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IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

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ANNUAL REPORT  
OF THE  
PROFESSIONAL RESPONSIBILITY COMMISSION  
AS COMPILED BY THE  
OFFICE OF THE GENERAL COUNSEL  
OF THE  
OKLAHOMA BAR ASSOCIATION

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JANUARY 1, 2020 THROUGH DECEMBER 31, 2020

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**INTRODUCTION:**

Pursuant to the provisions of Rule 14.1, Rules Governing Disciplinary Proceedings (RGDP), 5 O.S. 2011, ch. 1, app. 1-A, the following is the Annual Report of grievances and complaints received and processed for 2020 by the Professional Responsibility Commission and the Office of the General Counsel of the Oklahoma Bar Association.

**THE PROFESSIONAL RESPONSIBILITY COMMISSION:**

The Professional Responsibility Commission is composed of seven persons - five lawyer and two non-lawyer members. The attorney members are nominated for rotating three-year terms by the President of the Association subject to the approval of the Board of Governors. The two non-lawyer members are appointed by the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Oklahoma Senate, respectively. Terms expire on December 31<sup>st</sup> at the conclusion of the three-year term.

Attorney members serving on the Commission during 2020 were Chairperson Sidney K. Swinson, Tulsa; Vice-Chairperson Heather Burrage, Durant; R. Richard Sitzman, Oklahoma City; Karen A. Henson, Shawnee; and Jimmy D. Oliver, Stillwater. The Non-Lawyer members were John Thompson, Oklahoma City and James W. Chappel, Norman. Commission members serve without compensation but are reimbursed for actual travel expenses.

**RESPONSIBILITIES:**

The Professional Responsibility Commission considers and investigates any alleged ground for discipline, or alleged incapacity, of any lawyer called to its attention, or upon its own motion, and takes such action as deemed appropriate to effectuate the

purposes of the Rules Governing Disciplinary Proceedings. Under the supervision of the Commission, the Office of the General Counsel investigates all matters involving alleged misconduct or incapacity of any lawyer called to the attention of the General Counsel by grievance or otherwise, and reports to the Commission the results of investigations made by or at the direction of the General Counsel. The Commission then determines the disposition of grievances or directs the instituting of a formal complaint for alleged misconduct or personal incapacity of an attorney. The attorneys in the Office of the General Counsel prosecute all proceedings under the Rules Governing Disciplinary Proceedings, supervise the investigative process, and represent the Oklahoma Bar Association at all reinstatement proceedings.

**VOLUME OF GRIEVANCES:**

During 2020, the Office of the General Counsel received 228 formal grievances involving 176 attorneys and 731 informal grievances involving 566 attorneys. In total, 959 grievances were received against 742 attorneys. The total number of attorneys differs because some attorneys received both formal and informal grievances. In addition, the Office processed 194 items of general correspondence, which is mail not considered to be a grievance against an attorney.<sup>1</sup>

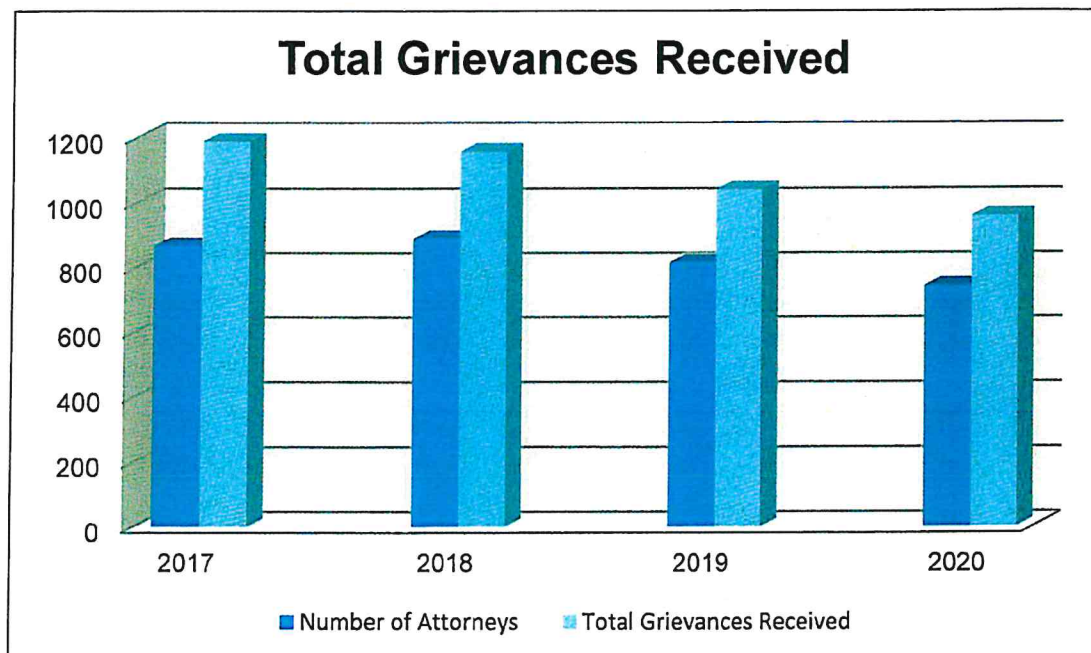
On January 1, 2020, 180 formal grievances were carried over from the previous year. During 2020, 228 new formal grievances were opened for investigation. The carryover accounted for a total caseload of 408 formal investigations pending throughout 2020. Of those grievances, 142 investigations were completed by the Office of the

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<sup>1</sup> The initial submission of a trust account overdraft notification is classified as general correspondence. The classification may change to a formal grievance after investigation.

General Counsel and presented for review to the Professional Responsibility Commission. Therefore, 266 investigations were pending on December 31, 2020.

The time required for investigating and concluding each grievance varies depending on the seriousness and complexity of the allegations and the availability of witnesses and documents. The Commission requires the Office of the General Counsel to report monthly on all informal and formal grievances received and all investigations completed and ready for disposition by the Commission. In addition, the Commission receives a monthly statistical report on the pending caseload. The Board of Governors is advised statistically each month of the actions taken by the Commission.

