



# The State Bar of California

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## **OPEN SESSION**

### **AGENDA ITEM**

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

**DATE:** January 21, 2021

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

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

**SUBJECT:** Update on Metrics for Offices within Regulation and Discipline Committee  
Purview and Discipline System Statistical Report

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### **UPDATE ON METRICS**

The following State Bar offices are under the Regulation and Discipline Committee's purview: Office of Chief Trial Counsel, State Bar Court, and the Office of Professional Support and Client Protection (comprised of Probation, Client Security Fund, and the Lawyer Assistance Program). In fall 2020, staff undertook a comprehensive review of all metrics to determine which metrics continued to be valuable to assess each office's performance objectives and goals. Revisions included modifying wording to clarify language and, adding or eliminating targets, and/or clarifying/refining language. New metrics were added; others were eliminated. The review, as well as staff's recommendation to report metrics three times per year, is described in Board Agenda Item 706. If approved, the next metrics report will be issued in March 2021.

The list of 31 proposed metrics across the offices under RAD's purview are in Attachment A.

### **DISCIPLINE SYSTEM STATISTICAL REPORT**

The Discipline System Statistical Report (DSSR) contains 13 months of data (where applicable) for all metrics reported for offices within the purview of the Regulation and Discipline Committee, as well as additional analyses that describe important components of the discipline system. This report will continue to be published bimonthly. See Attachment B.

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

- A.** Updated Discipline System Metrics
- B.** Discipline System Statistical Report: January 2021



# The State Bar *of California*

## **Updated Discipline System Metrics**

**January 2021**

## Metrics for 2021

The list below organized by the offices under the purview of the Regulation and Discipline Committee (Office of Chief Trial Counsel, State Bar Court, Probation, Client Security Fund, and Lawyer Assistance Program) contains the 33 metrics related to the discipline system the State Bar proposes to track in 2021. To clarify timing and meaning, edits to the “Metric Name and Performance Target”, are reflected in strikethrough. Some metrics were time-limited in nature and have phased out; as a result, some metric IDs have changed. All metric IDs below supersede those previously reported.

**Client Security Fund**

Metric Focus: Customer Satisfaction, Efficiency, Cost Control, Cycle Time

Metric ID	Metric Name and Performance Target	Timing	Notes
CSF-1	Resolve at least 1,350 cases in 2021	Annually	
CSF-2	Decrease time to payout after final discipline by 5%	Annually	

## Lawyer Assistance Program

Metric Focus: Utilization, Customer Service, Outreach

Metric ID	Metric Name and Performance Target	Timing	Notes
LAP-1	Increase intakes by 10%	Annually	
LAP-2	Respond to 100% of requests for presentations within two business days	Quarterly	
LAP-3	Complete <del>20</del> 10 law school presentations and <del>10</del> 20 Bar Association/law firm presentations in 2021	Annually	This metric was modified to reflect needs.
LAP-4A	80% of survey participants report that the Lawyer Assistance Program addressed their goals	Quarterly	
LAP-4B	80% of survey participants report they are satisfied with their Lawyer Assistance Program experience	Quarterly	
LAP-5	Track successful completion rates for Alternative Discipline Program cases (and reasons for termination)	Quarterly	This metric will be modified in 2021 after office completes strategic planning.

## Office of Chief Trial Counsel

Measurement focus: Cycle Time, Quality

Metric ID	Metric Name and Performance Target	Timing	Notes
OCTC-1	Decrease number P-1 cases in backlog for respondents with active law licenses	Quarterly	New metric.
OCTC-2	<del>Ensure P-2 cases are processed in an expedited fashion</del> Resolve 100% of P-2 cases within 120 days	<del>Monthly</del> Quarterly	Metric modified to include a target. Only days spent in P-2 status will be counted. Cases analyzed will be limited to those closing in the investigation stage. Reporting timing changed to reflect a more meaningful volume of cases to analyze.
OCTC-3	Maintain annual caseload clearance rate of 1.0 or higher	Monthly	
OCTC-4A	Case disposition time: median	Monthly	
OCTC-4B	Case disposition: 90th percentile	Monthly	
OCTC-5A	Maintain current level of CRU reopens for reasons other than new evidence	Semiannually	
OCTC-5B	Maintain current level of Walker reopens	Annually	This metric will be reported as a percentage moving forward.
OCTC-5C	Decrease the number of random audit reopens for substantive reasons	Semiannually	

**Office of Chief Trial Counsel**  
(continued)

Metric ID	Metric Name and Performance Target	Timing	Notes
OCTC-6	Case inventory	Monthly	
OCTC-7	Percent of respondents that retain representation	Quarterly	New metric. This metric will be based on closed cases of all types that reached the investigation stage.

## Case Management and Supervision, Probation

Metric Focus: Outcomes

Metric ID	Metric Name and Performance Target	Timing	Notes
P-1	Track successful completion rates and reasons for noncompletion	Quarterly	
P-2	Track rates of successful satisfaction of restitution orders	Annually	
P-3	80% of courtesy reminder letters are provided to respondents within three weeks of case initiation	Quarterly	New metric.



**State Bar Court**

Metric Focus: Efficiency, Cycle Time

Metric ID	Metric Name and Performance Target	Timing	Notes
SBC-1	Maintain an annual caseload clearance rate of at least 1.0 or above	Monthly	
SBC-2A	Hearing Department: 90% of cases to be processed within case type timelines	Monthly	
SBC-2B	Hearing Department: 100% of cases to be processed within 150% of case type timelines	Monthly	
SBC-2C	Review Department: 90% of cases to be processed within case type timelines	Monthly	
SBC-2D	Review Department: 100% of cases to be processed within 150% of case type timelines	Monthly	
SBC-2E	Effectuations: 100% of cases to be processed within timeline	Monthly	
SBC-3A	Number of petitions seeking review	Semiannually	
SBC-3B	Number of petitions granted	Semiannually	

**State Bar Court**  
(continued)

Metric ID	Metric Name and Performance Target	Timing	Notes
SBC-3C	Number of petitions denied	Semiannually	
SBC-3D	Number of remands	Semiannually	

## Phased Out Metrics

The list below contains metrics that have been phased out.

Original Metric ID	Metric Name and Performance Target	Timing	Notes
CSF-1	Provide status update to 100% of applicants at least twice a year	Semiannually	This work is now routine.
CSF-2	Ensure timely, accurate budget allocations for reimbursements	Annually	This is not useful as a 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	Annually	The purpose of this metric was to understand the impact of the Tentative Decisions policy change and this was accomplished in 2019.
OCTC-1	Minimize number of P-1 cases in backlog	Monthly	This will continue to be reported in the bimonthly Discipline System Statistical Report.
SBC-3A	Case disposition: median	Monthly	This metric is not useful due to the different time standards across case types. Critical time standards are captured in timeline standard metrics.
SBC-3B	Case disposition: 90th percentile	Monthly	This metric is not useful due to the different time standards across case types. Critical time standards are captured in timeline standard metrics.



