



Incidence of Bar Discipline in Millennial Attorneys

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Incidence of Bar Discipline in Millennial Attorneys

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Abstract

Data on the numbers of attorneys disciplined by age, to include millennials (born 1980-1992) were obtained from the disciplinary organizations of 17 states and the District of Columbia, in order to determine whether millennial attorneys showed any increase in discipline as compared to older attorneys in decade groups older than millennials. Since attorneys generally are subject to high stress, anxiety, depression, and other mental disorders, as well as alcohol and substance abuse, and millennials are subject to increased incidence of mental disorders such as narcissism, whether millennial attorneys are exhibiting increasing disciplinary trends, which would require intervention, were reviewed and analyzed.

The results of the analysis of the most relevant data from the disciplinary organizations showed that millennials exhibit an increasing trend in disciplinary actions, starting only at a couple of years from the commencement of legal practice. The larger the Bar organization, the more this trend were exhibited in the millennial disciplinary data. However, the data underscores previous data that older attorneys are the most disciplined, and the number of millennials disciplined is relatively small overall. In addition, the data showed that while millennial attorneys are showing increases in disciplinary actions, older attorneys – while having the largest numbers overall - are trending downwards in discipline. The data indicates that, consistent with millennials' increased incidence of mental disorders, millennial attorneys exhibit increased disciplinary actions that should be monitored by Bar organizations and law firms, to prevent or ameliorate behaviors which would result in punitive measures.

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Table of Contents

Acknowledgments	iv
List of Tables	vii
List of Figures	viii
I. Introduction	1
Definition of Terms	2
II. Background	4
III. Methods of Attorney Disciplinary Data Collection	9
IV. Results of Analysis of Bar Disciplinary Data	13
V. Discussion	58
a. The larger the Bar, the larger the effect on millennial discipline	58
b. Millennials show disciplinary issues after only a few years of practice.....	60
c. Older attorneys are trending down in disciplinary behavior in contrast to millennials	61
d. There is no one-to-one correspondence between years of practice and age of attorneys disciplined	65
e. Comparison of data obtained is divergent from recent studies	67
i. Disciplinary rates by years-of-practice.....	67
ii. Percentage of attorney discipline in each decade by years-of-practice.....	68
iii. Comparison by age	71
f. Data results and observations	73
g. Study Limitations	78
i. Data is sparse and not comprehensive.....	78

ii. Disciplinary actions may not all be due to character traits or mental disorder	78
iii. Attorney discipline due solely to mental health issues are undetermined..	78
h. Direction for Future Work	79
i. Better data needed from the states.....	79
ii. Better investigations of attorneys being disciplined is needed	80
iii. Educational programs geared toward millennial attorneys are needed.....	81
iv. More data is needed on private reprimands.....	81
v. Personality testing for millennials could be considered.....	82
VI. Conclusion	83
Appendix.....	84
Bibliography	92

List of Tables

Table 1. (District of Columbia).....	15
Table 2. (Florida).....	18
Table 3. (Georgia).....	20
Table 4. (Maine)	24
Table 5. (New Mexico)	26
Table 6. (Oregon)	27
Table 7. (Texas)	30
Table 8. (Virginia).....	32
Table 9. (Washington).....	35
Table 10. (Wisconsin)	38
Table 11. (Arkansas)	41
Table 12. (Minnesota)	44
Table 13. (New Hampshire)	48
Table 14. (North Carolina)	50
Table 15. (Alaska)	52
Table 16. (California)	54
Table 17. (Mississippi)	55
Table 18. (Oklahoma)	57

List of Figures

Figure 1. (District of Columbia)	16
Figure 2. (Florida)	19
Figure 3. (Georgia)	21
Figure 4. (Maine)	25
Figure 5. (New Mexico)	26
Figure 6. (Oregon)	28
Figure 7. (Texas)	31
Figure 8. (Virginia)	33
Figure 9. (Washington)	36
Figure 10. (Wisconsin)	39
Figure 11. (Arkansas)	43
Figure 12. (Minnesota)	46
Figure 13. (New Hampshire)	49
Figure 14. (North Carolina)	51
Figure 15. (Alaska)	53
Figure 16. (California)	54
Figure 17. (Oklahoma)	57

Chapter I

Introduction

Research by psychiatrists shows that millennials have a somewhat higher incidence of personality disorder, such as narcissism, than the general population – namely, 9.4% compared to 6.2%.¹ When personality disorders exhibit themselves in the workplace, the result may be violations of employment law such as harassment or discrimination.² There is a great deal of literature on the problems attorneys face with substance abuse, stemming from stress and overwork caused by personality disorder, over years in the workplace.³ In particular, in a 2016 survey of 12,825 licensed, practicing attorneys, for alcohol use, drug use, and mental health issues such as anxiety, depression and stress, 20.6% of the attorneys showed harmful use of alcohol. Younger attorneys and those practicing for shorter durations were found to have a higher proportion of negative impact, with younger attorneys showing a higher score than older attorneys.⁴

This leads us to the question of whether younger attorneys – i.e., millennial attorneys – with an admittedly higher incidence of personality disorder than their legal professional peers (which is likely being displayed in the workplace), are revealing such incidence in Bar disciplinary data?

¹ Frederick Stinson, et al., "Prevalence, Correlates, Disability, and Comorbidity of DSM-IV Narcissistic Personality Disorder: Results from the Wave 2 National Epidemiologic Survey on Alcohol and Related Conditions", *J Clin Psychiatry* 69 (7) (2008): 1044.

² James J. Macdonald, Jr., and Paul R. Lees-Halsey, "Personality Disorders in the Workplace: How they may contribute to claims of employment law violations", *Employee Relations Law Journal* 22 (1) (1996) 57.

³ Dan Heilman, "Depression and Addiction can Lead to Disaster for Lawyers", *Minnesota Lawyer* (2013) 1.

⁴ Krill, Patrick R., Johnson, Ryan R., Albert, Linda R., "The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys," *Journal of Addiction Medicine* (2016), 10 (1): 46-52.

If millennial attorneys have an increased amount of personality disorder that makes them more prevalent to psychological issues in the workplace (i.e., exhibiting depression, anxiety, stress, etc.) then this should be shown in Bar disciplinary data. Further, with the high incidence of stresses placed on attorneys today, contributing to or exacerbating attorney psychological problems and resulting in destructive behavior, Bar disciplinary data should be used as a basis to implement specific Bar and law firm programs that prevent or ameliorate these issues for millennials.

Further, law firms and corporations could use this information to more carefully vet and select young attorneys when hiring, to potentially monitor these younger attorneys for potential workplace issues, and to provide support for the younger attorneys to prevent or ameliorate workplace problems that can have significant negative consequences for younger attorneys, their clients and their firms.

Definition of Terms

General Population of Attorneys: the general population of attorneys is defined as those over 37 years old (born prior to 1980).

Millennial: a millennial is a person who is born between 1980 and 2000, and also commonly known as Generation X.

Millennial attorney: a millennial attorney is defined as one between 25-37 years old (born 1980-1992).

Narcissistic Personality Disorder: Narcissistic personality disorder (NPD) is characterized by the American Psychiatric Association in the Diagnostic and Statistical Manual (DSM) of Mental Disorders, as a pervasive pattern of grandiosity, need for admiration,

interpersonal exploitiveness, and lack of empathy, beginning in early adulthood and manifesting in a variety of contexts.

Older attorneys: I will define “older attorneys” as non-millennials, or attorneys over 37 years old (born before 1980). I have also designated them as the “general population” of attorneys.

Personality Disorder: Personality disorder is defined by the American Psychiatric Association as an enduring maladaptive pattern of behavior, cognition, and inner experience, exhibited across many contexts and deviating markedly from those accepted by the individual’s culture. These patterns develop early, are inflexible, and are associated with significant distress or disability.

Size of Bars: I will define a “very large” Bar as one with over 100,000 members; a “large” Bar is one with 50,000-100,000 members; a “medium-sized” Bar is one with 20,000-50,000 members; a “small” Bar is 5,000-20,000 members; and a “very small” Bar is under 5,000 members.

Chapter II

Background

It is widely known from news reports that the legal profession is not exempt from psychological problems that result in malfeasance. In fact, headlines frequently resound with accounts of attorney misconduct⁵, some of which are egregious enough to rise to the level of criminal behavior⁶. There are even more appalling examples of attorney criminality, such as millennial couple Alecia and Andrew Schmuhl who tortured and stabbed the managing partner of Alecia's former law firm.⁷

However, these are only a small number of the attorneys in trouble that make the national news. Attorneys from all over the country are ending up in prison for various crimes – usually involving theft of clients' funds, or in failing in their duties to their clients, many failures of which are due to psychological disturbances. Examples of these attorneys include Tom Corea, a Dallas attorney who misappropriated \$3.8 million in client funds to finance his failing business and extravagant lifestyle, which misconduct he claimed all started due to his drug addiction for anxiety problems.⁸ Another example is Michael J. Burke, a Michigan attorney, who traded a

⁵ Littice Bacon-Blood, "New Orleans lawyer's misconduct draws public reprimand from state Supreme Court", *The Times-Picayune*, November 9, 2017, Accessed March 9, 2018,

http://www.nola.com/crime/index.ssf/2017/11/new_orleans_lawyers_misconduct.html. Attorney's misconduct related to attorney's unauthorized jailhouse meeting with men who testified against his client in murder trial.

