



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

June 1, 2016 – May 31, 2017

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.”

FROM THE CHAIR OF THE COMMISSION FOR LAWYER DISCIPLINE

August 31, 2017

On behalf of the Commission for Lawyer Discipline, the information contained in this report is submitted on the attorney disciplinary system for the State of Texas for the period of June 1, 2016, through May 31, 2017. Some of the highlights from the past year are:



- The Commission successfully resolved 545 complaints through the imposition of 342 sanctions and collected \$310,187 in attorneys' fees;
- The Commission continued its efforts to combat professional misconduct in the area of immigration by resolving 53 complaints through the imposition of 20 sanctions, 12 of which were disbarments, resignations, or suspensions; and three additional dispositions through CDC's remedial and rehabilitative Grievance Referral Program;
- CDC attorneys were honored with the "Defenders of Justice" award by the Texas Fair Defense Project;
- CDC assisted the Client Security Fund Subcommittee in reviewing 157 applications and approving more than \$950,000 in grants;
- CDC created a Facebook ad campaign to advise Facebook users on how to file a grievance, reaching almost 95,000 people;
- CDC worked with the State Bar of Texas, the Sunset Commission, and the Texas Legislature to ensure that the bar's operations were extended until 2029; and
- CDC assisted in the launch of an online service for Texas lawyers to request certificates of good standing.

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 that reads "John G. Neal". The signature is written in a cursive style and is positioned above a large, faint, circular watermark or stamp.

John Neal
Chair of the Commission for Lawyer Discipline

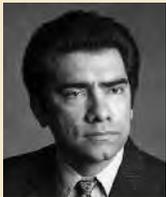
COMMISSION FOR LAWYER DISCIPLINE

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 Supreme Court of Texas.

ATTORNEY MEMBERS



John Neal, chair of the Commission, is a graduate of Georgia State University and Cumberland School of Law at Samford University. He began his legal career in the firm of Neal, Neal, Richie and Hill, which emphasized litigation in state and federal court. He served as district attorney of the 90th Judicial District from 1986 to 1996. He was named chief of the criminal prosecutions division in 1996 and served under Attorneys General Dan Morales, John Cornyn, and Greg Abbott. Neal served as chief disciplinary counsel for the State Bar of Texas from 2005 to 2009 and as first assistant district attorney for the Travis County District Attorney's Office. He is certified in criminal law by the Texas Board of Legal Specialization.



Pablo Javier Almaguer, vice chair of the Commission, is the private attorney involvement group coordinator for Texas RioGrande Legal Aid Inc. He earned his B.A. in political science from the University of Texas-Pan American in 1994 and his law degree from Chicago-Kent College of Law in 1997. In 2017, he received an honorary degree from Wheelock College for his advocacy on behalf of women, children, and families. His current position includes the organization-wide responsibility of bridging the communication gap between pro bono volunteers and TRLA's opportunities. He served as president of the Hidalgo County Bar Association/Hidalgo County Bar Foundation from 2007 to 2008. Almaguer serves as president of the board of directors of the Texas Civil Rights Project. He was the first legal services attorney to serve on the board of directors of the State Bar of Texas, from 2008 to 2012, and was the first legal services attorney to serve as chair, from 2010 to 2011.



Theresa Chang is the presiding judge of Harris County Civil Court at Law No. 2. Judge Chang earned her M.S. in chemical engineering from Texas A&M University System and was a registered professional engineer before earning her law degree from the South Texas College of Law. She worked as an assistant county attorney for 10 years and as division chief of the Revenue and Compliance divisions of the Harris County Attorney's Office. In 2007, Judge Chang unanimously was appointed district clerk of Harris County by 59 district court judges. She became an associate judge of the Houston Municipal Courts before being appointed and elected as a county civil court judge. Judge Chang has served on the board of directors of the State Bar, the Asian American Bar Association in Houston, and many other community organizations. Judge Chang was appointed to the Commission in 2011.



Bruce Ashworth is a solo practitioner in Arlington, where his practice focuses on criminal and personal injury law. He is certified in criminal law by the Texas Board of Legal Specialization. Ashworth previously served as a local grievance committee member and as president of the Tarrant County Bar Association and the Arlington Bar Association. He earned his law degree from Texas Southern University Thurgood Marshall School of Law in 1982.

Noelle M. Reed 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 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 United States 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.



PUBLIC MEMBERS

Jane A. King has 40 years of experience in juvenile justice and is the chief juvenile probation officer for Randall County. She is a licensed clinical social worker. King also serves on the board of the Texas Juvenile Justice Department. She was appointed to the Commission in 2011.



Teresa Acosta of El Paso was appointed to the Commission in 2012. She retired from the U.S. Courts, Western District of Texas, as assistant deputy chief U.S. probation officer. She previously was employed by the U.S. House of Representatives in the office of the congressman for the 16th Congressional District of Texas. Currently, she is employed as adjunct faculty at El Paso Community College, where she teaches American government and politics. Acosta earned an M.P.A. and a B.A. in journalism from the University of Texas at El Paso. From 2008 to 2012, she served on the District 17 Grievance Committee.



Dave Oberfell was appointed to the Commission in 2014. He retired from banking in 1995 after a 25-year career in the corporate trust department of several banks. He began a consulting career in 1995, advising parties in various bankruptcy situations, and retired from consulting in December 2014.



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.



Vance Goss works in the commercial real estate business in the Bryan-College Station area with Clark Isenhour Real Estate Services LLC. Previously, he owned and operated Brazos Record Storage, a commercial records management and destruction business. Prior to his appointment to the Commission in 2015, Goss served on the District 8 Grievance Committee.



Javier S. Vera is a CPA, a U.S. licensed custom 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.



Ethics Helpline — (800) 532-3947

The Ethics Helpline received more than 6,500 contacts 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.