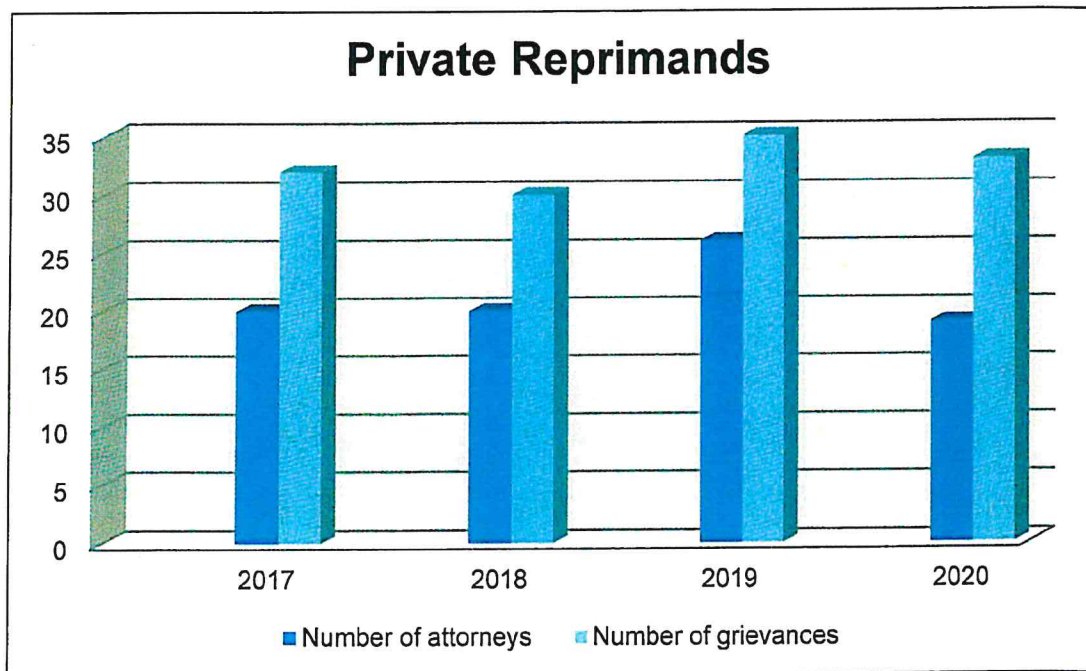


**DISCIPLINE IMPOSED BY THE PROFESSIONAL RESPONSIBILITY COMMISSION:**

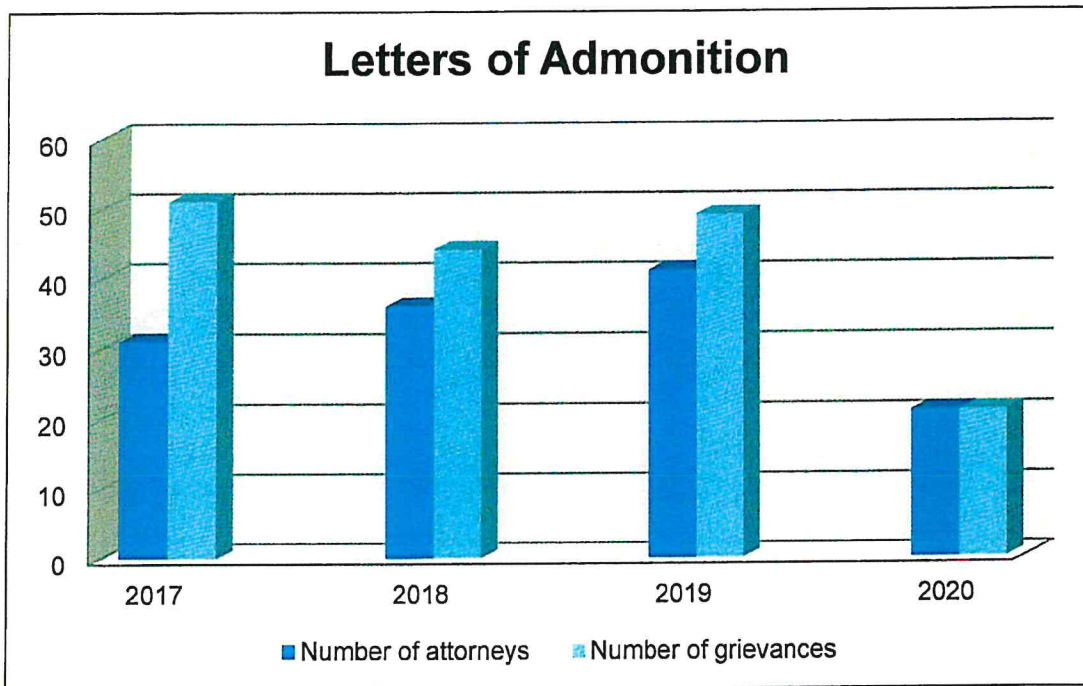
1. **Formal Charges.** During 2020, the Professional Responsibility Commission voted the filing of formal disciplinary charges against nine lawyers involving 20 grievances. In

addition, the Commission also oversaw the investigation of 11 Rule 7, RGDP matters filed with the Chief Justice of the Oklahoma Supreme Court.

2. . **Private Reprimands.** Pursuant to Rule 5.3(c), RGDP, the Professional Responsibility Commission has the authority to impose private reprimands, with the consent of the attorney, in matters of less serious misconduct or if mitigating factors reduce the sanction to be imposed. During 2020, the Commission issued private reprimands to 19 attorneys involving 33 grievances.



3. **Letters of Admonition.** During 2020, the Professional Responsibility Commission issued letters of admonition to 21 attorneys involving 21 grievances cautioning that the conduct of the attorney was dangerously close to a violation of a disciplinary rule which the Commission believed warranted a warning rather than discipline.



4. **Dismissals.** The Professional Responsibility Commission dismissed four grievances that had been received but not concluded prior to the resignation of the attorney pending disciplinary proceedings, a continuing lengthy suspension, or disbarment of the respondent attorney. Furthermore, the Commission dismissed one grievance upon successful completion of a diversion program by the attorney. The remainder were dismissed where the investigation did not substantiate the allegations by clear and convincing evidence.

5. **Diversion Program.** The Professional Responsibility Commission may also refer respondent attorneys to the Discipline Diversion Program where remedial measures are

taken to ensure that any deficiency in the representation of a client does not occur in the future. During 2020, the Commission referred 24 attorneys to be admitted into the Diversion Program for conduct involving 39 grievances.

The Discipline Diversion Program is tailored to the individual circumstances of the participating attorney and the misconduct alleged. Oversight of the program is by the OBA Ethics Counsel with the OBA Management Assistance Program Direction involved in programming. Program options include Trust Account School, Professional Responsibility/Ethics School, Law Office Management Training, Communication and Client Relationship Skills, and Professionalism in the Practice of Law class. In 2020, instructional courses were taught by OBA General Counsel Gina Hendryx, OBA First Assistant General Counsel Loraine Farabow, OBA Assistant General Counsel Katherine Ogden, OBA Ethics Counsel Richard D. Stevens, OBA Management Assistance Program Director Jim Calloway, and OBA Practice Management Advisor Julie Bays.

