



The State Bar of California

OPEN SESSION

AGENDA ITEM

60-2 NOVEMBER 2023

DATE: November 16, 2023

TO: Members, Board of Trustees
Sitting as the Regulation and Discipline Committee

FROM: Yun Xiang, Chief of the Mission Advancement & Accountability Division

SUBJECT: Discipline System Statistical Reporting Overview

EXECUTIVE SUMMARY

The Board of Trustees is accountable for an effective attorney discipline system. Staff provides the Board, the public, and key stakeholders with various reports throughout the year designed to support the Board's oversight of the discipline system. This agenda item provides a framework for understanding these reports in light of their composition, timing, and distribution. In addition, this item describes and includes the 2023 Biannual State Bar Case Processing Metrics Report.

BACKGROUND

In the past few years, the State Bar has worked diligently to create a range of reports related to discipline case processing. The purpose of this agenda item is to provide a framework for the Board's review of the various reports it receives. Understanding the timing and composition of the multiple reports, as well as how they are distributed, will facilitate the Board's ability to ensure an accountable and effective attorney discipline system.

DISCUSSION

The State Bar reports data on the discipline system through three types of reports: (1) the Annual Discipline Report (ADR); (2) a biannual discipline case processing metrics report; and (3) quarterly interactive data dashboards. Each of these reports is discussed below. Attachment A lays out data fields reported in the reports, noting which are reported across multiple reports for different purposes and with different reporting frequencies.

ANNUAL DISCIPLINE REPORT

The statutorily required ADR provides an overview of the State Bar's performance in fulfilling its statutory obligation to protect the public from attorney misconduct. Although the discipline system comprises multiple interdependent components of the State Bar, the ADR's statutorily mandated reporting focuses on the Office of Chief Trial Counsel (OCTC), which receives, investigates, and, where appropriate, prosecutes allegations of attorney misconduct. The ADR is due, beginning in 2024, November 30 of each year, to the governor's Office, the Legislature, and the California Supreme Court.

Biannual Case Processing Metrics Report

The State Bar has produced metric reporting for the Board reflecting different discipline case processing and operational components since 2019. Starting in 2023, all the discipline case processing metrics will be organized in one report and shared with the Board biannually. There will also be an annual report, the State Bar Annual Metric Report, consisting of both case processing and operational metrics. The case processing metrics are focused on the entirety of the discipline case processing system, rather than OCTC alone, and are aligned with Goal 1 of the State Bar's 2022–2027 Strategic Plan. See Attachment B for the 2023 State Bar Case Processing Metrics Interim Report, which covers January 1, 2023, through June 30, 2023.

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Highlights from this report include:

- The average OCTC case processing time slightly decreased for complex and noncomplex cases. Neither OCTC nor Special Deputy Trial Counsel (SDTC) met targeted case processing times.
- The average processing time for State Bar court SBC cases slightly increased, although 90 percent were still processed within the set timelines for Hearing and Review.
- Complaint Review Unit (CRU) matters achieved a clearance rate of over 100 percent, a significant improvement from the previous year. The average case disposition time mainly remained unchanged.
- The number of respondents with 15 or more complaints has remained consistent. The desired trend is to see a decline in repeat offenders.
- The number of disciplinary filings remained consistent. The number of stipulations and criminal conviction transmittals has increased.
- The recidivism rate data showed that after receiving a disposition, 37 percent of attorneys were investigated again within three years, and 6 percent were disciplined again. Within one year, 24 percent of attorneys faced investigation again, and 3 percent were disciplined again.

Quarterly Data Dashboards

The State Bar has developed interactive data dashboards that are shared with the Board on a quarterly basis. These dashboards capture case processing data for OCTC, and the Special Deputy Trial Counsel. The Board's Discipline Liaisons have been meeting regularly with the CTC and SDTC Administrator to review dashboard data. Soon, an OGC representative will begin holding CRU-related meetings with assigned Discipline Liaisons and quarterly CRU dashboards will also be shared with the Board. The agenda for today's Board meeting includes OCTC and SDTC dashboards.

In sum:

- The ADR is the single statutorily required discipline case processing-related report;
- The State Bar discipline case processing metrics reports are the only vehicle for reporting holistically on the discipline system, including OCTC, SDTC, CRU, State Bar Court, and Probation functions; and
- The dashboards provide the most comprehensive, timely, and detailed reporting on OCTC, SDTC, and CRU performance.

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

None - compliance

RECOMMENDATIONS

None

ATTACHMENTS LIST

- A. Overview of Discipline System Data Reporting
- B. 2023 Biannual State Bar Case Processing Metrics Report

Overview of the State Bar Discipline Data Reporting

Topic	Quarterly Dashboards	Biannual Case Processing Metric Report	Annual Discipline Report (ADR)
OCTC			
<i>Inventory (Workload)</i>			
Case inventory (Total number of cases)	X		X
Case inventory by case age (180 days vs 365 days)	X		
Number of opened and closed cases	X		X
<i>Backlog and Case Processing Time/speed</i>			
Case disposition	X	X	X
Case processing time	X	X	X
Backlog	X	X	X
Projected number of cases in backlog status	X		
Caseload clearance rate	X		
Case processing duration by case phase	X		
<i>Respondents with multiple complaints</i>			
Respondents with 15+ prior complaints: number with new complaints and discipline outcomes	X	X	
Respondents with 40+ complaints: number with new complaints and discipline outcomes	X		
<i>Disciplinary Outcomes</i>			
Number/attorneys: disciplinary filings, stipulations, and criminal conviction transmittals	X	X	X
Number/attorneys: disbarments, probation with actual and stayed suspension, public and private reprovls			X
<i>Case Processing Quality</i>			
Number and percent of Random Audit reopens, Walker Petitions denied, Complaint Review Unit dispositions reopened.	X	X	
Noncomplaint Cases and Other Topics			

Reportable Actions (self and others)			X
Unauthorized practice of law by former and nonattorneys			X
Felony convictions: number of cases filed, average and median days to filing and disposition, and dispositions			X
Conviction transmittals: number transmitted, number and percent meeting/not meeting 30-day requirement			X
Accessibility demand letters			X
Insurance fraud cases forwarded to the Fraud Division			X
Provision of financial services by lawyers			X
Demographics of disciplined attorneys			X
Special Deputy Trial Counsel			
<i>Inventory (Workload)</i>			
Case inventory	X		
Case inventory by case age	X		
Number of incoming and closed cases	X		
<i>Backlog and Case Processing Time</i>			
Case disposition	X	X	
Case processing time	X	X	
Backlog	X	X	
Projected number of cases in backlog status	X		
Caseload clearance rate	X		
Case processing duration by case phase	X		
<i>Disciplinary Outcomes</i>			
Number/attorneys: disciplinary filings, stipulations, and criminal conviction transmittals	X	X	
<i>Case Processing Quality</i>			
Number and percent of Random Audit reopens, Walker Petitions denied, Complaint Review Unit dispositions reopened	X	X	
Complaint Review Unit			

Request inventory, clearance rate, disposition time	X	X	
State Bar Court			
Time spent in Early Neutral Evaluation Conference (ENEC)		X	
Scheduled ENEC sessions per case		X	
Case disposition time for Hearing and Review		X	X
Percent of original and criminal conviction cases that meet case processing goals		X	
The State Bar			
Complaining Witness Satisfaction	X	X	
Recidivism		X	
Counsel Representation		X	
Cost of the Discipline System			X
Condition of the Client Security Fund			X

Note: See links to quarterly dashboards for [OCTC](#), and [SDTC](#). See Attachment B for the 2023 State Bar Interim Case Processing Metric Report. See [here](#) for the 2023 Annual Discipline Report.

