



# The State Bar of California

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## **OPEN SESSION**

## **AGENDA ITEM**

**JULY 2021**

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

**DATE:** July 22, 2021

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

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

**SUBJECT:** Review of Metrics Under Purview of the Regulation and Discipline Committee  
and the Discipline System Statistical Report

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### **EXECUTIVE SUMMARY**

This agenda item summarizes the most recent performance metrics for offices under the purview of the Regulation and Discipline (RAD) Committee.

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### **BACKGROUND**

In January 2019, a set of performance metrics for all of the State Bar's functional areas was introduced to the Board of Trustees. The purpose of the metrics is to assess the organization's overall functioning and provide a depiction of the State Bar's work and impact. Performance metrics provide a quantifiable way for organizational leaders to recognize successes, identify areas needing improvement, and for stakeholders, to build trust in leadership and see the results of ongoing efforts. The metrics measure each State Bar office's critical performance objectives, including operational efficiencies, customer responsiveness, and fiscal accountability, and are reported monthly, quarterly, semiannually, or annually. Some metrics are one-time in nature—for example, a specific implementation plan. The majority have performance targets.

In fall 2020, staff undertook a comprehensive review of all metrics to determine which metrics remain valuable for assessing the office's performance objectives and goals. Current metrics were reevaluated with office leaders and were revised, eliminated, or designated to remain the same. Revisions included modifying wording to clarify language and adding or eliminating targets. Metrics were eliminated for a variety of reasons, including outdated relevance to office

objectives. Some metrics for which we consistently met the target goal were also eliminated. Finally, new metrics were added as appropriate to assess the performance of the office and the State Bar.

## DISCUSSION

The July 2021 Metrics Report has been submitted to the Board of Trustees as agenda item 702. The metrics report focuses on Q1 2021, monthly metrics for January through May 2021 and annual metrics reported for 2020.

The following offices are under the purview of the RAD Committee: Client Security Fund, Lawyer Assistance Program, Office of Chief Trial Counsel, Probation, and State Bar Court. All offices except for Client Security Fund report metrics for the period under review.

Table 1 summarizes the 19 metrics reported in the July 2021 Metrics Report for offices under the RAD Committee's purview that had metrics due this reporting period. Of the 19 metrics reported, 11 have targets for accountability purposes. Of these, 8 or 73 percent met targets.

**Table 1. Summary of Metrics for Current Reporting Period**

	Number of Metrics Reported	Number of Metrics with Targets	Number/Percent of Metrics that Met Target
Lawyer Assistance Program	4	3	3(100%)
Office of Chief Trial Counsel	7	1	1(100%)
Probation	2	1	1(100%)
State Bar Court	6	6	3(50%)
Total	19	11	8(73%)

## METRICS THAT DID NOT MEET PERFORMANCE TARGETS

A brief explanation of performance metrics that did not meet their target is provided below.

### State Bar Court: (SBC-1)

- Target: 100%
- January 2021: 93%
- February 2021: 89%
- March 2021: 89%
- April 2021: 84%
- May 2021: 95%

The annual caseload clearance rate is the average of the previous 12 months of monthly caseload clearance rates. The COVID-19 pandemic and related State Bar building closures to the public, beginning March 13, 2020, required the court to abate roughly 150 cases and resulted in a decline of the court's caseload clearance. During the building closures, following the acquisition of Zoom licenses, the State Bar Court began extensive training to permit the court to conduct remote

events, unabated cases, and conduct conferences, trials, and oral arguments. The first remote event occurred on April 21, 2020, the first remote oral argument on June 17, 2020, and the first remote trial on July 8, 2020. The remote appearances program continues today, which has allowed the State Bar Court to limit the number of employees needed to come into the office full time and allowed the court to keep courtrooms closed. The court has also implemented new practices to comply with interim rule 5.26.1 and accept and file electronic submissions. The court expects the caseload clearance rate to remain irregular for the next several months while the court recovers from the State Bar building closure and related case abatements.

**State Bar Court: Hearing Department: 90% of cases to be processed within case type timeline (SBC-2A)**

- Target: 90%
- January 2021: 96%
- February 2021: 94%
- March 2021: 87%
- April 2021: 89%
- May 2021: 88%

The primary reasons for case processing delay in March–May 2021 included good-cause or stipulated continuances as requested by the parties. Two cases in March were delayed due to nonconsecutive trial dates. Two cases in May were delayed due to nonconsecutive trial dates, and further status conferences that were held; and in one case a default order was vacated which resulted in the default process restarting.

**State Bar Court: Hearing Department: 100% of cases to be processed within 150% of case type timeline (SBC-2B)**

- Target: 100%
- January 2021: 96%
- February 2021: 100%
- March 2021: 99%
- April 2021: 96%
- May 2021: 100%

The primary reasons for case processing delays included good-cause continuances as requested by the parties.

**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. It is in Attachment A.

**ATTACHMENT LIST**

**A. Discipline System Statistical Report: July 2021**



# The State Bar of California

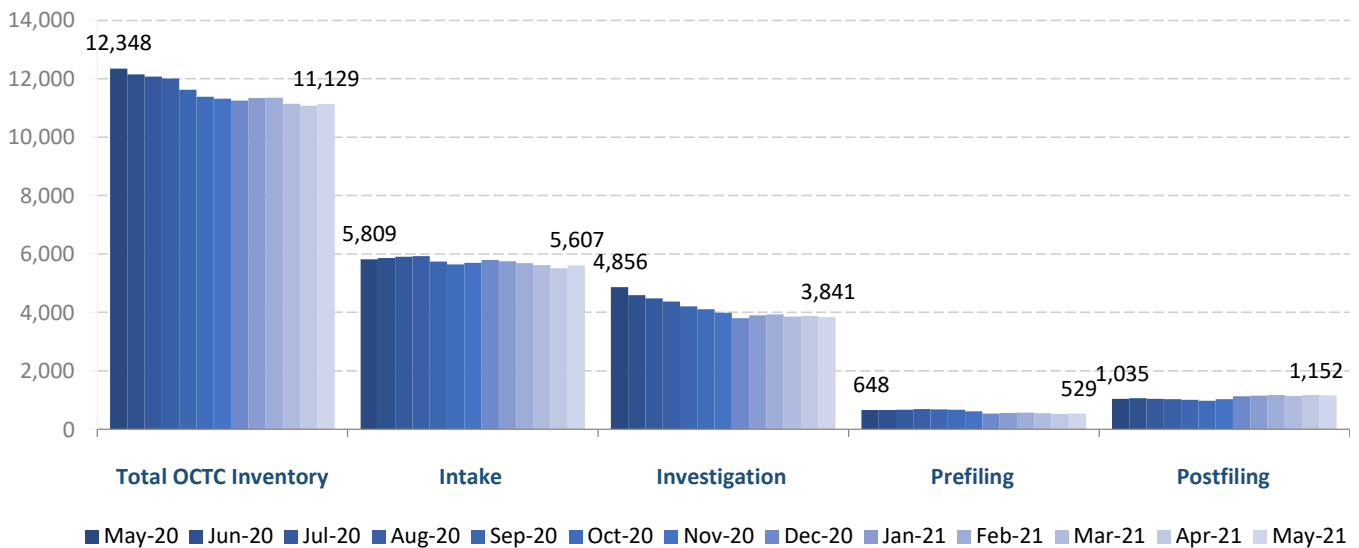
## **Discipline System Statistical Report**

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

**Due to continuous data improvement, analyses reported here supersede  
all those reported in previous versions of this report.**

