



ANNUAL REPORT

September 1, 2018 – August 31, 2019

Office of the Ombudsman for the Attorney Discipline System of the State Bar of Texas

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CREATION OF THE OFFICE AND STATUTORY MANDATES

The Office of the Ombudsman for the Attorney Discipline System of the State Bar of Texas (Ombudsman) was created during the Sunset Review process for the 85th Legislature.¹ As the Texas Sunset Advisory Commission explained, the Ombudsman position was recommended along with other changes “to help improve efficiency and responsiveness for attorneys and the public, and help the Office of the Chief Disciplinary Counsel better do its job to monitor and take action against unethical attorneys.”² This was echoed by the Chief Disciplinary Counsel, who noted that “[a]lthough the Office of the Chief Disciplinary Counsel [was already] subject to oversight and accountability, the [Texas] Legislature established the position of ombudsman for the attorney discipline system as an additional measure.”³ The Texas Legislature codified the recommendation during the 85th Legislative Session, it went into effect on June 1, 2018 with the Texas Supreme Court’s adoption of amendments, and the current Ombudsman began the job on July 14, 2018.⁴ The statute makes it clear that the Ombudsman is:

- A source of information for the public – The Ombudsman is tasked with answering questions from the public on the grievance system’s operations, accessing the system, the filing of grievances, and the availability of other State Bar of Texas programs.⁵
- A monitor of the attorney discipline system – The Ombudsman is responsible for receiving complaints about the system and investigating complaints to make sure the proper procedures were followed by the State Bar of Texas.⁶ Also, the Ombudsman makes recommendations to the Supreme Court of Texas as well as the State Bar Board of Directors for improvements to the attorney discipline system.⁷
- Independent – The Ombudsman reports directly to the Supreme Court of Texas and is independent of the State Bar Board of Directors, the Commission for Lawyer Discipline, the Chief Disciplinary Counsel, and the Board of Disciplinary Appeals.⁸ The independence allows the Ombudsman to impartially evaluate any complaints from the public about the grievance system and provide reports to the Supreme Court of Texas as an outside party.
- Confidential – The Ombudsman cannot disclose any information, proceedings, hearing transcripts, or statements he or she receives, including documents from various State Bar of Texas departments, to any person other than the Chief Disciplinary Counsel.⁹

¹ See Staff Report with Final Results, Tex. Sunset Advisory Comm’n (Jun. 2017). A copy of the Staff Report with Final Results, redacted for relevancy, is included as Exhibit 1 to the Appendix.

² *Id.* at A7.

³ Linda A. Acevedo, *Texas Attorney Discipline System Update*, 81 Tex. B. J. 444, 445 (2018).

⁴ *See id.*

⁵ Tex. Gov’t Code § 81.0883(a). A copy of Tex. Gov’t Code §§ 81.0881 – 81.0885 is included as Exhibit 2 to the Appendix.

⁶ *Id.*

⁷ *Id.* at § 81.0883(a)(6).

⁸ *Id.* at § 81.0882(b).

⁹ *Id.* at § 81.0885(a).

While the Texas Legislature imbued the Ombudsman with many abilities and protections to help him or her embody the attributes listed above, it also made it clear in the statute that there are certain actions that the Ombudsman cannot take in pursuit of improving the attorney discipline system. Namely, the Ombudsman is prohibited from:

- (1) “draft[ing] a complaint for a member of the public;
- (2) act[ing] as an advocate for a member of the public;
- (3) revers[ing] or modify[ing] a finding or judgment in any disciplinary proceeding; or
- (4) intervene[ing] in any disciplinary matter.”¹⁰

Despite these statutory restrictions, the Texas Sunset Advisory Commission, the Texas Legislature and those involved in the attorney discipline process trusted the Ombudsman to “provide an additional means to receive information and support regarding the attorney discipline system and an independent avenue to verify compliance with the grievance process.”¹¹ Ultimately, the Ombudsman was created to “foster further confidence in the attorney discipline system.”¹²

PUBLIC INQUIRIES – ACCESS, REQUEST CONTENT, AND RESPONSES

Setting Up the Program and Providing Access

Based on the statutory mandates explained above and the overarching goals of increasing transparency, independence, and access within the attorney disciplinary system, the Ombudsman built a program focused on public customer service. Within a month of starting the position, the Ombudsman had created a website that provides information about the role of the Ombudsman, details what an Ombudsman can and cannot do for members of the public, lists methods for getting in contact with the Ombudsman and gives links to resources within the State Bar of Texas and other disciplinary entities that could be helpful.¹³ Since the Ombudsman is an employee of the Supreme Court of Texas, the website was placed under the Bar & Education section of the Texas Judicial Branch’s webpage. However, in an effort to make it easier to find this crucial information, the Ombudsman also had links to the webpage placed at numerous places on the State Bar of Texas’ and Supreme Court of Texas’ websites, including the Supreme Court of Texas’ FAQs page and the State Bar of Texas’ Contact Us, Grievance and Ethics Information, and File a Grievance pages.