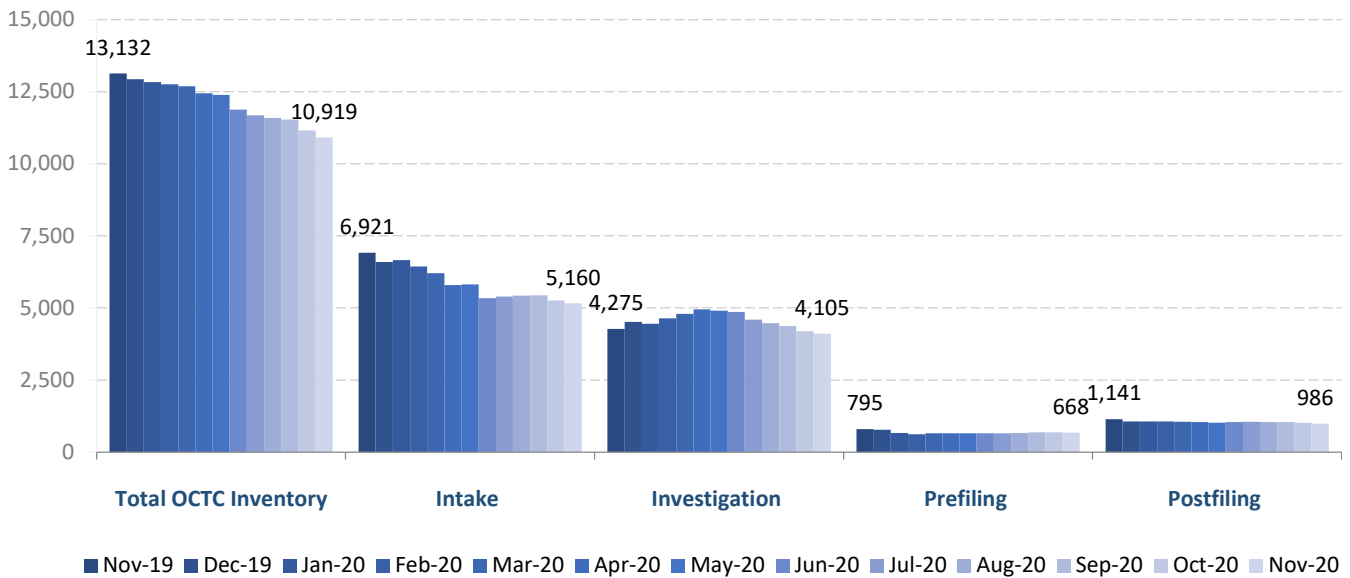
# The State Bar *of California*

## **Discipline System Statistical Report**

**Prepared by the Office of Research & Institutional Accountability  
January 2021**

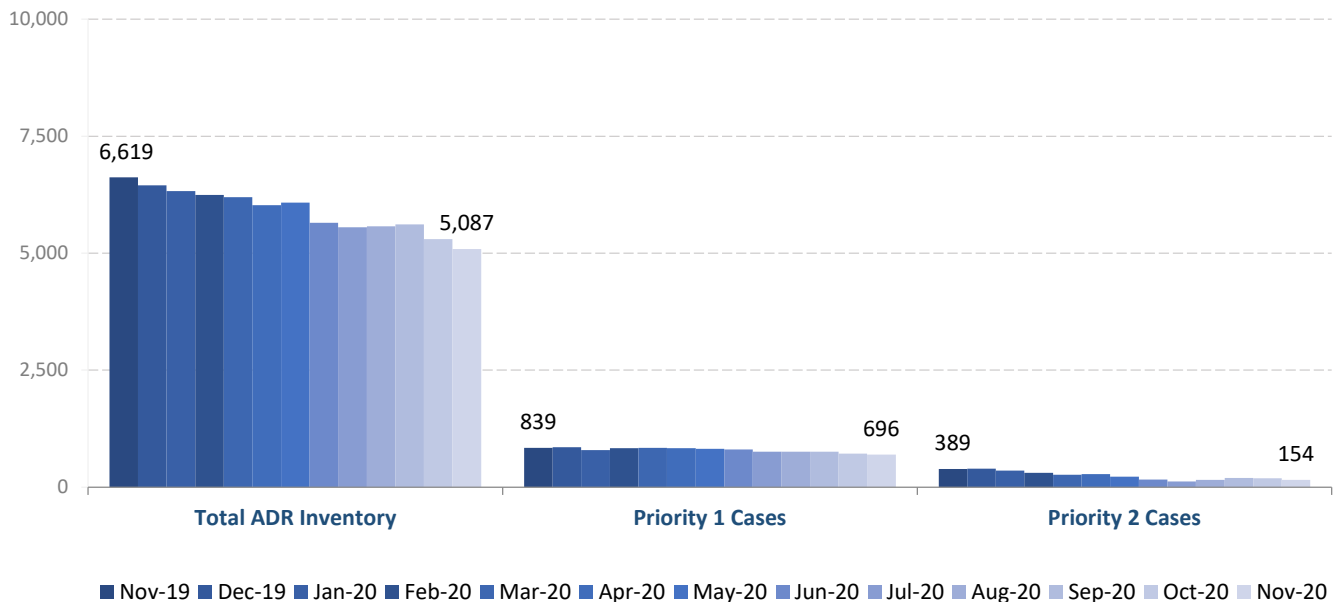
# Office of Chief Trial Counsel

## OCTC Inventory by Stage



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

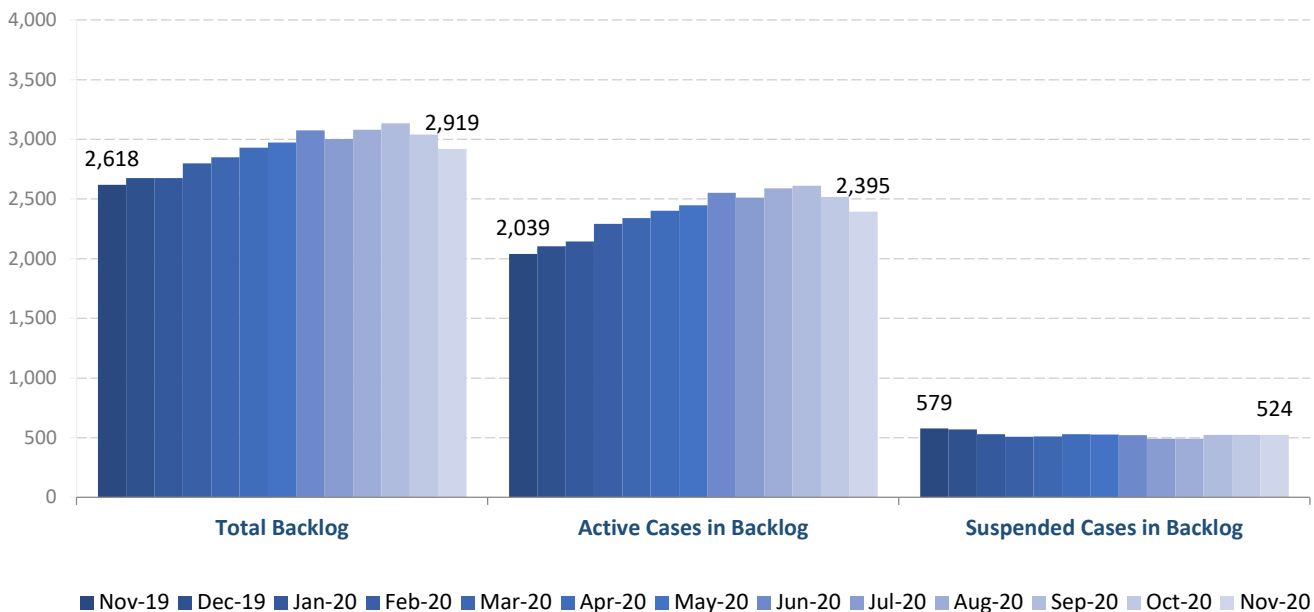
## ADR Inventory: Total, Priority 1 (P-1) Cases, Priority 2 (P-2) Cases



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

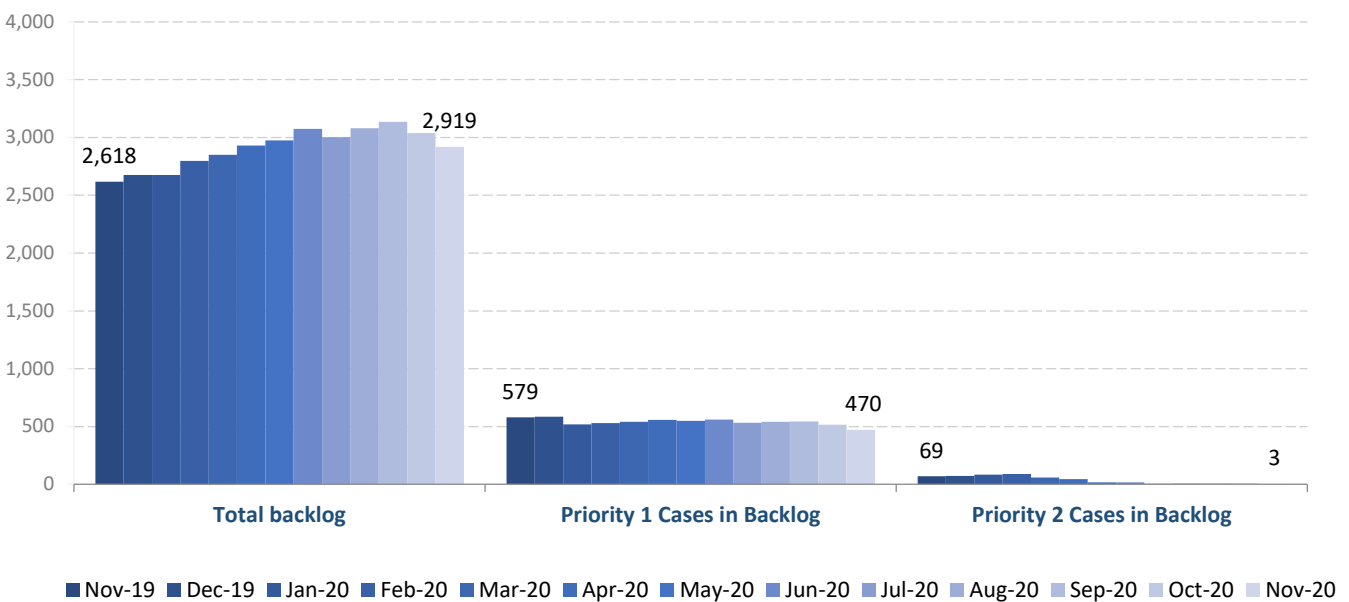
## Office of Chief Trial Counsel

### Backlog: Total, Active, and Suspended Cases



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

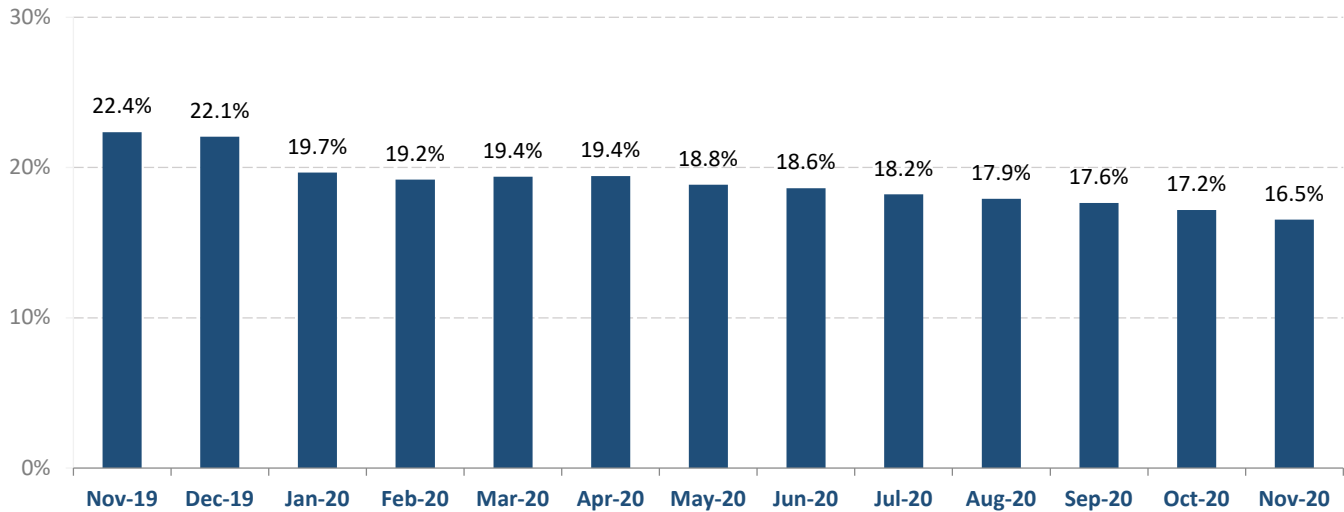
### Backlog: Total, Priority 1 (P-1) Cases, and Priority 2 (P-2) Cases



