



STATE BAR *of* TEXAS  
**COMMISSION FOR LAWYER DISCIPLINE**  
**— ANNUAL REPORT —**

June 1, 2019 – May 31, 2020

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# *The Lawyer's Oath*

“I do solemnly swear that I will support  
the Constitutions of the United States,  
and of this State; that I will honestly demean myself  
in the practice of law; that I will discharge my duties  
to my clients to the best of my ability;  
and, that I will conduct myself with integrity  
and civility in dealing and communicating  
with the court and all parties.  
So help me God.”

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# FROM THE CHAIR OF THE COMMISSION FOR LAWYER DISCIPLINE

August 31, 2020

On behalf of the Commission for Lawyer Discipline, the information about the attorney disciplinary system for the State of Texas contained in this report is submitted for the period of June 1, 2019, through May 31, 2020. Some of the highlights from the past year are:



- The Commission successfully resolved 497 complaints through the imposition of 403 sanctions and collected \$296,718 in attorneys' fees;<sup>1</sup>
- The Commission continued its efforts to combat professional misconduct in the area of immigration. The Office of Chief Disciplinary Counsel, or CDC, resolved 19 immigration-related complaints through the imposition of 11 sanctions and five referrals to the Grievance Referral Program.
- This past year, 31 barratry-related grievances were filed. CDC obtained one fully probated suspension in which the rule violation related to barratry and/or solicitation. Two resulted in GRP referrals. The remaining sanctions — three private reprimands, two fully probated suspensions, and one public reprimand — did not result in findings of misconduct related to barratry;
- CDC assisted the Client Security Fund Subcommittee in reviewing 230 applications and approving more than \$870,000 in grants;
- CDC participated in 338 investigatory hearings in 2019-2020; and
- Despite the limitations of COVID-19, CDC remained fully operational and managed a full docket of cases, conducting 16 remote investigatory hearings.

The volunteer members of the Commission continued to strive to protect the public and to ensure the disciplinary process is as fair and as consistent as possible. It is an honor to serve with them.

A handwritten signature in black ink, appearing to read "Noelle Reed".

Noelle Reed  
Chair of the Commission for Lawyer Discipline

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<sup>1</sup> The amount of attorneys' fees collected can vary significantly from year to year depending on various factors, such as the number and type of cases litigated and the ability of respondent attorneys to pay. In the last quarter of 2019-2020, the collection of attorneys' fees was negatively impacted by the COVID-19 pandemic.

# COMMISSION FOR LAWYER DISCIPLINE

The Commission for Lawyer Discipline is a standing committee of the State Bar of Texas and serves as the client in the Texas attorney discipline system. The Commission provides oversight to the Office of Chief Disciplinary Counsel, which administers the attorney discipline system. The Commission works closely with the State Bar Board of Directors and makes quarterly reports to the board on the administrative functions of the Commission as well as important issues within the grievance process. Professional responsibility and public protection are priorities of the State Bar of Texas, and oversight, funding, and support of the disciplinary system is in the best interest of all Texas attorneys as they provide ethical representation to their clients. State Bar directors play a critical role in the discipline system as they recommend both lawyers and non-lawyers to the State Bar president for appointment to local grievance committees. The Commission is composed of 12 members: six attorneys appointed by the president of the State Bar and six public members appointed by the Texas Supreme Court.

## ATTORNEY MEMBERS



**Noelle M. Reed**, Chair, heads the Houston litigation practice for Skadden, Arps, Slate, Meagher & Flom. She has extensive experience representing clients in complex litigation in state and federal trial and appellate courts and arbitrations. She obtained her B.A. from Boston University in 1991 and her law degree from Harvard Law School in 1996.



**Gena Bunn** Vice Chair, is a solo practitioner in Longview, where she practices criminal defense with a particular emphasis on criminal appeals. She previously served as chief of the Capital Litigation Division and the Postconviction Litigation Division at the Attorney General's Office in Austin, representing the state in federal court appeals of state court convictions. Bunn argued numerous federal habeas corpus cases in the U. S. Supreme Court and the 5th U.S. Circuit Court of Appeals in New Orleans. She graduated from the University of Texas with a Bachelor of Journalism and received her law degree from Baylor Law School.



**Magali Suarez Candler** is certified in immigration and nationality law by the Texas Board of Legal Specialization and is a member of the American Immigration Lawyers Association, or AILA. She serves on the AILA Executive Office for Immigration Review Liaison Committee, advocating on a national basis. She is a past chair of the Texas Chapter of AILA and previously served as vice chair, treasurer, secretary, asylum office liaison, and liaison for the Houston Executive Office for Immigration Review. She served on the State Bar of Texas Laws Relating to Immigration and Nationality Committee from 1998 to 2003. She also served on the University of Houston Law Foundation Board from 1999 to 2003.

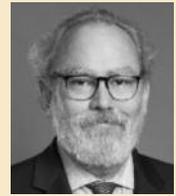


**Judge Monica A. Gonzalez** is a retired county court at law judge who presided over family violence cases. She was a municipal court judge for 12 years. Prior to becoming a judge, she served as a prosecutor for the Bexar County Criminal District Attorney's Office. She also previously practiced law in the private sector, with mostly criminal and family law cases. Judge Gonzalez served on the State Commission on Judicial Conduct and on the District 10A Grievance Committee. She was appointed and served on the Texas Supreme Court Committee on the Revision of the Texas Code of Judicial Conduct, the Texas Judicial Council Committee, the Bexar County Bail Bond Board, and the Mayor's Commission on the Status of Women — San Antonio. She received her law degree from St. Mary's University School of Law.

**Roberto “Bobby” Ramirez** practices law in McAllen as a member of the Ramirez Law Firm. He is a fifth-generation resident of the Rio Grande Valley. He is certified in personal injury trial law by the Texas Board of Legal Specialization, and he previously served as chairperson for the District 12 Grievance Committee and as a member of the Texas Board of Legal Specialization. Ramirez received his undergraduate degree from the University of Texas at Austin and his J.D. from the University of Texas School of Law.



**Michael S. Truesdale** is an appellate lawyer with extensive experience in prosecuting and defending appeals on behalf of plaintiffs and defendants. In trial courts, he focuses on error identification and briefing/arguing issues with appellate implications. He has worked on numerous cases before the Texas Supreme Court and handled appeals in nearly all Texas intermediate appellate courts. Truesdale has led appeals in other states’ courts and in the 5th, 6th, and 7th U.S. Circuit Courts of Appeals, and has authored briefs before the U.S. Supreme Court. He also actively advocates for the developmental expansion of appellate pro bono programs across the state and nation.



## PUBLIC MEMBERS

**Sheri Roach Brosier** has lived in Amarillo all her life and is married with three children. She is a third-generation rancher, helping operate T.L. Roach & Son Allen Creek Ranch near Clarendon. She loves serving her community and volunteering for various civic organizations. She served on the District 13 Grievance Committee from 2001 to 2007.



**Valery Frank** of San Angelo was appointed to the Commission in 2018. A graduate of Angelo State University, Frank is a registered nurse and worked in critical care before retiring. A longtime advocate of health care, children’s issues, education, and the arts, she has served on numerous boards, leading nonprofits and raising money for worthy causes. Prior to her appointment to the Commission, she served on the District 15 Grievance Committee for eight years.



**Steve C. Henry** was appointed to the Commission in 2019. He previously served on the District 10-4 Grievance Committee in the San Antonio region from 2013 to 2019. He retired from the U.S. Air Force after 26 years of meritorious service. He recently retired from Texas A&M University AgriLife Extension service after 13 years where he functioned as the sole employee assistance program coordinator for Joint Base San Antonio-Fort Sam Houston Army Substance Abuse Program, providing coordination and leadership to the development of the Fort Sam Houston civilian workforce. Henry holds a B.S. from Southern Illinois University, an M.S. from National Graduate School of Quality Management at New England Institute of Business, and an M.B.A. and Ph.D. from Capella University. He is an advisory board member and past president of the board of directors of the San Antonio Council on Alcohol & Drug Awareness.



**William Skrobarczyk** is a partner in the CPA firm of Skrobarczyk & Partridge. Prior to his appointment to the Commission in 2014, he served on the District 11 Grievance Committee from 2008 to 2014. He earned an M.B.A. and a B.A. from Texas A&M University-Corpus Christi.



**Shailendra N. Thomas** was appointed to the Commission in 2018. Her experience in education extends more than 30 years, serving as elementary school teacher, instructional specialist, educational consultant, adjunct college professor, senior administrator/principal at Fellowship Christian Academy, Dallas co-director of the Texas Private Schools Association, and national accreditation commissioner for the Association of Christian Schools International. Thomas received her doctoral degree in educational leadership in 2010 from Oral Roberts University and recently completed her service as head of school of Scofield Christian School. She currently serves as head of school at the King’s Academy in Dallas and has co-authored several books that inspire children, women, and educators.



