



# The State Bar of California

180 Howard Street, San Francisco, CA 94105

## OFFICE OF THE EXECUTIVE DIRECTOR

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April 30, 2020

Honorable Tani G. Cantil-Sakauye  
Chief Justice of California  
Supreme Court of California  
350 McAllister Street  
San Francisco, CA 94102

Honorable Gavin Newsom  
Governor of the State of California  
State Capitol, Suite 1173  
Sacramento, CA 95814

Honorable Toni G. Atkins  
Senate President pro Tempore  
State Capitol, Room 205  
Sacramento, CA 95814

Honorable Anthony Rendon  
Speaker of the Assembly  
State Capitol, Room 219  
Sacramento, CA 95814

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

Honorable Mark Stone  
Chair, Assembly Committee on Judiciary  
102 N Street, Room 104  
Sacramento, CA 95814

Erika Contreras  
Secretary of the California State Senate  
State Capitol, Room 3044  
Sacramento, CA 95814

Dear Chief Justice Cantil-Sakauye, Governor Newsom, Senate President pro Tempore Atkins, Speaker Rendon, Senator Jackson, Assemblymember Stone, Secretary of the Senate Contreras, Members of the Senate Judiciary Committee and Members of the Assembly Judiciary Committee:

The 2019 Annual Discipline Report (ADR) provides a performance overview of the attorney discipline system. In particular, it reports on data elements mandated by statute as well as State Bar operations, initiatives, and accomplishments that promote the State Bar's public protection mission.

As the ADR reflects, several initiatives launched or fully implemented in 2019 improved access to, and protection of, the public that we serve. At the same time, these initiatives increased the workload of the State Bar's Office of Chief Trial Counsel (OCTC), which holds the primary responsibility for discipline case processing, and ultimately translated to an overall increase in cases in backlog status.<sup>1</sup> The 2020 fee bill, which was effective January 1, 2020, will support 19 of the 58 additional positions needed to meet statutory case processing timelines. While these new positions will positively impact case processing timelines, given the increased workload demands on OCTC, funding to support additional positions will be necessary in the future to ensure full compliance with statutory requirements. The State Bar looks forward to working with key stakeholders to ensure adequate discipline staffing as we move forward.

Highlights from this year's ADR include:

*Online Complaint Portal Has Expanded Access for Complaining Witnesses*

In an effort to make it easier for the public to file complaints and submit supporting documents, the State Bar developed an online complaint portal in late 2018, available in both English and Spanish. Four additional languages (Vietnamese, Korean, Russian, and Chinese) were added to the system in 2019 to further expand access to non-English speakers. The online complaint portal made it easier for the public to file complaints against attorneys: over 13,000 complaints were filed in 2019, a 5 percent increase compared with the prior year. By the end of 2019, more than 16,200 cases were opened against California attorneys.

*Automated Tracking of Attorney Criminal Convictions Increases Public Protection*

Rule 9.9.5 of the California Rules of Court required all licensed attorneys to be re-fingerprinted by December 1, 2019, so that the State Bar can receive automated reports from the Department of Justice (DOJ) regarding criminal charges and convictions against attorneys. The State Bar successfully brought over 190,000 attorneys—over 99 percent of active attorneys—into compliance by the deadline. The State Bar received Records of Arrest and Prosecution (RAP sheets) for over 10,000 of these attorneys. Nearly one quarter of these revealed criminal histories that had not been previously reported to OCTC.

*Targeted Services and Outreach to Vulnerable Populations*

In 2019, OCTC continued its work to protect vulnerable populations including immigrants and wildfire victims against abuse by attorneys and those fraudulently holding themselves out as attorneys. These efforts involved strong partnerships with local law enforcement agencies and the Disaster Legal Assistance Collaborative as well as distributing informational materials in

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<sup>1</sup> The backlog is statutorily defined as 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 (Business and Professions Code section 6086.15 (a)(1)).

both English and Spanish through traditional and social media. OCTC opened over 900 nonattorney unauthorized practice of law (NA/UPL) cases in 2019, an increase of 24 percent compared with the previous year. OCTC's dedicated NA/UPL cases assumed jurisdiction over 4 illegal law practices through court orders, seizing over 12,000 files and returning as many as possible to victims.

### *Discipline System Metrics*

In 2019, the State Bar fully implemented a new performance metrics system for all of its operational areas, including the Office of Chief Trial Counsel. OCTC metrics measure both cycle time (for example, caseload clearance rates) and quality (for example, number of internal appeals granted by the Complaint Review Unit and number of *Walker* petitions granted by the California Supreme Court).<sup>2</sup> Metric results are reported to the Board of Trustees at their bimonthly meetings. Staff also prepares a Discipline System Statistical Report to supplement the metrics. This report contains data elements that measure the system's impact, including recidivism rates and procedural fairness ratings generated by complaining witnesses. This year's ADR includes some of these metrics in an effort to present a more holistic picture of OCTC performance.

### *Case Prioritization System Facilitates Focus on Addressing Highest Priority*

As noted in last year's ADR, OCTC developed a case prioritization system in 2018 that identifies and focuses resources on cases that pose the greatest risk of harm to the public. In 2019 OCTC refined its case classification system to allow it to devote more concentrated resources to investigating and prosecuting these high priority cases. Given the increase in complaints filed during 2019, as a result of the new online complaint portal and attorney re-fingerprinting, the case prioritization system has proven to be an invaluable tool for protecting the public from misconduct that poses the greatest threat. OCTC's focused implementation of case prioritization has demonstrated results: for every 100 new highest priority cases received in 2019, OCTC resolved 136, up from 126 in 2018. At the same time, OCTC also improved its caseload clearance for lower priority cases—resolving 97 for every 100 new cases received compared to only 94 per 100 in 2018.

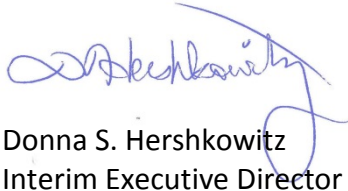
Lastly, the 2019 ADR also gives crucial context to the 2019 backlog. First, it notes that growth in the backlog was driven entirely by lower priority cases. The ADR also clarifies the important distinctions between the number of cases in backlog status that pose a high risk to the public

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<sup>2</sup> Complainants are entitled to request that the State Bar Office of General Counsel's Complaint Review Unit (CRU) review OCTC's decisions to close a case. If CRU finds that the case was not closed properly, or if the complaining witness presents new evidence it will refer the complaint back to OCTC with a recommendation that it be reopened for investigation. Should CRU decline to recommend reopening a case, it will notify the complainant and inform them of their right to request the California Supreme Court review the complaint pursuant to *In re Walker* (1948) 32 Cal.2d 488 to determine if it should be reopened.

and the number of attorney respondents actually eligible to practice. Overall, the number of highest priority cases in backlog declined by 14 percent in 2019. While these clarifications are important, the State Bar continues to operate under an overall goal of timely processing all complaints received, regardless of priority status. As noted above, the new positions made possible by the 2020 attorney licensing fee increase will assist us in realizing this aim.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Hershkowitz", with a large, stylized flourish extending from the end of the signature.

Donna S. Hershkowitz  
Interim Executive Director



# The State Bar of California

180 Howard Street, San Francisco, CA 94105

Title of Report: Annual Discipline Report of the State Bar of California  
Statutory Citation: Business and Professions Code Section 6086.15 and 6177; Civil Code Section 55.32 (f)(1); Insurance Code Section 1872.95 (a)  
Date of Report: April 30, 2020

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The State Bar of California has 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 sections 6086.15 and 6177, Civil Code section 55.32, subdivision (f)(1), and Insurance Code section 1872.95, subdivision (a). The Annual Discipline Report describes the performance and condition of the attorney discipline system in the previous calendar year. The following summary is provided pursuant to Government Code section 9795.

The 2019 *Annual Discipline Report* highlights continued improvements to the attorney discipline system, including expanded public access through an online complaint portal available in six languages; outreach and education efforts to vulnerable communities, including immigrants and wildfire victims; automated reporting from the Department of Justice regarding criminal charges and convictions against attorneys; and, implementation of a modern case management system that provides for better data collection and analysis.

In 2019, the State Bar opened more than 16,200 cases against California lawyers. The Office of Chief Trial Counsel (OCTC) filed 619 cases in State Bar Court, seeking the imposition of formal discipline. The State Bar Court recommended or imposed discipline in 532 cases. The Supreme Court disbarred 117 attorneys and suspended another 137. In 2019, the backlog of cases—defined as those open cases at year’s end in which OCTC had not filed disciplinary charges or closed within six months after receipt—increased to 2,684 as of December 31, 2019, compared to 1,759 on December 31, 2018. This increase in the backlog was driven entirely by lower priority cases; the number of highest priority cases in backlog decreased during this same period, from 599 to 518. Detailed information on the complaints, backlog, time for processing complaints, and disciplinary outcomes is contained in the Annual Discipline Report. In addition, the report presents summaries of the cost of the discipline system and the condition of the Client Security Fund.

The full report is available for download on the State Bar website at:  
<http://www.calbar.ca.gov/About-Us/Our-Mission/Protecting-the-Public/Reports>.

A printed copy of the report may be obtained by calling 415-538-2272.



# The State Bar of *California*

## **Annual Discipline Report** **For the Year Ending December 31, 2019**

**April 30, 2020**

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## 2019 ANNUAL DISCIPLINE REPORT

### INTRODUCTION

The Annual Discipline Report (ADR or Report) provides an overview of the State Bar's attorney discipline system: its workload, operations, initiatives, and performance in fulfilling its statutory obligation to protect the public from attorney misconduct. Although the discipline system is made up of multiple interdependent components of the State Bar, the ADR is primarily focused on the Office of Chief Trial Counsel (OCTC or Chief Trial Counsel), the office that receives, investigates and, where appropriate, prosecutes attorney misconduct.

This report highlights continued progress toward achieving the State Bar's public protection mandate. Among the steps taken to protect the public in 2019, the State Bar:

- increased the speed of processing the highest priority cases, reducing the backlog of these cases by 14 percent;<sup>1</sup>
- filed 619 cases in State Bar Court;
- disciplined 303 attorneys, including 117 disbarments, 137 suspensions, and 49 reprovals;
- maintained the quality of its work as demonstrated by exceptionally high rates of cases for which OCTC's decisions were upheld upon a "second look" by the Complaint Review Unit of the State Bar's Office of General Counsel, and upon further review by the Supreme Court;
- expanded access to the public for filing complaints by offering the online complaint portal in four additional languages, for a total of five languages in addition to English;
- completed the re-fingerprinting of over 190,000 active attorneys to allow the Department of Justice to send automated notices to the State Bar of criminal charges against, and convictions of, attorneys;
- conducted outreach and targeted services to vulnerable communities, including immigrants and wildfire victims, to proactively educate them about the danger posed by, and ways to avoid, predatory attorneys and scams by those who pose as attorneys;
- focused investigative and prosecutorial resources on cases against attorneys whose actions represent the greatest risk of harm to the public; and
- implemented a new case management system (CMS) that augments the capacity of the State Bar to track, assess, and improve the effectiveness of OCTC's work.

The Chief Trial Counsel accomplished these items in 2019 while dealing with an ongoing shortfall in the resources needed to fully accomplish its public protection mission. A workload study completed in 2018 documented the need for 58 additional positions in OCTC to satisfy the case processing timelines required by statute. While the 2020 fee bill supports 19 of these

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<sup>1</sup> The backlog is statutorily defined as 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 (Business and Professions Code section 6086.15 (a)(1)).



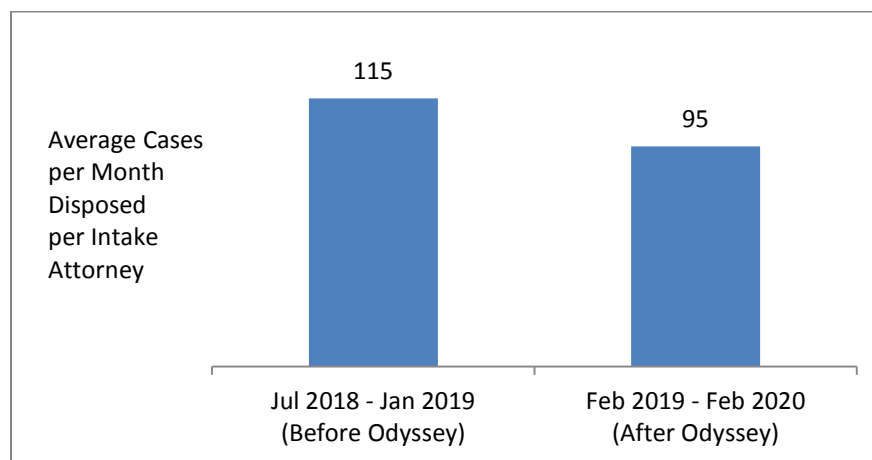
58 positions, the State Bar expects that the need will actually be much greater; a new workload study will be conducted in 2020 to determine current and projected staffing needs.

In addition to statutorily required case processing timelines, a number of initiatives launched or fully implemented in 2019 contribute to this variance between existing and needed staffing levels. The launch of an online complaint portal has made it easier to file complaints against attorneys and, consequently, increased the number of complaints filed. Similarly, the implementation of automated criminal complaint reporting from the Department of Justice uncovered previously unreported criminal charges and convictions against attorneys, creating a large volume of additional cases for OCTC to process.

Implementation of a modern CMS brought costs along with benefits. Retirement of the Bar's 1980s era legacy case management system was imperative, to be sure. The new system, Odyssey, provides a single electronic platform for OCTC, the State Bar's Office of Probation, and the State Bar Court and provides for enhanced data collection and greater access for the public. As is common for graphic user interface systems, though, case processing now requires more clicks of the mouse to capture data in pre-defined categories. The increased time and effort required to process cases in the system, however, equips the State Bar with a much more powerful tool for data collection, analysis, and reporting.

These additional steps capture more information at the outset of the case, thereby producing more complete electronic records and allowing for greater access to those records, but also slow the process, particularly in the initial intake of each case. An analysis of the number of cases disposed—either by dismissal or referral for investigation—by Intake attorneys before and after Odyssey implementation found an 18 percent decrease in the case disposal rate (See Figure 1).<sup>2</sup>

**Figure 1. The average number of cases disposed per month per attorney in Intake dropped by 18 percent after implementation of Odyssey**



<sup>2</sup> The analysis was conducted on attorneys who had been in the same position for long enough to conclude that the difference in the disposal rate was attributable to the new case management system.

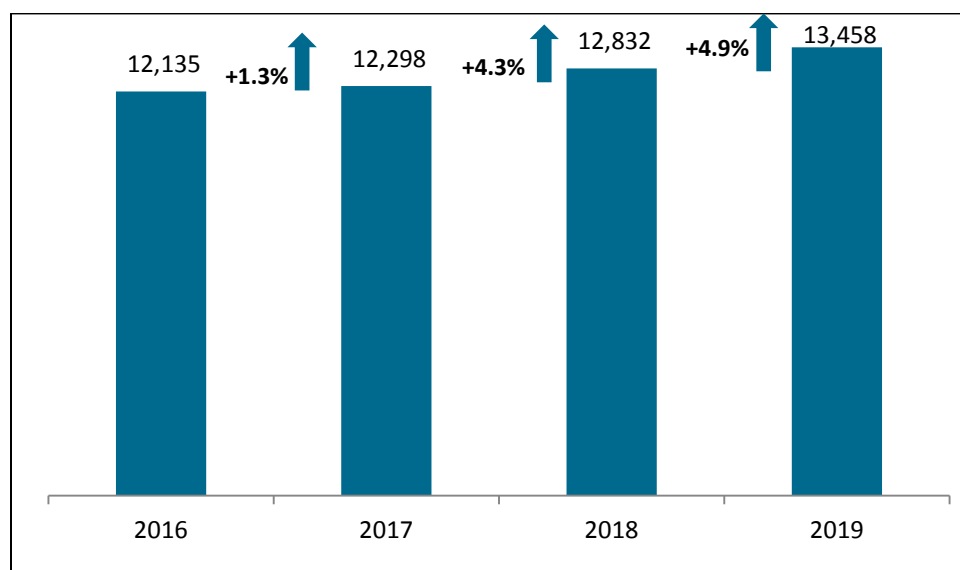
## ONLINE COMPLAINT PORTAL

In late 2018 the State Bar developed an online complaint portal to allow the public to file complaints against attorneys, available in both English and Spanish. Following the launch of a beta version of the portal, the system was expanded in 2019 to operate in four additional languages (Vietnamese, Korean, Russian, and Chinese), reducing the barriers to filing of complaints by non-English speakers.

Prior to this implementation, complainants were required to print hard copies of their complaints and mail them to the State Bar along with supporting documents. With the complaint portal, members of the public can now file complaints and any supporting documentation electronically.

In the time that the portal has been in operation, over 7,000 complaints have been filed electronically. The total number of complaints filed in 2019 increased by 5 percent, suggesting that the portal has not merely replaced paper filings with electronic ones; rather, it appears that the online complaint system has enabled members of the public who would not otherwise have filed complaints to do so, thereby increasing access overall (see Figure 2). The State Bar plans to make the online complaint form available in more languages in 2020.

**Figure 2. The number of complaints filed has grown in each of the last three years.<sup>3</sup>**



## AUTOMATED REPORTING OF CRIMINAL CHARGES AND CONVICTIONS

The 2018 Annual Discipline Report included a discussion of newly enacted Rule of Court, rule 9.9.5 requiring all licensed attorneys to be re-fingerprinted, so that the State Bar can receive

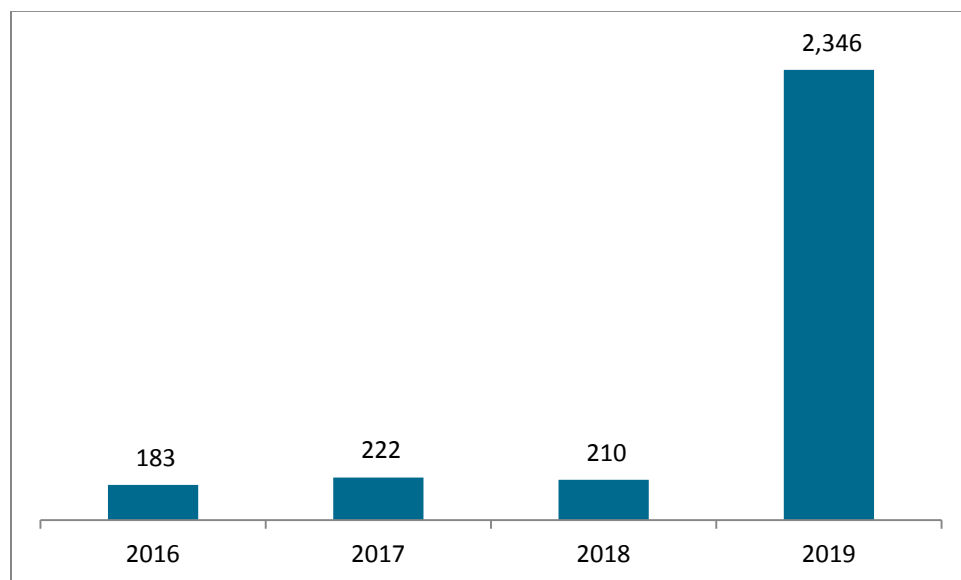
<sup>3</sup> The figures in this table reflect *complaints*, the largest single component of the OCTC workload. For further details, see Table SR-2.

automated reports from the Department of Justice (DOJ) regarding criminal charges and convictions against attorneys. By December 1, 2019, the deadline for compliance with the new rule, the State Bar had successfully brought over 190,000 attorneys—over 99 percent of active attorneys—into compliance.

As a result of the re-fingerprinting effort the State Bar received Records of Arrest and Prosecution (RAP sheets) for over 10,000 attorneys. Many of these records included information of no value to the State Bar’s public protection mission: arrests that resulted in no charges, charges that were dismissed, or convictions that had been previously reported to OCTC.

Nearly one quarter of the total RAP sheets sent from the DOJ, however, revealed information about criminal histories of attorneys that had not been previously reported to OCTC. By the end of 2019, the State Bar had identified new criminal history information for 2,346 attorneys. The spike in the number of criminal conviction cases identified by the re-fingerprinting mandate can be seen in Figure 3, which shows a more than ten-fold increase in the number of attorneys with criminal conviction cases in 2019.

**Figure 3. The number of attorneys with criminal conviction cases increased more than tenfold between 2018 and 2019.**



Although this is a one-time spike, capturing many years of unreported criminal convictions, processing these cases will impact OCTC resources through 2020 and beyond.<sup>4</sup> An explanation of the steps involved in handling these cases provides helpful context.

<sup>4</sup> Despite the substantial work required by OCTC to process criminal convictions, these cases do not appear in any of the statutorily mandated tables until they are transmitted to State Bar Court. Transmittal of criminal convictions to State Bar Court is reported in Table SR-6, beginning with 2019 data. It is expected that the number of cases transmitted will increase significantly in 2020.

Following the receipt of information on convictions from RAP sheets, OCTC attorneys obtain certified records from trial and appellate courts before filing these cases with the State Bar Court. Within 30 days of receipt of the certified record, OCTC is required to transmit the record of conviction to the State Bar Court's Review Department.<sup>5</sup> If the case does not meet the criteria for summary disbarment, the Review Department refers the matter to the Hearing Department to allow the attorney an opportunity for a hearing. State Bar Rule 5.102(C) requires that the trial be set no later than 125 days after the referral of the case to the Hearing Department.<sup>6</sup>

These cases require substantial OCTC resources to develop the facts of the case beyond the limited information provided in the certified record. Even where criminal convictions involve a plea to lesser offenses, the totality of circumstances and facts surrounding the offense needs to be developed to provide the State Bar Court with a complete picture of the attorney's conduct that led to the conviction.

To address the increased number of conviction cases, OCTC has more than doubled the number of paralegals assigned to these cases. As these cases move through the system and are prosecuted in State Bar Court, the additional workload will cascade to the OCTC attorneys who prepare cases for trial, the same attorneys who manage cases arising from complaining witnesses.

## **CASE PRIORITIZATION AND PUBLIC PROTECTION**

The increase in cases filed through the new web portal and the enormous influx of cases based on criminal charges and convictions make it more imperative than ever to prioritize the cases that represent the greatest danger to the public. Last year's ADR described OCTC's new protocol for case prioritization. In 2019, OCTC continued refining its case classification system by expediting cases that pose minimum risk to the public and can be resolved quickly to free up resources for prosecuting the highest priority cases. See Appendix D for a full description of the case prioritization system.

The fundamental purpose of case prioritization is to protect the public from misconduct that poses the greatest threat to the public. By definition then, when OCTC prioritizes cases that pose the greatest risk of harm to the public, OCTC de-prioritizes cases that present a lower risk of harm. The comparison of the clearance rates of highest priority and lower priority cases in Figure 4 illustrates this point.

For every 100 new highest priority cases received in 2018 OCTC resolved 126; in 2019, OCTC improved on that number, resolving 136 cases of the highest priority cases for every 100 new

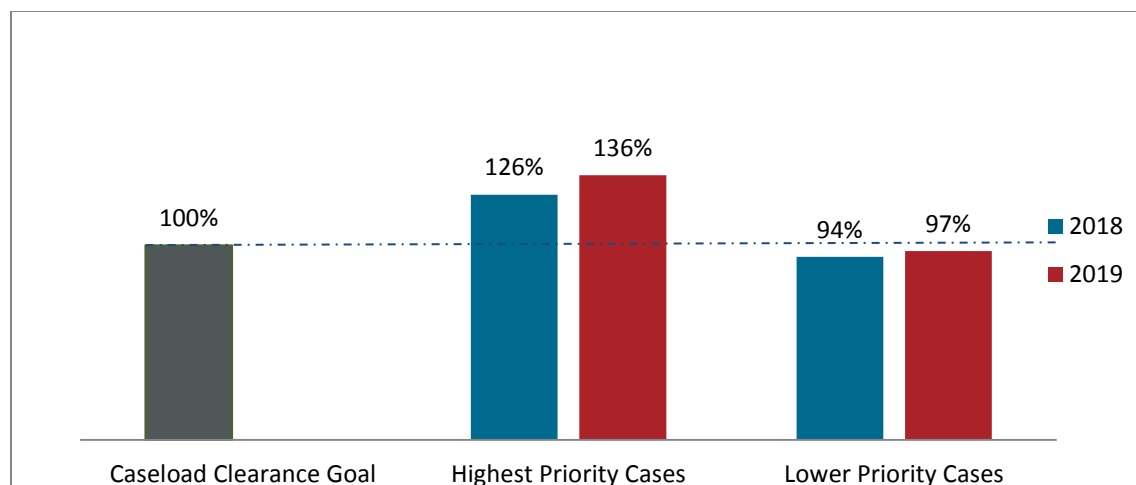
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<sup>5</sup> Business and Professions Code section 6101 requires OCTC to transmit the record of conviction to the Supreme Court. The Supreme Court has delegated the review of these records to the State Bar Court's Review Department.

<sup>6</sup> Records of criminal convictions are treated as Notices of Disciplinary Charges with regard to the trial deadlines specified under Rule 5.102(C).

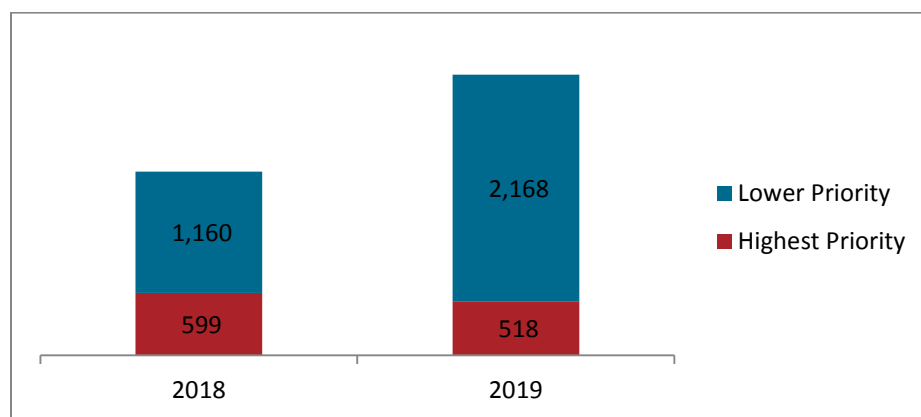
cases received. Figure 4 also shows that OCTC improved its caseload clearance for lower priority cases—resolving 97 for every 100 new cases received compared to only 94 per 100 in 2018.

**Figure 4. For every 100 new highest priority cases received in 2019, OCTC resolved 136, reducing its backlog of the most serious cases while also improving clearance of lower priority cases.<sup>7</sup>**



Lower priority cases exert a disproportionate impact on overall backlog because there are more of these than the highest priority cases. Figure 5 shows that although the total backlog in OCTC grew in 2019, that growth was driven entirely by lower priority cases. Highest priority cases in backlog actually fell by 14 percent.