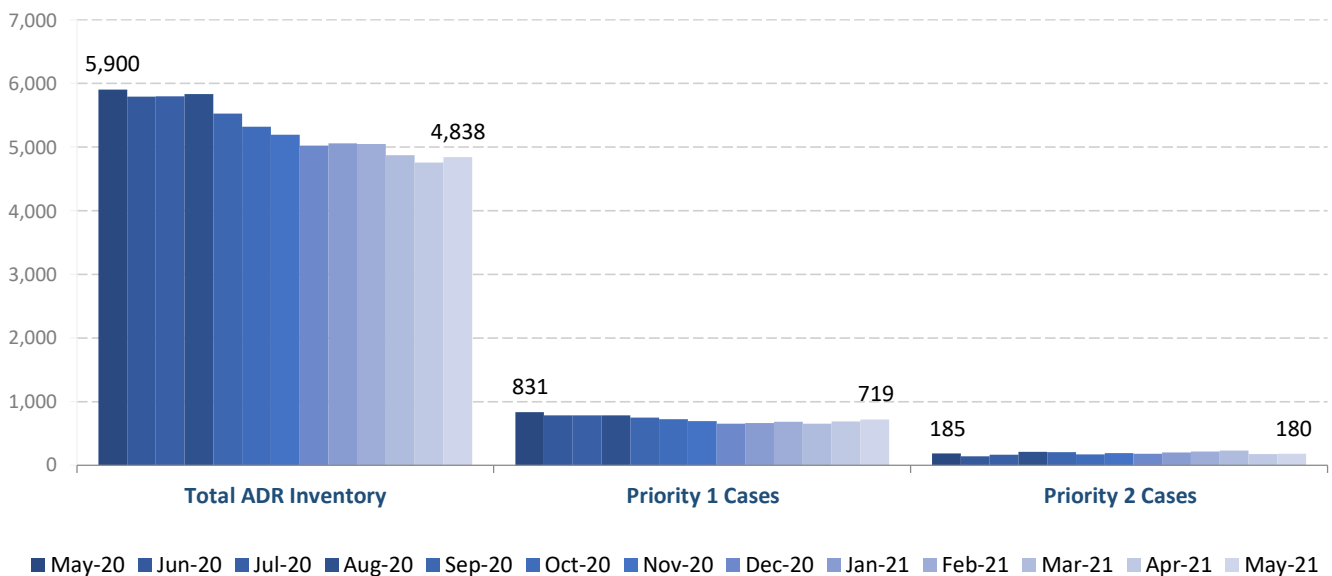
# Office of Chief Trial Counsel

## OCTC Inventory by Stage



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

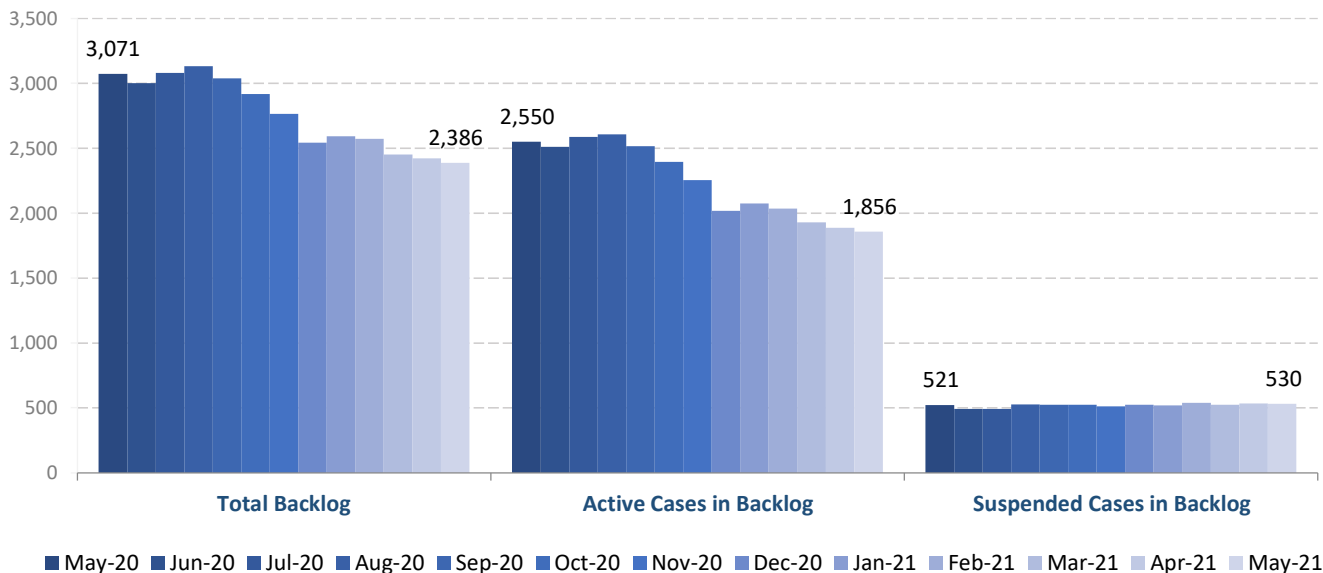
## ADR Inventory: Total, Priority 1 (P-1) Cases, Priority 2 (P-2) Cases



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.

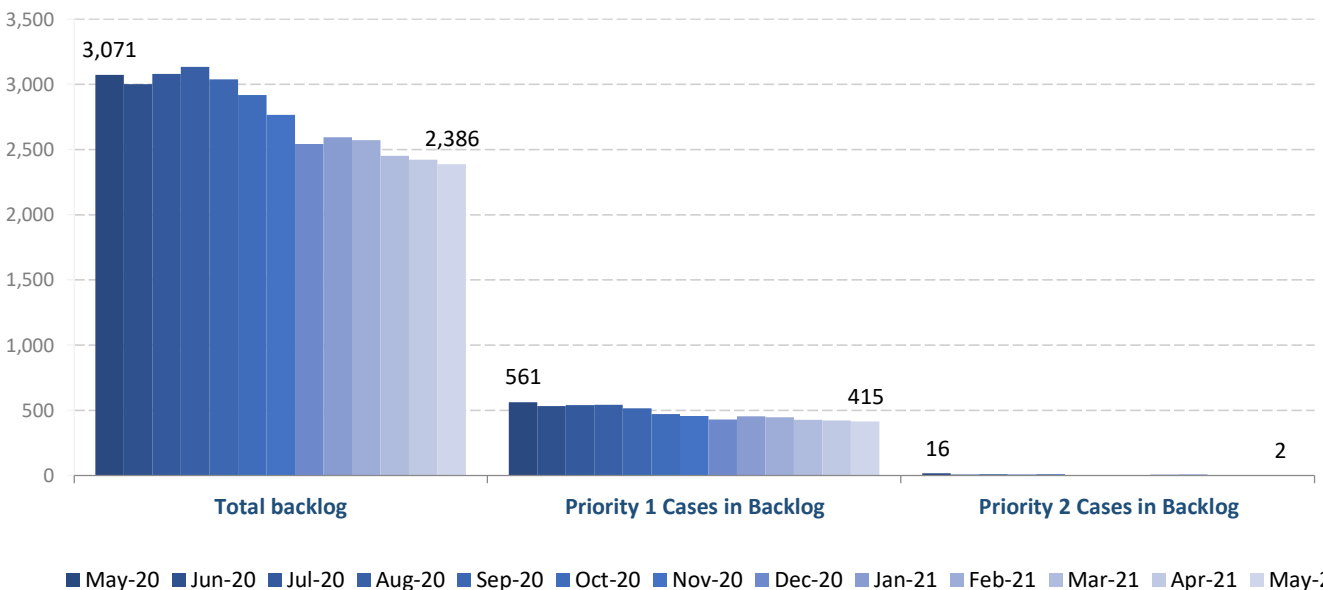
## Office of Chief Trial Counsel

### 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.

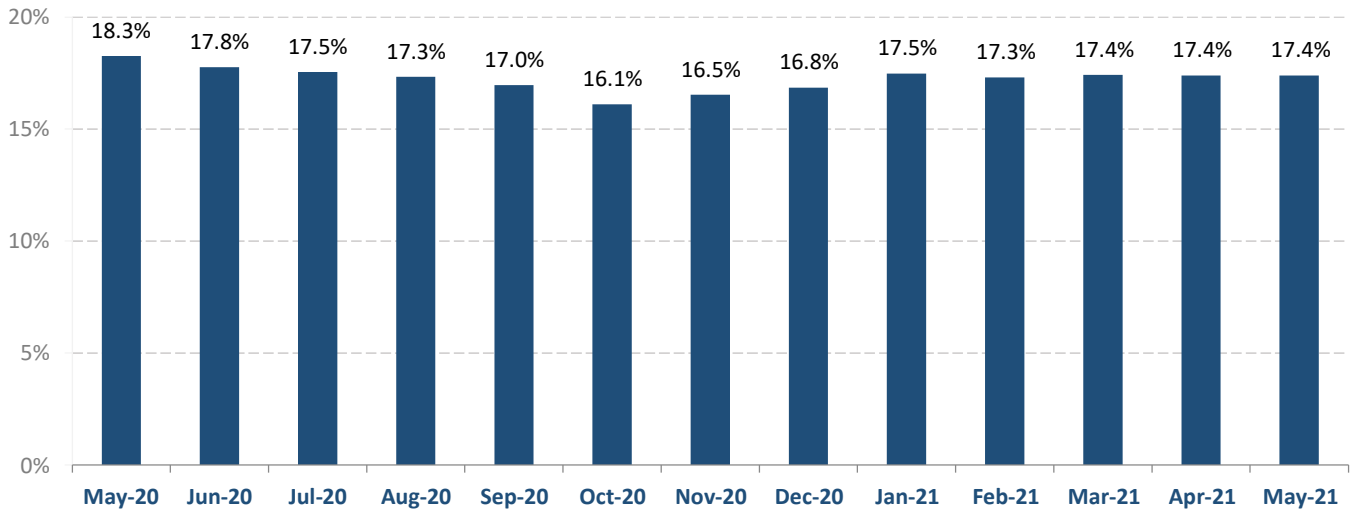
### Backlog: Total, Priority 1 (P-1) Cases, and Priority 2 (P-2) Cases



*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.

