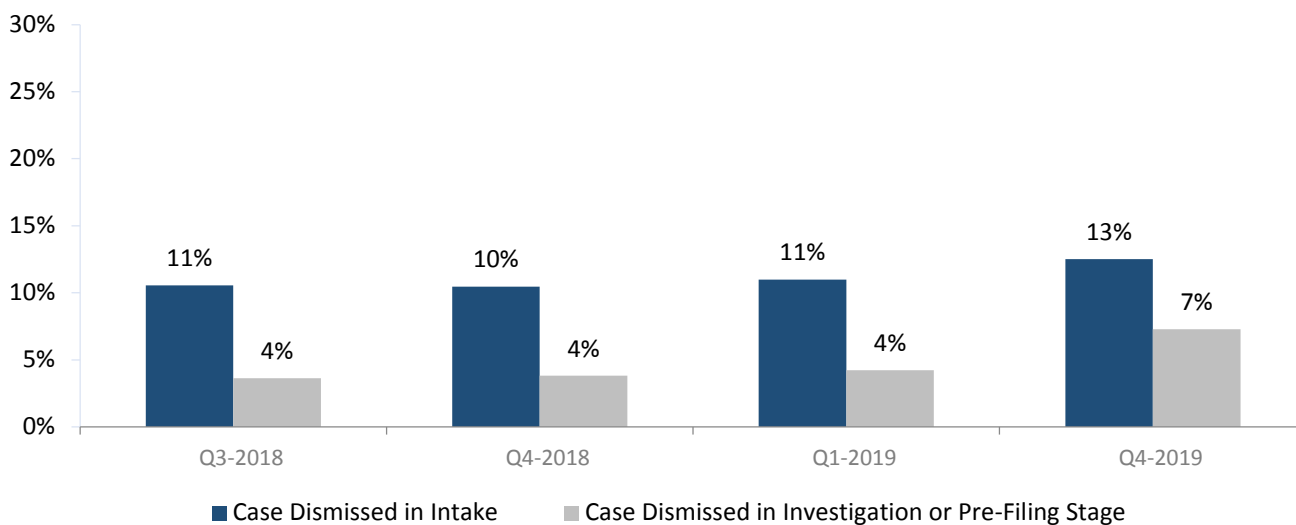
Percentage of CWs that Responded to **Access** Questions with a Rating of 1 (strongly disagree)

(Higher percentages indicate more dissatisfied CWs)

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



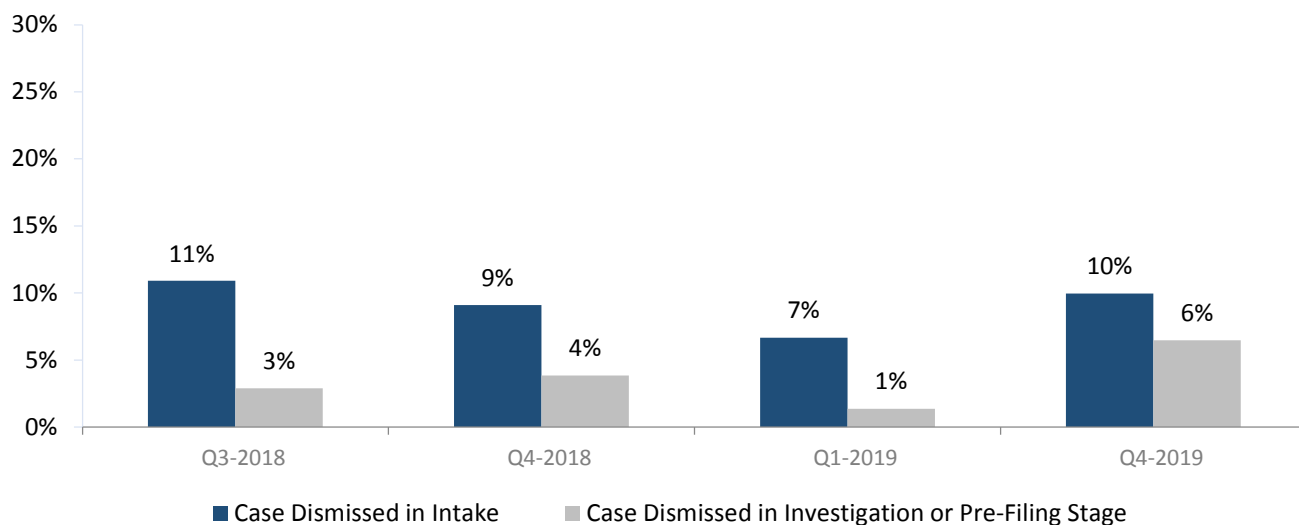
The website provided useful information about how to file a complaint.