**Javier S. Vera** is a CPA, a U.S.-licensed customs broker, and CFO of Roser & J. Cowen Logistical Services, Ltd., in Brownsville. He began his career working for Grant Thornton International, an international public accounting firm, and was a senior audit manager. He serves as an alderman for the town of Rancho Viejo. He has also served on various boards, nonprofits, and civic organizations. Prior to his appointment to the Commission in 2015, Vera served on the District 12 Grievance Committee from 2010 to 2015. Vera graduated from the University of Texas at Austin with a B.B.A. in accounting in 1982.



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***Ethics Helpline — 800-532-3947***

*The Ethics Helpline returned approximately 5,500 phone calls from Texas lawyers seeking advice regarding conflicts, confidentiality, safekeeping property, termination of representation, candor to the tribunal and fairness in adjudicatory proceedings, communicating with represented persons, fee-splitting or engaging in business with non-lawyers, advertising and solicitation, and the duty to report misconduct.*

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## 2019-2020 HIGHLIGHTS

### COVID-19 PANDEMIC

Like the rest of the world, the COVID-19 pandemic affected the work of CDC. Since mid-March, CDC staff across the state have been required to work remotely from home. Also in response to the pandemic, the Texas Supreme Court issued numerous emergency orders that extended deadlines in disciplinary matters through the end of the bar year and beyond.

In May, with the agreement of the parties, CDC began conducting some investigatory hearings via videoconference. These hearings typically involved less complex cases with fewer witnesses. A quorum of investigatory hearing panel members joined the videoconference hearings along with bar counsel and a legal assistant serving as virtual host. The witnesses and the respondents were placed into a virtual “waiting room” until their hearings began. Exhibits could be shown to the panel members and parties using the “share screen” function. After the witnesses testified, the host removed them from the virtual hearing. At the conclusion of the hearings, the respondents were also removed from the virtual hearing to allow the panel to deliberate. The completed investigatory hearing reports were then sent to bar counsel and respondents by e-mail. Overall, these videoconferences ran smoothly, mostly due to the efforts of CDC support staff, who quickly became experts on the technology needed for conducting remote hearings.



Meetings of the Commission for Lawyer Discipline and the Client Security Fund Subcommittee have also been held remotely since May. These virtual meetings have been successful due to the great patience and flexibility of the volunteers who serve on the committees without whom CDC would not be able to achieve its mission. The COVID-19 pandemic also required CDC to cancel its Grievance Symposium, which was scheduled for May 20.

In terms of day-to-day operations, CDC staff coordinated the sorting and scanning of the influx of daily mail, some of which originated from prisons also badly affected by COVID-19. Staff also set up the needed technology for remote operations; arranged for the transfer of equipment, physical files, and paperwork to and from their homes; handled telephone inquiries from attorneys and the public; and continued to review, investigate, and process thousands of grievances. Our dedicated staff ensured that the CDC remained fully operational during the pandemic, all while managing the daily challenges of working from home such as caring for family members who fell ill, figuring out how to home-school their children when schools closed due to COVID-19, and handling the unannounced appearances of kids and pets during Zoom meetings and hearings.



*CDC meeting via Zoom.*

### RETIREMENTS

Two long-time CDC staff members retired this year. James Ehler, San Antonio regional counsel and deputy counsel for litigation, retired after more than 25 years of service to the bar. He was replaced as regional counsel by Paul Homburg, who previously served as assistant disciplinary counsel in the San Antonio region.

Additionally, Anne Davis retired as executive administrative manager after 28 years of service to the bar. Shelly Hogue was promoted to that position.

Both Ehler and Davis have provided outstanding service to the CDC and the State Bar of Texas for more than half a century combined and will be greatly missed.



*Anne Davis and Chief Disciplinary Counsel Seana Willing.*



*CDC staff at Anne Davis' retirement.*



*CDC staff at James Ehler's retirement.*

## **TRANSFORMATION OF CESSATIONS DOCKET PILOT PROGRAM**

In 2019-2020, the cessations docket pilot program entered its third year. The program has received contacts on more than 500 law practices, the majority of which involve deceased attorneys. Lawyer suicides alone left scores of client matters pending, with no lawyer at the helm.

The core function of the pilot is emergency management: developing phases of prevention, mitigation, and preparedness — before an emergency event — and for those events that slip through the net, such as execution of response, attainment of equilibrium, and the end work of recovery. The final step of recovery is to deliberate what was learned.

Dean Schaffer, the program administrator, learned the challenge of cessations is not so much an issue for lawyer discipline, as it is for the discipline of law practice. Many forces are pressuring change in contemporary law practice. The emergence of cessations issues can be seen as part of the fallout.

From this backdrop, the State Bar transitioned the pilot from CDC Special Projects to the State Bar Law Practice Resources Division. The objective long term is to anchor the pilot in tandem with development of the State Bar's Law Practice Management Program. An early product was the launch of an online system for advance designation of custodian attorneys. With the advent of COVID-19, cessation issues also are addressed at the Law Practice Management website.

## PROTECTING THE PUBLIC 2019-2020 SNAPSHOT

**Total Disciplinary Sanctions 403**

**\*Total Complaints Resolved 497**

**Disbarments 21**

**Resignations in Lieu of Discipline 9**

**Suspensions 142**

**Public Reprimands 39**

**Private Reprimands 106**

**Grievance Referral Program 86**

- \$296,718 in attorneys' fees were collected from respondent attorneys as part of a sanction
  - \$871,782.89 in funds were approved for victims of attorney misconduct by the State Bar of Texas Client Security Fund, with 230 applications reviewed by the subcommittee
  - Approximately 5,500 phone calls were returned by the State Bar of Texas Ethics Helpline
  - The State Bar Client-Attorney Assistance Program resolved 1,016 matters
  - More than 3,200 lawyer advertisements were reviewed by the State Bar Advertising Review Committee
- \* Each sanction entered may have involved complaints filed by more than one complainant.

## GENDER AND RACE 2019-2020 SNAPSHOT

**Total Disciplinary Sanctions 403**

### **GENDER:**

**Male Respondents 79%**

**Female Respondents 21%**

### **RACE:**

**White/Caucasian 54%**

**Hispanic/Latino 21%**

**Black/African American 13%**

**Asian 2%**

**Other/Not Specified 10%**

*The information regarding race and gender is based on information voluntarily provided by bar membership in the attorney profiles maintained by the State Bar of Texas and is therefore not a complete picture of gender and racial statistical information.*

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## ***Recognizing Volunteers***

*Currently, 357 Texans serve on local  
grievance committees.*

*Two-thirds are lawyers.*

*One-third are public members.*

*Collectively, they volunteer thousands of hours  
each year to protect the public.*

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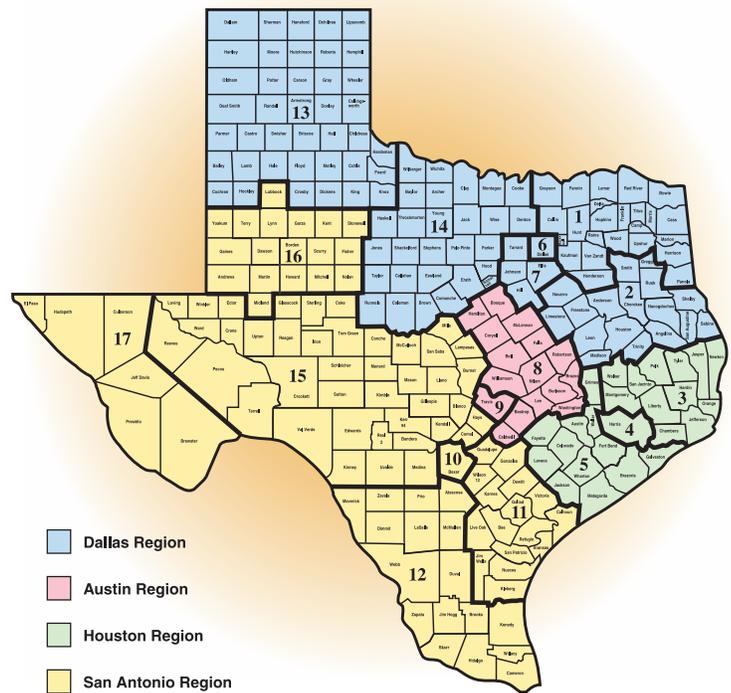
# OFFICE OF CHIEF DISCIPLINARY COUNSEL

The Texas attorney discipline system is administered by the Office of Chief Disciplinary Counsel and overseen by the Commission for Lawyer Discipline. CDC represents the Commission in disciplinary litigation. Professionalism is directly tied to the public’s perception of the ability of the State Bar of Texas to discipline its own lawyers and protect the public from unethical practitioners. In recognition of this close connection, emphasis is placed on the quality of disciplinary prosecutions, identification of disability or impairment problems, solutions for attorneys in need of law practice management or other basic skills, and innovative ways to maintain open communication between the public and the bar.

## STAFFING AND TRAINING

The Office of Chief Disciplinary Counsel operates the discipline system with 96 full-time employees, including 37 lawyers, 12 investigators, 33 legal support staff members, 10 administrative support staff members, and four administrative managers.