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

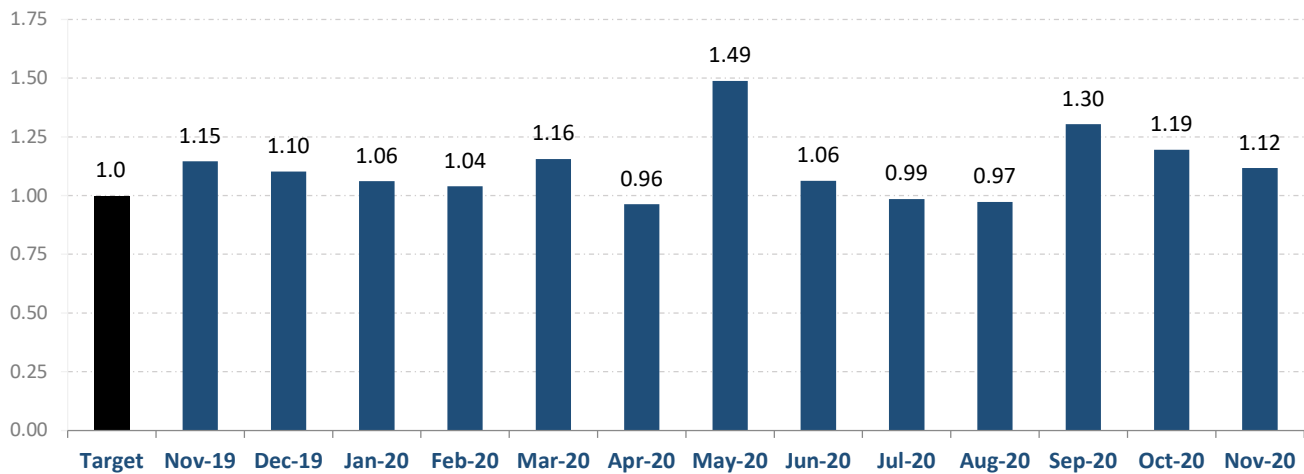
## Office of Chief Trial Counsel

### Backlog: Percent of Backlog Cases That Are Priority 1 (P-1) Cases



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

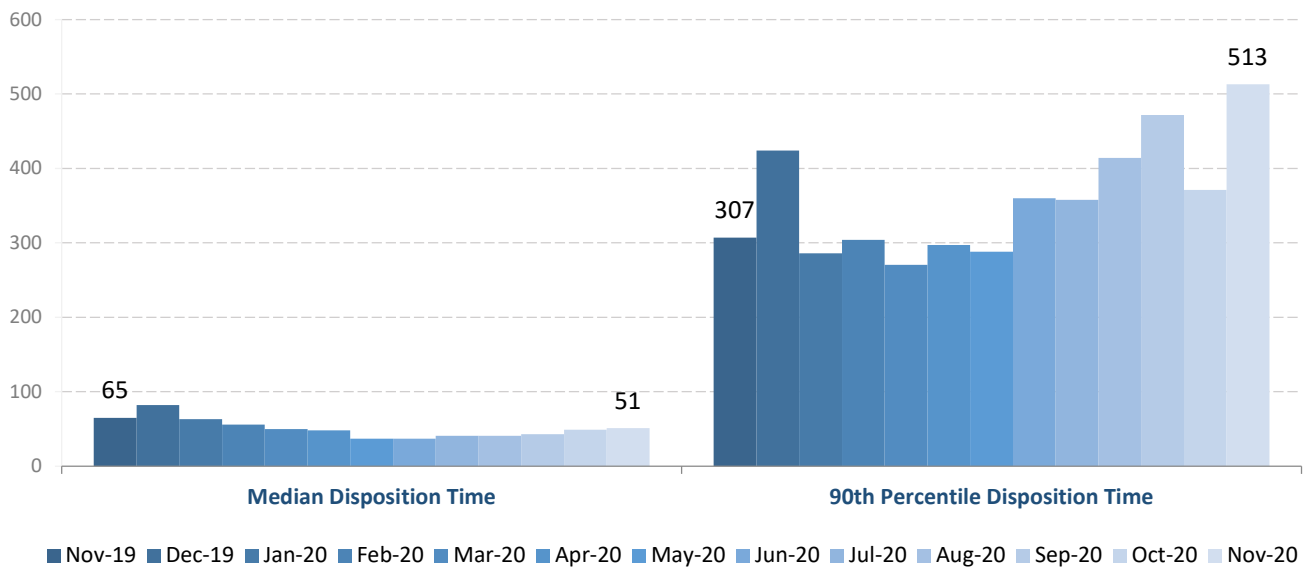
### Annual Caseload Clearance Rate



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

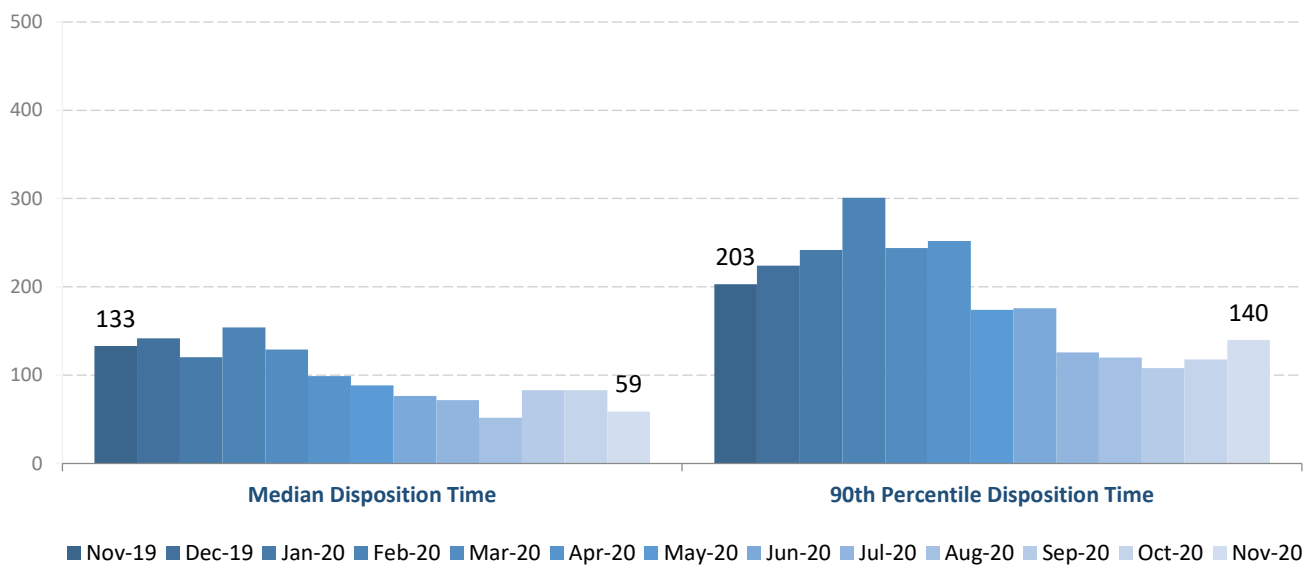
# Office of Chief Trial Counsel

## Case Disposition Times



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

## Case Disposition Times: Priority Two (P-2) Cases

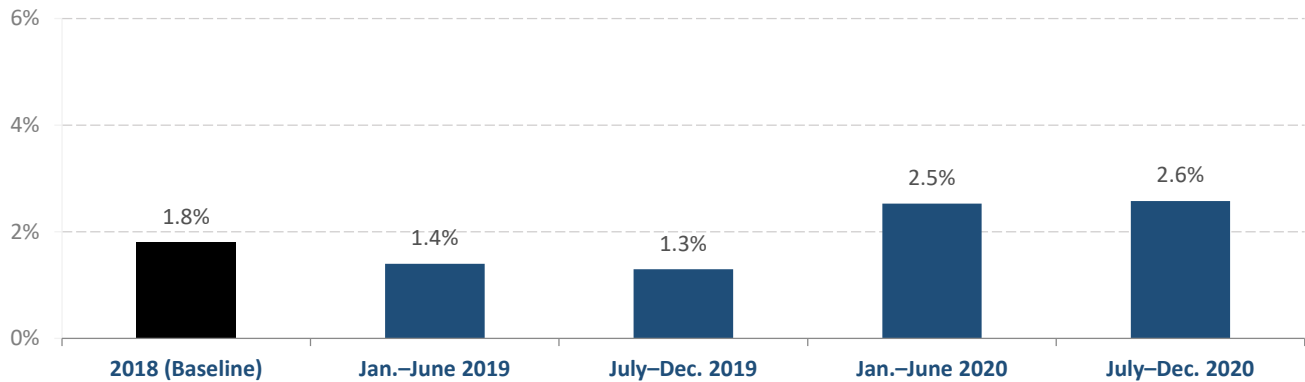


*Note:* This chart is based on ADR cases as described above. Disposition time is calculated as days between case origination and closure. Age at disposition for P-2 cases includes time spent before assignment to P-2 as well as time spent before the creation of the prioritization system. P-2 cases may be initially assigned a P4 priority code where there is a lack of resources to handle P-2 cases.



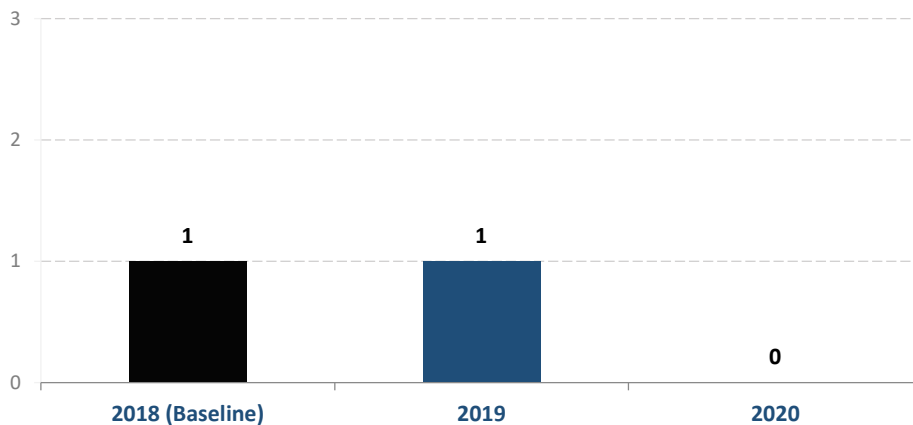
## Office of Chief Trial Counsel

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



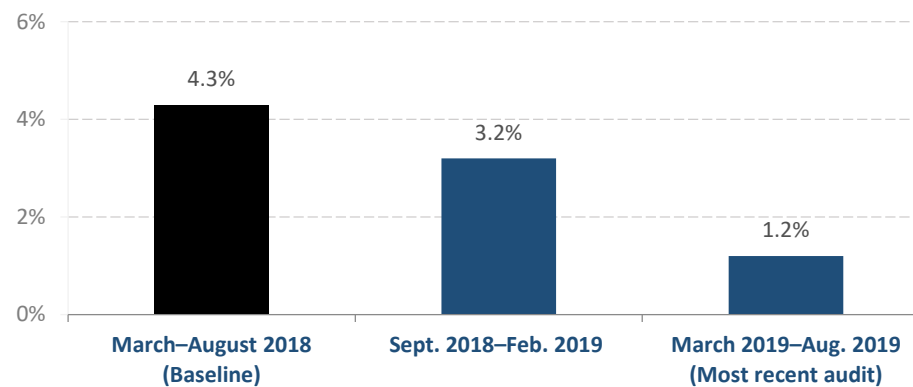
Note: Metric OCTC-5A, Maintain current level of CRU reopens for reasons other than new evidence.