Inquiry Content

Due to the website and other referral methods, the Ombudsman received 464 inquiries during the period from September 1, 2018 to August 31, 2019.¹⁴

¹⁰ *Id.* at § 81.0883(b).

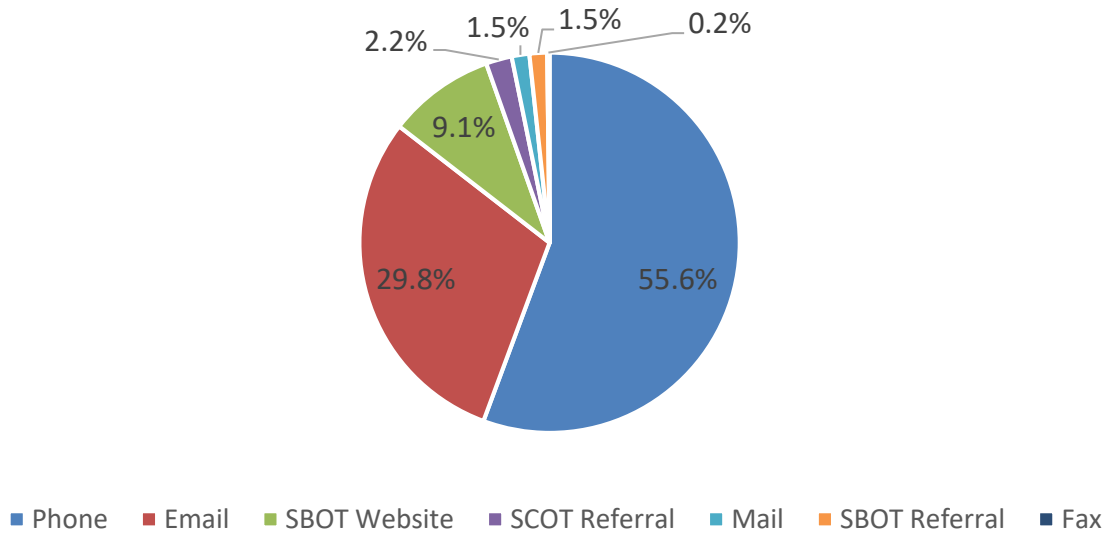
¹¹ Acevedo, *supra* note 3, at 445.

¹² *Id.*

¹³ A copy of the Ombudsman’s current website is included as Exhibit 3 to the Appendix.

¹⁴ Note that because the position began in July 2018 but the fiscal reporting year does not begin until September, the statistics mentioned here and those discussed throughout the rest of the report necessarily exclude the inquiries made between July and August 31, 2018.

