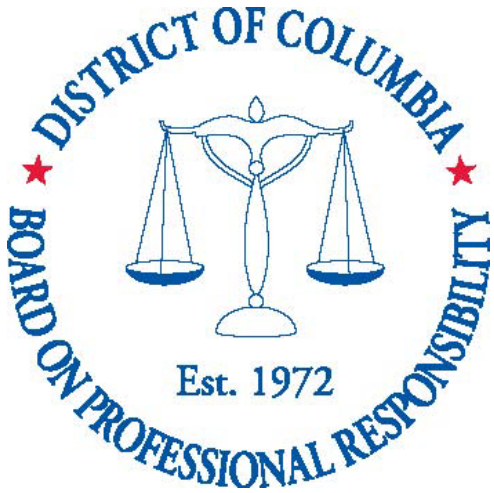
DISTRICT OF COLUMBIA
BOARD ON PROFESSIONAL RESPONSIBILITY



Annual Report

August 1, 2020 – July 31, 2021

430 E STREET, N.W., SUITE 138
WASHINGTON, D.C. 20001

Telephone: (202) 638-4290
Facsimile: (202) 638-4704

www.dcattorneydiscipline.org

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ANNUAL REPORT

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Introduction

The Board on Professional Responsibility is the adjudicative arm of the District of Columbia Court of Appeals, responsible for the administration of the attorney disciplinary system and the adjudication of cases of attorney misconduct against members of the District of Columbia Bar and others who fall within the Court's disciplinary jurisdiction. The attorney disciplinary system enforces the D.C. Rules of Professional Conduct, which were adopted by the Court to protect the public from unethical attorneys and to preserve the integrity of the legal profession.

Disciplinary cases are adversarial proceedings, prosecuted by the Office of Disciplinary Counsel, and heard by Hearing Committees, which consist of two active D.C. Bar members and a member of the public who is not a lawyer. Hearings are normally held in Courtroom II of the Historic Courthouse of the District of Columbia Court of Appeals, at 430 E Street, N.W., Washington, D.C. 20001. All hearings are open to the public. The hearing schedule may be found on the Board's website www.dcattorneydiscipline.org.

Hearing Committees issue reports and recommendations, which include findings of fact, conclusions of law, and a recommendation as to sanction, and which are reviewed by the Board on Professional Responsibility in most instances. The Board consists of seven active members of the D.C. Bar and two members of the public who are not attorneys. The Board normally hears oral argument in Courtroom II. The oral argument schedule, and a link to the live stream of oral argument, are available on the Board's website.

Board members are appointed by the D.C. Court of Appeals. Hearing Committee members are appointed by the Board. All Board and Hearing Committee members serve without compensation.

The Office of Disciplinary Counsel is charged with the investigation and prosecution of disciplinary complaints. It is located in Building A of the Superior Court, at 515 5th Street, N.W., Suite 117, Washington, D.C. 20001.

The Board's Office of the Executive Attorney supports the Board in its administrative functions and supports the Board and the Hearing Committees in their adjudicatory functions. It is located in Suite 138 of the Historic Courthouse.

The Staff Directories of the Office of Disciplinary Counsel and the Office of the Executive Attorney may be found on the Board's website.

This report summarizes the activities of the Board, the Hearing Committees, and the Office of Disciplinary Counsel during the period August 1, 2020 – July 31, 2021, which comprised the 2020-21 Board term.[1]

Due to the COVID-19 pandemic, the Board and the Hearing Committees did not hold in-person proceedings during the 2020-21 Board term. The Board continued its meeting schedule, with meetings conducted over Zoom videoconference. Oral argument before the Board and hearings before Hearing Committees were all conducted over Zoom beginning on June 23, 2020.

Board Review

The Board reviews Hearing Committee reports and recommendations in contested disciplinary cases, as well as motions for temporary and disability suspension, and motions to dismiss petitions for reinstatement filed by the Office of Disciplinary Counsel. The Board also considers negotiated discipline, criminal conviction, reciprocal discipline, and reinstatement cases referred by the Court of Appeals. In contested cases, the Board hears oral argument, issues disciplinary orders, and files reports and recommendations with the Court. The Chair of the Board is responsible for ruling on substantive and procedural motions, including motions to compel a response to a disciplinary complaint, for protective order, for deferral of disciplinary proceedings, as well as motions to recommend that the Court

[1] Annual reports issued prior to the 2017-18 report were prepared on a calendar year basis. Beginning with the 2017-18 report, the Board's annual reports discuss disciplinary system activity within a single Board term (August 1-July 31).

impose a temporary suspension, a disability suspension, or disbarment on consent, among others.

Board Members (2020-21)

Matthew G. Kaiser, Esquire, Board Chair, is the founding partner of KaiserDillon PLLC, representing clients in a range of litigation matters. Prior to founding the firm, he practiced law at Williams & Connolly, Zuckerman Spaeder, and the Office of the Federal Public Defender for the District of Maryland. Mr. Kaiser clerked for the Honorable Catherine Blake of the U.S. District Court for the District of Maryland. He is a graduate of Georgetown University Law Center, *magna cum laude*.

Lucy Pittman, Esquire, Board Vice Chair is an Assistant Attorney General in the Office of the Solicitor General, Office of the Attorney General for the District of Columbia, representing the District of Columbia in civil and administrative appeals. She has worked at the Office of the Attorney General (OAG) since 2003, serving in a variety of positions, and is the intern and fellowship coordinator for the OAG's Office of the Solicitor General. She is a graduate of American University, Washington College of Law.

Elissa J. Preheim, Esquire, is a litigation partner at Arnold & Porter, focusing on SEC and Public Company Accounting Oversight Board (PCAOB) enforcement actions and complex commercial and environmental litigation. Prior to joining Arnold & Porter, Ms. Preheim clerked for the Honorable Bruce W. Selya of the U.S.