### Number of Walker Reopens



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

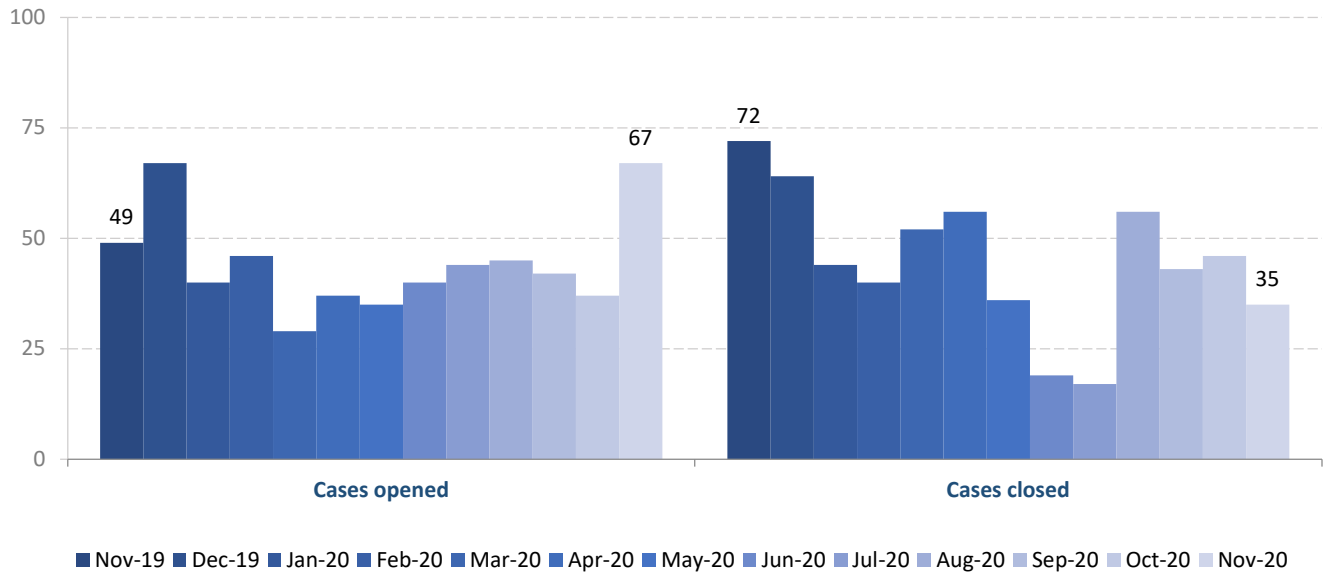
### Percent of Random Audit Reopens for Substantive Reason



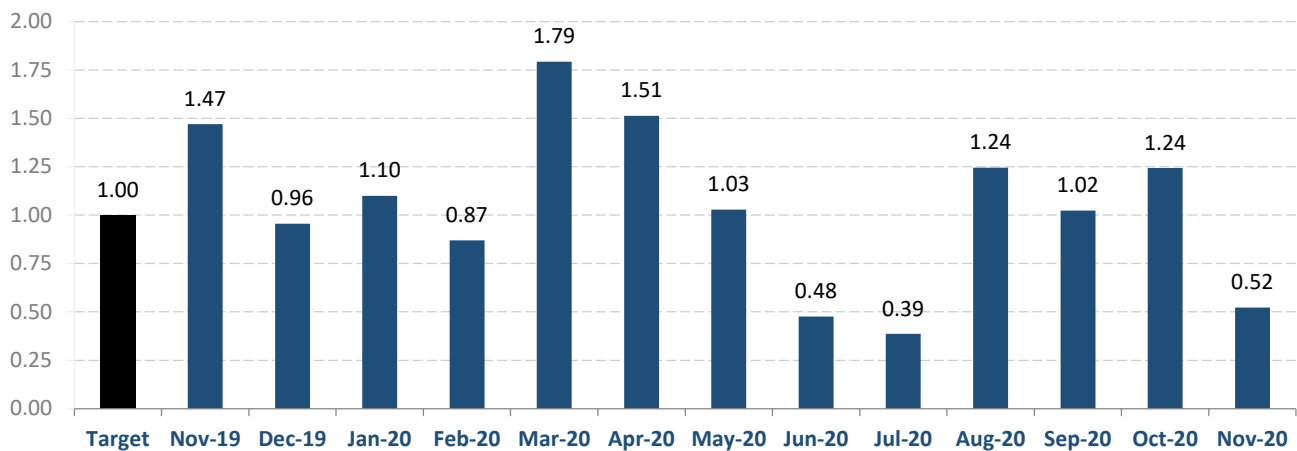
Note: Per Policy Directive 2006-02, up to 250 closed OCTC case files are randomly selected twice a year for an audit. The files are audited to ensure that cases are closed, investigated, and/or prosecuted appropriately. Metric OCTC-5C, Decrease the number of random audit reopens for substantive reasons.

## State Bar Court

### Cases Opened and Closed



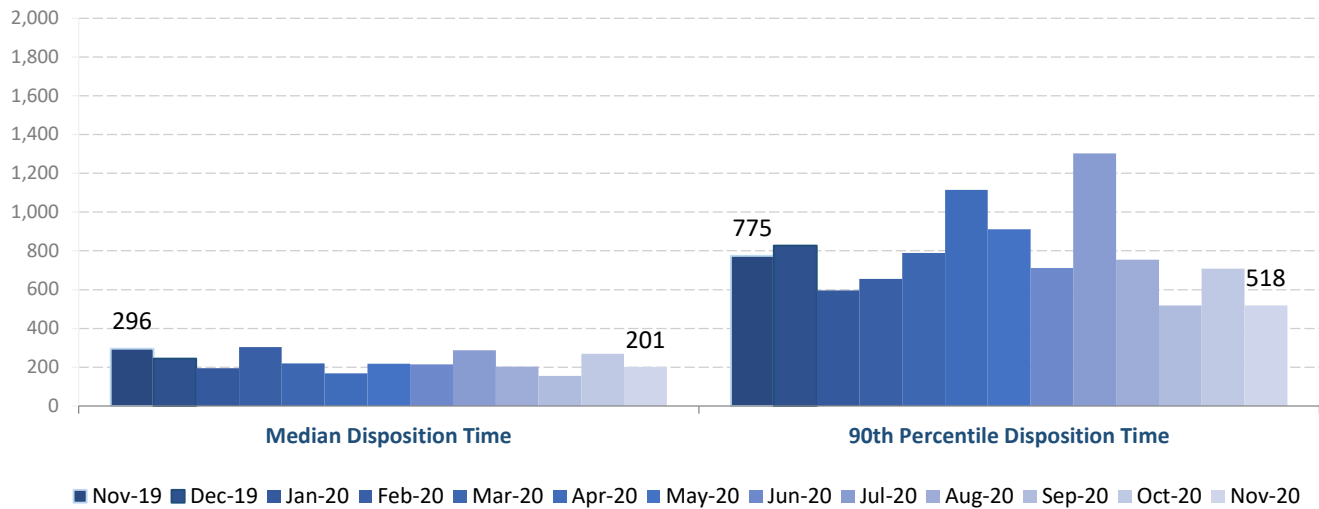
### Annual Caseload Clearance Rate



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

# State Bar Court

## Disposition Times



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

## Appeals

Jan.–June 2019  
(Baseline)

July–Dec. 2019

Jan.–June 2020

**Petitions seeking review:**

7

6

5

**Petitions granted:**

1

0

0

**Petitions denied:**

6

4

2

**Remands:**

1

0

0

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

# State Bar Court

## Hearing Department: Case Closure and Timeline Requirements

	Number of Cases	Cases Closed Within Timeline Requirements		Cases Closed Within 150% of Timeline Requirements	
		Number	Percent	Number	Percent
Nov-19	64	54	84%	62	97%
Dec-19	58	46	79%	54	93%
Jan-20	42	35	83%	41	98%
Feb-20	40	33	83%	38	95%
Mar-20	48	45	94%	48	100%
Apr-20	55	49	89%	52	95%
May-20	33	26	79%	29	88%
Jun-20	19	17	89%	17	89%
Jul-20	17	17	100%	17	100%
Aug-20	55	51	93%	54	98%
Sep-20	41	38	93%	40	98%
Oct-20	42	38	90%	41	98%
Nov-20	35	31	89%	35	100%

Metric SBC2-A, Hearing Department: 90% of cases to be processed within case type timelines

Metric SBC2-B, Hearing Department: 100% of cases to be processed within 150% of case type timelines

## Review Department: Case Closure and Timeline Requirements

	Number of Cases	Cases Closed Within Timeline Requirements		Cases Closed Within 150% of Timeline Requirements	
		Number	Percent	Number	Percent
Nov-19	7	7	100%	7	100%
Dec-19	5	5	100%	5	100%
Jan-20	5	5	100%	5	100%
Feb-20	3	3	100%	3	100%
Mar-20	4	4	100%	4	100%
Apr-20	3	3	100%	3	100%
May-20	6	6	100%	6	100%
Jun-20	0	0	n/a	0	n/a
Jul-20	0	0	n/a	0	n/a
Aug-20	2	2	100%	2	100%
Sep-20	3	3	100%	3	100%
Oct-20	2	2	100%	2	100%
Nov-20	3	3	100%	3	100%

Metric SBC-2C, Review Department: 90% of cases to be processed within case type timelines

Metric SBC-2D, Review Department: 100% of cases to be processed within 150% of case type timelines