Inquiry Contact Method

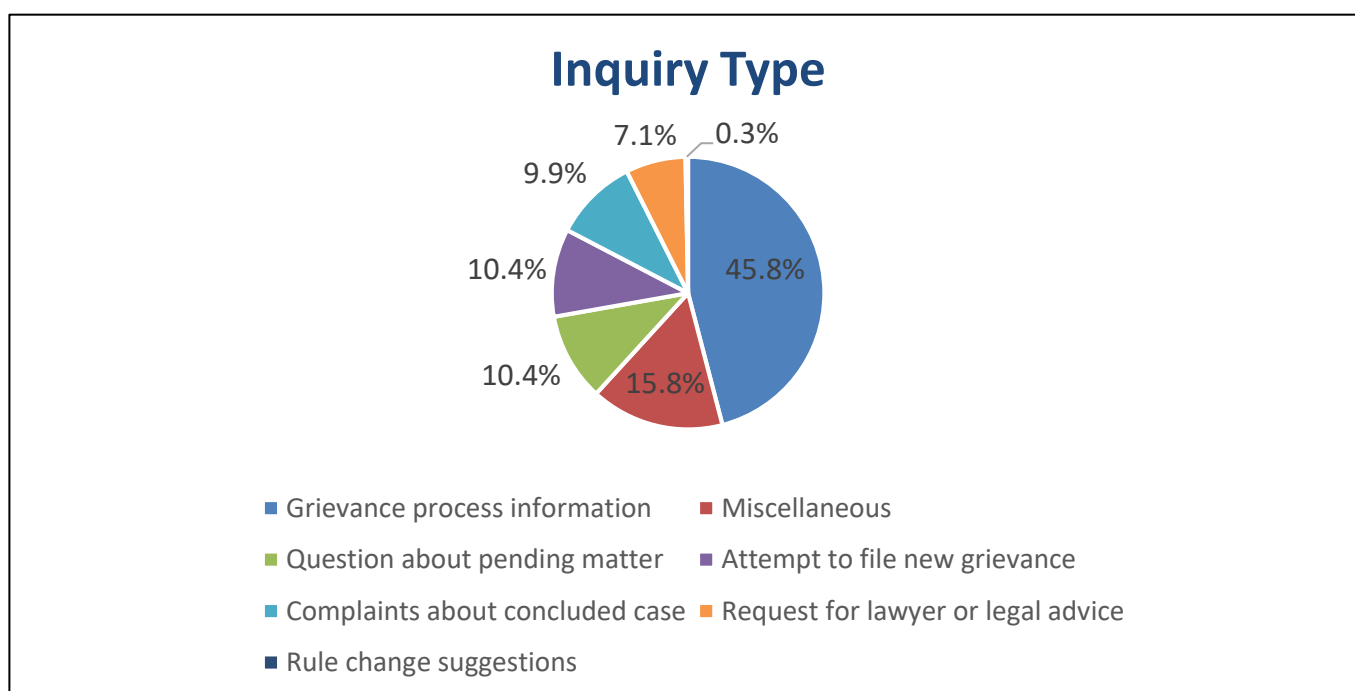


As detailed in the chart above, the methods used to contact the Ombudsman included phone, email, the State Bar of Texas website, referrals from the Supreme Court of Texas, referrals from the State Bar of Texas, mail, and facsimile. With about 55% of the inquirers contacting the Ombudsman by phone, a large portion of the Ombudsman’s typical day is spent counseling people on calls, which could last anywhere from 5 minutes to well over an hour. The fact that so many individuals get in touch via the telephone also justifies the continuance of the toll-free telephone number dedicated to the Ombudsman, which was established to enable those outside of the local area to get information about the grievance process without paying fees.

Although they constitute a relatively small number of inquiries, the referrals from the State Bar of Texas and the Supreme Court of Texas have proven to be vital outlets for the distribution of work among those in the attorney discipline system. Additionally, they have had the added benefit of putting inquirers in touch with an independent office specifically designed to handle their complaints or questions, which can lead to more inquirer satisfaction with the process. It was through this referral process that the Ombudsman was involved with an inquiry that a state senator made on behalf of one of his constituents. Although other departments at the State Bar of Texas were necessarily involved as well, the inclusion of an Ombudsman in the matter added an extra layer of independent scrutiny in a complex case.

As is shown in the Inquiry Type chart below, the majority of individuals contacted the Ombudsman to obtain more information about the attorney discipline system. Typically, an individual in this category is having an issue or disagreement with an attorney and they get in touch with the Ombudsman to hear what their options are. However, there were also several instances of researchers or academics that contacted the office to get a more general sense of the position and how it fits into the overall grievance process that are included in this 45% of inquiries. The inquiries labeled miscellaneous constitute a wide variety of issues, all of which are outside the scope of the Ombudsman’s expertise or purview. For example, some of these contacts are people wanting an Ombudsman’s help with a complaint against a

judge or another government official, while many are individuals wanting more information on a specific attorney’s membership status with the State Bar of Texas. The fact that about 15% of the inquiries are part of this category may indicate that individuals often do not completely understand what the Ombudsman’s role at the State Bar of Texas is. Although complaints about concluded cases only encompass 9.9% of the total number of inquiries, these files take up by far the most amount of the Ombudsman’s resources. In this category, individuals have already gone through the grievance process, and in most cases their grievance has been dismissed and their opportunity to appeal has run out. In order to fully discharge the Ombudsman’s duty in these matters, the office must request and review the Chief Disciplinary Counsel’s files on the particular grievance to ensure that proper procedures were followed. This often also mandates taking suggestions and complaints about the attorney discipline system from the inquirer. Therefore, while the number of inquirers who contact the Ombudsman with the main purpose of suggesting changes to the disciplinary system is a miniscule 0.3%, the overall amount of recommendations received from the public is significantly greater.