⁶ Dennis Hoey, "Saco attorney who went to prison now suspended for professional misconduct", *Portland Press Herald*, September 18, 2017, Accessed March 9, 2018, <https://www.pressherald.com/2017/09/18/saco-attorney-suspended-for-professional-misconduct/>. Attorney who served time for money laundering suspended for misconduct for engaging in sexual acts with vulnerable client.

⁷ Chris Spargo, "Married lawyers charged in brutal stabbing of wife's boss in wealthy Virginia suburb after she was fired from her job", *Daily Mail*, November 13, 2014, Accessed February 27, 2017, <http://www.dailymail.co.uk/news/article-2833558/Married-lawyers-charged-brutal-stabbing-wife-s-boss-wealthy-Virginia-suburb-fired-job.html>.

⁸ Stephanie Francis Ward, "Lawyers who self-medicate to deal with stress sometimes steal from those they vowed to protect", *ABA Journal* (2015), Accessed February 27, 2017, http://www.abajournal.com/magazine/article/lawyers_who_self_medicate_to_deal_with_stress_sometimes_steal_from_those/.

drinking problem for a gambling problem, and was sentenced to three to 10 years in prison along with a \$1.6 million restitution fine, for gambling his clients' money away.⁹

Attorneys are susceptible to psychological issues such as substance abuse, depression and anxiety, at high rates.¹⁰ Further, studies show that attorneys are well-represented in the group of psychopaths, as much as are violently criminal populations, mercenaries, and corrupt politicians, with mental disorders including psychopathic traits like deception, egocentricity, impulsivity, irresponsibility, shallow emotions, lack of empathy, guilt or remorse, pathological lying, manipulateness, and the persistent violation of social norms and expectations.¹¹

The psychological issues which affect attorneys are usually caused by law firm stresses of work production, lack of autonomy, lack of civility, and other workplace tensions.¹² It is well known that law firms have for the most part, a hyper-competitive atmosphere and long hours, which can be psychologically draining.¹³ Burdensome work pressures can inculcate or exacerbate mental illness, and result in depression and addiction, causing attorneys to capitulate to misconduct or criminal impulses that could end up in reprimands, suspension, disbarment, or imprisonment.¹⁴ As the above news headlines have shown, if the risk to a law firm brought about by these pressures is not managed or addressed, then the adverse consequences can be highly detrimental, leading to the refund of client fees, sanctions, discrimination suits, criminal charges, and possible law firm disbandment.¹⁵

⁹ Heilman, "Depression and Addiction," 1-2.

¹⁰ Ward, "Lawyers who self-medicate."

¹¹ Bruce Green and Jane Campbell Moriarty, "Rehabilitating Lawyers: Perceptions of Deviance and its Cures in the Lawyer Reinstatement Process", *Fordham Urb. Law Journal* (2012), 162-163.

¹² Anne M. Brafford, "Building the Positive Law Firm: The Legal Profession at Its Best", *University of Pennsylvania Scholarly Commons*, Master's Thesis (2014), 17-18.

¹³ Brafford, "Building the Positive Law Firm," 16-20.

¹⁴ Brafford, "Building the Positive Law Firm," 16-20.

¹⁵ Anthony V. Alfieri, "Big Law and Risk Management: Case Studies of Litigation, Deals, and Diversity", *Georgetown Journal of Legal Ethics* (2011), 4.

In fact, the perceived pessimistic demeanor and outlook of attorneys, which serves their clients well, but which forces attorneys to keep an emotional distance from clients and stressful situations, is psychologically taxing, and contributes to attorneys' depressive feelings.¹⁶ Further, other factors contributing to attorneys' psychological disturbances include work addiction and sleep-deprivation, which cause pressures on personal relationships, and also contribute to depression and anxiety.¹⁷ In fact, suicide is one of the leading causes of premature death among attorneys.¹⁸

Statistics support the above conclusions, showing that 18 percent of attorneys in practice between two and twenty years have problems with alcohol, compared to 10 percent for the general population.¹⁹ Some studies reveal that attorneys in practice more than 20 years have a 25 percent alcohol abuse rate²⁰, but other studies state that the rate of alcohol-related problems among attorneys is actually much higher, at 70% over their lifetime compared to 13.7% of the population²¹. Additionally, some studies aver that attorneys are 3.6 times more likely to suffer from depression, and around 25% of attorneys who face formal disciplinary charges are suffering from addiction or mental illness.²²

In addition, notwithstanding the potential misconduct issues, simply taking note of the continual increase in the public's complaints regarding the unethical behavior of attorneys shows that dishonesty - even at low levels - is widespread. In fact, a small percentage of attorneys are considered consistently and dangerously dishonest, which character or personality traits can

¹⁶ Brafford, "Building the Positive Law Firm," 19. See also, Martin E.P. Seligman, *Authentic Happiness*, Atria Books, 2004, cited by Brafford.

¹⁷ Brafford, "Building the Positive Law Firm," 17-18.

¹⁸ Brafford, "Building the Positive Law Firm," 17-18.

¹⁹ Ward, "Lawyers who self-medicate."

²⁰ Ward, "Lawyers who self-medicate."

²¹ Brafford, "Building the Positive Law Firm," 17.

²² Heilman, "Depression and Addiction," 1.

easily result in unethical behavior²³ as exhibited by attorney Corea above.²⁴ Further, the rate of perceived dishonesty in attorneys may have an underlying cause of personality disorder.²⁵ Some argue that character is a portent of future conduct, and dishonesty, even in private dealings, can influence a attorney's professional conduct, and undermine the profession and bring harm to clients and the public.²⁶ Thus, character is very important, and personality traits that show a tendency to dishonesty would be important for law firm leaders to know before hiring such a person.

Studies show that millennials have psychological disorders such as narcissism, borderline personality disorder, anxiety, depression, etc., in a higher incidence than the general population.²⁷ For example, narcissism is on the rise generally, and non-clinical levels are prevalent in millennials, as well as more prevalent among attorneys than the adult population.²⁸ Destructive traits of high level of narcissism include a grandiose sense of self-importance, need for constant attention and admiration, extreme sensitivity to criticism, indifference, lack of empathy, and distortion of what others say.²⁹ Further, borderline personality traits include fear of abandonment, mood instability, unstable relationships, lack of anger management, and abuse and false accusations.³⁰ Narcissism has been shown to produce overt and covert counterproductive work behavior³¹, such as workplace aggression and incivility.³²

²³ Green and Moriarty, "Rehabilitating Lawyers", 140-141.

²⁴ Ward, "Lawyers who self-medicate."

²⁵ Green and Moriarty, "Rehabilitating Lawyers", 141.

²⁶ Green and Moriarty, "Rehabilitating Lawyers", 141.

²⁷ Stinson, et al., "Narcissistic Personality Disorder," 1044.

²⁸ Brafford, "Building the Positive Law Firm," 78.

²⁹ Brafford, "Building the Positive Law Firm," 78.

³⁰ Brafford, "Building the Positive Law Firm," 78-79.

³¹ Lisa M. Penney and Paul E. Spector, "Narcissism and Counterproductive Work Behavior: Do Bigger Egos Mean Bigger Problems?," *International Journal of Selection and Assessment* (2002), 10 (1-2): 126. Accessed March 11, 2017.

³² Brafford, "Building the Positive Law Firm," 78.

A recent study by Krill and Albert (hereafter the “Krill study”) of 12,825 attorneys across the nation showed that younger attorneys (less than 30 years old) and those in legal practice less than 10 years, had a significantly higher incidence of problem drinking than their older or more experienced peers.³³ Further, in this self-report study, younger attorneys (up to 40 years old), and those in practice less than 10 years, also showed the signs of increased mental health issues (depression, anxiety, stress), which correlated to drinking.³⁴

What has been missing in the research is whether the elevated levels of personality disorder in attorneys, particularly younger attorneys, has contributed to increased workplace problems resulting in disciplinary actions. Although the recent Krill study³⁵ shows that indeed younger attorneys suffer from more mental health issues and substance abuse than older attorneys, whether this has translated into disciplinary actions has not been previously studied. The information to date has only focused on self-reporting, such as the Krill study, or in media-reported egregious cases³⁶. Whether the Bar or disciplinary organizations are also dealing with higher incidences of disciplinary cases for younger attorneys vs. attorneys in the general population, has not been investigated.

³³ Krill and Albert, “The Prevalence of Substance Use,” 48-50.

³⁴ Krill and Albert, “The Prevalence of Substance Use,” 48-50.

³⁵ Krill and Albert, “The Prevalence of Substance Use,” 48-50.

³⁶ Bacon-Blood, “New Orleans lawyer’s misconduct”.

Chapter III

Methods of Attorney Disciplinary Data Collection

In order to investigate the incidence of millennials disciplinary actions, the disciplinary organizations of the 50 states and the District of Columbia, were contacted by letter, email, and phone call, to determine if it was possible to obtain attorney disciplinary data by year of birth, over the ten years 2006-2016, and 2017 if available. Attorney disciplinary organizations vary, and may be the state Bar, the state's Bar Overseers, or the state's judiciary. The Appendix shows a chart of each state's attorney disciplinary organization contacted, with a link to the disciplinary records of the relevant disciplinary organization's website.