**Figure 5. Although the total number of cases in backlog increased, the number of cases designated as highest priority declined by 14 percent.**



Implementation of the case prioritization system has ensured that a majority of the most serious cases are addressed timely. The significant growth in overall backlog from 2018 to 2019

<sup>7</sup> A clearance rate shows the ratio of the total number of cases that are closed during a period compared to the total number of new cases. Any number above 100 percent indicates that more cases are being closed than received; any number below 100 percent indicates that more cases are being received than closed.

will be a key focus for OCTC in 2020. Optimally, all complaints, regardless of their level of severity, will be investigated quickly, providing a high level of responsiveness to the public that OCTC serves. New positions afforded by the increased 2020 attorney licensing fee will support the achievement of this goal.

### **UNPACKING THE BACKLOG: COUNTS OF ATTORNEYS ARE A MORE MEANINGFUL METRIC**

The total backlog – measured, pursuant to statute, at a point in time, on the final day of the calendar year – increased substantially in 2019. The following section clarifies why an increase in the total backlog does not correspond to a decrease in public protection by the State Bar.

In part, the disconnect between total backlog and public protection stems from the misalignment of incentives inherent in the backlog figure. Without distinguishing between the potential harm caused by different types of cases, the 180 day backlog target encourages the closing of older cases before newer cases regardless of the underlying characteristics of the case. As discussed above, OCTC’s case prioritization system is designed to focus State Bar resources on those cases that pose the greatest potential harm to the public, not the oldest cases.

Total backlog and public protection also diverge insofar as the backlog figure represents the number of *cases*, which are counted for each complaint that has been lodged against an attorney. Ultimately, however, it is the *attorney* who poses a risk to the public, not the case. And if, as often happens, an attorney has multiple complaints, OCTC directs its attention to the most serious cases and suspends the other complaints. Not only does this improve the chances of securing discipline against an attorney who has engaged in misconduct, it also frees up resources for other work by placing related or trailing cases against the same attorney in suspended status.

The act of placing cases in suspended status, however, has occasionally created confusion outside of the State Bar about the work of OCTC. Because the attorney who is the subject of these complaints is often already being prosecuted and has been placed on inactive status awaiting disbarment, their cases in suspended status often contribute disproportionately to increasing the number of cases in backlog, even though delay in prosecuting those suspended cases does not diminish public protection. For example, there are currently 69 suspended cases in the backlog attributable to a single attorney who is currently ineligible to practice law; his summary disbarment is expected upon final conviction in a criminal matter. Another 39 suspended cases in the backlog are attributable to another attorney who was involuntarily enrolled as inactive due to health issues.

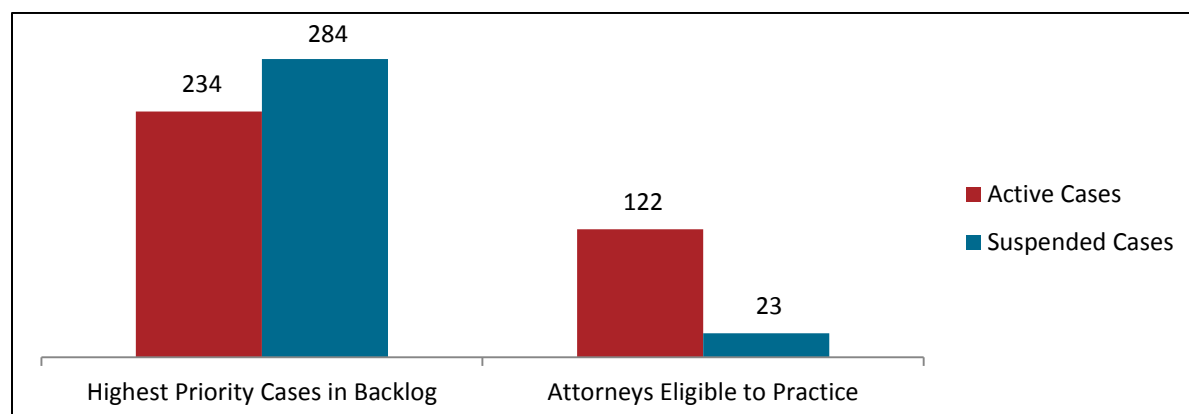
Table 1 on the following page shows the circumstances under which cases are suspended so that OCTC can pursue the most serious cases against an attorney while conserving resources for other prosecutions.

**Table 1. Case Suspension and Attorney Status**

Reason for Suspension	Attorney Status	Basis for Status
State Bar Court has recommended disbarment; other cases against same attorney are suspended pending Supreme Court consideration of the disbarment order.	Inactive (Awaiting disbarment)	Business and Professions Code Section 6007(c)(4)
Failure to appear in State Bar Court (Default); other cases against same attorney are suspended upon entry of default.	Inactive	Business and Professions Code Section 6007(c)(4) Rule 5.85 of Rules of Procedure of the State Bar
OCTC believes respondent will be disbarred on a lead case; other cases against same attorney are suspended pending the outcome of the lead, active case.	May be Active or Inactive	Awaiting State Bar Court Action
Other reasons warranting suspension: <ul style="list-style-type: none"> <li>Pending outcome of case against attorney in civil court.</li> <li>Pending outcome of case in criminal court, including case where criminal conviction would result in summary disbarment.</li> </ul>	May be Active or Inactive	Awaiting outcome in other venue

Figure 6 shows how focusing on the number of cases inflates the perception of risk to the public of attorney misconduct. Although there were 2,686 cases in backlog, only 19 percent of those—518—are highest priority cases. Well over half of the highest priority cases in backlog—284—are suspended and awaiting action on another case involving the same attorney. Moreover, only 76 attorneys are responsible for these 284 cases, an average of about four cases per attorney. Of those 76 attorneys, almost two thirds have been suspended or have otherwise been ordered inactive pending discipline leaving only 23 of these attorneys still eligible to practice law.

**Figure 6. Over half of the 518 highest priority cases in backlog were suspended and, of these suspended cases, only 23 attorneys were eligible to practice law at the end of 2019.**



## TARGETED SERVICES AND OUTREACH TO VULNERABLE POPULATIONS

In 2019, OCTC continued its work to protect the most vulnerable populations. In addition to the case prioritization protocol—which directs the prioritization of cases of attorney misconduct with vulnerable victims—the Chief Trial Counsel collaborated with law enforcement agencies to encourage the prosecution of fraud by nonattorneys who target the immigrant community. This work proceeded while OCTC simultaneously conducted direct outreach to vulnerable communities to protect them from predatory actors.

Outreach was not limited to immigrants. For instance, direct outreach work occurred after wildfires ravaged northern and southern California. Unfortunately, many wildfire victims were potential targets of fraud perpetrated by criminals seeking to exploit their need for assistance. The State Bar worked with the Disaster Legal Assistance Collaborative to rapidly coordinate with legal services organizations to expand its communications reach, and to hear directly from service providers on the ground about potential misconduct warranting State Bar action. The State Bar issued traditional and social media advisories warning wildfire victims about potential scams, collaborated in the development of a website for disaster legal services, and directed victims to the site.

### Outreach and Education Efforts

In 2019, the State Bar's outreach and education activities included participation in the following activities:

- Development and distribution of print-on-demand brochures, which allow agencies to insert their own logo, creating a co-branded dissemination platform for information pertaining to nonattorney and immigration attorney fraud.
  - Agencies given access to this service include: district attorneys, embassies, immigration-related nonprofits, immigration lawyers associations, labor unions,

The case of Judith Gil illustrates OCTC's success at protecting California's immigrant community. Ms. Gil, who had never been licensed to practice law in California, led her clients to believe that she was qualified to perform legal services in immigration matters. In addition to offering a variety of unauthorized services for many years, she told clients that she had special influence at U.S. Citizenship and Immigration Services (USCIS), guaranteed outcomes on her clients' cases, failed to perform work for which she was hired, and even advised clients to lie to USCIS.

Her inaction on a case led to one client's deportation order. Another client had no other option but to return to Guatemala to reside with her husband, who was deported after Gil failed to perform the work for which she was hired. Other clients had to hire attorneys after Gil took their money and abandoned their cases.

In February 2019, the Los Angeles County Superior Court granted OCTC's request to assume jurisdiction of Gil's two law offices, shutting down her practice and reclaiming nearly 10,000 client files with vital documents such as green cards, work permits, and social security cards. To facilitate the return of documents to their owners, the State Bar conducted extensive media outreach. OCTC attorneys conducted interviews with both English and Spanish language television news outlets regarding the case, using the opportunities to encourage victims to contact the State Bar.

In addition to these interviews, OCTC participated in a workshop in East Los Angeles that was sponsored by the Los Angeles County Department of Consumer and Business Affairs, to assist clients who were victimized by Gil. OCTC attorneys gave presentations in English and Spanish about how to recognize immigration law fraud in the future, returned documents, and distributed State Bar informational brochures. As a result of this outreach OCTC was able to return files to over 1,300 victims of Gil's illegal practice.

In addition, OCTC referred Gil's case to the Los Angeles City Attorney's office, and worked with their office on the prosecution of the case. The City Attorney secured multiple convictions against Gil and her daughter for practicing law without a license, acting as an immigration consultant, and grand theft, among others. In addition to a probationary sentence, Gil was ordered to pay full restitution to three of her victims, an amount totaling \$13,355. Her daughter was also convicted, sentenced, and ordered to pay restitution of \$3,855.



churches who provide immigration legal aid, local bar associations, the California Lawyers Association, and court self-help centers.

- Publication on the State Bar website of lists, in English and Spanish, of legal service providers focused on immigration issues, legal aid service providers by county, and the names and locations of nonattorneys who were issued cease and desist letters for the unauthorized practice of law.
- Interviews in Spanish and English on CNN, Univision, Telemundo, Spectrum News, and Estrella TV regarding OCTC's NA/UPL work, as well as how members of the public can protect themselves against immigration fraud.
- Video clips posted on Facebook, Twitter and LinkedIn regarding the importance of seeking legal advice from a licensed attorney and how to ascertain whether someone is an attorney licensed in California.
- Participation in a press conference at the Los Angeles City Attorney's Office concerning two petitions for assumption of jurisdiction that were filed by the State Bar.
- Translation of the complaint acknowledgement and case assignment letters—the two standardized letters that are sent to complainants by OCTC—in the top nine non-English languages spoken in California. This was done to expedite the investigation of complaints filed by non-English speakers.

Although she was never licensed to practice law, Samaris Estrada advertised her legal services on a business website, Facebook, and Yelp. Estrada, who did business as Immigrants Legal Options in Fontana, preyed on the Spanish-speaking community in San Bernardino County, leading her clients to believe that she was qualified to perform legal services in immigration matters. She illegally handled family immigration petitions, adjustment of status applications, U-visa applications, naturalization applications, and employment based residence cases.

In spite of Estrada's denial that she was engaged in the unauthorized practice of law, in October 2019 the San Bernardino Superior Court granted the State Bar's request for an order enabling it to seize files belonging to more than 3,700 clients from Estrada's office. Since then, the State Bar has returned files to nearly 290 clients..

## Nonattorney Unauthorized Practice of Law

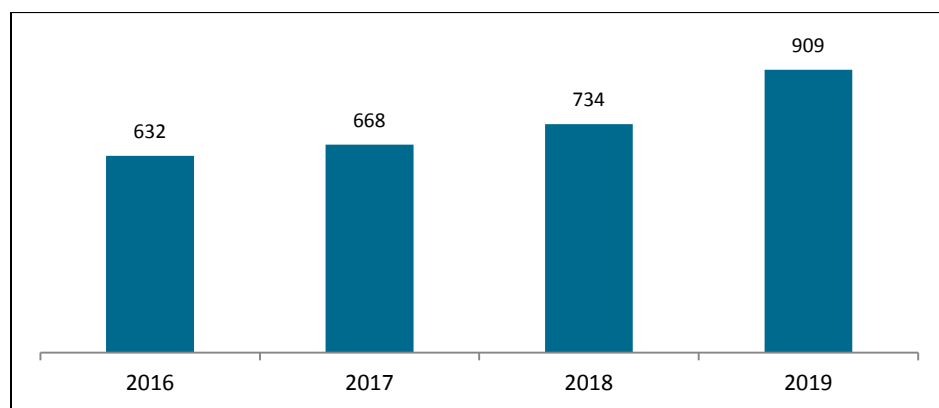
Section 6125 of the Business and Professions Code provides that “No person shall practice law in California unless the person is an active licensee of the State Bar.” Section 22440 makes it unlawful for any person, other than a person authorized to practice law or authorized by federal law, to represent persons before the Board of Immigration Appeals or the United States Citizenship and Immigration Services, to engage in business or act in the capacity of an immigration consultant, except as provided by sections 22440 through 22449 of the Code.

A nonattorney (NA) could be someone who has never been a licensed attorney, was formerly a California licensed attorney, or an attorney licensed in another state, but not in California. Complaints regarding these types of respondents are referred to as Nonattorney Unauthorized Practice of Law cases, or NA/UPL. Those who are not authorized to practice law, but do so or hold themselves out as able to do so, can cause significant harm to an unsuspecting public. OCTC has no authority to prosecute this type of misconduct but it can file a motion in superior

court to assume jurisdiction over a practice and it can make a referral to law enforcement in the counties where the misconduct occurs.<sup>8</sup>

Figure 7 shows that the number of NA/UPL cases opened in 2019 increased by 24 percent compared to cases opened in 2018, a significantly larger increase than in the three prior years.

**Figure 7. NA/UPL cases increased by 24 percent between 2018 and 2019.**



In 2019, OCTC continued its efforts to expand the scope of its work to protect the public from nonattorneys engaging in the unauthorized practice of law. OCTC's NA/UPL team reviews complaints against nonattorneys practicing law, investigates, refers the complaints to law enforcement partners for possible criminal prosecution and, where appropriate, seeks a superior court order to assume jurisdiction over an unauthorized law practice. When the court grants an order to assume jurisdiction, OCTC seizes client files, freezes bank accounts, redirects mail and telephone calls, and makes every effort to return files to clients.

The NA/UPL team secured court orders to assume jurisdiction over four practices in 2019, seizing over twelve thousand files. OCTC then conducted wide-ranging outreach through traditional and social media to notify the community, locate victims, and return files. As a result, files were returned to 1,853 victims of these illegal practices.

OCTC continued efforts launched in 2018 to strengthen relationships with law enforcement agencies across the state. Beginning in late 2018 and into 2019, members of OCTC's NA/UPL team conducted 24 in-person meetings with individual District Attorney's offices. During those meetings OCTC staff provided information about NA/UPL enforcement, explained the role of the State Bar in combatting the unauthorized practice of law, and discussed ways to coordinate efforts. Other extensive outreach and education efforts are described on page 9 above.

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<sup>8</sup> The State Bar cannot criminally prosecute either attorneys or nonattorneys; while OCTC can investigate the unauthorized practice of law by nonattorneys, its investigative tools do not include the authority to execute search warrants, make surreptitious recordings, or conduct other undercover activities that are used in the investigation of criminal activity.

## Special Focus: California's Immigrant Population

Unfortunately, immigrants are also preyed upon by licensed attorneys. OCTC aggressively addresses both types of perpetrators, as described below. Of the 909 NA/UPL cases opened in 2019 shown in Figure 7, 146 were related to immigration.

### Immigration Attorney Misconduct

Sections 6157.5, 6242, and 6103.7 of the Business and Professions Code prohibit certain conduct specific to attorneys practicing immigration law or interacting with immigrants: advertising of legal services related to immigration, demanding/accepting advance fees for Immigration Reform Act services, and threatening to report the immigration status of a party or witness or their family member in an employment dispute.

In addition to complaints based on these statutes, OCTC received 427 complaints against attorneys providing immigration legal services in 2019 (Immigration Attorney Complaints). OCTC received another 37 complaints against attorneys accused of using a party's immigration status to gain an advantage in a case not otherwise related to immigration (Immigration-related Complaints Against Attorneys).

**Table 2. 2019 Immigration-Related Complaints**

Immigration-related Nonattorney Complaints	146
Immigration Attorney Complaints	427
Immigration-related Complaints Against Attorneys	37

### OCTC'S QUALITY CONTROL REMAINS HIGH

Although 2020 will bring additional resources through a fee increase approved by the Legislature, the increase in the number of cases during 2019 was not accompanied by additional staffing resources. The result has been an increase in attorney and investigator caseloads. Increased caseloads present a risk that the quality of case processing might be sacrificed to manage the volume of cases. This impact was seen in the early 2010s, when an effort by OCTC to clear its backlog resulted in the Supreme Court rejecting the recommended discipline for a number of attorneys, signaling that the recommended discipline was inadequate for the misconduct in which the attorneys had engaged, or that the basis for the discipline was inadequately articulated.

Despite the growth in caseloads in 2019, OCTC continued to maintain and meet exceptionally high standards for case processing. The quality of case processing can be seen in the data from the Complaint Review Unit (CRU) in the State Bar's Office of General Counsel, and the data on "Walker Petitions" decided by the Supreme Court.

### Complaint Review Unit

When OCTC notifies complainants that there are not sufficient grounds to pursue disciplinary action, the complainants are advised of their right to request a review of that decision,

commonly referred to as a “second look” review. The purpose of the second look, a process that is effectuated by the State Bar Office of General Counsel’s Complaint Review Unit (CRU), is to ensure that the case was closed properly and, if not, to refer the complaint back to OCTC with a recommendation that it be reopened for investigation. As such, the second look process serves a function akin to an appeal of a decision.

Complainants are advised in OCTC’s closing letters that they may request that CRU review the decision to close their complaint by submitting a written request for review within 90 days of the date of OCTC’s closing letter. CRU attorneys fully review the file in second look cases, as well as any other material submitted by the complainant, and assess the full range of allegations made against the attorney. If the CRU determines that the case was closed in error, or if significant new evidence or other good cause is provided, then the CRU will recommend that the matter be reopened and refers the case back to OCTC to reopen an investigation.

Out of more than 1,600 reviews of OCTC cases that were completed in 2019, only 22, or 1.4 percent, were recommended to be reopened due to a determination that they had been closed in error. CRU recommended that an additional 14 cases be reopened based on new information provided by the complaining witness during the second look process. Table 3 on the following page provides a summary of the disposition of CRU matters for the past three years.

**Table 3. Reviews Completed by Complaint Review Unit**

	<b>2017</b>	<b>2018</b>	<b>2019<sup>9</sup></b>
Reviews Completed	1,138	1,593	1,601
Reopened Due to New Evidence	16 (1%)	11 (1%)	14 (1%)
Reopened Due to Error in Closure	38 (3%)	28 (2%)	22 (1%)

### **Walker Petitions**

Upon deciding not to reopen a closed complaint, CRU prepares a closing letter to the complainant with an explanation of the reasons for declining to recommend reopening a case. Closing letters also notify complainants of their right to request California Supreme Court review pursuant to *In re Walker* (1948) 32 Cal.2d 488. CRU’s closing letters explain the process for requesting review of the decision by the California Supreme Court.

As with second look cases, Walker Petition disposition data shows that only in the rarest of circumstances is the work of OCTC overturned. Table 4 on the following page provides information on the number and disposition of Walker petitions that reached finality in the Supreme Court in each of the past three years.

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<sup>9</sup> Data for 2019 includes estimates for February, based on annual average; February data is incomplete due to the transition to the Odyssey case management system in that month.

**Table 4. The Supreme Court granted less than one percent of Walker Petitions filed by complaining witnesses who believed that the decision to close their case was in error.**

	<b>2017</b>	<b>2018</b>	<b>2019</b>
Total Petitions Disposed	130	104	114
Granted	0	1	1
Denied or Stricken <sup>10</sup>	130 (98%)	103 (99%)	113 (99%)

## LOOKING BACK AND LOOKING FORWARD

The State Bar and OCTC have undergone tremendous changes in recent years. While the changes have required staff to adapt and modify the way that they work, OCTC is now more accountable and more focused on public protection than ever before.

The coronavirus pandemic has introduced unprecedented uncertainty into everyone's plans, making it difficult to assess how and when the State Bar will undertake projects that were firmly set at the beginning of the year. However, when Californians were told to shelter in place, the State Bar moved virtually its entire staff into remote working arrangements almost overnight, ensuring that the attorney discipline system continues its important work.

In retrospect, the timing of the implementation of the new case management system was especially fortuitous. Had OCTC still been working on the legacy case management system, it would have been impossible for staff to work remotely. Indeed, the decision during the Odyssey implementation process to digitize documents has made it possible for staff to work without the physical files that were essential during the legacy case management system. The extra time invested in Intake to digitize new documents is now paying dividends by making remote work possible.

When the pandemic subsides and OCTC returns to normal, the State Bar will look to reinvigorate a number of key initiatives that were on the calendar, among which are the following:

- Filling the remaining positions in OCTC that have been funded by the licensing fee increase implemented in 2020.
  - At the time of the publication of this report, OCTC had filled all five of the funded investigator positions, and was interviewing for Deputy Trial Counsel positions. Attorney recruitment has been slower and appears to have been impacted more by the social-distancing associated with the coronavirus pandemic.
- Continuing the exploration of mechanisms to improve the fairness of the discipline system.
  - Following up on the November 2019 report to the Board of Trustees on disparities in the discipline system, the State Bar has already begun evaluating

<sup>10</sup> Seven cases were stricken due to untimely filing or failure to present the case to the Complaint Review Unit prior to filing with the Supreme Court: 2 in 2016, 3 in 2017, 1 in 2018, and 1 in 2019.

decision matrices related to disciplinary outcomes and continues to evaluate data related to specific types of cases that contribute disproportionately to attorney discipline. The Board of Trustees will receive a report on this follow-up work at its July 2020 meeting, with an implementation plan to follow.

- Launching a new workload study of OCTC.
  - The study will seek to update a 2018 study of OCTC workload that estimated a need for an additional 58 positions in OCTC, including investigators, attorneys, paralegals, legal secretaries, and administrative support. Given the increase in the number of complaints filed with OCTC, and the changes to the work process necessitated by the implementation of the new case management system, the State Bar now expects the shortfall in the number of staff needed in OCTC to be even larger than in 2018; how much larger is uncertain.
- Continuing to improve the quality of work life in OCTC.
  - The State Bar has undertaken a number of key initiatives to improve the culture of OCTC, including providing improved supervisory training, soliciting input from employees on their morale, and working with a coach to evaluate and improve office culture. These initiatives will continue throughout 2020 to ensure that OCTC develops and retains its most valuable resource: its employees.

## **STATUTORILY MANDATED REPORTING**

## BACKLOG<sup>11</sup>

**Section 6086.15, subdivision (a)(1)** The existing backlog of cases within the discipline system, including 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. In addition to written complaints received by the State Bar, the backlog of cases shall include other matters opened in the Office of the Chief Trial Counsel and pending beyond six months after receipt without the filing of notices of disciplinary charges, or the initiation of other disciplinary proceedings in the State Bar Court for the purpose of seeking the imposition of discipline against a licensee of the State Bar, and tables showing time periods beyond six months and the number in each category and a discussion of the reason for the extended periods.

Table SR-1A. Backlog	2016	2017	2018	2019
Complaints	1,200	1,600	1,427	2,270
State Bar Initiated Inquiries	66	82	101	116
Probation Referrals	20	23	13	32
Reportable Actions, Reported by Self	39	29	36	44
Reportable Actions, Reported by Others	187	118	182	222
Interim Suspensions and Restrictions	0	1	0	NA
Total	1,512	1,853	1,759	2,684

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<sup>11</sup>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. This Report uses 180 days, as opposed to 6 months, to calculate backlog, which allows for more accurate calculations based on the data structure of the State Bar's case management system. The following types of cases are excluded from the backlog count:

*Criminal Conviction Matters:* Criminal charges filed against licensees of the State Bar are reportable actions, but OCTC only files the matter in State Bar Court after the attorney is convicted in the criminal proceeding, a process the State Bar does not control. Upon conviction, OCTC initiates disciplinary proceedings by transmitting the record of conviction to State Bar Court. Information about criminal conviction matters is provided in Table 3 and Table 4, as well as Appendix D.

*Unauthorized Practice of Law (UPL):* Statutory authority is provided to the State Bar for limited action, including pursuit of civil penalties against nonattorneys and assumption of the nonattorney's practice. Data regarding UPL matters for both former attorneys and nonattorneys is provided in Table 8 and Table 9, respectively. Additional information regarding UPL, notario, and immigration attorney misconduct is provided as Appendix E

*Motions to Enforce Fee Arbitration and Motions to Revoke Probation:* These cases are filed directly in State Bar Court, by the Mandatory Fee Arbitration Program and the Office of Probation, respectively. As such, they are not included in the backlog.



Table SR-1B. Aged Backlog	2016	2017	2018	2019
<u>All Case Types</u>				
181 days - 1 year	630	864	872	1,369
Over 1 year - 2 years	436	521	433	889
Over 2 years - 3 years	136	163	174	191
Over 3 years - 4 years	119	98	67	99
Over 4 years - 5 years	107	104	67	36
Over 5 years	84	103	146 <sup>12</sup>	100
Total	1,512	1,853	1,759	2,684
<u>Complaints</u>				
181 days - 1 year	501	763	678	1,201
Over 1 year - 2 years	296	425	342	711
Over 2 years - 3 years	105	139	138	151
Over 3 years - 4 years	114	75	62	78
Over 4 years - 5 years	103	100	62	35
Over 5 years	81	98	145	94
Total	1,200	1,600	1,427	2,270
<u>State Bar Initiated Inquiries</u>				
181 days - 1 year	30	29	51	36
Over 1 year - 2 years	22	37	34	47
Over 2 years - 3 years	11	8	13	17
Over 3 years - 4 years	1	7	1	11
Over 4 years - 5 years	2	0	2	1
Over 5 years	0	1	0	4
Total	66	82	101	116
<u>Probation Referrals</u>				
181 days - 1 year	4	7	4	24
Over 1 year - 2 years	6	5	4	5
Over 2 years - 3 years	7	3	1	1
Over 3 years - 4 years	1	6	1	1
Over 4 years - 5 years	1	1	2	0
Over 5 years	1	1	1	1
Total	20	23	13	32
<u>Reportable Actions, Reported by Self</u>				
181 days - 1 year	19	14	17	22
Over 1 year - 2 years	15	13	12	11
Over 2 years - 3 years	4	0	7	7
Over 3 years - 4 years	0	1	0	4
Over 4 years - 5 years	1	0	0	0

<sup>12</sup> All but 4 of these cases were suspended pending resolution of other matters OCTC has pursued against the respondents, which will result in the respondents' disbarment. Twelve individual attorneys are responsible for all 146 cases. One of these attorneys was disbarred early in 2019, and 53 of these cases were closed as a result.