Court of Appeals for the First Circuit. She is a graduate of Indiana University Maurer School of Law, *summa cum laude*.

Bernadette Sargeant, Esquire, is a partner at Stinson LLP, where she counsels and represents clients in a range of employment law issues. Prior to joining Stinson, Ms. Sargeant represented private industry clients in her own practice and served as an Assistant United States Attorney. She is a graduate of the University of Michigan School of Law.

Sundeep Hora, Esquire, is a partner at Alderman, Devorsetz & Hora PLLC, where he represents individuals and businesses in contract disputes, employment litigation, and personal and business torts (*i.e.*, defamation, fraud, economic interference). Mr. Hora clerked for the Honorable Marvin J. Garbis of the United States District Court for the District of Maryland. He is a graduate of American University, Washington College of Law.

Sara K. Blumenthal, is retired from the National Park Service where she served as the Deputy Associate Regional Director for the National Capital Region. In that position, Ms. Blumenthal managed multi-discipline staff with responsibility for legislation and Congressional liaison, among numerous other duties.

Margaret M. Cassidy, Esquire, founded Cassidy Law PLLC, a firm that advises corporate clients on compliance issues, and defends clients in government investigations. Prior to founding Cassidy Law PLLC, Ms. Cassidy has experience

as in-house counsel, as well as a Senior Deputy Attorney General and an Assistant District Attorney in Pennsylvania.

Robert L. Walker, Esquire, is Of Counsel at Wiley Rein LLP, where he represents clients in federal and state ethics advisory and investigative matters (including in connection with financial disclosure obligations), in internal investigations, and in prosecutions arising under campaign finance, fraud, public corruption, and other criminal laws. Mr. Walker is a former Chief Counsel and Staff Director of the Senate and House ethics committees and is a former federal prosecutor.

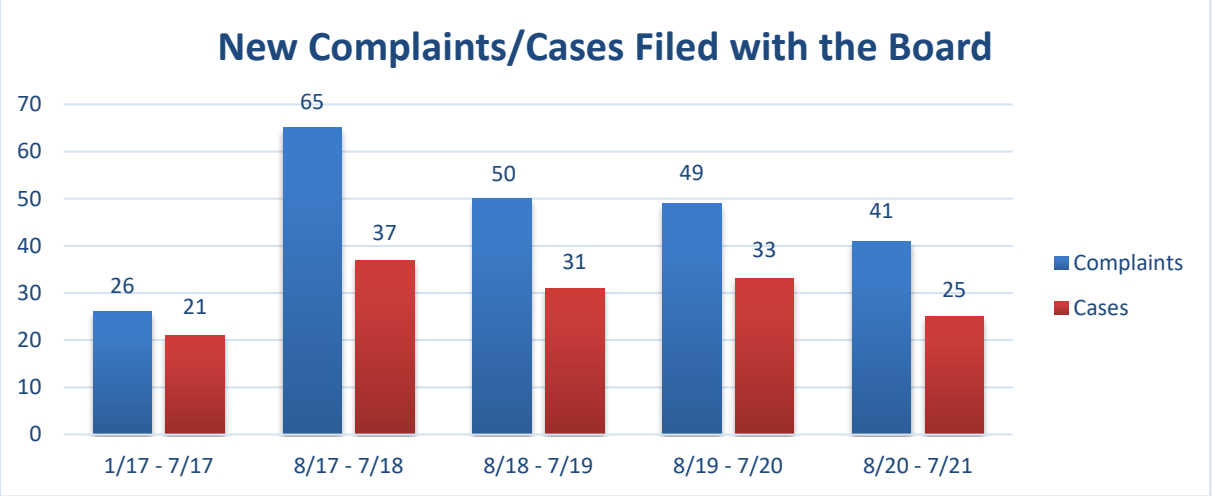
Mary C. Larkin, is retired from Street Law, Inc., where she was the Director of International Programs. Street Law is a nonprofit organization based in Washington D.C., that develops model public legal education programs in which citizens learn practical information about law, human rights, democracy and citizens' responsibilities and rights. Ms. Larkin worked in civic/democracy education programs for citizens from various venues, including high school youth, delinquent and at-risk youth, women's groups, grassroots NGOs and disabled citizens. She developed Street Law's court program for youth who are on probation that is replicated throughout the United States.

Board Activity in the 2020-21 Board Term

During the period August 1, 2020 through July 31, 2021, 25 new cases involving 41 individual disciplinary complaints were filed with the Board.[2] These cases included 4 Hearing Committee reports (consisting of 9 complaints), 2 criminal cases referred from the Court of Appeals, 3 negotiated discipline matters referred to the Board by the Court of Appeals (consisting of 5 complaints), and 16 additional cases (consisting of 25 complaints), which included motions to accept consent to disbarment, motions to dismiss petitions for reinstatement, temporary suspensions based on a respondent's misconduct, requests to appoint counsel upon an attorney's death pursuant to D.C. Bar R. XI, § 15, and motions to petition the Court for disability suspensions.

Table 1 shows the number of new cases (and the related number of complaints) filed with the Board from 2017 through the 2020-21 Board term.

TABLE 1



[2] Multiple disciplinary complaints may be consolidated in a single case brought by Disciplinary Counsel.

During 2020-21 Board term, the Board disposed of 38 cases (covering 62 complaints), including 23 reports and recommendations (covering 37 complaints) filed with the Court of Appeals. The recommendations addressed 12 contested petitions instituting formal disciplinary proceedings (covering 20 complaints), 8 motions to accept consent to disbarment (covering 13 complaints), 1 matter arising out of a criminal conviction, and 2 negotiated discipline matters referred to the Board from the Court (covering 3 complaints). Additionally, the Board dismissed 4 original cases (covering 10 complaints), dismissed 3 petitions for reinstatement, referred 1 reinstatement matter to a Hearing Committee, and referred 1 criminal matter to a hearing committee. The Board also recommended that the Court appoint a lawyer to protect the interest of clients whose lawyer had died, pursuant to D.C. Bar R. XI, § 15, in 3 cases, granted Disciplinary Counsel's motion to petition the Court for temporary suspension based on misconduct in 2 matters, and petitioned the Court for a disability suspension based on a respondents' representation that they suffered from a disability in 1 case. The Chair of the Board issued 90 orders. Board members approved Disciplinary Counsel's recommendations for diversion in 8 docketed complaints.