State Bar Biannual Case Processing Metrics Report

ATTACHMENT B

2023



The State Bar of California

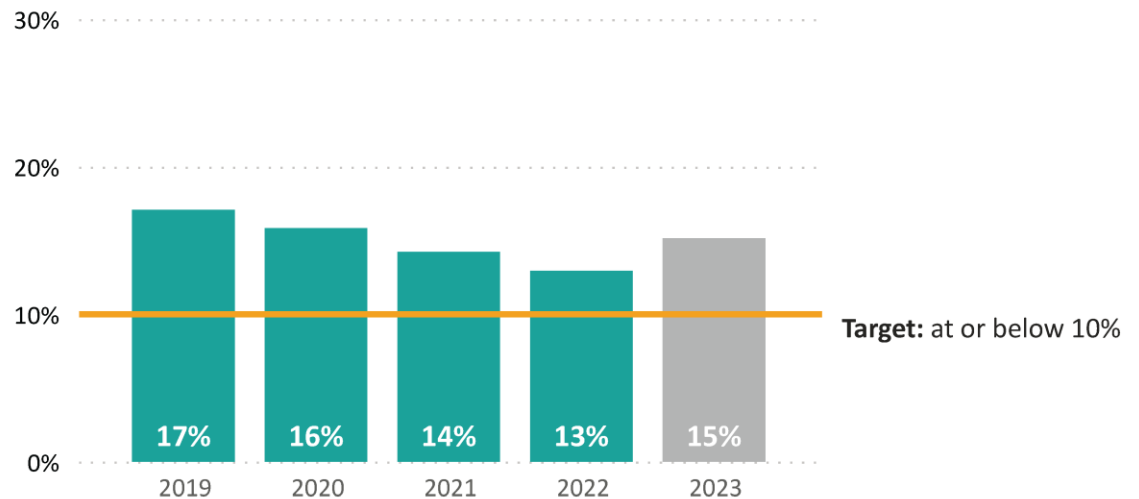


Introduction

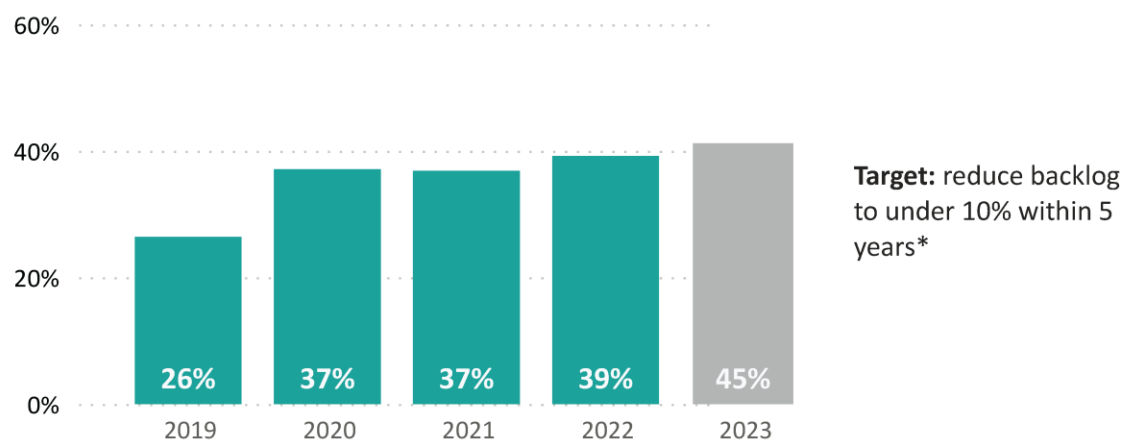
The 2023 Interim Report on State Bar Case Processing Metrics provides the Board of Trustees and other interested parties with comprehensive and transparent information on the discipline system's processes. The report features 22 metrics that align with Goal One of the State Bar's 2022-2027 Strategic Plan, which focuses on improving the attorney discipline system and ensuring public protection. Most of the metrics have specific performance targets, while others are included to monitor progress. The report covers the period January 1, 2019, to June 30, 2023.

Office of Chief Trial Counsel

1 | Decrease the percentage of closed cases in backlog status to 10 percent

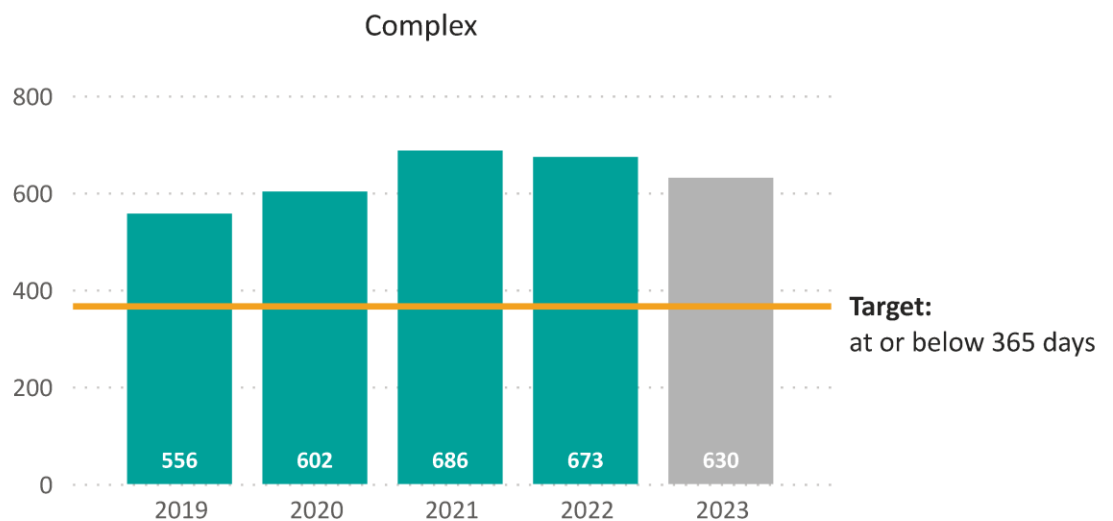
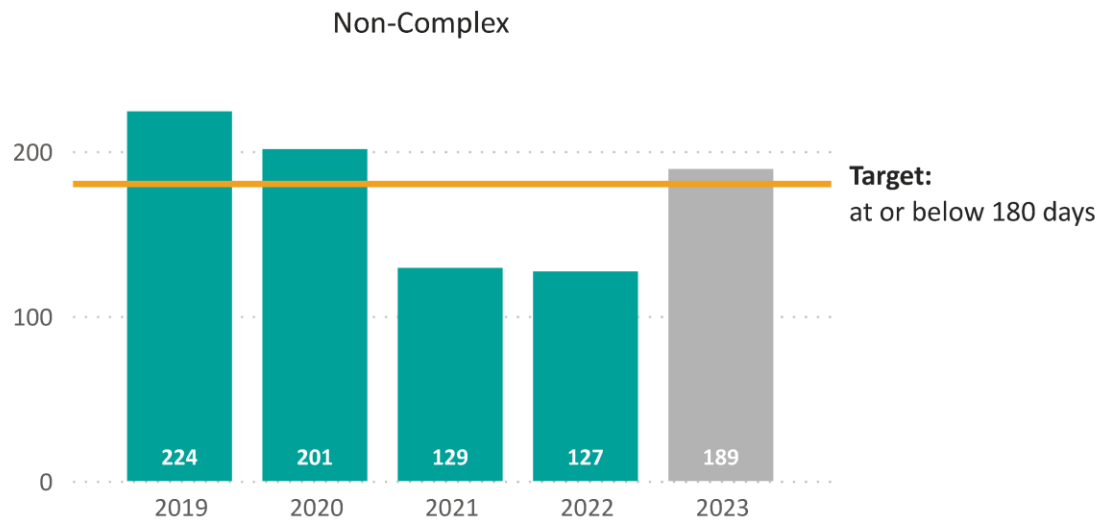


2 | Decrease the percentage of open cases in backlog status by 5 percent annually



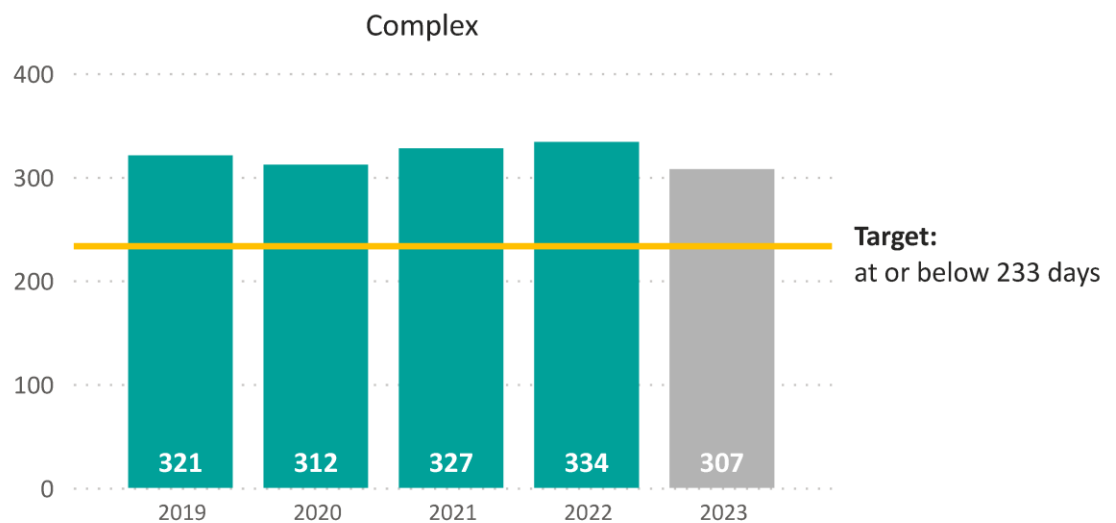
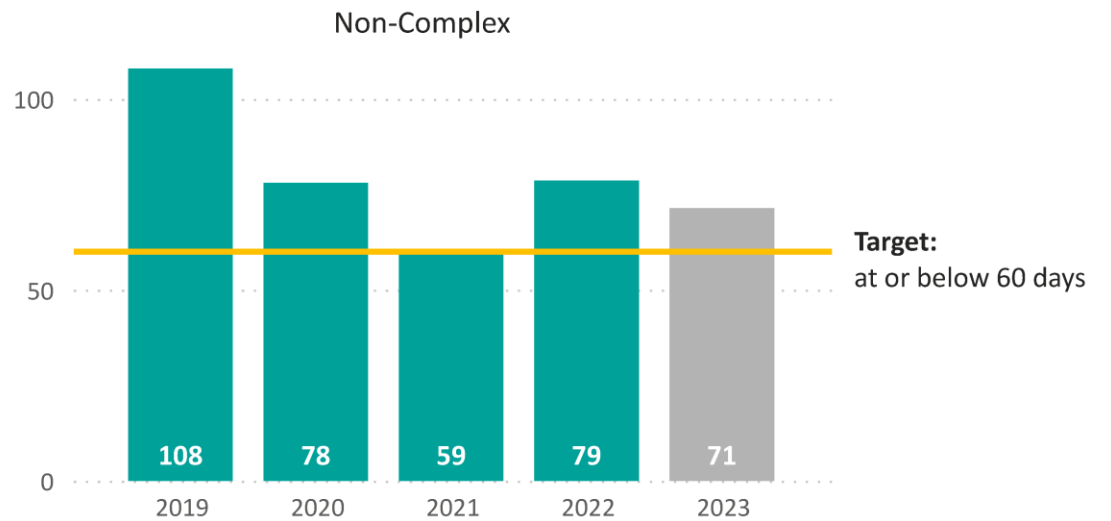
*The long-term target for open cases is to maintain the percentage of cases in backlog status below 10%.