2016-2017 HIGHLIGHTS

THE SUNSET PROCESS, LEGISLATION, AND NEW RULES

CDC's main focus this bar year was on the continued review by the Texas Legislature's Sunset Advisory Commission and the subsequent legislative session. As expected, the legislature voted to continue CDC operations, as part of the bar, until 2029. In addition, the legislature enacted several changes to the disciplinary process including:

- Referral by CDC during the initial screening process to the Client Attorney Assistance Program (CAAP) of minor grievances for possible early resolution;
- Establishment of CDC's Grievance Referral Program (GRP) in the disciplinary procedural rules and availability of the program earlier in the disciplinary process;
- The ability of CDC to issue subpoenas and hold investigatory hearings during the investigation phase of the process and to enter into a negotiated sanction with the respondent before formal litigation;
- Guidelines for imposing sanctions to be utilized by district grievance committees and district courts in an effort to promote consistency throughout the state;
- Self-reporting rule requiring attorneys to report criminal convictions and any disciplinary action taken by another state bar against the attorney;
- Regular searches of the National Lawyer Regulatory Data Bank to determine whether any Texas lawyers have been disciplined in other jurisdictions;
- Additional statistical reporting on disciplinary matters, including barratry and solicitation of clients; and
- Online access to public sanction information, including disciplinary judgments.



IMMIGRATION

CDC continued its efforts to combat immigration-related attorney misconduct. This type of misconduct preys on some of the most vulnerable members of the public, but it also denigrates the many ethical and professional Texas immigration attorneys. CDC has been proactive in speaking to members of the immigrant community through the Spanish-language media and advising them of what to expect when using the services of an attorney. In terms of enforcement, CDC obtained 20 sanctions against immigration attorneys and three additional dispositions through CDC's remedial and rehabilitative Grievance Referral Program process, resolving a total of 53 immigration-related grievances.



CDC HONORED FOR ITS EFFORTS TO COMBAT PROSECUTORIAL MISCONDUCT

On December 9, the Texas Fair Defense Project honored CDC attorneys Laura Poppo and Beth Stevens at its “Defender of Justice” awards luncheon. The award was given to Texas death row exonoree Anthony Graves, his legal team, and CDC attorneys for their efforts to disbar the prosecutor whose misconduct led to Graves’ wrongful conviction. The keynote address was given by Dean Strang of Netflix’s *Making a Murderer*.

HOSTING THE NCPO MID-YEAR MEETING IN SEPTEMBER

On September 25-26, 2017, CDC will host the mid-year meeting for the National Client Protection Organization. The NCPO is a nonprofit that acts as an educational resource for the exchange of information among law client protection funds throughout the United States and Canada. CDC is excited to host member organizations from all over North America and plans to hold discussions on how client protection funds should handle immigration matters and the national increase in applications involving deceased lawyers with clients that are owed unearned fees.



FACEBOOK AD

During the last few months of the bar year, CDC ran a Facebook ad campaign advising readers on how to file a grievance. After a review of the available media options, it was determined that a Facebook ad campaign was the most cost-effective way to reach members of the public. This proved to be successful, with the ad campaign reaching 94,245 people in a few months. CDC continues to run the ad and plans to widen its campaign in the future to include ads on the issues of barratry and the existence of the Client Security Fund.





Members of the Commission for Lawyer Discipline.

PROTECTING THE PUBLIC 2016-2017 SNAPSHOT

Total Disciplinary Sanctions 342

***Total Complaints Resolved** 545

Disbarments 20

Resignations in Lieu of Discipline 28

Suspensions 126

Public Reprimands 30

Private Reprimands 89

Grievance Referral Program 49

- \$310,187 in attorneys' fees collected from respondent attorneys as part of a sanction
- \$976,114.94 in funds approved for victims of attorney misconduct by the State Bar of Texas Client Security Fund
- More than 6,500 ethics calls were handled by the State Bar of Texas Ethics Helpline
- 994 attorney-client relationships were assisted by dispute resolution services provided by the State Bar Client-Attorney Assistance Program
- More than 3,600 lawyer advertisements reviewed by the State Bar Advertising Review Committee

* Each sanction entered may have involved complaints filed by more than one complainant.



Bill Moore, Judge Theresa Chang, and John Neal.



Linda Acevedo and John Neal.



Javier Vera, Teresa Acosta, and Jane King.



Laura Popps, Bill Moore, Judge Theresa Chang, and John Neal.

“[A]s unpleasant as this situation was, you made it pleasant. I hope to never have to do this again. However, I’m thankful for the process and appreciate the opportunity to be able to resolve the situation through the GRP. Thank you for recommending the CLEs and the insight you provided me, I will implement what I’ve learned to the best of my ability. Hopefully, I will never need to address this issue again.”



*Bill Moore, Linda Acevedo,
and James Ehler.*



*Linda Acevedo, Supreme Court of Texas
Justice Debra Lehrmann, Judge Theresa Chang,
Jane King, and John Neal.*