Table 2 shows the total number of cases (and the related number of complaints) resolved by the Board from 2017 through the 2020-21 Board term.

TABLE 2

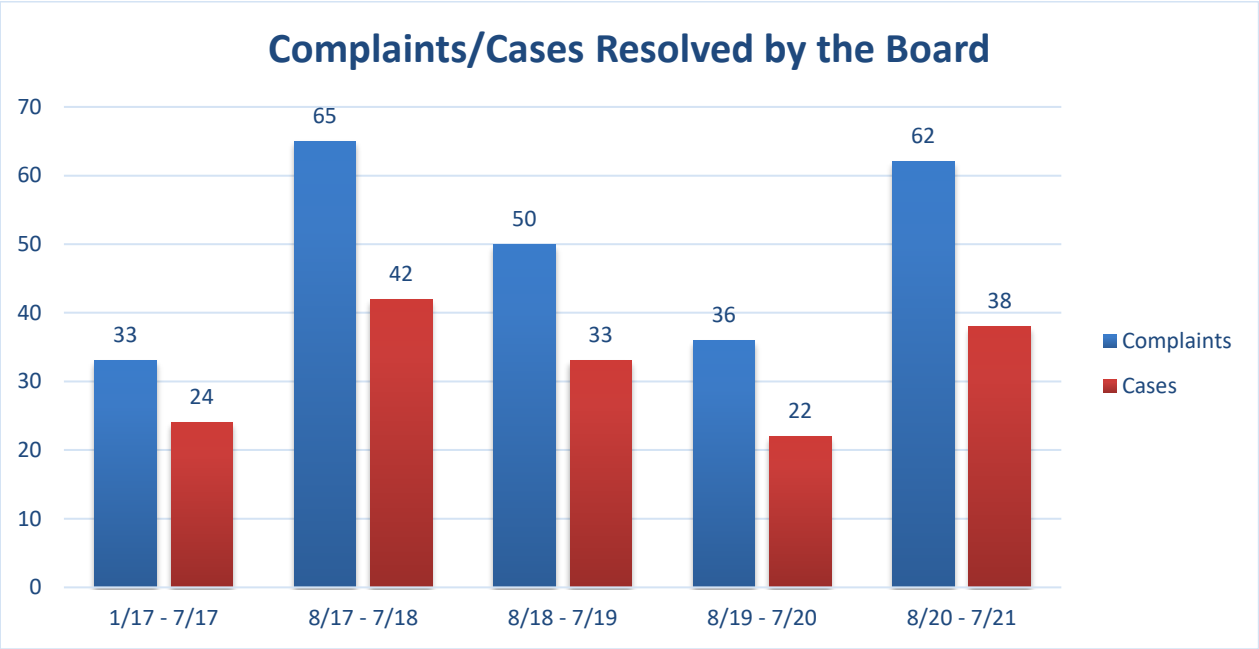


Table 3 shows the number of orders issued by the Chair of the Board from 2017 through the 2020-21 Board term.