As a result of the Trust Account Overdraft Reporting Notifications, the Office of the General Counsel is now able to monitor when attorneys encounter difficulty with management of their IOLTA accounts. Upon recommendation of the Office of the General Counsel, the Commission may place those individuals in a tailored program designed to instruct on basic trust accounting procedures. This course is also available to the OBA membership.



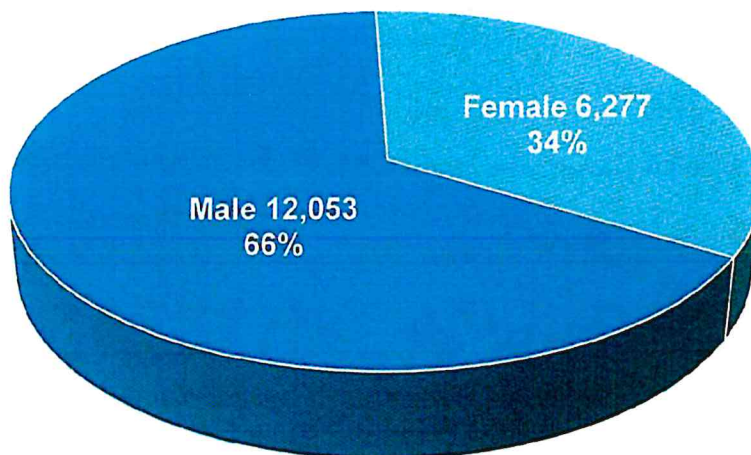
**2020 Attorney Participation in Diversion Program Curriculum**

Law Office Management Training:	12 Attorneys
Communication and Client Relationship Skills:	14 Attorneys
Professionalism in the Practice of Law:	2 Attorneys
Professional Responsibility / Ethics School:	9 Attorneys
Client Trust Account School:	9 Attorneys
Law Office Consultations:	1 Attorneys

**SURVEY OF GRIEVANCES:**

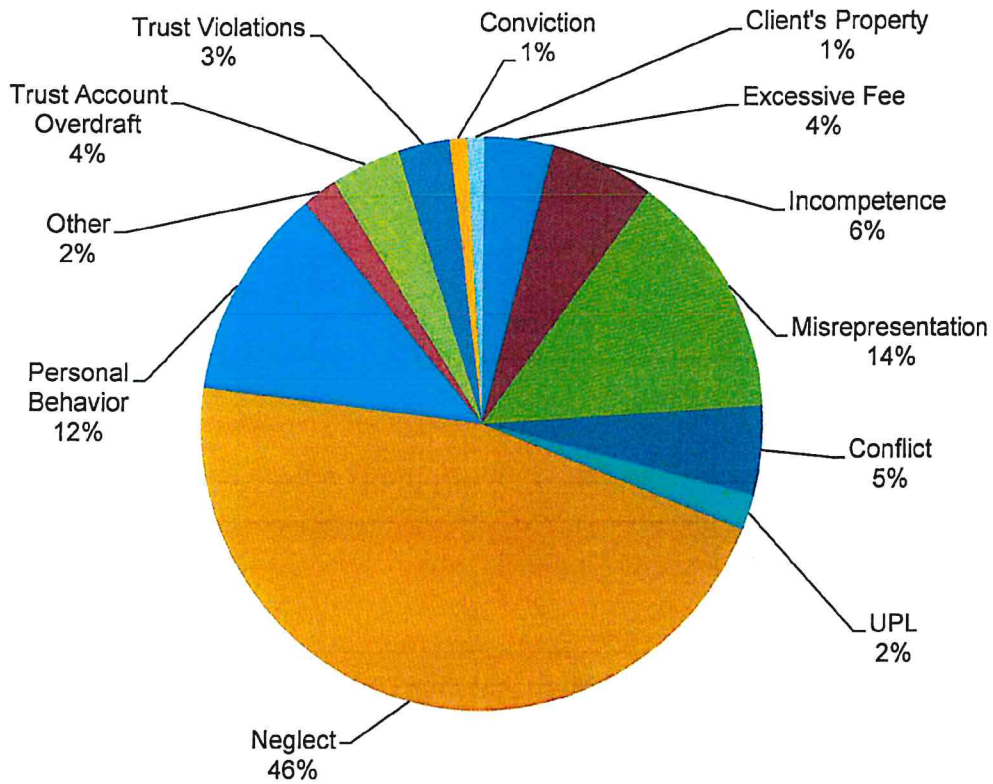
In order to better inform the Oklahoma Supreme Court, the bar, and the public of the nature of the grievances received, the numbers of attorneys complained against, and the areas of attorney misconduct involved, the following information is presented.

Total membership of the Oklahoma Bar Association as of December 31, 2020 was 18,330 attorneys. The total number of members includes 12,053 males and 6,277 females.

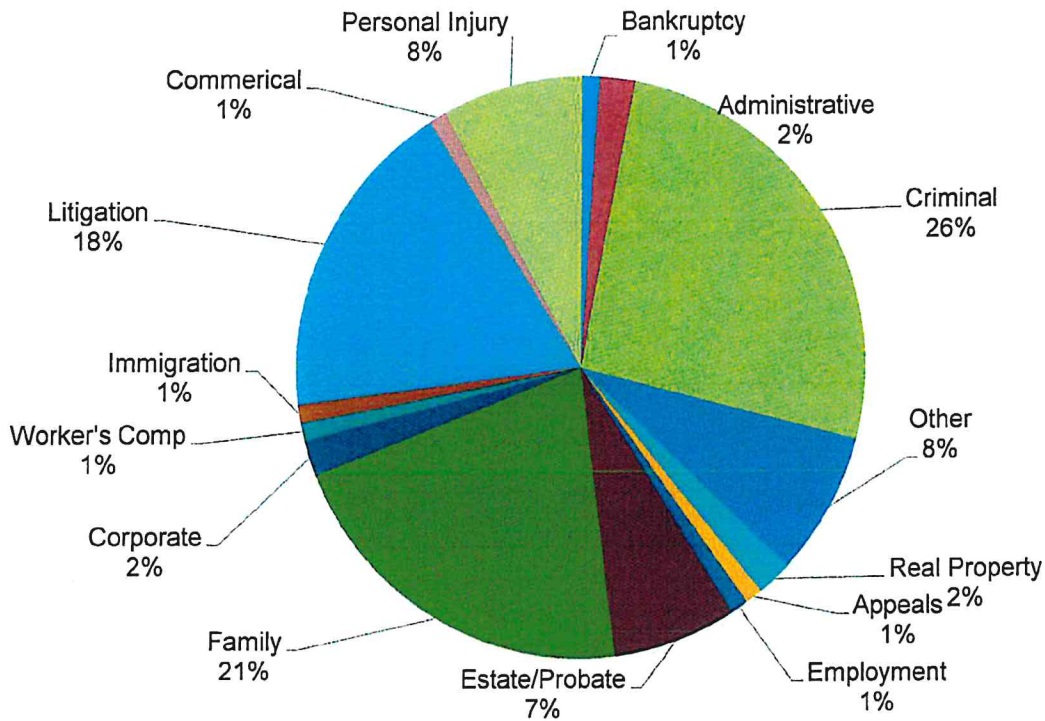


Formal and informal grievances were received against 959 attorneys. Therefore, fewer than six percent of the attorneys licensed to practice law in Oklahoma received a grievance in 2020.