Table SR-1B. Aged Backlog	2016	2017	2018	2019
Over 5 years	0	1	0	0
Total	39	29	36	44
<u>Reportable Actions, Reported by Others</u>				
181 days - 1 year	76	50	122	86
Over 1 year - 2 years	97	41	41	115
Over 2 years - 3 years	9	13	15	15
Over 3 years - 4 years	3	9	3	5
Over 4 years - 5 years	0	3	1	0
Over 5 years	2	2	0	1
Total	187	118	182	222
<u>Interim Suspensions and Restrictions</u>				
181 days - 1 year	0	1	0	NA
Over 1 year - 2 years	0	0	0	NA
Over 2 years - 3 years	0	0	0	NA
Over 3 years - 4 years	0	0	0	NA
Over 4 years - 5 years	0	0	0	NA
Over 5 years	0	0	0	NA
Total	0	1	0	NA
Grand Total	1,512	1,853	1,759	2,684

## CASE INVENTORY AND DISPOSITION<sup>13</sup>

**Section 6086.15, subdivision (a) (2)** The number of inquiries and complaints and their disposition.

Table SR-2. Inquiries and Complaints	2016	2017	2018	2019
<u>Summary: All Case Types</u>				
Cases Received	15,248	15,175	15,973	16,200
Cases Reopened <sup>14</sup>	265	221	232	474
Closed by OCTC with No Action	12,958	12,112	13,168	13,936
Closed by OCTC with Referral	294	255	225	274
Closed by OCTC With Nondisciplinary Action	1,989	1,693	1,462	1,307
Total Cases Closed by OCTC	15,241	14,060	14,855	15,517
Filed in State Bar Court	672	483	649	435
Cases Pending in OCTC at Year End	4,243	5,099	5,803	6,535
Closed by SBC with No Action <sup>15</sup>	100	99	117	91
Closed by SBC With Nondisciplinary Action	5	6	7	0
Closed with Discipline Imposed	796	571	434	405
Total Cases Closed by SBC	901	676	562	497
Cases Pending in SBC at Year End	989	799	899	747
<u>Complaints</u>				
Complaints Received	12,135	12,298	12,832	13,458
Complaints Reopened	255	210	228	459
Closed by OCTC with No Action	10,227	9,652	10,633	11,786
Closed by OCTC with Referral	294	254	225	273
Closed by OCTC With Nondisciplinary Action	1,465	1,471	1,251	1,133
Total Complaints Closed by OCTC	11,986	11,377	12,109	13,192
Filed in State Bar Court	392	282	387	213
Complaints Pending in OCTC at Year End	3,539	4,390	4,957	5,480
Closed by SBC with No Action	74	58	70	62
Closed by SBC With Nondisciplinary Action	1	0	0	0
Closed with Discipline Imposed	536	343	263	264
Total Complaints Closed by SBC	611	401	337	326
Complaints Pending in SBC at Year End	640	522	581	413

<sup>13</sup> Table 2 does not include criminal conviction matters and UPL cases, which are reported separately.

<sup>14</sup> Counts of reopened cases are higher in 2019 due to operational changes implemented with the new case management system; intake staff have greater autonomy in Odyssey to manage data entry for their caseloads, contributing to more timely and accurate recording of reopened cases.

<sup>15</sup> Reasons for cases closed by SBC with no action include the following: (1) respondent was disbarred in another matter; (2) respondent was ordered inactive pursuant to Business and Professions Code section 6007(b); (3) respondent's death, shortly before or after dismissal; (4) respondent's resignation; (5) dismissal by OCTC; and (6) dismissal by SBC.

State Bar Initiated Inquiries

Inquiries Initiated	556	352	404	253
Inquiries Reopened	3	10	1	10
Closed by OCTC with No Action	311	267	314	214
Closed by OCTC with Referral	0	0	0	1
Closed by OCTC With Nondisciplinary Action	253	37	37	30
Total Inquiries Closed by OCTC	564	304	351	245
Filed in State Bar Court	70	22	36	22
Inquiries Pending in OCTC at Year End	153	190	208	201
Closed by SBC with No Action	9	10	9	6
Closed by SBC With Nondisciplinary Action	0	0	1	0
Closed with Discipline Imposed	102	40	25	21
Total Inquiries Closed by SBC	111	50	35	28
Inquiries Pending in SBC at Year End	79	51	54	47

Probation Referrals

Probation Referrals Received	100	116	99	120
Probation Referrals Reopened	0	0	0	3
Closed by OCTC with No Action	32	19	39	30
Closed by OCTC with Referral	0	1	0	0
Closed by OCTC With Nondisciplinary Action	3	1	1	1
Total Probation Referrals Closed by OCTC	35	21	40	31
Filed in State Bar Court	82	82	78	72
Probation Referrals Pending in OCTC at Year	48	61	42	62
Closed by SBC with No Action	11	13	23	11
Closed by SBC With Nondisciplinary Action	0	0	0	0
Closed with Discipline Imposed	70	71	74	51
Total Probation Referrals Closed by SBC	81	84	97	62
Probation Referrals Pending in SBC at Year	111	109	91	92

Reportable Actions, Self-Reported

Actions Reported	174	151	165	183
Reportable Actions Reopened	1	0	0	2
Closed by OCTC with No Action	183	128	141	125
Closed by OCTC with Referral	0	0	0	0
Closed by OCTC With Nondisciplinary Action	17	11	11	16
Total Reportable Actions Closed by OCTC	200	139	152	141
Filed in State Bar Court	17	25	12	12
Reportable Actions Pending in OCTC at Year	69	56	57	89
Closed by SBC with No Action	3	2	1	1
Closed by SBC With Nondisciplinary Action	0	0	0	0
Closed with Discipline Imposed	16	21	15	9
Total Reportable Actions Closed by SBC	19	23	16	10
Reportable Actions Pending in SBC at Year End	21	25	21	23

Reportable Actions, Reported by Others

Actions Reported	2,278	2,252	2,463	2,186
Reportable Actions Reopened	6	1	3	0
Closed by OCTC with No Action	2,205	2,045	2,041	1,781
Closed by OCTC with Referral	0	0	0	0
Closed by OCTC With Nondisciplinary Action	251	173	162	127
Total Reportable Actions Closed by OCTC	2,456	2,218	2,203	1,908
Filed in State Bar Court	107	67	125	116
Reportable Actions Pending in OCTC at Year	433	401	539	703
Closed by SBC with No Action	2	16	13	11
Closed by SBC With Nondisciplinary Action	0	1	0	0
Closed with Discipline Imposed	72	96	57	60
Total Reportable Actions Closed by SBC	74	113	70	71
Reportable Actions Pending in SBC at Year End	138	92	148	172

Interim Suspensions and Restrictions (Petitions pursuant to Section 6007)<sup>16</sup>

ISRs Initiated	5	6	10	NA
ISRs Reopened	0	0	0	NA
ISRs Closed	0	1	0	NA
Total ISRs Closed by OCTC	0	1	0	NA
Filed in State Bar Court	4	5	11	NA
ISRs Pending in OCTC at Year End	1	1	0	NA
Petition Denied by SBC	1	0	1	NA
Petition Granted by SBC	4	5	6	NA
Total ISRs Closed by SBC	5	5	7	NA
ISRs Pending in SBC at Year End	0	0	4	NA

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<sup>16</sup> Although OCTC continues to file Interim Suspensions and Restrictions, they are not included in 2019 data, as they are regulatory in nature rather than disciplinary.

## SELF-REPORTED REPORTABLE ACTIONS

**Section 6086.15, subdivision (a)(3)** The number, average pending times, and types of matters self-reported by licensees of the State Bar pursuant to subdivision (o) of Section 6068 and subdivision (c) of Section 6086.8.<sup>17,18</sup>

Table SR-3. Reportable Actions, Reported by Self <sup>19</sup>	2016	2017	2018	2019
<u>Summary: All Reportable Actions, Reported by Self</u>				
Reports Received	211	210	217	212
Cases Reopened	1	0	0	2
Cases Closed by OCTC with No Action	191	157	158	136
Cases Closed by OCTC with Referral	0	0	0	0
Cases Closed by OCTC w Nondisciplinary Action	17	11	12	16
Total Cases Closed by OCTC	208	168	170	152
Cases Filed in State Bar Court	40	59	47	32
Cases Remaining in OCTC at Year End	141	118	117	111
Cases Closed by SBC with No Action <sup>20</sup>	7	9	7	5
Cases Closed by SBC with Nondisciplinary Action	0	0	0	0
Cases Closed with Discipline Imposed	51	46	47	32
Total Cases Closed by State Bar Court	58	55	54	36
Cases Remaining in SBC at Year End	103	103	87	62
<u>Three or more malpractice lawsuits filed within 12 months (§ 6068, subd. (o)(1))</u>				
Reports Received	1	2	2	0
Cases Reopened	0	0	0	0
Cases Closed by OCTC with No Action	1	1	2	0
Cases Closed by OCTC with Referral	0	0	0	0
Cases Closed by OCTC with Nondisciplinary Action	0	0	1	0
Total Cases Closed by OCTC	1	1	3	0
Average Pendency at Closure <sup>21</sup>	29	13	63	0
Median Pendency at Closure	29	13	36	0
Cases Filed in State Bar Court	0	0	0	0
Cases Remaining in OCTC at Year End	0	1	0	0

<sup>17</sup> The full text of sections 6068 and 6086.8 is provided in Appendix B.

<sup>18</sup> The figures in Table 3 differ from those in Table 2 for this category because Table 3 includes reports of criminal conviction matters, which are excluded from Table 2.

<sup>19</sup> This table only includes actions brought to the attention of the State Bar through attorneys' self-reporting. It does not include actions taken by the State Bar based on the violations of the duties of an attorney set out in these sections which came to the attention of the State Bar through other means, e.g., prosecutorial misconduct cases that came to the attention of the State Bar through news reports or appellate court cases.

<sup>20</sup> Reasons for cases closed by SBC with no action include the following: (1) respondent was disbarred in another matter; (2) respondent was ordered inactive pursuant to Business and Professions Code section 6007(b); (3) respondent's death, shortly before or after dismissal; (4) respondent's resignation; (5) dismissal by OCTC; and (6) dismissal by SBC.

<sup>21</sup> Pendency is reported in days.

Table SR-3. Reportable Actions, Reported by Self <sup>19</sup>	2016	2017	2018	2019
Average Pendency at Year End	0	24	0	0
Median Pendency at Year End	0	24	0	0
Cases Closed by SBC with No Action	0	0	0	0
Cases Closed by SBC with Nondisciplinary Action	0	0	0	0
Cases Closed with Discipline Imposed	0	0	0	0
Total Cases Closed by State Bar Court	0	0	0	0
Cases Remaining in SBC at Year End	0	0	0	0
<u>Judgment in civil case for fraud, misrepresentation, gross negligence, etc. (§ 6068, subd. (o)(2))</u>				
Reports Received	5	4	2	10
Cases Reopened	0	0	0	0
Cases Closed by OCTC with No Action	1	4	2	6
Cases Closed by OCTC with Referral	0	0	0	0
Cases Closed by OCTC with Nondisciplinary Action	0	0	1	0
Total Cases Closed by OCTC	1	4	3	6
Average Pendency at Closure	43	211	120	20
Median Pendency at Closure	43	62	169	16
Cases Filed in State Bar Court	0	1	0	1
Average Pendency at Filing	0	385	0	763
Median Pendency at Filing	0	385	0	763
Cases Remaining in OCTC at Year End	4	3	2	5
Average Pendency at Year End	134	113	484	353
Median Pendency at Year End	113	103	409	223
Cases Closed by SBC with No Action	0	0	0	0
Cases Closed by SBC with Nondisciplinary Action	0	0	0	0
Cases Closed with Discipline Imposed	0	2	0	0
Total Cases Closed by State Bar Court	0	2	0	0
Average Pendency at Closure	0	1,329	0	0
Median Pendency at Closure	0	424	0	0
Cases Remaining in SBC at Year End	1	0	0	1
Average Pendency at Year End	2,105	0	0	774
Median Pendency at Year End	2,105	0	0	774
<u>Judicial sanctions imposed (§ 6068, subd. (o)(3))</u>				
Reports Received	111	113	123	130
Cases Reopened	0	0	0	1
Cases Closed by OCTC with No Action	133	100	107	89
Cases Closed by OCTC with Referral	0	0	0	0
Cases Closed by OCTC with Nondisciplinary Action	11	6	6	14
Total Cases Closed by OCTC	144	106	113	103
Average Pendency at Closure	150	130	99	123
Median Pendency at Closure	81	44	29	49

Table SR-3. Reportable Actions, Reported by Self <sup>19</sup>	2016	2017	2018	2019
Cases Filed in State Bar Court	5	7	6	4
Average Pendency at Filing	478	418	590	518
Median Pendency at Filing	412	344	533	359
Cases Remaining in OCTC at Year End	35	35	39	63
Average Pendency at Year End	348	288	331	284
Median Pendency at Year End	257	174	242	145
Cases Closed by SBC with No Action	1	0	0	1
Cases Closed by SBC with Nondisciplinary Action	0	0	0	0
Cases Closed with Discipline Imposed	3	6	4	3
Total Cases Closed by State Bar Court	4	6	4	4
Average Pendency at Closure	1,627	861	1,307	1,312
Median Pendency at Closure	1,350	717	1,115	974
Cases Remaining in SBC at Year End	9	10	12	12
Average Pendency at Year End	998	1,071	1,080	1,145
Median Pendency at Year End	724	1,040	950	1,269
<u>Felony indictment (§ 6068, subd. (o)(4))</u>				
Reports Received	13	27	19	12
Cases Reopened	0	0	0	0
Cases Closed by OCTC with No Action	3	9	5	5
Cases Closed by OCTC with Referral	0	0	0	0
Cases Closed by OCTC with Nondisciplinary Action	0	0	0	0
Total Cases Closed by OCTC	3	9	5	5
Average Pendency at Closure	960	836	725	405
Median Pendency at Closure	1,189	710	399	407
Cases Filed in State Bar Court	9	13	22	10
Average Pendency at Filing	655	537	461	225
Median Pendency at Filing	333	483	272	191
Cases Remaining in OCTC at Year End	52	56	44	18
Average Pendency at Year End	636	544	687	718
Median Pendency at Year End	456	261	550	399
Cases Closed by SBC with No Action	3	2	1	4
Cases Closed by SBC with Nondisciplinary Action	0	0	0	0
Cases Closed with Discipline Imposed	12	10	10	11
Total Cases Closed by State Bar Court	15	12	11	15
Average Pendency at Closure	1,477	1,081	1,275	848
Median Pendency at Closure	1,515	845	946	470
Cases Remaining in SBC at Year End	34	34	43	20
Average Pendency at Year End	1,462	1,463	1,282	891
Median Pendency at Year End	1,244	1,117	1,124	687



Table SR-3. Reportable Actions, Reported by Self <sup>19</sup>	2016	2017	2018	2019
<u>Conviction of felony, or misdemeanor related to practice of law (§ 6068, subd. (o)(5))</u>				
Reports Received	24	32	33	19
Cases Reopened	0	0	0	0
Cases Closed by OCTC with No Action	5	20	12	7
Cases Closed by OCTC with Referral	0	0	0	0
Cases Closed by OCTC with Nondisciplinary Action	0	0	1	0
Total Cases Closed by OCTC	5	20	13	7
Average Pendency at Closure	110	148	101	116
Median Pendency at Closure	123	63	58	84
Cases Filed in State Bar Court	14	21	13	11
Average Pendency at Filing	191	222	183	151
Median Pendency at Filing	173	91	67	130
Reports Remaining in OCTC at Year End	20	6	16	4
Average Pendency at Year End	429	282	70	182
Median Pendency at Year End	290	156	45	183
Cases Closed by SBC with No Action	1	5	5	0
Cases Closed by SBC with Nondisciplinary Action	0	0	0	0
Cases Closed with Discipline Imposed	23	15	22	11
Total Cases Closed by State Bar Court	24	20	27	11
Average Pendency at Closure	771	706	1,005	1,144
Median Pendency at Closure	608	673	641	822
Cases Remaining in SBC at Year End	48	44	23	20
Average Pendency at Year End	830	883	726	728
Median Pendency at Year End	698	598	662	517
<u>Discipline by professional agency or licensing board (§ 6068, subd. (o)(6))</u>				
Reports Received	43	15	25	29
Cases Reopened	1	0	0	1
Cases Closed by OCTC with No Action	30	8	18	15
Cases Closed by OCTC with Referral	0	0	0	0
Cases Closed by OCTC with Nondisciplinary Action	5	4	1	1
Total Cases Closed by OCTC	35	12	19	16
Average Pendency at Closure	205	178	238	43
Median Pendency at Closure	83	26	60	22
Cases Filed in State Bar Court	12	17	6	6
Average Pendency at Filing	329	437	331	309
Median Pendency at Filing	376	455	208	245
Cases Remaining in OCTC at Year End	27	13	13	21
Average Pendency at Year End	265	382	330	376
Median Pendency at Year End	186	347	291	223

Table SR-3. Reportable Actions, Reported by Self <sup>19</sup>	2016	2017	2018	2019
Cases Closed by SBC with No Action	2	2	1	0
Cases Closed by SBC with Nondisciplinary Action	0	0	0	0
Cases Closed with Discipline Imposed	13	13	11	6
Total Cases Closed by State Bar Court	15	15	12	6
Average Pendency at Closure	753	619	704	769
Median Pendency at Closure	625	613	681	746
Cases Remaining in SBC at Year End	11	15	9	9
Average Pendency at Year End	471	603	758	763
Median Pendency at Year End	425	551	854	566
<u>Reversal of judgment based on misconduct, gross incompetence, etc. (§ 6068, subd. (o)(7))</u>				
Reports Received	14	17	13	12
Cases Reopened	0	0	0	0
Cases Closed by OCTC with No Action	18	15	12	14
Cases Closed by OCTC with Referral	0	0	0	0
Cases Closed by OCTC with Nondisciplinary Action	1	1	2	1
Total Cases Closed by OCTC	19	16	14	15
Average Pendency at Closure	150	137	115	113
Median Pendency at Closure	96	91	35	22
Cases Filed in State Bar Court	0	0	0	0
Cases Remaining in OCTC at Year End	3	4	3	0
Average Pendency at Year End	234	208	322	0
Median Pendency at Year End	318	94	216	0
Cases Closed by SBC with No Action	0	0	0	0
Cases Closed by SBC with Nondisciplinary Action	0	0	0	0
Cases Closed with Discipline Imposed	0	0	0	0
Total Cases Closed by State Bar Court	0	0	0	0
Cases Remaining in SBC at Year End	0	0	0	0
<u>Settlement or judgment for civil fraud, misrepresentation, gross negligence, etc. (§ 6086.8, subd. (c))</u>				
Reports Received	0	0	0	0

## REPORTABLE ACTIONS, REPORTED BY OTHERS

**Section 6086.15, subdivision (a)(4)** The number, average pending times, and types of matters reported by other sources pursuant to Sections 6086.7, 6086.8, 6091.1, subdivision (b) of Section 6101, and Section 6175.6.<sup>22</sup>

Table SR-4. Reportable Actions, Reported by Others	2016	2017	2018	2019
<u>Summary: All Reportable Actions, Reported by Others</u>				
Reports Received	2,413	2,393	2,580	2,270
Cases Reopened	6	1	3	1
Cases Closed by OCTC with No Action	2,298	2,144	2,115	1,845
Cases Closed by OCTC with Referral	0	0	0	0
Cases Closed by OCTC with Nondisciplinary Action	251	173	162	132
Total Cases Closed by OCTC	2,549	2,317	2,277	1,977
Cases Filed in State Bar Court	166	126	156	148
Cases Remaining in OCTC at Year End	574	516	666	821
Cases Closed by SBC with No Action <sup>23</sup>	17	36	26	42
Cases Closed by SBC with Nondisciplinary Action	4	1	1	0
Cases Closed with Discipline Imposed	113	152	97	82
Total Cases Closed by State Bar Court	134	189	124	124
Cases Remaining in SBC at Year End	264	197	227	229
<u>Order of Contempt (§ 6086.7, subd. (a) (1))</u>				
Reports Received	4	1	3	4
Cases Reopened	0	0	0	0
Cases Closed by OCTC with No Action	4	2	1	1
Cases Closed by OCTC with Referral	0	0	0	0
Cases Closed by OCTC with Nondisciplinary Action	0	1	0	1
Total Cases Closed by OCTC	4	3	1	2
Average Pendency at Closure	192	358	4	111
Median Pendency at Closure	121	225	4	111
Cases Filed in State Bar Court	1	0	0	2
Average Pendency at Filing	245	0	0	616
Median Pendency at Filing	245	0	0	616
Cases Remaining in OCTC at Year End	3	1	3	3
Average Pendency at Year End	231	115	259	286
Median Pendency at Year End	191	115	230	286

<sup>22</sup> The figures in Table 4 differ from those in Table 2 for this category because Table 4 includes reports of criminal conviction matters, which are excluded from Table 2.

<sup>23</sup> Reasons for cases closed by SBC with no action include the following: (1) respondent was disbarred in another matter; (2) respondent was ordered inactive pursuant to Business and Professions Code section 6007(b); (3) respondent's death, shortly before or after dismissal; (4) respondent's resignation; (5) dismissal by OCTC; and, (6) dismissal by SBC.

Table SR-4. Reportable Actions, Reported by Others	2016	2017	2018	2019
Cases Closed by SBC with No Action	0	0	0	0
Cases Closed by SBC with Nondisciplinary Action	0	0	0	0
Cases Closed with Discipline Imposed	0	1	0	0
Total Cases Closed by State Bar Court	0	1	0	0
Average Pendency at Closure	0	758	0	0
Median Pendency at Closure	0	758	0	0
Cases Remaining in SBC at Year End	1	0	0	2
Average Pendency at Year End	551	0	0	720
Median Pendency at Year End	551	0	0	720
<u>Modification or reversal of judgment based on misconduct, etc. (§ 6086.7, subd. (a)(2))</u>				
Reports Received	17	19	24	14
Cases Reopened	0	0	0	0
Cases Closed by OCTC with No Action	20	16	21	18
Cases Closed by OCTC with Referral	0	0	0	0
Cases Closed by OCTC with Nondisciplinary Action	2	0	3	4
Total Cases Closed by OCTC	22	16	24	22
Average Pendency at Closure	220	140	261	171
Median Pendency at Closure	164	44	36	26
Cases Filed in State Bar Court	1	1	1	0
Average Pendency at Filing	454	446	189	0
Median Pendency at Filing	454	446	189	0
Cases Remaining in OCTC at Year End	13	15	14	6
Average Pendency at Year End	316	386	278	745
Median Pendency at Year End	304	142	138	597
Cases Closed by SBC with No Action	0	1	0	0
Cases Closed by SBC with Nondisciplinary Action	0	0	0	0
Cases Closed with Discipline Imposed	1	1	1	0
Total Cases Closed by State Bar Court	1	2	1	0
Average Pendency at Closure	655	707	348	0
Median Pendency at Closure	655	703	348	0
Cases Remaining in SBC at Year End	1	0	0	0
Average Pendency at Year End	464	0	0	0
Median Pendency at Year End	464	0	0	0

Judicial sanctions imposed (§ 6086.7, subd. (a)(3))

Reports Received	78	53	84	99
Cases Reopened	1	0	1	0
Cases Closed by OCTC with No Action	55	45	49	30
Cases Closed by OCTC with Referral	0	0	0	0
Cases Closed by OCTC with Nondisciplinary Action	15	7	15	10
Total Cases Closed by OCTC	70	52	64	40
Average Pendency at Closure	192	144	189	158
Median Pendency at Closure	126	90	114	91
Cases Filed in State Bar Court	23	13	5	13
Average Pendency at Filing	423	430	539	505
Median Pendency at Filing	337	423	502	390
Cases Remaining in OCTC at Year End	42	30	46	93
Average Pendency at Year End	246	356	264	242
Median Pendency at Year End	178	241	157	134
Cases Closed by SBC with No Action	1	2	0	0
Cases Closed by SBC with Nondisciplinary Action	0	1	0	0
Cases Closed with Discipline Imposed	20	15	16	7
Total Cases Closed by State Bar Court	21	18	16	7
Average Pendency at Closure	1,095	733	878	842
Median Pendency at Closure	958	685	801	800
Cases Remaining in SBC at Year End	30	25	14	20
Average Pendency at Year End	690	922	1,301	1,241
Median Pendency at Year End	572	810	1,223	1,089

Civil Penalty for providing false information to Indian tribe in adoption case (§ 6086.7, subd. (a)(4))

Reports Received	0	0	0	0
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Prosecutorial misconduct (§ 6086.7, subd. (a)(5))

Reports Received	0	0	0	0
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Judgment in civil case for fraud, misrepresentation, gross negligence, etc. (§ 6086.8, subd. (a))

Reports Received	4	3	12	7
Cases Reopened	0	0	0	0
Cases Closed by OCTC with No Action	6	2	7	1
Cases Closed by OCTC with Referral	0	0	0	0
Cases Closed by OCTC with Nondisciplinary Action	0	1	0	0
Total Cases Closed by OCTC	6	3	7	1
Average Pendency at Closure	156	18	373	32
Median Pendency at Closure	137	6	13	32
Cases Filed in State Bar Court	1	0	2	2
Average Pendency at Filing	827	0	386	313
Median Pendency at Filing	827	0	240	313
Cases Remaining in OCTC at Year End	3	3	6	11
Average Pendency at Year End	569	934	113	465
Median Pendency at Year End	788	1,153	87	392

Cases Closed by SBC with No Action	0	0	0	0
Cases Closed by SBC with Nondisciplinary Action	0	0	0	0
Cases Closed with Discipline Imposed	1	1	1	1
Total Cases Closed by State Bar Court	1	1	1	1
Average Pendency at Closure	1,205	844	1,233	914
Median Pendency at Closure	1,205	844	1,233	914
Cases Remaining in SBC at Year End	2	1	2	3
Average Pendency at Year End	799	1,195	594	501
Median Pendency at Year End	768	1,195	327	518
<u>Claim or action for damages for fraud, misrepresentation, etc. (§ 6086.8, subd. (b))</u>				
Reports Received	231	258	258	282
Cases Reopened	0	0	0	0
Cases Closed by OCTC with No Action	246	257	257	208
Cases Closed by OCTC with Referral	0	0	0	0
Cases Closed by OCTC with Nondisciplinary Action	0	0	0	0
Total Cases Closed by OCTC	246	257	257	208
Average Pendency at Closure	23	3	3	14
Median Pendency at Closure	3	2	3	14
Cases Filed in State Bar Court	0	0	0	0
Cases Remaining in OCTC at Year End	0	1	2	76
Average Pendency at Year End	0	4	4	25
Median Pendency at Year End	0	4	4	29
Cases Closed by SBC with No Action	0	0	0	0
Cases Closed by SBC with Nondisciplinary Action	0	0	0	0
Cases Closed with Discipline Imposed	0	0	0	0
Total Cases Closed by State Bar Court	0	0	0	0
Cases Remaining in SBC at Year End	0	0	0	0
<u>Overdraft of attorney trust accounts (§ 6091.1)</u>				
Reports Received	1,943	1,918	2,081	1,780
Cases Reopened	5	1	2	0
Cases Closed by OCTC with No Action	1,873	1,723	1,706	1,523
Cases Closed by OCTC with Referral	0	0	0	0
Cases Closed by OCTC with Nondisciplinary Action	234	164	144	112
Total Cases Closed by OCTC	2,107	1,887	1,850	1,635
Average Pendency at Closure	77	67	58	72
Median Pendency at Closure	39	24	33	52
Cases Filed in State Bar Court	81	53	117	99
Average Pendency at Filing	374	433	360	373
Median Pendency at Filing	360	436	342	299
Cases Remaining in OCTC at Year End	372	351	467	514
Average Pendency at Year End	209	180	161	170
Median Pendency at Year End	102	69	90	60
Cases Closed by SBC with No Action	1	13	13	32