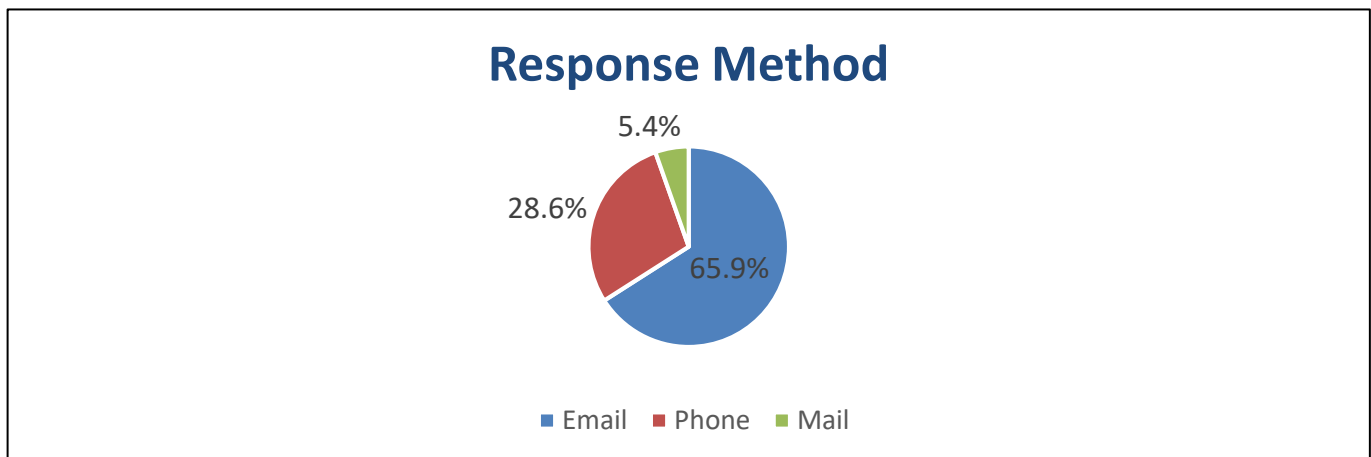


Beyond the statistics collected and provided above, the Ombudsman also compiled information about: (1) the types of cases the inquirers were contacting the Ombudsman about; (2) the relationship of the respondent-attorney to the inquirer; (3) and the alleged attorney behavior that is the subject of the inquiry. While it was impossible to get this information for every inquiry, the data can provide some insight into the demographics of cases that are likely to result in grievances. For example, about 43% of the inquiries where the case type was disclosed were family law cases and 25% were criminal cases. In particular, divorce matters and cases involving guardian ad litem appeared with some frequency. Additionally, it appears that the majority of inquirers who contact the Ombudsman about an attorney are concerned with his or her non-responsiveness, which indicates the importance of programs that help individuals that are having communication issues with their attorney, such as the Client Attorney Assistance Program. Lastly, it is worth noting that the overwhelming majority of inquirers were current

or potential complainants and only a couple respondent-attorneys reached out to the Ombudsman and identified themselves as such.

Response Content

Although the unique aspects of each inquiry necessitate some customization, the Ombudsman was able to develop a standard response to inquirers who request general information about the attorney discipline system. In particular, the response includes information about the Client Attorney Assistance Program and filing a grievance through the Office of the Chief Disciplinary Counsel. With both programs, the letter or email provides background details, contact information, brochures, and forms needed to enroll in the program or file a grievance.¹⁵ In some responses, it was also necessary to include information on other programs or agencies. For example, in a case where someone is trying to file a complaint against a judge, the response would include information on how to contact the State Commission on Judicial Conduct. On the other hand, in an instance where an individual is having trouble with his or her attorney and would like assistance in finding a new one, the response directs them to resources like the Lawyer Referral and Information Service, which helps individuals find a lawyer or other resource that best matches his or her legal needs and financial means. Similarly, if an inquirer is solely concerned with the amount of fees charged by his or her attorney, the response will include a link to information about local bar associations' fee dispute committees, which mediate fee disputes between attorneys and their clients. In the event the Ombudsman receives an inquiry from a Supreme Court of Texas or State Bar of Texas referral, the first step is always to send an acknowledgement letter to the inquirer. In that letter, the Ombudsman explains how he or she received the communication, why it was forwarded to them, and the role he or she plays in the disciplinary system.¹⁶ This standard response lets the inquirer know that his or her communication was received, provides context and contact information for the Ombudsman, and in the event follow-up is required, assures them that someone is looking into his or her issues.