Office of Chief Trial Counsel

3 | Decrease case disposition time for the 90th percentile of cases
(by case complexity)

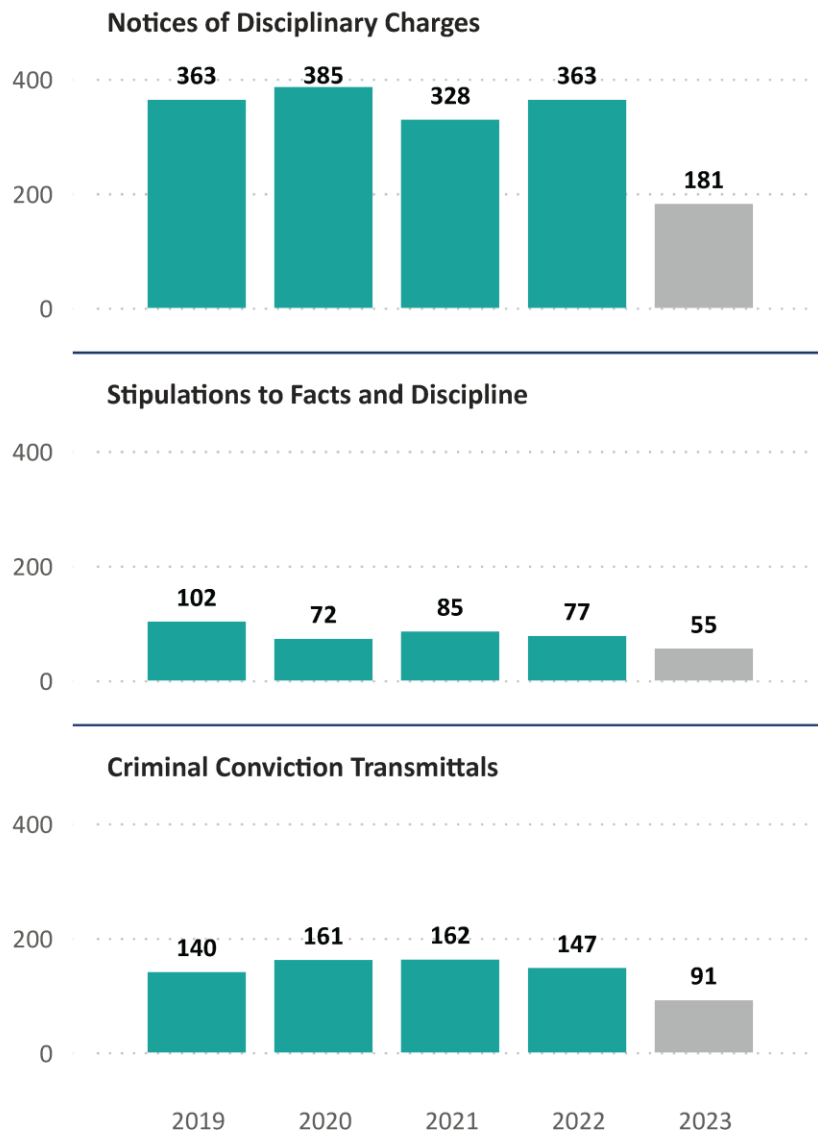
Office of Chief Trial Counsel

4 | Decrease average case disposition time (by case complexity)



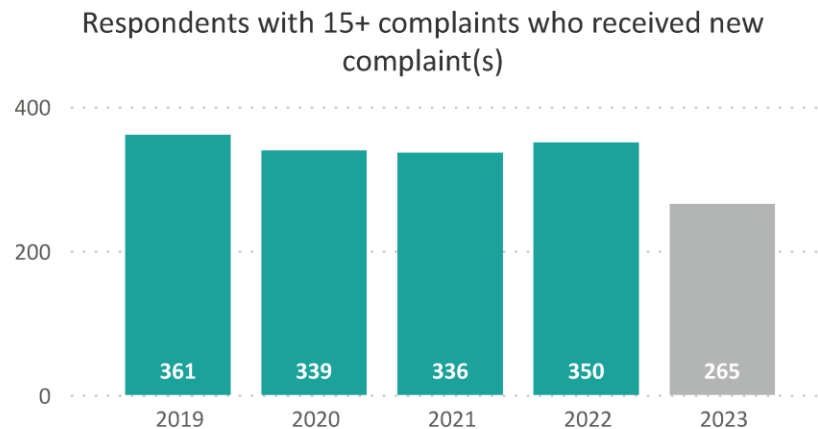
Office of Chief Trial Counsel

5 | Track the number of NDC filings, stipulations, and criminal conviction transmittals

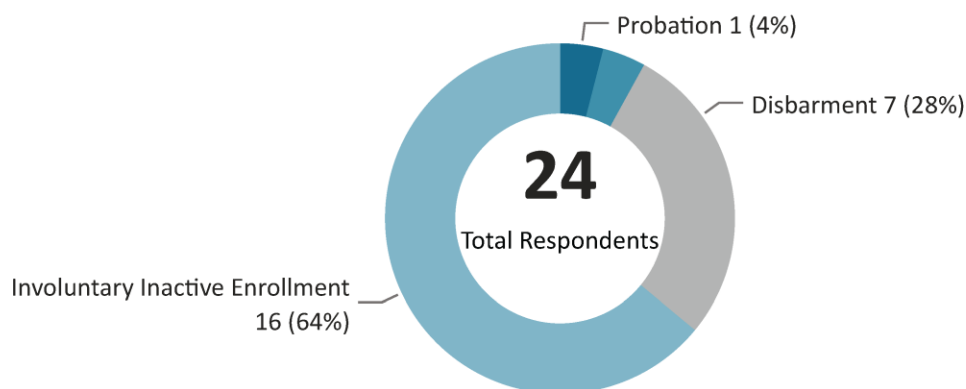


Office of Chief Trial Counsel

6 | Track the number of attorneys who have 15+ prior complaints and discipline outcomes for those attorneys



2023 discipline outcomes for respondents with 15+ complaints who received new complaints in 2023*

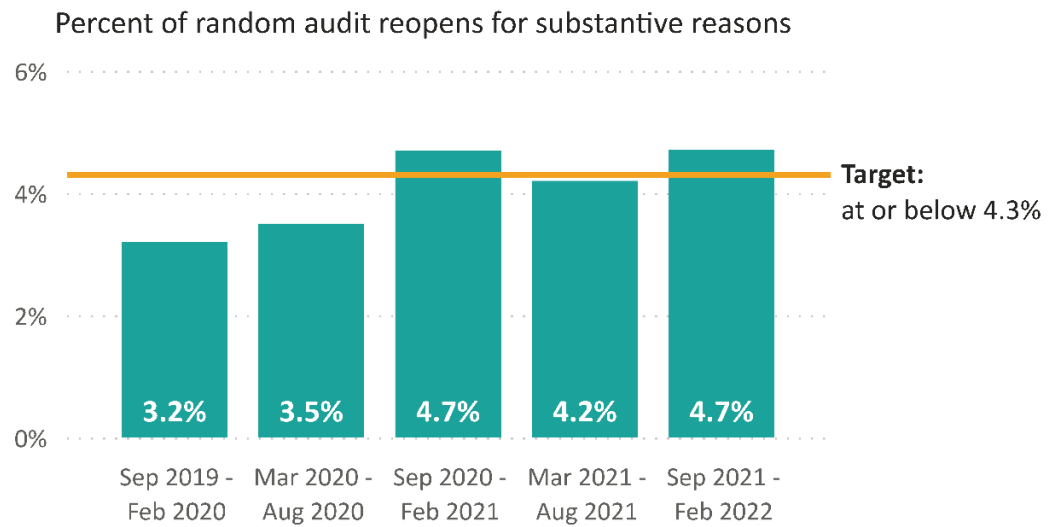


*Disciplinary outcomes in 2023 may have come from cases filed in previous years.