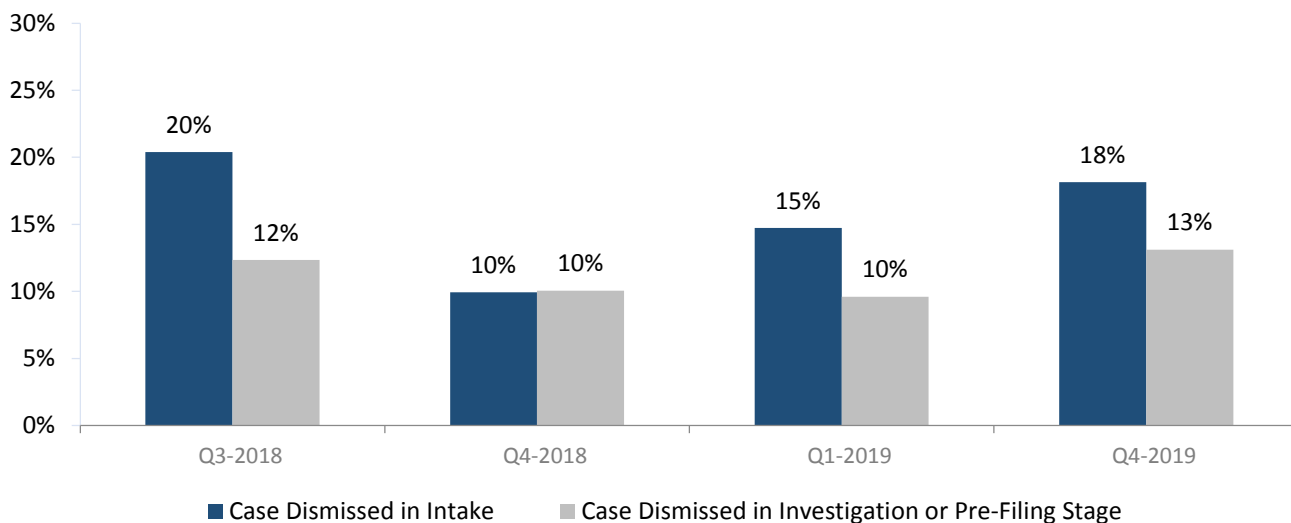
COMPLAINING WITNESS SURVEY QUESTIONS WITH LOWEST RATINGS

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

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



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

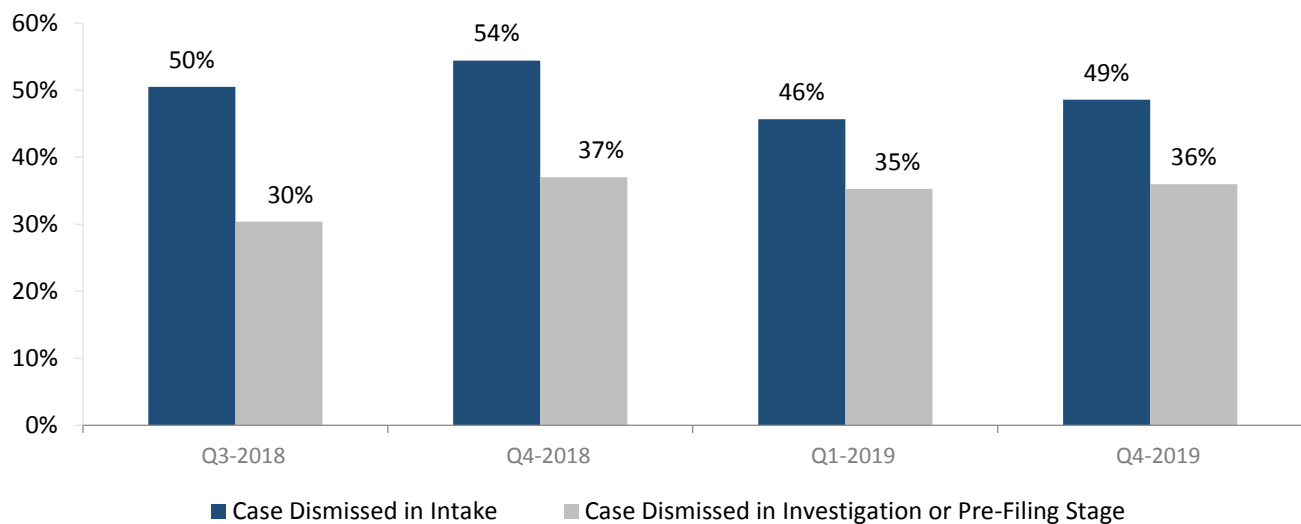


Note: Data not available in Q2 and Q3 2019 due to the transition to Odyssey.