Cases Closed by SBC with Nondisciplinary Action	0	0	0	0
Cases Closed with Discipline Imposed	50	78	39	52
Total Cases Closed by State Bar Court	51	91	52	84
Average Pendency at Closure	640	690	672	1,057
Median Pendency at Closure	593	640	603	755
Cases Remaining in SBC at Year End	104	66	132	147
Average Pendency at Year End	962	1,319	972	881
Median Pendency at Year End	613	754	482	687
<u>Filing of misdemeanor or felony charges (§ 6101, subd. (b))</u>				
Reports Received	136	141	118	84
Cases Reopened	0	0	0	1
Cases Closed by OCTC with No Action	94	99	74	64
Cases Closed by OCTC with Referral	0	0	0	0
Cases Closed by OCTC with Nondisciplinary Action	0	0	0	5
Total Cases Closed by OCTC	94	99	74	69
Average Pendency at Closure	470	395	315	452
Median Pendency at Closure	245	235	178	302
Cases Filed in State Bar Court	59	59	31	32
Average Pendency at Filing	355	364	285	324
Median Pendency at Filing	249	162	186	273
Cases Remaining in OCTC at Year End	141	115	128	118
Average Pendency at Year End	532	471	516	623
Median Pendency at Year End	330	254	278	369
Cases Closed by SBC with No Action	15	20	13	10
Cases Closed by SBC with Nondisciplinary Action	4	0	1	0
Cases Closed with Discipline Imposed	41	56	40	22
Total Cases Closed by State Bar Court	60	76	54	32
Average Pendency at Closure	924	983	1,176	926
Median Pendency at Closure	752	922	846	742
Cases Remaining in SBC at Year End	126	105	79	57
Average Pendency at Year End	1,018	1,020	1,059	1,118
Median Pendency at Year End	821	670	833	930
<u>Criminal Conviction (§ 6101, subd. (c))</u>				
Reports Received	22	23	24	18
Cases Reopened	0	0	0	1
Cases Closed by OCTC with No Action	10	10	22	15
Cases Closed by OCTC with Referral	0	0	0	0
Cases Closed by OCTC with Nondisciplinary Action	0	0	0	2
Total Cases Closed by OCTC	10	10	22	17
Average Pendency at Closure	191	543	298	670
Median Pendency at Closure	92	143	107	155
Cases Filed in State Bar Court	21	12	9	2
Average Pendency at Filing	260	357	270	207

Median Pendency at Filing	206	128	158	207
Cases Remaining in OCTC at Year End	20	21	14	14
Average Pendency at Year End	1,021	724	962	428
Median Pendency at Year End	339	157	412	218
Cases Closed by SBC with No Action	1	9	3	8
Cases Closed by SBC with Nondisciplinary Action	0	0	0	0
Cases Closed with Discipline Imposed	4	17	13	3
Total Cases Closed by State Bar Court	5	26	16	11
Average Pendency at Closure	745	716	830	3,218
Median Pendency at Closure	757	679	885	3,703
Cases Remaining in SBC at Year End	44	30	23	14
Average Pendency at Year End	1,129	1,588	1,985	1,144
Median Pendency at Year End	580	878	1,132	883



## SPEED OF COMPLAINT HANDLING<sup>24</sup>

**Section 6086.15, subdivision (a)(5)** The speed of complaint handling and dispositions by type, measured by the median and the average processing times.

Table SR-5. Speed of Complaint Handling	2016	2017	2018	2019
<u>Complaints</u>				
Pendency at Closure by OCTC without filing				
Average	110	115	135	145
Median	38	44	57	81
Pendency at Filing by OCTC				
Average	331	450	466	527
Median	281	386	423	474
Pendency at Year End in OCTC				
Average	294	277	242	249
Median	127	128	88	137
Pendency at Closure by SBC				
Average	1,068	909	1,007	1,252
Median	843	688	785	949
Pendency at Year end in SBC				
Average	930	1,078	1,038	958
Median	627	796	776	847
<u>State Bar Initiated Inquiries</u>				
Pendency at Closure by OCTC without filing				
Average	121	150	177	193
Median	19	35	85	130
Pendency at Filing by OCTC				
Average	368	408	401	482
Median	274	314	283	425
Pendency at Year End in OCTC				
Average	275	287	272	357
Median	144	153	160	214
Pendency at Closure by SBC				
Average	691	915	988	1,270
Median	487	690	760	1,043
Pendency at Year end in SBC				
Average	918	1,167	1,126	1,162
Median	639	972	892	849
<u>Reportable Actions, Reported by Self</u>				
Pendency at Closure by OCTC without filing				

<sup>24</sup> Criminal conviction matters are excluded from the reportable actions included in this section; see footnote 5 for an explanation. Although the pendency issue does not apply to these matters once they are filed in State Bar Court, they are excluded to maintain consistency with case type reporting.

Table SR-5. Speed of Complaint Handling	2016	2017	2018	2019
Average	159	136	117	108
Median	81	48	36	34
Pendency at Filing by OCTC				
Average	373	430	461	426
Median	394	412	408	252
Pendency at Year End in OCTC				
Average	298	290	336	308
Median	239	194	245	160
Pendency at Closure by SBC				
Average	937	744	855	986
Median	816	699	793	746
Pendency at Year end in SBC				
Average	774	790	942	972
Median	551	653	864	1,075
<u>Reportable Actions, Reported by Others</u>				
Pendency at Closure by OCTC without filing				
Average	77	62	58	68
Median	36	22	30	51
Pendency at Filing by OCTC				
Average	388	432	366	391
Median	356	436	342	318
Pendency at Year End in OCTC				
Average	218	206	172	174
Median	123	76	96	60
Pendency at Closure by SBC				
Average	777	699	722	1,039
Median	662	649	667	755
Pendency at Year end in SBC				
Average	894	1,210	998	915
Median	611	754	579	693
<u>Probation Referrals</u>				
Pendency at Closure by OCTC without filing				
Average	297	376	454	445
Median	234	238	287	294
Pendency at Filing by OCTC				
Average	126	131	133	113
Median	115	83	86	91
Pendency at Year End in OCTC				
Average	369	337	297	246
Median	129	139	88	194
Pendency at Closure by SBC				
Average	585	565	693	730
Median	540	471	462	530

Table SR-5. Speed of Complaint Handling	2016	2017	2018	2019
Pendency at Year end in SBC				
Average	639	684	622	477
Median	397	353	342	321
<u>Interim Suspensions and License Restrictions</u>				
Pendency at Closure by OCTC without filing				
Average	0	33	0	NA
Median	0	33	0	NA
Pendency at Filing by OCTC				
Average	2	18	59	NA
Median	0	7	0	NA
Pendency at Year End in OCTC				
Average	31	328	0	NA
Median	31	328	0	NA
Pendency at Closure by SBC				
Average	48	72	70	NA
Median	28	69	71	NA
Pendency at Year end in SBC				
Average	0	0	231	NA
Median	0	0	77	NA

## FORMAL DISCIPLINARY FILINGS AND OUTCOMES<sup>25</sup>

**Section 6086.15, subdivision (a)(6)** The number, average pending times, and types of filed notices of disciplinary charges and formal disciplinary outcomes.

Table SR-6A. Formal Filings	2016	2017	2018	2019
<u>Notices of Disciplinary Charges</u>				
Number of Filings	549	385	533	354
Average Pendency at Filing	311	377	406	412
Median Pendency at Filing	266	337	369	339
<u>Stipulations to Facts and Discipline</u>				
Number of Filings	123	106	128	106
Average Pendency at Filing	357	402	361	477
Median Pendency at Filing	320	344	328	487
<u>Criminal Conviction Transmittals<sup>26</sup></u>				
Number of Filings <sup>27</sup>	NA	NA	NA	159
Table SR-6B. Formal Disciplinary Outcomes	2016	2017	2018	2019
<u>Disbarments</u>				
Number of Cases	461	321	229	216
Average Pendency	1,165	775	818	1,027
Median Pendency	866	691	698	849
Number of Attorneys Disbarred	191	158	131	117
<u>Probation with Actual Suspension<sup>28</sup></u>				
Number of Cases	NA	NA	NA	228
Average Pendency	NA	NA	NA	810
Median Pendency	NA	NA	NA	725
Number of Attorneys Suspended	NA	NA	NA	110
<u>Probation with Stayed Suspension</u>				
Number of Cases	NA	NA	NA	33

<sup>25</sup> Cases are filed in State Bar Court via a Notice of Disciplinary Charges (NDC), Stipulations to Facts and Discipline, and Transmittal of Criminal Convictions. This table counts each case only once: cases in which an NDC is filed or information about a criminal conviction is transmitted that are later resolved by stipulation are only counted based on the initial filing in State Bar Court. This table includes all formal disciplinary filings, including criminal conviction matters and reportable actions not included in other sections of this Report. It does not include State Bar Court filings included in Table 2 that are not formal disciplinary filings (Interim Suspensions and Restrictions); these cases are not included in 2019 data.

<sup>26</sup> Pendency time for Criminal Conviction Transmittals is not applicable since it is dependent on the cases reaching finality in the criminal court, which is outside of the State Bar's control.

<sup>27</sup> These cases are reported separately beginning in 2019.

<sup>28</sup> Beginning in 2019, suspensions are reported in two separate categories: probation with actual suspension and probation with stayed suspension.

Table SR-6B. Formal Disciplinary Outcomes	2016	2017	2018	2019
Average Pendency	NA	NA	NA	688
Median Pendency	NA	NA	NA	544
Number of Attorneys Suspended	NA	NA	NA	27
<u>Suspensions<sup>29</sup></u>				
Number of Cases	374	288	273	NA
Average Pendency	773	784	817	NA
Median Pendency	632	666	679	NA
Number of Attorneys Suspended	202	153	149	NA
<u>Public Reprovals</u>				
Number of Cases	29	33	25	31
Average Pendency	618	480	734	688
Median Pendency	462	430	599	544
Number of Attorneys Publicly Reproved	26	27	23	25
<u>Private Reprovals</u>				
Number of Cases	30	33	17	24
Average Pendency	648	742	900	547
Median Pendency	443	532	476	471
Number of Attorneys Privately Reproved	25	25	15	24

<sup>29</sup> As noted above, beginning in 2019, suspensions are reported in two separate categories: probation with actual suspension and probation with stayed suspension.

## OTHER MATTERS AND SPECIFIED DEFINITIONS

**Section 6086.15, subdivision (a)(7)** The number, average pending times, and types of other matters, including petitions to terminate practice pursuant to section 6180 or 6190, interim suspensions and license restrictions pursuant to section 6007, motions to enforce a binding arbitration award, judgment, or agreement pursuant to subdivision (d) of section 6203, motions to revoke probation, letters of warning, private reproofs, admonitions, and agreements in lieu of discipline.<sup>30</sup>

Table SR-7A. Other Matters	2016	2017	2018	2019
<u>Petitions to Terminate Practice pursuant to section 6180 or section 6190</u>				
Petitions Filed	6	6	5	9
Average Pendency at Filing	89	1,071	432	214
Median Pendency at Filing	63	70	71	77
Cases with Petitions Granted	6	6	5	9
Cases with Petitions Denied	0	0	0	0
Total Cases Disposed by Superior Court	6	6	5	2
Average Pendency at Disposition	89	1,071	432	2,971
Median Pendency at Disposition	63	70	71	2,971
<u>Interim Suspensions and Restrictions pursuant to section 6007</u>				
Cases Opened	5	6	10	21
Cases Re-Opened	0	0	0	0
Cases Closed Without Filing	0	1	0	1
Average Pendency at Closure	0	33	0	45
Median Pendency at Closure	0	33	0	45
Cases Filed	4	5	11	19
Average Pendency at Filing	2	18	59	10
Median Pendency at Filing	0	7	0	0
Cases Remaining in OCTC At Year End	1	1	0	1
Average Pendency At Year End	31	328	0	0
Median Pendency At Year End	31	328	0	0
Cases with Petitions Granted	4	5	6	13
Cases with Petitions Denied	1	0	1	3
Total Cases Disposed by State Bar Court	5	5	7	16
Average Pendency at Disposition	48	72	70	122
Median Pendency at Disposition	28	69	71	84
Cases Remaining in State Bar Court at Year	0	0	4	7
Average Pendency At Year End	0	0	231	112
Median Pendency At Year End	0	0	77	69
<u>Motions to Enforce Fee Arbitration Award</u>				
Cases Opened	12	4	1	1

<sup>30</sup> The full text of sections 6180, 6190, 6007, and 6203 is provided in Appendix B.

Table SR-7A. Other Matters	2016	2017	2018	2019
Cases with Petitions Granted	7	6	0	1
Cases with Petitions Denied	5	1	1	0
Total Cases Disposed by State Bar Court	12	7	1	1
Average Pendency at Disposition	64	92	71	49
Median Pendency at Disposition	62	71	71	49
Cases Remaining in State Bar Court at Year End	3	0	0	0
Average Pendency At Year End	61	0	0	0
Median Pendency At Year End	78	0	0	0
<u>Motions to Revoke Probation</u>				
Cases Opened	12	7	7	0
Cases with Petitions Granted	13	8	9	1
Cases with Petitions Denied	1	0	0	0
Total Cases Disposed by State Bar Court	14	8	9	2
Average Pendency at Disposition	249	169	166	238
Median Pendency at Disposition	171	172	161	238
Cases Remaining in State Bar Court at Year End	5	4	2	1
Average Pendency At Year End	84	131	45	389
Median Pendency At Year End	78	159	24	389

Table SR-7B. Specified Dispositions	2016	2017	2018	2019
<u>Admonitions</u>				
Cases	5	1	3	0
Average Pendency at Disposition	914	816	1,265	0
Median Pendency at Disposition	950	816	1,092	0
Attorneys Admonished	3	1	2	0
<u>Agreements In Lieu of Discipline</u>				
Cases	20	13	5	5
Average Pendency at Disposition	368	602	689	406
Median Pendency at Disposition	354	502	837	420
Attorneys Entering into Agreements	20	11	5	5
<u>Warning Letters</u>				
Cases	596	610	673	542
Average Pendency at Disposition	186	217	273	270
Median Pendency at Disposition	164	184	218	215
Attorneys Receiving Warning Letters	533	562	604	476
<u>Private Reprovals</u>				
Cases	30	33	17	24
Average Pendency at Disposition	648	742	900	547
Median Pendency at Disposition	443	532	476	471
Attorneys Privately Reproved	25	25	15	24

## UNAUTHORIZED PRACTICE OF LAW BY FORMER ATTORNEYS<sup>31</sup>

**Section 6086.15, subdivision (a)(8)** The number, average pending times, and outcomes of complaints involving a State Bar licensee who has been disbarred or who has resigned, and is engaged in the unauthorized practice of law, including referrals to district attorneys, city attorneys, or other prosecuting authorities, or petitions to terminate practice pursuant to section 6180.

Table SR-8. UPL by Former Attorneys	2016	2017	2018	2019
Cases Opened	22	35	61	39
Cases Closed Without Filing	23	25	38	53
Average Pendency at Closure	210	153	204	288
Median Pendency at Closure	153	138	195	308
Cases Filed in Superior Court	0	0	0	2
Average Pendency at Filing	0	0	0	326
Median Pendency at Filing	0	0	0	326
Cases Remaining in OCTC At Year End	9	19	43	27
Average Pendency at Year End	75	108	147	124
Median Pendency at Year End	73	142	133	113
Cases with Petitions Granted	0	0	0	2
Cases with Petitions Denied	0	0	0	0
Total Cases Disposed by Superior Court	0	0	0	0
Referrals to Law Enforcement	9	3	70	24
Cease and Desist Letters Sent	10	12	13	18

<sup>31</sup> This table does not include attorneys who are disciplined for practicing law during a time that their license is suspended.



## UNAUTHORIZED PRACTICE OF LAW BY NONATTORNEYS

**Section 6086.15, subdivision (a)(9)** The number, average pending times, and outcomes of complaints against nonattorneys engaged in the unauthorized practice of law, including referrals to district attorneys, city attorneys, or other prosecuting authorities; petitions to terminate practice pursuant to section 6126.3; or referrals to prosecuting authorities or actions by the State Bar pursuant to section 6126.7.

Table SR-9. UPL by Nonattorneys	2016	2017	2018	2019
Cases Opened	632	668	734	909
Cases Closed Without Filing	913	609	598	882
Average Pendency at Closure	291	107	151	182
Median Pendency at Closure	189	86	162	161
Cases Filed in Superior Court <sup>32</sup>	6	1	16	9
Average Pendency at Filing	247	7	189	271
Median Pendency at Filing	91	7	222	285
Cases Remaining in OCTC At Year End	181	243	364	397
Average Pendency at Year End	97	91	142	129
Median Pendency at Year End	81	90	118	111
Cases with Petitions Granted	6	1	16	9
Cases with Petitions Denied	0	0	0	0
Total Cases Disposed by Superior Court <sup>33</sup>	6	1	16	1
Average Pendency at Disposition	247	7	189	552
Median Pendency at Disposition	91	7	222	552
Referrals to Law Enforcement	443	315	492	335
Cease and Desist Letters Sent	163	143	122	146

<sup>32</sup> Petition to Terminate filed in superior court, pursuant to section 6126.3, to assume the practice of a person holding himself or herself out as entitled to practice law without being an active licensee of the State Bar.

<sup>33</sup> These petitions are almost always granted or denied by the superior court on the day they are filed.

## DISPOSITION OF FELONY CONVICTIONS

**Section 6095, subdivision (b)** To the extent the information is known to the State Bar, it shall report annually to the Assembly and Senate Judiciary Committees concerning the judicial or disciplinary disposition of all criminal or disciplinary proceedings involving the allegation of the commission of a felony by an attorney.

Table SR-10. Disposition of Felony Convictions	2016	2017	2018	2019
<u>Felony Convictions</u>	23	16	8	16
Cases filed in State Bar Court	31	27	18	31
Average days from conviction to filing in Court <sup>34</sup>	222	134	181	514
Median days from conviction to filing in Court	97	84	74	119
Cases disposed in State Bar Court	44	32	35	35
Average days from filing to disposition in Court	712	634	773	907
Median days from filing to disposition in Court	623	472	502	535
<u>State Bar Court Dispositions</u>				
Disbarment	33	23	25	30
Dismissal	2	0	1	4
Suspension	5	7	9	1
Termination Due to Resignation	1	0	0	0
Reproval	0	0	0	0
Termination Due to Death	0	2	0	0

<sup>34</sup> Both attorneys and courts are required to report felony convictions, but superior courts may not timely report convictions to the State Bar. Any resultant delays in discovery of felony convictions may lead to the extended pendency between conviction and filing in Court.

## CONSTRUCTION-RELATED ACCESSIBILITY DEMAND LETTERS

**Civil Code Section 55.32(f)(1)** Notwithstanding Section 10231.5 of the Government Code, on or before April 30, 2019, and annually as part of the Annual Discipline Report, no later than April 30 thereafter, the State Bar shall report to the Legislature and the Chairs of the Senate and Assembly Judiciary Committees, both of the following with respect to demand letters received by the State Bar: (A) The number of investigations opened to date on a suspected violation of subdivision (b) or (c) of Section 55.31. (B) Whether any disciplinary action resulted from the investigation, and the results of that disciplinary action.

The laws governing construction-related accessibility claims involving a place of public accommodation were revised by the enactment of Senate Bill 1186 (Stats. 2012, Chapter 383). The purpose of SB 1186 is set forth in uncodified sections of the bill. One of these sections states:

The Legislature finds and declares that a very small number of plaintiffs’ attorneys have been abusing the right of petition under Sections 52 and 54.3 of the Civil Code by issuing a demand for money to a California business owner that demands the owner pay a quick settlement of the attorney’s alleged claim under those laws or else incur greater liability and legal costs if a lawsuit is filed. These demands for money allege one or more, but frequently multiple, claims for asserted violations of a construction-related accessibility standard and often demand a quick money settlement based on the alleged multiple claims without seeking and obtaining actual repair or correction of the alleged violations on the site. These “pay me now or pay me more” demands are used to scare businesses into paying quick settlements that only financially enrich the attorney and claimant and do not promote accessibility either for the claimant or the disability community as a whole. These practices, often involving a series of demand for money letters sent to numerous businesses, do not promote compliance with the accessibility requirements and erode public support for and confidence in our laws. (SB 1186 uncodified sec. 24.)

Civil Code Section 55.32 contains several requirements and restrictions concerning demand letters and demands for money in construction-related accessibility claims. As of January 1, 2019, the requirement to provide a copy of a demand letter to the State Bar was repealed. The legislative history of this section makes clear that the State Bar retains prosecutorial discretion to determine what, if any, disciplinary action should be taken in a particular case. As the September 1, 2012 Senate Judiciary Committee analysis notes, at pages 22-23:

The author notes that “even though certain acts shall be subject to discipline, the commencement of an actual disciplinary action is at the prosecutorial discretion of the State Bar’s Office of Chief Trial Counsel. Nothing in the bill would require the State Bar to bring an action for any offense, and it is certainly possible that the State Bar may just send the lawyer offending the provision an advisory letter for a first violation.”

## DEMAND LETTERS RECEIVED,<sup>35</sup> INVESTIGATIONS OPENED, AND DISCIPLINARY ACTION

From January 1, 2019 through December 31, 2019, the State Bar received 26 copies of demand letters. These 26 demand letters were carefully reviewed and none of them contained an indication of a possible violation of the prohibition against a demand for money or a specific statement of monetary liability. One investigation was initiated based on an attorney's potential failure to send a copy of the complaint to the California Commission on Disability Access, in violation of Civil Code section 55.32, subd. (b)(1). This case was closed after confirming that the attorney had, in fact, complied with this requirement. From January 1, 2013, through December 31, 2018, the State Bar received 1,787 copies of demand letters. Of the 1,787 demand letters received, 51 involved possible violations of the prohibitions against demands for money and/or specific statements of monetary liability, which were investigated by the Office of Chief Trial Counsel. The demand letters received from July 26, 2017 through December 31, 2018 were carefully reviewed and did not contain any indicators of these violations and no investigations of these violations were initiated. Table SR-11 shows the number of letters received in each 12 month period since the first report, and the number of investigations undertaken.

Table SR-11. Demand Letters	2013	2014	2015	2016	2017	2018	2019	Total
Number of Letters Received <sup>36</sup>	222	240	347	348	585	45	26	1,813
Investigations of Suspected Violations of Civil Code Section 55.31 or 55.32	6	21	6	3	15	0	1	52

As noted in last year's report, the 51 letters received prior to 2019 were sent by 19 different attorneys. One attorney sent 2 letters on the same date. One attorney sent 6 letters on the same date, and a seventh letter one week later. One attorney sent 6 letters on the same date, and 2 letters relating to matters covered by the original letters, but to different addressees, 22 days later. One attorney sent 3 demand letters in a two month period. One attorney sent 3 letters over a span of 25 months. One attorney sent 15 letters over the span of six months. The other 13 attorneys each sent 1 letter. The breakdown of the resulting action based on the investigation of these 51 demand letters was set forth in some detail in the 2017 report, which is accessible on the State Bar's website at <http://www.calbar.ca.gov/Portals/0/documents/reports/Construction->

<sup>35</sup> As of January 1, 2019, Civil Code section 55.32 no longer requires an attorney who provides a demand letter as defined by Civil Code 55.3 to provide a copy of that demand letter to the State Bar of California's Office of Professional Competence. However, Civil Code section 55.3(b)(1)(A) continues to require attorneys to provide notices that tell recipients of demand letters that they can send copies to the Office of Professional Competence. In addition, some attorneys voluntarily copy the State Bar and Civil Code section 55.32(f)(1) continues to require the State Bar to report on disciplinary matters involving prohibited demands for money or specific statements of monetary liability. For these reasons, even though plaintiff attorneys were not required to copy the State Bar in 2019, the Office of Professional Competence still received copies that were reviewed and processed. Table SR-11 includes the number of demand letters received by the Office of Professional Competence in 2019.

<sup>36</sup> Prior reports were based on a July-July reporting period. The number provided in Tables 12 and 13 reflect calendar year numbers, consistent with other reporting provided in the Annual Discipline Report.

Related\_%20Accessibility\_Demand\_Report\_2017.pdf. The investigation based on the letter received in 2019 found that the attorney had complied with statutory requirements, and the matter was closed.

## INSURANCE FRAUD

**Insurance Code Section 1872.95** (a) Within existing resources, the Medical Board of California, the Board of Chiropractic Examiners, and the State Bar shall each designate employees to investigate and report on possible fraudulent activities relating to workers' compensation, motor vehicle insurance, or disability insurance by licensees of the board or the bar. Those employees shall actively cooperate with the Fraud Division in the investigation of those activities. (b) The Medical Board of California and the Board of Chiropractic Examiners shall each report annually, on or before March 1, to the committees of the Senate and Assembly having jurisdiction over insurance on their activities established pursuant to subdivision (a) for the previous year. The State Bar shall include this report in its Annual Discipline Report on or before April 30. That report shall specify, at a minimum, the number of cases investigated, the number of cases forwarded to the Fraud Division or other law enforcement agencies, the outcome of all cases listed in the report, and any other relevant information concerning those cases or general activities conducted under subdivision (a) for the previous year. The report shall include information regarding activities conducted in connection with cases of suspected automobile insurance fraud.

In 1999, the Legislature enacted the Organized Crime Prevention and Victim Protection Act (Assembly Bill 1050, Stats. 1999, ch. 885) to provide for a focused, coordinated effort by all appropriate agencies and organizations to deal more effectively with fraudulent activities related to automobile and other specified insurance claims. Among other things, the act requires the Medical Board of California, the Board of Chiropractic Examiners, and the State Bar to report annually to the committees of the Legislature having jurisdiction over insurance about complaints alleging possible fraudulent activities relating to workers' compensation, motor vehicle insurance, or disability insurance by licensees of the board or the State Bar. Table SR-12 provides information about investigation of insurance fraud from 2016 through 2019.

