

VIRGINIA STATE BAR DEPARTMENT OF PROFESSIONAL REGULATION



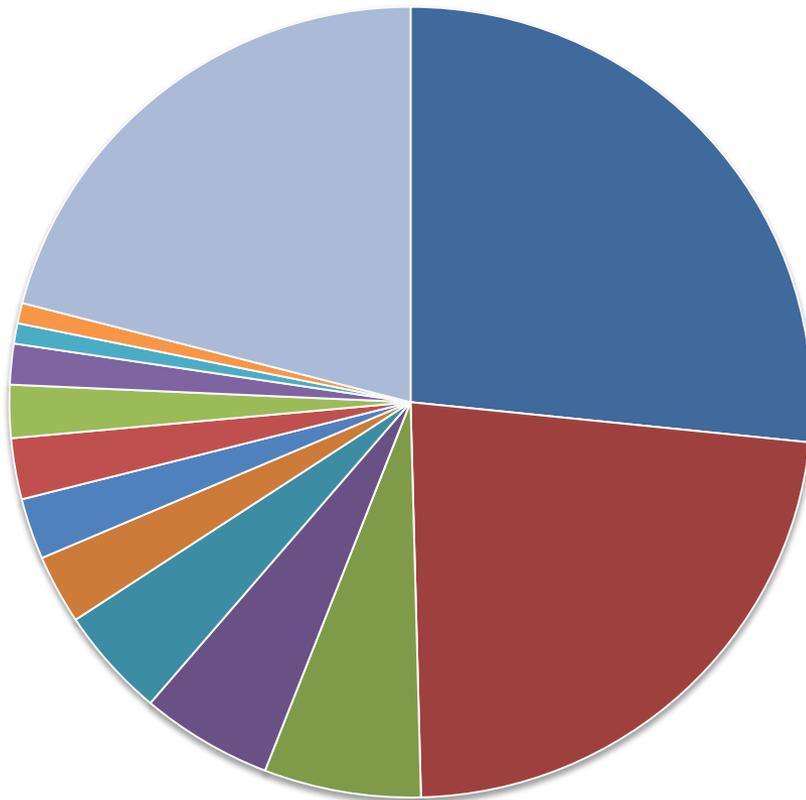
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Richmond, Virginia
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VA Disciplinary Statistics

- 3,346 total inquiries received in FY 2015
- 3,546 received in FY2014
- 3,713 received in FY 2013
- 3,867 received in FY 2012
- 3,762 received in FY 2011
- 3,759 received in FY 2010
- 1,511 (45%) of the total inquiries pertained to criminal practice.
- 2,053 – 61% were resolved summarily at the initial Intake level with no action taken.
- 635– 19% were resolved through proactive investigations by Intake
- 645 – a little over 19% were formally opened and assigned to bar counsel for investigation.

VA - Areas of Law

Investigations



- Criminal
- Family Law
- Civil Litigation
- Estate planning
- Trust Account Overdrafts
- Real Estate
- Immigration
- Collections
- Foreclosures
- Traffic
- Landlord/Tenant
- Taxation
- Miscellaneous

Total VA Investigations - 645

- 160 Criminal Practice
- 138 Family Law
- 38 Civil Litigation
- 36 Personal Injury Practice
- 35 Bankruptcy
- 32 Estate Planning and Administration
- 27 Trust Account Overdrafts
- 17 Real Estate Practice
- 15 Immigration
- 15 Collections
- 13 Foreclosures
- 10 Traffic Offenses
- 5 Landlord/Tenant
- 5 Taxation
- 99 Miscellaneous matters in 21 other areas of law

Staffing Requirements for Intake Department

- 1 full-time lawyer (Intake Counsel) and 2 part-time lawyers (Deputy Intake Counsel and Assistant Intake Counsel) who review every complaint that comes to the bar.
- These lawyers, acting under the authority granted to Bar Counsel, exercise their discretion in determining whether attorney Misconduct can reasonably be inferred from the bar complaint allegations.
- 2 legal assistants receive nearly 250 pieces of written correspondence each week and analyze each letter to determine whether it is a new complaint, a post-dismissal correspondence (Rebound) from a closed complaint, or correspondence related to one of the several hundred pending complaints.
- For each new complaint, the legal assistants create the computer file on the bar's IBIS computer . The legal assistants receive 25 to 30 telephone calls each day from lawyers' clients – many of whom are disgruntled and agitated. They meet with members of the public who walk-in to the bar and keep track of three lawyers in the Intake Department.



Virginia State Bar

An agency of the Supreme Court of Virginia

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PROFESSIONAL REGULATION

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How to File a Misconduct Inquiry About a Lawyer

If you have concerns regarding the conduct of a lawyer, you may submit your inquiry to the Virginia State Bar. The following information will tell you about how the Virginia State Bar deals with inquiries concerning a lawyer's conduct and how you may make an inquiry.

To **download an inquiry form** or print more copies of this pamphlet, please click on the link below:

[Inquiry Form](#) (PDF File)*

To submit your misconduct inquiry online, please click the following link: <http://vsbc.vipnet.org/>. To obtain a copy of the printed pamphlet, contact the VSB Intake Office at (804) 775-0570. Callers outside the 804 area code may dial toll free 1-866-548-0873.