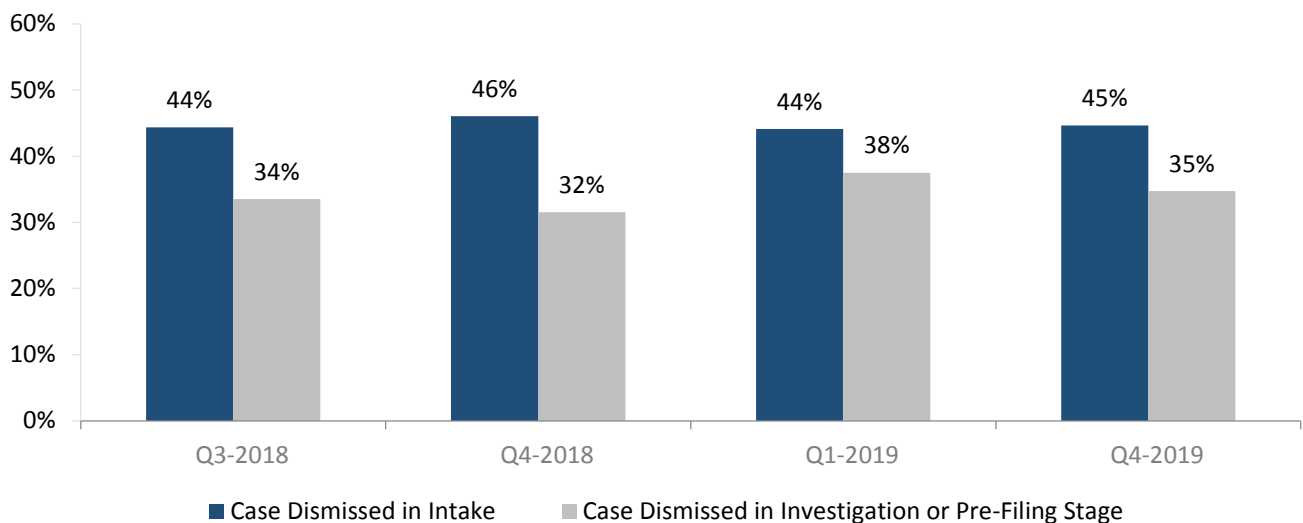
COMPLAINING WITNESS SURVEY QUESTIONS WITH LOWEST RATINGS

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

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



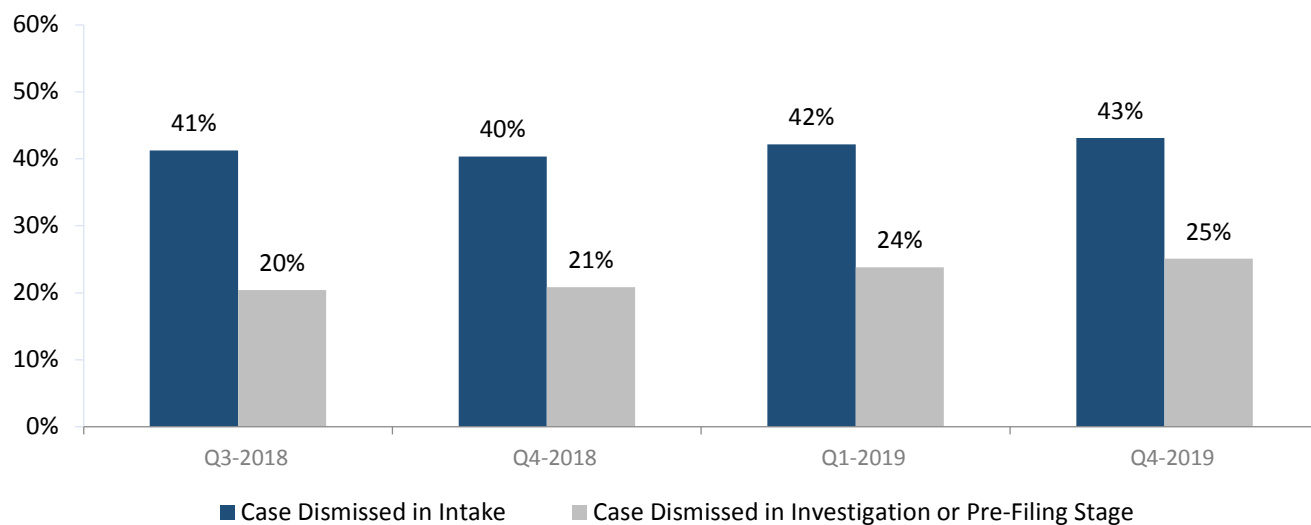
The State Bar explained in a way that I was able to understand why they closed my case, even if I did not agree with this decision.