TABLE 3

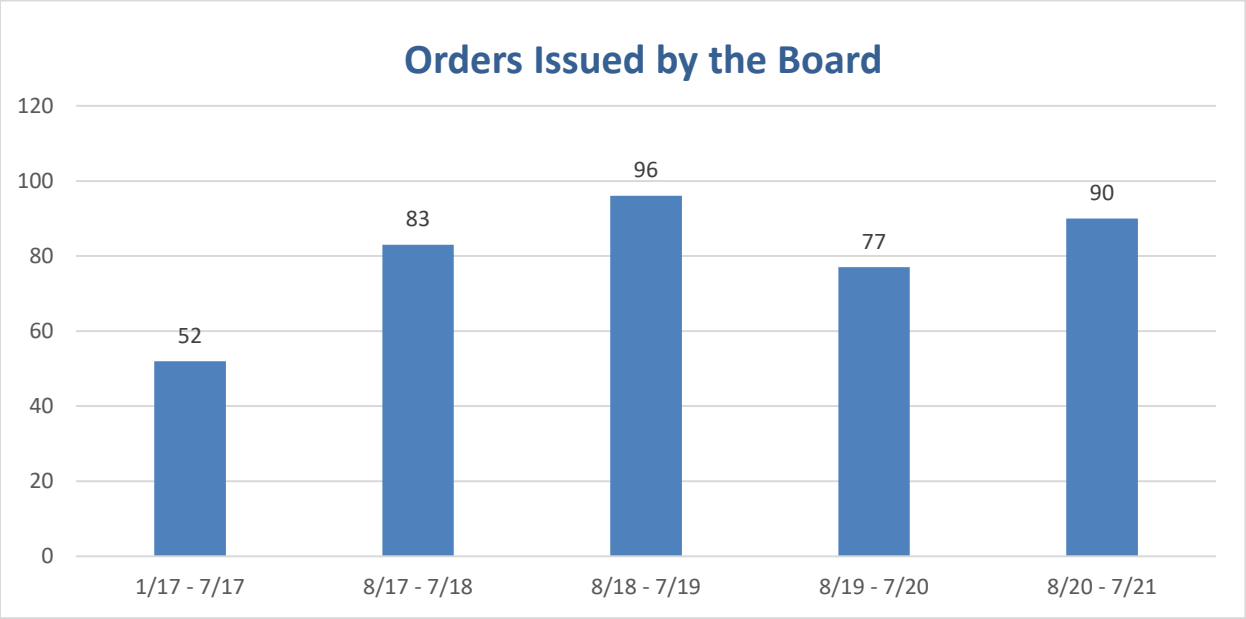
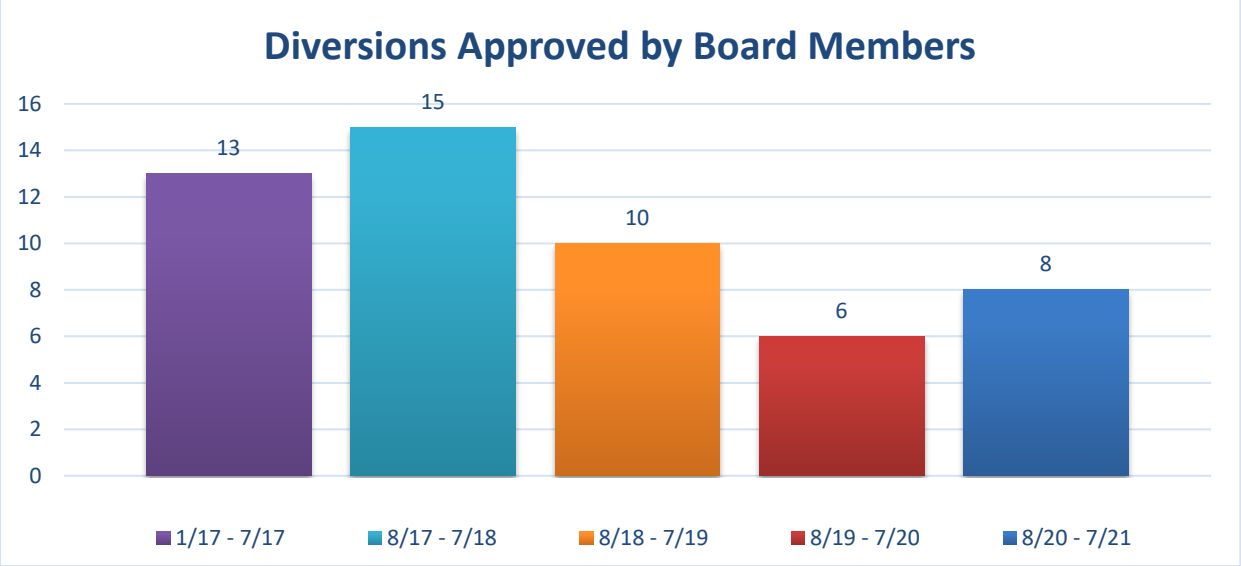


Table 4 shows the number of diversion agreements approved by Board members from 2017 through the 2020-21 Board term.

TABLE 4



As of July 31, 2021, there were 5 pending matters before the Board: 3 cases awaiting oral argument and 2 cases awaiting report.

The Hearing Committees

The Board maintains a large roster of active D.C. Bar members and non-attorney members of the public, who serve on the Board's 12 standing Hearing Committees, on Ad Hoc Hearing Committees, or as alternate Hearing Committee members. The Board has continued its efforts to maintain a broad range of professional experience and diversity on the Hearing Committees. Active members of the D.C. Bar and members of the public who are interested in serving on a Hearing Committee are encouraged to contact the Office of the Executive Attorney.

Hearing Committees conduct full evidentiary hearings on Disciplinary Counsel's petitions instituting formal disciplinary proceedings and in contested reinstatement cases. Following the close of the evidentiary hearing in a contested discipline case, the Hearing Committee prepares a report with written findings of fact, conclusions of law, and a recommended sanction, which is filed with the Board. Reports in contested reinstatement cases are filed directly with the Court. Hearing Committees also conduct limited hearings on petitions for negotiated discipline. Before the limited hearing, the Hearing Committee may review Disciplinary Counsel's investigative file *in camera* and meet with Disciplinary Counsel *ex parte* to discuss the basis for Disciplinary Counsel's recommendation for negotiated discipline. The Hearing Committee files a report directly with the Court if it recommends the approval of negotiated discipline. Where it does not, it issues an order rejecting the petition for negotiated discipline.

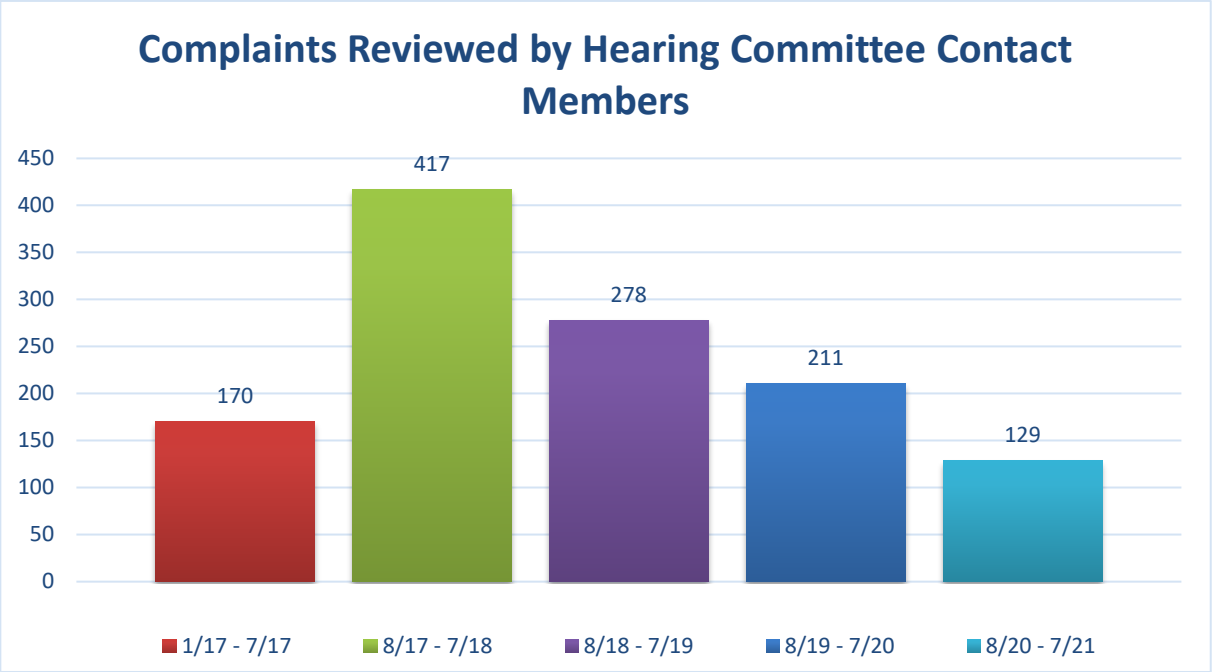
The current roster of Hearing Committee members is available on the Board's website.