In addition, the American Bar Association (ABA) and the Attorneys' Liability Assurance Society (ALAS) were also contacted to determine if they had any data on attorney discipline. The ABA only has the data from the states/district on disbarred attorneys³⁷, which is not kept by age, and ALAS has no data on the ages of any attorneys who utilized their services for malpractice claims.

In addition to the disciplinary organizations that were contacted, the Appendix also provides information on the number and type of requests made, the date any data was received from that state attorney disciplinary organization, if any, whether there was any open source data to be retrieved from a public website, and any other information relevant to the request for data. The data requested included the year of birth of the attorney disciplined, the year of discipline, and the data provided would normally include the type of infraction (i.e., dishonesty, embezzlement of funds, etc.), the disciplinary action taken, and sometimes the date of attorney

³⁷ The ABA's National Lawyer Regulatory Data Bank is the only national repository of information concerning public regulatory actions relating to lawyers throughout the United States. The data is available in each jurisdiction, but voluntary cooperation of court in forwarding orders to the ABA provides a single repository for the profession and the public. See https://www.americanbar.org/groups/professional_responsibility/services/databank.html.

entry into the Bar. In addition, the website of each of the states and the District of Columbia, were also reviewed for any relevant data.

The number of disciplinary organizations that provided information on attorney discipline by age, was relatively small (ten in total for the period of time requested). Many disciplinary organizations do not have the requested information or do not make it public. In fact, some states have privacy controls which negate their forwarding any, even sanitized data, on attorney discipline. The records are considered confidential and not releasable to the public. Others may have the data but not the resources to anonymize the data for external review, or the data was available but too cumbersome to be reviewed by hand, or even if digitized, there was no way to mine the data without utilizing outside programmers. Finally, some organizations did not have the data in complete, digitized form, which would simplify collating and organizing the data. One state had no digital records at all.

Further, even if a disciplinary organization had data on the age of the attorney involved in a disciplinary action, many did not have ten years of data. Some attorney disciplinary organizations had data by number of years of practice, which does not correlate exactly to year of birth data, as many attorneys are older than 25 years when they enter law school³⁸. This disparity in age continues to the higher years-of-practice data. Thus, the first 10 years of practice will include all millennials but may also include older attorneys of varying older ages. Note, however, that no young attorneys born in 1992 or earlier (post-millennials or Generation Z), were disciplined in any state or in the District of Columbia.

³⁸ Kim Dustman and Ann Gallagher, "Analysis of ABA Law School Applicants by Age Group: 2011-2015", *Law School Admissions Council*, January 2017, reports that half of all law school applicants are between 22-24 years old, but 30% are between 25-29 years old, and 20% are over 30 years old.

In addition, some disciplinary organizations kept data by age, but the age groups did not correlate exactly with the millennial age group (i.e., 25-35 years, instead of 25-37 years). Further, some states had data on the year of birth of the attorney disciplined, but only kept that data for a short period of time – i.e., 1-3 years. One state was able to digitize the records and retrieve the information for a fee, but all other states that provided the raw data requested, did so without a fee.

The Bar websites were useful for demographic data, such as the number of attorneys (active and total) in the Bar. Although many Bars published annual reports which contained a large amount of data regarding the number of complaints filed against attorneys, by whom filed, the number of complaints dismissed, and the number of complaints actually resulting in attorneys disciplined, as well the demographic data on attorney gender, residence, years of practice, etc., many did not include data by age. The Bar memberships range from “very large” Bars of over 100,000 members, “large” Bars of 50,000-100,000 members, “medium-sized” Bars of 20,000-50,000 members, “small” Bars of under 5,000-20,000 members, and “very small” Bars of under 5000 members.

Several states that provided the data requested for attorney discipline by age, provided the data in raw form which was collated and tabulated. In some cases, the data was provided in 5-year increments, which was recompiled into 10-year increments for consistency.

Reported infractions included, but were not limited to: criminal conduct, dishonesty, lack of competence, lack of diligence, lack of communication, conflict of interest, fees or trust account misuse, unwarranted claims, impugning a judge, harassment, disobedience of a tribunal, unauthorized practice of law, failure to cooperate, and supervision of office issues. Most attorneys had one or more infractions, and many were disciplined in different years. Certain data

provided the types of infractions and a narrative of circumstances that showed that mental issues were involved. A very small number of disciplinary organizations had data on diversionary programs to which attorneys were referred, but those numbers were very small (i.e., 1-2 attorneys in a given year for a particular disciplinary organization). From remarks at a recent conference on Attorney Discipline, it appears that the vast majority of attorneys do not self-report when they are suffering from mental or addiction issues, and the disciplinary organizations cannot ask the attorneys for privacy reasons.³⁹

Note that Private Reprimands (which, for example, the Texas Bar utilizes in increasing amounts)⁴⁰, or diversion programs to alcohol or drug treatment and which did not result in disciplinary action, and complaints which were resolved and did not proceed to disciplinary action, were not included in the datasets, or in the resulting statistics compiled herein.

The data obtained was tabulated, and then graphed, for easier review, and each of the Figures includes a corresponding data table which shows the data points used, particularly if the data was compiled in different increments than the original data.

Trends were determined from the data points in the line Figures, using a rough, best fit analysis. From the line Figures, millennial disciplinary trends can be evaluated with respect to that of older attorneys, to determine if the millennial attorneys have a higher incidence of disciplinary actions than the general population of attorneys, which can be attributed to greater incidence of personality disorder than the general population.

³⁹ From remarks by Ms. Lydia Lawless at The District of Columbia Bar, Continuing Legal Education Program, “Attorney Discipline Update 2018: District of Columbia, Maryland, and Virginia”, January 22, 2018, Washington, D.C.

⁴⁰ Data from Texas Bar Journal on Texas Bar website, http://heinonline.org/HOL/Index?collection=texbarj&set_as_cursor=clear&men_tab=srch&men_hide=false.

Chapter IV

Results of Analysis of Bar Disciplinary Data

The 18 organizations from which relevant attorney disciplinary data was obtained, are from the states of Alaska, Arkansas, California, Florida, Georgia, Maine, Minnesota, Mississippi, New Hampshire, New Mexico, North Carolina, Oklahoma, Oregon, Texas, Virginia, Washington, Wisconsin, and the District of Columbia (D.C.).

The data was divided into Groups I, II, and III states/district, based upon the type of data obtained. Group I states/district are the states/district which provided attorney disciplinary data in the requested format (approximately 10 years of data, with millennials in the 1980-1992 age group (ages 25-37 years), and the remainder being in subsequent 10-year age groups), or in a format close to that desired, but not in as granular a form.

Group II states include those that provided attorney discipline information by years of practice, preferably over the 10 years from 2007 to 2016 or 2017. Although attorneys practicing less than 10 years would include millennials, this group would also include older attorneys who became Bar members outside that age group.

Group III states include states that provided some miscellaneous attorney discipline information, where the data did not include age groups other than millennials, or only included 1-2 years of data on a small number of age groups.

Group I States:

The nine Group I states that provided information by attorney age include Florida, Georgia, Maine, New Mexico, Oregon, Texas, Virginia, Washington and Wisconsin. The District

of Columbia also provided the data in the desired format, for a total of ten state/district disciplinary organizations.

District of Columbia: The data provided by the D.C. Bar⁴¹ shows the number of millennial attorneys disciplined are relatively small in a very large 100,000+ Bar membership⁴², but shows steady increases over the years 2009-2016 (Table 1, Figure 1).⁴³ Millennials show a five-fold increase in discipline in 2010 from 1 to 5 attorneys, that number being doubled in 2012 from 5 to 10 attorneys, another doubling in 2014 to 20 attorneys, and an approximately 50% increase from 2014 to 31 attorneys disciplined in 2016. The trend is unmistakably upwards (Figure 1), although the data from the Washington D.C. Office of Bar Counsel shows that Bar disciplinary actions on millennial attorneys overall, is relatively smaller compared to older (middle-aged) attorneys, who normally provide the bulk of discipline⁴⁴.

In other statistics captured by the D.C. Bar, a similar trend was shown in attorneys admitted to the Bar in the last 10 years, with rates increasing approximately 300% from 2010 to 2014.⁴⁵ In contrast, older attorneys show a downward trend, with overall decreases from 2009 to 2016, in all age groups. Although 1970-1979 age group shows an uptick in 2016, the overall trend was downwards, and additional data going forward would be needed to see if this uptick was sustained, or would be followed by another lower number, continuing the downward trend. Attorneys born in 1929 and older (over 88 years) are relatively negligible with respect to

⁴¹ Data thanks to Mr. Lawrence Bloom, Office of Disciplinary Counsel, District of Columbia Bar.

⁴² "D.C. Bar 2020, A New Five Year Horizon", *DC Bar*, June 14, 2016, pages 1-15, 11.

⁴³ *Charts of Disciplinary Actions against Attorneys*, Office of Disciplinary Counsel, The District of Columbia Bar, Washington, D.C. (2009-2016).