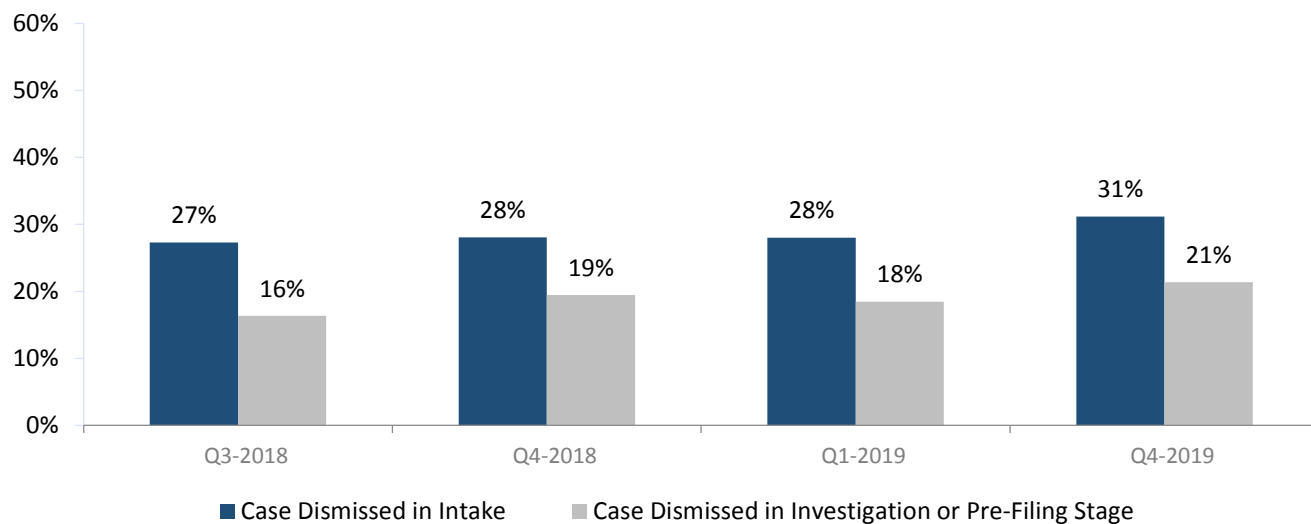
COMPLAINING WITNESS SURVEY QUESTIONS WITH LOWEST RATINGS

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

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



State Bar staff treated me with courtesy and respect.



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

APPENDIX A. DEFINITIONS AND METHODOLOGICAL NOTES

All data reported in this document supercedes data previously reported.

Active Backlog Cases

These are cases that are actively being worked on by OCTC.

ADR Cases

ADR cases throughout this report refer to the statutorial mandated reporting of backlog cases as part of the Annual Discipline Report (ADR). These cases involve Other Jurisdiction matters (J) that are self-reported, Original (O), Probation Referrals (OPB), Reportable Action matters that do not originate from a third party, opposing counsel and the media , Rule 1-110 violations (H), State Bar Court Orders (OSB) and Rule 9.20 violations (N).

Priority 1 Cases

Priority 1 (P1) cases are those that present significant, ongoing, or serious potential harm to the public.

Priority 2 Cases

Priority 2 (P2) includes cases that upon initial review do not appear to present significant, ongoing, or serious potential harm but need an expedited assessment to determine whether they do. If a P2 case is determined to pose serious harm to the public, it is reclassified as P1. Cases that remain in the P2 category are handled by Expeditor attorneys and investigators who seek to resolve the cases quickly and with fewer resources than P1 cases require.

Random Audit Reopens for Substantive Reason

Per Policy Directive 2006-02, up to 250 closed OCTC case files are randomly selected twice a year for an audit. The files are audited to ensure that cases are closed, investigated, and /or prosecuted appropriately.

Suspended Backlog Cases

These are cases that have been suspended for a variety of reasons. Examples include: attorney is the subject of a current prosecution or is on inactive status awaiting disbarment. Placing cases in suspension status, especially those where an attorney faces multiple complaints and one of which is expected to lead to disbarment, allows OCTC to focus its resources.

APPENDIX A. DEFINITIONS AND METHODOLOGICAL NOTES

Complaining Witness Survey

Complaining Witnesses (CW) are invited to participate in a survey via a letter they receive that describes the outcome of their complaint. Those with email addresses are invited to participate via email. Contact via email ceased during spring 2019 when the new data management system Odyssey went live but was resumed in October 2019. Nearly 1,700 responses across all quarters were analyzed.

The analyses compare two groups of Complaining Witnesses:

- * those whose complaints were dismissed during intake dismissed during the **intake** stage
- * those whose complaints were dismissed during the **investigation** or **pre-filing** stage

Survey Questions

Access

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

Fairness

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