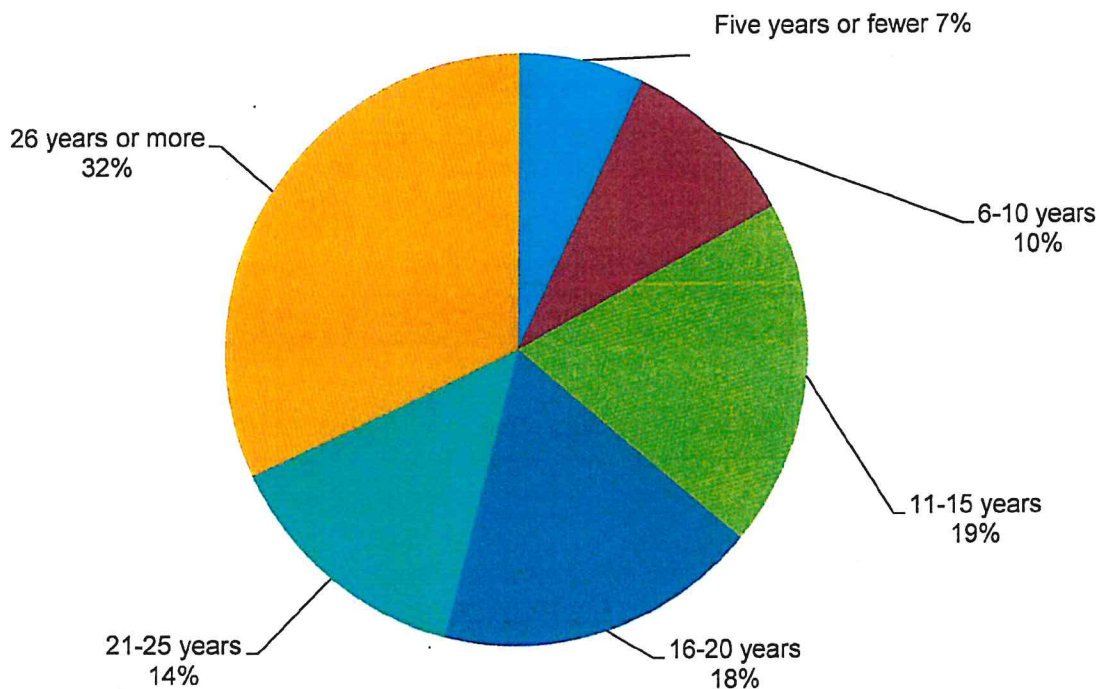
A breakdown of the type of attorney misconduct alleged in the 228 formal grievances opened by the Office of the General Counsel in 2020 is as follows:

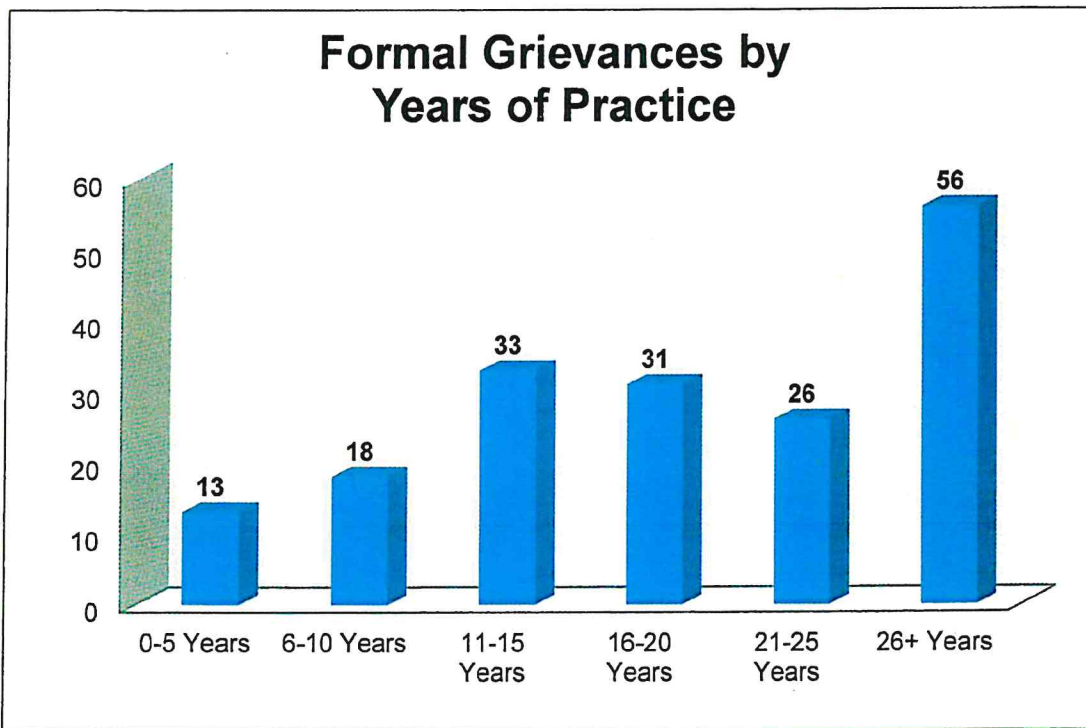


Of the 228 formal grievances, the area of practice is as follows:



The number of years in practice of the 176 attorneys receiving formal grievances is as follows:





The largest number of grievances received were against attorneys who have been in practice for 26 years or more. The age of attorneys with disciplinary cases filed before the Oklahoma Supreme Court in 2020 is depicted below.