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.*

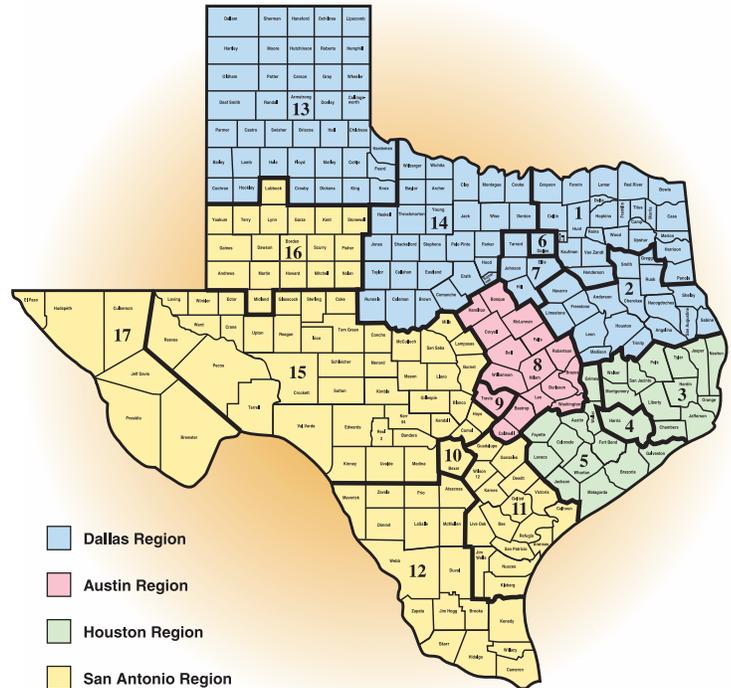
OFFICE OF CHIEF DISCIPLINARY COUNSEL

The Texas attorney discipline system is administered by the Office of Chief Disciplinary Counsel, which is designed to be the “bar’s law office,” and whose work is overseen by the Commission for Lawyer Discipline. CDC represents the Commission in disciplinary litigation. Professionalism and results are 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 94 full-time employees, including 36 lawyers, 12 investigators, 32 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.



During the past bar year, CDC brought on Bill Moore as the new regional counsel in Houston. He began his career at the Harris County District Attorney’s Office, where he worked for 28 years, most recently as a prosecutor over fraud cases. Moore graduated from Villanova University in 1985 and from Texas Tech University School of Law in 1988.

On October 5-7, 2016, CDC investigators attended the Organization of Bar Investigators national conference in Des Moines, Iowa. Attendees heard from professionals across a wide range of disciplines, speaking on fraud practices within the fields of immigration, mortgage and real estate, and cyber affairs.

Sessions also included instruction on the psychology of sexual misconduct from both perpetrator and victim viewpoint, detecting deception during interviews, suspicious trust accountings linked to addict-prone behaviors, as well as examining privacy privileges and predicaments of popular social media and web-search applications.

On February 1-4, 2017, several CDC attorneys attended the National Organization of Bar Counsel mid-year meeting in Miami. Topics included the best ways for sharing information and strategies between bar counsel in different jurisdictions, the interplay between the media and disciplinary organizations, and the appropriateness of disability suspensions in various situations.

In the 2016-2017 bar year, CDC obtained 342 sanctions. Each sanction entered may have involved complaints filed by more than one complainant. In this past bar year, 545 complaints were successfully resolved through the 342 sanctions that CDC obtained. More than 50 percent of the sanctions entered consisted of disbarments, resignations in lieu of discipline, or suspensions.

Forty-nine of these cases were resolved through the Grievance Referral Program, the CDC's diversion program. CDC also pursued 13 compulsory discipline cases (those involving lawyers convicted of various offenses), before the Board of Disciplinary Appeals. Of those 13, five were disbarments, five were resignations in lieu of discipline, and three were interlocutory orders of suspension. CDC obtained judgments ordering reciprocal discipline, cases based on lawyers disciplined in other jurisdictions, including two disbarments, two active suspensions, one fully probated suspension, three public reprimands, and one private reprimand.

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 information disseminated 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. 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 or advice.

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

During the 2016-2017 bar year, CDC lawyers Ellen Pitluk and Brad Johnson handled more than 6,500 ethics calls. Common areas of inquiry include conflicts, confidentiality, safekeeping property, termination of representation, candor to the tribunal and fairness in adjudicatory proceedings, communicating with a represented person, fee-splitting or engaging in business with non-lawyers, advertising and solicitation, and the duty to report misconduct.

THE ATTORNEY ETHICS HELPLINE NUMBER IS (800) 532-3947.

MEDIA INQUIRIES

CDC continued to work closely with the media in an effort to provide current disciplinary information, as well as information about the system in general, to the public. This included several news pieces with Spanish-language television stations throughout the state regarding attorneys who have been preying on the immigrant community by taking money for immigration matters and then failing to perform any work.

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

**Claire Mock
Public Affairs Counsel
Office of Chief Disciplinary Counsel
(512) 427-1354
cmock@texasbar.com**

STATEWIDE COMPLIANCE MONITOR

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, Nancy Ashcraft, 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 Diana Reinhart, the Grievance Referral Program administrator, in cases involving rehabilitative terms of suspension. At the close of the 2016-2017 bar year, Ashcraft had 309 active cases and had resolved 152 cases. As a matter of office policy, immediate payment of restitution is required in most cases involving agreed disciplinary judgments. An additional \$137,241 in restitution was collected in the 2016-2017 bar year in cases involving agreed judgments, non-agreed judgments, respondent defaults, and reinstatements. The centralized compliance process contributed to \$356,775 in attorneys' fees collections for 2016-2017.

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 \$3 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 Mock, serves as the administrator and legal counsel to the fund.

Mock is responsible for conducting investigations on applications and presenting recommendations to the subcommittee. In the 2016-2017 bar year, Mock presented 157 applications to the subcommittee. Of the 157 reviewed, 113 were approved, resulting in grants totaling \$976,114.94.

The number of applications to the fund during the past bar year was higher than any other year in the past, at more than 300. This can be attributed to the increased visibility of the fund, as CDC has made a concerted effort to work with several media outlets, including Spanish-language outlets, to advise the public regarding the fund.

Time Period	Applications Presented	Applications Approved	Total Grants Approved
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

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 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 six 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.



New Houston Regional Counsel Bill Moore, State Bar Directors Scott Rothenberg and Laura Gibson, New District 4 Committee Chair Richard Schwartz, and State Bar Director Michael J. Wynne.



Assistant Disciplinary Counsel Will Nichols, Houston Regional Counsel Bill Moore, State Bar Director Andrew Tolchin, new District 5 Committee Chair Lee Cox, Administrative Attorney Tim Baldwin, and Assistant Disciplinary Counsel Tim Bersch.



District 7 Committee Chair/Panel Chair John Christopher "Chris" Nickelson and Dallas Regional Counsel Tonya Harlan.



District 7 Public Member James Conley, Panel Chair Leland Reinhard, Attorney Member Jeffrey Cochran, Attorney Member Mary "MC" Davis, and Public Member Dale Hannah.