Hearing Committee Activity During the 2020-21 Board Term

During the period of August 1, 2020 – July 31, 2021, Hearing Committee Contact Members reviewed Disciplinary Counsel's recommended disposition of 129 docketed complaints. Contact Members approved Disciplinary Counsel's recommendations to dismiss 96 docketed complaints, to issue Informal Admonitions in 8 complaints, and to file formal disciplinary charges in 25 complaints.

Table 5 shows the number of docketed complaints reviewed by Contact Members from 2017 through the 2020-21 Board term.

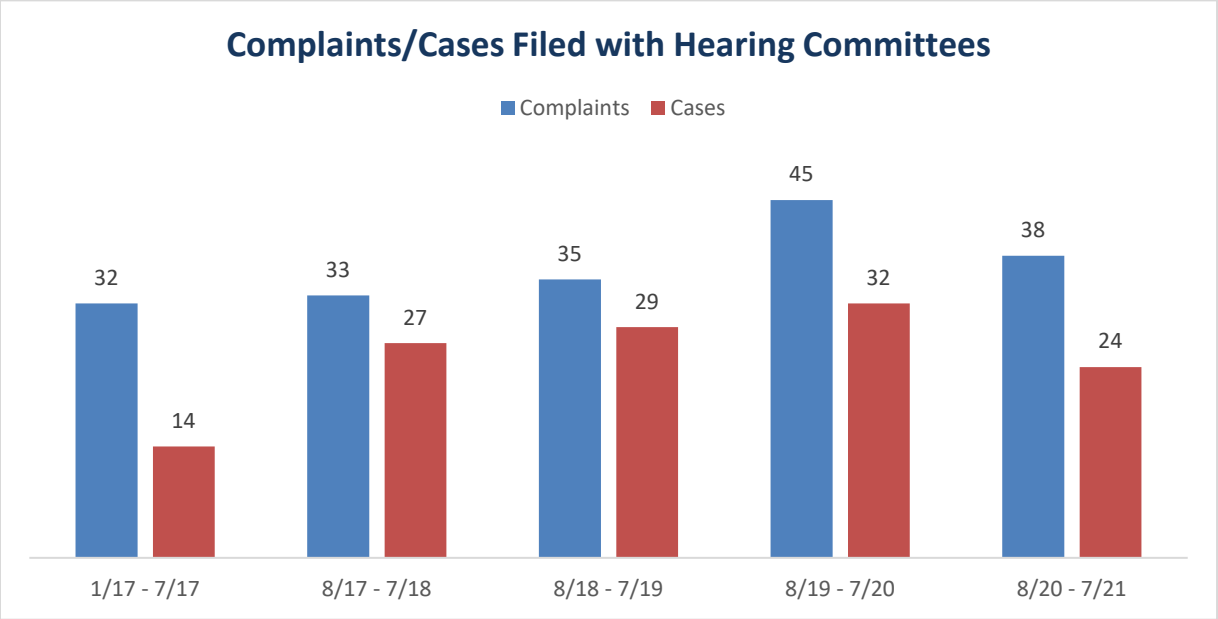
TABLE 5



Twenty-four new cases were filed with the Hearing Committees during the 2020-21 Board term: 8 petitions instituting formal disciplinary proceedings (covering 18 complaints), 7 petitions for negotiated discipline (covering 10 complaints), 2 motions to quash a subpoena (covering 3 complaints), and 7 petitions for reinstatement.

Table 6 shows the total number of cases (and the related number of complaints) filed with the Hearing Committees from 2017 through the 2020-21 Board term.