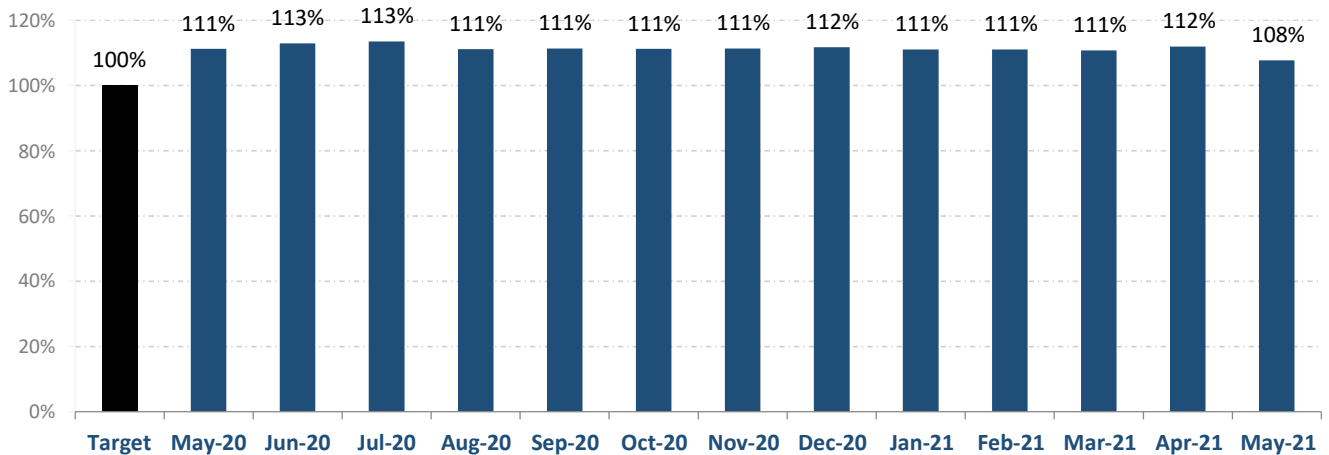
## Office of Chief Trial Counsel

### 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

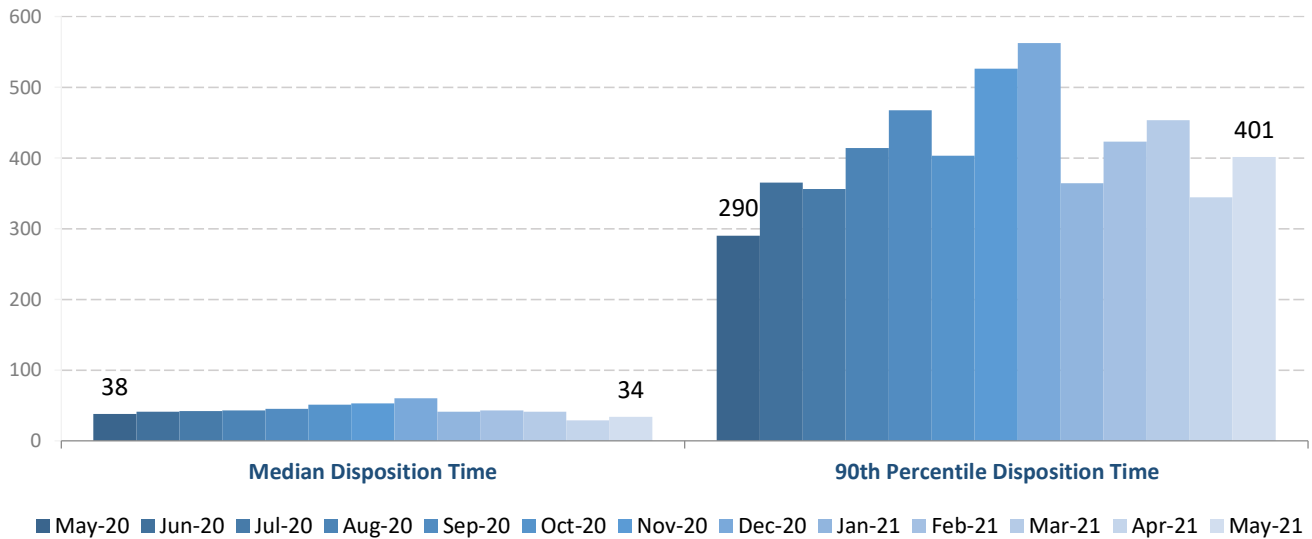


Note: Annual caseload clearance rates are calculated using a 12 month rolling average of monthly caseload clearance rates (ratio of cases closed to cases opened in a month). Metric OCTC-3, *Maintain annual caseload clearance rate of at least 1.0.*



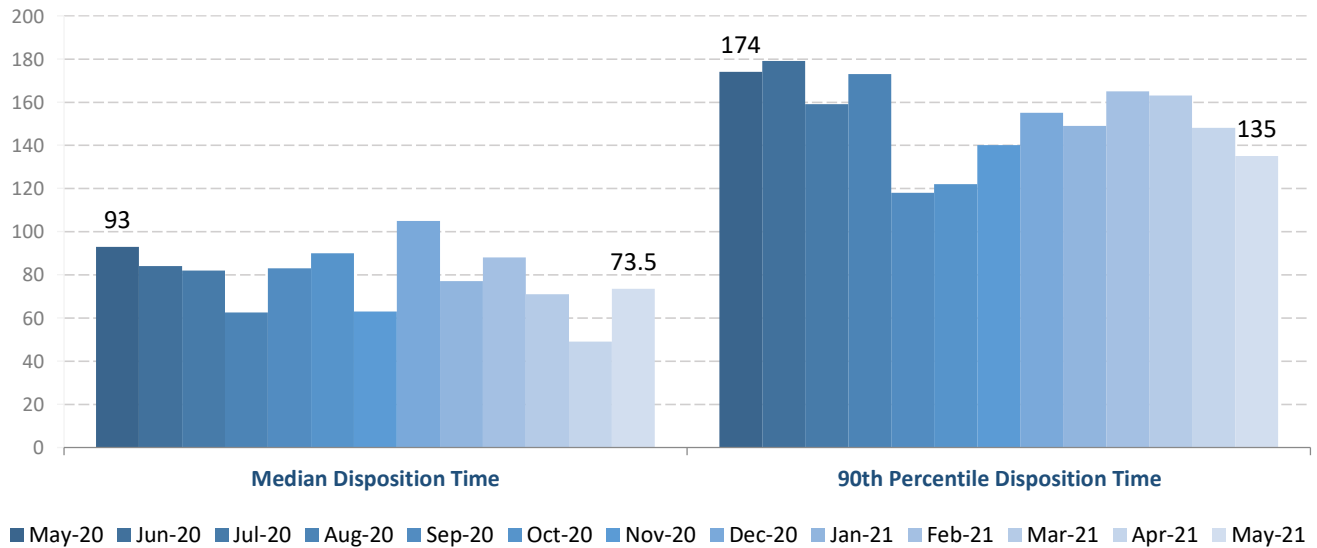
# Office of Chief Trial Counsel

## 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).

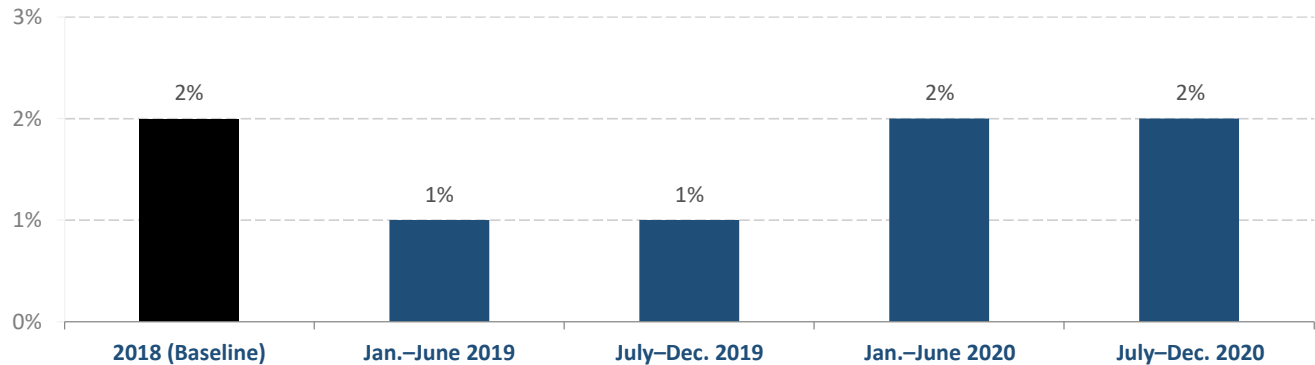
## Case Disposition Times: Priority Two (P-2) Cases



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 P-4 priority code where there is a lack of resources to handle P-2 cases.

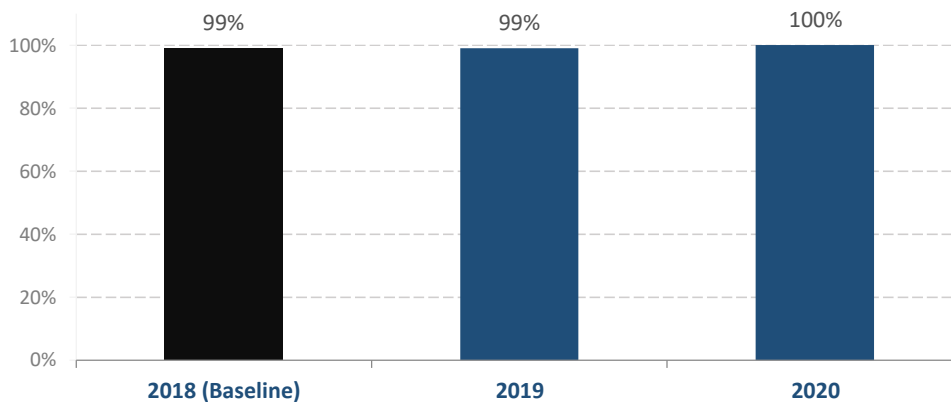
## Office of Chief Trial Counsel

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



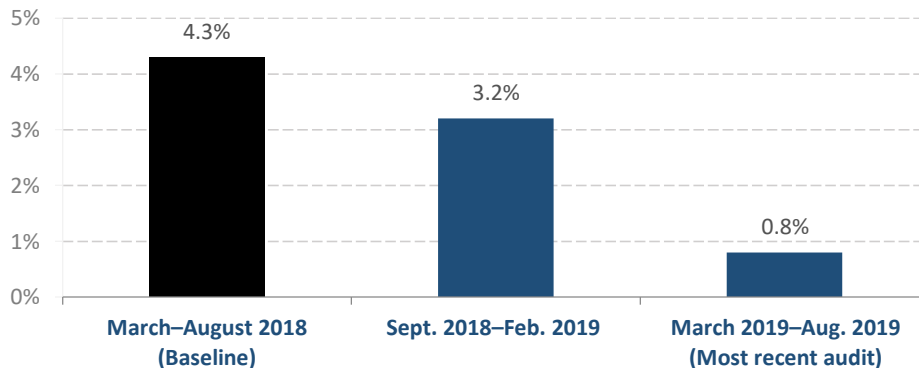
Note: Metric OCTC-5A, Maintain current level of CRU reopens for reasons other than new evidence.