District 8 training in Waco.

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.

2016-2017 DIVERSITY SURVEY OF GRIEVANCE COMMITTEE MEMBERSHIP COMPARED WITH STATE BAR MEMBERSHIP

Gender	Committee	Attorney Committee Membership	SBOT Membership
Male	62%	64%	65%
Female	38%	36%	35%

Ethnicity	Committee	Attorney Committee Membership	SBOT Membership
White	69%	75%	80%
Asian/Pacific Islander	0%	0%	3%
African-American	6%	3%	5%
American Indian/Alaska Native	1%	1%	<1%
Hispanic/Latino	13%	17%	9%
Other	11%	4%	2%

“It was such a pleasure speaking with you today. I am so appreciative of your support and understanding. I feel very blessed for your advice and feedback. You have inspired me to become a better attorney in my career. Thank you again for the link. Look forward to seeing you in Austin soon. Thank you so much for your support!”

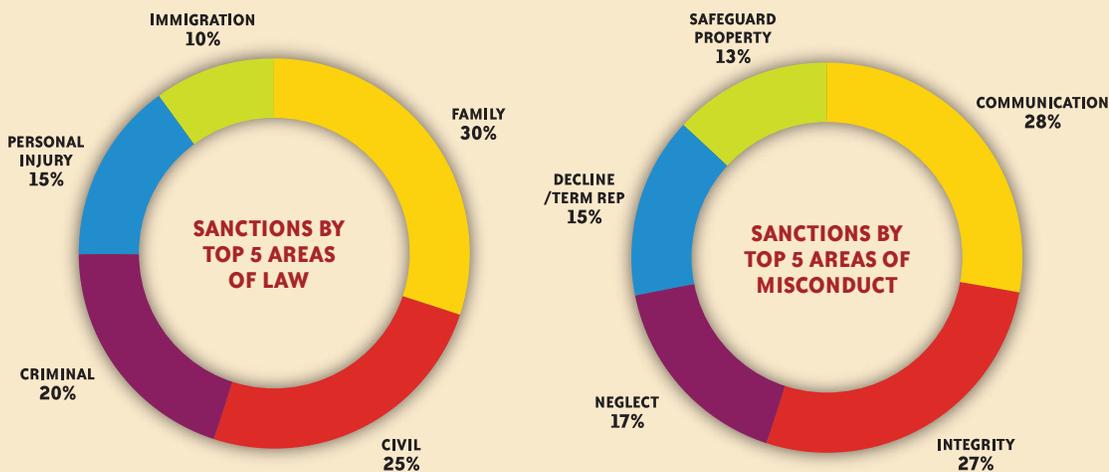
OVERVIEW OF THE ATTORNEY DISCIPLINE PROCESS

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.

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 2016-2017 bar year, 7,590 grievances were filed.

If the grievance does not allege professional misconduct, it is classified as an inquiry and dismissed. If the grievance alleges professional misconduct, it is classified as a complaint and sent to the respondent lawyer for a response.

IF: The grievance **does not** allege professional misconduct.

THEN: It is dismissed as an inquiry.

IF: The grievance **does** allege professional misconduct.

THEN: It is classified as a complaint and sent to the lawyer who is alleged to have committed the professional conduct for a response.

WHY ARE GRIEVANCES DISMISSED?

Of the grievances considered between June 1, 2016, and May 31, 2017, 5,243 were dismissed as inquiries. Grievances are dismissed for various reasons, including the following:

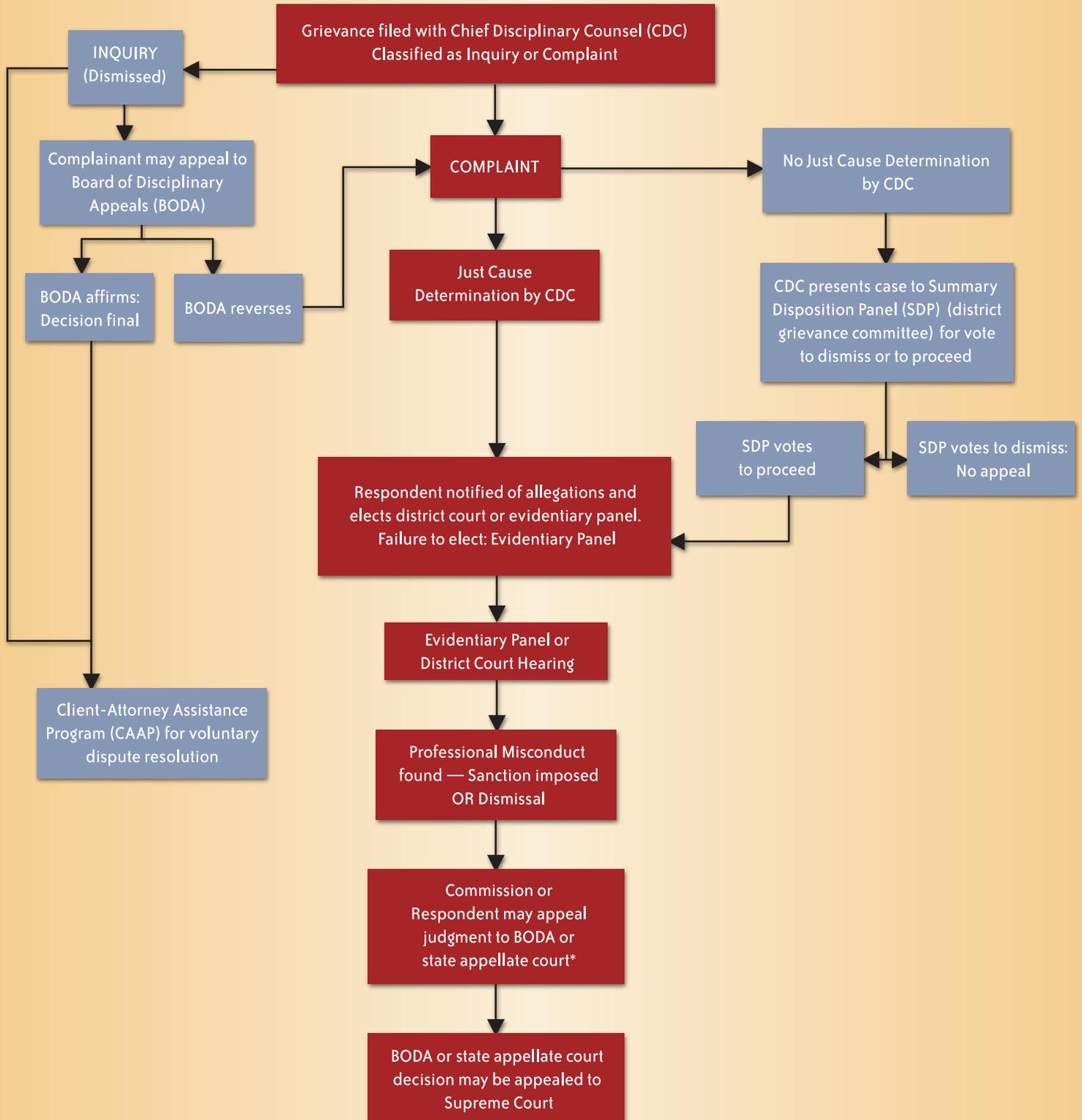
- The grievance concerns the outcome of a case but does not specify a violation of an ethics rule.
- The grievance does not involve a lawyer’s conduct in his or her professional capacity.
- The grievance is filed too late.
- The grievance is duplicative or identical to a previous filing.
- The grievance 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 Supreme Court of Texas.