This metric does not have a specific target because the number of complaints received is beyond OCTC's control. However, the desired outcome is a declining trend in the number of attorneys with 15 or more complaints.

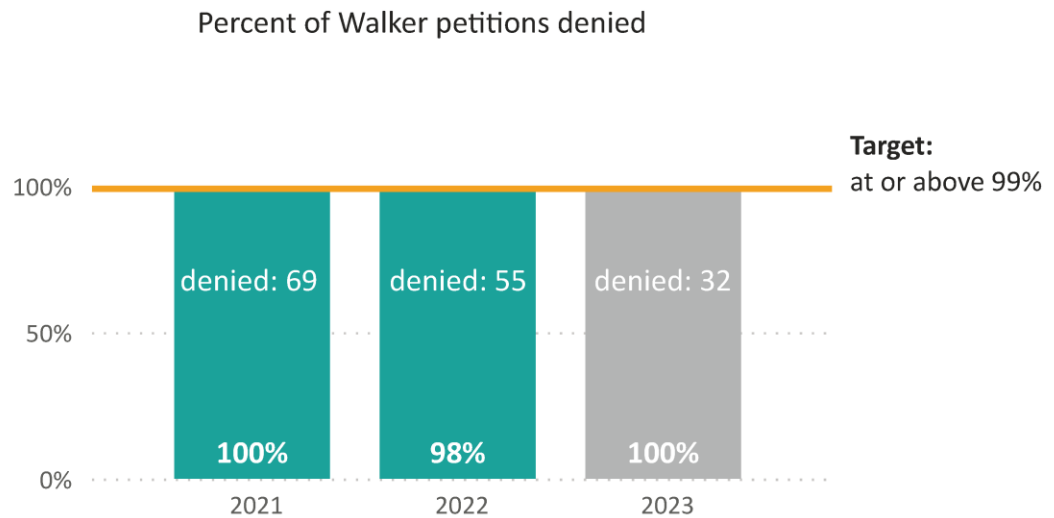
Office of Chief Trial Counsel

7 | The external random auditor recommends less than 4.3 percent of cases for reopening



Office of Chief Trial Counsel

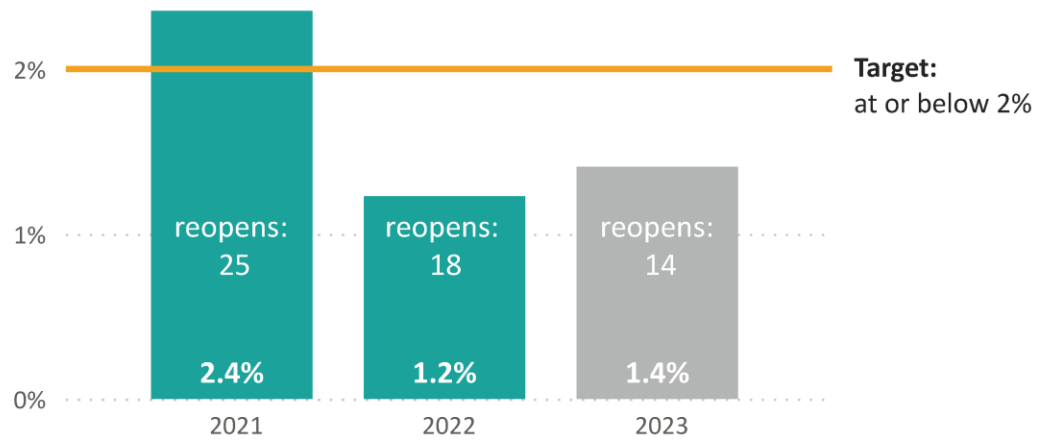
8 | The California Supreme Court will deny 99 percent of Walker Petitions



Office of Chief Trial Counsel

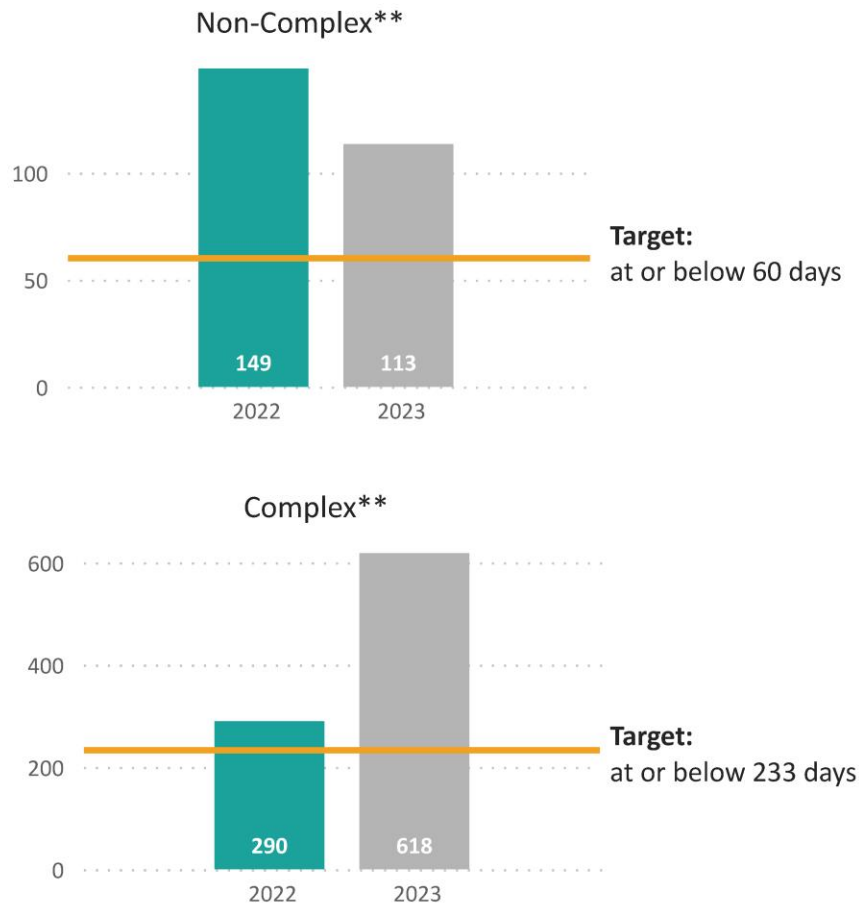
9 | Less than 2 percent of Complaint Review Unit (CRU) dispositions result in reopens for reasons other than new evidence

Percent of CRU reopens for reasons other than new evidence



Special Deputy Trial Counsel

10 | Decrease average case disposition time for 2201 cases*

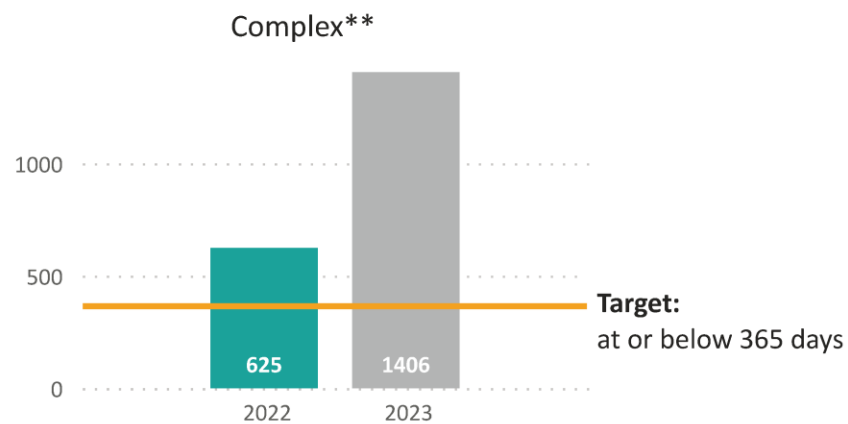
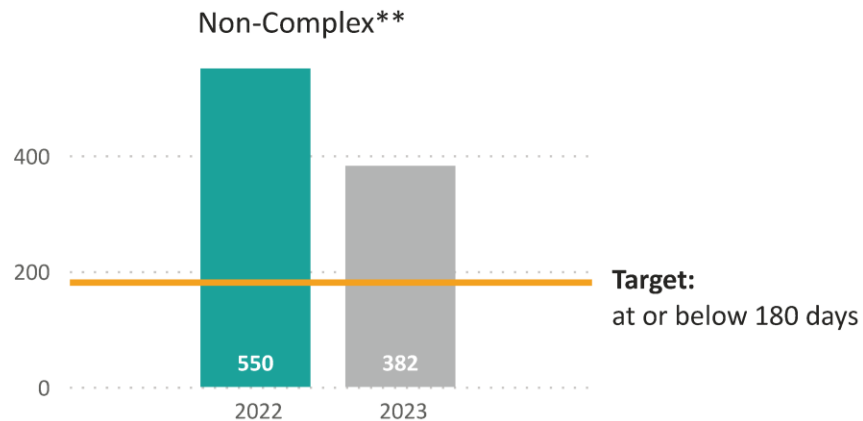


*Case disposition time is calculated using the case first opened date, not the case assigned to the Rule 2201 (SDTC) program date.