Table SR-12. Insurance Fraud	2016	2017	2018	2019
<u>Workers' Compensation</u>				
Investigations Initiated	2	1	2	12
Suspended Pending Disbarment	9	9	9	0
Suspended Pending Criminal Proceedings	1	1	1	1
Closed by OCTC with No Action	2	1	1	3
Pending in Investigation at Year End	0	0	1	12
Referrals to Fraud Division	0	0	0	0
Referrals to Law Enforcement	0	0	0	0
<u>Motor Vehicle</u>				
Investigations Initiated	2	1	1	0
Closed by OCTC with No Action	2	1	1	1
Referrals to Fraud Division	0	0	0	0
Referrals to Law Enforcement	0	0	0	0
<u>Disability</u>				
Investigations Initiated	0	0	0	0

## PROVISION OF FINANCIAL SERVICES BY LAWYERS

**Business and Professions Code Section 6177** The State Bar by April 30 of each year shall include in its Annual Discipline Report information on the number of complaints filed against California attorneys alleging a violation of this article. The report shall also include the type of charges made in each complaint, the number of resulting investigations initiated, and the number and nature of any disciplinary actions taken by the State Bar for violations of this article.

In 1999, the Legislature enacted Article 10.5 of the State Bar Act regulating the sale of financial products, including long-term care insurance and life insurance, by lawyers to clients who are elders or dependent adults (Bus. & Prof. Code, §§ 6175-6176; added by Senate Bill number 72 (Stats. 1999, Ch. 454)). These sales must be fair and reasonable to the clients, and lawyers must make specific written disclosures.<sup>37</sup>

The State Bar received no complaints alleging violations of Article 10.5 for the period 2015 through 2019. Since 2001, the State Bar has received 20 complaints alleging violations of the financial products statutes. Table SR-13 provides a summary of the resolution of those complaints.

Table SR-13. Financial Services Complaints	
Closed in Investigation	11
Resignation with Charges Pending	2*
Disbarment	7**

\*2 attorneys

\*\*1 attorney

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<sup>37</sup> The full text of Section 6175.3, which governs the provision of legal services by lawyers to elder and dependent adults, is included in Appendix B.

## CONDITION OF THE CLIENT SECURITY FUND

**Section 6086.15, subdivision (a)(10)** A description of the condition of the Client Security Fund, including an accounting of payouts.

The Client Security Fund (CSF), established by Bar-sponsored legislation in 1972, represents one of the State Bar's major efforts to achieve its public protection goals. The CSF is designed to compensate legal consumers for monetary losses caused by the dishonest conduct of California attorneys. The CSF Commission, appointed by the State Bar Board of Trustees, administers the CSF and directs policy and decision-making on applications for reimbursement according to CSF rules.

The CSF can reimburse victims who have lost money or property due to theft, or an act equivalent to theft, committed by a lawyer acting in a professional capacity. As detailed in the CSF rules, the CSF can reimburse funds received and wrongfully retained by a California lawyer. The maximum reimbursable amount for losses occurring after January 1, 2009 is \$100,000.

Procedural and structural changes implemented in 2019 have resulted in improved efficiency in handling CSF applications. In 2019, the Board of Trustees adopted changes to CSF Rules, based on recommendations of the 2017 Governance in the Public Interest Task force, allowing CSF Staff Counsel to issue tentative decisions on behalf of the CSF Commission. The Commission now deliberates only on objections to those decisions; under previous Rules, the CSF Commission was required to review and approve all decisions. In 2019, objections were filed to only 120 of the 700 tentative decisions issued by Staff Counsel; the new process has reduced the average time from drafting of the tentative decision to final resolution by 27 days, from 81 days in 2016-2018 to 54 days in 2019.

Beginning in 2009, the number of average yearly applications to the CSF tripled and remained well above the historic average. The increase was due to loan modification fraud schemes perpetrated by some California attorneys. While the CSF is still dealing with the effects of that large increase in inventory, the number of new applications received has decreased to more typical levels and in 2019 the CSF received approximately 770 new applications.

The CSF is financed by an annual assessment added to attorney licensing fees, which is used only for purposes of paying the reimbursements and administering the CSF. In 2019, the CSF's revenue was \$8 million. The CSF paid out \$6.9 million on 718 applications filed against 206 attorneys. The cash balance at the end of the year was \$73,000.

At year end, there were approximately 2,370 open CSF applications. Based on historical experience, the State Bar estimates that reimbursements related to these applications will total approximately \$16.8 million.

The annual assessment had been \$40 for active attorneys and \$10 for inactive attorneys. At that rate of CSF revenue, it would have taken more than two and a half years to pay out



reimbursements on the pending inventory. During this time new applications would continue to be filed and would add to the amount that is estimated to qualify for reimbursement.

In 2019, the State Auditor recommended that the CSF receive a one-time increase of \$40 per active licensee. In response to this recommendation, the additional recommended amount of \$40 per active licensee was authorized as part of the 2020 State Bar annual fee bill. The increase in the CSF assessment will allow the CSF to pay victims in a more timely manner.

CSF is beginning the year 2020 with a budget of \$15.9 million. Approximately \$2.3 million is allocated for the administrative costs of the Fund, while the remaining \$13.6 million is designated for reimbursements and the Fund's reserve. Statutory changes implemented in 2019 allowed the State Bar to participate in the Franchise Tax Board's Court Ordered-Debt Program, which has resulted in renewed efforts to collect amounts owed to the CSF.

<b>Attorney<sup>38</sup></b>	<b>Number of CSF Claims Paid</b>	<b>Total Amount Paid</b>
1	12	\$575,505
2	52	\$559,865
3	30	\$437,234
4	121	\$272,275
5	9	\$250,077
6	34	\$239,642
7	1	\$200,000
8	1	\$200,000
9	26	\$197,875
10	24	\$181,256
11	10	\$174,371
12	5	\$150,924
13	1	\$137,375
14	1	\$116,000
15	1	\$100,000
16	1	\$100,000
17	1	\$100,000
18	1	\$100,000
19	1	\$100,000
20	1	\$100,000
21	7	\$97,167
22	18	\$88,310
23	4	\$86,286
24	1	\$74,100
25	3	\$72,150
26	20	\$69,300

<sup>38</sup> Attorney names are not provided, as CSF rules require confidentiality under certain circumstances.

<b>Attorney<sup>38</sup></b>	<b>Number of CSF Claims Paid</b>	<b>Total Amount Paid</b>
27	4	\$66,667
28	19	\$65,213
29	3	\$63,225
30	2	\$62,652
31	17	\$61,700
32	1	\$56,653
33	3	\$56,000
34	2	\$55,200
35	2	\$51,995
36	2	\$47,329
37	3	\$44,625
38	1	\$41,125
39	1	\$40,834
40	1	\$39,613
41	2	\$38,000
42	3	\$36,000
43	10	\$30,810
44	8	\$30,525
45	1	\$30,000
46	3	\$28,810
47	5	\$26,940
48	8	\$25,345
49	1	\$24,500
50	2	\$23,000
51	7	\$22,028
52	1	\$22,000
53	2	\$21,333
54	1	\$21,100
55	1	\$21,007
56	1	\$21,000
57	2	\$21,000
58	3	\$20,645
59	1	\$18,713
60	3	\$17,475
61	6	\$17,000
62	1	\$16,500
63	1	\$16,000
64	1	\$15,360
65	1	\$15,000
66	1	\$15,000
67	3	\$15,000
68	1	\$15,000
69	1	\$15,000

<b>Attorney<sup>38</sup></b>	<b>Number of CSF Claims Paid</b>	<b>Total Amount Paid</b>
70	1	\$14,900
71	1	\$14,774
72	1	\$14,500
73	5	\$14,500
74	3	\$14,500
75	1	\$14,435
76	3	\$13,975
77	1	\$13,430
78	2	\$13,167
79	4	\$12,927
80	1	\$12,767
81	1	\$12,500
82	1	\$12,135
83	1	\$12,083
84	1	\$12,020
85	1	\$12,000
86	2	\$11,400
87	1	\$11,260
88	1	\$10,981
89	1	\$10,800
90	2	\$10,400
91	1	\$10,000
92	1	\$10,000
93	2	\$9,895
94	2	\$9,077
95	3	\$8,985
96	1	\$8,970
97	1	\$8,625
98	5	\$8,535
99	1	\$8,500
100	1	\$8,370
101	4	\$8,328
102	4	\$8,000
103	2	\$7,651
104	1	\$7,500
105	2	\$7,500
106	1	\$7,500
107	2	\$7,500
108	2	\$7,445
109	1	\$7,195
110	1	\$6,945
111	3	\$6,800
112	1	\$6,675

<b>Attorney<sup>38</sup></b>	<b>Number of CSF Claims Paid</b>	<b>Total Amount Paid</b>
113	2	\$6,500
114	1	\$6,500
115	2	\$6,066
116	1	\$6,000
117	2	\$6,000
118	1	\$6,000
119	2	\$6,000
120	4	\$5,640
121	1	\$5,563
122	1	\$5,400
123	1	\$5,100
124	1	\$5,000
125	1	\$5,000
126	1	\$5,000
127	2	\$5,000
128	1	\$5,000
129	1	\$5,000
130	1	\$5,000
131	1	\$5,000
132	1	\$4,950
133	1	\$4,800
134	1	\$4,500
135	3	\$4,500
136	1	\$4,500
137	3	\$4,449
138	1	\$4,300
139	1	\$4,250
140	4	\$4,156
141	1	\$4,040
142	1	\$4,000
143	1	\$3,825
144	1	\$3,600
145	1	\$3,592
146	1	\$3,500
147	1	\$3,500
148	1	\$3,500
149	1	\$3,500
150	1	\$3,495
151	1	\$3,400
152	1	\$3,400
153	1	\$3,300
154	1	\$3,245
155	1	\$3,000

<b>Attorney<sup>38</sup></b>	<b>Number of CSF Claims Paid</b>	<b>Total Amount Paid</b>
156	1	\$3,000
157	1	\$3,000
158	1	\$3,000
159	1	\$3,000
160	1	\$3,000
161	1	\$2,995
162	1	\$2,935
163	1	\$2,895
164	1	\$2,850
165	1	\$2,800
166	1	\$2,750
167	1	\$2,575
168	1	\$2,500
169	1	\$2,500
170	2	\$2,500
171	1	\$2,500
172	1	\$2,500
173	1	\$2,500
174	1	\$2,494
175	1	\$2,412
176	2	\$2,400
177	1	\$2,400
178	1	\$2,300
179	2	\$2,235
180	1	\$2,041
181	1	\$2,000
182	2	\$2,000
183	1	\$2,000
184	1	\$2,000
185	1	\$1,920
186	1	\$1,800
187	1	\$1,635
188	1	\$1,500
189	1	\$1,500
190	1	\$1,500
191	1	\$1,500
192	1	\$1,500
193	1	\$1,450
194	1	\$1,396
195	1	\$1,367
196	1	\$1,200
197	1	\$1,200
198	1	\$1,100

<b>Attorney<sup>38</sup></b>	<b>Number of CSF Claims Paid</b>	<b>Total Amount Paid</b>
199	1	\$1,045
200	1	\$1,000
201	1	\$950
202	1	\$894
203	1	\$877
204	1	\$600
205	1	\$510
206	1	\$500
<b>Total</b>	<b>718</b>	<b>\$6,921,179</b>

## COST OF THE DISCIPLINE SYSTEM

**Section 6086.15, subdivision (a)(11)** An accounting of the cost of the discipline system by function

Table SR-15 reflects the budgeted cost of programs included in the Supreme Court’s November 2016 order approving an interim special regulatory assessment, which authorized the State Bar to assess 2017 attorney licensing fees for discipline-related functions.<sup>39</sup>

Table SR-15. Cost of the Discipline System <sup>40</sup>	
Chief Trial Counsel	\$52,023,100
Probation	\$1,675,400
Mandatory Fee Arbitration	\$80,900
State Bar Court	\$13,047,400
Professional Competence	\$3,012,500
Attorney Regulation and Consumer Resources	\$5,698,900
Communications (70%) <sup>41</sup>	\$617,500
Licensee Billing (73%) <sup>42</sup>	\$450,900
General Counsel (76.3%) <sup>43</sup>	\$2,953,300
<b>Total</b>	<b>\$79,559,900</b>

<sup>39</sup> The Court’s order included funding for activities of the California Young Lawyers Association (CYLA) related to the discipline system. The CYLA is no longer a part of the State Bar, so those costs are not included in Table SR-15.

<sup>40</sup> The 2019 audit was not completed prior to the ADR submission date; figures reflect actual costs as of March 2, 2020.

<sup>41</sup> This percent reflects the portion of Office of Communications resources devoted to its principal roles, which are to help Californians understand how to access the resources of the discipline system and to ensure that attorneys understand their professional ethical obligations.

<sup>42</sup> This percent reflects the portion of Office of Finance resources dedicated to collecting licensing fees and discipline costs.

<sup>43</sup> This percent reflects the portion of Office of General Counsel resources dedicated to supporting the State Bar’s discipline programs.

## APPENDICES



## APPENDIX A

### Glossary of Attorney Discipline Report Terminology

The State Bar Act (Section 6000 et seq.) and Rules of Procedure adopted by the State Bar Board of Trustees to govern proceedings in the State Bar Court include definitions of many technical terms used in the State Bar's discipline system. Definitions of some of those key terms, as well as definitions of data elements used in this Report, are presented here.

**BACKLOG:** Cases with pendency in OCTC of more than 180 days on December 31. The backlog includes complaints, State Bar initiated inquiries, Probation referrals, reportable actions (excluding criminal conviction matters). Excluded from the backlog, in addition to criminal conviction matters, are unauthorized practice of law cases, motions to enforce fee arbitration, motions to revoke probation and interim suspension and restrictions (petitions pursuant to section 6007). See footnote 10 for a full discussion of the excluded case types.

**CASE:** An individual complaint, Office of Probation referral, State Bar initiated inquiry, reportable action, motion to enforce fee arbitration, motion to revoke probation, motion to terminate practice,<sup>\*</sup> or motion to impose interim suspension or license restrictions (petitions pursuant to section 6007).

**CASE INITIATION DATE:**

- For *complaints*: the date on which the written complaint is received in the Intake Unit<sup>44</sup>
- For *probation referrals*: the date on which the referral is received in OCTC
- For *State Bar initiated inquiries*: the date on which the inquiry is received in the Intake Unit
- For *reportable actions*: the date on which the report is received in the Intake Unit
- For *motions to enforce fee arbitration*: the date on which the Mandatory Fee Arbitration Program files the motion in State Bar Court
- For *motions to revoke probation*: the date on which the Office of Probation files the motion in State Bar Court
- For *petition to terminate practice*:<sup>\*</sup> the date on which the case is opened in the Intake Unit
- For *petition to impose interim suspension or license restrictions pursuant to section 6007*: the date on which the case is opened in the Intake Unit

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<sup>\*</sup> While section 6086.15 directs the State Bar to report on "motions to terminate practice," the State Bar refers to these as "motions to assume jurisdiction pursuant to section 6180 or 6190 (for attorneys) or 6126.3 (for nonattorneys)."

<sup>44</sup> Complaints received after 4:30 p.m. or on non-business days are deemed received on the next business day.

## Appendix A

### **COMPLAINT:** A written complaint submitted by a complaining witness to OCTC:

- A single written complaint that lists multiple respondents is counted as a separate complaint against each respondent
- A single written complaint signed by multiple complaining witnesses (e.g. a married couple) against a respondent is counted as one complaint
- Independently submitted written complaints against a single respondent are counted separately

### **COURT CLOSING DATE:**

- For cases filed in State Bar Court, the date the court records as the closing date of the case
- For initial 6180/6190/6126.3 petitions filed in Superior Court resulting in denial or dismissal of OCTC's petition, the date on which OCTC closes the case
- For initial 6180/6190/6126.3 petitions filed in Superior Court resulting in Superior Court jurisdiction (i.e., granting the petition), the case remains open until OCTC closes the case following the Superior Court granting a petition to terminate Superior Court jurisdiction<sup>45</sup>

### **DISPOSITIONS (OCTC):**

- *Closed with Nondisciplinary Action:* Closed with a warning letter, directional letter, resource letter, or agreement in lieu of discipline
- *Closed with Referral:* Closed upon referral to other processes or agencies, including mandatory fee arbitration, law enforcement,<sup>46</sup> and alternative dispute resolution
- *Filed in State Bar Court:* Formal filing, including Notice of Disciplinary Charges, Stipulation to Facts and Discipline, transmittal of a criminal conviction case, or petition pursuant to section 6007<sup>47,48</sup>
- *Filed in Superior Court:* Petition pursuant to section 6180, section 6190, or section 6126.3 filed in superior court
- *Closed with No Action:* Closed by OCTC with no further action

### **DISPOSITIONS (STATE BAR COURT):**

- For complaints, State Bar Inquiries, Probation Referrals, and Reportable Actions:
  - *Discipline Imposed:* Disbarment, suspension, probation, reproof, revocation of probation, or extension of probation<sup>49</sup>
  - *Closed with Nondisciplinary Action:* Admonition or the granting of a petition pursuant to section 6007

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<sup>45</sup> This may occur many months or years after the initial assumption of jurisdiction petition is granted.

<sup>46</sup> A referral to a law enforcement agency is not, by itself, a reason for closing a case; this disposition captures the number of closed cases that included a referral to a law enforcement agency.

<sup>47</sup> Transmittals of criminal conviction cases are included only in Table 6.

<sup>48</sup> Petitions filed pursuant to section 6007 are not included in 2019 data, as these are regulatory in nature rather than disciplinary.

<sup>49</sup> A case is disposed with "Discipline Imposed" only after a final order of the California Supreme Court imposing discipline becomes effective, or when the State Bar Court issues a reproof.

## Appendix A

- *Closed with No Action*: Closed by the Court with dismissal, termination, or denial of petition

### **DISPOSITIONS (SUPERIOR COURT):**

- *Petition Granted*: Initial petition for assumption of jurisdiction pursuant to section 6180, section 6190, or section 6126.3<sup>50</sup> is granted by a superior court.
- *Petition Denied/Dismissed*: Closed upon denial or dismissal by the court of an initial petition to assume jurisdiction over a practice pursuant to section 6180, section 6190, or section 6126.3

**INITIAL FILING DATE**: The date on which a case is formally filed in State Bar Court or Superior Court by OCTC, Probation, or the Mandatory Fee Arbitration Program

**MOTION TO ENFORCE RESULT OF FEE ARBITRATION**: A motion filed in State Bar Court by the State Bar's Mandatory Fee Arbitration Program to enforce the outcome of a binding fee arbitration<sup>51</sup>

**MOTION TO REVOKE PROBATION**: A motion filed by Probation in State Bar Court to revoke probation of a licensed attorney under Probation supervision<sup>52</sup>

**PENDENCY IN STATE BAR COURT**: Number of days from the Initial Filing Date to the Court Closing Date<sup>53</sup>

**PENDENCY IN SUPERIOR COURT**: Number of days from the Case Initiation Date until the date the Superior Court ruled to either grant or deny the initial petition to assume jurisdiction over a practice pursuant to section 6180, section 61090, or section 6126.3

**PENDENCY**: Number of days between the Case Initiation Date and a specified milestone. Note that Pendency is always calculated from the original Case Initiation Date, regardless of whether the case has been closed and reopened

- *Pendency at Year End in OCTC*: for cases Pending in OCTC at year end, the number of days between the Case Initiation Date and December 31 of that year
- *Pendency at Year End in State Bar Court*: for cases Pending in State Bar Court at year end, the number of days between the Case Initiation Date and December 31 of that year
- *Pendency at OCTC Case Disposition*: the number of days between the Case Initiation Date and the date the case was either closed or filed in State Bar Court
- *Pendency at Closure*: for cases closed during a particular year, the number of days between the Case Initiation Date and the date the case was closed

**PETITION TO IMPOSE INTERIM SUSPENSION OR LICENSE RESTRICTIONS**: A petition filed by OCTC in State Bar Court pursuant to section 6007

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<sup>50</sup> This is treated as the disposition of the case for the purposes of the Annual Discipline Report. However, the case technically remains open until the seized practice is fully resolved, which often takes years.

<sup>51</sup> OCTC plays no role in these proceedings.

<sup>52</sup> OCTC plays no role in these proceedings.

<sup>53</sup> Includes any appellate review and time taken to receive the final order from the Supreme Court, as well as any time during which proceedings are abated while a respondent is participating in the Alternative Discipline Program, which provides monitored support for attorneys receiving substance abuse or mental health treatment who have stipulated to certain facts, conclusions of law, and the level of discipline to be imposed in State Bar Court, prior to entering the Program.

**PETITION TO TERMINATE PRACTICE:** \* A petition filed by OCTC in Superior Court to close down and assume responsibility for the practice of an attorney, former attorney, or nonattorney pursuant to section 6180, section 6190, or section 6126.3

**PROBATION REFERRAL:** Notification from Probation to OCTC of the failure of an attorney under Probation supervision to comply with the terms of probation

**REPORTABLE ACTION:** A report of an event statutorily mandated to be reported to the State Bar:

- *Self-Reported:* Reports received from licensed attorneys regarding themselves pursuant to section 6068, subdivision (o) and section 6086.8, subdivision (c)
- *Other-Reported:* Reports received from specified mandated reporters pursuant to section 6086.7, section 6086.8, subdivisions (a) and (b), section 6091.1, section 6101, subdivision (b), and section 6175.6

**STATE BAR INITIATED INQUIRY:** An inquiry into possible misconduct of an attorney initiated by OCTC based on information other than a written complaint, Probation referral, or reportable action

**SUSPENDED MATTERS:** Matters that are abated by OCTC or after filing in State Bar Court. This action is usually taken where there are other investigations or cases pending against a respondent and prosecution of those other complaints is likely to result in disbarment of the lawyer. Suspended matters pending more than six months from receipt without the filing of disciplinary charges are included in the backlog.

**UNAUTHORIZED PRACTICE OF LAW (UPL):** Active State Bar license status is a requirement for practicing law in California. State Bar Rules, as well as state law, provide authority to investigate UPL, seek civil penalties, assume jurisdiction over the practice, and refer violations to law enforcement authority. These activities may be directed toward attorneys licensed in other states but not in California; suspended, disbarred, or otherwise inactive or formerly licensed California attorneys; and those who have never been licensed to practice law.

## APPENDIX B

### Potential Conflicts of Interest: Rule 2201

The purpose of State Bar Rule of Procedure 2201 is to ensure impartiality in disciplinary decision-making and to avoid the appearance of bias. Rule of Procedure 2201 requires the recusal of the Office of Chief Trial Counsel in any case involving individuals with close ties to the State Bar. Pursuant to Rule 2201, all complaints against attorneys who are identified as falling into a Rule 2201 category are automatically referred to a Special Deputy Trial Counsel (SDTC) Administrator, who conducts a preliminary review to determine whether to close the matter or appoint an SDTC to investigate the matter further. The rule allows the Administrator and SDTC to be compensated for services rendered and for reimbursement of costs and expenses in all rule 2201 matters. Table B provides information about cases falling under Rule 2201.

Table B. Complaints Subject to Rule 2201<sup>54</sup>

	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
Closed without Investigation	56	66	56	74
Closed after Investigation	9	68	78	31
Pending assignment to SDTC	5	6	16 <sup>55</sup>	0
Pending in Investigation	38	47	73	34
<b>Total</b>	<b>108</b>	<b>187</b>	<b>223</b>	<b>139</b>

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<sup>54</sup> These cases are included among the complaints reported in the body of the Annual Discipline report; this data is provided to highlight the number of cases that fall under this rule.

<sup>55</sup> These cases were received in late 2018 during the transition to a new SDTC Administrator. Of the 16 cases received, 9 were closed without investigation and 7 were assigned to SDTCs by the new Administrator, in January 2019.

## **APPENDIX C**

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

In California, an attorney is licensed when admitted to the State Bar; only attorneys with active status 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, disbars, or suspends a lawyer from the practice of law.

In California's attorney discipline system, communication and information concerning alleged misconduct of California lawyers is handled by the State Bar's Office of Chief Trial Counsel (OCTC). OCTC investigates those complaints involving allegations of professional misconduct and may initiate and prosecute disciplinary proceedings in State Bar Court (Court). The Hearing Department of the Court conducts evidentiary hearings and renders a decision with findings and recommendations of discipline that are reviewable by the Court's Review Department. In each case, the Court's final decision and accompanying record are then transmitted to the Supreme Court. In cases where the 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.<sup>56</sup> Following is a more detailed description of the attorney discipline process.

#### **INQUIRY**

The disciplinary process typically begins with receipt of a written complaint in OCTC. Staff in OCTC receive and review complaints that allege ethical misconduct by an attorney or the unauthorized practice of law by a nonattorney. OCTC conducts the initial review of a complaint to determine whether to close it or forward it for investigation. If a complaint sufficiently alleges misconduct, OCTC assigns it for investigation. If it does not, OCTC closes the complaint.

Some complaints lack sufficient detail to allow OCTC to make an informed decision at the outset as to whether or not to assign a case for investigation. In these cases, OCTC will seek additional information to determine the next steps. This information gathering may involve contacting the complainant, reviewing court records, searching the internet, or conducting legal research. For example, in evaluating an allegation of failing to perform competently, if it is unclear whether an attorney-client relationship exists, OCTC will contact the complainant to try to secure a fee agreement or other evidence of such a relationship. If a complaint involves a violation of a court order, OCTC will attempt to obtain a copy of the order if it is not included with the complaint. If a complaint alleges failure to return an unearned fee, OCTC may request billing statements or an accounting to determine if there is a plausible claim of misconduct, and may assist the complainant in recovering fees from the respondent.

#### **INVESTIGATION**

Investigations are carried out by investigators in OCTC, under the guidance and supervision of OCTC attorneys. Investigators may interview witnesses and respondents, subpoena and analyze bank records, obtain court documents, and otherwise evaluate and analyze the case to

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<sup>56</sup> Public and private reprovals are also considered formal discipline; issuance of a reproof by the Court does not require Supreme Court action.

## Appendix C

determine whether there is clear and convincing evidence of attorney misconduct that would allow OCTC to bring disciplinary proceedings in Court. After a determination to proceed with disciplinary proceedings, the complaint advances to the pre-filing stage.

When multiple complaints are made against the same attorney, OCTC may focus its resources and prosecutorial efforts on those complaints most likely to result in disbarment. In such an event, the investigation of the other complaints may be suspended or “held.” If the Supreme Court orders the attorney's disbarment, prosecution of the suspended cases will no longer be necessary and the remaining complaints will not be investigated further.<sup>57</sup> If the attorney is not disbarred, however, OCTC may re-activate any suspended investigations. If an attorney is the subject of a criminal prosecution or party to civil action for the same misconduct, OCTC may suspend its investigation until the criminal or civil proceedings have concluded.