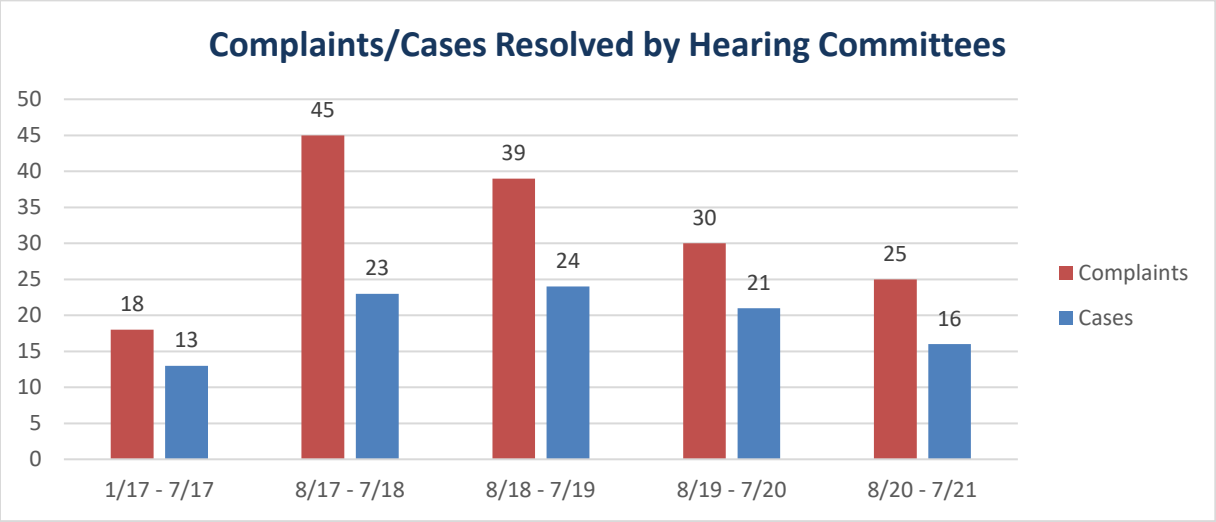
TABLE 6



During the 2020-21 Board term, the Hearing Committees conducted 26 pre-hearing conferences, held 100 days of hearings, issued 4 reports (covering 9 complaints) in contested cases, issued 9 reports recommending approval of petitions for negotiated discipline (covering 12 complaints), and rejected 1 petition for negotiated discipline (covering two complaints).

Table 7 shows the total number of cases (and the related number of complaints) resolved by the Hearing Committees from 2017 through the 2020-21 Board term.

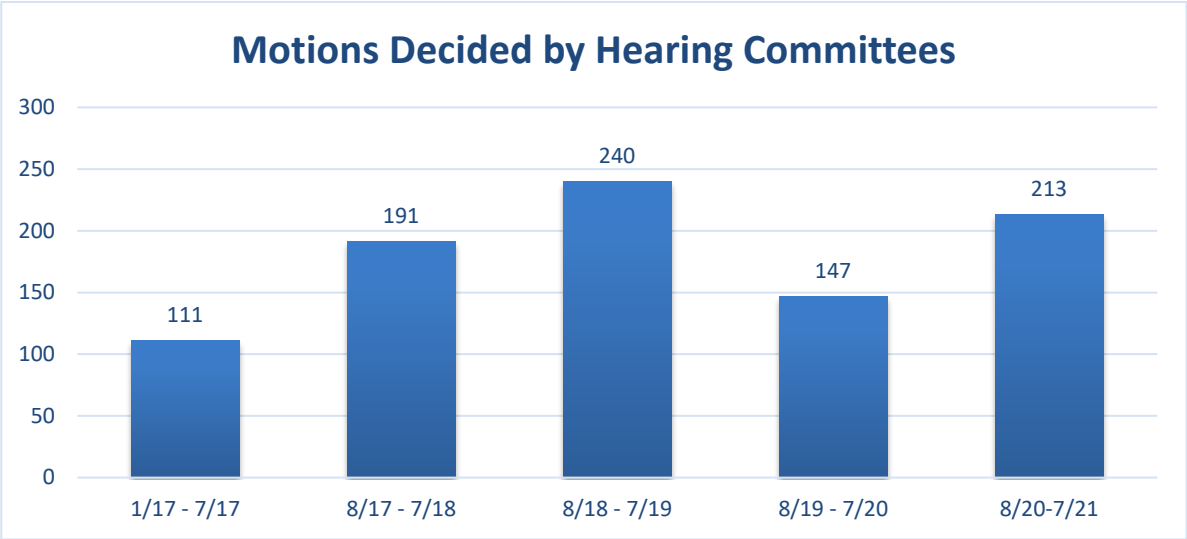
TABLE 7



Hearing Committees also decide evidentiary and procedural motions. During the 2020-21 Board term, Hearing Committees issued 213 orders.

Table 8 shows the number of orders issued from 2017 through the 2020-21 Board term.

TABLE 8



Negotiated Discipline

Tables 9 and 10 show the number of petitions for negotiated discipline (and related number of complaints) filed and resolved by the Hearing Committees from 2017 through the 2020-21 Board term.