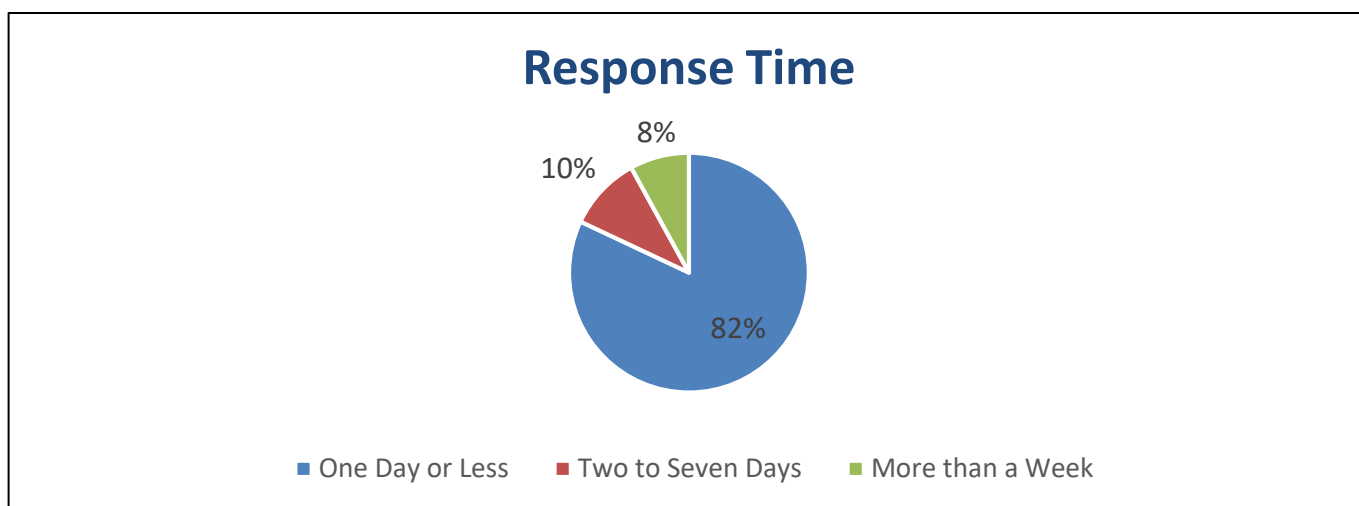
While inquirers can contact the Ombudsman through a wide variety of methods, the responses over the period in question have been limited to email, phone and mail, as seen in the chart above. In an effort to provide inquirers with a document that they can consider and reference at any time, the Ombudsman will often send an email that includes relevant information even after explaining all necessary details about

¹⁵ A redacted example of a typical response to such an inquiry is included as Exhibit 4 to the Appendix.

¹⁶ A redacted example of an acknowledgement letter is included as Exhibit 5 to the Appendix.

applicable resources and programs over the phone. Although this often leads to additional work for the Ombudsman, it probably reduces the likelihood that an individual will have to contact the Ombudsman with additional questions and ultimately increases inquirer satisfaction. As such, even though inquirers overwhelmingly prefer discussing matters with the Ombudsman over the phone, the most common response method is through email at 65.9%. Similarly, some of the responses categorized as mail were also initially discussed over the phone.

The Ombudsman makes every effort to respond to each inquiry as fully and efficiently as possible. During the period discussed in this report, the average time to close inquiries, whether a simple one-off question or request for review of a complex grievance file, was 3 days. As further detailed in the chart below, 82% of all inquiries were responded to and closed within a day and 92% of all inquiries were handled within a week. It is worth noting that the times referenced in this chart include weekends and holidays, which necessarily increase the response time.



COMMON COMPLAINTS FROM THE PUBLIC

Transparency-Related Complaints

Complaints about the transparency of the attorney discipline process occurred with more frequency than any other category of criticism during the period covered in this report.

Most objections concerned the lack of a satisfactory explanation from the Chief Disciplinary Counsel’s office about why a particular grievance was dismissed. This issue was one raised by the Sunset Advisory Commission’s Staff Report with Final Results, in which it alleged that the Chief Disciplinary Counsel provides “[i]nsufficient information and assistance [] to complainants.”¹⁷ In particular, it was very common for inquirers whose grievances had been dismissed¹⁸ to remark that the letters they received

¹⁷ Tex. Sunset Advisory Comm’n, *supra* note 1, at 31.

¹⁸ A dismissal in the attorney discipline context means one of two things. If it was dismissed as an inquiry at the classification stage, it indicates “that the grievance alleges conduct that, even if true, does not constitute professional misconduct or disability cognizable under the Texas Disciplinary Rules of Professional Conduct.” Tex. Gov’t Code, *supra* note 5, at § 81.073(a)(2). If it was dismissed after it was classified as a complaint, it means that the body making the determination has found that “there is no just cause” See *id.* at § 81.075(b)(1).

seemed “computer-generated” or “generic” and did not provide specifics about the decision-making process or reasoning for dismissing the particular actions of the attorney detailed in the grievance.¹⁹ In one case, a lack of understanding about the reason for a grievance dismissal led to the involvement of a state senator’s office, along with several departments at the State Bar of Texas. The matter was ultimately resolved when the State Bar of Texas fully explained why misconduct was not found but a lot of time and resources were expended before that outcome was reached.²⁰ Similarly, at least one inquirer pointed out that when the Board of Disciplinary Appeals overturns a dismissal and forces the Chief Disciplinary Counsel to investigate a grievance, they provide possible violations as reasoning for their reversal. However if the grievance is ultimately dismissed, the dismissal letter does not address each potential violation given by the Board of Disciplinary Appeals but rather gives a generic reason for dismissal.