### Percent of Walker Petitions Denied



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

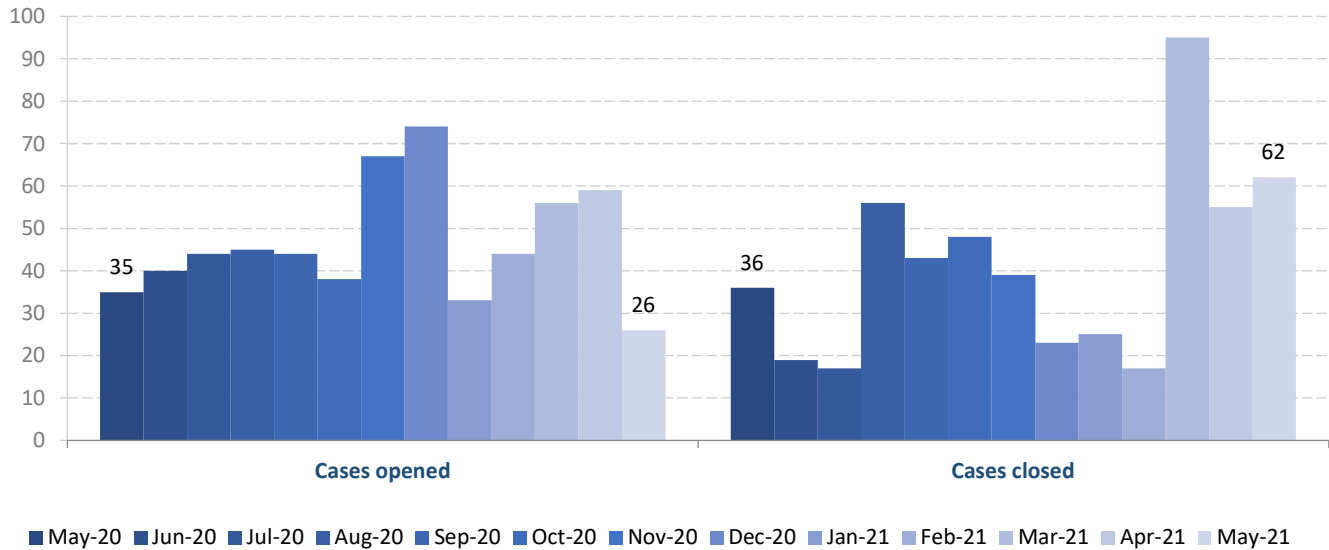
### Percent of Random Audit Reopens for Substantive Reason



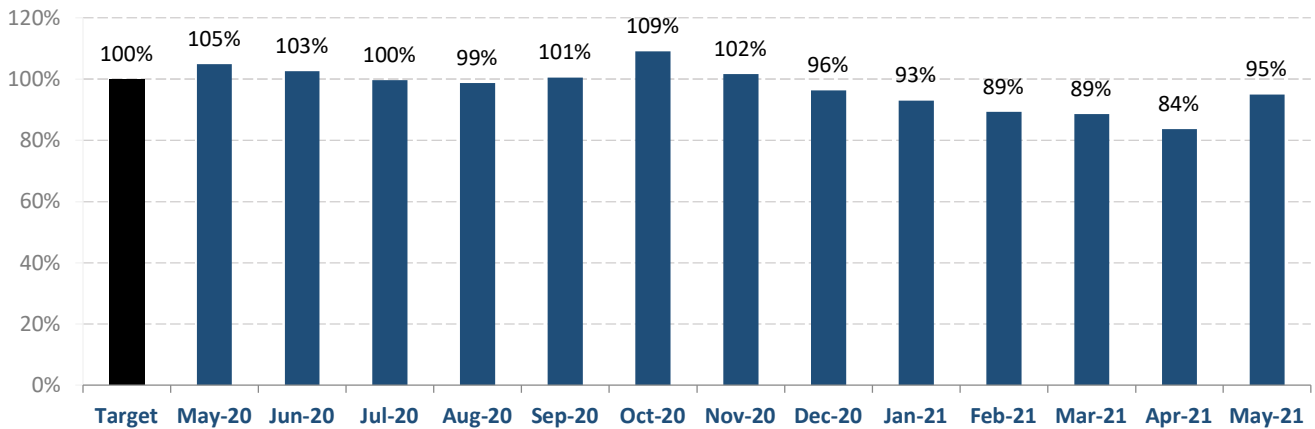
Note: Per Policy Directive 2006-02, up to 250 closed OCTC case files are randomly selected twice a year for an audit. The files are audited to ensure that cases are closed, investigated, and/or prosecuted appropriately. Metric OCTC-5C, Decrease the number of random audit reopens for substantive reasons.

## State Bar Court

### Cases Opened and Closed



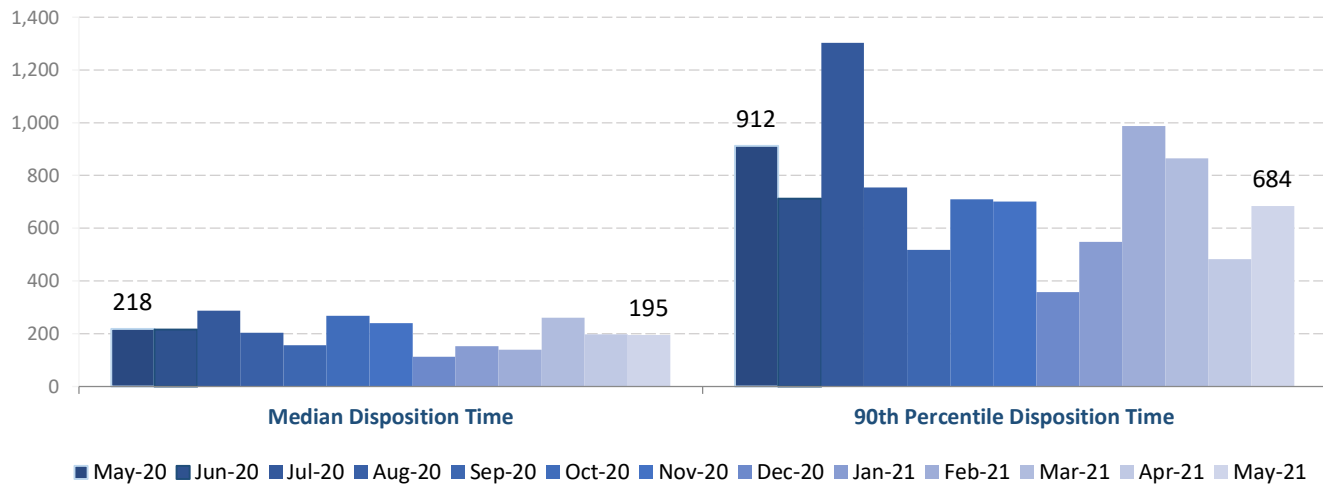
### Annual Caseload Clearance Rate



*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).

	Jan-Jun 2019	Jul-Dec 2019	Jan-Jun 2020	Jul-Dec 2020
<b>Appeals</b>				
<b>Petitions seeking review:</b>	7	6	5	13
<b>Petitions granted:</b>	1	0	1	1
<b>Petitions denied:</b>	6	4	4	10
<b>Remands:</b>	1	0	1	1

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
May-20	33	26	79%	29	88%
Jun-20	19	17	89%	17	89%
Jul-20	17	17	100%	17	100%
Aug-20	54	50	93%	53	98%
Sep-20	41	38	93%	40	98%
Oct-20	44	40	91%	43	98%
Nov-20	39	35	90%	39	100%
Dec-20	21	19	90%	20	95%
Jan-21	24	23	96%	23	96%
Feb-21	16	15	94%	16	100%
Mar-21	94	82	87%	93	99%
Apr-21	55	49	89%	53	96%
May-21	60	53	88%	60	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
May-20	6	4	67%	6	100%
Jun-20		No cases reached final outcome.			
Jul-20		No cases reached final outcome.			
Aug-20	2	2	100%	2	100%
Sep-20	3	3	100%	3	100%
Oct-20	2	2	100%	2	100%
Nov-20	5	5	100%	5	100%
Dec-20		No cases reached final outcome.			
Jan-21	2	2	100%	2	100%
Feb-21	1	1	100%	1	100%
Mar-21	12	12	100%	12	100%
Apr-21	3	3	100%	3	100%
May-21	1	1	100%	1	100%

Metric SBC2-C, Review Department: 90% of cases to be processed within case type timelines.

Metric SBC2-D, Review Department: 100% of cases to be processed within 150% of case type timelines.

## State Bar Court

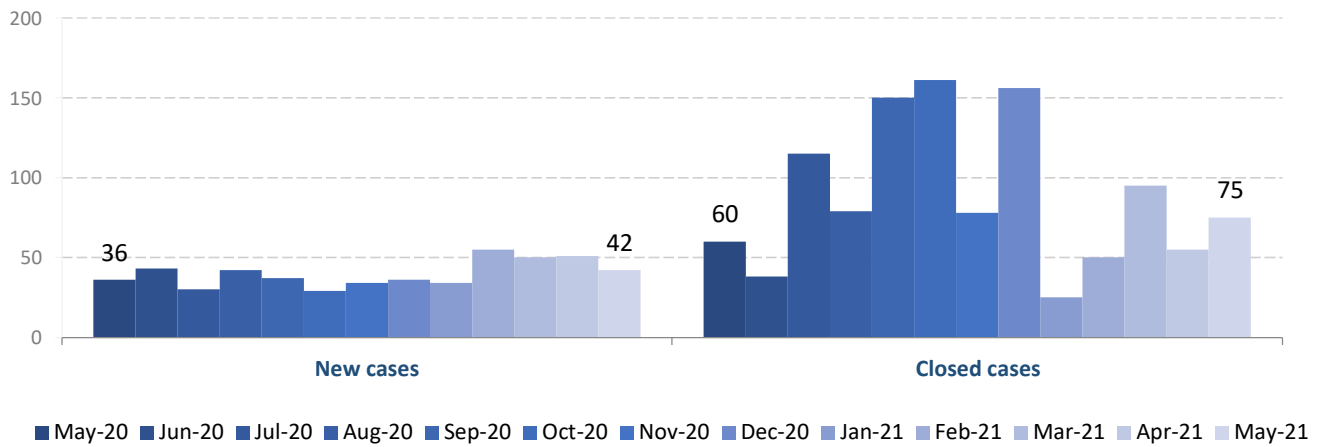
### Effectuations: Case Closure and Timeline Requirements