### PRE-FILING

Before finalizing formal charges, OCTC evaluates the evidence gathered during the investigation and any subsequent information received from the respondent or other source. Where OCTC has determined there is sufficient evidence to file a Notice of Disciplinary Charges, OCTC will notify the respondent in writing of the intent to file such charges and the attorney’s right to request a confidential Early Neutral Evaluation (ENE) conference. Either party may request an ENE before a State Bar Court judge who will orally evaluate the facts, charges, and potential for discipline. Prior to the ENE, OCTC must provide the ENE judge with a draft or summary of the charges and OCTC’s settlement position. Regardless of whether either party requests an ENE, OCTC also provides the respondent an opportunity to request informal discovery and to discuss potential settlement. If the parties are unable to reach a resolution or the respondent does not respond to OCTC’s written notice, OCTC will proceed to file charges.

After the filing of formal charges, the parties may explore the appropriateness of participation in the Alternative Discipline Program (Program) for respondents with substance abuse and/or mental health concerns. Participation is contingent upon the following: (1) the Court’s approval of a stipulation of facts and conclusions of law signed by the parties; (2) evidence that the respondent’s substance abuse or mental health issue causally contributed to the misconduct; and (3) respondent’s acceptance into the State Bar’s Lawyer Assistance Program (LAP). The extent and severity of the respondent’s stipulated misconduct, including the degree of harm suffered by their clients, if any, are factors in determining eligibility for the Program. The stipulation includes the level of discipline that will be imposed if the program is completed successfully, and a higher level of discipline that will be imposed if the attorney does not complete the program. If the respondent successfully completes the Program, the disposition may be dismissal of the charges or proceeding or some other level of discipline less than disbarment; if the respondent does not complete the Program, the higher level of discipline will be imposed.

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<sup>57</sup> Complainants in cases dismissed under these circumstances are eligible for reimbursement through the Client Security Fund.

## **HEARING AND REVIEW**

After the filing of disciplinary charges, OCTC prosecutes the case in the Hearing Department, which is the trial level of the Court. Five full-time judges hear and decide cases, and make recommendations to the Supreme Court in cases where proposed discipline includes suspension or disbarment. If the discipline is limited to reproof, it is imposed by the Court without review by the Supreme Court.

The Review Department is the appellate level of the State Bar Court, consisting of the presiding judge and two other review judges. The three-judge panel acts on a statewide basis to conduct de novo reviews of Hearing Department decisions and orders in cases in which at least one of the parties has sought review. Review judges review and decide cases, and make recommendations to the Supreme Court in cases in which one or both of the parties have sought review of a Hearing judge's decision, exercise temporary suspension and other powers delegated to it by the Supreme Court according to rule 9.10, California Rules of Court; and conduct discretionary interlocutory review on issues materially affecting the outcome of the Hearing Department cases.

## **SUPREME COURT**

Upon the filing of the Court's decision and the record, the Supreme Court conducts its own independent determination and action. Discipline is not imposed until the Supreme Court issues its final order or decision.

Chart C1 on the following page shows the flow of client complaints, as described above. Charts C2 and C3 on the subsequent pages reproduce the brochure published on the State Bar's website in English and Spanish and provided to members of the public who contact the State Bar.



Chart C1: Client Complaint Process



The State Bar  
of California

## Client Complaint Process

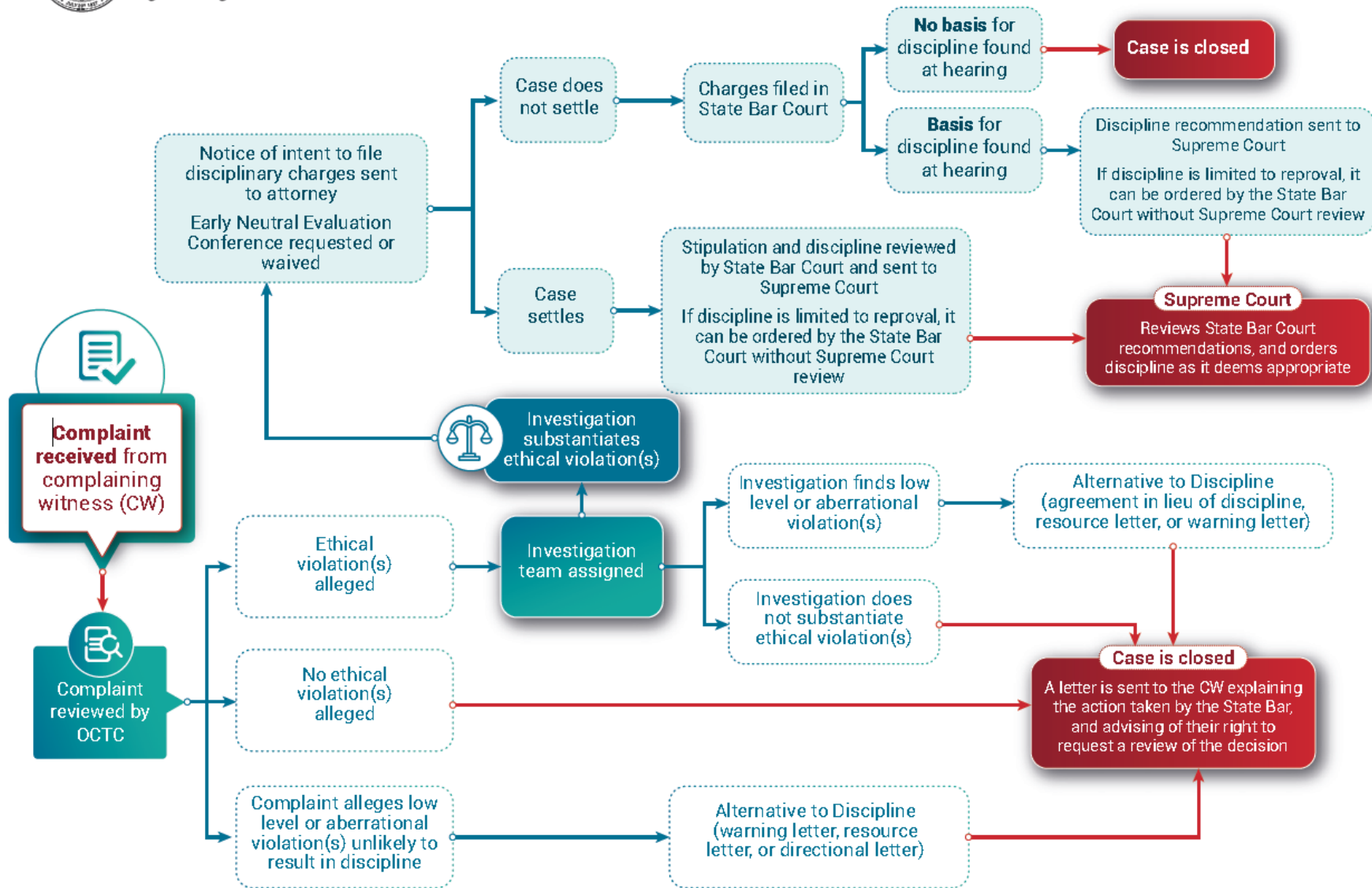


Chart C2: Client Complaint Flow Chart



The State Bar  
of California

## What Happens After I File a Complaint Against an Attorney?

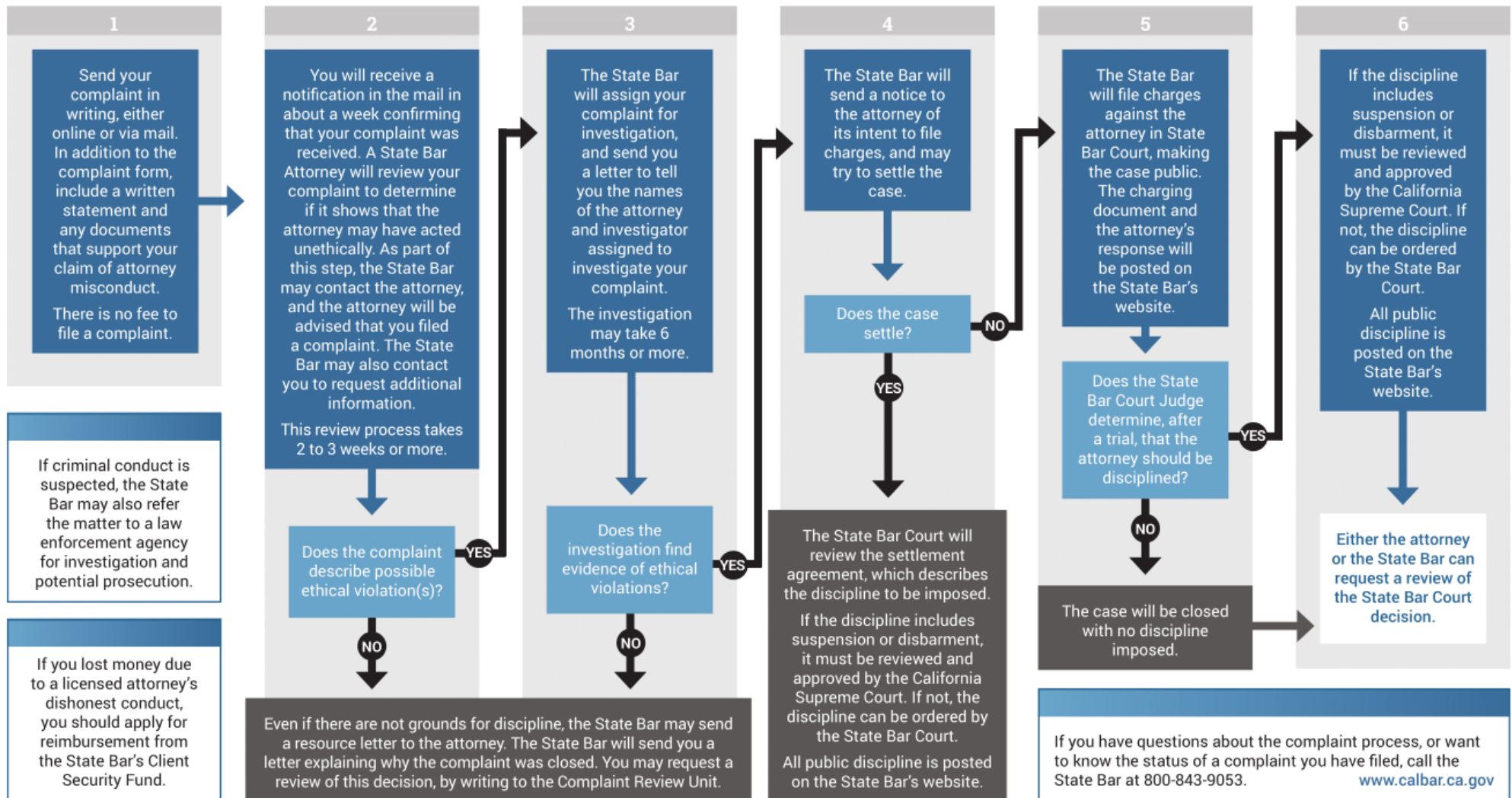
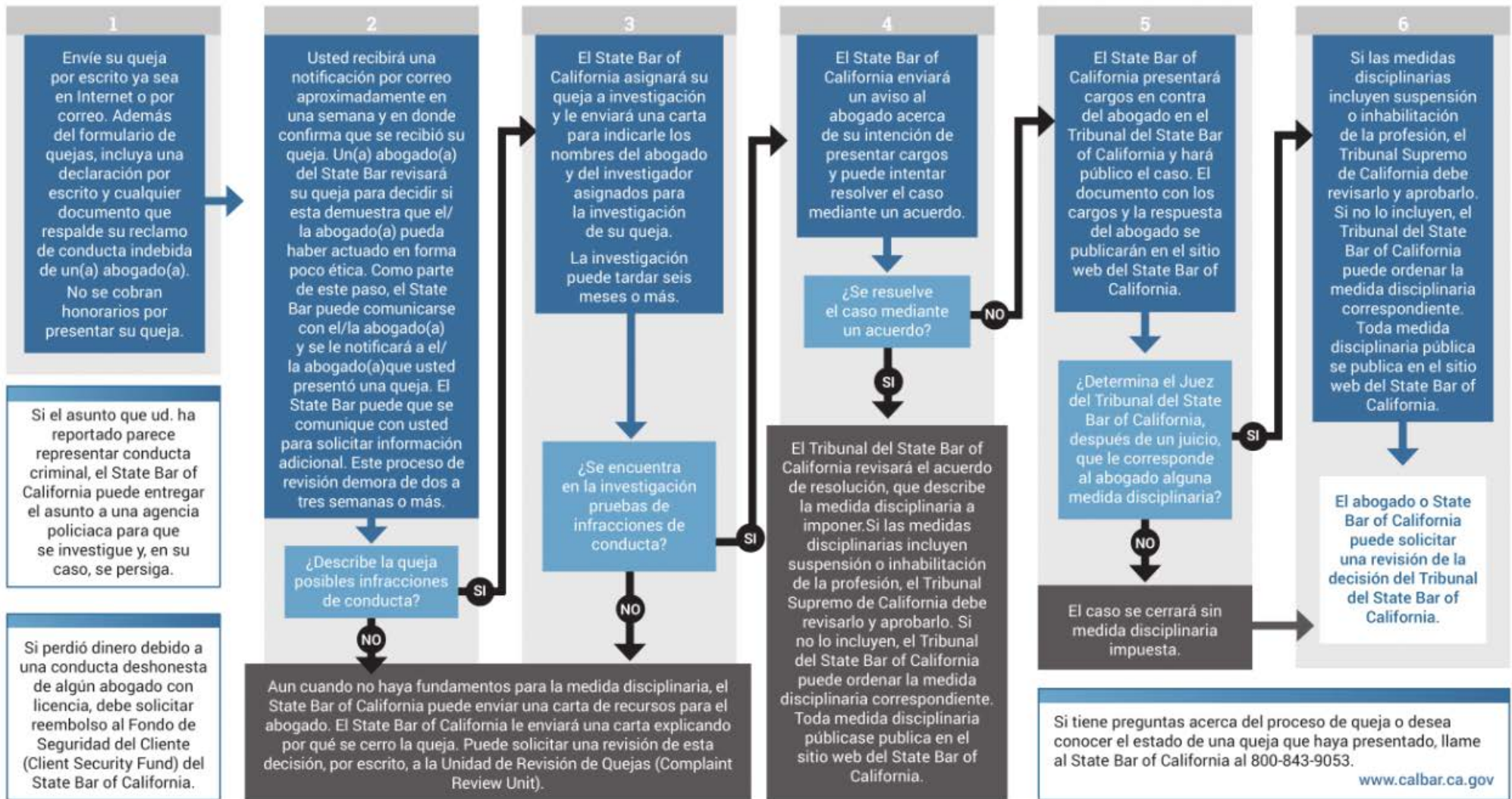


Chart C3: Client Complaint Process (Spanish)



The State Bar  
of California

## ¿Qué sucede cuando presento una queja contra un abogado?





## APPENDIX D

### Case Prioritization System

In March 2018, the Board of Trustees approved the following definitions, developed by OCTC, to classify which cases pose the greatest potential harm to the public:

- *Priority One* (P1) includes those cases that present significant, ongoing, or serious potential harm to the public; cases involving vulnerable victims including immigrants and seniors; cases of client abandonment; abusive or frivolous litigants; and, those engaging in or abetting the unauthorized practice of law. OCTC devotes the most investigation and prosecution resources to pursuing P1 cases.
- *Priority Two* (P2) includes those 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, after the initial assessment, 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. Other cases that are classified as P2 include cases that are likely to be resolved with Nondisciplinary action; non-P1 cases that are likely to be resolved within 60 days of assignment; and cases in which there are multiple complaints against the same attorney that do not rise to the level of P1 cases.
- *Priority Three* (P3) includes cases that do not represent a serious threat to the public but that are likely to be more time-consuming and labor intensive than P2 cases. For example, an attorney with no prior discipline who fails to perform in one or more client matters (not evidencing abandonment of a practice) or an attorney who, with gross negligence, misappropriates a sum less than \$25K from a client and has since made restitution.
- *Priority Four* (P4) is assigned to all cases that meet the criteria for P2, but for which there are insufficient resources to expedite the matter.

On the following two pages, Table D provides detailed information about the case prioritization system.

**Table D: Case Prioritization System Criteria**

Priority	Criteria	Details
<b>1</b>	Significant, Ongoing, or Serious Potential Harm to the Public	<ol style="list-style-type: none"> <li>Respondent has prior discipline that includes an actual suspension and the current alleged misconduct has caused either significant or continuing harm, or the misconduct will cause future harm.</li> <li>Respondent has been disbarred, has been reinstated, and has committed new disciplinable misconduct (i.e., the current alleged misconduct is more than a low level ethical violation that is not likely to recur or is unlikely to result in discipline).</li> <li>Respondent, whether from a Client Trust Account or any other source, has: a) intentionally misappropriated funds, regardless of the amount, b) misappropriated \$25,000 or more, or c) misappropriated funds and has not paid restitution. This criterion does not include mishandling through mere inadvertence (i.e., conduct that does not demonstrate intentional or grossly negligent appropriation).</li> <li>Respondent has committed misconduct against a vulnerable victim, including but not limited to aged, incapacitated, infirm, disabled, incarcerated, immigrant persons, or minors, and the misconduct has adversely affected the victim or the outcome of the matter (e.g., loss of rights or remedies), resulted in serious harm, or the misconduct was committed against three or more vulnerable victims.</li> <li>Respondent has entered into a business transaction with a client or acquired a pecuniary interest that is adverse to the client, and the client was significantly harmed (e.g., money, equity, or rights belonging to the client improperly came under, and remains under, the control of the respondent, the conflict has led to the abandonment of the client or a failure to abide by the client's lawful direction, etc.).</li> </ol>
	Abandonment	<ol style="list-style-type: none"> <li>Respondent has abandoned three or more unrelated clients and either: a) is not cooperating with State Bar investigations, b) has not refunded unearned fees, or c) has not returned a client file.</li> <li>Respondent has failed to return a client file following a request from the State Bar to return the file and the matter is one where time is of the essence, for example, claims may become time-barred by a statute of limitations, the case is currently pending, or there are pending appeal rights.</li> <li>Respondent has abandoned their law practice.</li> </ol>
	Abusive and/or Frivolous Litigants	<ol style="list-style-type: none"> <li>Respondent has been judicially sanctioned for engaging in abusive or frivolous litigation and either: (a) respondent has engaged in a pattern of misconduct or (b) respondent is continuing to engage in abusive or frivolous litigation.</li> </ol>
	Unauthorized Practice of Law	<ol style="list-style-type: none"> <li>Respondent has engaged in the unauthorized practice of law and either: (a) has caused harm to two or more unrelated victims, (b) has not returned illegal or unearned fees to two or more unrelated victims, or (c) has caused harm to a vulnerable victim, including but not limited to aged, incapacitated, infirm, disabled, incarcerated, immigrant persons, or minors.</li> <li>Respondent has aided and abetted the unauthorized practice of law by abdicating control of his law practice to nonattorneys, resulting in client harm.</li> </ol>
	Management Discretion	<ol style="list-style-type: none"> <li>Other cases wherein management and/or a Supervising Attorney, in their discretion, concludes that respondent has caused serious harm; concludes that respondent has engaged in intentional ethical violations; or otherwise concludes the matter is appropriate for Priority One treatment.</li> </ol>
	Except for criterion 10, regarding the unauthorized practice of law, cases are not designated Priority One unless the respondent is on active status or will be able to return to active status within one year.	

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Priority	Matters Included
<b>2</b>	<ol style="list-style-type: none"> <li>1. All matters wherein an Expeditor or Intake Unit attorney, based on their experience, determines will likely close with a response from the respondent attorney.</li> <li>2. All files that an Expeditor or Intake Unit attorney, based on their experience, believes contain insufficient information to determine whether a colorable charge exists and therefore requires further work, such as calling a complaining witness to obtain certain documents, before a trial counsel can make an informed decision about the need for further investigation.</li> <li>3. All matters wherein a colorable charge exists but an Expeditor or Intake Unit attorney, based on their experience, determines that the matter will likely result in Nondisciplinary actions, such as the issuance of warning letters or resource letters.</li> <li>4. All non-Priority One matters wherein an Expeditor or Intake Unit attorney, based on their experience, determines that the matter can be resolved within 60 days of assignment.</li> <li>5. All matters wherein the respondent has three or more open grievances or a current grievance and a history that includes five or more closed grievances within the past two years involving similar allegations, but those grievances do not rise to the level of the Priority One category.</li> <li>6. Other matters wherein management and/or a Supervising Attorney, in their discretion, concludes the matter is appropriate for expedited treatment.</li> </ol>
<b>3</b>	All matters that do not fall into a different priority code.
<b>4</b>	All cases that meet the criteria for Priority 2, but for which there are insufficient resources to expedite the matter.

## APPENDIX E

### Discipline System Metrics

The Board of Trustees adopted discipline system metrics in September 2018. These metrics were developed, in part, in response to the State Auditor's recommendation that the State Bar "identify key goals and metrics to measure how well its attorney discipline system is meeting the State Bar's core mission to protect the public from attorney misconduct."<sup>58</sup> In support of this recommendation, the State Bar's initial five-year strategic plan for 2017-2022 included the following goal: "Develop and implement transparent and accurate reporting and tracking of the health and efficacy of the discipline system," which specifically includes the "development of new metrics for measuring the effectiveness of the discipline system including any needed revisions to the statutory backlog metric."<sup>59</sup>

Specific metrics were developed for each operational area of the discipline system, which include:

- Office of Chief Trial Counsel;
- State Bar Court;
- Office of Probation;
- Alternative Discipline Program (ADP) of the Lawyer Assistance Program (LAP); and
- Client Security Fund (CSF).

Most metrics include targets for accountability purposes. All metrics are tracked regularly; depending on the metric, reporting frequency varies between monthly, quarterly, semiannually, or annually. Metric results are reported to the Board of Trustees at each of their bimonthly meetings and the Executive Director discusses metrics that did not meet their goals in his/her report to the Board.

Metric results for 2019 are provided on the pages that follow.

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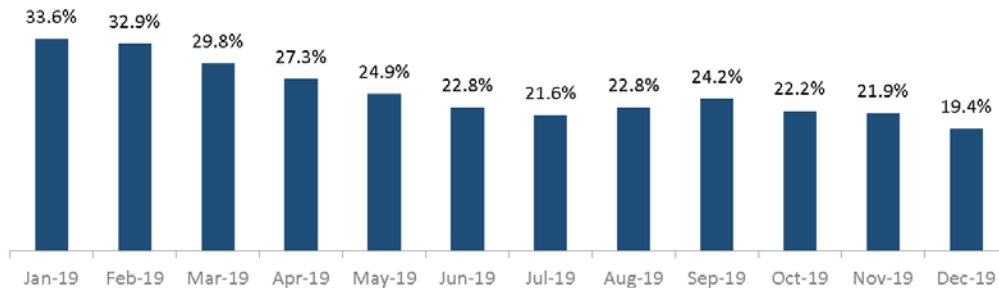
<sup>58</sup> California State Auditor. *Report 2017-30, The State Bar of California: It Needs Additional Revisions to its Expense Policies to Ensure That it Uses Funds Prudently*. June 2017. <https://www.bsa.ca.gov/pdfs/reports/2017-030.pdf>

<sup>59</sup> The State Bar of California. 2017-2022 Strategic Plan. Updated March 2019. See Goal 2b on page 3. [http://www.calbar.ca.gov/Portals/0/documents/bog/2017-2022\\_FiveYearStrategicPlan.pdf](http://www.calbar.ca.gov/Portals/0/documents/bog/2017-2022_FiveYearStrategicPlan.pdf)

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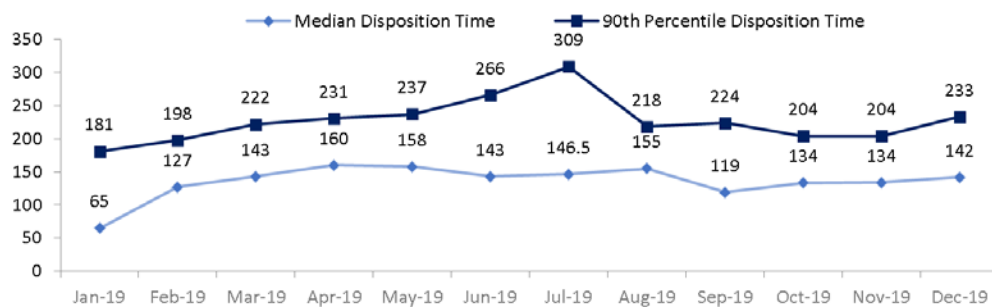
### Office of Chief Trial Counsel

#### Metric OCTC-1: Minimize number of P-1 cases in backlog



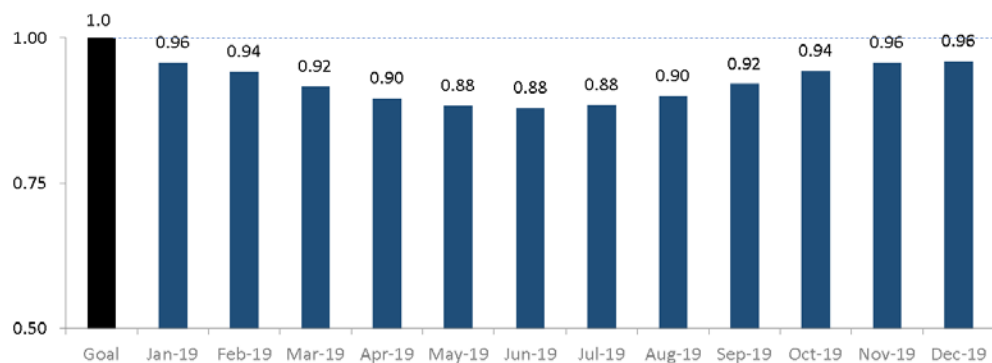
Note: This metric is calculated as the percent of total cases in inventory that are Priority One (P-1) cases. Only cases that are reported for the statutorily mandated Annual Discipline Report (ADR) are considered.

#### Metric OCTC-2: Ensure P-2 cases are processed in an expedited fashion



Note: Disposition times are calculated as number of days between case origination and closure. Only ADR cases are counted.