⁴⁴ See Ward, "Lawyers who self-medicate", Brafford, "Building the Positive Law Firm", and Heilman, "Depression and Addiction".

⁴⁵ *Charts of Disciplinary Actions against Attorneys*, Office of Disciplinary Counsel, The District of Columbia Bar, Washington, D.C. (2009-2016)..

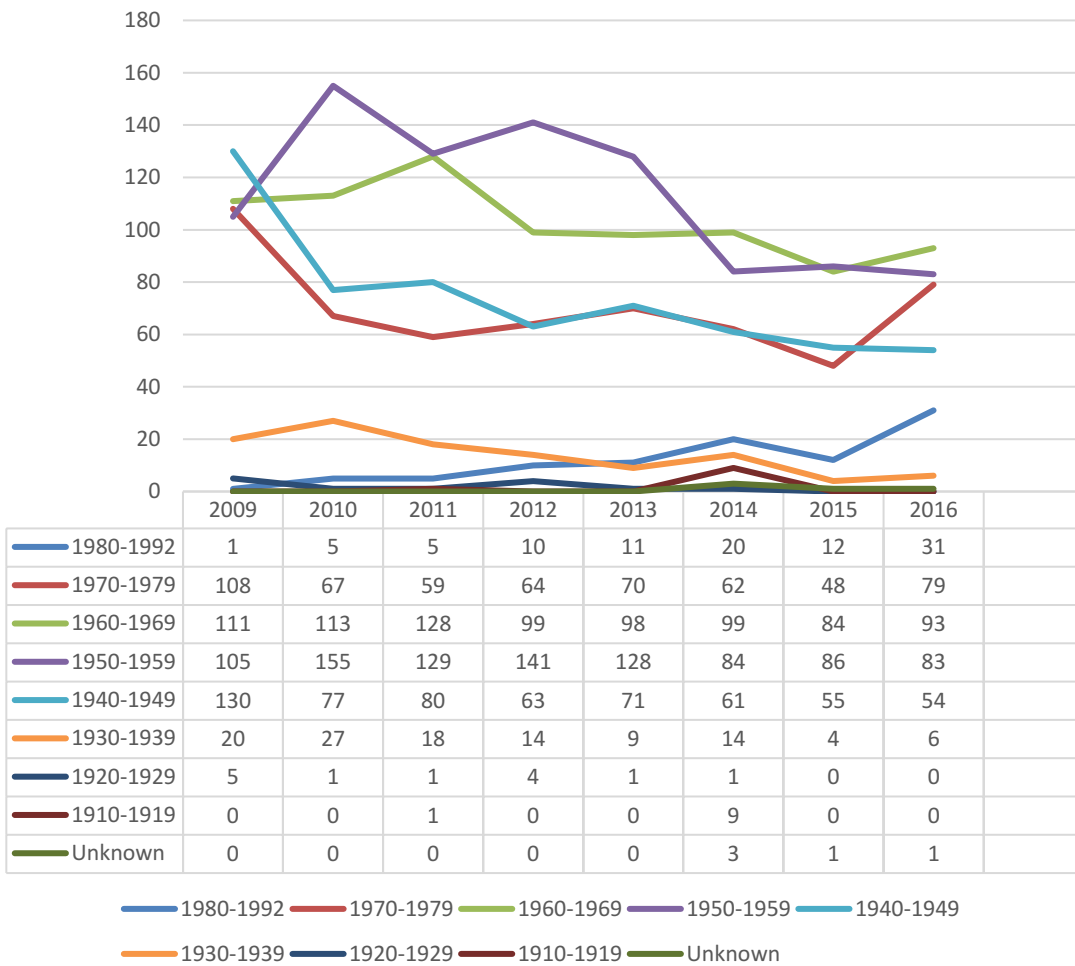
disciplinary actions, although it is surprising that any attorneys in this age group are still practicing.

TABLE 1

District of Columbia Bar Data

Attorney Misconduct by Year of Birth	2009	2010	2011	2012	2013	2014	2015	2016
1980-1992	1	5	5	10	11	20	12	31
1970-1979	108	67	59	64	70	62	48	79
1960-1969	111	113	128	99	98	99	84	93
1950-1959	105	155	129	141	128	84	86	83
1940-1949	130	77	80	63	71	61	55	54
1930-1939	20	27	18	14	9	14	4	6
1920-1929	5	1	1	4	1	1	0	0
1910-1919	0	0	1	0	0	0	0	0
Unknown	0	0	0	0	0	3	1	1
Total	480	445	421	395	387	344	290	347

Figure 1
District of Columbia



Florida: The Florida Bar website states that there are 92,030 members in good standing, of a total Bar membership of 106,108, which is a large Bar, only slightly smaller than the very large D.C. Bar.⁴⁶ From the Florida Bar website, in the five years from 2011-2016, more than 1,700 attorneys have been disciplined by the Florida Supreme Court including 430 disbarments/disciplinary revocations, 820 suspensions and 258 reprimands.⁴⁷ Although the

⁴⁶ See <https://www.floridabar.org/about/faq/#members>.

⁴⁷ See <https://www.floridabar.org/about/faq/#members>.

Florida Bar is similar in size to the D.C. Bar, the numbers of attorneys disciplined in Florida is about a third less than the D.C. Bar – although this fact is not necessarily dispositive of any particular cause.⁴⁸

The Florida Bar data (Table 2) shows an upward trend in millennial discipline, similar to the D.C. Bar (Figure 2).⁴⁹ Although there is a dip in disciplinary actions across the board in 2012 (reason unknown, but perhaps due to increased Bar programs addressing attorney issues, or other diversionary programs), this respite appears to be short-lived, and the numbers increase in 2013, before declining for all age groups except millennials (1980-1992) and the middle-aged group (1970-1979) (47-58 years) – i.e., showing an overall downward trend. The percentage increases from 2010 to 2015 for millennials is 400%, for example. Like the D.C. Bar, the number of millennial attorneys disciplined is small in 2009 (only 2 attorneys), but the trend is clearly upward until 2016, to a maximum of 18 attorneys.

With respect to the older attorney age groups, like the D.C. Bar, as noted above, the downward trend from 2007-2016 is clear, except for the 1970-1979 group (ages 47-58 years), which shows a stable disciplinary rate, but even this age group starts to decrease in 2016.

Like the D.C. Bar, there are a few attorneys born 1929 and older (over 88 years) who are still practicing, but whom are relatively negligible with respect to disciplinary actions.

⁴⁸ There are many reasons why each state/district has different rates of attorney discipline even with approximately the same number of attorneys. The differences could be attributed to the types of practices, age of the Bar members, the prevalence of Bar programs to address attorney disciplinary issues, including diversion programs, the geographic or demographic make-up of the Bar, etc.

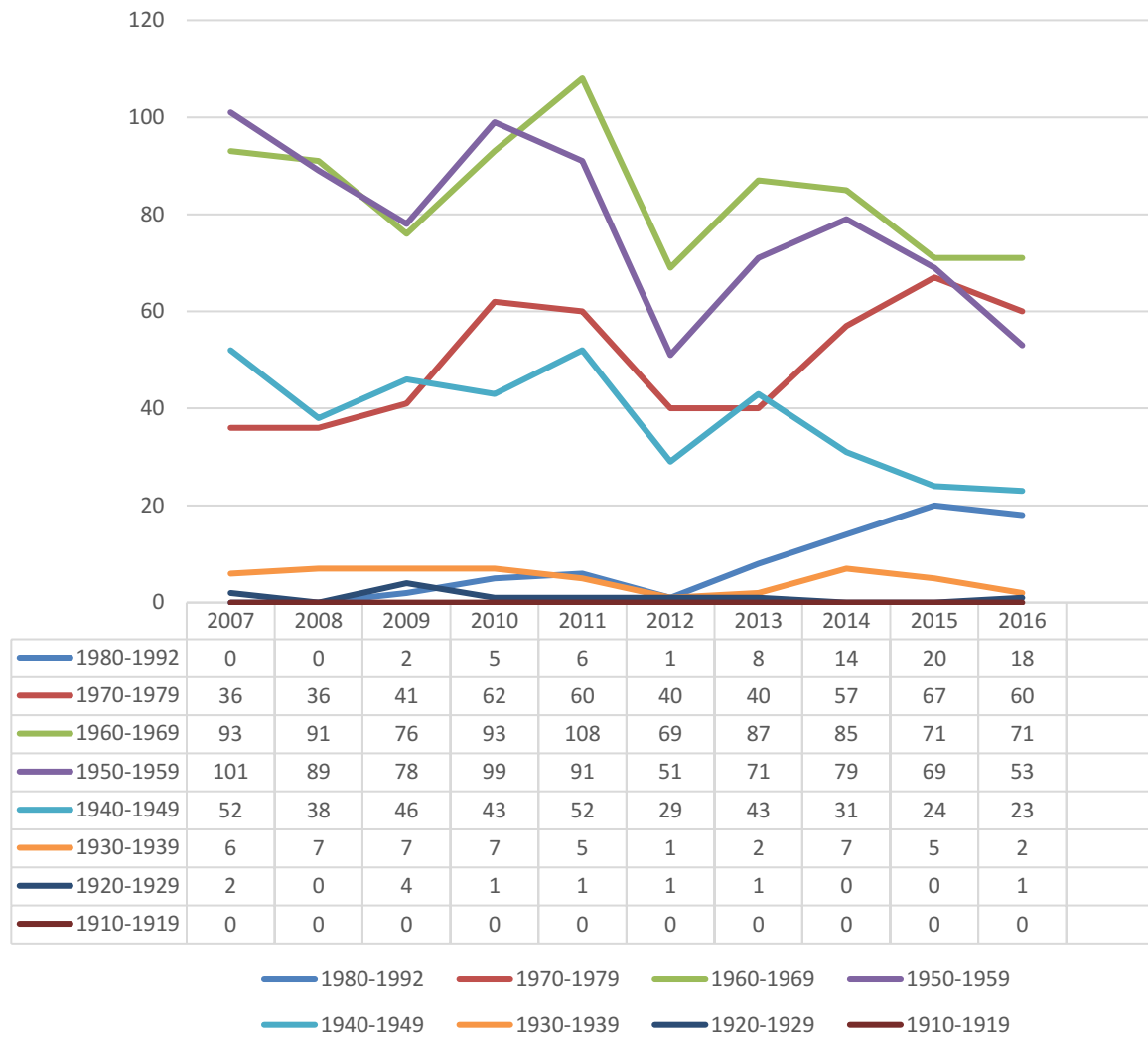
⁴⁹ Raw data thanks to Mr. Rick Courtemanche, Assistant General Counsel, The Florida Bar.