In addition to its headquarters in Austin, CDC has regional offices in San Antonio, Dallas, and Houston. Each regional office is responsible for the investigation and prosecution of disciplinary matters within its region and is managed by a regional counsel. CDC provides two comprehensive in-house orientation programs for all newly hired employees statewide — one for lawyers and one for non-lawyer staff. The orientation is held on the employee’s first day of work and provides an overview of the core functions of the organization as a whole, as well as a detailed review of the work of CDC.



## ATTORNEY ETHICS HELPLINE

CDC maintains, as a service to the members of the bar, a toll-free Attorney Ethics Helpline, operated from 8 a.m. to 5 p.m. Monday through Friday.

The helpline is designed to assist Texas attorneys who have questions about their ethical obligations to clients, courts, and the public under the Texas Disciplinary Rules of Professional Conduct. The service is designed to give attorneys access to rules, ethics opinions, and caselaw so that an attorney can make an informed decision about an ethics issue.



*Justice Jimmy Blacklock, the new liaison between the Texas Supreme Court and the Commission, visits with the Commission members.*

The information provided is informal and not binding on any District Grievance Committee or court. Pursuant to the policy of the State Bar Board of Directors, the chief disciplinary counsel and her staff are not permitted to issue written opinions nor may they provide legal advice.

The Attorney Ethics Helpline does not provide legal assistance to the general public and cannot address questions concerning pending grievances.

During the 2019-2020 bar year, ethics attorneys Ellen Pitluk and Rita Alister returned approximately 5,500 calls to the Ethics Helpline, with more than 95% of calls returned within 24 hours. These calls ranged from simple inquiries to complex ethical questions that involved hours of research and discussion. The most commonly asked questions relate to conflicts of interest, confidentiality, safekeeping property, termination of representation, candor to the tribunal and fairness in adjudicatory proceedings, communicating with represented persons, fee-splitting or engaging in business with non-lawyers, advertising and solicitation, and the duty to report misconduct.

The ethics helpline attorneys strive to provide superior customer service.

**THE ATTORNEY ETHICS HELPLINE NUMBER IS 800-532-3947.**

### **STATEWIDE COMPLIANCE MONITOR AND GRIEVANCE REFERRAL PROGRAM**

Disciplinary judgments often require that respondents refund all or part of the attorneys' fees paid to them by clients harmed by misconduct and pay the Commission for the attorneys' fees and costs incurred in prosecuting the disciplinary action. Terms of license suspension may also contain requirements directed toward changing lawyer behavior, for example, completing additional continuing legal education in the area of law practice management, assigning of a law practice monitor, auditing of the lawyer's trust account, or participating in treatment programs for mental health or substance use disorders. This results in frequent referrals to other bar programs such as TexasBarCLE and the Texas Lawyers' Assistance Program.

The statewide compliance monitor, Heather White, is housed in the Austin office, which enables her to manage the compliance caseload in a centralized and more consistent manner. She is assisted by the Grievance Referral Program administrator, Jennifer Ibarra, in cases involving rehabilitative terms of suspension. At the close of the 2019-2020 bar year, White had 465 active cases and had resolved 184 cases. As a matter of office policy, immediate payment of restitution is required in most cases involving agreed disciplinary judgments. An additional \$243,913 in restitution was collected in the 2019-2020 bar year in cases involving agreed judgments, non-agreed judgments, respondent defaults, and cases in which respondents were seeking reinstatement. The centralized compliance process contributed to \$296,718 in attorneys' fees collections for 2019-2020.

**MEDIA INQUIRIES REGARDING  
THE DISCIPLINARY SYSTEM  
SHOULD BE DIRECTED TO:**

**Claire Reynolds  
Public Affairs Counsel  
Office of Chief Disciplinary Counsel  
512-427-1354  
creynolds@texasbar.com**

## CLIENT SECURITY FUND

Every state in the U.S. and province in Canada has some form of client protection fund. Texas' fund is called the Client Security Fund and holds more than \$2 million in its corpus. Payouts are funded through an annual appropriation from the bar, interest on the corpus, and any restitution received.

Unless the lawyer is already disbarred, resigned in lieu of discipline, or deceased, eligible applicants must file a grievance that results in findings that the lawyer stole the client's money or failed to refund an unearned fee. Applicants must present proof of their losses and meet the statute of limitations for the fund, which is 18 months following the date of the disciplinary judgment. Applications to the fund are reviewed and acted upon by the Client Security Fund Subcommittee, a standing subcommittee of the State Bar Board of Directors. CDC, through Claire Reynolds, serves as the administrator and legal counsel to the fund.

Time Period	Applications Presented	Applications Approved	Total Grants Approved
2019-2020	230	149	\$871,782.89
2018-2019	178	115	\$664,143.78
2017-2018	222	148	\$901,718.68
2016-2017	157	113	\$976,114.94
2015-2016	171	115	\$814,616.72
2014-2015	138	102	\$639,581.09
2013-2014	134	118	\$1,232,355.00

Reynolds is responsible for conducting investigations on applications and presenting recommendations to the subcommittee. In the 2019-2020 bar year, Reynolds presented 230 applications to the subcommittee. Of the 230 reviewed, 149 were approved, resulting in grants totaling \$871,782.89. This was a significant increase from last year's grants of \$664,143.78, as the subcommittee members convened for an additional interim meeting in an effort to review more applications. Specifically, 16 applications related to criminal law; three to employment law; nine to estate, wills, and probate law; 27 to family law; 52 to immigration law; 27 to personal injury; three to real estate; and 12 classified as "other." Of the amount approved for grants, \$365,745.02 was the result of attorney theft of settlement funds and \$506,537.87 was the result of attorneys failing to refund unearned fees. The category of "failing to refund unearned fees" includes deceased attorneys.

*"I can tell you're very supportive and caring about what happens to me. Thank you. I look forward to meeting you and the rest of your team at some point. It's hard to describe but I'm genuinely grateful for the last two years. I'd be dead or in jail with no family. Instead the bar stepped in, got me help, showed me grace and showed me love. Now I get to be what I've wanted to be again." — GRP Participant*

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*“I just wanted to reach out and thank you for your advice again today. I appreciate you looking into the ethical issue for me and helping me resolve the issue. You were very knowledgeable [sic] and helpful.” — Ethics Helpline Caller*

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## **BARRATRY**

This past bar year, 31 grievances involved allegations related to barratry. CDC obtained one agreed fully probated suspension related to barratry, and two barratry-related grievances were resolved via GRP. Two grievances were dismissed by the Commission, four were dismissed after investigatory hearings, two were dismissed by CDC, and six resulted in sanctions that did not list barratry-related rule violations. Eleven were still pending at the end of the fiscal year. Some sanctions resolved more than one grievance.

CDC continues to look for ways to partner with State Bar leadership, local bar associations, prosecutors, and members of law enforcement to combat and educate the public and the profession about the problem of barratry and improper solicitation. CDC continues to pursue a targeted public information campaign designed to educate victims and their families about the dangers of barratrous behavior by unscrupulous attorneys, health care professionals, funeral homes, towing companies, roofers, insurance adjusters, and others with whom they may come into contact in the aftermath of an accident or mass disaster. At intake, CDC identifies and tracks all complaints that allege barratry-related behavior or where the complainant has indicated on the grievance form that the attorney that is the subject of the complaint improperly solicited his or her case. These and other outreach and enforcement efforts will continue to be a focus of CDC.

CDC also continues to work with local law enforcement, district attorneys, the Attorney General’s Consumer Protection Division, Texas Rangers, the FBI, the U.S. Department of Justice, the IRS, the U.S. Citizenship and Immigration Services, and the National Insurance Crime Bureau on barratry-related investigations, as disciplinary and other investigations of barratry often overlap. Two consistent difficulties faced by CDC in investigating barratry-related grievances are the need to rely on co-conspirator testimony and the fact that monies paid for the soliciting of clients are often made in cash and cannot be tracked. However, CDC coordination and cooperation with criminal barratry prosecutions has proven fruitful in those rare instances where the crime has been prosecuted. Likewise, the grievance process remains available to members of the profession who are pursuing civil remedies for improper solicitation under Chapter 82 of the Government Code.

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*“Thanks so much for all you do. The lawyers of Texas are so fortunate to have a program like this.”*

*— GRP Participant*

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## DISTRICT GRIEVANCE COMMITTEES

Texas is proud of its tradition of utilizing local volunteers to serve on grievance committees. The commitment of the district grievance committee members is vital to the success and effectiveness of the attorney discipline system. Currently, 357 volunteer grievance committee members serve on 17 committees throughout the state. Members are nominated by State Bar directors and appointed by the State Bar president.

The district grievance committees are composed of two-thirds lawyer members and one-third public members, each of whom serve a three-year staggered term and are eligible to serve two consecutive terms. Public members may not have, other than as consumers, a financial interest, direct or indirect, in the practice of law. Lawyer members must be licensed and in good standing in the state of Texas.

### ROLE OF GRIEVANCE COMMITTEES

The district grievance committees perform two critical roles in the discipline system: (1) review complaints presented by CDC and determine whether the case should be dismissed or proceed to prosecution; and (2) sit as an administrative tribunal to determine whether professional misconduct was committed and assess an appropriate sanction.