**This report includes only the validated data from 2022 onward, as recommended by the state auditor. SDTC investigates and disposes 150-200 cases annually, of which 10-15% are complex cases.

Special Deputy Trial Counsel

11 | Decrease case disposition time for the 90th percentile of cases*

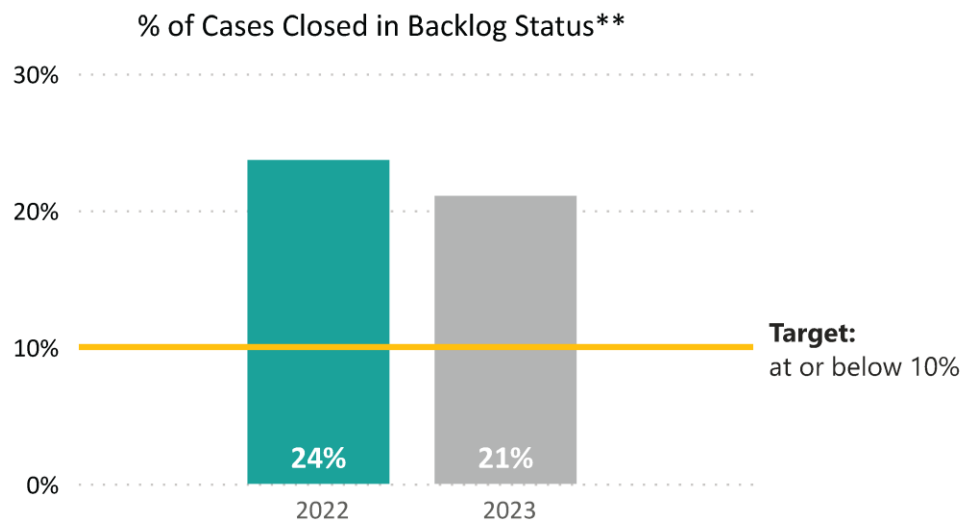


*Case disposition time is calculated using the case first opened date, not the case assigned to the Rule 2201 (SDTC) program date.

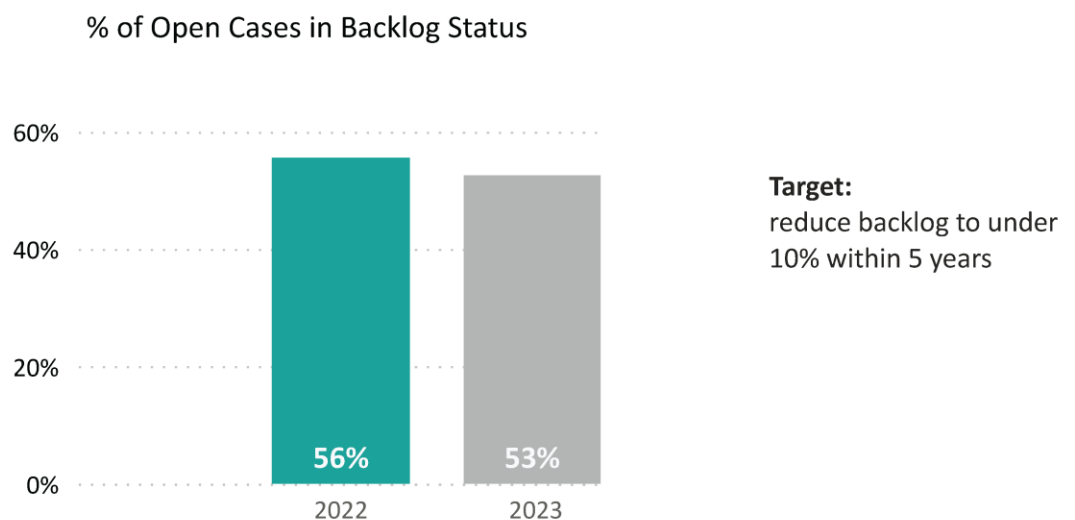
**This report includes only the validated data from 2022 onward, as recommended by the state auditor. SDTC investigates and disposes 150-200 cases annually, of which 10-15% are complex cases.

Special Deputy Trial Counsel

12 | Decrease the percentage of closed cases in backlog status to 10 percent*



13 | Decrease the percentage of open cases in backlog status by 5 percent annually*



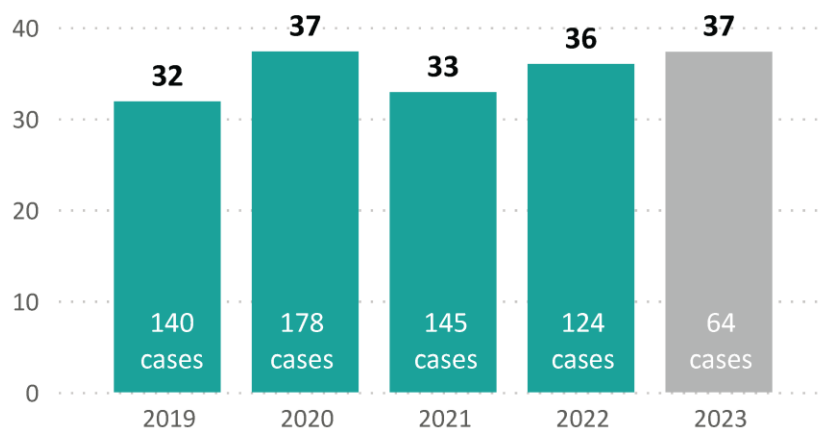
*Backlog is calculated using the case first opened date, not the case assigned to the Rule 2201 (SDTC) program date.

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State Bar Court

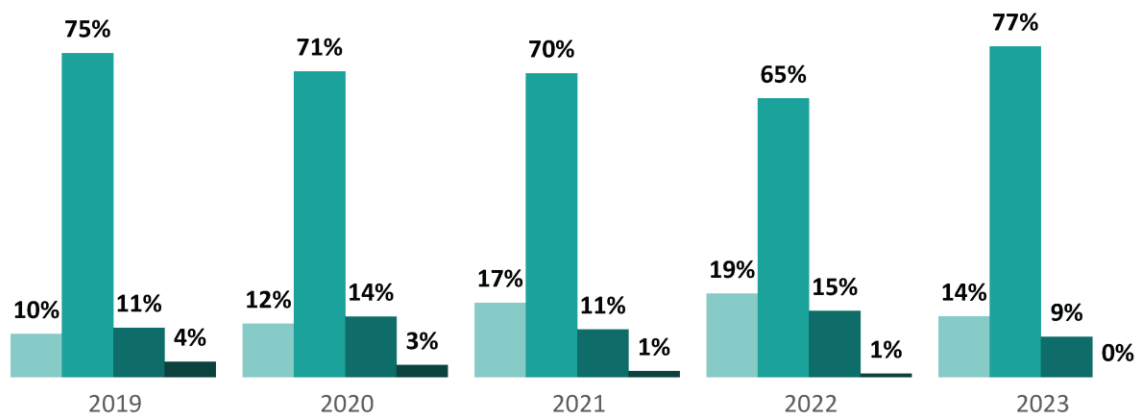
14 | Track the time that cases spend in the Early Neutral Evaluation Conference (ENEC) process

Average days spent in ENEC



Scheduled sessions per case

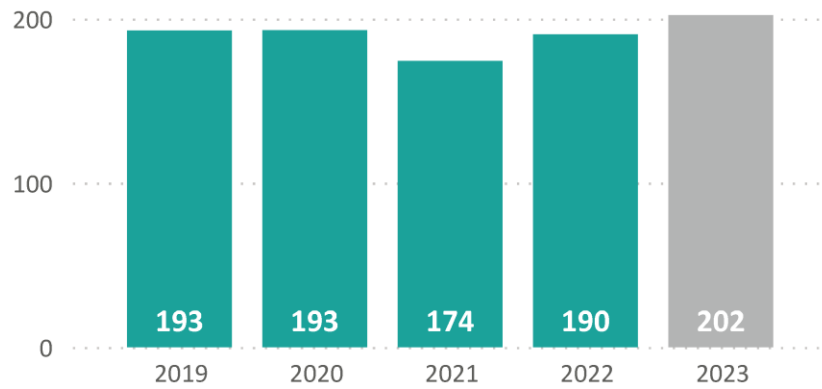
● No sessions ● 1 session ● 2 sessions ● 3+ sessions