Inquirers also complained about the lack of transparency during the Summary Disposition Panel process. The Summary Disposition Panel, which is a panel of local grievance committee members composed of two-thirds lawyers and one-third public members, hears and makes determinations on cases that the Chief Disciplinary Counsel has investigated and decided that there is no just cause to proceed on the complaint.²¹ As such, the panel either agrees with the Chief Disciplinary Counsel’s determination and dismisses the grievance or rejects the decision and votes to proceed on the complaint.²² As is explained to the complainant and respondent, Summary Disposition Panel hearings are confidential and closed to both parties.²³ Many inquirers were dissatisfied with this procedure and complained that the overall process is too secretive. In particular, inquirers noted that they do not know much about the Summary Disposition Panels, are not told when they met, and are not provided a summary of the evidence they heard. Additionally, complainants were upset that they were not allowed to attend the hearings or appeal the decisions made at those hearings. Some commented that the secrecy made them conclude that the State Bar of Texas was trying to cover up the decision-making process.

Beyond the specific complaints explained above, inquirers also provided general comments about the lack of transparency of the disciplinary system overall. For example, many noted that the process was not explained to them up front and they received few to no updates about the status of their grievance throughout. Similarly, inquirers frequently contacted the Ombudsman to see if their grievance was received by the Chief Disciplinary Counsel’s office. At least one complainant commented that when filing a grievance, an individual never receives any communication acknowledging the filing, even when using the online submission system. Not only did this seem to lead to an increased workload for the Ombudsman and Chief Disciplinary Counsel, it appeared to increase the frustration level of inquirers with the process overall.

¹⁹ A redacted example of a typical dismissal letter sent to a grievance classified as an inquiry is included as Exhibit 6 to the Appendix.

²⁰ It is probably the case that others experience the same type of gaps in understanding but are not lucky enough or sophisticated enough to harness the power of their senator or representative.

²¹ Grievance Procedure,

https://www.texasbar.com/AM/Template.cfm?Section=Disciplinary_Process_Overview&Template=/CM/HTMLDisplay.cfm&ContentID=29668. A copy of the Grievance Procedure webpage is included as Exhibit 7 to the Appendix.

²² *Id.*

²³ A redacted example of a typical letter about a grievance dismissed by a Summary Disposition Panel is included as Exhibit 8 to the Appendix.

Complaints Related to Bias

The Ombudsman received many complaints alleging favoritism, bias, or conflicts of interest within the system. Beyond general complaints of corruption that are likely typical of every government organization, there were specific comments about bias at various levels of the disciplinary process.

By far, the most common complaint related to this issue was that the Chief Disciplinary Counsel, supported by the Board of Disciplinary Appeals, is picking and choosing the violations that it wants to prosecute and often dismissing legitimate grievances. The criticism arises because, as explained on the State Bar of Texas' website, the initial step in the process is to determine "whether the grievance, on its face, alleges professional misconduct."²⁴ Knowing this, an individual might file a grievance based on an attorney misstating the holding of a case cited in a brief or not informing the court when adverse legal authority exists in the relevant jurisdiction, for example. After discovering this fact, they file a grievance against this attorney, often counsel for the opposing party, alleging that they violated Rule 3.03 of the Texas Disciplinary Rules of Professional Conduct, which mandates candor toward the tribunal.²⁵ If his or her grievance is ultimately dismissed, the letter he or she is likely to receive from the Chief Disciplinary Counsel's office states,

"Lawyers licensed in Texas are governed by the Texas Disciplinary Rules of Professional Conduct, and may only be disciplined when their conduct is in violation of one or more of the disciplinary rules. We have concluded that **the conduct you described is not a violation of the disciplinary rules.** Thus, your grievance has been dismissed."²⁶

After receiving this letter, the inquirer often contacts the Ombudsman complaining that his or her grievance cited behavior that is a violation of the rules and is therefore on its face alleging a violation. As such, they believe that their grievance was wrongly dismissed, particularly since they assert the reasoning given by the Chief Disciplinary Counsel is incorrect. Inquirers cited several reasons why they think this happens, including the fact that attorneys are always going to protect other attorneys; the Chief Disciplinary Counsel only goes after "low-hanging fruit" to pad statistics and declines to pursue the more difficult to prove or minor grievances; and the Chief Disciplinary Counsel is imposing its own judgment on who should or should not be punished rather than following the rules mandated by statute.