### LOCAL TRAINING

Local training of each district grievance committee is conducted annually throughout the state. This MCLE-approved training is conducted by regional counsel and their staff. Emphasis is placed upon the procedural and substantive rules governing the attorney discipline system, duties and authority of the grievance committees, and the importance of attendance and participation at scheduled hearings. In addition to these efforts, CDC has developed and produced several online training sessions addressing evidentiary hearings, common rule violations, issues related to the imposition of sanctions, attorneys' fees, and a grievance symposium that addressed a variety of issues related to the discipline process. The sessions were designed to provide grievance committee members with a more



*CDC staff and District 8 Grievance Committee members participate in a mock trial.*

in-depth analysis of key issues in disciplinary cases in order to facilitate their work on the grievance committees. Additionally, the State Bar offers free continuing legal education courses for members of the grievance committees.

The Dallas Regional Office conducted eight annual training sessions; the San Antonio Regional Office conducted 11 annual training sessions; the Houston Regional Office conducted three annual training sessions; and the Austin Regional Office conducted two annual training sessions.

**DIVERSITY OF GRIEVANCE COMMITTEE MEMBERS**

Acknowledging the importance to the public and the lawyers of Texas for the members of the district grievance committees to fairly represent the racial, ethnic, and gender makeup of the districts they serve, the State Bar directors work with CDC to make appointments that maintain this diversity in membership, including the goal that lawyer members reflect various practice areas and law firm size. The most common areas of practice by committee membership are general practice, criminal law, family law, personal injury law, and probate law, which are also the most common types of law related to filed grievances.

**2019-2020 DIVERSITY SURVEY OF GRIEVANCE COMMITTEE MEMBERSHIP COMPARED WITH STATE BAR MEMBERSHIP**

<b>Gender</b>	<b>Committee</b>	<b>Attorney Committee Membership</b>	<b>SBOT Membership</b>
Male	60%	58%	64%
Female	39%	42%	36%

<b>Ethnicity</b>	<b>Committee</b>	<b>Attorney Committee Membership</b>	<b>SBOT Membership</b>
White	70%	70%	79%
Asian/Pacific Islander	1%	2%	4%
African-American	6%	5%	6%
American Indian/Alaska Native	1%	1%	<1%
Hispanic/Latino	12%	16%	10%
Other	10%	6%	1%

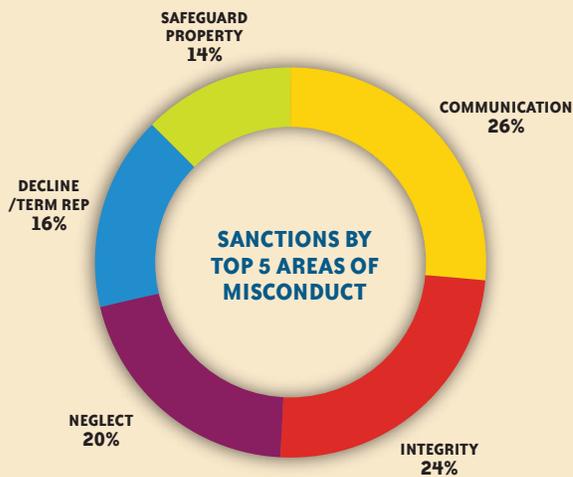
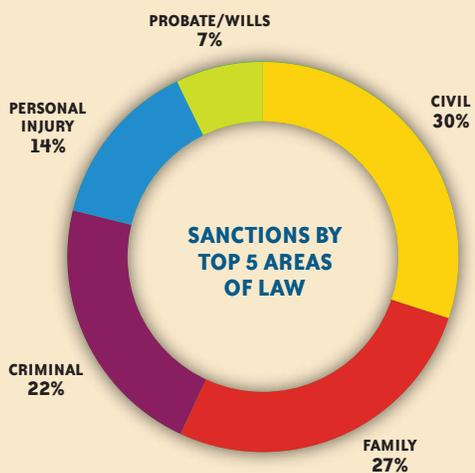
# OVERVIEW OF THE ATTORNEY DISCIPLINE PROCESS

The State Bar of Texas is dedicated to improving and advancing the quality of legal services to the public, protecting the public through the discipline system, and fostering integrity and ethical conduct in the legal profession.

The Texas attorney discipline system is governed by the Texas Disciplinary Rules of Professional Conduct (ethics rules) and the Texas Rules of Disciplinary Procedure (procedural rules). The ethics rules define proper conduct for purposes of professional discipline. The procedural rules provide the mechanism by which grievances are processed, investigated, and prosecuted.

The Texas Rules of Disciplinary Procedure and Texas Disciplinary Rules of Professional Conduct are available at [texasbar.com/ethics](http://texasbar.com/ethics).

## STATISTICAL DATA



## GRIEVANCE PROCEDURE

Those who believe they have been a witness to attorney misconduct — clients, members of the public, members of the legal community, and judges — have the right to file a grievance against a Texas attorney. The grievance form is available on the State Bar website (in Spanish and English), in each of CDC’s regional offices, through the State Bar Client-Attorney Assistance Program, and at courthouses, law libraries, legal aid organizations, and local bar associations across the state. In addition, complainants can now file grievances directly online via the State Bar website. A video with detailed instructions on how to file a grievance can be found on the bar website under “For the Public — Watch How to File a Grievance.”

### CLASSIFICATION

The filing of a written grievance with any one of CDC’s regional offices initiates the disciplinary process. Lawyers are subject to discipline only if they have violated the ethics rules (Texas Disciplinary Rules of Professional Conduct). Upon receipt of the grievance, CDC determines whether the grievance, on its face, alleges professional misconduct. This determination is referred to as classification of the grievance and is made within 30 days of the filing of the grievance. During the 2019-2020 bar year, 7,505 grievances were filed.

If the grievance does not allege professional misconduct, it is classified as an inquiry and dismissed or, upon the discretion of CDC, referred to the Client-Attorney Assistance Program, where CAAP will attempt to resolve minor issues. During 2019-2020, CDC referred 251 matters to CAAP for resolution.

Within 60 days, CAAP will notify CDC of the outcome of the referral. CDC must, within 15 days of notification from CAAP, determine whether the grievance should be dismissed as an inquiry or proceed as a complaint.

If the grievance alleges professional misconduct, it is classified as a complaint and sent to the respondent lawyer for a response.

### WHY ARE GRIEVANCES DISMISSED?

Of the grievances considered between June 1, 2019, and May 31, 2020, 5,123 were dismissed as inquiries. Grievances are dismissed for various reasons, including the following:

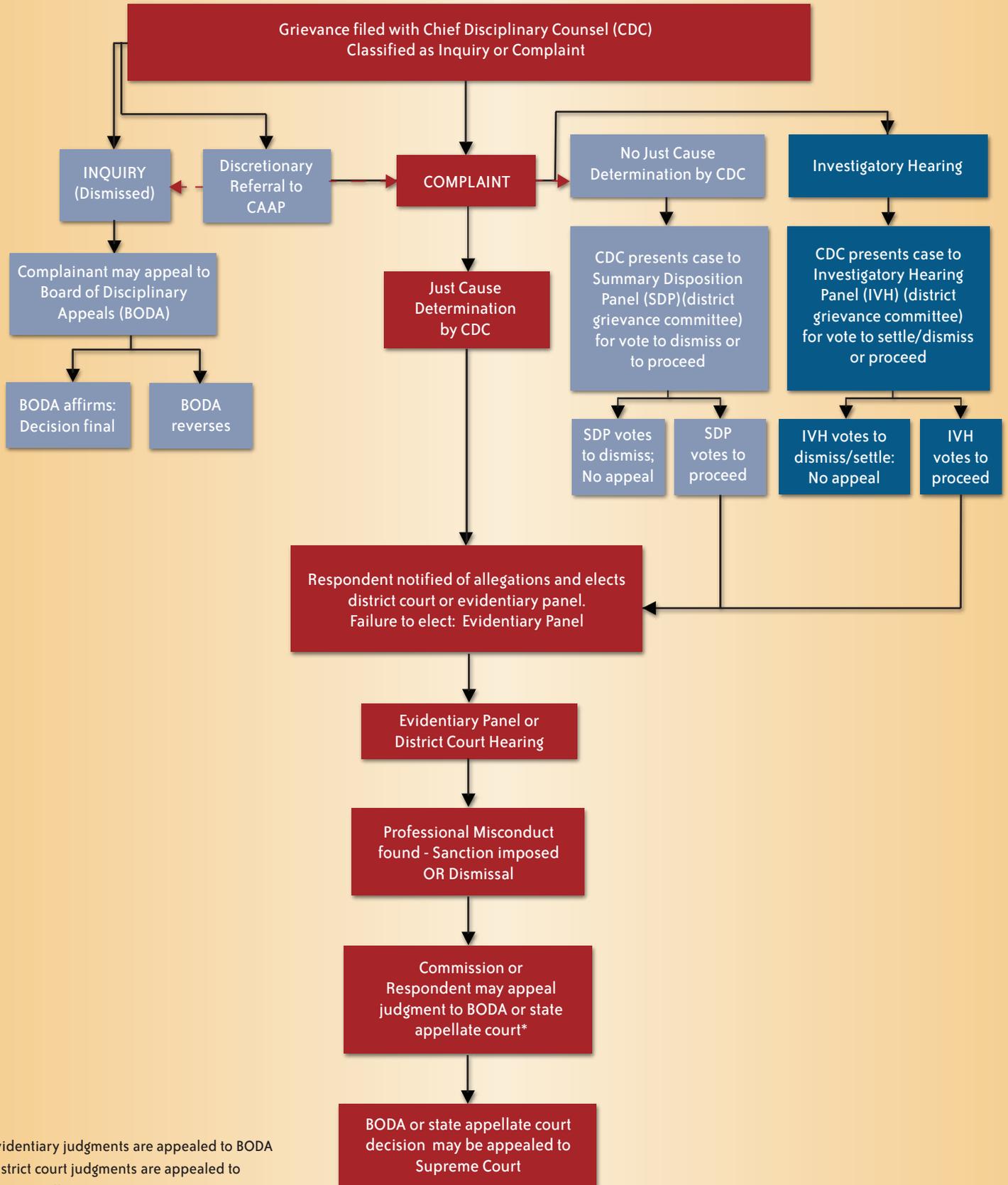
- The grievance concerns the outcome of a case but does not specify a violation of an ethics rule.
- The grievance does not involve a lawyer’s conduct in his or her professional capacity.
- The grievance is filed too late.
- The grievance is duplicative or identical to a previous filing.
- The grievance concerns a lawyer who has been disbarred, has resigned, or is deceased.
- The grievance concerns a person who is not licensed as an attorney (handled by the Unauthorized Practice of Law Committee).
- The grievance is filed against a sitting judge (handled by the State Commission on Judicial Conduct).