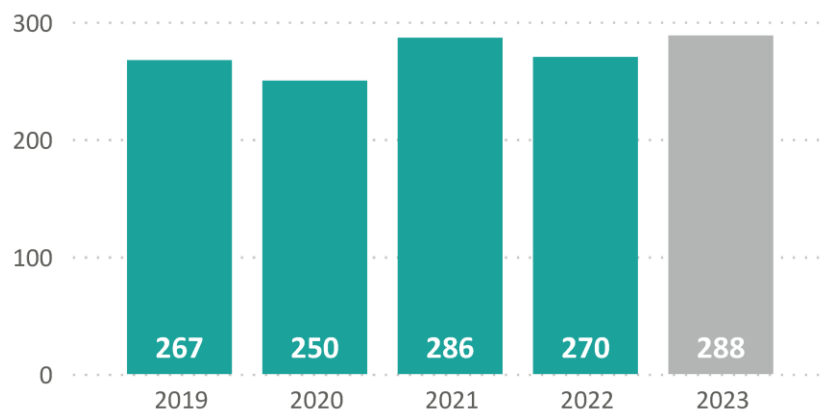
State Bar Court

15 | Decrease average case disposition time at the stage of Hearing and Review

Average hearing time (days)

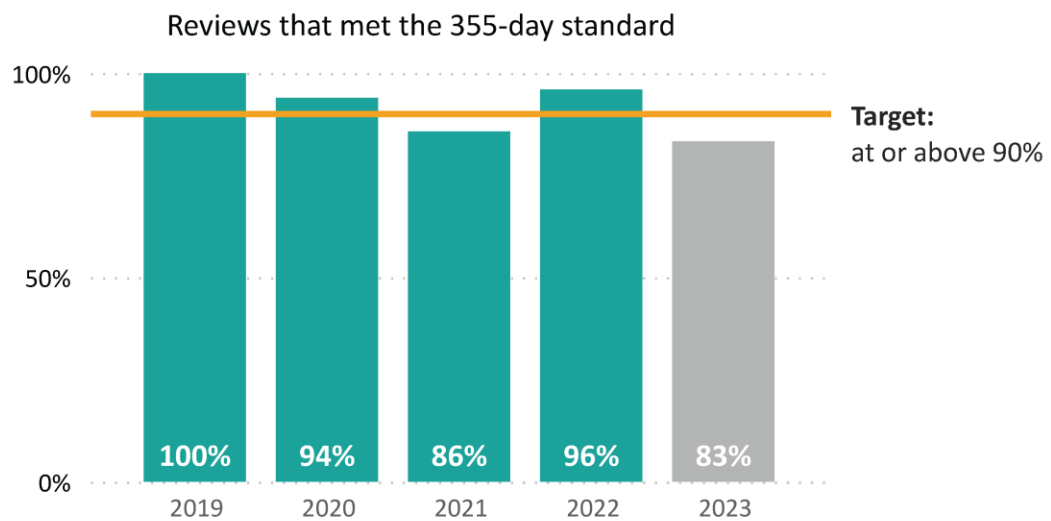
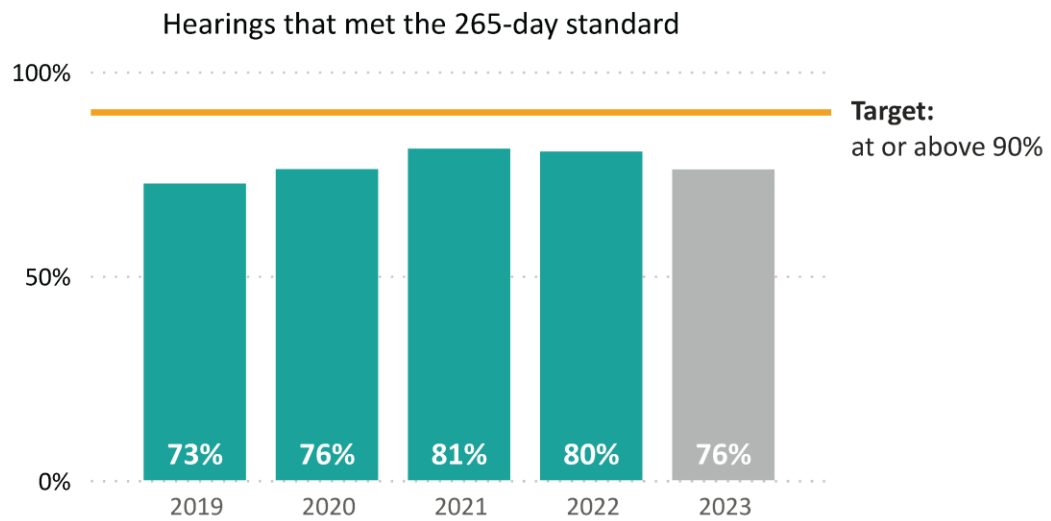


Average review time (days)



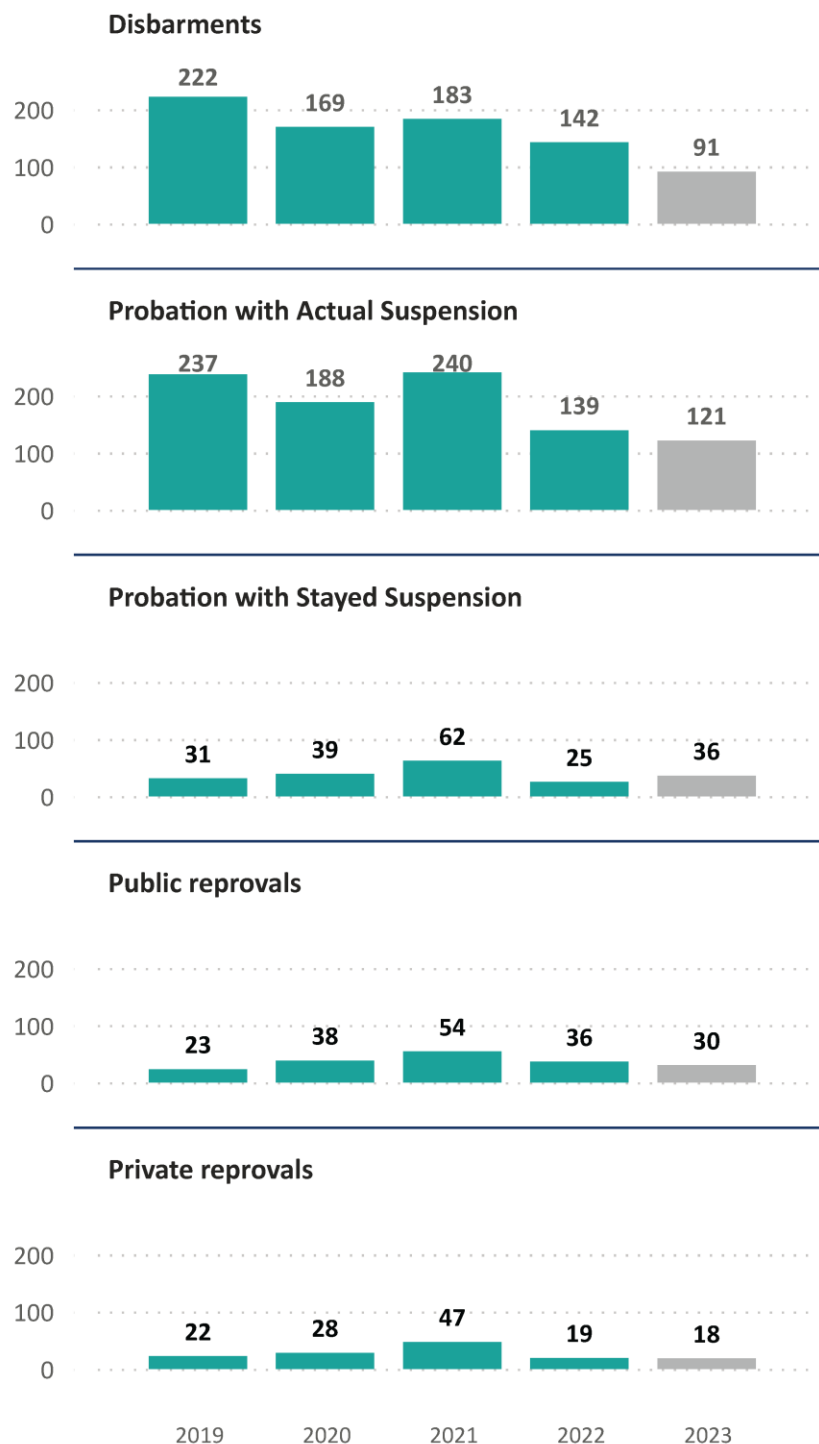
State Bar Court

16 | 90 percent of Original and Criminal Conviction cases are processed within case type timelines standards