During the 2016-2017 bar year, there were 1,365 appeals by complainants from classification decisions. Of the 1,365 appeals, BODA reversed 152 classification decisions, resulting in an overall reversal rate of 11 percent. 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 2016-2017 bar year, 2,125 of 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.

JUST CAUSE DETERMINATION

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. This investigation 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

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 2016-2017 bar year, 1,932 cases were presented to Summary Disposition Panels of local grievance committees for consideration. The panels voted to dismiss in 1,897 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.

2016-2017 BAR YEAR		2015-2016 BAR YEAR	
Elected Evidentiary	273	Elected Evidentiary	214
Defaulted into Evidentiary	259	Defaulted into Evidentiary	257
Elected District Court	50	Elected District Court	44

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 2016-2017 bar year, CDC resolved 545 complaints before grievance committee evidentiary panels, district courts, and the Board of Disciplinary Appeals and disposed of more than 1,800 cases before Summary Disposition Panels of the local grievance committees.

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 abuse, and mental health. In this way, the public is better protected from future misconduct by the lawyer.

During 2016-2017, the GRP administrator helped 50 attorneys successfully complete GRP and worked with more than 84 respondents.

On July 5, 2017, Diana Reinhart joined the State Bar as administrator of the Grievance Referral Program. In that role, she administers GRP and supports CDC’s compliance team by monitoring law practice management and rehabilitative terms for respondents with judgments. She brings to the State Bar experience as both a civil litigator and a psychotherapist in private practice. She holds a J.D. from the University of Texas School of Law and a master’s in counseling from St. Edward’s University.

“I’m finding ways now to calm myself more and to take control more. Thank you so much for all of your help and support! Your encouragement is refreshing and empowering!”

PUNISHMENT FOR PROFESSIONAL MISCONDUCT

The term “sanction” refers to the level of discipline imposed against a respondent attorney. In determining the appropriate sanction to be imposed, an evidentiary panel or district court considers the following:

- Nature and degree of the professional misconduct
- Seriousness of and circumstances surrounding the professional misconduct
- Loss or damage to clients
- Damage to the profession
- Assurance that those who seek legal services in the future will be insulated from the type of professional misconduct
- Profit to the attorney
- Avoidance of repetition
- Deterrent effect
- Maintenance of respect for the legal profession
- Conduct of the respondent during the course of the disciplinary proceeding
- Respondent’s disciplinary history

The different types of sanctions, or levels of discipline, include the following:

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. A private reprimand is not available if:

- A private reprimand has been imposed upon the respondent lawyer within the preceding five-year period for a violation of the same disciplinary rule; or
- The respondent lawyer has previously received two or more private reprimands, whether or not for violations of the same disciplinary rule, within the preceding 10 years; or
- The misconduct includes theft, misapplication of fiduciary property, or the failure to return, after demand, a clearly unearned fee; or
- The misconduct has resulted in a substantial injury to the client, the public, the legal system, or the profession; or
- There is a likelihood of future misconduct by the Respondent lawyer; or
- The misconduct was an intentional violation of the ethics rules; or
- The respondent 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 not available if:

- A public reprimand has been imposed upon the respondent lawyer within the preceding five-year period for a violation of the same disciplinary rule; or
- The respondent lawyer has previously received two or more public reprimands, whether or not for violations of the same disciplinary rule, within the preceding five-year period.

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.

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 abuse counseling, practice law under the supervision of a designated monitor, or pay restitution and attorneys’ fees by a certain date. A fully probated suspension is not available if:

- A public reprimand or fully probated suspension has been imposed upon the respondent lawyer, whether or not for violations of the same disciplinary rule, within the preceding five-year period for a violation of the same disciplinary rule; or
- The respondent lawyer has previously received two or more fully probated suspensions, whether or not for violations of the same disciplinary rule, within the preceding five-year period; or
- The respondent lawyer has previously received two or more sanctions of public reprimand or greater imposed for conflict of interest, theft, misapplication of fiduciary property, or the failure to return, after demand, a clearly unearned fee.

In the event a fully probated suspension is not available, any sanction imposed must be for no less than 30 days of active suspension.