### CHECK IN THE SYSTEM — AN APPEALS PROCESS

The person who filed the grievance has the right to appeal CDC’s classification decision to dismiss the grievance as an inquiry to the Board of Disciplinary Appeals. BODA is an independent 12-attorney tribunal, appointed by the Texas Supreme Court.

During the 2019-2020 bar year, there were 1,362 appeals by complainants from classification decisions. Of the 1,362 appeals, BODA reversed 92 classification decisions, resulting in an overall reversal rate of 6.75%. When BODA reverses a classification decision, the grievance is sent back to CDC and is processed as a complaint.

## — PROCESSING A GRIEVANCE —



\*Evidentiary judgments are appealed to BODA  
 District court judgments are appealed to state appellate court

## COMPLAINT STATISTICS

During the 2019-2020 bar year, 2,202 of the grievances filed were classified as complaints. A majority of these complaints involved the areas of criminal law, family law, and personal injury. Among the most common allegations were neglect, failure to communicate, and complaints about the termination or withdrawal of representation.

## INVESTIGATION AND DETERMINATION OF JUST CAUSE

Once the grievance is classified as a complaint, it is sent to the respondent lawyer, who has 30 days from receipt to respond. Within 60 days of the response deadline, CDC, through its investigation, must determine whether there is just cause to believe that professional misconduct occurred. If CDC decides to proceed with an investigatory subpoena or hearing, that deadline is extended to 60 days after completion of the hearing or the date of compliance in the subpoena.

Investigatory hearings are designed to be nonadversarial in nature and to assist in resolving grievances earlier in the process. Investigations may include the following:

- Requests for additional information from the complainant
- Information from corroborative witnesses
- Receipts
- Hourly records or billing statements
- Correspondence to and from client
- Message slips, telephone logs, or records of long distance telephone calls and emails
- Court records, such as pleadings, motions, orders, and docket sheets
- Copies of settlement checks and/or disbursement statements
- IOLTA or trust account records, such as monthly bank statements, deposit slips, deposit items, and disbursement items
- State Bar Membership Department records, including records of current or past administrative suspensions
- Client file
- Witness interviews and sworn statements

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*“In summary, I learned a great deal from these ethics courses, and they were a perfect reminder of what to do and not to do ... Many thanks for working with me and for your wise counsel throughout this process.”*

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*— GRP Participant*

Investigatory hearings may result in a negotiated sanction, a dismissal of the complaint, or a finding of just cause.

## NO JUST CAUSE FINDING

If CDC determines that there is no just cause to proceed on the complaint, the case is presented to a Summary Disposition Panel, which is a panel of local grievance committee members composed of two-thirds lawyers and one-third public members. The Summary Disposition Panel is an independent decision maker and has the discretion to either accept or reject CDC’s determination.

Information and results regarding CDC’s investigation are presented to the panel at a docket hearing without the presence of either the complainant or respondent. If the panel accepts CDC’s determination, the complaint will be dismissed. If the panel rejects CDC’s determination, the panel votes to proceed on the complaint.

During the 2019-2020 bar year, 1,722 cases were presented to Summary Disposition Panels of local grievance committees for consideration. The panels voted to dismiss in 1,705 of those cases.

## TRIAL OF THE COMPLAINT

If CDC finds just cause or the Summary Disposition Panel votes to proceed on the complaint, the respondent lawyer is given written notice of the allegations and rule violations. The respondent has 20 days to notify CDC whether he or she chooses to have the case heard before an evidentiary panel of the grievance committee or by a district court, with or without a jury. This choice is referred to as the respondent's election. A respondent who fails to elect will have the case tried before an evidentiary panel of the grievance committee.

2019-2020 BAR YEAR		2018-2019 BAR YEAR	
Elected Evidentiary	78	Elected Evidentiary	167
Defaulted into Evidentiary	130	Defaulted into Evidentiary	174
Elected District Court	30	Elected District Court	23

Evidentiary panel hearings are confidential and allow for a private reprimand, the least sanction available, to be imposed. District court proceedings are public and the least sanction available is a public reprimand. In both types of proceedings, the parties are the Commission for Lawyer Discipline represented by CDC and the respondent lawyer. It is the Commission's burden to prove the allegations of professional misconduct by a preponderance of the evidence.

If no professional misconduct is found, the case is dismissed. If professional misconduct is found, a separate hearing may be held to determine the appropriate discipline. In evidentiary panel proceedings, the panel may also find that the respondent suffers from a disability and forwards its finding to the Board of Disciplinary Appeals.

During the 2019-2020 bar year, CDC resolved 497 complaints before grievance committee panels, district courts, and the Board of Disciplinary Appeals and disposed of more than 1,700 cases before Summary Disposition Panels of the local grievance committees. These numbers were dramatically impacted by the COVID-19 pandemic, which prevented any litigation of attorney discipline proceedings to go forward after March 13.

## GRIEVANCE REFERRAL PROGRAM

Implemented in 2007, the Grievance Referral Program is an important component of the attorney discipline system. It was designed to help identify and assist lawyers who have impairment or performance issues and who enter the disciplinary system as a result of minor misconduct. GRP allows the Commission for Lawyer Discipline to refer to the program lawyers who have engaged in minor misconduct and who otherwise meet the GRP eligibility criteria. In exchange for a dismissal of the underlying complaint by the Commission, the respondent lawyer agrees to complete a program individually tailored to the respondent lawyer's needs. If the lawyer does not fully complete the terms of the agreement in a timely manner, the underlying complaint moves forward through the usual disciplinary process.

GRP presents an opportunity for respondent lawyers to address the issues that contributed to the misconduct, including issues of law practice management, substance use, and mental health. In this way, the public is better protected from future misconduct by the lawyer.

During 2019-2020, the GRP administrator helped 86 attorneys successfully complete GRP.

# PUNISHMENT FOR PROFESSIONAL MISCONDUCT

The term “sanction” refers to the level of discipline imposed against a respondent attorney.

In an effort to ensure fairness and consistency in determining sanctions, the Texas Rules of Disciplinary Procedure contain guidelines for imposing sanctions as to different types of misconduct. In 2018, those guidelines were revised to more clearly state which sanctions should be issued for specific types of misconduct. Specifically, in imposing sanctions, the disciplinary tribunal should consider:

- the duty violated;
- the respondent attorney’s level of culpability;
- the potential or actual injury caused by the respondent attorney’s misconduct; and  
the existence of aggravating or mitigating factors.

## PRIVATE REPRIMAND

A private reprimand is available only if the case is tried before an evidentiary panel of the grievance committee. This sanction is not available in a case heard before a district court. A private reprimand is the least level of discipline that can be given. It is not public and this information is not published in connection with the specific lawyer and is not released upon inquiries from the public. However, this sanction remains a part of the lawyer’s disciplinary history and may be considered in any subsequent disciplinary proceeding. The Texas Legislature and Commission for Lawyer Discipline have established limitations on the use of private reprimands. During the 2019- 2020 bar year, CDC obtained 106 private reprimands.