#### Metric OCTC-3: Maintain annual caseload clearance rate of at least 1.0

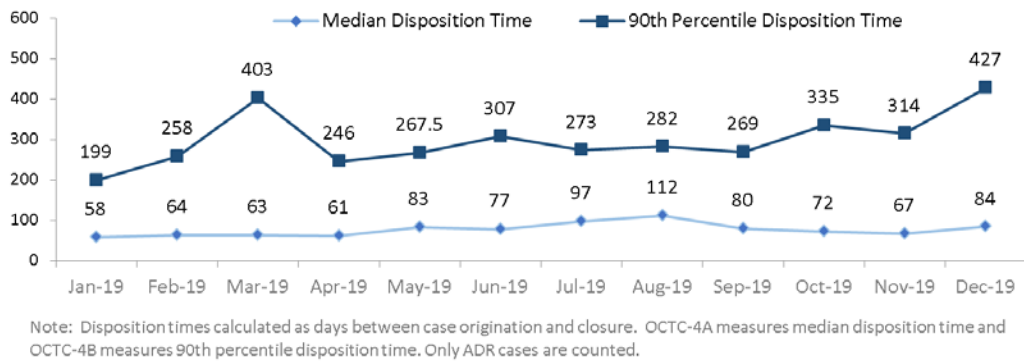


Note: This metric is a ratio of cases closed to cases opened and is calculated using a 12 month rolling average to smooth out month to month fluctuations. Only ADR cases are counted.

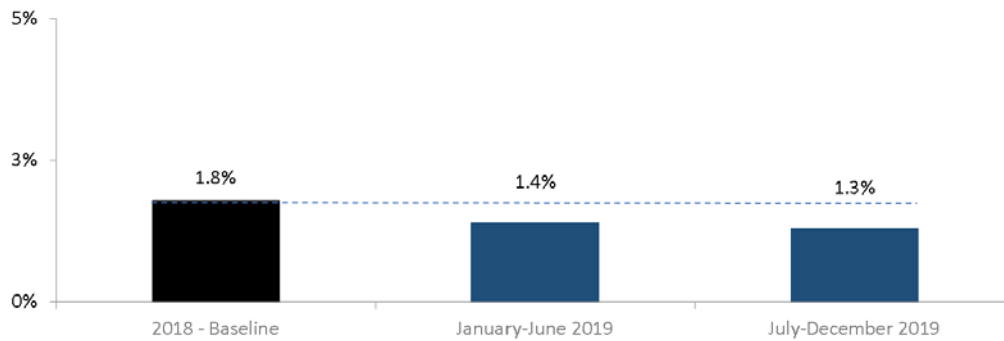


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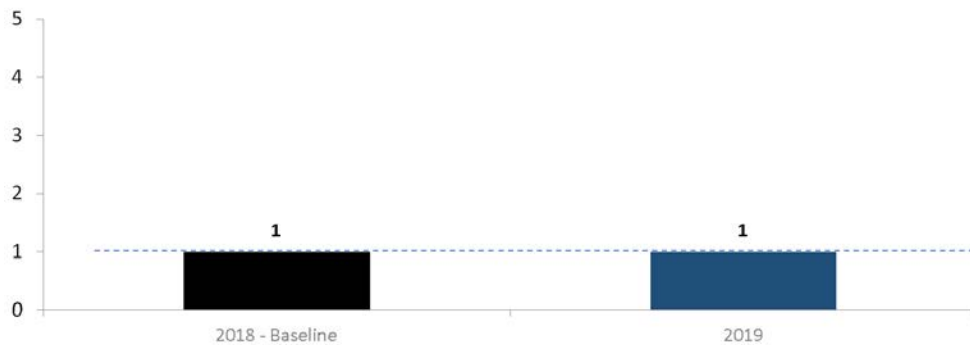
### Metric OCTC-4A & OCTC-4B: Case disposition times



### Metric OCTC-5A: Maintain current level of Complaint Review Unit reopens for reasons other than new evidence

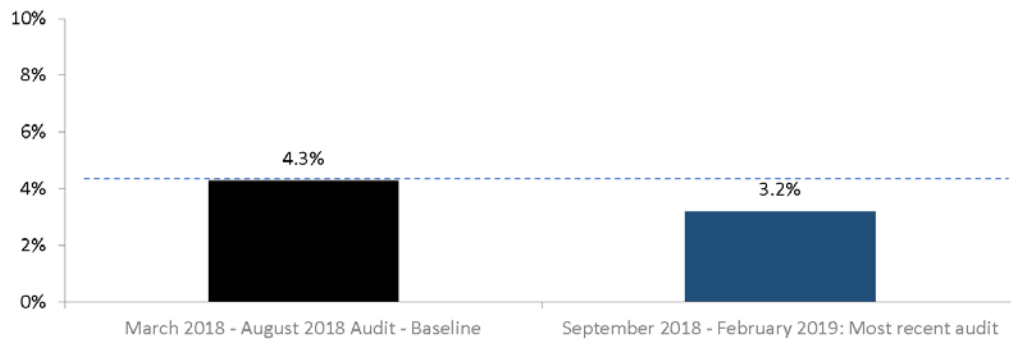


### Metric OCTC-5B: Maintain current level of Walker reopens



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### Metric OCTC-5C: Decrease the number of random audit reopens for substantive reasons



### Metric OCTC-6: Cases in inventory at months end



Note: This chart describes cases that are reported in the statutory mandated reporting of backlog cases as part of the Annual Discipline Report.

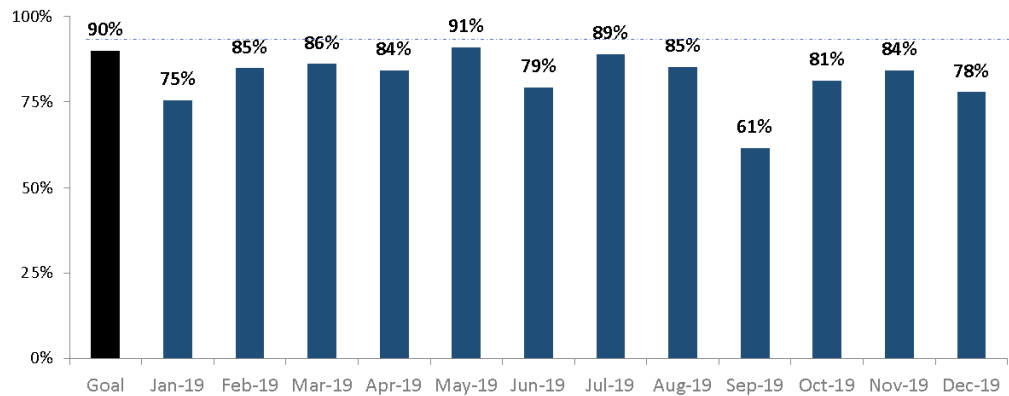
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### State Bar Court

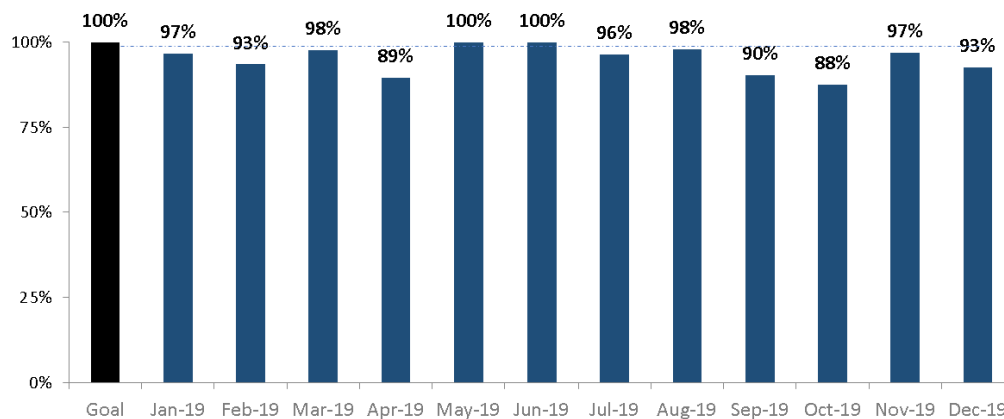
#### Metric SBC-1: Maintain annual caseload clearance rate of at least 1.0



#### Metric SBC-2A: 90 percent of hearing department cases reach final outcome within timeline requirements

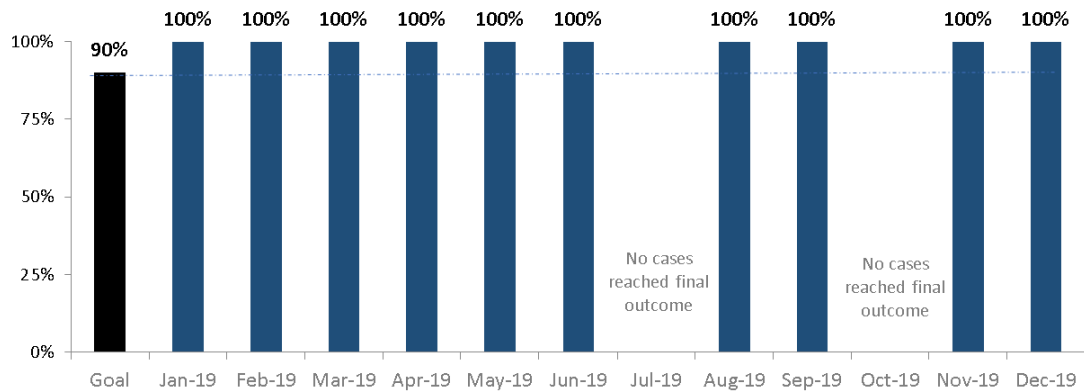


#### Metric SBC-2B: All hearing department cases reach final outcome within 150 percent of timeline requirements

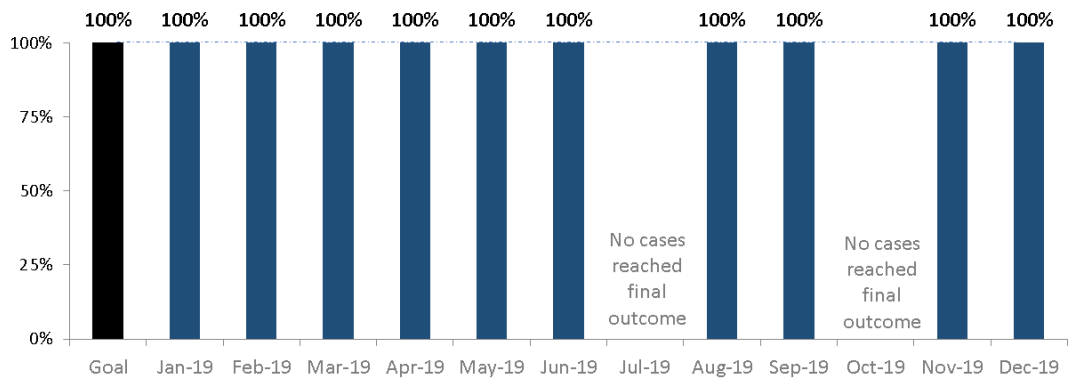


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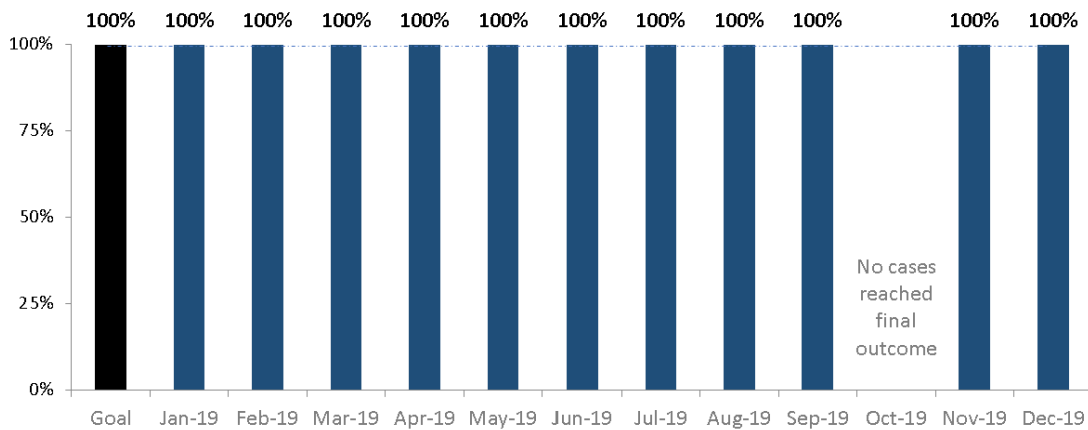
### Metric SBC-2C: 90 percent of review department cases reach final outcome within timeline requirements



### Metric SBC-2D: All review department cases reach final outcome within 150 percent of timeline requirements

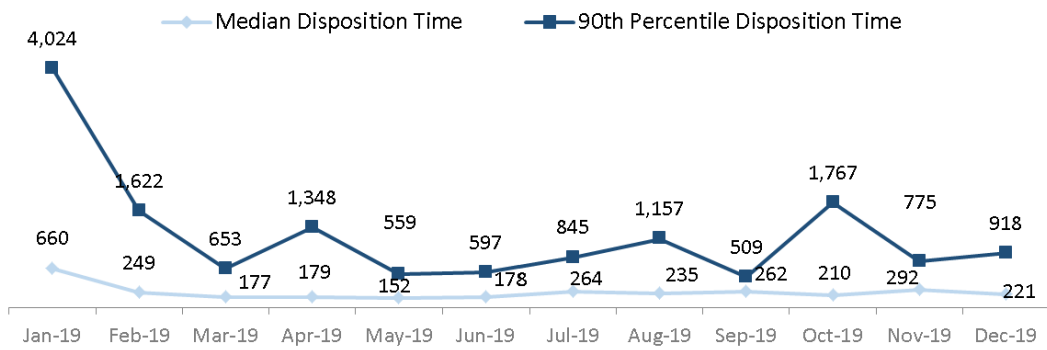


### Metric SBC-2E: All effectuation cases processed within established timeline requirements



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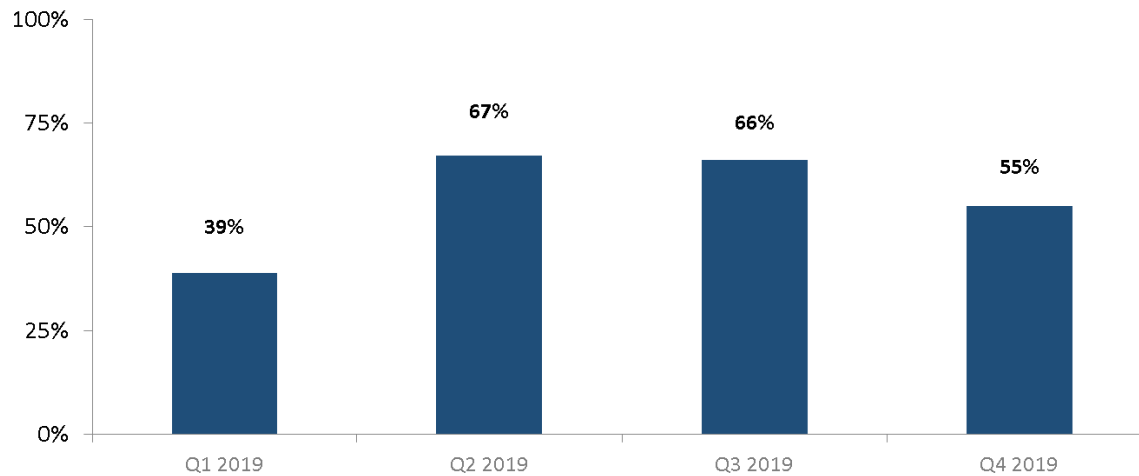
### Metric SBC-3: Case median and 90th percentile disposition times



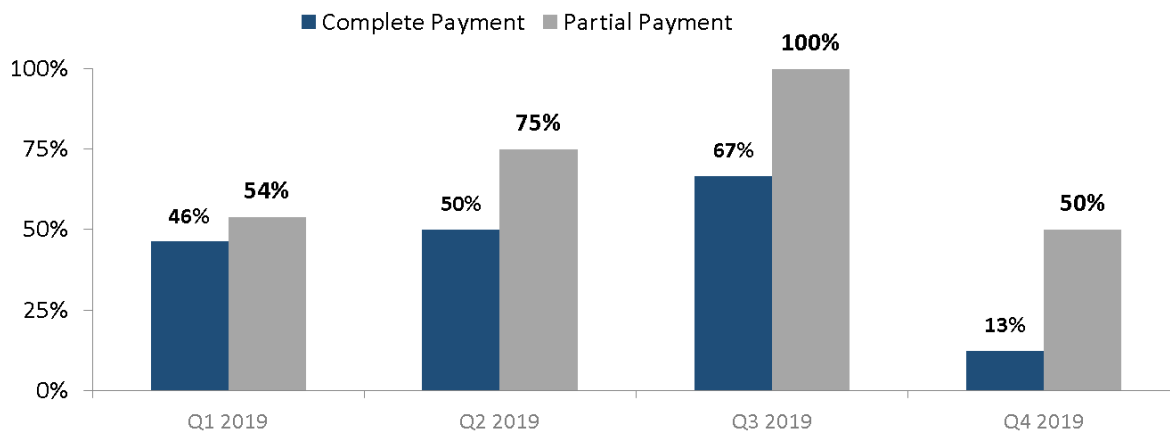
Note: Disposition times are calculated as time between case origination and closure, with time spent in Supreme Court not included.

### Metric SBC-4: Maintain current levels of reversals and remands

	Baseline	
	Jan. - June 2019	July - Dec. 2019
Petitions seeking review:	7	6
Petitions granted:	1	0
Petitions denied:	6	4
Remands:	1	0

**Office of Probation****Metric P-1: Successful Completion Rate**

Note: Case types included for this metric are 9.20 matters without Supreme Court numbers, Reproval, and Probation cases which have conditions ordered to be completed. "Successful Completion" tracks cases in which the ordered conditions were completed timely or without being referred (including "During Actual" and "And Until" conditions, except for Standard 1.2(c)(1)).

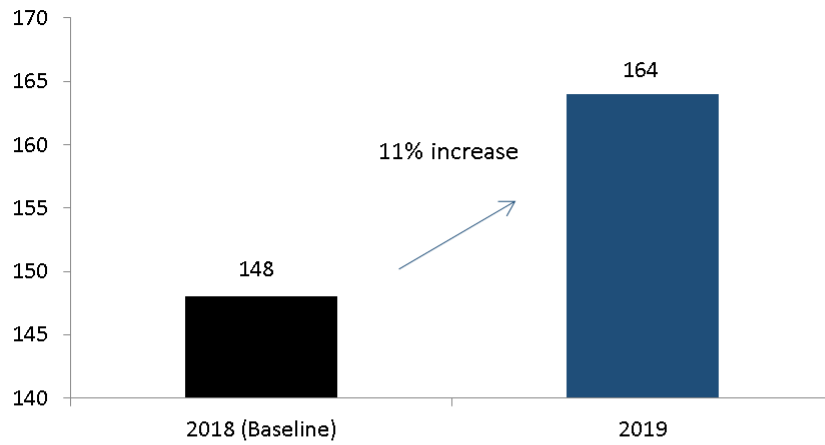
**Metric P-2: Successful Completion of Restitution**

Note: Case types included for this metric are Reproval and Probation cases which have restitution orders. "Complete Payment" tracks cases in which the Office of Probation has proof of full payment on or before the closing date. "Partial Payment" tracks cases in which the Office of Probation has proof of partial payment made on or before the closing date.

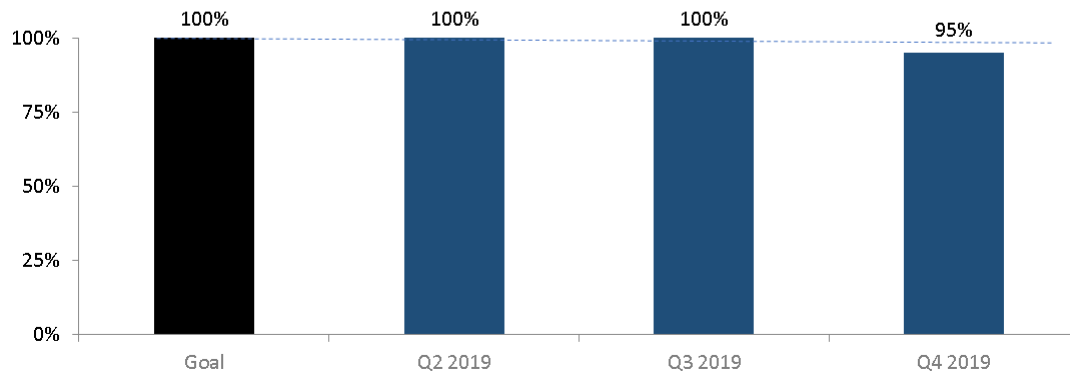
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### Lawyer Assistant Program

#### Metric LAP-1: Increase intakes by 10% by Q4 2019

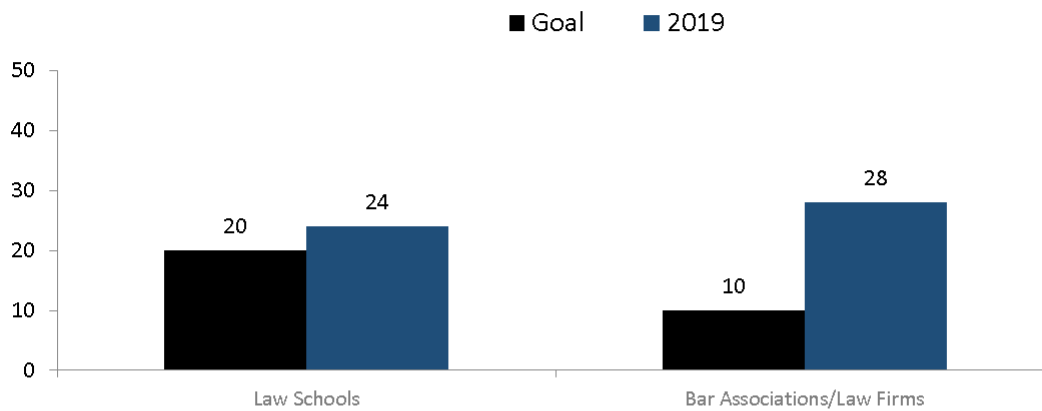


#### Metric LAP-2: Respond to 100% of requests for presentations within two business days

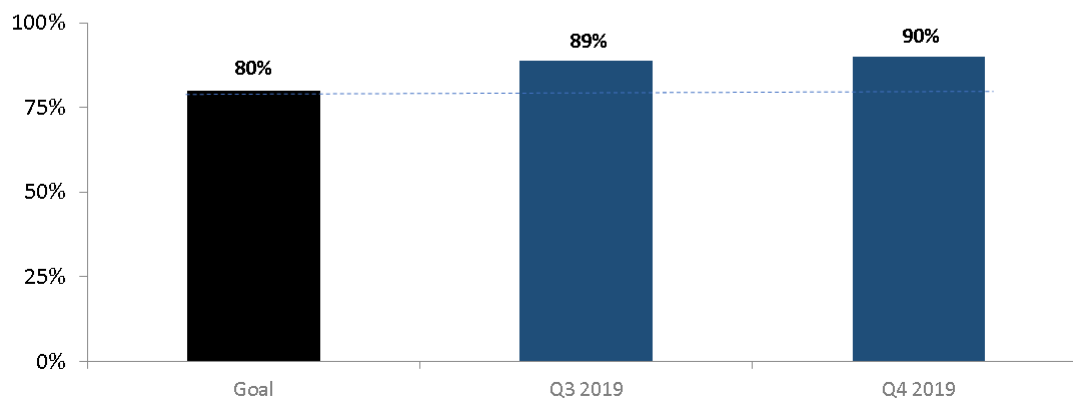


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### Metric LAP-3: Complete 20 law school presentations and 10 bar association/ law firm presentations in 2019



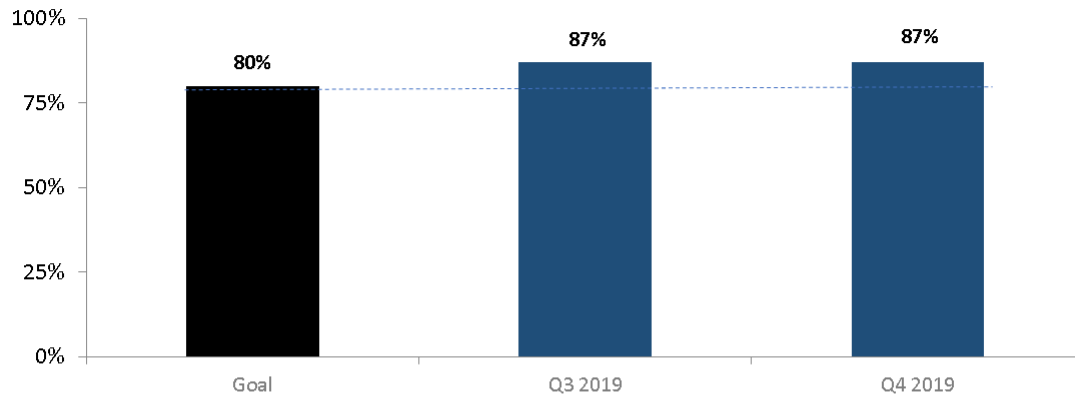
### Metric LAP-4A: 80% of participants report that the Lawyer Assistance Program addressed their goals



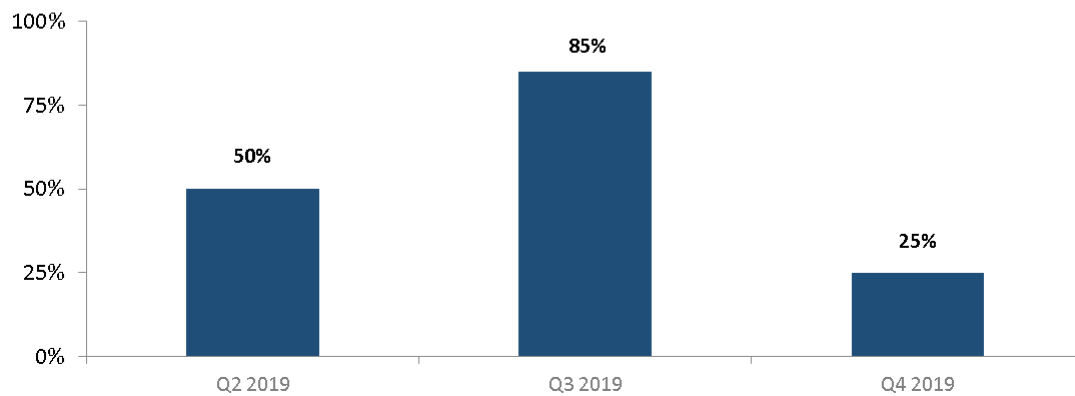


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### Metric LAP-4B: 80% of participants are satisfied with their Lawyer Assistance Program experience



### Metric LAP-5: Track successful completion rates for Alternative Discipline Program cases



**Client Security Fund**

**Metric CSF-1: Provide status update to 100% of applicants at least twice a year**

January - June 2019: metric met  
July - December 2019: metric met

**Metric CSF-2: Ensure timely, accurate budget allocations for reimbursements**

Metric met

**Metric CSF-3: Develop and monitor annual benchmarks for number of cases to be resolved based on annual budget and pending inventory by Q1 annually**

**2019 Benchmark:** Resolve 1,150 cases and have 200 cases "in process pending available funding" for a total of 1,350 case resolved.