PARTIALLY PROBATED SUSPENSION

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

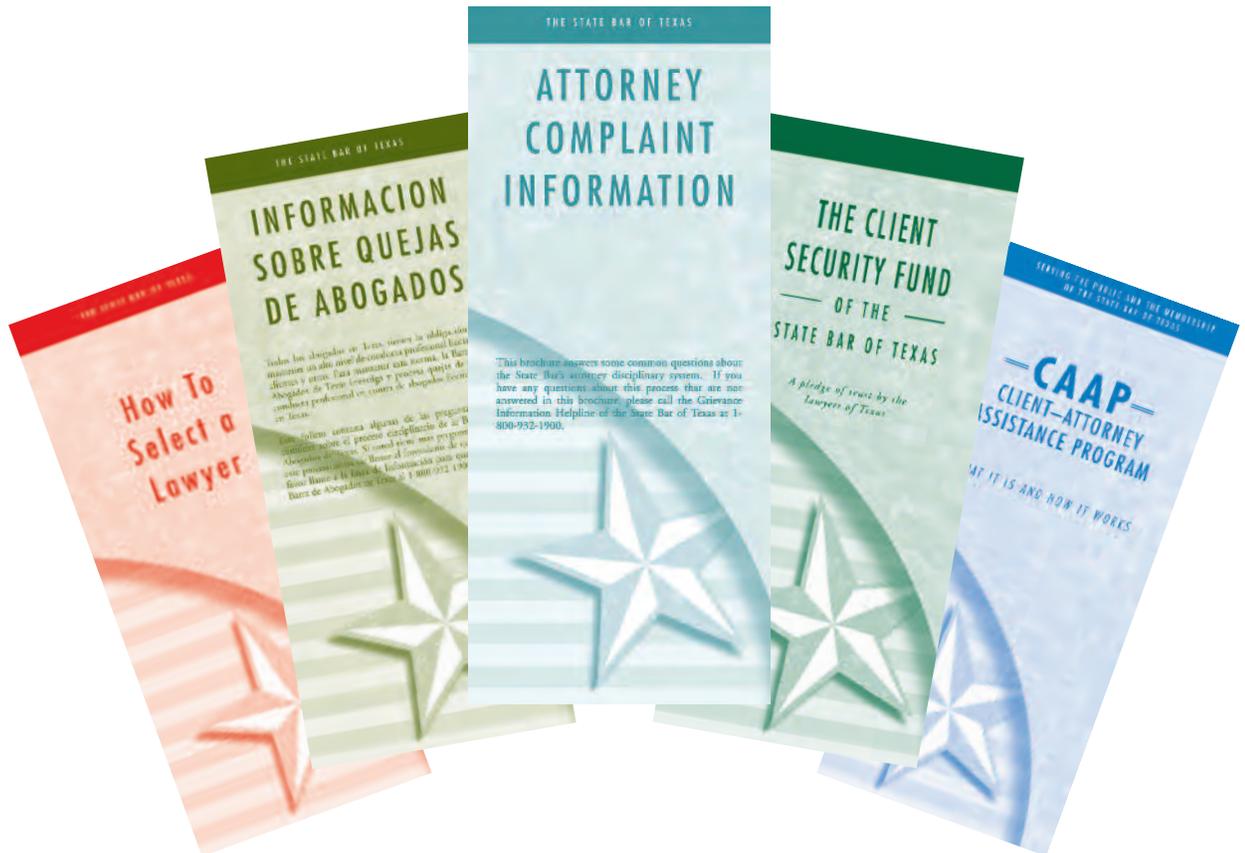
DISBARMENT

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.

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.



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 Supreme Court of Texas. During the 2016-2017 bar year, 13 of the sanctions entered were a result of compulsory discipline cases.

ASSUMPTION OF PRACTICE

Any interested person, including CDC or a client, may petition the district court in the county of the attorney's residence to assume jurisdiction of the attorney's law practice under certain circumstances. A district court can be petitioned to appoint a custodian for an attorney's files in the event that the attorney has died; disappeared; resigned; become inactive; been disbarred or suspended; or become physically, emotionally, or mentally disabled and cannot, as a result, provide legal services necessary to protect the interests of clients.

Upon the filing of a verified petition, the court issues a show cause order to the attorney or his or her personal representative or, if none, the person having custody of the lawyer's files, directing him or her to show cause why the court should not assume jurisdiction of the attorney's law practice. Upon establishment of grounds for the assumption, the court enters an order appointing one or more lawyers as custodians and ordering what must be done with respect to the files.

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.

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.

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 Supreme Court of Texas. During the 2016-2017 bar year, nine 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 the 2016-2017 bar year, CDC sought and obtained two disability suspensions.

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.

GRIEVANCE SUPPORT

The Office of Chief Disciplinary Counsel 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 (CAAP) is a voluntary confidential dispute resolution service of the State Bar of Texas. Its objective is to facilitate communication and foster productive dialogue to help Texas lawyers and their clients resolve minor concerns, disputes, or misunderstandings impacting the attorney-client relationship.

Last year, CAAP transitioned to a more holistic approach in answering the Grievance Helpline: providing information to the public about the Texas Disciplinary Rules of Procedure and the disciplinary process; educating the public about various self-help options for navigating the legal process in a single communication when possible; and intervening in the attorney-client relationship on the client's behalf when necessary.

CAAP handled 17,343 live calls from the public and responded to more than 7,361 mail requests for forms, information, or resources while providing dispute resolution services for 994 Texas attorney-client relationships—successfully re-establishing productive communication in 87 percent of its cases.

Criminal cases continue to be the main concern of Texas legal clients, and CAAP assisted 2,798 Texas inmates, furthering the bar's commitment to making justice accessible for all. Family law issues rank second in concern for CAAP clients, followed closely by civil/personal injury cases. The most common complaints about Texas attorneys are the lack of comprehensive communication, concerns about integrity, and a belief that attorneys are withholding documents or information from client files.