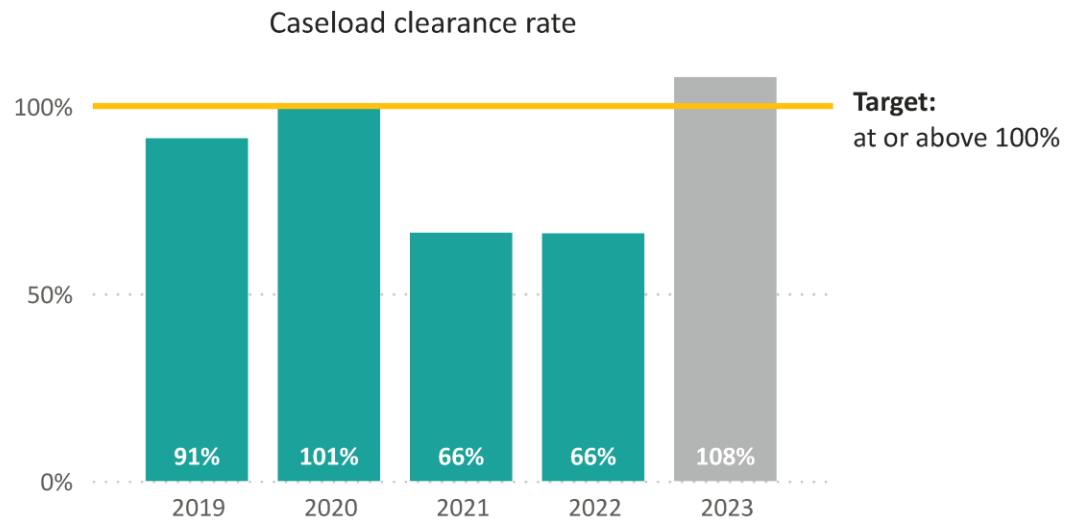
State Bar Court & Office of Chief Trial Counsel

17 | Track the number of formal discipline outcomes, including disbarment, suspension, probation, public and private reprovls



Office of General Counsel

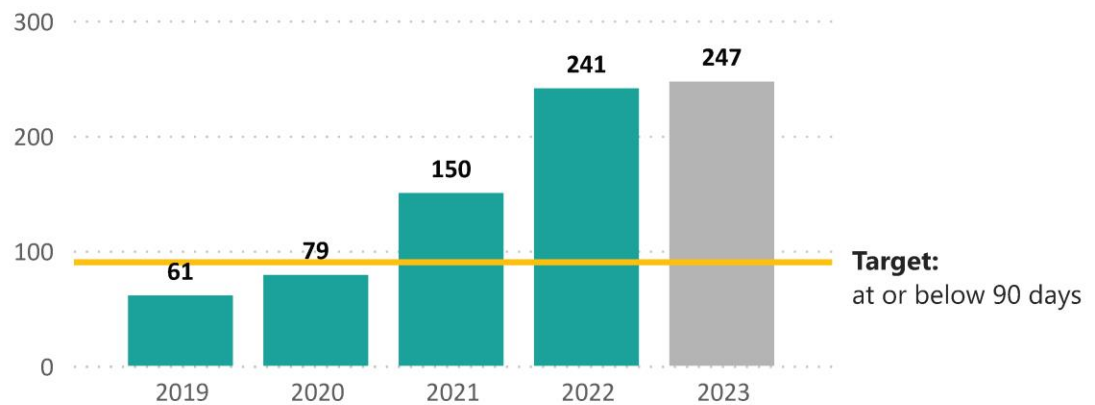
18 | Increase the Complaint Review Unit (CRU)'s case clearance rate



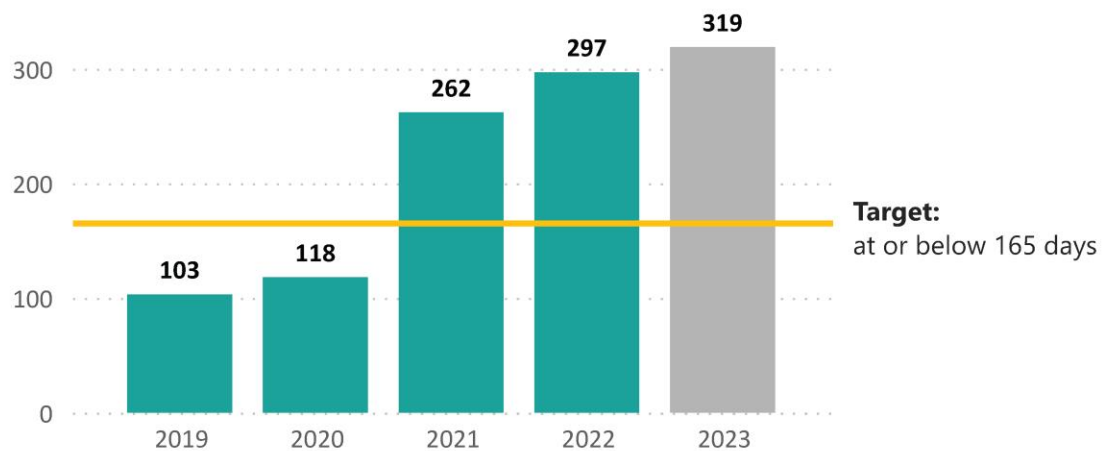
Office of General Counsel

19 | Decrease the average case processing time for Complaint Review Unit (CRU) cases

Average case disposition time

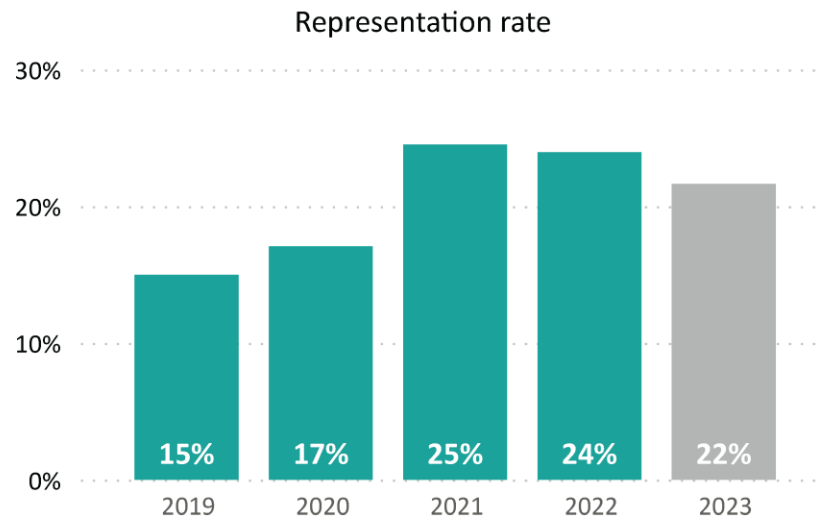


90th percentile case disposition time



The State Bar

20 | Increase the percentage of respondents who retain representation*

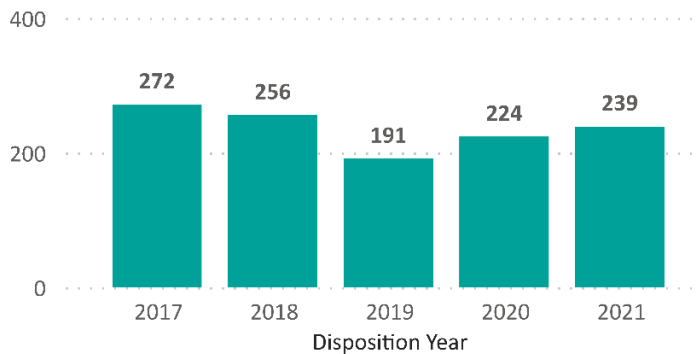


*The representation rate data excludes cases closed in Intake.

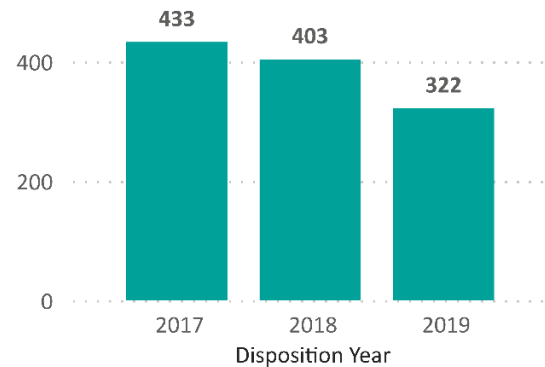
The State Bar

21 | Decrease recidivism rates - Overall

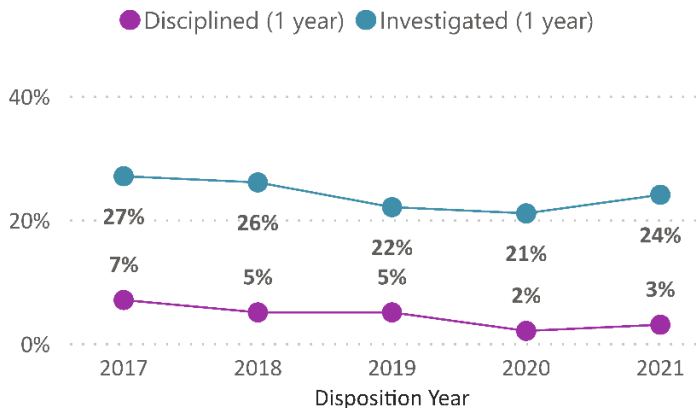
Attorneys investigated within one year of disposition