## State Bar Court

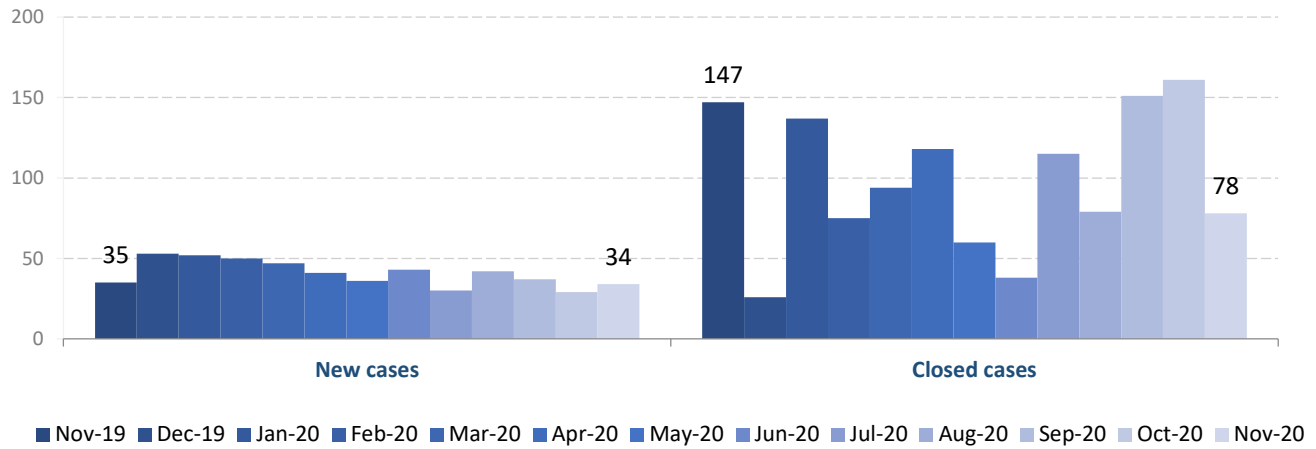
### Effectuations: Case Closure and Timeline Requirements

	Number of Cases	Cases Closed Within Timeline Requirements	
		Number	Percent
Nov-19	50	50	100%
Dec-19	50	50	100%
Jan-20	29	29	100%
Feb-20	27	27	100%
Mar-20	33	33	100%
Apr-20	32	32	100%
May-20	27	27	100%
Jun-20	12	12	100%
Jul-20	9	9	100%
Aug-20	32	32	100%
Sep-20	11	11	100%
Oct-20	33	33	100%
Nov-20	20	20	100%

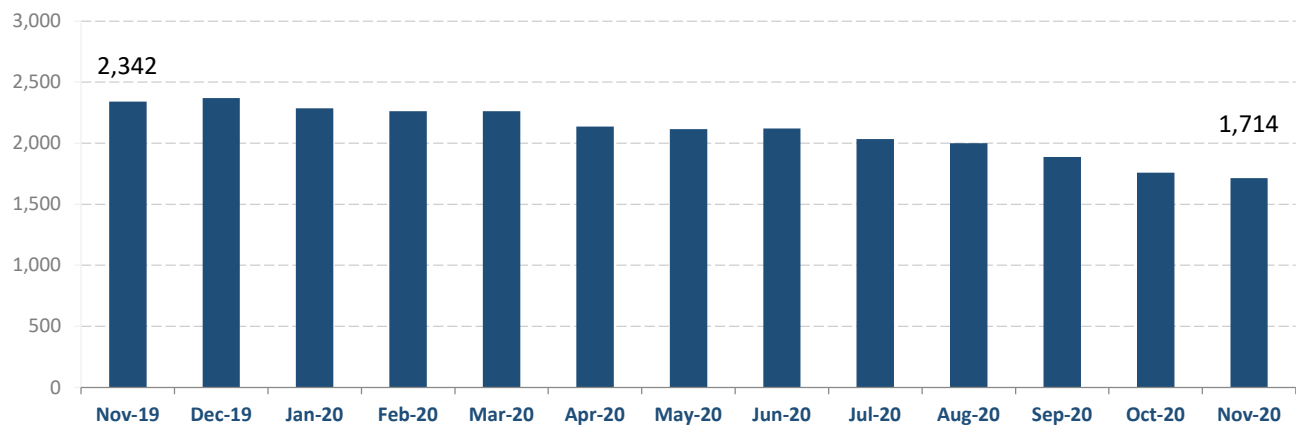
Metric SBC-2E, Effectuations: 100% of cases to be processed within timeline

# Client Security Fund

## New and Closed Cases

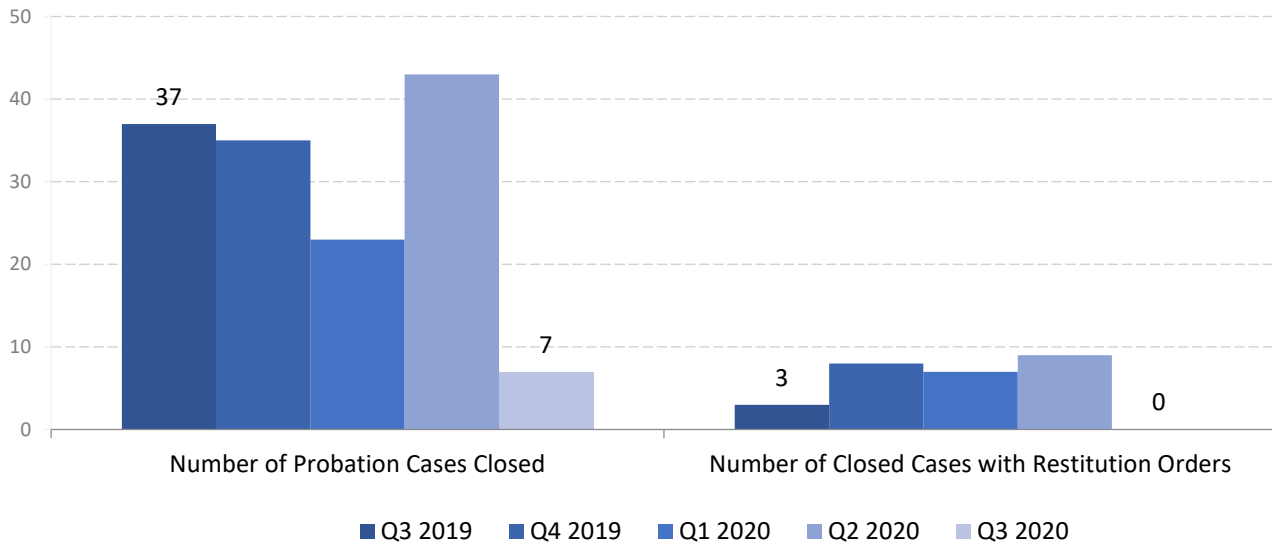


## Case Inventory



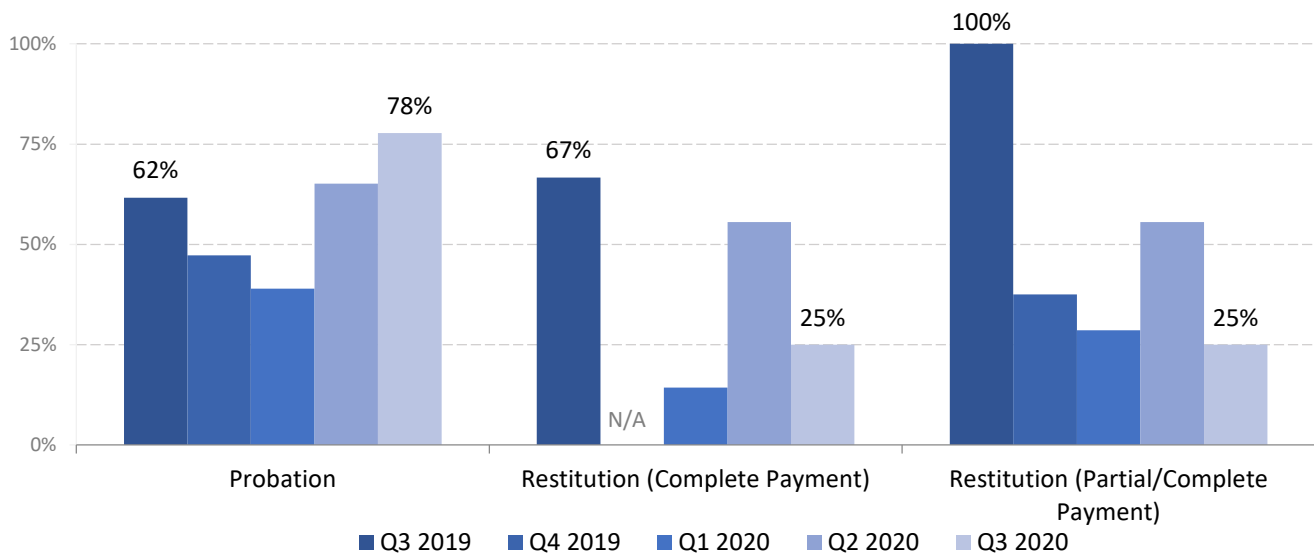
# Probation

## Cases Closed



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

## Successful Completion Rates



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

## Post-Disposition Outcomes

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

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

	<u>Resource</u> <u>Letter</u>	<u>Warning</u> <u>Letter</u>	<u>Reproval</u>	<u>Probation</u>	<u>Total</u>
2015	262	594	57	276	1,189
2016	386	539	52	210	1,187
2017	237	572	50	162	1,021
2018	192	618	35	147	992
2019	191	514	36	164	905
2020*	125	255	29	97	506

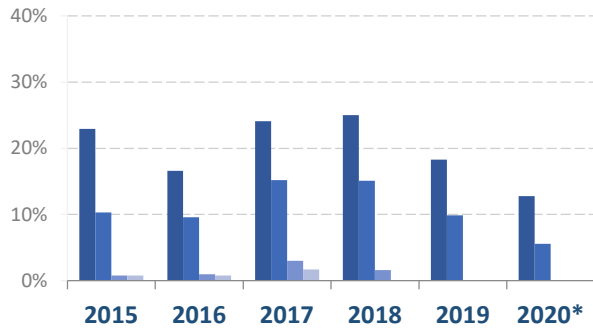
\* Cases disposed during the first six months only.