Type of Complaint Filed	Rule 6, RGDP	Rule 7, RGDP	Rule 10, RGDP	Rule 8, RGDP
Number of Attorneys Involved	7	12	1	2
Age of Attorney				
21-29 years old	0	0	0	0
30-49 years old	1	7	1	1
50-74 years old	6	5	0	1
75 or more years old	0	0	0	0

**DISCIPLINE IMPOSED BY THE OKLAHOMA SUPREME COURT:**

In 2020, discipline was imposed by the Oklahoma Supreme Court in 22 disciplinary cases. The sanctions are as follow:

**1. Disbarment.**

<u>Respondent</u>	<u>Order Date</u>
Miller, Laurie Jean	1/14/2020
Siegrist, Kent LeRoy	3/24/2020
Janzen, Carolyn Sue	12/8/2020

**2. Resignations Pending Disciplinary Proceedings Approved by Court.** (Tantamount to Disbarment)

<u>Respondent</u>	<u>Order Date</u>
Wiland, George William, III	02/24/2020
Mayes, Brent Earl	06/30/2020
Khuu, Tuan Anh	10/05/2020

**3. Disciplinary Suspensions.**

<u>Respondent</u>	<u>Length</u>	<u>Order Date</u>
Harroz, Keegan Kelley	Interim	02/10/2020
Green, John Thomas	90 days	04/28/2020
Haskell, Doak Willis	Interim	06/08/2020
Ezell, Julia Marie	1 year	06/16/2020
Gierhart, Douglas Mark	2 years 1 day	09/15/2020
Faulk, Robert R.	Interim	09/28/2020
Levisay, Shelley Lynne	1 year	10/06/2020

Pistotnik, Bradley Alan	2 years 1 day	11/24/2020
Robinson, Eugene	Interim	12/07/2020

**4. Dismissals.**

<u>Respondent</u>	<u>Order Date</u>
Card, Daniel James (Misdemeanor Conviction; Rule 7, RGDP)	01/27/2020
Corley, Ky Dowdy (Misdemeanor Conviction; Rule 7, RGDP)	04/13/2020
Ellis, Vernon Dale, Jr. (Misdemeanor Conviction; Rule 7, RGDP)	05/26/2020
Steen, Jeffry Conner (Rules 1.1, 1.3, 3.1, 8.4, RGDP)	09/21/2020
Jameson, Robert Earl (Misdemeanor Conviction; Rule 7, RGDP)	09/21/2020
Carlton, James W., Jr. (Misdemeanor Conviction; Rule 7, RGDP)	10/05/2020

**5. Private Reprimand**

Filed Under Seal	01/14/2020
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There were 18 discipline cases filed with the Oklahoma Supreme Court as of January 1, 2020. During 2020, 22 new formal complaints were filed for a total of 40 cases pending with the Oklahoma Supreme Court during 2020. On December 31, 2020, 20 cases remain filed and pending before the Oklahoma Supreme Court<sup>2</sup>.

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<sup>2</sup> Four cases were stayed by the Court and are still considered pending by the Office of the General Counsel: SCBD 6318, Rule 7, RGDP; SCBD 6354, Rule 7, RGDP; SCBD 6512, Rule 7, RGDP; SCBD 6723, Rule 6, RGDP.

<i>Type of Discipline Imposed</i>	Dismissals	Confidential Suspension/ Reprimand	Disciplinary Suspension	Resignation Pending Disciplinary Proceedings	Disbarment
<i>Number of Attorneys Involved</i>	6	1	9	3	3
<i>Age of Attorney</i>					
21-29 years old	0	0	0	0	0
30-49 years old	2		5	2	0
50-74 years old	4	1	4	1	3
75 or more years old	0	0	0	0	0

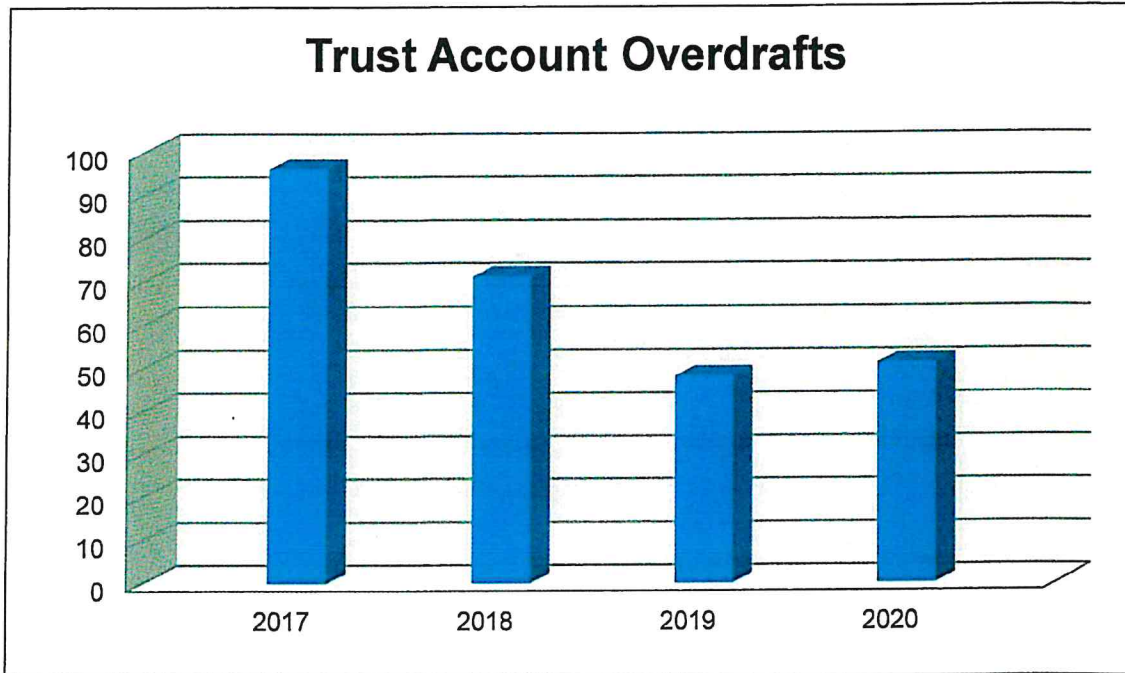
**REINSTATEMENTS:**

There were two Petitions for Reinstatement pending before the Professional Responsibility Tribunal and two Petitions for Reinstatement pending with the Oklahoma Supreme Court as of January 1, 2020. There were seven new Petitions for Reinstatement filed in 2020. In 2020, the Oklahoma Supreme Court granted five reinstatements and denied one reinstatement. On December 31, 2020, there were four Petitions for Reinstatement pending before the Professional Responsibility Tribunal and one Petition for Reinstatement pending before the Oklahoma Supreme Court.