TABLE 9

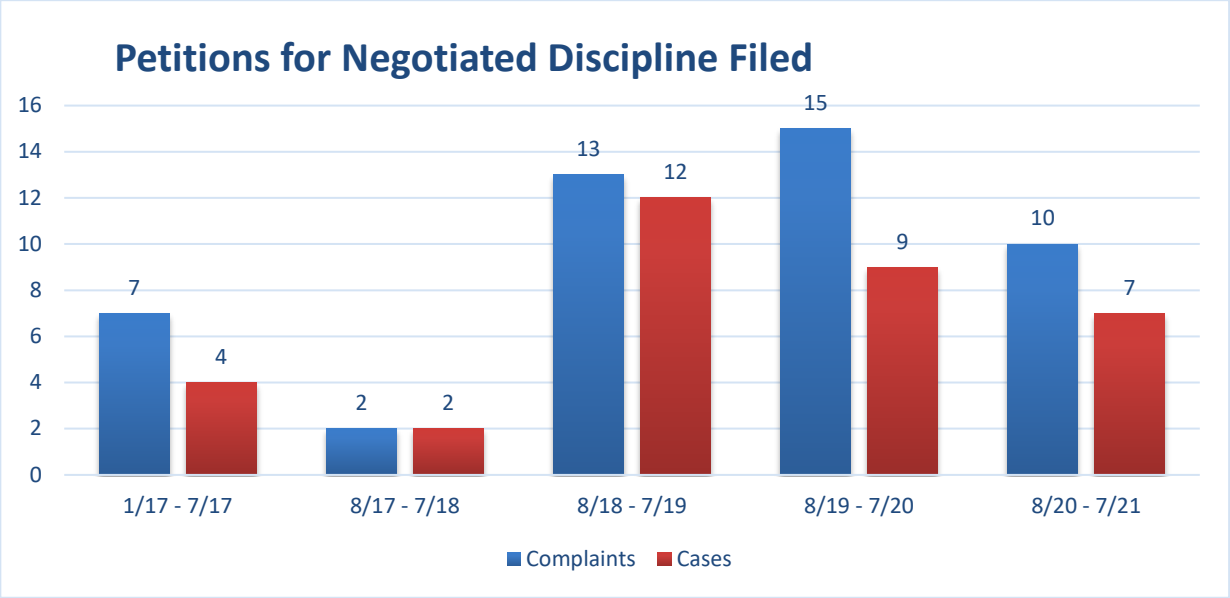
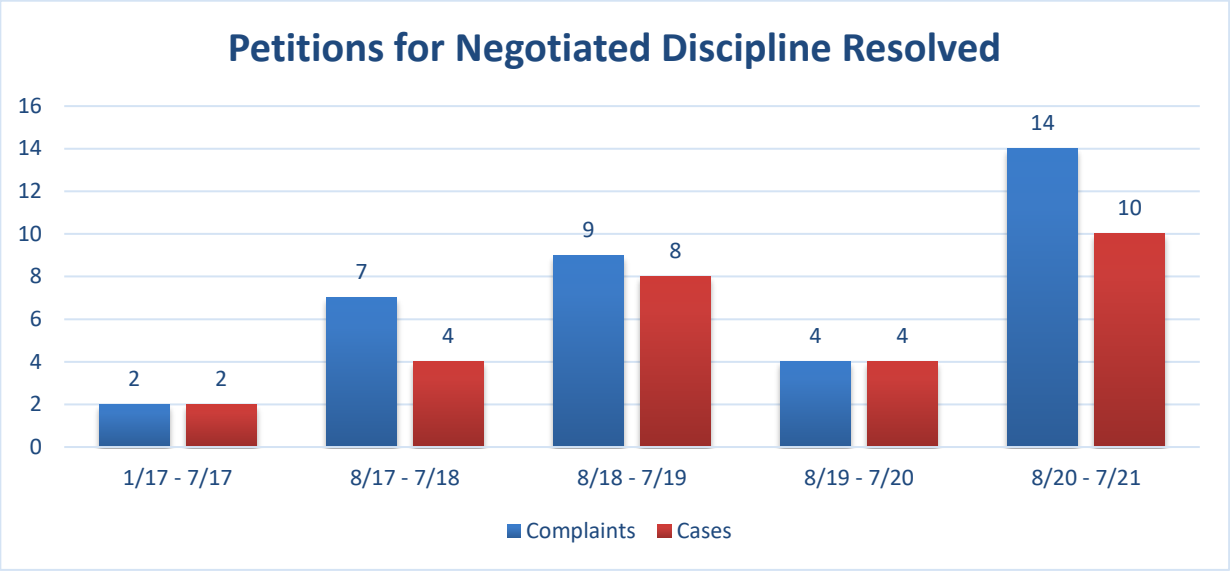


TABLE 10[3]



[3] Does not include petitions that were withdrawn.

At the end of the 2020-21 Board term, 40 cases (involving 62 complaints) were pending before Hearing Committees.[4] Of the cases pending before Hearing Committees, 23 cases (involving 38 complaints) were contested, 8 cases (involving 8 complaints) were reinstatements, 7 cases (involving 12 complaints) were petitions for negotiated discipline, and 2 cases (involving 3 complaints) were motions to quash.

The Office of Disciplinary Counsel

The Office of Disciplinary Counsel investigates all complaints and allegations of ethical misconduct and recommends dispositions ranging from dismissal, diversion, and the issuance of an informal admonition to a petition for negotiated discipline or the institution of formal charges. The Office of Disciplinary Counsel has a dual function: to protect the public and the courts from unethical conduct by members of the D.C. Bar and to protect members of the D.C. Bar from unfounded complaints.

Where formal charges are filed, the Office of Disciplinary Counsel prosecutes the charges before a Hearing Committee, the Board, and ultimately the D.C. Court of Appeals.

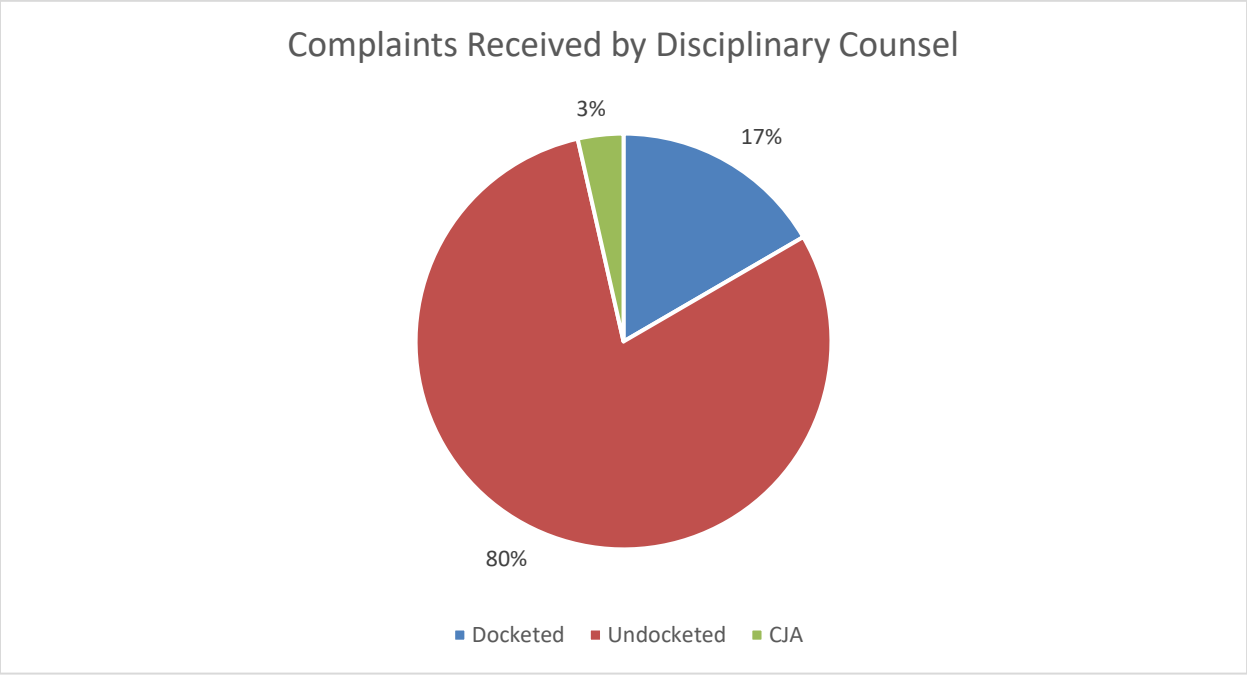
[4] Not included in the pending cases before the Hearing Committees are 6 cases (involving 11 complaints) held in abeyance due to disability. Of the pending cases, 3 cases (involving 5 complaints) are counted twice because a petition for negotiated discipline was filed after a contested matter had already started.