TABLE 2

Florida Bar Disciplinary Data

Attorney Misconduct by Year of Birth	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
1980-1992	0	0	2	5	6	1	8	14	20	18
1970-1979	36	36	41	62	60	40	40	57	67	60
1960-1969	93	91	76	93	108	69	87	85	71	71
1950-1959	101	89	78	99	91	51	71	79	69	53
1940-1949	52	38	46	43	52	29	43	31	24	23
1930-1939	6	7	7	7	5	1	2	7	5	2
1920-1929	2	0	4	1	1	1	1	0	0	1
1910-1919	0	0	0	0	0	0	0	0	0	0
Total	290	261	254	310	323	192	252	273	256	228

Figure 2
Florida



Georgia: Table 3 shows the disciplinary data received from the State Bar of Georgia.⁵⁰

The Georgia Bar is a medium-sized Bar of 38,289 members.⁵¹

⁵⁰ Raw data thanks to Ms. Jenny Mittelman, Deputy General Counsel, State Bar of Georgia.

⁵¹ See <https://www.gabar.org/aboutthebar/>.

Georgia has a Bar about a third of the size of that of D.C. and Florida Bars. However, as shown in Table 3 and Figure 3, the overall numbers of attorneys disciplined in Georgia, are about a fifth or sixth of the numbers of attorneys disciplined in Florida.⁵²

From the data, the millennial attorneys start showing a disciplinary history in 2010 with a single attorney, which doubles in 2014 to 2 attorneys, and then stabilizes thereafter. Other age ranges show an overall trend downwards, except for age group 1970-1979 (47-58 years), which increases from a low in 2009, but trends stably around 12-23 attorneys for 2015-2016. However, overall, in 2016, the numbers of disciplined attorneys are the lowest over the previous 10 years.

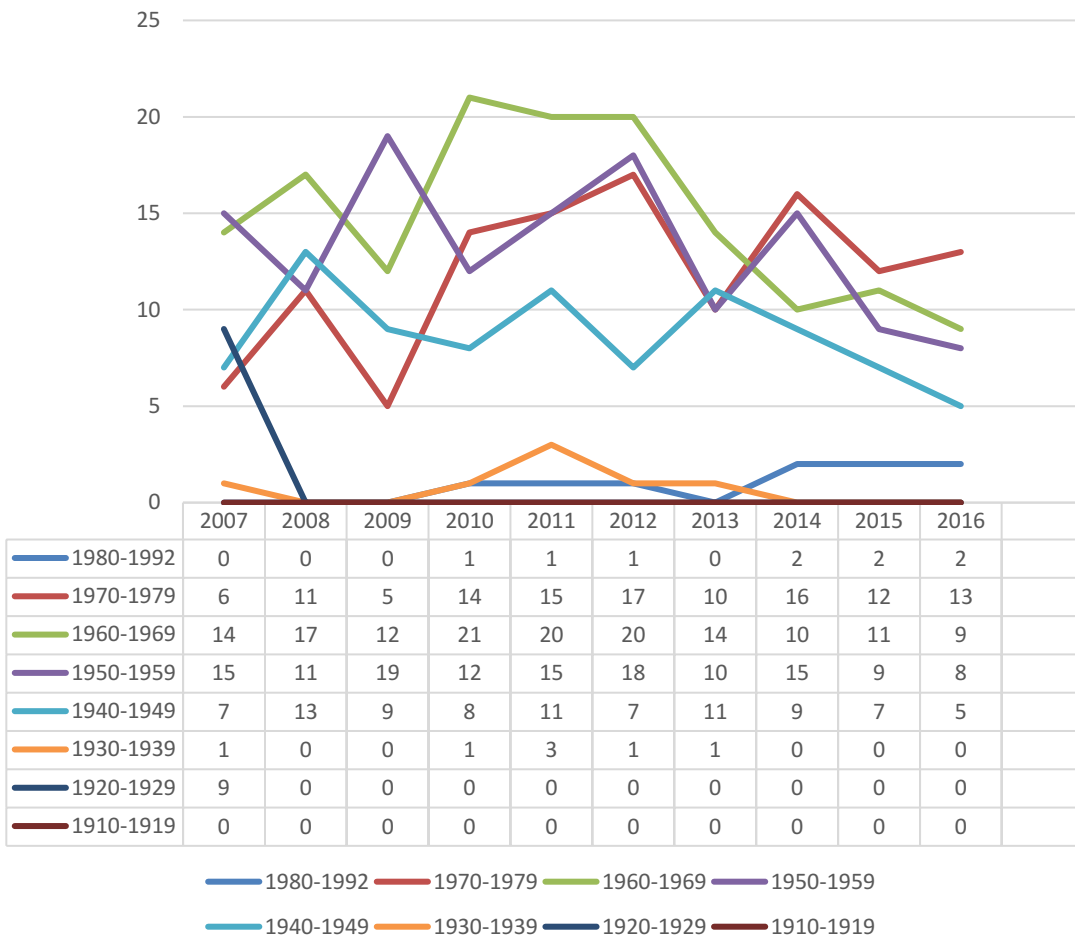
TABLE 3

Georgia Bar Disciplinary Data

Attorney Misconduct by Year of Birth	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
1980-1992	0	0	0	1	1	1	0	2	2	2
1970-1979	6	11	5	14	15	17	10	16	12	13
1960-1969	14	17	12	21	20	20	14	10	11	9
1950-1959	15	11	19	12	15	18	10	15	9	8
1940-1949	7	13	9	8	11	7	11	9	7	5
1930-1939	1	0	0	1	3	1	1	0	0	0
1920-1929	0	0	0	0	0	0	0	0	0	0
1910-1919	0	0	0	0	0	0	0	0	0	0
Total	43	52	45	57	66	64	46	52	41	37

⁵² As noted above with Florida, there are many reasons why each state/district has different rates of attorney discipline even with approximately the same number of attorneys, and a reduction in size of the Bar does not necessarily equate to a corresponding percentage decrease in the number of disciplined attorneys.

Figure 3
Georgia



Maine: There are 5,319 members of the Maine Bar, which is a small Bar, and one of the smallest Bars in the country.⁵³ However, the Maine Bar includes a relatively large number of disciplined attorneys when compared to other similarly-sized Bars. For example, for a Bar of approximately 5,000 members, the numbers are almost comparable to that of the Florida Bar,

⁵³ Data from the Grievance Commission, Maine Board of Overseers, published on the website, at http://www.mebareoverseers.org/about/annual_reports.html

which has 20 times as many members at almost 100,000 members. The Maine Board of Overseers attributes these higher disciplinary numbers to their older average age of attorneys.⁵⁴

Maine has detailed statistics on attorney discipline by age (Table 4), in increments of 5 years, which is different than the ranges received from the other disciplinary organizations.⁵⁵ Thus, there is not a one-to-one correspondence with the data from the other Group I disciplinary organizations where the data is shown for millennials in years 1980-1992, and older attorneys in age ranges of 10 years. However, since the age data does include a large percentage of the millennials, it can provide some relevant information.

Table 4 shows the Maine data revised into 10-year increments, with a corresponding line Figure 4, with a table chart below the line Figure 4. The “up to 34 years” range in Figure 4 includes the age groups 30-34 years, and 29 or less years (born 1983 or later), and would include all, but not only millennials. This “up to 34 years” group (born up to 1993) shows an overall upward trend from 2007-2016, with an initial climb in disciplinary actions from 8 in 2007 to 20 in 2009, but then a decrease to 2013, after which it increases again.