A private reprimand is generally appropriate in cases in which a respondent attorney causes little or no actual or potential injury and:

- does not act with reasonable diligence in representing a client, communicating with a client, providing competent representation, or abiding by client decisions;
- is negligent in dealing with client property;
- negligently reveals information relating to representation of a client not otherwise lawfully permitted to be disclosed;
- engages in an isolated instance of negligence in determining whether the representation of a client may be materially affected by the respondent’s own interests, or whether the representation will adversely affect another client;
- engages in an isolated instance of negligence in determining the accuracy or completeness of information provided to a client;
- engages in an isolated instance of negligence in determining whether submitted statements or documents are false or in failing to disclose material information upon learning of its falsity;
- engages in an isolated instance of negligence that involves an abuse of the legal process;
- engages in an isolated instance of negligence in improperly communicating with an individual in the legal system;
- negligently engages in any other conduct involving the failure to maintain personal integrity;
- engages in an isolated instance of negligence in not following applicable procedures or rules; or
- engages in an isolated instance of negligence that is a violation of a duty owed as a professional.

A private reprimand is **not** available if the respondent lawyer:

- has received a private reprimand within the preceding five-year period for a violation of the same disciplinary rule; or
- has engaged in misconduct involving theft, misapplication of fiduciary property, or the failure to return, after demand, a clearly unearned fee; or
- is a prosecutor that has failed to disclose exculpatory evidence.

## **PUBLIC REPRIMAND**

This type of discipline is public and is published together with the name of the respondent lawyer.

A public reprimand is generally appropriate in cases in which a respondent attorney causes injury or potential injury and:

- fails to act with reasonable diligence in representing a client, communicating with a client, providing competent representation, or abiding by client decisions;
- is negligent in dealing with client property;
- negligently reveals information relating to representation of a client not otherwise lawfully permitted to be disclosed;
- is negligent in determining whether the representation of a client may be materially affected by the respondent's own interests, or whether the representation will adversely affect another client;
- is negligent in determining the accuracy or completeness of information provided to a client;
- is negligent either in determining whether statements or documents are false or in taking remedial action when material information is being withheld;
- negligently engages in conduct involving an abuse of the legal process;
- is negligent in determining whether it is proper to engage in communication with an individual in the legal system; negligently engages in any other conduct involving the failure to maintain personal integrity;
- while acting in an official or governmental position, negligently fails to follow applicable procedures or rules;
- negligently engages in conduct that is a violation of a duty owed as a professional;
- negligently violates the terms of a prior disciplinary order; or
- has received a private reprimand for the same or similar misconduct and engages in further similar acts of misconduct.

During the 2019-2020 bar year, CDC obtained 39 public reprimands.

## **SUSPENSION FOR A TERM CERTAIN**

Commonly referred to as an "active suspension," this public discipline means that the respondent lawyer is prohibited from practicing law for the length of the suspension. If the lawyer practices law during an active term of suspension, the conduct is a separate basis for further discipline and/or for contempt of the judgment. Upon the conclusion of an active suspension, the lawyer is eligible to practice law, provided that all other requirements for eligibility, such as payment of bar dues and compliance with continuing legal education, are current.

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*"Thank you!!!  
You will never know  
how much  
you impacted my life."  
— GRP Participant*

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## FULLY PROBATED SUSPENSION

This type of discipline is public and is for a term certain; however, the suspension is “probated,” which means that the respondent lawyer may practice law during the period of suspension, but the lawyer must comply with specific “terms of probation” throughout the probated suspension period.

Terms of probation typically require that the respondent lawyer refrain from engaging in further misconduct; not violate any state or federal criminal statutes; keep the State Bar notified of current mailing, residential, and business addresses; comply with continuing legal education requirements; comply with the rules for maintaining trust accounts; and respond to any requests for information by CDC in connection with an investigation of allegations of misconduct.

Probation terms may also include, depending upon the facts of a particular case, that the respondent lawyer take additional continuing legal education, submit to a psychological evaluation, attend substance use counseling, practice law under the supervision of a designated monitor, or pay restitution and attorneys’ fees by a certain date. .

## PARTIALLY PROBATED SUSPENSION

This type of discipline is a combination of an active suspension followed by a period of probated suspension and is public.

A suspension is generally appropriate when a respondent attorney causes injury or potential injury and:

- knowingly fails to perform services for a client, fails to adequately communicate with a client, fails to provide competent representation, or fails to abide by client decisions;
- engages in a pattern of neglect with respect to client matters, inadequate client communications, lack of competent representation, or failure to abide by client decisions;
- knows or should know that he or she is dealing improperly with client property and causes injury or potential injury to a client;
- knowingly reveals information relating to the representation of a client not otherwise lawfully permitted to be disclosed;
- knows of a conflict of interest and does not fully disclose to a client the possible effect of that conflict;
- knowingly deceives a client;
- knows that false statements or documents are being submitted to the court or another or that material information is improperly being withheld, and takes no remedial action;
- knows that he or she is abusing the legal process;
- engages in communication with an individual in the legal system when the respondent knows or should know that such communication is improper;
- knowingly engages in criminal conduct that seriously adversely reflects on the respondent’s fitness to practice law;
- knowingly engages in conduct involving the failure to maintain personal integrity;
- while acting in an official or governmental position, knowingly fails to follow applicable procedures or rules;
- knowingly engages in conduct that is a violation of a duty owed as a professional;
- has been reprimanded for the same or similar misconduct and engages in further similar acts of misconduct

During the 2019-2020 bar year, CDC obtained 142 suspensions.

## DISBARMENT

This is the most severe discipline resulting in a complete loss of a respondent lawyer's license to practice law. Once disbarred, the lawyer's name is removed from the membership rolls of the Supreme Court and the lawyer is required to remit his or her law license and bar card.

After five years, a disbarred lawyer may petition a district court to be reinstated to the practice of law. The disbarred lawyer must prove that reinstatement is in the best interest of the public and the profession, as well as the ends of justice. If such an application is granted, the disbarred lawyer is not automatically granted a law license. The disbarred lawyer must still pass the bar exam administered by the Texas Board of Law Examiners.

Disbarment is generally appropriate when a respondent attorney causes injury or potential injury and:

- abandons his or her law practice;
- knowingly fails to perform services for a client, fails to adequately communicate with a client, fails to provide competent representation, or fails to abide by client decisions;
- engages in a pattern of neglect with respect to client matters, inadequate client communications, lack of competent representation, or failure to abide by client decisions;
- knowingly converts client property;
- with the intent to benefit himself or another, knowingly reveals information relating to the representation of a client not otherwise lawfully permitted to be disclosed;
- without the informed consent of the client, engages in representation of a client knowing that the respondent's interests are adverse to the client's with the intent to benefit the lawyer or another;
- without the informed consent of the client, simultaneously represents clients that the respondent knows have adverse interests with the intent to benefit the lawyer or another;
- without the informed consent of the client, represents a client in a matter substantially related to a matter in which the interests of a present or former client are materially adverse, and knowingly uses information relating to the representation of a client with the intent to benefit the respondent or another;
- knowingly deceives a client with the intent to benefit the respondent or another;
- with the intent to deceive the court or another, makes a false statement, submits a false document, or improperly withholds material information;
- knowingly engages in an abuse of the legal process with the intent to obtain a benefit for the respondent or another;
- intentionally tampers with a witness;
- makes an ex parte communication with a judge or juror with intent to affect the outcome of the proceeding;
- improperly communicates with someone in the legal system other than a witness, judge, or juror with the intent to influence or affect the outcome of the proceeding;
- engages in serious criminal conduct a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or the sale, distribution or importation of controlled substances; or the intentional killing of another; or an attempt or conspiracy or solicitation of another to commit any of these offenses;
- knowingly engages in any other conduct involving the failure to maintain personal integrity;
- while acting in an official or governmental position, knowingly misuses the position with the intent to



*CDC Attorney Luis Marin speaking with Univision in San Antonio about the Client Security Fund.*

- obtain a significant benefit or advantage for himself or another;
- knowingly engages in a conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the respondent or another;
- intentionally or knowingly violates the terms of a prior disciplinary order; or
- has been suspended for the same or similar misconduct, and intentionally or knowingly engages in further similar acts of misconduct.

During the 2019-2020 bar year, CDC obtained 21 disbarments.

### ANCILLARY SANCTIONS

Finally, the term “sanction” may include as an ancillary requirement: (1) restitution (which may include repayment to the Client Security Fund of the State Bar of any payments made by reason of the respondent lawyer’s misconduct); and (2) payment of reasonable attorneys’ fees and all direct expenses associated with the disciplinary proceedings.



*Vice Chair Gena Bunn swearing in new members*

“I have such a great appreciation for this system, and I can truly say it was a wonderful process for refining my daily practice.”  
— GRP Participant



*Commission members Steve Henry, Judge Monica Gonzalez, and Mike Truesdale.*

## OTHER DISCIPLINARY PROCEEDINGS

### COMPULSORY DISCIPLINE

If an attorney has been convicted of or pleaded nolo contendere to, or has been put on probation, with or without an adjudication of guilt, for a serious or intentional crime (as those terms are defined in the TRDP), CDC will seek compulsory discipline.