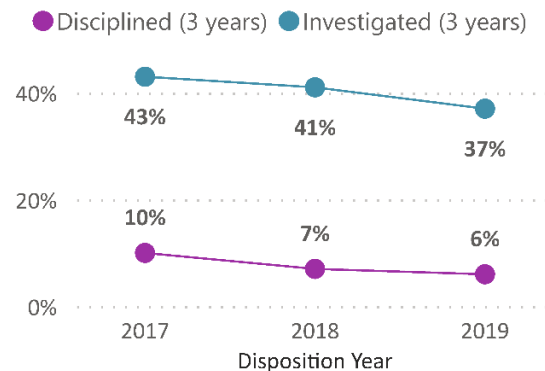
Attorneys investigated within three years of disposition



Recidivism rate within one year of disposition



Recidivism rate within three years of disposition



Recidivism is tracked as the percentage of attorneys with new complaints investigated or disciplined within 1 and 3 years after disposition. There is no specific target for this metric because attorney recidivism beyond the State Bar's direct control. However, the desired outcome is a declining trend in attorney recidivism.

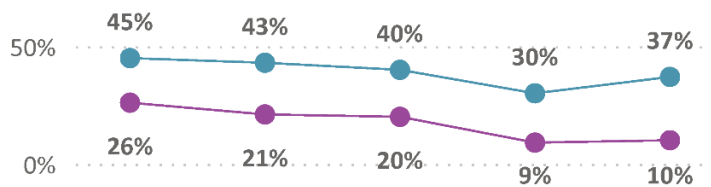
The State Bar

21 | Decrease recidivism rates - by disposition type

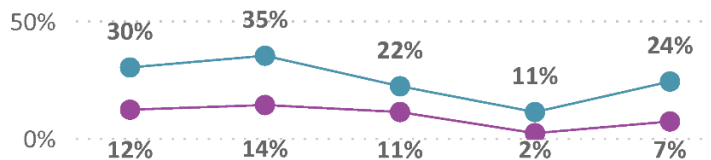
Recidivism within One Year of Disposition

● Disciplined (1 year) ● Investigated (1 year)

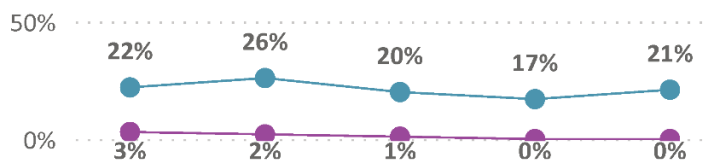
Probation



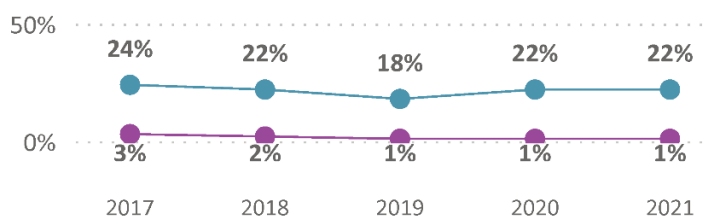
Reproval



Resource Letter



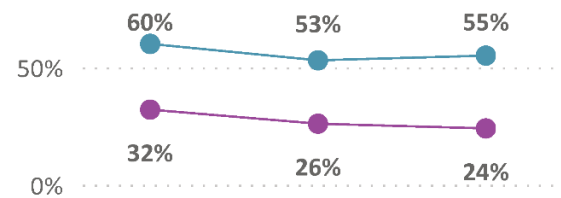
Warning Letter



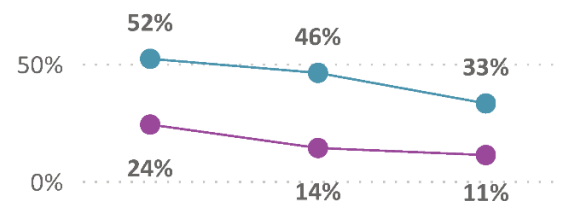
Recidivism within Three Years of Disposition

● Disciplined (3 years) ● Investigated (3 years)

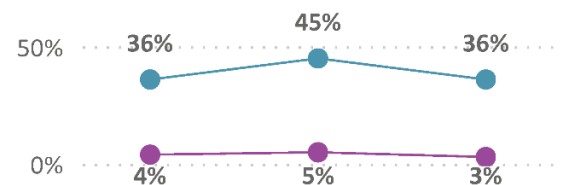
Probation



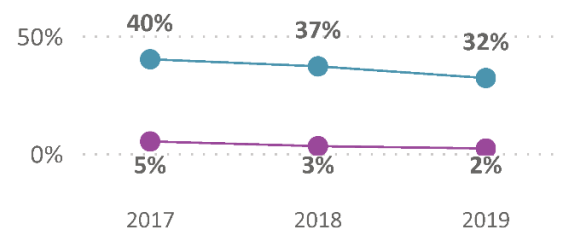
Reproval



Resource Letter



Warning Letter



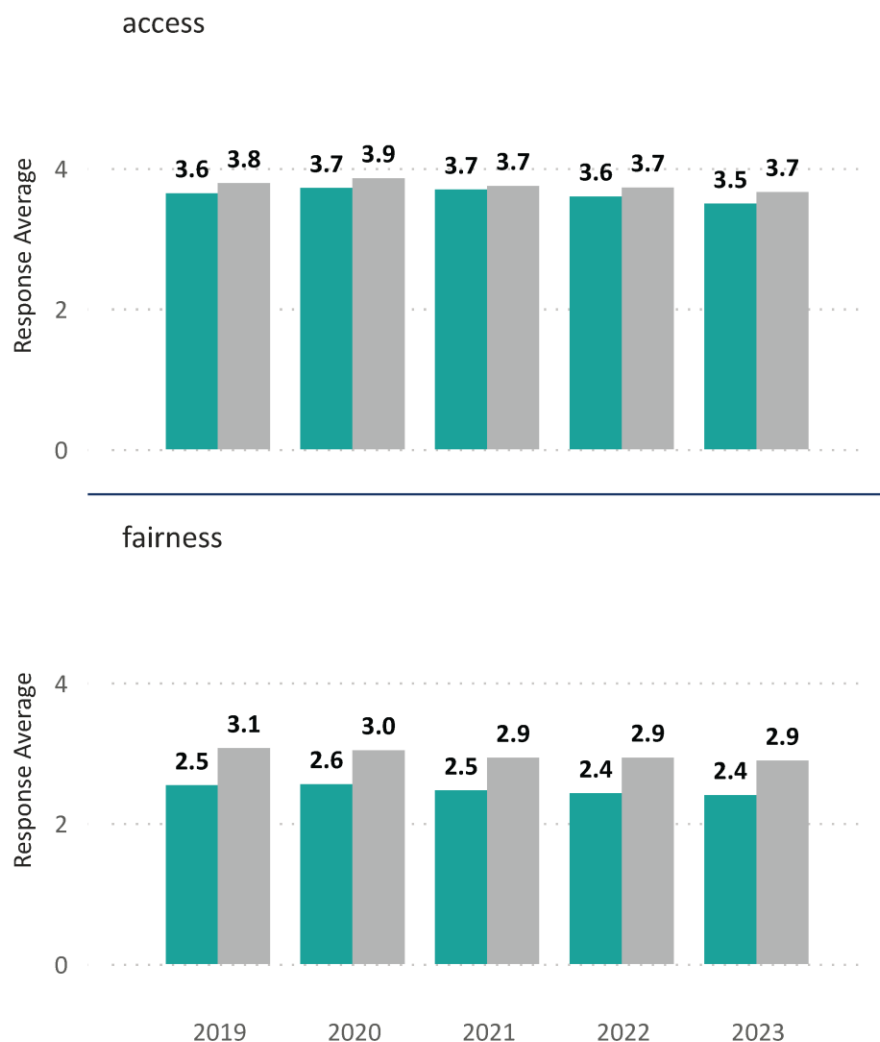
Recidivism is tracked as the percentage of attorneys with new complaints investigated or disciplined within 1 and 3 years after disposition. There is no specific target for this metric because attorney recidivism is beyond the State Bar's direct control. However, the desired outcome is a declining trend in attorney recidivism.

The State Bar

22 | Increase the satisfaction rate of complaining witnesses in procedure fairness surveys

Access and fairness satisfaction rate by closure stage

● Intake ● Investigation or Charging



The State Bar receives approximately 1,200 responses annually from complaining witnesses. Complaining witnesses are asked to assess their experiences in terms of access and fairness, on a scale of 1 to 5. A score of 1 indicates "strongly disagree," while a score of 5 signifies "strongly agree."