Inquirers also objected to the individuals investigating their grievances and ruling on them. For example, several inquirers objected to the local Chief Disciplinary Counsel's office investigating and determining the fate of their grievance because they believed that the respondent attorney in the matter was close with others in the legal community in that area, including those in the Chief Disciplinary Counsel's office. As such, they suggested a non-local Chief Disciplinary Counsel's office should investigate grievances to eliminate bias and conflicts of interest. Similarly, several inquirers were upset in general that attorneys make up most of the staff of the Chief Disciplinary Counsel's office as well as the other disciplinary bodies

²⁴ File a Grievance, https://www.texasbar.com/Content/NavigationMenu/ForThePublic/ProblemswithanAttorney/GrievanceEthicsInfo1/File_a_Grievance.htm.

²⁵ See Tex. Disciplinary R. Prof'l Conduct 3.03.

²⁶ Dismissal Letter, *supra* note 19.

that make decisions on grievances. One complainant suggested that review bodies, such as the Summary Disposition Panels, should have more public members than attorney members.

Other Complaints

Beyond the categories identified above, inquirers also provided critiques of miscellaneous policies within the attorney discipline system.

One frequent complaint was that the inquirer did not believe that the investigator performed a thorough review of the evidence. In particular, the Ombudsman received criticisms that the investigator did not contact or interview them or the witnesses they provided. Similarly, several inquirers noted that they do not think that the investigator in their case reviewed all evidence provided because the investigators were not well informed when communicating with the inquirers and seemed to not know the basic facts of the cases. In these inquirers' minds, their grievances were incorrectly dismissed because of the lack of fact gathering by the Chief Disciplinary Counsel's investigators that occurred.

Another frequent comment was the inquirer's disappointment at their inability to file a grievance or communicate with the Chief Disciplinary Counsel's office via email. As of the publishing of this report, grievances can be filed by hand-delivery, mail, facsimile, and through an online submission system. However, the Chief Disciplinary Counsel's office does not accept grievance submissions over email and does not have a general email listed where individuals can get in touch with them about the grievance process.

RECOMMENDATIONS FOR IMPROVEMENT

The Chief Disciplinary Counsel and State Bar of Texas process and investigate thousands of grievances every year and have used their collective experience to create an efficient and effective system to do so. However, as is true with any organization or process, it can be improved. Below are recommendations for improvements to the system based on the comments and criticisms heard by the Ombudsman over the period covered by this report.²⁷

Recommendation 1: Enable Communication and Filing of Grievances through Email

First, the Ombudsman recommends that the Chief Disciplinary Counsel enable complainants to contact them and file new grievances via email. Beyond addressing several comments inquirers made, this would allow individuals a quick and free way to file. Although the Chief Disciplinary Counsel does currently offer filing online via a submission portal, some inquirers expressed concern about the formatting of the grievance when submitted this way and worried that if the system was not working properly, the Chief Disciplinary Counsel would not receive their forms. Instituting an email submission would eliminate many of these issues with seemingly minimal additional work.

²⁷ As mentioned above and reflected in the types of complaints highlighted in the previous section, only a couple respondent-attorneys contacted the Ombudsman. The recommendations in this report reflect the disparity between the large number of comments received from complainants and almost complete lack of input from respondents. However, this is not meant to set a precedent for the content of future reports, which will include recommendations for improvements to benefit respondents if comments received in subsequent reporting periods warrant them.

Recommendation 2: Send Acknowledgement Communication to Complainants to Confirm Receipt of Grievances

As discussed above and reflected in the Inquiry Type chart, many individuals contacted the Ombudsman to ask about a pending grievance. Often, the complainant had filed a grievance but had no idea whether or not it was received by the Chief Disciplinary Counsel's office. To alleviate this confusion, it would be beneficial for the Chief Disciplinary Counsel's office to send a confirmation communication when a filing is received that lets the complainant know their submission was successful. Of course, this process could be somewhat automated to the extent permitted by technology and should be done in the manner that puts the least amount of strain on the Chief Disciplinary Counsel's staff. If possible, the communication should include a reference number that the complainant could cite when contacting staff about their particular filing. Additionally, the letter could provide information about the grievance process, such as crucial deadlines and statutory timeframes, next steps, and answers to common questions. Even though this information is duplicative of information already readily available on the State Bar of Texas' website, it could prove to be very helpful to complainants who often submit grievances without fully reading all materials. This will undoubtedly lead to less confusion about the process and hopefully eliminate at least some of the complaints related to a lack of communication. Even though this change will likely require some additional work to implement, it will also probably reduce the amount of time and resources the State Bar of Texas and the Ombudsman spend responding to inquiries about the status of grievance filings.