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 2016-2017 bar year, the department reviewed more than 3,600 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 2016-2017 bar year, the program assisted more than 26,000 lawyers through online classes, live and video seminars, webcasts, website resources, and telephone and email inquiries. The Law Practice Management Program webpage 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.

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 abuse 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 (800) 343-8527.

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 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.

In the 2016-2017 bar year, the Lawyers' Assistance Program Committee instituted a social media outreach effort that resulted in a new TLAP website (tlaphelps.org) with updated and expanded resources, a new Facebook page with significant wellness content, and a Twitter presence. Additionally, TLAP expanded upon its Global Firm initiative and added midsize law firms and governmental agencies such as district attorneys' and U.S. attorneys' offices to the wellness presentations outreach. Committee members also initiated law school wellness forums at four of the 10 law schools in Texas and continued to serve as liaisons to the schools, providing education and support to law students. The LAP Committee supported TLAP staff in providing assistance for 684 calls and conducting 140 presentations reaching more than 10,000 people. Also of great significance, the State Bar of Texas continued its support of the Sheeran-Crowley Memorial Trust by committing \$250,000 in its 2017-2018 budget to provide funding for vital help to lawyers, judges, and law students who cannot afford treatment for substance use and mental health disorders.

**STATE BAR OF TEXAS PUBLIC PROTECTION DOLLARS ACTUAL EXPENDITURES
(UNAUDITED) FY2016-2017**

Commission for Lawyer Discipline	\$78,429	Texas Lawyers' Assistance Program	\$399,913
Office of Chief Disciplinary Counsel	\$9,130,752	Client-Attorney Assistance Program	\$547,444
UPL Committee	\$173,614		
Grievance Oversight Committee	\$41,657	Total General Fund	\$11,686,591
Professional Ethics Committee	\$18,800		
Board of Disciplinary Appeals	\$563,120	Client Security Fund - Claims Paid	\$934,585
Advertising Review	\$176,853		
Minimum Continuing Legal Education	\$556,009	Total State Bar Public Protection Dollars	\$12,621,176

GRIEVANCE OVERSIGHT COMMITTEE

The Grievance Oversight Committee is charged to study, review, and advise the Supreme Court of Texas regarding the structure, function, and effectiveness of the discipline system. The GOC is composed of six attorneys and three public members appointed by the 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, and welcomes comments and suggestions from all interested parties.

During the 2016-2017 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;
- Portions of minutes from the Commission's meetings regarding non-case-specific topics.

UNAUTHORIZED PRACTICE OF LAW COMMITTEE

The Unauthorized Practice of Law Committee is appointed by the Supreme Court of Texas 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 are 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, 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 Supreme Court of Texas 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 2016-2017 bar year, the PEC issued eight opinions on the following subjects:

OPINION 658 (JULY 2016)

Under the Texas Disciplinary Rules of Professional Conduct, absent an agreement to the contrary, Texas lawyers may not bill clients for expenses paid to a third party in an amount that is greater than the amount that the third party charged their law firm. If Texas lawyers pass along to clients the expenses paid to a third-party vendor whose ownership is materially similar to their law firm's, they must comply with Rule 1.08's requirements for entering into a business transaction with a client. The transaction must be on terms that are fair to and fully disclosed to the clients (including disclosure of the ownership of the third-party vendor that is materially similar to their law firm's); the clients must have a reasonable opportunity to seek the advice of independent counsel; and the clients must consent in writing.

The lawyers must also consider whether their or their law firm's own interests in directing their clients' business to the related third-party vendor results in a conflict of interest under Rule 1.06(b)(2). If it does, then the lawyers may continue representing the clients only if they reasonably conclude that the representation will not be materially affected, they make the disclosures required under Rule 1.06(c)(2), and the client, after disclosure, consents.

<https://www.legalethictexas.com/Ethics-Resources/Opinions/Opinion-658>

OPINION NO. 644 REVISED (JULY 2016)

Under the Texas Disciplinary Rules of Professional Conduct, a law firm is not required to withdraw from representing a client in a lawsuit if the law firm hires a new lawyer who, before becoming a lawyer, was employed as a law clerk for the law firm representing the opposing party in the lawsuit and in that capacity helped provide services to the opposing party with respect to the lawsuit, so long as the law firm screens the new lawyer from any personal participation in the matter to prevent the new lawyer's communicating to others in the law firm confidential information that the new lawyer and the law firm have a legal duty to protect.

<https://www.legalethictexas.com/Ethics-Resources/Opinions/Opinion-644>

OPINION 659 (JULY 2016)

Under the Texas Disciplinary Rules of Professional Conduct, a lawyer may represent one insured client in settling a claim against that client and represent the client's insurance company in defending another insured's claim against the insurance company that arises out of the same incident because, in that circumstance, there is no conflict between the lawyer's two clients as their interests are not adverse.

<https://www.legalethictexas.com/Ethics-Resources/Opinions/Opinion-659>

OPINION 660 (JULY 2016)

This Committee's conclusion in Opinion 549 is limited to the workers' compensation context. Under the Texas Disciplinary Rules of Professional Conduct, in other situations in which a client's recovery may be subject to a subrogation claim, determining whether a contingent-fee calculation is reasonable requires consideration of all relevant factors, including those identified in Rule 1.04(b).

<https://www.legalethictexas.com/Ethics-Resources/Opinions/Opinion-660>

OPINION 661 (JULY 2016)

A lawyer does not violate the Texas Disciplinary Rules of Professional Conduct by simply using the name of a competing lawyer or law firm as a keyword in the implementation of an advertising service offered by a major search-engine company. The lawyer's statements included in this advertising program must not contain false or misleading communications and must comply in all respects with applicable rules on lawyer advertising.

<https://www.legalethicstexas.com/Ethics-Resources/Opinions/Opinion-661>

OPINION 662 (AUGUST 2016)

Under the Texas Disciplinary Rules of Professional Conduct, a Texas lawyer may not publish a response to a former client's negative review on the internet if the response reveals any confidential information, i.e., information protected by the lawyer-client privilege, or otherwise relating to a client or furnished by the client, or acquired by the lawyer during the course of or by reason of the representation of the client. The lawyer may post a proportional and restrained response that does not reveal any confidential information or otherwise violate the Texas Disciplinary Rules of Professional Conduct.