ADDITIONAL INFO

[Not sure whom to call?](#)

[Public Disciplinary Hearings](#)

[Examples of recent disciplinary actions taken](#)

[Professional Guidelines and Rules of Professional Conduct](#)

LAWYER'S ACTIONS COMPLAINED OF *(continued)*

List the names, addresses, and phone numbers of persons who might be able to give additional information about your inquiry:

PLEASE ANSWER THE FOLLOWING QUESTIONS:

1. Have you or a member of your family contacted us about this lawyer before? yes no
If yes, please state when you made the inquiry and the outcome of that inquiry. _____

2. Have you filed a complaint or legal action about this matter anywhere else? yes no
If yes, state where and the outcome. _____

3. Describe your relationship to the lawyer who is the subject of your Inquiry by choosing from the following:
 I am the lawyer's client
 I am the lawyer's former client
 I am a relative or friend of the lawyer's client
 I am an opposing party
 I am an opposing lawyer
 Other
If Other, please explain: _____
4. What is the nature of your legal case? When was the lawyer employed or appointed to represent you? How much money, if any, was the lawyer paid to represent you? _____

5. Is your concern only that you think the lawyer charged you too much? yes no
If yes, you should contact the bar at (804) 775-9423 for information on fee dispute resolution.
6. Have you read the pamphlet describing the bar's attorney disciplinary process? yes no

WHO FILES BAR COMPLAINTS

- **The client:** Most bar complaints are filed by the lawyer's client.
- **The concerned relative:** Parents, Spouses, and friends frequently file complaints on behalf of their incarcerated child, spouse, or friend.
- **The Judge:** From time to time, the bar receives complaints by judges against the lawyers who practice before them.
- **Self-report:** Rule 8.3(e) of the Rules of Professional Conduct require lawyers to inform the bar if the lawyer has been disciplined by a state or federal disciplinary authority, agency or court in any state, U.S. territory, or the District of Columbia for violations of professional conduct in that jurisdiction. The lawyer must report any felony convictions and convictions for crimes involving theft, fraud, extortion, bribery or perjury, or attempts, solicitation, or conspiracy to commit such crimes. A recent amendment to the Rule requires the report to be in writing to the Clerk of the Disciplinary System at the Virginia State Bar within 60 days following the entry of any final order or judgment of conviction or discipline.

- **The concerned citizen:** Occasionally, citizens will forward newspaper articles concerning the publicized conduct of lawyers. These Complainants have no personal knowledge of misconduct, but feel the need to voice their concern.
- **Other lawyers:** Rule 8.3(a) of the Rules requires lawyers having reliable information that another lawyer violated an ethics rule that raises a substantial question as to the lawyer's honesty, trustworthiness, or fitness to practice law have a duty to report the misconduct to the bar.
- **The BAR:** in the course of investigating misconduct, the BAR investigator or Assistant Bar Counsel may discover conduct by the lawyer or some other lawyer that violates the Rules of Professional Conduct.

WHAT action can the Intake Office take after reviewing a complaint?

- **Dismissal with no inquiry directed to the Respondent.**
- Membership records indicate that the Respondent is deceased;
- The Respondent's license was previously revoked;
- The Complainant is seeking legal advice from the bar;
- The situation described appears to concern a fee dispute which does not allege any concerns under misconduct rules;
- The Complainant requests that bar to review a particular court case to determine if the judge or jury made a correct decision;
- The Complainant wants to complain about a judge acting within his or her judicial capacity;
- The Inquiry concerns the client's dissatisfaction with the quality of a lawyer's representation. This applies to civil and criminal cases. The bar does not investigate or discipline a lawyer solely on the quality of the lawyer's advice or strategy;
- The Complainant requests that bar to investigate his or her lawyer concerning the client's guilty plea;
- Complaints that the lawyer was rude;
- Complaint against the lawyer who refused to follow client's direction when compliance with the client's request would have violated the Rules of Professional Conduct. Client sought assistance in committing illegal act.

Request additional information from the Complainant

- Intake will frequently request additional detail or documentation to help the bar understand the complaint and to allow the bar to make an informed decision as to whether the complaint should be dismissed at Intake or assigned to Bar Counsel for further investigation.
- a. The Complainant fails to state the name of the lawyer and it appears from the complaint that the matter should be investigated.
- b. The complaint may involve the terms of an agreement or statements made by defense counsel in correspondence or other documents; however, the complainant did not provide the bar with a copy of the document.
- c. The Complainant fails to provide sufficient detail to enable the bar to determine whether the conduct complained might be misconduct.

Assign the case to Bar Counsel or an Assistant Bar Counsel for further investigation.

- Based solely upon what the Complainant reports with no request for information from the lawyer. Examples of cases opened:
 - i. Lawyer failed to promptly respond to the client's reasonable requests for information about the client's legal matter;
 - ii. Lawyer failed to act with reasonable diligence and promptness in representing the client;
 - iii. Lawyer has a conflict of interest – representing a client against another current client; representing a current client against a former client in the same or substantially related matter; lawyer has a personal interest in the subject matter of the representation;
 - iv. Lawyer committed a criminal act;
 - v. Lawyer committed a dishonest act adversely affecting his fitness to practice law;
 - vi. Lawyer communicates with an adverse party who is represented by another lawyer;
 - vii. Lawyer commits a defalcation involving client monies held in lawyer's escrow account.
- Communications issues:

Investigate complaint through the Proactive Process

- *Virginia Supreme Court rules permit Bar Counsel to conduct an informal or abbreviated Investigation when a complaint involves minor allegations of Misconduct susceptible to early resolution.**
- 1. Client complains that lawyer will not send him his file after the representation terminates;
 2. Client complains that lawyer has not communicated with client for the last few weeks;
 3. Client complains that lawyer will not advise client on status of his legal matter;
- **Intake resolves approximately 700 bar complaints each year through the Proactive Process.*
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