	Number of Cases	Cases Closed within Timeline Requirements	
		Number	Percent
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	24	24	100%
Dec-20	No cases reached final outcome.		
Jan-21	No cases reached final outcome.		
Feb-21	2	2	100%
Mar-21	80	80	100%
Apr-21	34	34	100%
May-21	30	30	100%

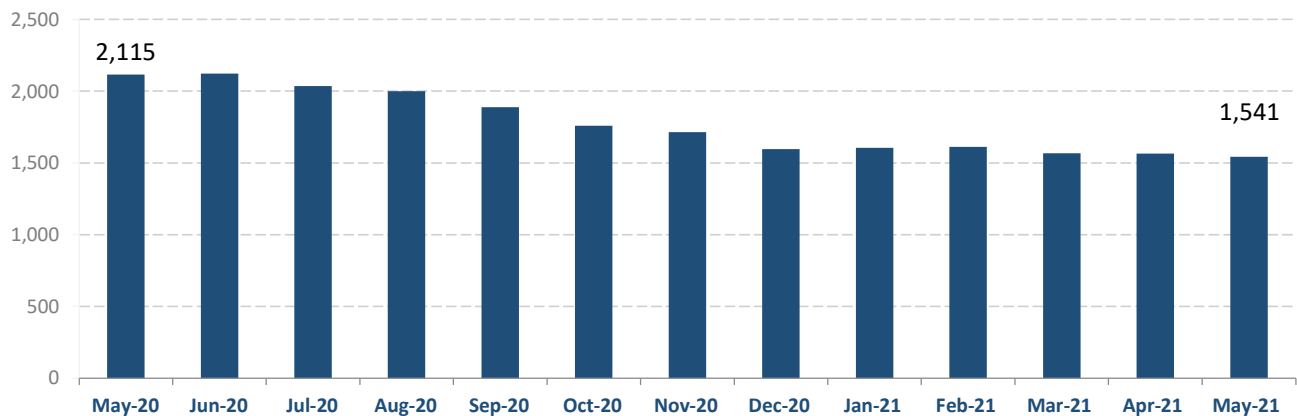
Metric SBC-2E, *Effectuations: 100% of cases to be processed within timeline.*

# Client Security Fund

## New and Closed Cases

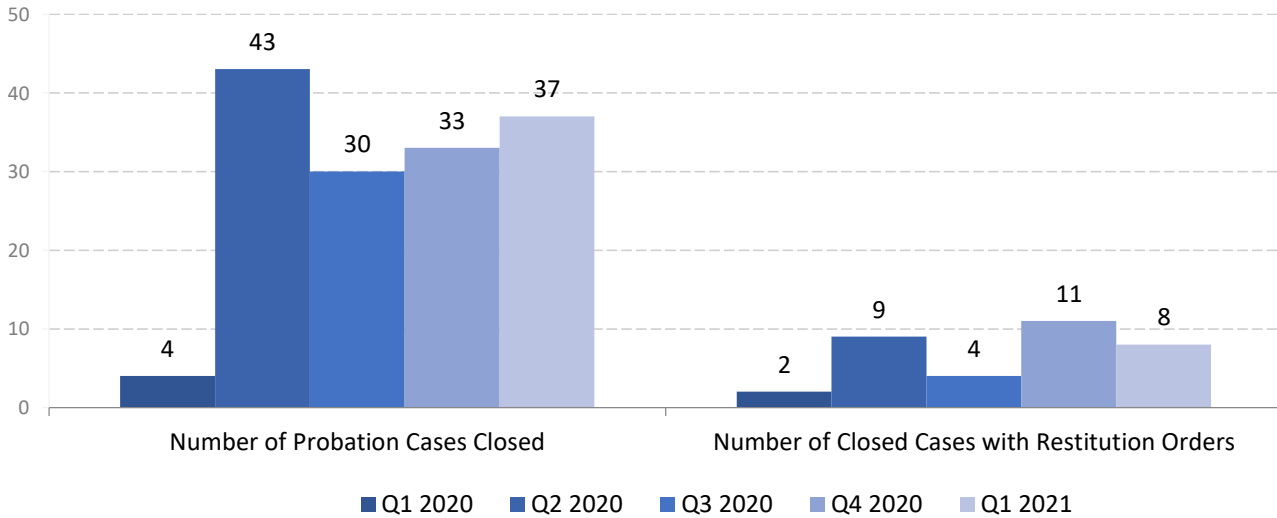


## Case Inventory



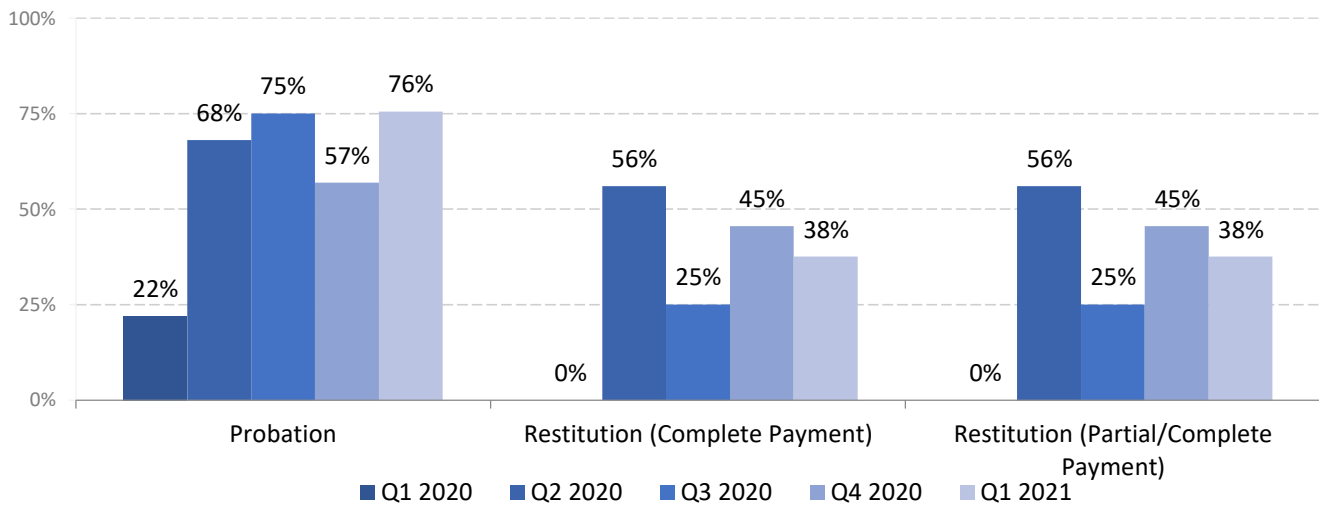
# Probation

## 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

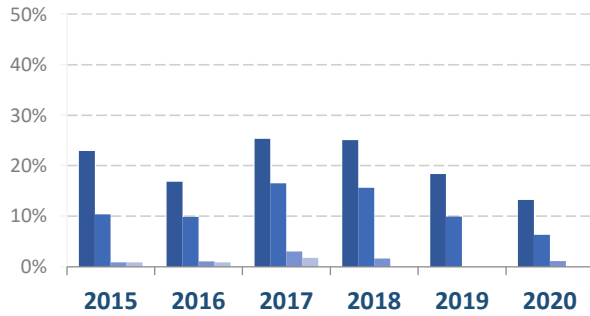
	Resource Letter	Warning Letter	Reproval	Probation	Total
2015	262	594	57	276	1,189
2016	386	539	52	210	1,187
2017	237	572	50	162	1,021
2018	192	618	35	147	992
2019	191	515	36	162	904
2020	189	401	49	141	780

Note: outcomes analyzed are as of June 2021

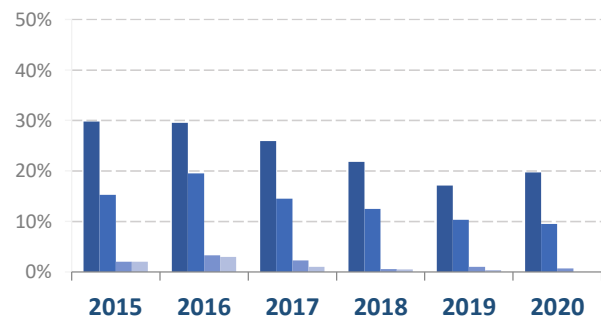
# Post-Disposition Outcomes

## Within 6 Months of Disposition

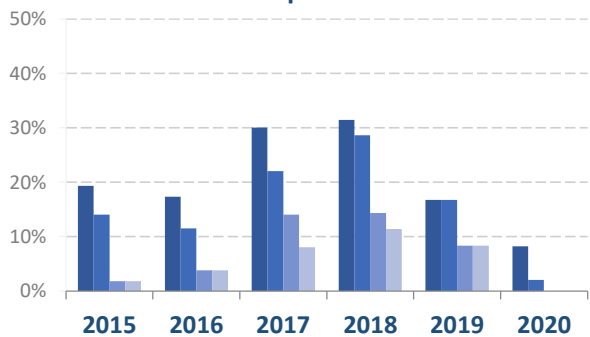
Resource Letter



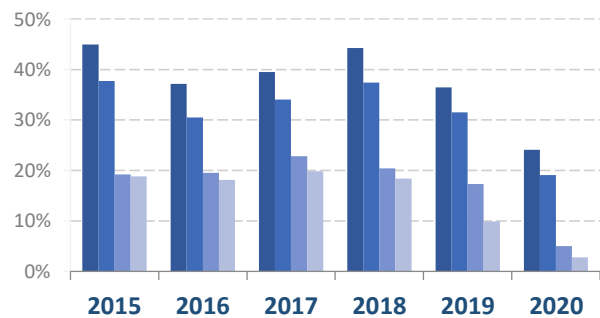
Warning Letter



Reproval



Probation

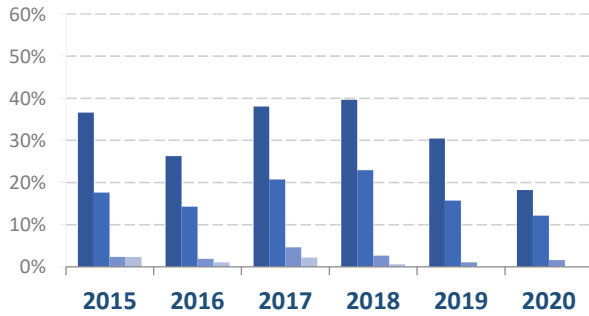


■ New Complaint Received 
 ■ New Complaint Investigated 
 ■ New Case Filed with State Bar Court 
 ■ New Discipline Imposed