During the period August 1, 2020 through July 31, 2021, 1,468 complaints were filed with the Office of Disciplinary Counsel. When a disciplinary complaint is filed, Disciplinary Counsel conducts a preliminary review or inquiry. Where the complaint does not provide a basis to open a formal investigation or where Disciplinary Counsel does not have jurisdiction, the complaint is treated statistically as an undocketed matter. Of the 1,468 complaints filed in the 2020-21 Board term, the Office of Disciplinary Counsel opened 244 docketed complaints for formal investigation. A docketed complaint is sent to the respondent attorney for a response, and the response is sent to the complainant for comment. Disciplinary Counsel also opened 1172 undocketed complaints, where it concluded there was no basis for a formal investigation. When Disciplinary Counsel does not formally investigate a complaint, a letter is sent to the complainant explaining Disciplinary Counsel's decision.

Disciplinary Counsel also received 52 complaints from criminal defendants, or "CJA Complaints." Disciplinary Counsel conducts a preliminary inquiry into CJA Complaints, and any complaints that are not docketed for investigation are handled in the same way as undocketed matters.

Table 11 shows the breakdown of complaints received by Disciplinary Counsel in the 2020-21 Board term.

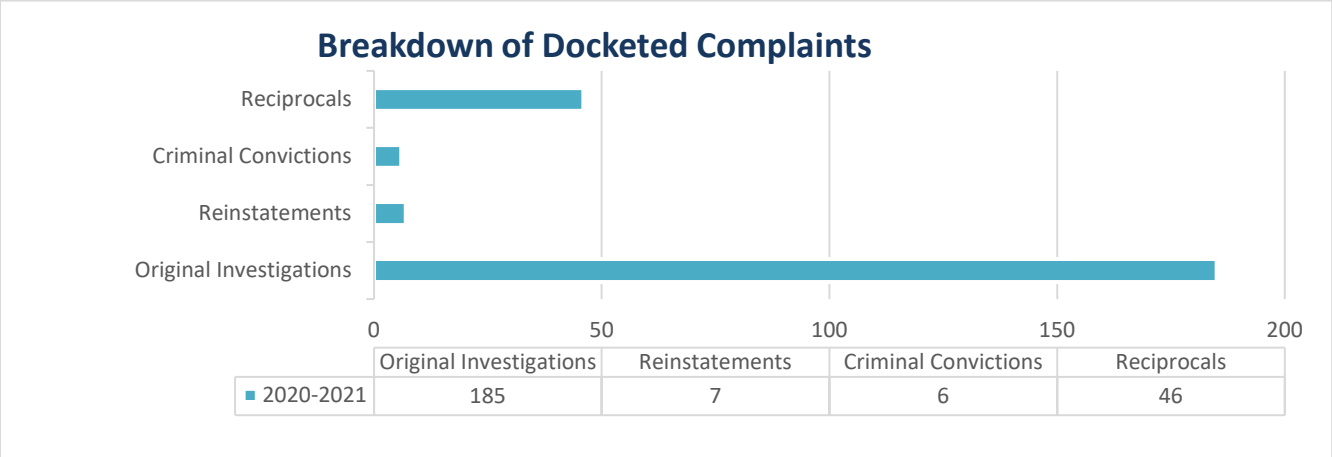
TABLE 11



Docketed complaints consist of original investigations, reciprocal discipline cases, cases involving criminal convictions, and petitions for reinstatement filed by lawyers who were disbarred or suspended with the requirement to demonstrate fitness to practice prior to reinstatement.

Table 12 shows the breakdown of docketed complaints during the 2020-21 Board term.

TABLE 12



Fiscal Matters

The attorney disciplinary system is funded by Bar dues. Maintaining an effective and efficient disciplinary system at a reasonable cost to Bar members is a primary goal of the Board. Funding for the Board and the Office of Disciplinary Counsel was 25.28% of license fees in the Bar's approved dues funded budget in Fiscal Year 2020-21 and is 27.42% of license fees in the Bar's approved dues funded budget for Fiscal Year 2021-22.

Conclusion

The Board appreciates the cooperation and support of the District of Columbia Court of Appeals, the Superior Court of the District of Columbia, the District of Columbia Bar, and the staffs of the Office of the Executive Attorney and the Office of Disciplinary Counsel. The Board particularly wishes to acknowledge all those who serve as members of the Hearing Committees, as practice and financial monitors, and as Special Bar Counsel, and especially those former Hearing Committee and Board members who, having already given generously of their time, continue to support the work of the Board. The dedicated service of all of these individuals makes possible the effective functioning of our disciplinary system.

January 2022