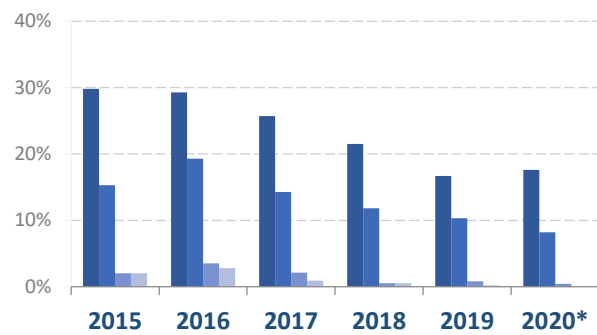
# Post-Disposition Outcomes

## Within 6 Months of Disposition

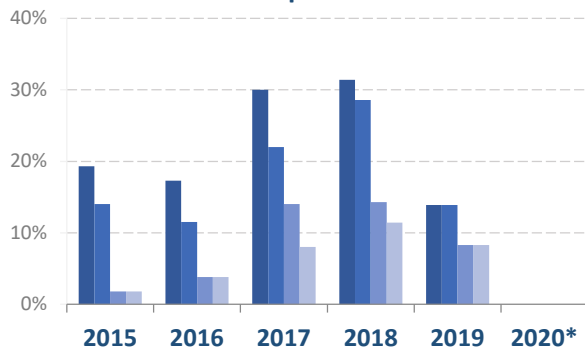
Resource Letter



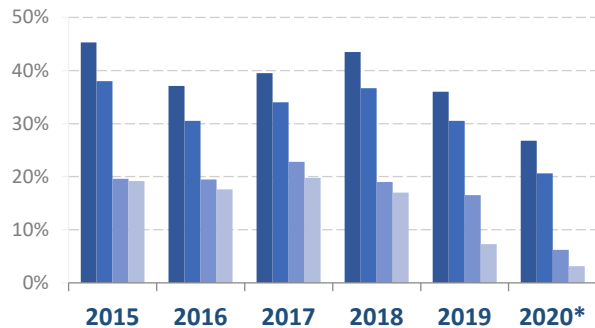
Warning Letter



Reproval



Probation



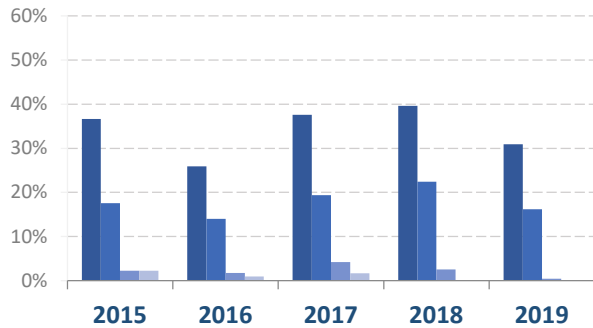
■ New Complaint Received ■ New Complaint Investigated ■ New Case Filed with State Bar Court ■ New Discipline Imposed

\*Cases disposed during the first 6 months only.

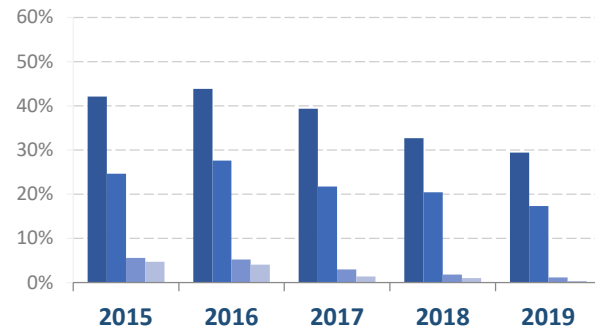
# Post-Disposition Outcomes

## Within 12 Months of Disposition

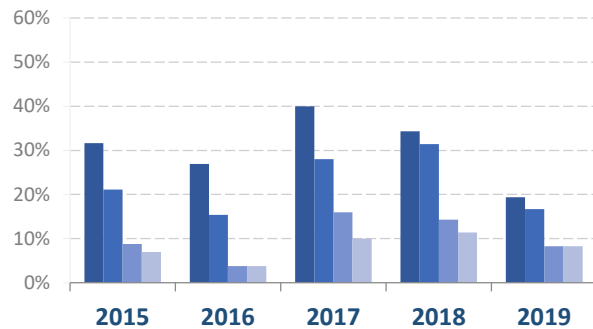
Resource Letter



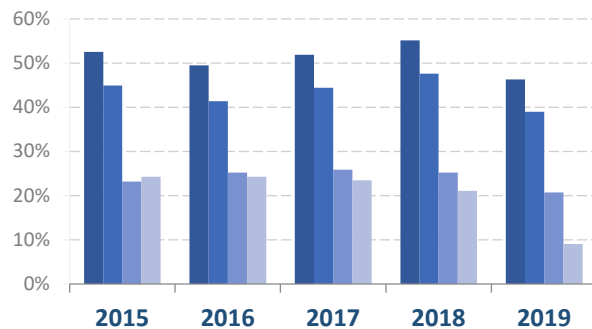
Warning Letter



Reproval



Probation

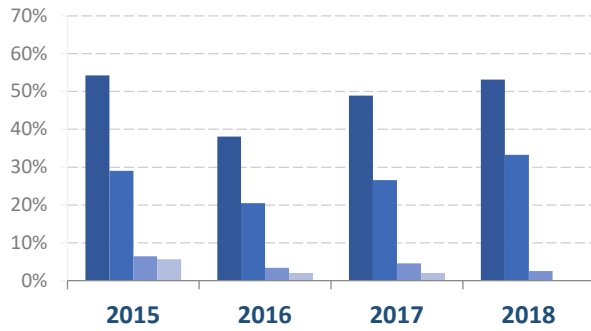


■ New Complaint Received 
 ■ New Complaint Investigated 
 ■ New Case Filed with State Bar Court 
 ■ New Discipline Imposed

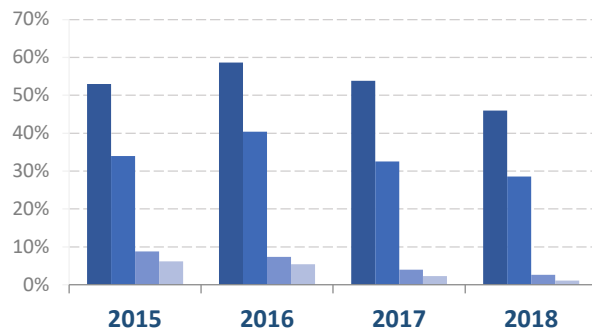
# Post-Disposition Outcomes

## Within 24 Months of Disposition

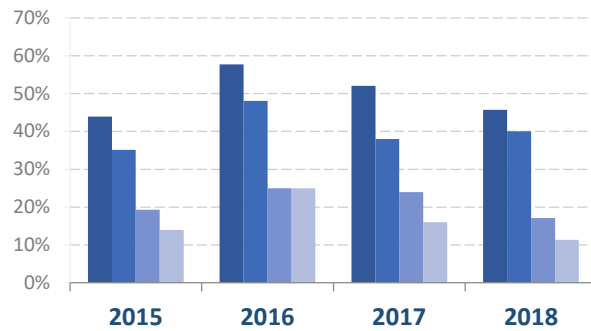
Resource Letter



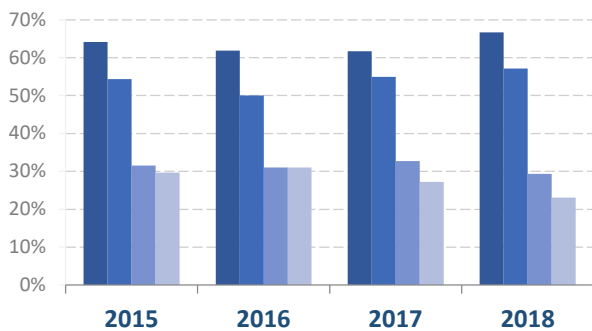
Warning Letter



Reproval



Probation

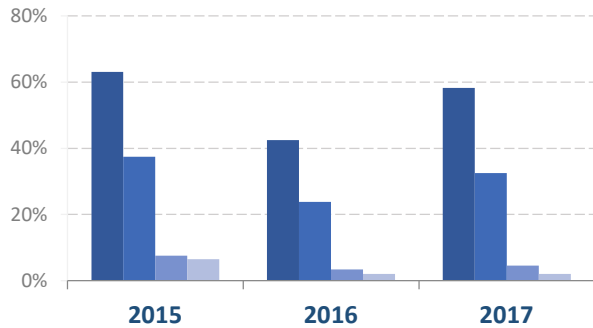


■ New Complaint Received 
 ■ New Complaint Investigated 
 ■ New Case Filed with State Bar Court 
 ■ New Discipline Imposed

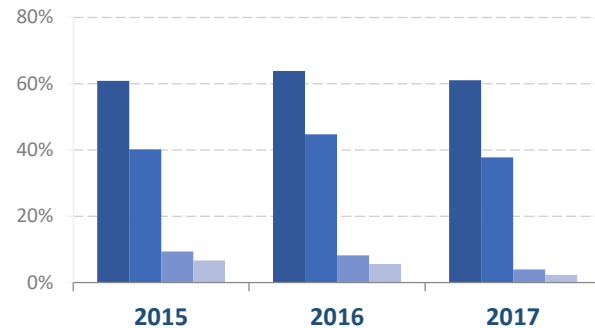
# Post-Disposition Outcomes

## Within 36 Months of Disposition

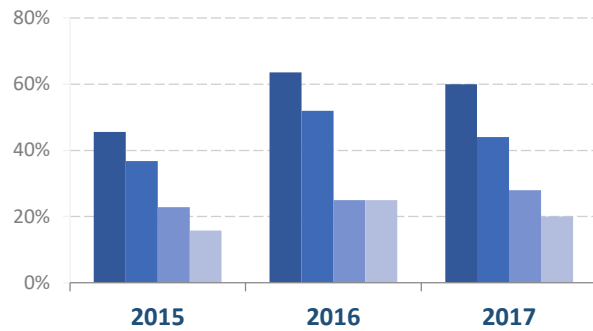
Resource Letter



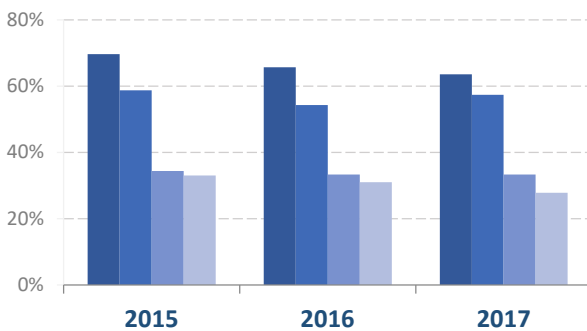
Warning Letter



Reproval



Probation



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

## Complaining Witness Survey

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

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

Complaining Witnesses (CW) are invited to participate in a survey via a letter they receive that describes the outcome of their complaint. Those with email addresses are invited to participate via email. Contact via email ceased during Q2 and Q3 of 2019 when the new data management system Odyssey went live but was resumed in October 2019.