Crimes that subject a lawyer to compulsory discipline include barratry; any felony involving moral turpitude; any misdemeanor involving theft, embezzlement, or fraudulent or reckless misappropriation of money or property; any crime involving misapplication of money or other property held as a fiduciary; and any attempted conspiracy or solicitation of another to commit any of these crimes.

These proceedings are filed with the Board of Disciplinary Appeals. The criminal judgment or order of deferred adjudication is conclusive evidence of the attorney's guilt of the commission of the crime. If the criminal conviction of a serious or intentional crime is on appeal, the lawyer's license shall be suspended during the pendency of the appeal. Where the sentence includes any period of incarceration other than as a condition of probation, the lawyer shall be disbarred. Where the criminal sentence is fully probated, BODA has the discretion to either suspend for the period of criminal probation or disbar the attorney. A party appeals from a compulsory discipline decision to the Texas Supreme Court.

During the 2019-2020 bar year, 11 of the sanctions entered were a result of compulsory discipline cases.

### INTERIM SUSPENSION

If CDC determines during the course of investigating a complaint that one or more grounds exist to support seeking an interim suspension of the respondent's law license, CDC can seek authority from the Commission to pursue an interim suspension. During 2019-2020, CDC did not seek any interim suspensions.

If such authority is given, a petition is filed in a district court of proper venue, service is obtained on the respondent, and the court is to set a hearing within 10 days. The court may suspend the attorney pending final disposition of the disciplinary action if the court finds by a preponderance of the evidence that the respondent poses a substantial threat of irreparable harm to clients or prospective clients. Any of the following elements conclusively establishes such a substantial threat of irreparable harm:

- Conduct that includes all elements of a serious crime (as that term is defined in the disciplinary rules); or
- Three or more acts of professional misconduct as defined in the rules, whether or not there is harm; or
- Any other conduct that, if continued, will probably cause harm to clients or prospective clients.

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*"... Thanks... for the sage advice. I always feel better after speaking with you on the phone. And, I especially appreciate you always being so quick to respond. Until next time, take care!"*  
— Ethics Helpline Caller

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## **RECIPROCAL DISCIPLINE**

If an attorney is disciplined in another jurisdiction where the attorney is licensed to practice law, CDC may seek the identical or “reciprocal” discipline. These proceedings are filed with the Board of Disciplinary Appeals. CDC files a petition for reciprocal discipline, which includes a certified copy of the order of discipline from the other jurisdiction and requests that the lawyer be disciplined in Texas. BODA notifies the attorney, who has 30 days to show why imposition of the identical discipline in Texas would be unwarranted. Defenses available to the attorney include the following:

- The procedure in the other jurisdiction was so lacking in notice or opportunity to be heard that the attorney was deprived of due process.
- There was such an infirmity of proof in the other jurisdiction that the conclusion that was reached should not be accepted as final.
- Imposition of identical discipline would result in grave injustice.
- That the misconduct established in the other jurisdiction warrants a substantially different discipline in this state.
- That the misconduct for which the attorney was disciplined in the other jurisdiction does not constitute professional misconduct in this state.

Absent establishment of a defense, BODA shall impose discipline identical, to the extent practicable, with that imposed by the other jurisdiction. A party appeals a reciprocal discipline decision to the Texas Supreme Court. During the 2019-2020 bar year, seven of the sanctions entered were a result of reciprocal discipline cases.

## **DISABILITY SUSPENSION**

A disability is any physical, mental, or emotional condition that results in an attorney’s inability to practice law or to carry out his or her professional responsibilities. No substantive rule violation is required to find that an attorney has a disability.

If CDC during a just cause investigation, or an evidentiary panel during the course of an evidentiary proceeding, believes that an attorney is suffering from a disability, the matter is forwarded to BODA for appointment of a district disability committee. The district disability committee determines whether the respondent is, in fact, suffering from a disability and, if so, indicates such to BODA, which then enters an order suspending the attorney for an indefinite period.

The disability process tolls the four-year statute of limitations for disciplinary matters.

During 2019-2020, CDC obtained one disability suspension.

## **REVOCAATION**

Violation of any term of the probated portion of a suspension may subject a respondent lawyer to a “revocation” of the probation resulting in an active suspension from the practice of law. When a judgment is entered by an evidentiary panel of the grievance committee, the revocation proceeding is filed before BODA. When a judgment is entered by a district court, the revocation proceeding is filed with the district court. If CDC proves a violation of probation by a preponderance of the evidence, the probation is revoked and the respondent attorney is suspended from the practice of law without credit for any probationary period served. An order revoking a probated suspension cannot be superseded or stayed pending an appeal. During 2019-2020, CDC sought and obtained one revocation of probation.

## GRIEVANCE SUPPORT

CDC, in its administration of the Texas attorney discipline system, is greatly supported by a number of other State Bar programs, departments, and Supreme Court-appointed committees. The work of these groups impacts the number of grievances filed against lawyers and/or provides rehabilitative assistance to lawyers who are disciplined.

### CLIENT-ATTORNEY ASSISTANCE PROGRAM

The Client-Attorney Assistance Program, or CAAP, is a voluntary confidential dispute resolution service of the State Bar of Texas. Its objective is to facilitate communication and the transfer of appropriate documents, as well as foster productive dialogue to help Texas lawyers and their clients resolve minor concerns, disputes, or misunderstandings impacting the attorney-client relationship. In 2019-2020, CAAP resolved 1,016 matters.



*District 9 Grievance Committee Chair Ryan Botkin swearing in new grievance committee members.*

### ADVERTISING REVIEW COMMITTEE

The Advertising Review Committee is responsible for reviewing lawyer advertisements and written solicitations as required by the Texas Disciplinary Rules of Professional Conduct. The ARC, through the State Bar's Advertising Review Department, manages the filing and review process for attorneys that market their services to the public to ensure that lawyers are complying with established ethical requirements.

In the 2019-2020 bar year, the department reviewed 3,204 submissions, with the largest category being electronic filings. Electronic media continues to be the focal point for Ad Review. To further the department's educational outreach, the department provides a free one-hour ethics credit presentation focused on attorneys using social media to disseminate information about their legal services. The department is also responsible for distributing non-filer notices to attorneys who have not filed an advertisement.

### LAW PRACTICE MANAGEMENT

The Law Practice Management Program was implemented by the State Bar of Texas to assist solo and small firm practitioners in the delivery of legal services by developing and promoting competent, professional, efficient, effective, economical, and innovative law office management practices. Often, a referral to the bar's Law Practice Management resources will be incorporated as a term of a disciplinary judgment, as many complaints stem from a lawyer's lack of knowledge in the appropriate management of his or her law practice.

For the 2019-2020 bar year, the program assisted more than 38,000 lawyers through online classes, live and video seminars, webcasts, website resources, and telephone and email inquiries. The Law Practice Management Program webpage received 18,874 visitors, with over 44,000 page views; the website provides online resources to help attorneys start, maintain, and grow their law practices, including webcasts, articles, forms, and checklists available to aid attorneys in acquiring the skills they need to manage a law office effectively and avoid further practice management-related complaints. TexasBarCLE provided 19,439 lawyers with law practice management CLE programming at 179 events. The Law Practice Management Program responded to the challenges of the coronavirus pandemic by providing Texas attorneys with CLE programming, online videos, how-to guides, and other resources to assist attorneys in adapting and maintaining their practices during the COVID-19 crisis.

*“Thanks so much for all you do. The lawyers of Texas are so fortunate to have a program like this.”*  
— GRP Participant

## MINIMUM CONTINUING LEGAL EDUCATION DEPARTMENT

The State Bar of Texas requires that every attorney complete 15 hours of continuing legal education each year to maintain an active law license, three of which are required to be in the area of ethics. This requirement is known as Minimum Continuing Legal Education.

The State Bar MCLE Department ensures that attorneys comply with the regulations and also approves courses for MCLE credit. Attorneys may access and update their MCLE records on the State Bar of Texas website. The department also offers an MCLE course search, which allows attorneys to search all approved CLE-accredited courses by date, topic, location, or sponsor.

Failure to comply with MCLE requirements can result in an administrative suspension from the practice of law. Practicing while on an administrative suspension is a violation of the Texas Disciplinary Rules of Professional Conduct.

## TEXAS LAWYERS' ASSISTANCE PROGRAM

The State Bar of Texas established the Texas Lawyers' Assistance Program in 1989. TLAP's mission is to assist lawyers challenged by substance use and other mental health disorders that are interfering or may interfere with their ability to practice law in an ethical and professional manner. All assistance is confidential and may be accessed by calling or texting 800-343-8527 (TLAP).

In addition to educating law students, lawyers, and judges about the types of impairments studies show disproportionately impact the legal profession, TLAP offers a variety of intervention, assessment and referral, and rehabilitative services to impaired lawyers. Calls or texts to TLAP come either directly from the lawyer challenged by a substance use disorder or by another disorder such as depression or cognitive impairment, or from a "concerned other," usually a friend, colleague, judge, or family member.