<https://www.legalethicstexas.com/Ethics-Resources/Opinions/Opinion-662>

OPINION 663 (SEPTEMBER 2016)

Under the Texas Disciplinary Rules of Professional Conduct, Texas lawyers in a law firm in Texas that is a member of an organization that includes other law firms, may not use the name of the organization as their law firm's name on pleadings or other public communications if all names contained in the name of the organization are not names of current or former lawyers of their law firm or a predecessor firm as permitted by Rule 7.01(a).

<https://www.legalethicstexas.com/Ethics-Resources/Opinions/Opinion-663>

OPINION 664 (OCTOBER 2016)

The Texas Disciplinary Rules of Professional Conduct do not prescribe a specific course of conduct a lawyer must follow upon the unauthorized or inadvertent receipt of another party's confidential information outside the normal course of discovery. Although the Texas Supreme Court has stated that, upon the unauthorized receipt of such information, a lawyer should aspire to the standard of conduct prescribed by now-withdrawn ABA Formal Opinion 94-382, a Texas lawyer does not necessarily violate the Texas Disciplinary Rules of Professional Conduct by failing to follow that standard, including the requirement that the lawyer give notice of the receipt of such information to the opposing party. In a given situation a lawyer's failure to take action upon the unauthorized or inadvertent receipt of another party's confidential information might violate one or more of the Texas Disciplinary Rules dealing with criminal, fraudulent, dishonest, deceitful and misleading conduct. Whether such a violation occurs will depend on the specific facts of each situation, the applicable law, and the rules of the governing tribunal. In determining the course of action to take in response to the receipt of another party's confidential information, a lawyer should explain to the client the possible responsive actions and the potential consequences of those actions.

<https://www.legalethicstexas.com/Ethics-Resources/Opinions/Opinion-664>

OPINION 665 (DECEMBER 2016)

The Texas Disciplinary Rules of Professional Conduct require lawyers to take reasonable measures to avoid the transmission of confidential information embedded in electronic documents, including the employment of reasonably available technical means to remove such metadata before sending such documents to persons other than the lawyer's client. Whether a lawyer has taken reasonable measures to avoid the disclosure of confidential information in metadata will depend on the factual circumstances.

While the Texas Disciplinary Rules of Professional Conduct do not prescribe a specific course of conduct for a lawyer who receives from another lawyer an electronic document containing confidential information in metadata that the receiving lawyer believes was not intended to be transmitted to the lawyer, court rules or other applicable rules of conduct may contain requirements that apply in particular situations. Regardless, a Texas lawyer is required by the Texas Disciplinary Rules to avoid misleading or fraudulent use of information the lawyer may obtain from the metadata. In the absence of specific governing provisions, a lawyer who is considering the proper course of action regarding confidential information in metadata contained in a document transmitted by opposing counsel should determine whether the possible course of action poses material risks to the lawyer's client. If so, the lawyer should explain the risks and potential benefits to the extent reasonably necessary to permit the client to make informed decisions regarding the matter.

<https://www.legalethicstexas.com/Ethics-Resources/Opinions/Opinion-665>

OPINION 666 (DECEMBER 2016)

Under the Texas Disciplinary Rules of Professional Conduct, a marriage between lawyers affiliated with opposing firms engaged on the same adverse matter may give rise to a conflict of interest. Whether a conflict exists will depend on the circumstances. If the circumstances are such that it reasonably appears a lawyer's spousal relationship will adversely limit the lawyer's representation, neither the lawyer nor any other lawyer in his or her law firm may undertake or continue the representation without obtaining the client's informed consent under Rule 1.06(c).

To obtain effective consent under Rule 1.06(c), the lawyer must first reasonably believe the representation can be undertaken or continued with no material adverse effects on the client. Whether such a belief is reasonable depends on the circumstances. Assuming the lawyer can form such a reasonable belief, the lawyer may then seek the client's consent by making full disclosure of the existence, nature, implications, and possible adverse consequences of the representation under the circumstances and the advantages involved, if any. The lawyer may undertake or continue the representation only when the client has provided such informed consent.

<https://www.legalethicstexas.com/Ethics-Resources/Opinions/Opinion-666>

OPINION 667 (DECEMBER 2016)

Under the Texas Disciplinary Rules of Professional Conduct, a prosecuting attorney may not represent the government in a criminal case against a defendant in which the spouse of the prosecuting attorney acts as the defendant's bail bondsman without properly obtaining the government's consent to the representation in accordance with the provisions of the Rules, unless, under the specific facts present in the particular case, the attorney's representation of the government does not reasonably appear to be adversely limited by the attorney's responsibilities to the bail bondsman or by the attorney's own interests. If the prosecuting attorney cannot represent the government in the case, no attorney in prosecuting attorney's office can represent the government.

<https://www.legalethicstexas.com/Ethics-Resources/Opinions/Opinion-667>

STATE BAR OF TEXAS — A FEW STATS

100,294	Active members
89,361	In-state attorneys
49	Median age of in-state attorneys
1:312	Ratio of all in-state attorneys to Texans
1:575	Ratio of in-state private practitioners to Texans
65	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
7	Percentage of in-state private practitioners who work in firms with 200 or more attorneys
40	Percentage of in-state private practitioners who work in firms with five or fewer attorneys
\$115,000	Median income for full-time Texas attorneys
\$105,000	Median income for full-time solo practitioners

NOTE: Texas attorney data in this report is based on the State Bar of Texas membership records as of December 31, 2016, of each of the cited years. Texas general population data is based on July 2016 Census population estimates. Texas attorney income data is based on the 2015 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 400,000 searches are
conducted each month,
by about 120,000 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

P.O. Box 12487
Austin, Texas 78711-2487