The analyses compare two groups of Complaining Witnesses:

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

### Number of Complaining Witnesses That Responded to Survey

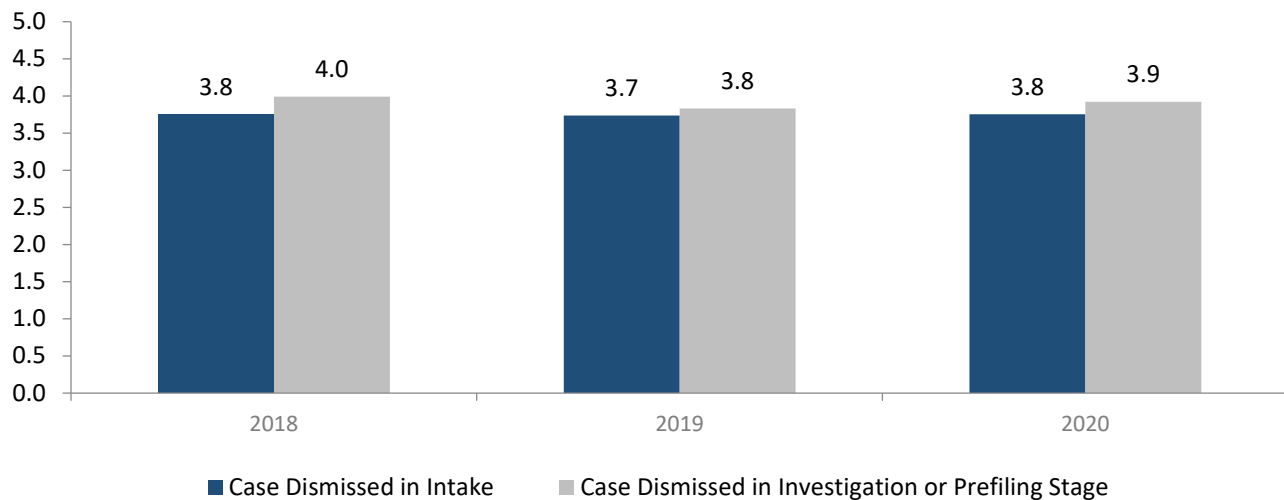
2018	650
2019	1,044
2020	1,235

## Complaining Witness Survey

### Access Questions

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

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



## Complaining Witness Survey

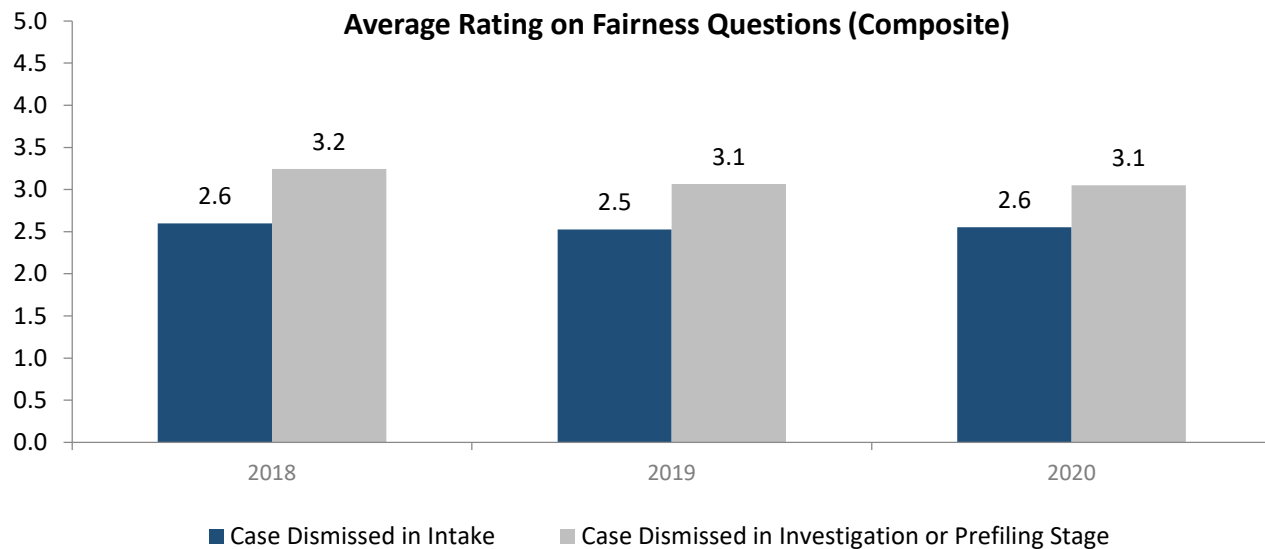
### Fairness Questions

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

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

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

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

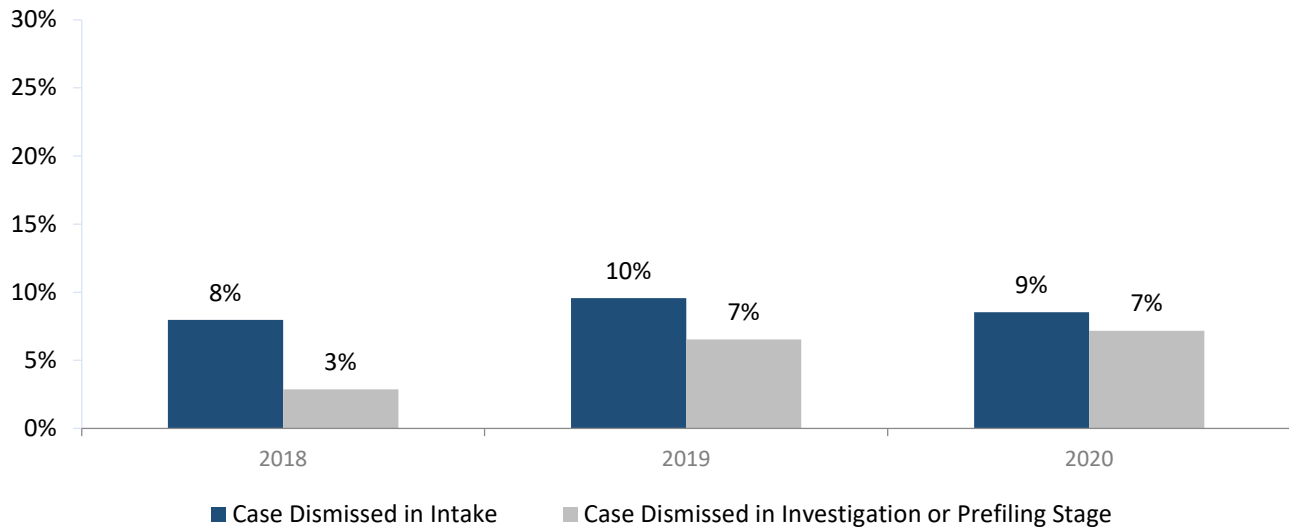


## Complaining Witness Survey: Access Ratings

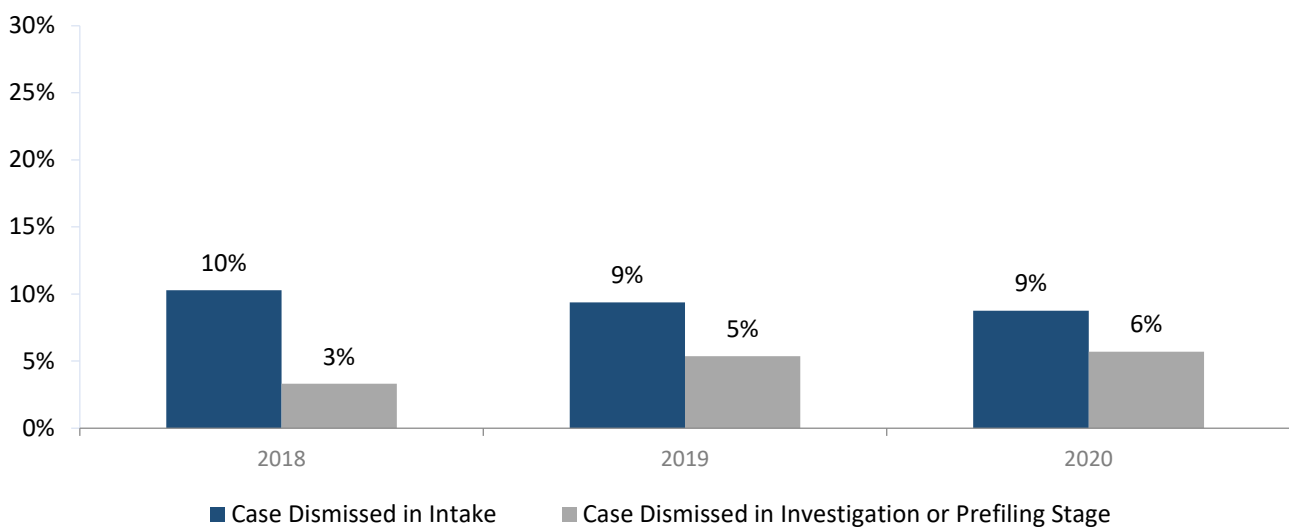
Percentage of CWs that Responded to **Access** Questions with a Rating of 1 (strongly disagree)

(Higher percentages indicate more dissatisfied CWs)