**TRUST ACCOUNT OVERDRAFT REPORTING:**

The Office of the General Counsel, under the supervision of the Professional Responsibility Commission, has implemented the Trust Account Overdraft Reporting requirements of Rule 1.15(j), Oklahoma Rules of Professional Conduct, 5 O.S. 2011, ch. 1, app. 3-A (ORPC). Trust Account Overdraft Reporting Agreements are submitted by depository institutions. In 2020, 51 notices of overdraft of a client trust account were received by the Office of the General Counsel. Notification triggers a general inquiry to the attorney requesting an explanation and supporting bank documents for the deficient

account. Based upon the response, an investigation may be commenced. Repeated overdrafts due to negligent accounting practices may result in referral to the Discipline Diversion Program for instruction in proper trust accounting procedures.



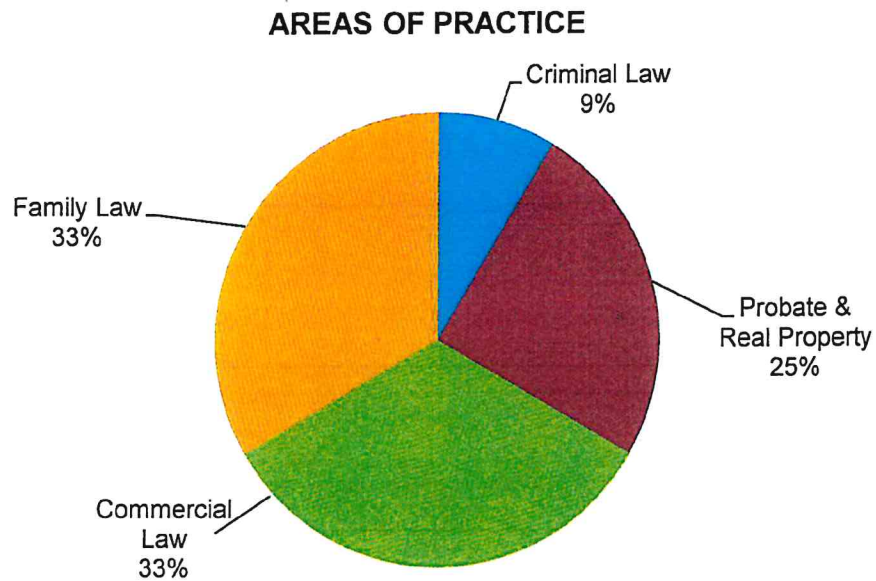
**UNAUTHORIZED PRACTICE OF LAW:**

Rule 5.1(b), RGDP, authorizes the Office of the General Counsel to investigate allegations of the unauthorized practice of law (UPL) by non-lawyers, suspended lawyers and disbarred lawyers. Rule 5.5, ORPC, regulates the unauthorized practice of law by lawyers and prohibits lawyers from assisting others in doing so.

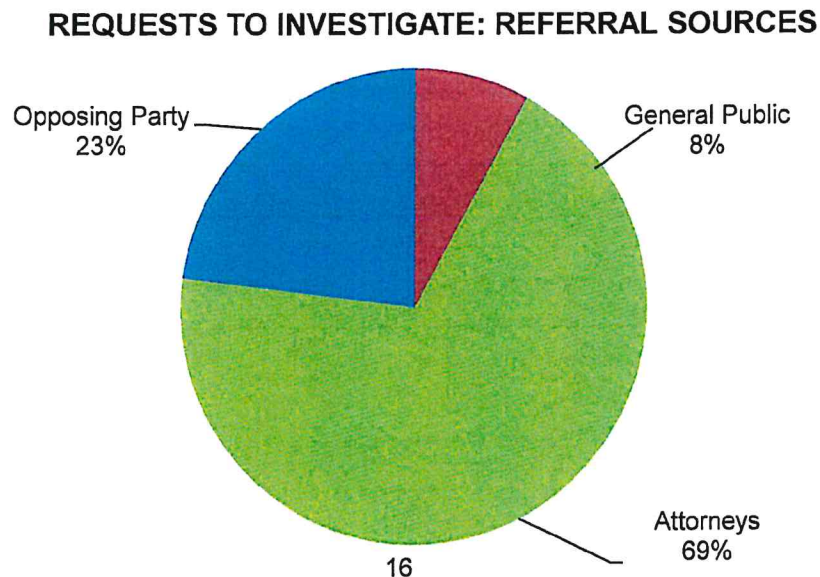
1. **Requests for Investigation.** In 2020, the Office of the General Counsel received 13 complaints for investigation of the unauthorized practice of law. The Office of the General Counsel fielded many additional inquiries regarding the unauthorized practice of law that are not reflected in this summary.



2. **Practice Areas.** Allegations of the unauthorized practice of law encompass various areas of law. In previous years, most unauthorized practice of law complaints involved non-lawyers or paralegals handling divorce matters, but that trend has declined over the last few years. However, in 2020, a significant number of UPL complaints involved commercial and family law matters.

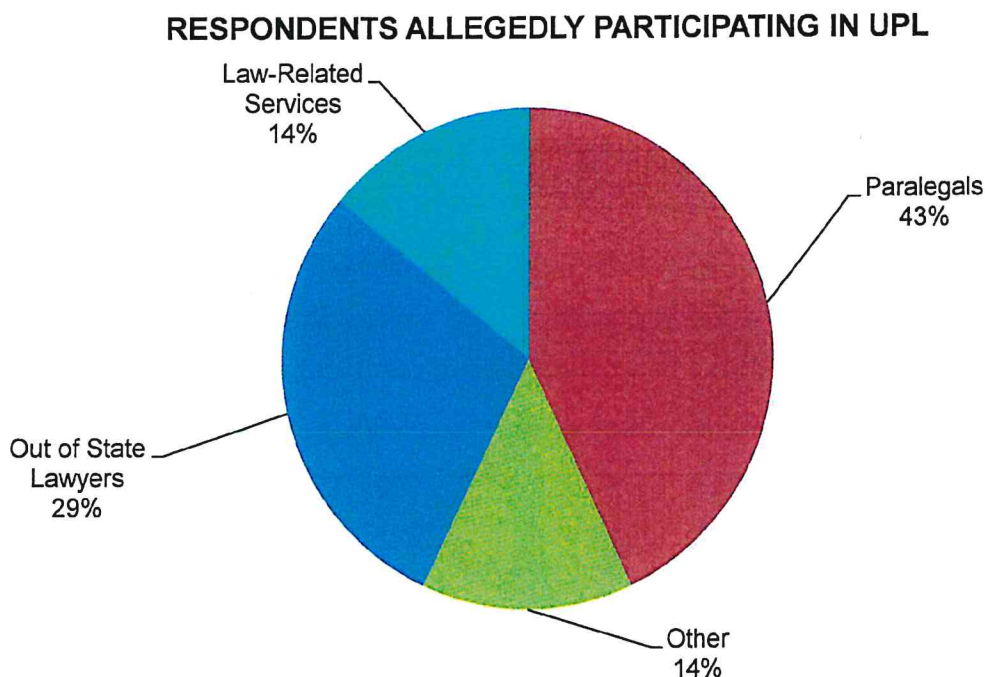


3. **Referral Sources.** Requests for investigations of the unauthorized practice of law stem from multiple sources. In 2020, the Office of the General Counsel received the most complaints from attorneys.