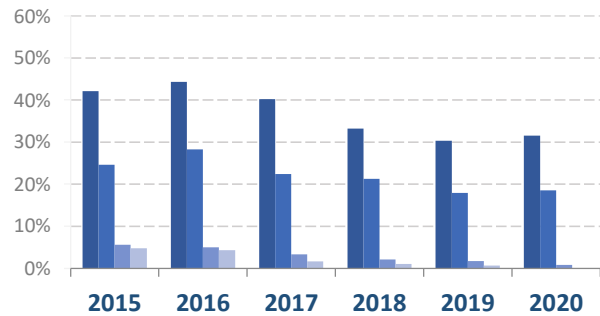
# Post-Disposition Outcomes

## Within 12 Months of Disposition

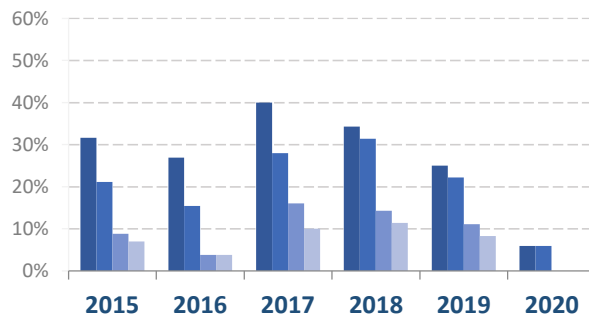
Resource Letter



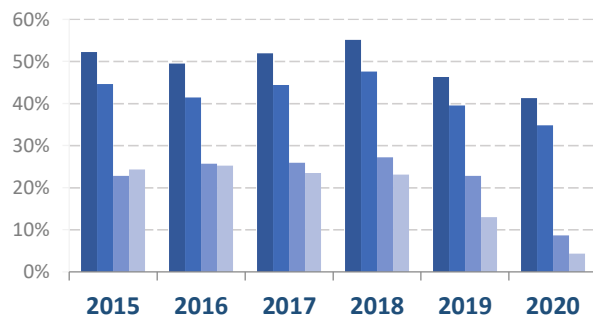
Warning Letter



Reproval



Probation

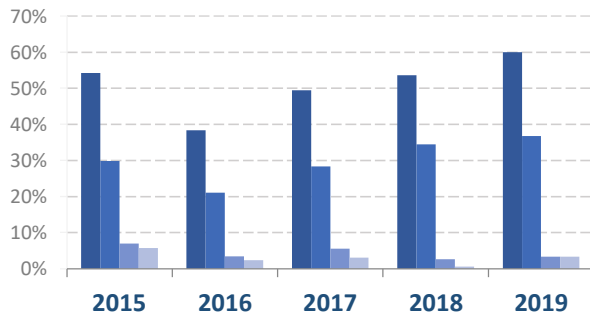


■ New Complaint Received 
 ■ New Complaint Investigated 
 ■ New Case Filed with State Bar Court 
 ■ New Discipline Imposed

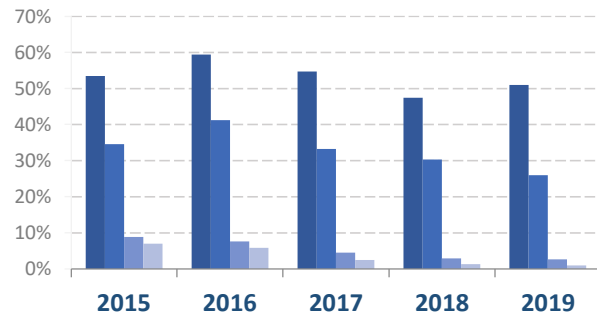
# Post-Disposition Outcomes

## Within 24 Months of Disposition

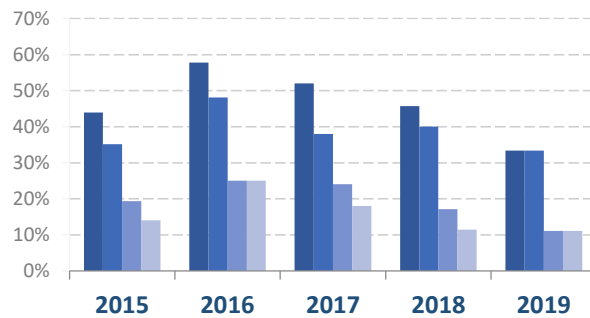
Resource Letter



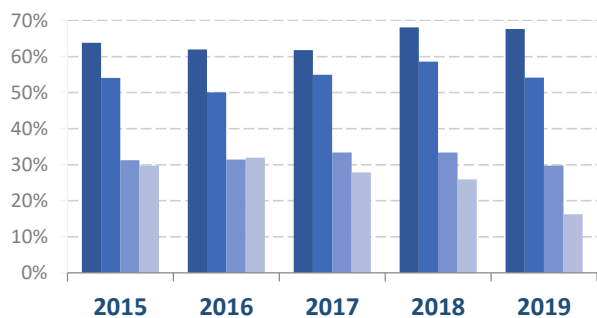
Warning Letter



Reproval



Probation

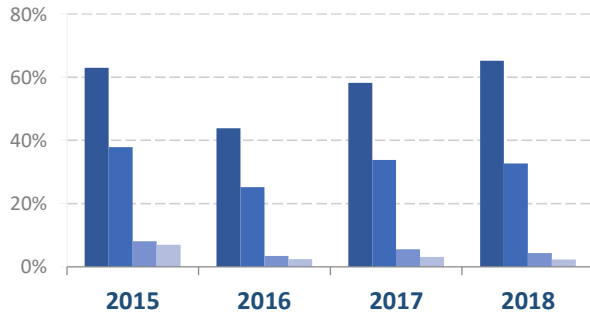


■ New Complaint Received 
 ■ New Complaint Investigated 
 ■ New Case Filed with State Bar Court 
 ■ New Discipline Imposed