The 35-44 years age group (born 1973-1982, which includes 35-37 years-old millennials), starts out at the lowest number of 23 attorneys in 2007, and increases a third by 2016 with 35 attorneys disciplined – i.e., trending upwards, despite some variability. Age group 45-54 years (born 1963-1972), on the other hand, shows an overall trend downwards to 2013 (from a high of 75 attorneys in 2008 to 28 attorneys in 2013), then has an upward trend to 2016 (to 46 attorneys disciplined). Age groups 55-64 years (born 1953-1962), is similar to the

⁵⁴ The Maine Board of Overseers assert that their higher disciplinary rates are due to the older ages of their attorney members, from a phone call with the Maine Board of Overseers in January 2018.

⁵⁵ Data retrieved from Maine Board of Overseers website annual reports, http://www.mebaroverseers.org/about/annual_reports.html.

preceding age 45-54 years age group, and trends downward from a high of 73 attorneys in 2008, to a low of 32 attorneys disciplined in 2012, and then starts an upward trend to 53 attorneys disciplined in 2016. Finally, the oldest age group, over 65 years (born before 1952), trends upwards.

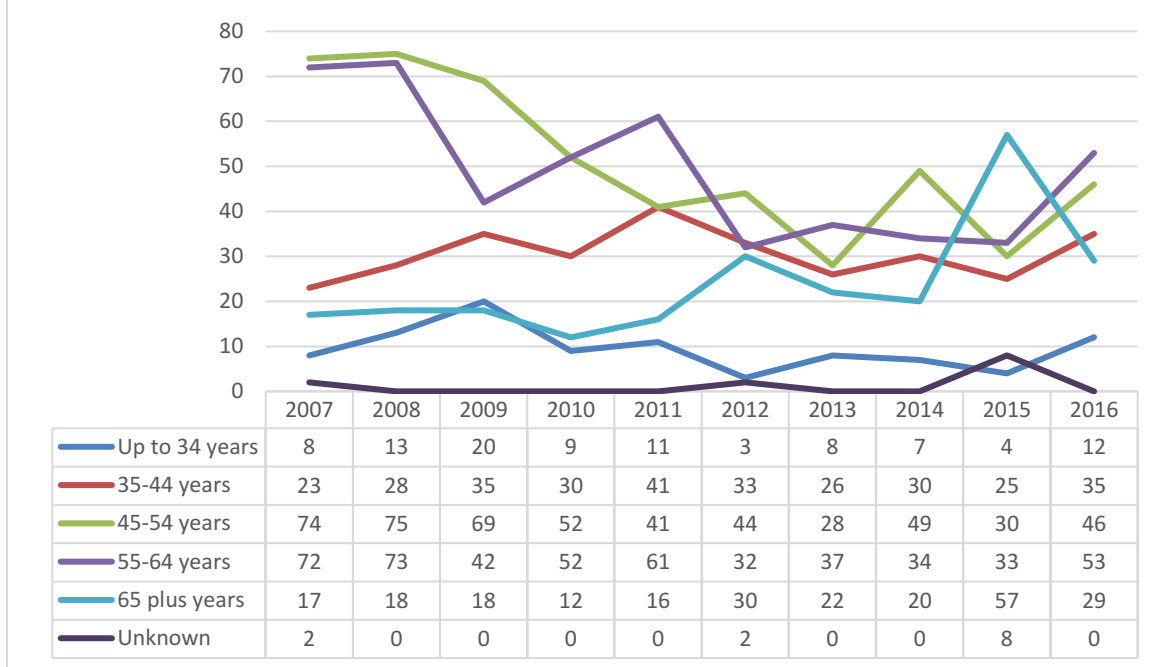
Since the older attorneys in the Maine Bar data (i.e., 35-44 years, 45-54 years and 55-64 years) overlap two age ranges, respectively, in the requested data format (1980-1992 and 1970-1979, 1960-1969 and 1970-1979, and 1950-1959 and 1960-1969, respectively), with the oldest age group (over 65 years) overlapping five age ranges in the requested data format (i.e., 1950-1959, 1940-1949, 1930-1939, 1920-1929, 1910-1919), the only certainty is that millennials are increasing in discipline, whereas the other age groups excluding the over 65 years group, may be showing an overall trend downwards, with some stabilization from 2011 to 2016.

TABLE 4

Maine Bar Disciplinary Data

Attorney Age of Misconduct (years)	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
29 or less	1 0.51%	1 0.48%	3 1.6%	0 0%	3 1.76%	1 0.69%	0 0%	0 0%	0 0%	2 1.14%
30-34	7 3.57%	12 5.80%	17 9.24%	9 5.80%	8 4.71%	2 1.39%	8 6.61%	7 4.83%	4 2.55%	10 5.68%
35-39	12 6.12%	15 7.25%	20 10.87%	12 7.74%	16 9.41%	14 9.72%	7 5.79%	11 7.59%	11 7.01%	11 6.25%
40-44	11 5.61%	13 6.28%	15 8.15%	18 11.61%	25 14.71%	19 13.10%	19 15.70%	19 13.10%	14 8.92%	24 13.64%
45-49	37 18.88%	40 19.32%	34 18.48%	23 14.84%	18 10.59%	19 13.10%	11 9.09%	28 19.31%	16 10.19%	21 11.93%
50-54	37 18.88%	35 16.91%	35 19.02%	29 18.71%	23 13.53%	25 17.36%	17 14.05%	21 14.48%	14 8.92%	25 14.20%
55-59	42 21.43%	39 18.84%	23 12.50%	24 15.48%	35 20.59%	17 11.81%	18 14.88%	16 11.03%	15 9.55%	19 10.80%
60-64	30 15.31%	34 16.43%	19 10.33%	28 18.06%	26 15.29%	15 10.42%	19 15.70%	23 15.86%	18 11.46%	35 19.89%
65-70	(65+) 17 8.67%	10 4.83%	11 5.98%	9 5.81%	11 6.47%	22 15.28%	16 13.22%	13 8.97%	36 22.93%	18 10.23%
≥70	(see above)	8 3.86%	7 3.80%	3 1.94%	5 2.94%	8 5.56%	6 4.96%	7 4.83%	21 13.38%	11 6.25%
Unknown	2 1.02%	0 0%	0 0%	0 0%	0 0%	2 1.39%	0 0%	0 0%	8 5.10%	0 0%
Total	196	207	184	155	170	144	121	145	157	176

Figure 4
Maine



New Mexico: New Mexico is a small Bar of 7,438 active members, not much larger than the Maine Bar.⁵⁶ The New Mexico Bar defines 1,072 members of the 7,438 active members, as “millennials” (born after 1977).⁵⁷ Although New Mexico is a few thousand members larger than the Bar than Maine, the numbers of attorneys disciplined are similar to the Maine Bar’s numbers.⁵⁸

Data from 2007 to 2016-2017 is exhibited in Table 5 and shows that millennials (ages 25-35 years), as well as the 36-45 years group, trended relatively stable in attorney discipline (climbing to 10 and falling to 0-2 attorneys over 10 years) (Figure 5).⁵⁹ The over 46 years age

⁵⁶ See the New Mexico Bar website, at https://www.nmbar.org/Nmstatebar/About_Us/DemoFigureics.aspx.

⁵⁷ See the New Mexico Bar website, at https://www.nmbar.org/Nmstatebar/About_Us/DemoFigureics.aspx.

⁵⁸ As noted above with Florida, there are many reasons why each state/district has similar or different rates of attorney discipline.

⁵⁹ Raw data thanks to Mr. William D. Slease, Chief Disciplinary Counsel, Disciplinary Board of the New Mexico Supreme Court.

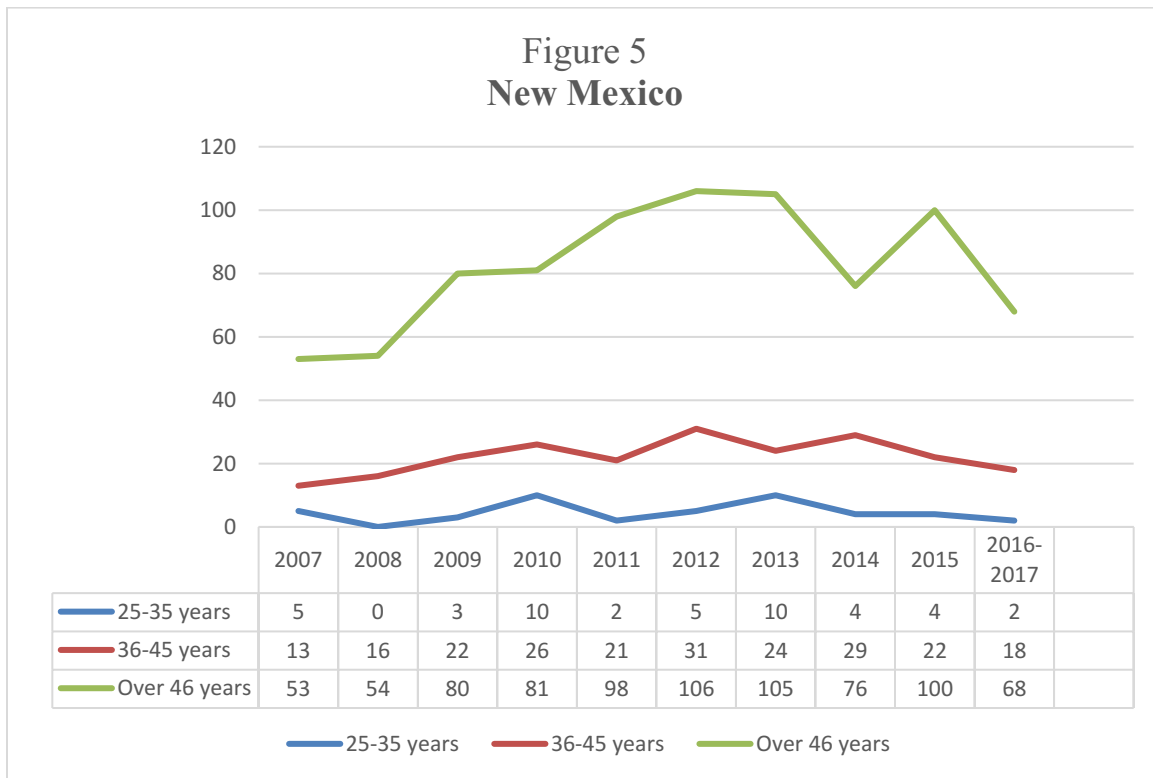
group, after an upward trend to a high of 106 attorneys disciplined in 2012 (a 100% increase), is now trending downwards to 68 attorneys in 2016-2017 (a 30%+ decrease).