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



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

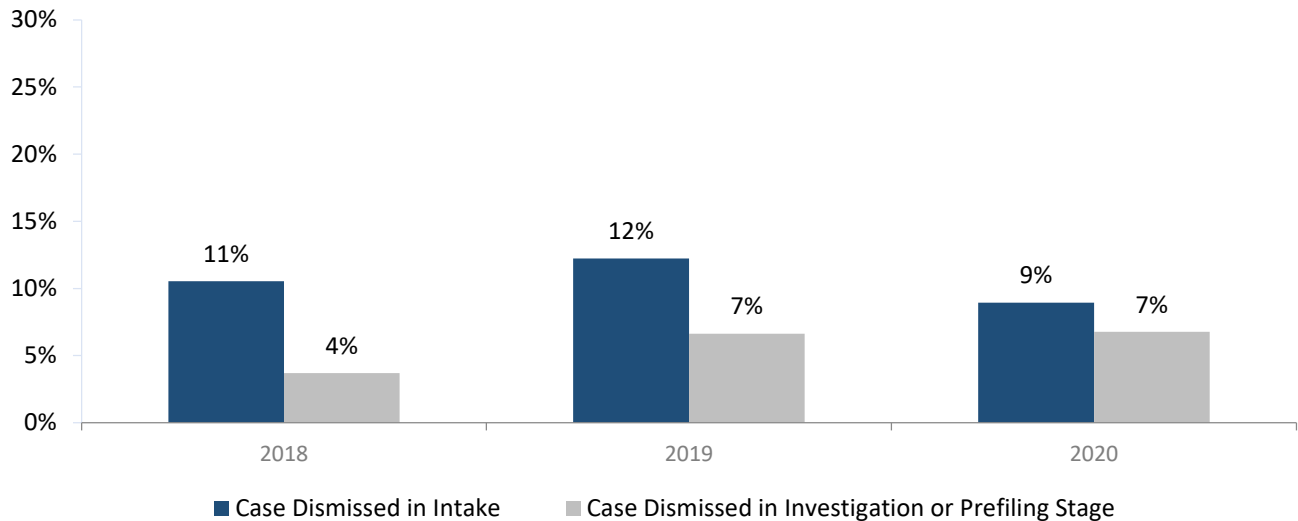




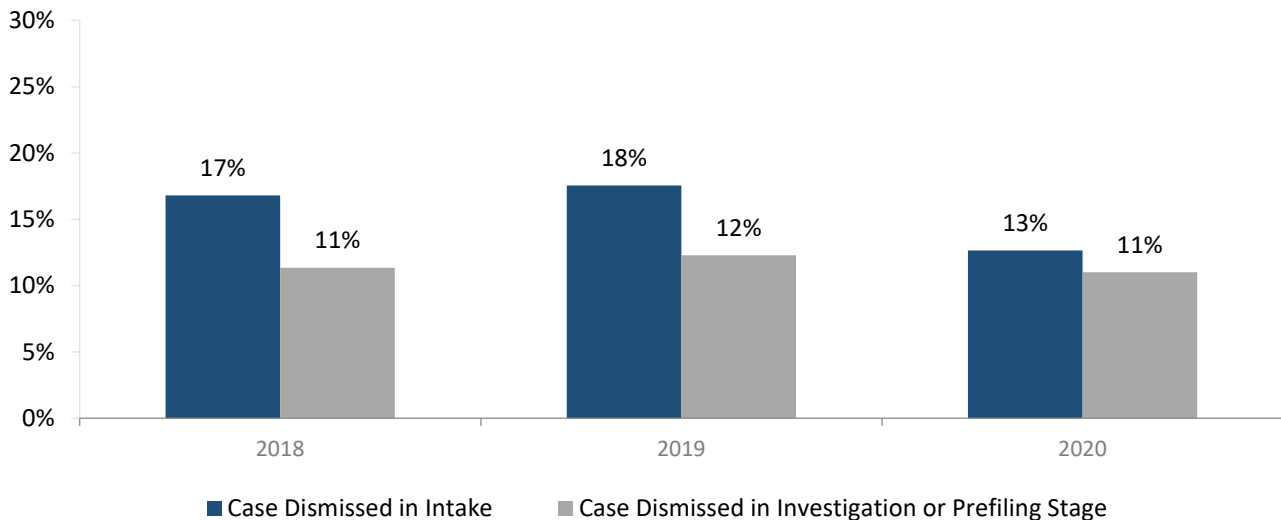
## Complaining Witness Survey: Access Ratings

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

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



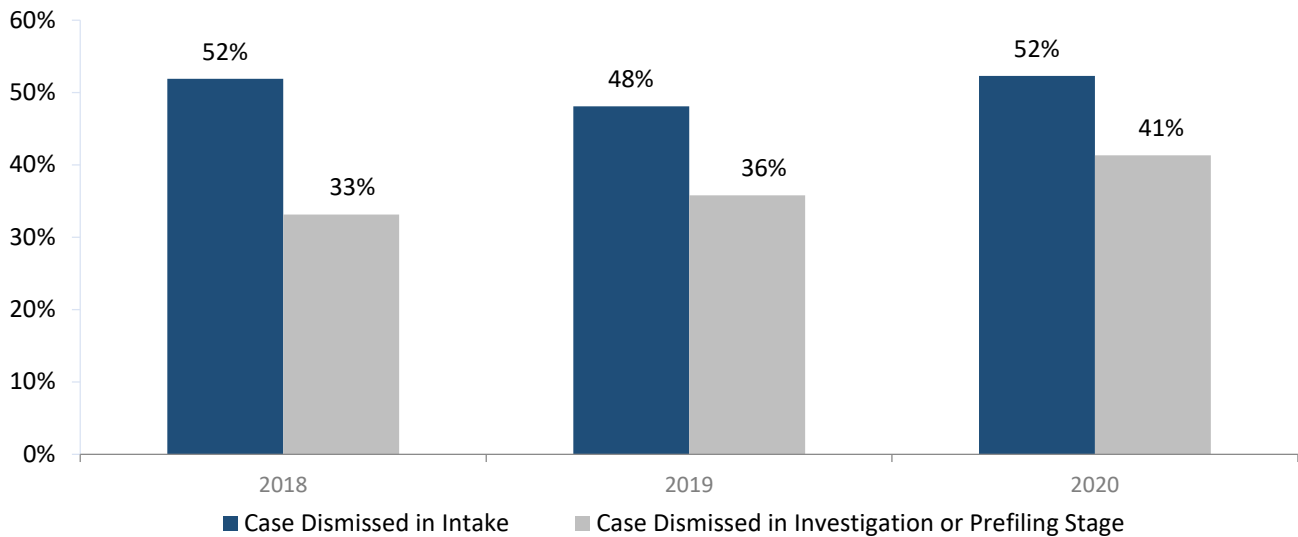
The written instructions that were included with the complaint form were clear and easy to understand.



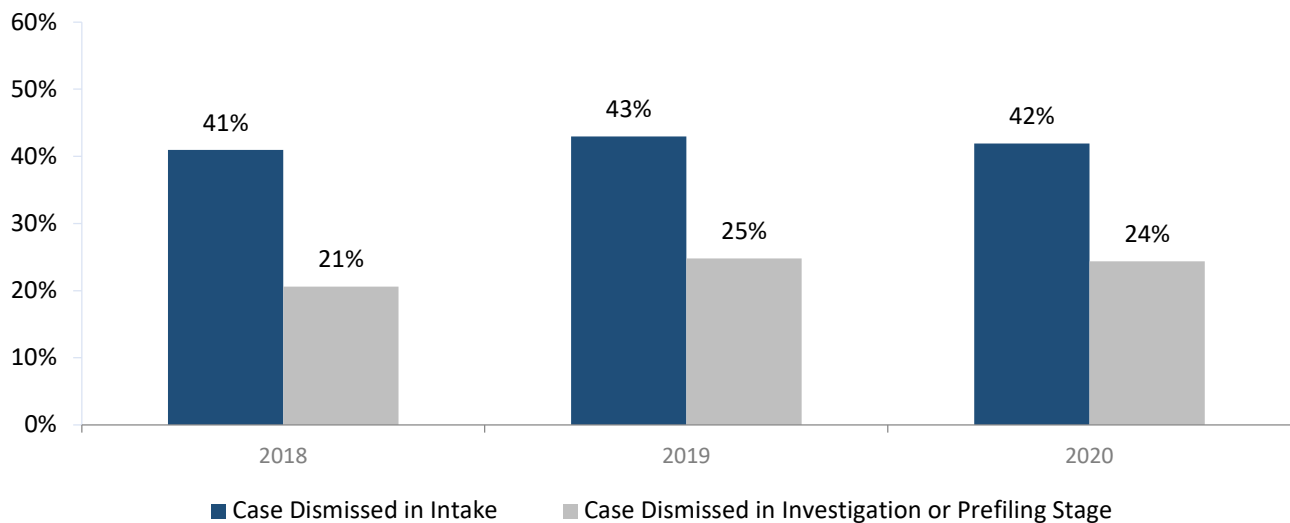
## Complaining Witness Survey: Fairness Ratings

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

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



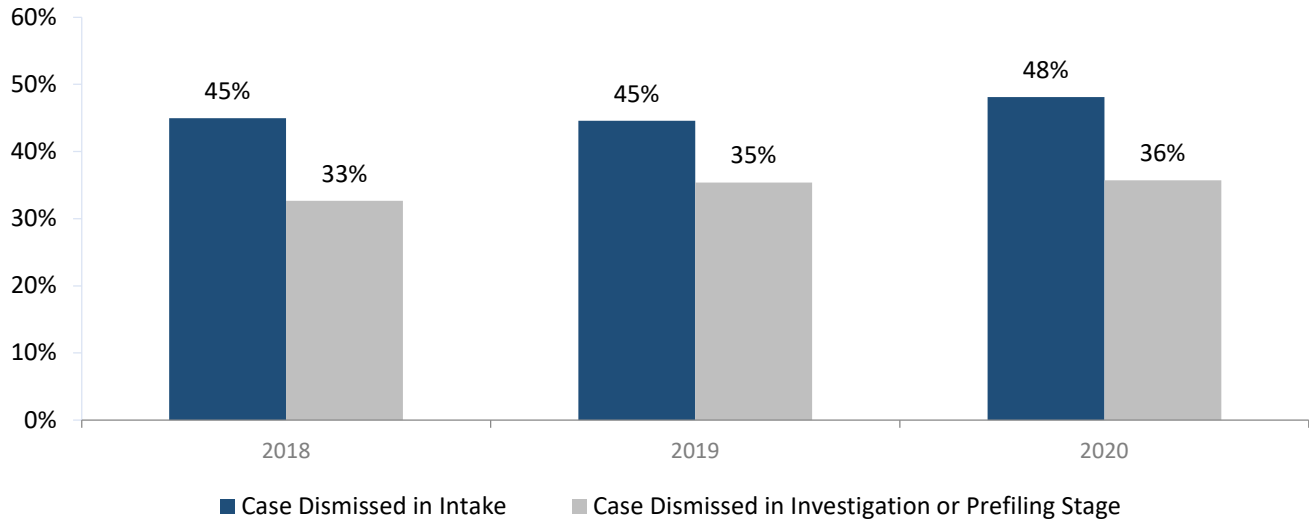
I was given the opportunity to submit additional information about my complaint.



## Complaining Witness Survey: Fairness Ratings

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

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



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