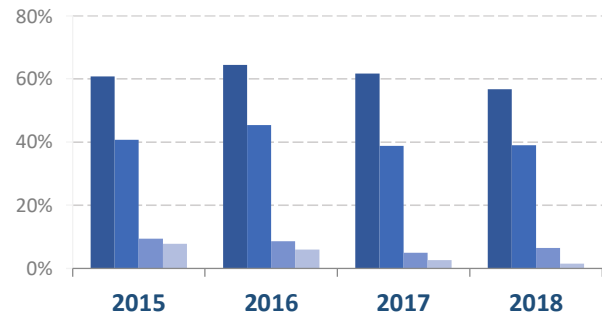
# Post-Disposition Outcomes

## Within 36 Months of Disposition

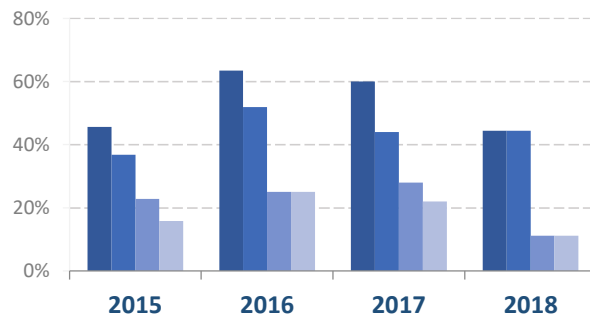
Resource Letter



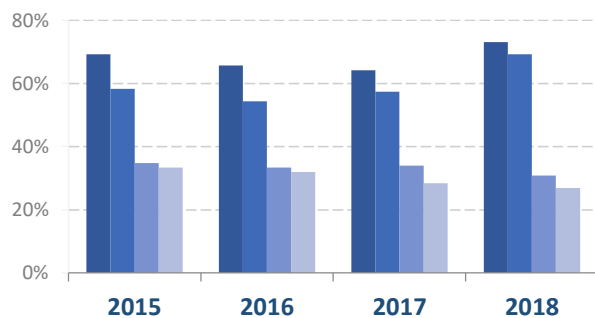
Warning Letter



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

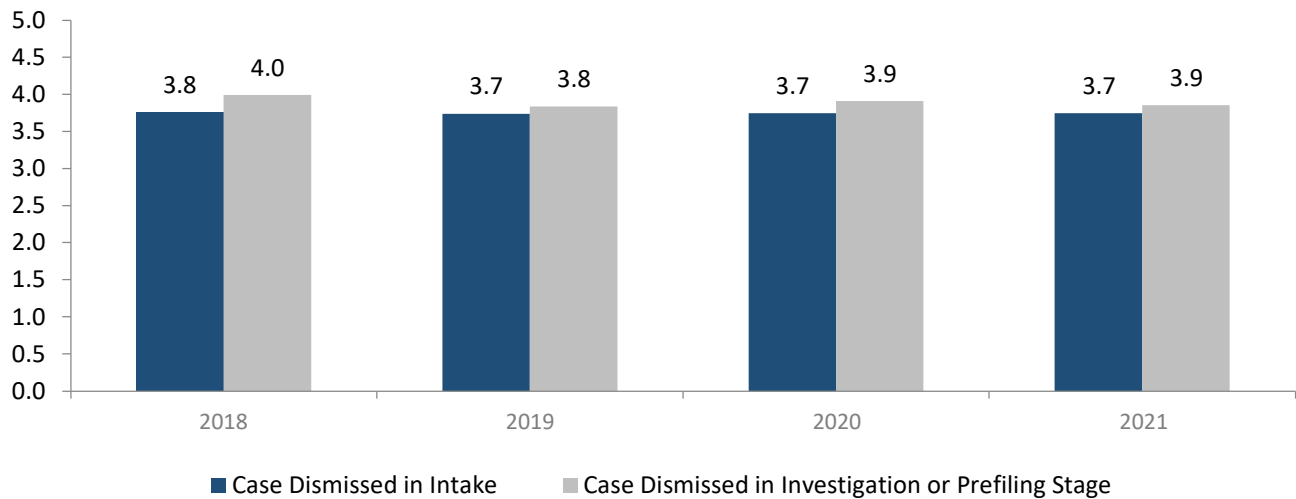
2018	650
2019	1,044
2020	1,330
2021	511

## 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.

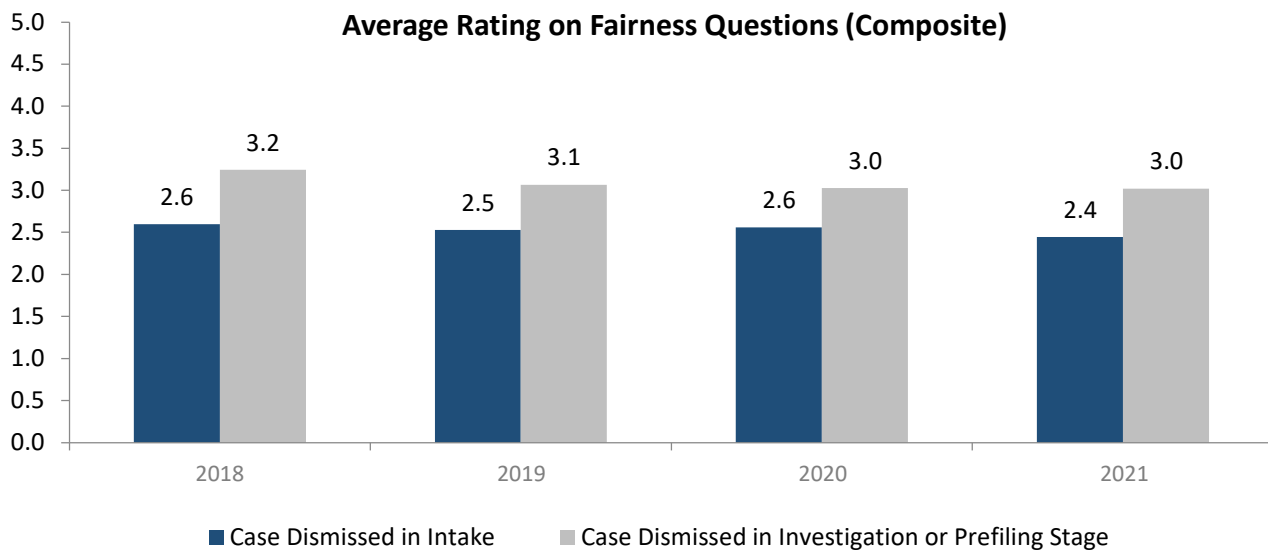
**Average Rating on Access Questions (Composite)**



## 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.



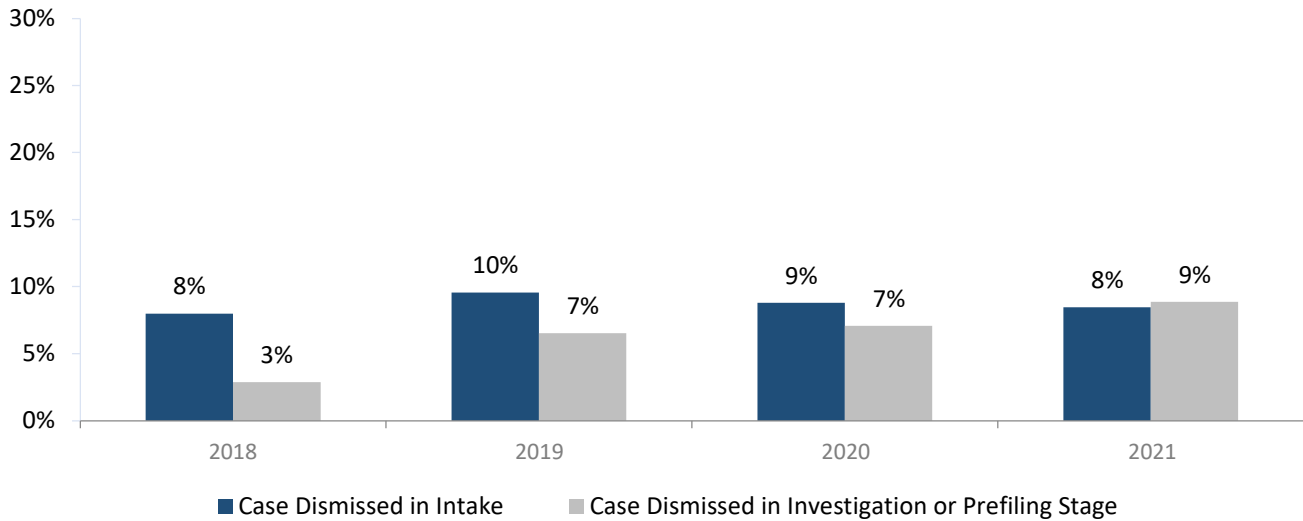


## Complaining Witness Survey: Access Ratings

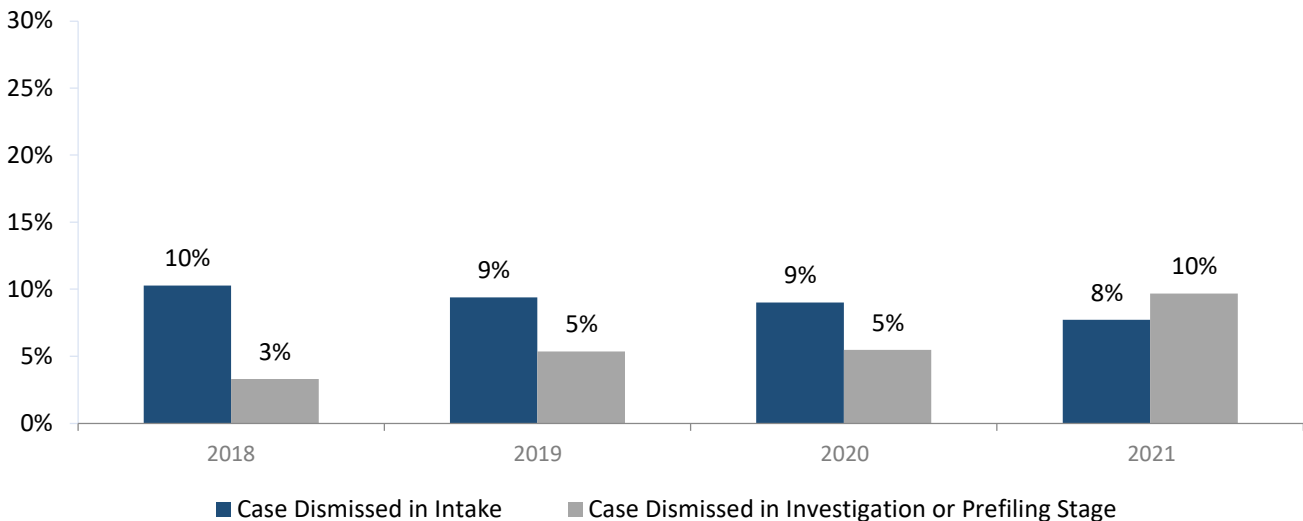
Percentage of CWs That Responded to **Access** Questions with a Rating of 1 (strongly disagree)

(Higher percentages indicate more dissatisfied CWs)

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



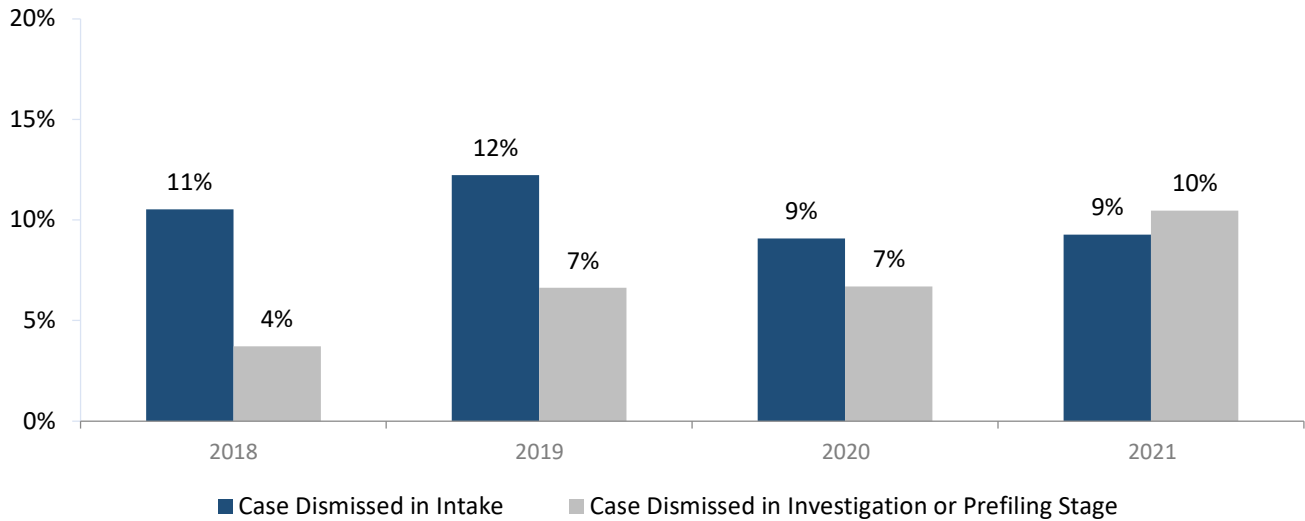
**The instructions and information on the website about filing a complaint were clear and easy to understand.**