TABLE 5

New Mexico Supreme Court Disciplinary Data

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Attorney Age of Misconduct	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016-2017
25-35 years	5	0	3	10	2	5	10	4	4	2
36-45 years	13	16	22	26	21	31	24	29	22	18
46+ years	53	54	80	81	98	106	105	76	100	68
Total	71	70	105	117	121	142	139	109	126	88



Oregon: There are 12,110 members of the small Oregon State Bar⁶⁰, which is half the size of the medium-sized Washington and Wisconsin Bars (about 25,000-26,000 members). Table 6 shows that millennials start being disciplined in 2009, and trend upwards, showing a 50% increase in 2014, a 100% increase in 2015, and increasing again in 2016 – although the numbers are small overall. The numbers are similar to the disciplinary numbers from the Georgia, Washington, and Wisconsin Bars.

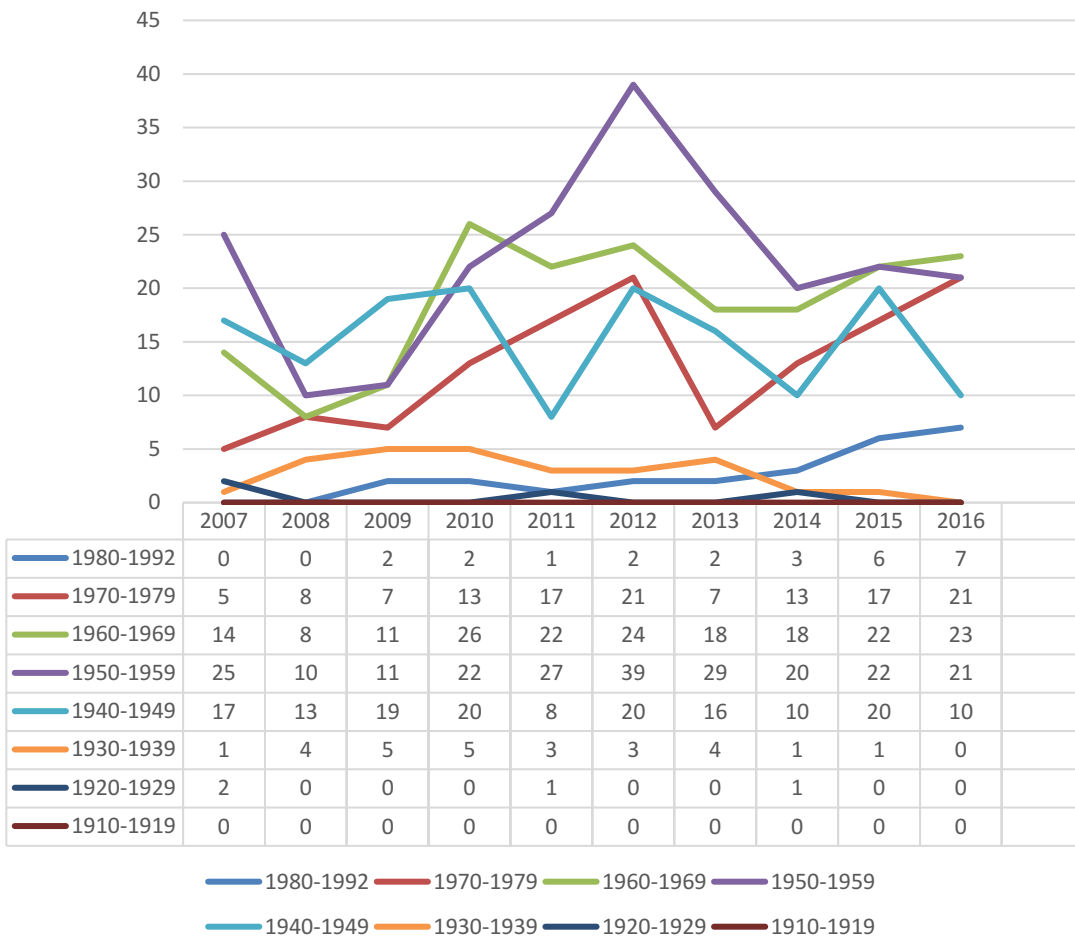
Figure 6 shows that age group 1970-1979 shows an increasing trend in discipline (quadrupling from 2007 to 2016), whereas age groups 1960-1969 and 1950-1959 achieve a low in 2008-2009 but increase 62% on average to a high in 2010 and 2012, respectively, and then start a decreasing trend. Age group 1940-1949 trends stably, whereas age group 1930-1939 shows a decreasing trend to zero in 2016. Age group 1920-1929 is negligible.

TABLE 6
Oregon Bar Disciplinary Data

Attorney Misconduct by Year of Birth	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
1980-1992	0	0	2	2	1	2	2	3	6	7
1970-1979	5	8	7	13	17	21	7	13	17	21
1960-1969	14	8	11	26	22	24	18	18	22	23
1950-1959	25	10	11	22	27	39	29	20	22	21
1940-1949	17	13	19	20	8	20	16	10	20	10
1930-1939	1	4	5	5	3	3	4	1	1	0
1920-1929	2	0	0	0	1	0	0	1	0	0
1910-1919	0	0	0	0	0	0	0	0	0	0
Unknown	0	0	0	0	3	0	0	2	0	1
Total	64	43	55	88	82	109	76	66	88	83

⁶⁰ [https://www.osbar.org/docs/resources/Econsurveys/17Economic Survey.pdf](https://www.osbar.org/docs/resources/Econsurveys/17Economic%20Survey.pdf).

Figure 6
Oregon



Texas: There are 102,044 active members of the very large Texas Bar, which is similar in size to the D.C. Bar, and slightly larger than the Florida Bar. Texas has similar disciplinary

statistics to Florida.⁶¹ Table 7 shows disciplinary actions taken against Texas Bar members, as retrieved from the Texas Bar Journal website archives.⁶²

Figure 7 shows that there are similar numbers of disciplined millennials as the current Florida Bar. The Texas Bar millennials exhibit an initial downward trend in discipline from 27 attorneys to 11 attorneys from 2007 to 2012 (a 60% decrease), but then start an increasing trend to 18 attorneys disciplined in 2016 (a 73% increase).

Age group 1970-1979 started an uptick from 54 attorneys disciplined in 2007 to a high of 92 attorneys disciplined in 2011 (a 70% increase), which declined by almost the same percentage to a stable average of 51 attorneys disciplined in the last four years. Age group 1960-1969 was similar, with an upward trend from 65 attorneys disciplined in 2007 to a high of 104 attorneys disciplined in 2011 (a 60% increase). However, the 1960-1969 age group declined thereafter by a similar percentage to 50 attorneys in 2014, and then increased by 52% in 2016 to 76 attorneys disciplined. Age group 1950-1959 increases in 2008 to a high of 69 attorneys disciplined, but then showed stability over 2011-2015 (average 52 attorneys disciplined), with an uptick in 2016 to 64 attorneys disciplined. Age group 1940-1949 disciplinary numbers are low (averaging in the teens), and exhibit an overall stable trend between 2007-2014, with a slight uptick in 2015-2016. The 1930-1939 age group had minor discipline.

From the data, the millennials appear to have an uptick in discipline in 2016 after some stable years, and the older age groups show overall declining trends, even with the upticks for the

⁶¹ See Texas Bar website, at https://www.texasbar.com/AM/Template.cfm?Section=Content_Folders&Template=/CM/ContentDisplay.cfm&ContentID=3887.

⁶² Data from Texas Bar Journal on Texas Bar website, http://heinonline.org/HOL/Index?collection=texbarj&set_as_cursor=clear&men_tab=srch&men_hide=false.