**2019 Actual:** Resolved 1,270 case and ended with 265 cases "In process pending available funding" for a total of 1,535 cases resolved.

**Metric CSF-4: Develop and monitor target for time to payout after final disposition based on resource availability by Q1 annually**

**2019 Benchmark:** Reduce time from jurisdiction to resolution by 5 percent.

**2019 Actual:** Reduced time by 7 percent.

**Metric CSF-5: Develop and monitor annual benchmarks for cases resolved by staff to monitor caseload clearance rate, caseload inventory, and improvements in efficiency after transitioning Tentative Decisions to staff**

**2019 Benchmark:** Measure efficiency (defined as a decreased in time from service to resolution)

**2019 Actual:** Reduced time from service to resolution by 27.1 days compared to 2016-2018.

## APPENDIX F

### Report Methodology

Until 2018, the State Bar used the AS400 database to manage information in the Office of Chief Trial Counsel (OCTC), Probation, and State Bar Court (SBC). While the AS400 is a functional database, it is an antiquated system lacking many key features required for a modern case management system, such as paperless handling of cases.

The State Bar identified Odyssey as a replacement for the AS400 for handling discipline cases, and spent several years working with the Odyssey developer, Tyler Technologies, to configure Odyssey to the State Bar's needs. Beginning in mid-2018, Odyssey was used for case management and tracking of discipline cases. In 2018, cases were entered in both Odyssey and the AS400; the 2018 Annual Discipline Report was based on data drawn from the AS400.

#### Prior Year Data

Beginning in 2019, case management transitioned entirely to Odyssey, and information was no longer entered into the AS400. While data from the AS400 was converted into Odyssey, the migration of prior year data was not perfect. Replication of prior year data for the ADR from Odyssey proved challenging, requiring significant staff resources to identify and correct data migration errors. A decision was made to instead “freeze” data reported in the 2018 Annual Discipline Report that were previously obtained from the AS400. As new data is available in Odyssey, it will be reported in future Annual Discipline Reports, as follows:

Data Source	2019 ADR	2020 ADR	2021 ADR	2022 ADR
<b>Odyssey</b>	2019	2019-2020	2019-2021	2019-2022
<b>AS 400</b>	2016-2018	2017-2018	2018	None

#### Changes to Cases Included in Statutory Tables

The transition to Odyssey, which allows for more detailed case information, provided an opportunity to review details of the cases included in the tables to ensure that they align with the statutory language. As a result of this review, the following changes were made:

- Interim suspensions are no longer being reported at all in SR-1A, SR-1B, SR-2, and SR-5 for 2019, as they are regulatory in nature rather than disciplinary.
- Reportable actions pertaining to “Civil Penalties” and “Discipline By Other Licensing Agency” have been added to both reportable action sections in SR-1A, SR-1B, SR-2, and SR-5 for the first time.
- Suspensions in SR-6B, have now been split into two sections, “Suspension Actual/Probation” and “Suspension Stayed/Probation,” to better define this category.
- For SR-8 and SR-9, a new row showing “Cease and Desist Letters Sent” was added, to better reflect the work that is done in OCTC cases that were closed with no action.
- The sections for cases remaining in superior court at year end have been removed from SR-7A, SR-8, and SR-9, as these are not relevant OCTC measures and are not mandated reporting elements.

**Data Extraction**

The data in Odyssey is stored in a series of highly normalized databases, which means there are many tables that need to be reviewed in order to locate the ones that are needed. Using Structured Query Language (SQL) the State Bar currently extracting 38 tables on a regular basis to create 17 datasets. These datasets are then converted to Stata data files; Stata is a statistical analysis software package that allows the State Bar to filter, shape and analyze the data needed for the ADR tables. Stata also allows us to program and automate the conversion of the raw data for the ADR, to give consistent results that are easy to reproduce as time goes on.

The datasets are separated into the different functional areas used when entering the data into Odyssey. For instance, there is a dataset for case summary, showing case number, case type, file date etc., while another dataset is focused on the various events that a case goes through. The common thread between the datasets is an ID number that can be used to link them together. The following describes how each data element of the statutory tables was derived:

**SR-1A. Backlog****Main Categories**

Type	Method
Complaints	Original complaints submitted by a complaining witness.
State Bar Initiated Inquiries	Original complaints initiated by the State Bar.
Probation Referrals	A probation violation, reprobation violation or a 9.20 violation as per Supreme Court order.
Reportable Actions, Self	A self-reported action concerning an insurance claim, sanction order, judgment, reversal of judgment, multiple lawsuits, civil penalties, discipline by other licensing agency, or discipline in some other jurisdiction.
Reportable Actions, Other	A reported action from a court, bank, or other licensing agency, or insurance company concerning: insufficient funds, order of contempt, insurance claim, sanction order, judgment, reversal of judgment, prosecutor withholding exculpatory evidence, civil penalties, or discipline by other licensing agency.
Interim Suspensions and Restrictions	This category is no longer being reported as it is regulatory in nature rather than disciplinary.

**SR-1B. Aged Backlog****Main Categories**

Type	Method
Complaints	Original complaints submitted by a complaining witness.
State Bar Initiated Inquiries	Original complaints initiated by the State Bar.
Probation Referrals	A probation violation, reprobation violation or a 9.20 violation as per Supreme Court order.
Reportable Actions, Self	A self-reported action concerning an insurance claim, sanction order, judgment, reversal of judgment, multiple lawsuits, civil penalties, or discipline by other licensing agency.

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Reportable Actions, Other	A reported action from a court, bank, other licensing agency, or insurance company concerning: insufficient funds, contempt order, insurance claim, sanction order, judgment, reversal of judgment, prosecutor withholding exculpatory evidence, civil penalties, or discipline by other licensing agency.
Interim Suspensions and Restrictions	This category is no longer being reported as it is regulatory rather than disciplinary in nature.

### Subcategories

Type	Method
181 – 360 days	For each type of subcategory, the age of the case is calculated using the case initiation date as the start date and the end of the year as the end date. The case counts are assigned to each subcategory depending on the age.
361 – 720 days	
721 – 1080 days	
1081 – 1440 days	
1441 – 1800 days	
Total	

## SR-2. Case Inventory and Disposition

### Main Categories

Type	Method
Complaints	Original complaints submitted by a complaining witness.
State Bar Initiated Inquiries	Original complaints initiated by the State Bar.
Probation Referrals	A probation violation, reprobation violation or a 9.20 violation as per Supreme Court order.
Reportable Actions, Self	A self-reported action concerning an insurance claim, sanction order, judgment, reversal of judgment, multiple lawsuits, civil penalties, or discipline by other licensing agency.
Reportable Actions, Other	A reported action from a court, bank, other licensing agency or insurance company, concerning insufficient funds, contempt order, insurance claim, sanction order, judgment, reversal of judgment, prosecutor withholding exculpatory evidence, civil penalties or discipline by other licensing agency.
Interim Suspensions and Restrictions	This category is no longer being reported as it is regulatory rather than disciplinary in nature.

### Subcategories

Type	Method
Cases Received	The count of cases that were opened.
Cases Reopened	The count of cases that went from a closed status to an open status, and a count of cases with a reopen status.
Closed by OCTC With No Action	The count of all OCTC closed cases that were

## APPENDIX F

	closed with no referral and/or with no other Nondisciplinary action. The cases status is used to determine the type of closure.
Closed by OCTC With Referral	The count of OCTC cases closed with the following type of status: <ul style="list-style-type: none"> <li>• Alternative Dispute Resolution</li> <li>• Fee Arbitration Matter</li> <li>• Family Support Referral</li> <li>• Fee Arbitration Award Referral</li> <li>• Referral</li> </ul>
Closed by OCTC With Nondisciplinary Action	The count of OCTC cases closed with the following type of status: <ul style="list-style-type: none"> <li>• Cease and Desist</li> <li>• Communication</li> <li>• Directional Letter</li> <li>• Return of File Letter Sent</li> <li>• Resource Letter</li> <li>• Warning Letter</li> </ul>
Total Cases Closed by OCTC	The total of the previous three sections.
Filed in State Bar Court	The count of OCTC cases that moved from a pre-filing status to a post-filing status.
Cases Pending in OCTC at Year End	The count of OCTC cases open at the end of the year.
Closed by SBC With No Action	The count of all cases closed by the SBC without Nondisciplinary or disciplinary action.
Closed by SBC With Nondisciplinary Action	The count of SBC cases closed with the following type of status: <ul style="list-style-type: none"> <li>• Admonition</li> </ul>
Closed With Discipline Imposed	The count of SBC cases closed with the following type of status: <ul style="list-style-type: none"> <li>• Public Reproval</li> <li>• Private Reproval</li> <li>• Actual Suspension</li> <li>• Stayed Suspension</li> <li>• Disbarment</li> </ul>
Total Cases Closed by SBC	The total of the previous three sections.
Cases Pending in SBC at Year End	The count of SBC cases open at the end of the year.

### SR-3. Self-Reported Reportable Actions

#### Main Categories

Type	Method
§ 6068,subd.(o)(1)	Self-reported multiple lawsuit case
§ 6068,subd.(o)(2)	Self-reported judgment case
§ 6068,subd.(o)(3)	Self-reported sanction order case
§ 6068,subd.(o)(4)	Self-reported conviction matter with a felony

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	charge
§ 6068,subd.(o)(5)	Self-reported conviction matter with a convicted status
§ 6068,subd.(o)(6)	Self-reported discipline in other jurisdiction case
§ 6068,subd.(o)(7)	Self-reported reversal of judgment case
§ 6068.8,subd.(c)	Self-reported insurance claim

### Subcategories

Type	Method
Cases Received	The count of cases that were opened.
Cases Reopened	The count of cases that went from a closed status to an open status, and a count of cases with a reopen status.
Closed by OCTC With No Action	The count of all OCTC closed cases that were closed with no referral and/or with no other Nondisciplinary action. The case's status is used to determine the type of closure.
Cases Closed by OCTC With Referral	The count of OCTC cases closed with the following type of status: <ul style="list-style-type: none"> <li>• Alternative Dispute Resolution</li> <li>• Fee Arbitration Matter</li> <li>• Family Support Referral</li> <li>• Fee Arbitration Award Referral</li> <li>• Referral</li> </ul>
Cases Closed by OCTC With Nondisciplinary Action	The count of OCTC cases closed with the following type of status: <ul style="list-style-type: none"> <li>• Cease and Desist</li> <li>• Communication</li> <li>• Directional Letter</li> <li>• Return of File Letter Sent</li> <li>• Resource Letter</li> <li>• Warning Letter</li> </ul>
Total Cases Closed by OCTC	The total of the previous three sections.
Average Pendency at Closure	Calculation of the average age of cases that were closed by OCTC.
Median Pendency at Closure	Calculation of the median age of cases that were closed by OCTC.
Cases Filed in SBC	The count of OCTC cases that moved from a pre-filing status to a post-filing status
Average Pendency at Filing	Calculation of the average age of cases at time of filing in SBC.
Median Pendency at Filing	Calculation of the median age of cases at time of filing in SBC.
Cases Remaining in OCTC at Year End	The count of OCTC cases open at the end of the year.

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Average Pendency at Year End	Calculation of the average age of cases that were open in OCTC at year end.
Median Pendency at Year End	Calculation of the median age of cases that were open in OCTC at year end.
Cases Closed by SBC With No Action	The count of all cases closed by the SBC without Nondisciplinary or disciplinary action.
Cases Closed by SBC With Nondisciplinary Action	The count of SBC cases closed with the following type of status: <ul style="list-style-type: none"> <li>• Admonition</li> </ul>
Cases Closed With Discipline Imposed	The count of SBC cases closed with the following type of status: <ul style="list-style-type: none"> <li>• Public Reprimand</li> <li>• Private Reprimand</li> <li>• Actual Suspension</li> <li>• Stayed Suspension</li> <li>• Disbarment</li> </ul>
Total Cases Closed by SBC	The total of the previous three sections.
Average Pendency at Closure	Calculation of the average age of cases that were closed by SBC.
Median Pendency at Closure	Calculation of the median age of cases that were closed by SBC.
Cases Remaining in SBC at Year End	The count of SBC cases open at the end of the year.
Average Pendency at Year End	Calculation of the average age of cases that were open in SBC at year end.
Median Pendency at Year End	Calculation of the median age of cases that were open in SBC at year end.

### SR-4. Reportable Actions, Reported by Others

#### Main Categories

Type	Method
§ 6068.7,subd.(a)(1)	Court reported contempt order case.
§ 6068.7,subd.(a)(2)	Court reported reversal of judgment case.
§ 6068.7,subd.(a)(3)	Court reported sanction order case.
§ 6068.8,subd.(a)	Court reported judgment case.
§ 6068.8,subd.(b)	Insurance company reported insurance claim case.
§ 6091.1	Bank reported insufficient funds case.
§ 6101,subd.(b)	Prosecuting agency reported conviction matter.
§ 6101,subd.(c)	Court clerk reported conviction matter.

#### Subcategories

Type	Method
Cases Received	The count of cases that were opened.
Cases Reopened	The count of cases that went from a closed status to an open status, and a count of cases



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	with a reopen status.
Closed by OCTC With No Action	The count of all OCTC closed cases that were not closed with referral or with Nondisciplinary action. The cases status is used to determine the type of closure.
Cases Closed by OCTC With Referral	The count of OCTC cases closed with the following type of status: <ul style="list-style-type: none"> <li>• Alternative Dispute Resolution</li> <li>• Fee Arbitration Matter</li> <li>• Family Support Referral</li> <li>• Fee Arbitration Award Referral</li> <li>• Referral</li> </ul>
Cases Closed by OCTC With Nondisciplinary Action	The count of OCTC cases closed with the following type of status: <ul style="list-style-type: none"> <li>• Cease and Desist</li> <li>• Communication</li> <li>• Directional Letter</li> <li>• Return of File Letter Sent</li> <li>• Resource Letter</li> <li>• Warning Letter</li> </ul>
Total Cases Closed by OCTC	The total of the previous three sections.
Average Pendency at Closure	Calculation of the average age of cases that were closed by OCTC.
Median Pendency at Closure	Calculation of the median age of cases that were closed by OCTC.
Cases Filed in SBC	The count of OCTC cases that moved from a Pre-filing status to a Post-filing status
Average Pendency at Filing	Calculation of the average age of cases at time of filing in SBC.
Median Pendency at Filing	Calculation of the median age of cases at time of filing in SBC.
Cases Remaining in OCTC at Year End	The count of OCTC cases open at the end of the year.
Average Pendency at Year End	Calculation of the average age of cases that were open in OCTC at year end.
Median Pendency at Year End	Calculation of the median age of cases that were open in OCTC at year end.
Cases Closed by SBC With No Action	The count of all cases closed by the SBC without Nondisciplinary or disciplinary action.
Cases Closed by SBC With Nondisciplinary Action	The count of SBC cases closed with the following type of status: <ul style="list-style-type: none"> <li>• Admonition</li> </ul>
Cases Closed With Discipline Imposed	The count of SBC cases closed with the following type of status: <ul style="list-style-type: none"> <li>• Public Reprimand</li> </ul>

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	<ul style="list-style-type: none"> <li>• Private Reapproval</li> <li>• Actual Suspension</li> <li>• Stayed Suspension</li> <li>• Disbarment</li> </ul>
Total Cases Closed by SBC	The total of the previous three sections.
Average Pendency at Closure	Calculation of the average age of cases that were closed by SBC.
Median Pendency at Closure	Calculation of the median age of cases that were closed by SBC.
Cases Remaining in SBC at Year End	The count of SBC cases open at the end of the year.
Average Pendency at Year End	Calculation of the average age of cases that were open in SBC at year end.
Median Pendency at Year End	Calculation of the median age of cases that were open in SBC at year end.

### SR-5. Speed of Complaint Handling

#### Main Categories

Type	Method
Complaints	Original complaints submitted by a complaining witness.
State Bar Initiated Inquiries	Original complaints initiated by the State Bar.
Probation Referrals	A probation violation, reapproval violation or a 9.20 violation as per Supreme Court order.
Reportable Actions, Self	A self-reported action concerning an insurance claim, sanction order, judgment, reversal of judgment, multiple lawsuits, civil penalties, or discipline by other licensing agency.
Reportable Actions, Other	A reported action from a court, bank, other licensing agency, or insurance company, concerning insufficient funds, contempt order, insurance claim, sanction order, judgment, reversal of judgment, prosecutor withholding exculpatory evidence, civil penalties, or discipline by other licensing agency.
Interim Suspensions and Restrictions	This category is no longer being reported as it is regulatory rather than disciplinary in nature.

#### Subcategories

Type	Method
Average Pendency at Closure by OCTC	Calculation of the average age of cases that were closed.
Median Pendency at Closure by OCTC	Calculation of the median age of cases that were closed by OCTC.
Average Pendency at Filing by OCTC	Calculation of the average age of cases at time of filing by OCTC.
Median Pendency at Filing by OCTC	Calculation of the median age of cases at

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	time of filing by OCTC.
Average Pendency at Year End in OCTC	Calculation of the average age of cases that were open in OCTC at year end.
Median Pendency at Year End in OCTC	Calculation of the median age of cases that were open in OCTC at year end.
Average Pendency at Closure by SBC	Calculation of the average age of cases that were closed by SBC.
Median Pendency at Closure by SBC	Calculation of the median age of cases that were closed by SBC.
Average Pendency at Year End in SBC	Calculation of the average age of cases that were open in SBC at year end.
Median Pendency at Year End in SBC	Calculation of the median age of cases that were open in SBC at year end.

### SR-6A. Formal Filings

#### Main Categories

Type	Method
Notice of Disciplinary Charges	An event of "Notice of Disciplinary Charges Filed" entered in a case by OCTC.
Stipulations to Facts and Discipline	<p>A status or event entered by SBC indicating that a stipulation has been filed and approved, does not include cases that already had a notice of disciplinary charges filed. SBC cases are linked back to their original OCTC cases in order to get the full case count.</p> <p>Stipulations data are incomplete in OCTC's records. To capture the correct number of stipulations, OCTC filings are matched to SBC filings and stipulations are counted from the SBC filings.</p> <p>If a case has a stipulation and a Notice of Disciplinary Charges or a <u>Criminal Conviction Transmittal</u>, the case is not counted as a stipulation; the case is counted within Notice of Disciplinary Charges or <u>Criminal Conviction Transmittals</u>.</p>
Criminal Conviction Transmittals	A status triggered by a case being filed in SBC. Only criminal conviction matters are included.

#### Subcategories

Type	Method
Number of Filings	Count of cases where a filing occurred.
Average Pendency at Filing	Calculation of the average age of the cases at time of filing.
Median Pendency at Filing	Calculation of the median age of the cases at time of filing.

### SR-6B. Formal Disciplinary Outcomes

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### Main Categories

Type	Method
Disbarment	An event entered in SBC, that shows a disposition of disbarment, and has accompanying case close event.
Suspension Actual/Probation	An event entered in SBC, that shows a disposition of suspension actual/probation, and has an accompanying case close event.
Suspension Stayed/Probation	An event entered in SBC, that shows a disposition of suspension stayed/probation, and has an accompanying case close event.
Suspension	A category no longer reported that represented a combination of the previous two sections.
Public Reprimand	An event entered in SBC, that shows a disposition of public reprimand, and has an accompanying case close event.
Private Reprimand	An event entered in SBC, that shows a disposition of private reprimand, and has an accompanying case close event.

### Subcategories

Type	Method
Number of Cases	Count of cases where the disciplinary outcome occurred.
Average Pendency	Calculation of the average age of the cases at time the disciplinary outcome occurred.
Median Pendency	Calculation of the median age of the cases at time the disciplinary outcome occurred.
Number of Attorneys	Count of attorneys that received the disciplinary outcome.

## SR-7A. Other Matters

### Main Categories

Type	Method
Petitions to Terminate Practice per § 6180/6190	Cases entered with the case type of “6180/6190”
Interim Suspensions and Restrictions per § 6007	Cases entered with the following case types: <ul style="list-style-type: none"> <li>• Inactive § 6007(b)(1) insanity or mental incompetence.</li> <li>• Inactive § 6007(b)(2) order jurisdiction over practice.</li> <li>• Inactive § 6007(b)(3) mental illness or substance abuse.</li> <li>• Inactive § 6007(c) substantial threat of harm to client/public.</li> <li>• Interim remedies § 6007(h) restricted practice.</li> </ul>
Motions to Enforce Fee Arbitration Award	Cases entered with the case type of “Fee Arbitration”
Motions to Revoke Probation	Cases entered with the case type of “Probation Revocation”

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### Subcategories

Type	Method
Cases Opened	The count of cases that were opened.
Cases Reopened	The count of cases that went from a closed status to an open status, or has a reopen status.
Closed by OCTC Without Filing	The count of cases that were closed by OCTC.
Average Pendency at Closure	Calculation of the average age of cases that were closed by OCTC.
Median Pendency at Closure	Calculation of the median age of cases that were closed by OCTC.
Cases Filed in SBC	The count of OCTC cases that moved from a Pre-filing status to a Post-filing status.
Average Pendency at Filing	Calculation of the average age of cases at time of filing in SBC.
Median Pendency at Filing	Calculation of the median age of cases at time of filing in SBC.
Cases Remaining in OCTC at Year End	The count of OCTC cases open at the end of the year.
Average Pendency at Year End	Calculation of the average age of cases that were open in OCTC at year end.
Median Pendency at Year End	Calculation of the median age of cases that were open in OCTC at year end.
Petitions Granted	<p>A count of one of the following events depending on the main category:</p> <ul style="list-style-type: none"> <li>• § 6180/6190 <ul style="list-style-type: none"> <li>○ Order issued by Superior Court granting interim order.</li> <li>○ Order issued by Superior Court granting permanent order.</li> </ul> </li> <li>• § 6007 <ul style="list-style-type: none"> <li>○ Closed – Post-filing – Granted.</li> </ul> </li> <li>• Fee Arbitration <ul style="list-style-type: none"> <li>○ Disposition transfer inactive arbitration enforcement.</li> <li>○ Disposition retransfer active arbitration enforcement.</li> </ul> </li> <li>• Probation Revocation <ul style="list-style-type: none"> <li>○ Disposition revoke probation/actual suspension.</li> <li>○ Disposition revoke probation/stayed suspension.</li> </ul> </li> </ul>
Petitions Denied	A count of one of the following events depending on the main category:

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	<ul style="list-style-type: none"> <li>• § 6180/6190 <ul style="list-style-type: none"> <li>○ Order issued by Superior Court denying interim order.</li> <li>○ Order issued by Superior Court denying permanent order.</li> </ul> </li> <li>• § 6007 <ul style="list-style-type: none"> <li>○ Closed – Post-filing – Denied.</li> </ul> </li> <li>• Fee Arbitration <ul style="list-style-type: none"> <li>○ If no event for petition granted is found, then it will be counted as denied.</li> </ul> </li> <li>• Probation Revocation <ul style="list-style-type: none"> <li>○ If no event for petition granted is found, then it will be counted as denied</li> </ul> </li> </ul>
Total Cases Disposed by SBC	The total of the petitions granted and denied.
Average Pendency at Disposition	Calculation of the average age of cases that were closed by SBC.
Median Pendency at Disposition	Calculation of the median age of cases that were closed by SBC.
Cases Remaining in SBC at Year End	The count of SBC cases open at the end of the year.
Average Pendency at Year End	Calculation of the average age of cases that were open in SBC at year end.
Median Pendency at Year End	Calculation of the median age of cases that were open in SBC at year end.

### SR-7B. Specified Dispositions

#### Main Categories

Type	Method
Admonitions	An event entered that shows a disposition of admonition.
Agreements in Lieu of Discipline	A status entered by OCTC, that shows an agreement in lieu of discipline.
Warning Letters	An event entered in OCTC, that shows a disposition of a warning letter sent.
Private Reproval	An event entered in SBC, that shows a disposition of private reproval, and has an accompanying case close event.

#### Subcategories

Type	Method
Number of Cases	Count of cases where the disposition occurred.
Average Pendency	Calculation of the average age of the cases at time the disposition occurred.
Median Pendency	Calculation of the median age of the cases at time the disposition occurred.

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Number of Attorneys	Count of attorneys that received the disposition.
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### SR-8. Unauthorized Practice of Law by Former Attorneys

### SR-9. Unauthorized Practice of Law by Nonattorneys

#### Main Categories

Type	Method
SR-8 UPL Former Attorneys	Cases entered with case type “6180/6190” and a charge of “Superior Court Assumption of Practice of Former Attorney/UPL”
SR-9 UPL Nonattorneys	Cases entered with case type “Unauthorized Practice of Law – Nonattorney”

#### Subcategories

Type	Method
Cases Opened	The count of cases that were opened.
Cases Closed Without Filing	The count of cases that were closed by OCTC.
Average Pendency at Closure	Calculation of the average age of cases that were closed by OCTC.
Median Pendency at Closure	Calculation of the median age of cases that were closed by OCTC.
Cases Filed in Superior Court	The count of cases that moved from a Pre-filing to status to a Post-filing status.
Average Pendency at Filing	Calculation of the average age of cases at time of filing in SBC.
Median Pendency at Filing	Calculation of the median age of cases at time of filing in SBC.
Cases Remaining in OCTC at Year End	The count of OCTC cases open at the end of the year.
Average Pendency at Year End	Calculation of the average age of cases that were open in OCTC at year end.
Median Pendency at Year End	Calculation of the median age of cases that were open in OCTC at year end.
Petitions Granted	A case with the either one of the following events: <ul style="list-style-type: none"> <li>• Order Issued by Superior Court Granting Interim Order</li> <li>• Order Issued by Superior Court Granting Permanent Order</li> </ul>
Petitions Denied	A case with the either one of the following events: <ul style="list-style-type: none"> <li>• Order Issued by Superior Court Denying Interim Order</li> <li>• Order Issued by Superior Court Denying Permanent Order</li> </ul>
Total Cases Disposed by Superior Court	The total of the petitions granted and denied.
Average Pendency at Disposition	Calculation of the average age of cases that were closed by Superior Court.

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Median Pendency at Disposition	Calculation of the median age of cases that were closed by Superior Court.
Law Enforcement Referrals	A count of every instance the event "Law Enforcement Referral Sent" has been entered.
Cease and Desist Letters Sent	A case where the event "Cease and Desist Letter Sent" has been entered.