### STATE BAR OF TEXAS PUBLIC PROTECTION DOLLARS ACTUAL EXPENDITURES (UNAUDITED) 2019-2020

Commission for Lawyer Discipline	<b>\$68,420</b>	Texas Lawyers' Assistance Program	<b>\$382,367</b>
Office of Chief Disciplinary Counsel	<b>\$9,867,801</b>	Client-Attorney Assistance Program	<b>\$542,598</b>
UPL Committee	<b>\$112,588</b>		
Grievance Oversight Committee	<b>\$45,549</b>	Total General Fund	<b>\$12,389,097</b>
Professional Ethics Committee	<b>\$8,943</b>		
Board of Disciplinary Appeals	<b>\$597,669</b>	Client Security Fund - Claims Paid	<b>\$719,011</b>
Advertising Review	<b>\$143,215</b>		
Minimum Continuing Legal Education	<b>\$619,947</b>	Total State Bar Public Protection Dollars	<b>\$13,108,108</b>

## GRIEVANCE OVERSIGHT COMMITTEE

The Grievance Oversight Committee is charged to study, review, and advise the Texas Supreme Court regarding the structure, function, and effectiveness of the discipline system. The GOC is composed of six attorneys and three public members appointed by the Texas Supreme Court. The committee is not part of the State Bar disciplinary process and neither considers nor resolves individual complaints involving attorney-client issues. The committee maintains a website, [txgoc.com](http://txgoc.com), and welcomes comments and suggestions from all interested parties.

During the 2019-2020 bar year, the Commission and CDC provided the GOC with the following information:

- Statistical data for the discipline system, including the number of grievances received, classification decisions, classification appeals, just cause determinations, summary disposition decisions, and elections to evidentiary or district court;
- Quarterly reports provided to the State Bar Board of Directors regarding the disposition of disciplinary proceedings by bar district and statistics of sanctions imposed;
- Written consumer complaints and responses;
- Responses to disciplinary system questionnaires received by CDC; and
- Portions of minutes from the Commission's meetings regarding non-case-specific topics.

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*“I greatly enjoyed our telephone conference and I’m excited about the improvements you are helping make in my practice. Both myself and my clients will benefit significantly from the changes.” — GRP Participant*

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## UNAUTHORIZED PRACTICE OF LAW COMMITTEE

The Unauthorized Practice of Law Committee is appointed by the Texas Supreme Court and is charged with preventing the unauthorized practice of law. The UPLC is composed of nine volunteer lawyers and laypersons appointed to three-year terms.

The practice of law by persons who are not authorized to do so frequently hurts the clients they may be trying to help, resulting in the loss of money, property, or liberty. The State of Texas limits the practice of law to persons who have demonstrated their knowledge of the law through education; who have passed a rigorous examination on the laws of Texas, including the rules of ethics; and who have passed a character review. The UPLC is prohibited from giving advisory opinions.

To ensure the public is protected from those who practice law illegally, the UPLC has divided the state into five regions: Northern, Central, Southern, Eastern, and Western. The UPLC has created 38 district subcommittees within the regions. Chairpersons are appointed to head the regional and district subcommittees. The busiest district subcommittees are Houston, Dallas, Austin, San Antonio, and Fort Worth. The UPLC maintains a website at [txuplc.org](http://txuplc.org), where individuals can fill out a complaint online and learn more about the workings of the committee.

## PROFESSIONAL ETHICS COMMITTEE

The Professional Ethics Committee is a nine-member committee appointed by the Texas Supreme Court pursuant to Texas Government Code Section 81.091. The committee is charged with the responsibility of expressing opinions to questions regarding the propriety of professional conduct, which arise either upon a request for opinion by a State Bar member or upon the committee's own initiative. These opinions are published in the *Texas Bar Journal*. During the 2019-2020 bar year, the PEC issued five opinions on the following subjects, all of which can be found online at [legalethictexas.com](http://legalethictexas.com).

### OPINION 684 (AUGUST 2019)

Under the Texas Disciplinary Rules of Professional Conduct, a lawyer departing a law firm may not remove the firm's only tangible copy of client files or delete client files, documents, and data from the firm's electronic document repositories and devices without the firm's consent.

### OPINION 685 (JANUARY 2020)

The Texas Disciplinary Rules of Professional Conduct do not prohibit a lawyer from encouraging current and former clients to leave positive reviews or ratings online, provided that the lawyer does not encourage the clients to make statements that are false, misleading, or unfounded. If a lawyer becomes aware that a client posted a favorable review that is false, misleading, or unfounded, the lawyer should take reasonable steps to see that the statement is corrected or removed.

### OPINION 686 (JANUARY 2020)

A Texas lawyer may practice law as an associate or other non-partner firm lawyer — and the only lawyer in the Texas office — of an out-of-state law firm, provided that the associate or other non-partner lawyer: (1) qualifies as a "firm lawyer" reasonably considered to be "in" the law firm under the factors discussed in Opinion 577; and (2) is given the responsibility and authority to make decisions about the firm's practice of law in Texas. The out-of-state law firm should also have a resident agent for service of process in Texas.

### OPINION 687 (APRIL 2020)

Under the Texas Disciplinary Rules of Professional Conduct, a staff lawyer employed by an insurance company to defend its insureds may comply with the insurer's guidelines only if the staff lawyer's affiliation with the insurance company is fully disclosed to the client, the guideline does not interfere with the lawyer's independent professional judgment, and the guideline is reasonable in scope and character and consistent with the client's interests. A lawyer who believes that a particular guideline as applied in a specific situation interferes with her ability to discharge duties to the represented client should try to persuade the insurer to withdraw or modify the limitation. If the conflict cannot be cured, the lawyer must withdraw from the representation.

The insurance company's decision regarding support staffing raises issues under the Texas Disciplinary Rules of Professional Conduct only if it materially compromises a staff lawyer's ability to adequately discharge the lawyer's duties to the insured clients. If a lawyer believes that inadequate staffing is materially compromising the lawyer's ability to adequately represent the insured clients, then the lawyer should try to persuade the insurer to increase staffing. If the conflict cannot be cured, the lawyer must withdraw.

### **OPINION 688 (MAY 2020)**

Under the Texas Disciplinary Rules of Professional Conduct, lawyers who are not in the same firm may divide fees either on the basis of the proportion of services they render or if the lawyers assume joint responsibility for the representation. But a lawyer who withdraws from the representation based upon a nonconsentable conflict of interest may not enter into an arrangement to divide fees based on joint responsibility. Further, a lawyer may not enter into an agreement to divide fees based on the proportion of services when the lawyer has not performed substantial legal services on behalf of the client, or when there is no reasonable correlation between the amount or value of service rendered and responsibility assumed and the share of the fee to be received. Finally, regardless of how the fee division is characterized, a lawyer may not enter an agreement for a pure referral fee. The Rules do not prohibit a lawyer from recovering or seeking to recover the reasonable value of services provided to the client and the reasonable expenses actually paid by the lawyer before the representation ended, assuming such recovery is permissible under Texas common law.

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*“I feel that the program you provided and the work that I have done has provided significant value to me and to my practice. The program has given me reassurance in certain areas, has empowered and encouraged me in others, and has provided valuable tools to improve my practice in numerous areas.” — GRP Participant*

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*District 8 Grievance Committee Chair, Natalie Koehler, administering oath to reappointed and new members.*



*District 8 Grievance Committee members take the oath.*



*District 9 Grievance Committee members take the oath.*

## STATE BAR OF TEXAS — A FEW STATS

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105,125	Active members
92,833	In-state attorneys
49	Median age of in-state attorneys
1:312	Ratio of all in-state attorneys to Texans
1:613	Ratio of in-state private practitioners to Texans
64	Percentage of in-state attorneys who are private practitioners
10	Percentage of in-state attorneys who are government lawyers
11	Percentage of in-state attorneys who are corporate/in-house counsel
84	Percentage of in-state attorneys in the four largest metropolitan areas
8	Percentage of in-state private practitioners who work in firms with 200 or more attorneys
25	Percentage of in-state private practitioners who work in firms with five or fewer attorneys
\$120,811	Median income for full-time Texas attorneys
\$119,145	Median income for full-time solo practitioners

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**NOTE:** Texas attorney data in this report is based on the State Bar of Texas membership records as of December 31, 2019, of each of the cited years. Texas general population data is based on July 2019 Census population estimates. Texas attorney income data is based on the 2017 State Bar of Texas Attorney Survey.

## **A TOOL FOR CONSUMERS**

*The State Bar of Texas website includes a  
“Find-a-Lawyer”*

*function that allows consumers to  
access information about Texas lawyers.*

*More than 357,949 searches are  
conducted each month,  
by about 167,392 unique visitors.*

*Each attorney profile lists public disciplinary  
actions in which there was a final  
judgment. The site lists only the type of action  
and its term (i.e., public reprimand,  
suspension, etc.). Users are directed to  
contact the Office of Chief Disciplinary  
Counsel for more details  
on the sanction.*



**STATE BAR *of* TEXAS**  
**Commission For Lawyer Discipline**

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Austin, Texas 78711-2487