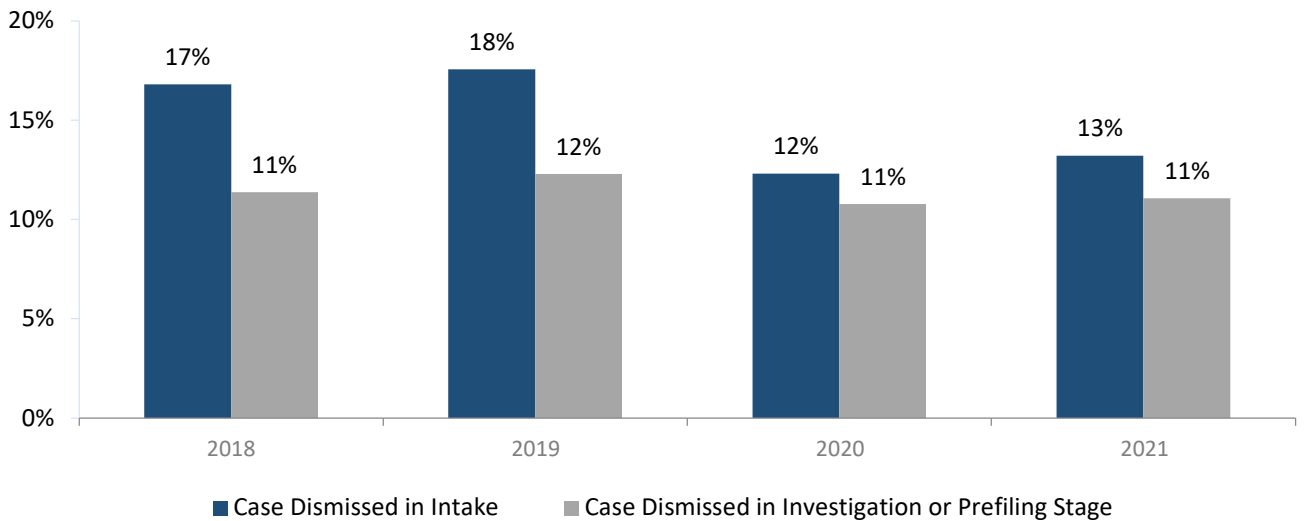
## Complaining Witness Survey: Access Ratings

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.



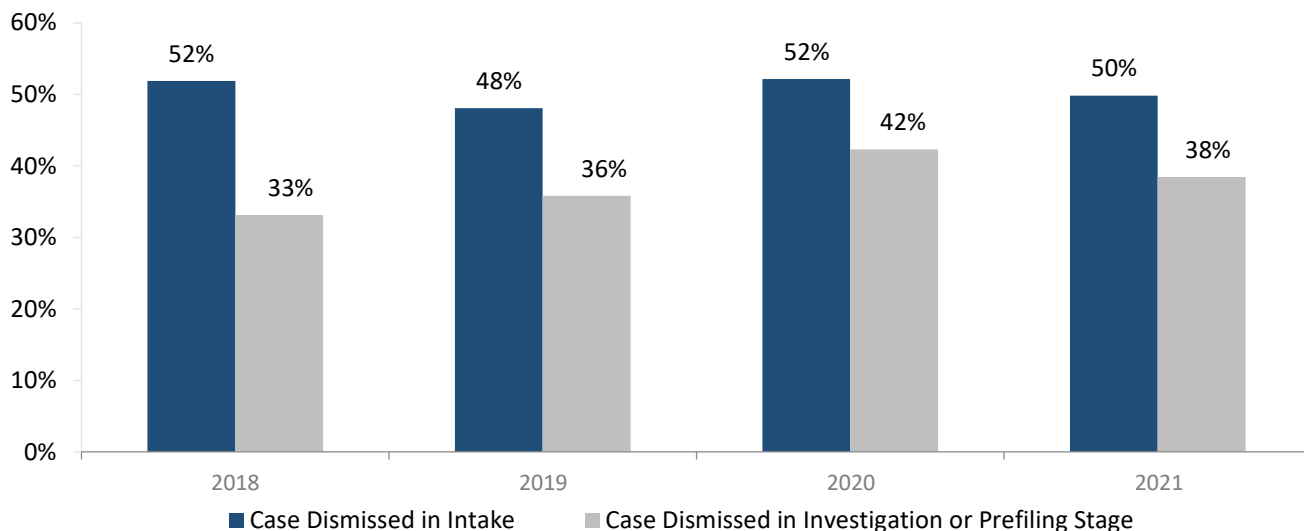
The written instructions that were included with the complaint form were clear and easy to understand.



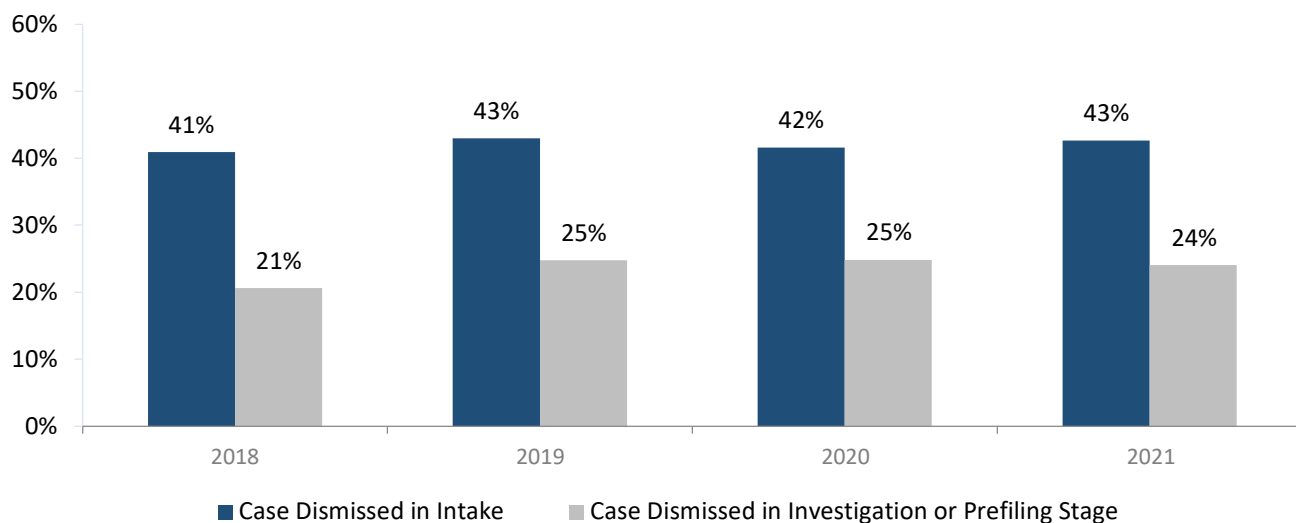
## Complaining Witness Survey: Fairness Ratings

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.



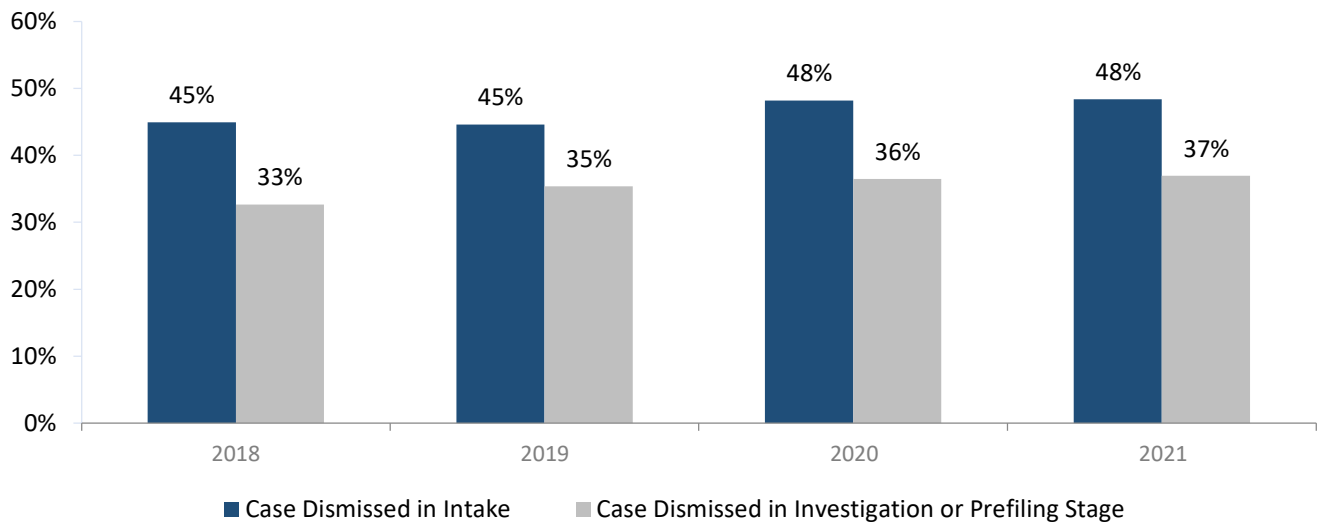
I was given the opportunity to submit additional information about my complaint.



## 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.