4. **Respondents.** For 2020, most requests for investigation into allegations of the unauthorized practice of law related to paralegals.

For purposes of this summary, the category “paralegal” refers to an individual who advertises as a paralegal and performs various legal tasks for their customers, including legal document preparation.



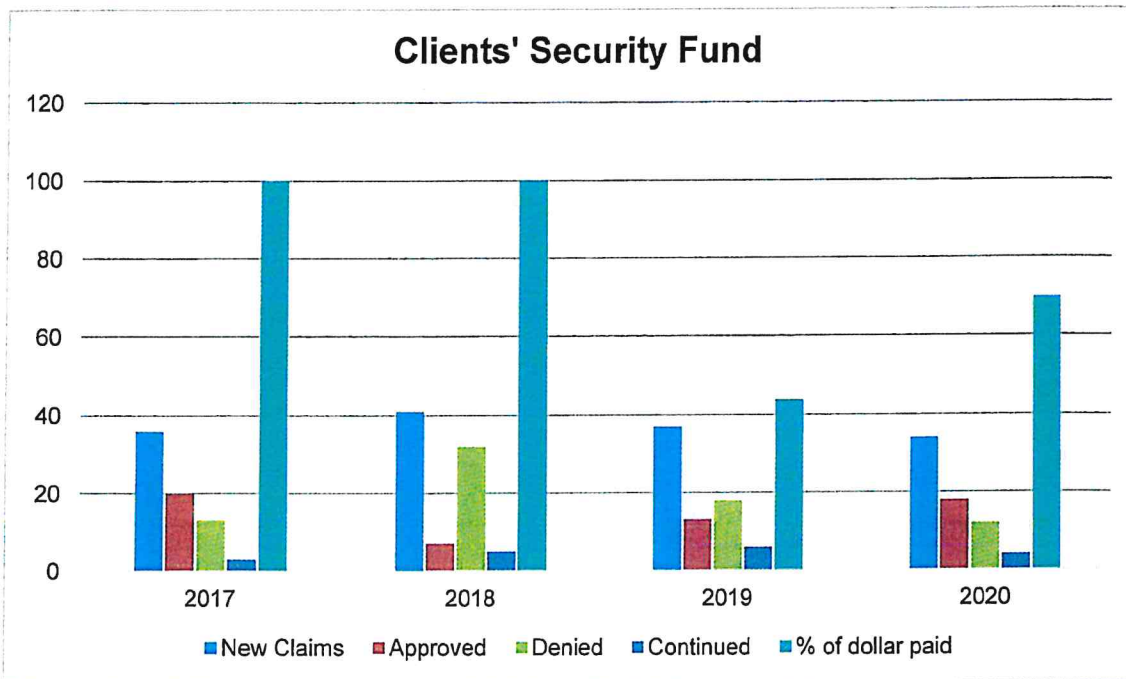
5. **Enforcement.** In 2020, of the thirteen matters received, the Office of the General Counsel took formal action in one matter. Formal action includes issuing cease and desist letters, initiating formal investigations through the attorney discipline process, referring a case to an appropriate state and/or federal enforcement agency, or filing the appropriate district court action. Six matters were

closed after corrective action was taken. The remainder of the matters are under investigation.

**CLIENTS' SECURITY FUND:**

The Clients' Security Fund was established in 1965 by Court Rules of the Oklahoma Supreme Court. The Fund is administered by the Clients' Security Fund Committee which is comprised of 17 members, 14 lawyer members and 3 non-lawyers, who are appointed in staggered three-year terms by the OBA President with approval from the Board of Governors. In 2020, the Committee was chaired by lawyer member Micheal Salem, Norman. Chairman Salem has served as Chair for the Clients' Security Fund Committee since 2006. The Fund furnishes a means of reimbursement to clients for financial losses occasioned by dishonest acts of lawyers. It is also intended to protect the reputation of lawyers in general from the consequences of dishonest acts of a very few. The Board of Governors budgets and appropriates \$175,000.00 each year to the Clients' Security Fund for payment of approved claims.

In years when the approved amount exceeds the amount available, the amount approved for each claimant will be reduced in proportion on a prorata basis until the total amount paid for all claims in that year is \$175,000.00. The Office of the General Counsel reviews, investigates, and presents the claims to the committee. In 2020, the Office of the General Counsel presented 34 new claims to the Committee. The Committee approved 18 claims, denied 12 claims, and continued 4 claims into the following year for further investigation. In 2020, the Clients' Security Fund paid a total of \$177,712.50 on 18 approved claims.



**CIVIL ACTIONS (NON-DISCIPLINE) INVOLVING THE OBA:**

The Office of the General Counsel represented the Oklahoma Bar Association in several civil (non-discipline) matters during 2020. One case carried forward into 2021. The following is a summary of all 2020 civil actions against or involving the Oklahoma Bar Association:

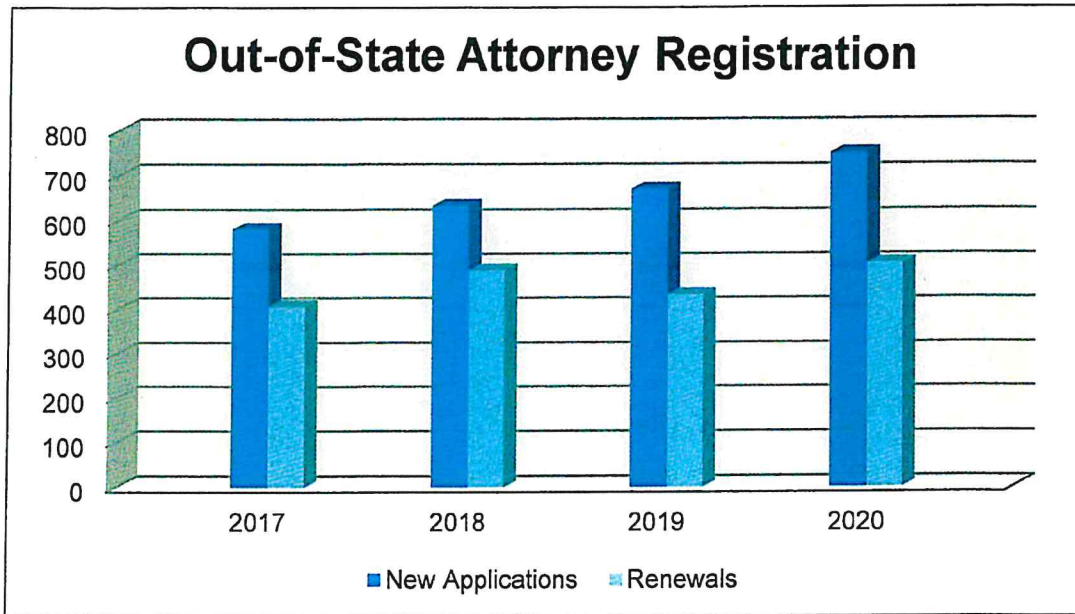
1. *Rickey White v. Oklahoma Bar Association*, Oklahoma County Case No. CV-2020-55. Plaintiff filed a Petition for Writ of Mandamus on January 8, 2020. The Oklahoma Bar Association was not served. This Petition was related to White's prior matter, Court of Criminal Appeals of Oklahoma Case No. MA-2019-825, wherein he petitioned the court for an order directing the Oklahoma Bar Association to re-open and investigate a grievance he filed against an attorney. On April 17, 2020, the District Court denied the Petition for Writ of Mandamus.
2. *Johnson & Johnson ex rel., Stephen P. Wallace v. State of Oklahoma, et al.*, United States District Court for the District of New Jersey, Case No. CIV-19-14189. Mr. Johnson filed suit against multiple Oklahoma defendants alleging RICO and other violations. The facts underlying the suit are not easily discernable from Mr. Wallace's filings. Johnson & Johnson notified the court that they were not (despite Mr. Wallace's filings) associated with this case in any way. The Oklahoma Bar

Association and the Oklahoma Attorney General joined together with local counsel to file a Motion to Dismiss on September 26, 2019. Plaintiff filed various "Emergency" and "Supplemental Emergency" Motions. The Oklahoma Bar Association and the Oklahoma Attorney General was dismissed with prejudice on April 23, 2020. Mr. Wallace continues to file documents in this closed case.

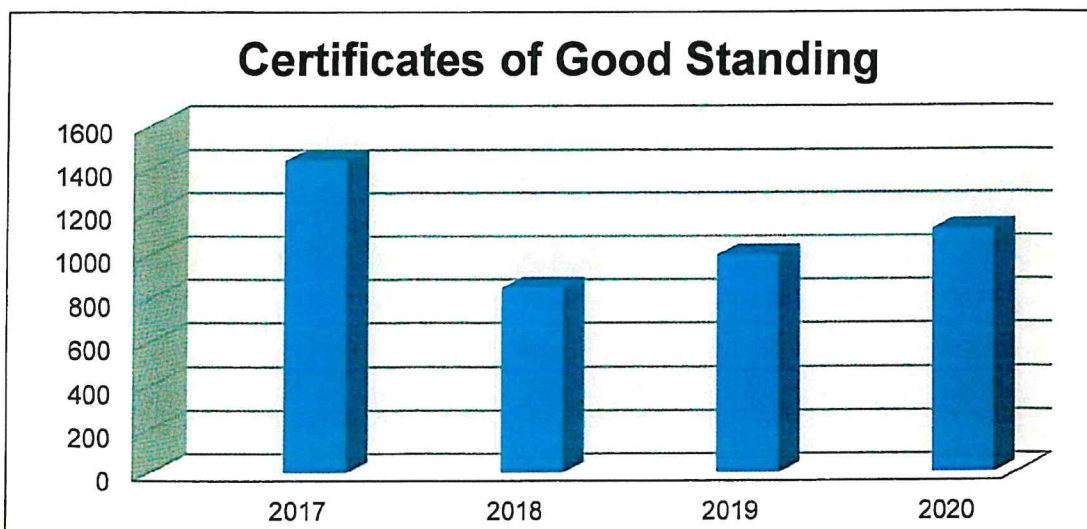
3. *McCormick et al., v. Barr et al.*, United States District Court for the Northern District Court of Oklahoma, Case No. CIV-20-24-JED-JFJ, filed January 21, 2020. The Plaintiffs assert various claims against twenty-one defendants. There are no claims asserted against the Oklahoma Bar Association, even though it was named as a defendant. The Oklahoma Bar Association filed its Motion to Dismiss on February 12, 2020. This matter is pending.

#### **ATTORNEY SUPPORT SERVICES:**

1. **Out-of-State Attorney Registration.** In 2020, the Office of the General Counsel processed 750 new applications and 504 renewal applications submitted by out-of-state attorneys registering to participate in a proceeding before an Oklahoma Court or Tribunal. Out-of-State attorneys appearing pro bono to represent criminal indigent defendants, or on behalf of persons who otherwise would qualify for representation under the guidelines of the Legal Services Corporation due to their incomes, may request a waiver of the application fee from the Oklahoma Bar Association. Certificates of Compliance are issued after confirmation of the application information, the applicant's good standing in his/her licensing jurisdiction and payment of applicable fees. All obtained and verified information is submitted to the Oklahoma Court or Tribunal as an exhibit to a "Motion to Admit."



2. **Certificates of Good Standing.** In 2020, the Office of the General Counsel prepared 1120 Certificates of Good Standing/Disciplinary History at the request of Oklahoma Bar Association members.

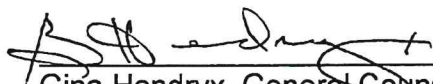


**ETHICS AND EDUCATION:**

During 2020, attorneys in the General Counsel's office presented more than 50 hours of continuing legal education programs to county bar association meetings, attorney practice groups, OBA programs, all three state law schools, and various legal organizations. In these sessions, disciplinary and investigative procedures, case law, and ethical standards within the profession were discussed. Due to pandemic restrictions, the majority of these programs were presented via video conference. These efforts direct lawyers to a better understanding of their ethical requirements and the disciplinary process, and informs the public of the efforts of the Oklahoma Bar Association to regulate the conduct of its members. In addition, the General Counsel participated in a presentation to the Arkansas Supreme Court and the Arkansas Bar Association on the implementation of an Ethics Counsel office to assist Arkansas attorneys.

The attorneys, investigators, and support staff for the General Counsel's office also attended continuing education programs in an effort to increase their own skills and training in attorney discipline. These included trainings by the Oklahoma Bar Association (OBA), National Organization of Bar Counsel (NOBC), and the Organization of Bar Investigators (OBI).

RESPECTFULLY SUBMITTED this 4<sup>th</sup> day of February, 2020, on behalf of the Professional Responsibility Commission and the Office of the General Counsel of the Oklahoma Bar Association.

  
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Gina Hendryx, General Counsel  
Oklahoma Bar Association