Recommendation 3: Provide Regular Status Updates to Complainants during the Investigation Phase

To address inquirers' complaints about the lack of communication during the process and the comment that they do not believe that the investigators assigned to handle their complaints are doing their due diligence, the Ombudsman recommends that the investigators provide regular status updates to the complainant during the investigation process. The Chief Disciplinary Counsel's office is given sixty (60) days to make a just cause determination²⁸ but the investigation phase can often last much longer when extensions are requested and granted. As such, complainants can be left in limbo for months without knowing if any progress is being made. The Ombudsman understands that the investigators are often assigned many grievances and may not have additional time to provide these updates. Therefore, most of these status communications could be short, such as a one or two sentence summary of the investigation status. The important aspect of this recommendation is that the updates be given on a regular basis, such as every month. Not only will this keep the complainants informed, it will reassure them that the investigator continues to diligently work on their grievance.

Recommendation 4: Provide a More Detailed Explanation to Complainants upon Dismissal of Grievances

Lastly, the Ombudsman recommends increased transparency during the dismissal process. As explained above, numerous inquirers complained about this issue and it led many to conclude that the process itself was corrupt or biased against complainants. More openness in the decision-making process would probably not eliminate these feelings but might alleviate them. This recommendation echoes one voiced by the Texas Sunset Advisory Committee in its report.²⁹ Although the Chief Disciplinary Counsel's office

²⁸ Tex. R. Disciplinary P. 2.12(A)(1).

²⁹ Tex. Sunset Advisory Comm'n, *supra* note 1, at 36 ("The chief disciplinary counsel should revise its current form letters to include both an explanation of how the grievance system works and more specific reasoning for grievance dismissals, when

has revised its dismissal letters to accommodate the Texas Sunset Advisory Committee's suggestions, it remains one of the most common complaints the Ombudsman received so perhaps additional revisions or improvement could be made. Additionally, the complaints around this issue seemed to create the most anger and feelings of injustice among inquirers who raised critiques of the State Bar of Texas. As such, it appears it would be a worthwhile exercise to examine the problem again. In particular, in situations where an attorney's activity could arguably violate a disciplinary rule but is too minor or vague to warrant investigation or utilization of precious resources, it would be helpful to better articulate this reasoning in dismissal letters. Currently the dismissal letters use generic language, which leads to the complaints described earlier in the report.³⁰

One recommendation in this area was already relayed to the Chief Disciplinary Counsel's office, and they indicated that they would fix the issue. In particular, an inquirer contacted the Ombudsman to ask about her options after her grievance was dismissed as an inquiry. As the inquirer noted and as the Ombudsman explained to the Chief Disciplinary Counsel's office, the wording on the dismissal letter was confusing. In particular, the letter tells complainants that they have two choices following a dismissal: "1. Amend your grievance and re-file it ... **OR** 2. Appeal this decision to dismiss your grievance to the Board of Disciplinary Appeals."³¹ The inquirer was confused and wanted to know if you choose to appeal to the Board of Disciplinary Appeals, whether you can subsequently amend and re-file your grievance if the dismissal is affirmed. The wording of the letter suggests that if you choose to appeal to the Board of Disciplinary Appeals, you lose the ability to amend and re-file. She cited Rule 2.10 of the Texas Rules of Disciplinary Procedure as evidence that amending after a Board of Disciplinary Appeals dismissal was intended. In that statute, it explicitly provides that "[i]f the Board of Disciplinary Appeals affirms the classification as an Inquiry, the Complainant will be so notified and may within twenty days amend the Grievance one time only by providing new or additional evidence."³² When the Ombudsman went through this discrepancy with a member of the Chief Disciplinary Counsel's office, she agreed that the letter is confusing and noted that they will fix wording to reflect the statute.

CONCLUSION

During this reporting period, the first one since the creation of the office, the Ombudsman experienced a steep learning curve wherein it had to create a website to inform the public of its role and abilities, devise a database to track every inquiry into its office, draft the various documents needed to respond to public inquiries and establish standard operating procedure for the assorted demands on its time. While the Ombudsman found the attorney discipline system and programs that support it to be professionally and skillfully run, improvements can always be made to better serve the public and further its mission of overseeing the legal profession in Texas. The Ombudsman anticipates that the operation of its office can similarly make improvements in the years to come and strives to operate more efficiently and more effectively assist the public during the coming reporting term.

applicable. ... This recommendation would help complainants understand the discipline system and improve public satisfaction with the process overall.").

³⁰ See *supra* pp. 6-8.

³¹ Dismissal Letter, *supra* note 19.

³² Tex. R. Disciplinary P. 2.10.