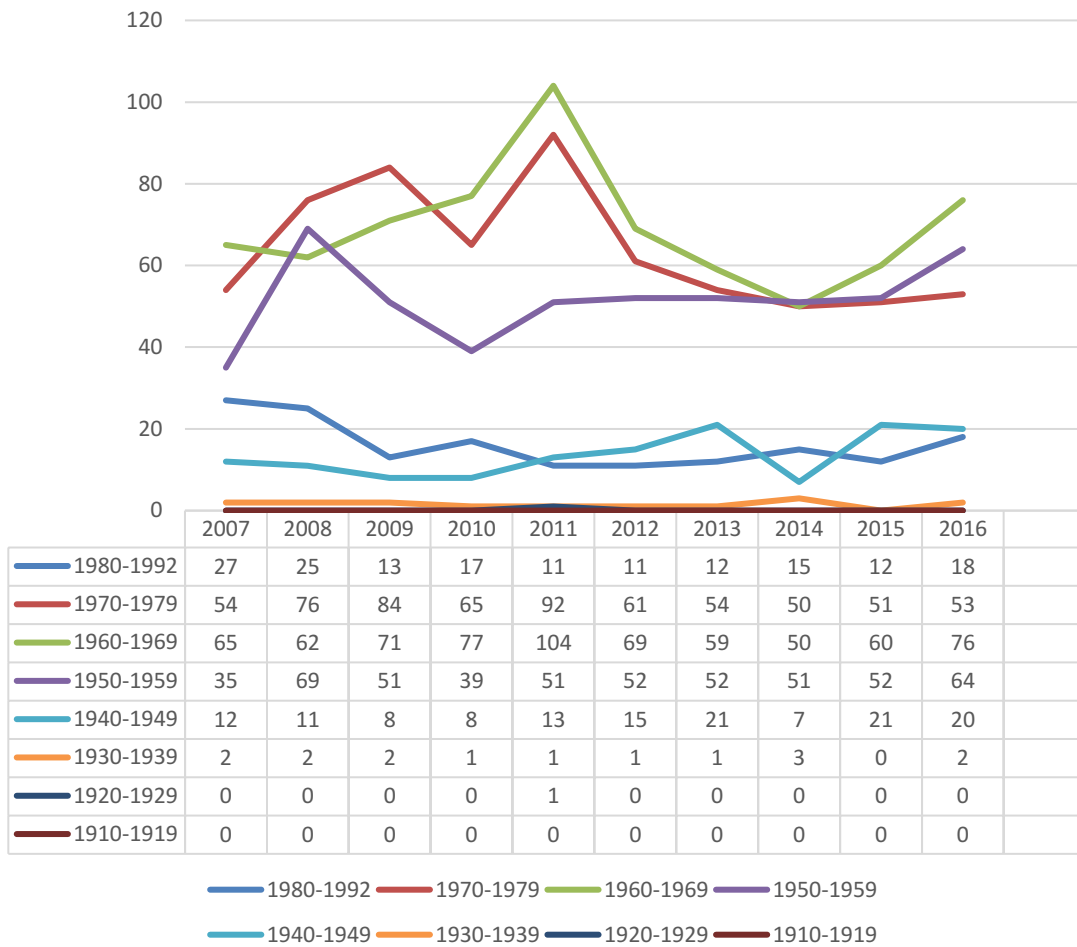
middle-aged 1960-1969 (to 76 attorneys in 2016) and 1950-1959 age groups (to 64 attorneys in 2016), which is not clear that these 2016 upticks will hold true for the subsequent year(s).

TABLE 7

Texas Bar Disciplinary Data

Attorney Misconduct by Year of Birth	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
1980-1992	27	25	13	17	11	11	12	15	12	18
1970-1979	54	76	84	65	92	61	54	50	51	53
1960-1969	65	62	71	77	104	69	59	50	60	76
1950-1959	35	69	51	39	51	52	52	51	52	64
1940-1949	12	11	8	8	13	15	21	7	21	20
1930-1939	2	2	2	1	1	1	1	3	0	2
1920-1929	0	0	0	0	1	0	0	0	0	0
1910-1919	0	0	0	0	0	0	0	0	0	0
Unknown	3	1	3	6	1	2	1	10	11	8
Total	198	246	232	210	274	211	200	186	207	239

Figure 7
Texas



Virginia: The Virginia Bar is a medium-sized Bar with 31,455 active members⁶³, a similar number to the number of the Georgia Bar, and has similar disciplinary statistics⁶⁴. Table 8 and Figure 8 show the disciplinary statistics for Virginia through 2016.⁶⁵

⁶³ See http://www.vsb.org/site/about/report_of_the_executive_director_chief_2017.

⁶⁴ As noted above with Florida and other states, there are many reasons why each state/district has the same or different rates of attorney discipline.

⁶⁵ Raw data thanks to Ms. Stephanie Blanton, Records Manager, Mr. Mark Arnold, Senior Systems Designer, and Ms. Joan McLaughlin, Sr. Programmer Analyst, Virginia State Bar.

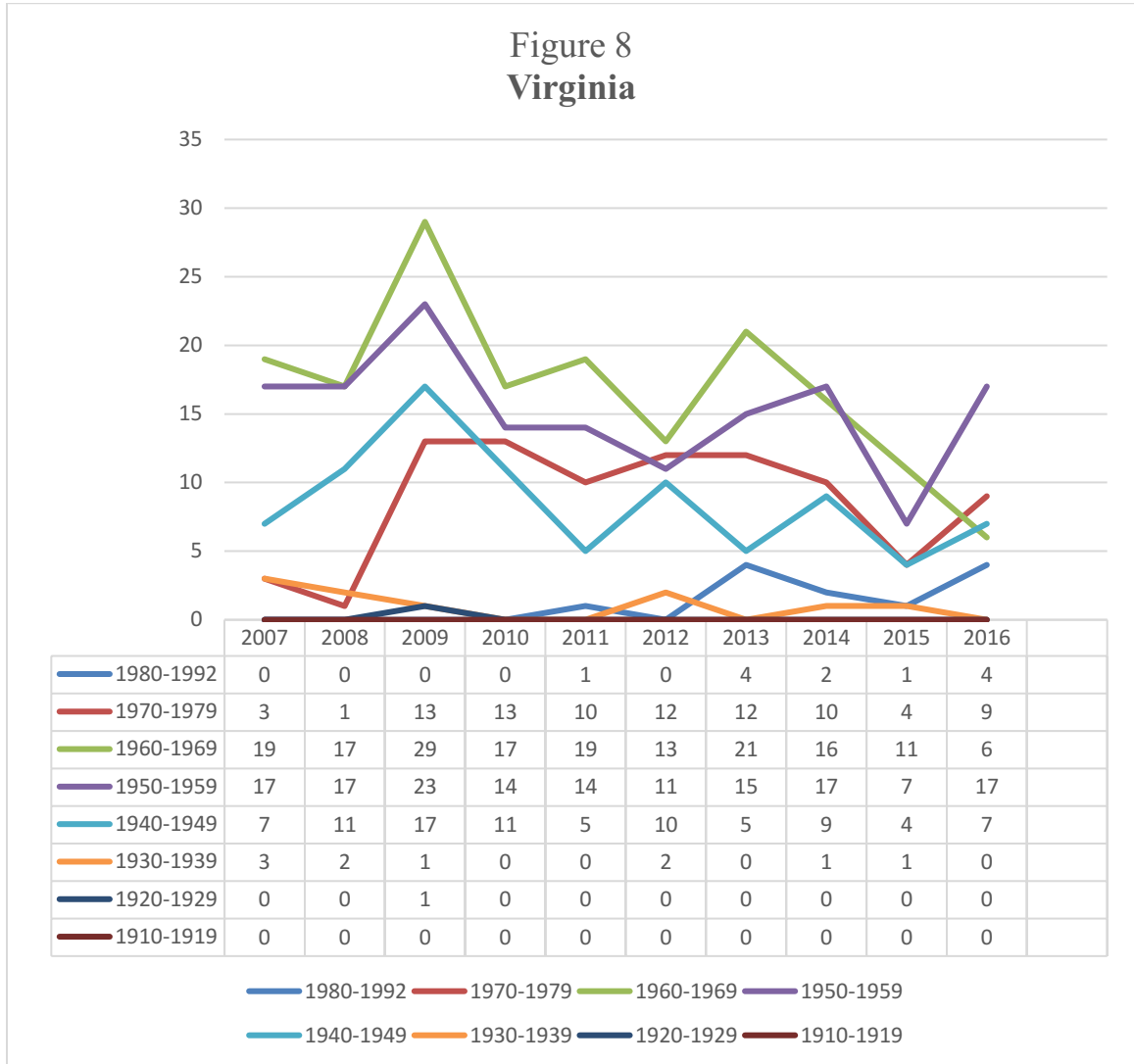
Figure 8 shows that millennials start showing disciplinary actions in 2011, and then trend upwards therefrom – quadrupling to 4 attorneys disciplined in 2016 from none prior to 2011. However, similar to other medium-sized Bars such as Georgia, the numbers are small. Age range 1970-1979 shows a not-unexpected increase in attorney discipline from 2007 to 2010, then trends stably before decreasing from 2013 to 2016 to 6 attorneys disciplined (a 25% decrease). Age range 1960-1969 is similar, with a spike to 29 attorneys disciplined in 2009 (a 53% increase), but then trends downwards from 21 attorneys disciplined in 2013 to only 6 attorneys disciplined in 2016 (a 72% decrease). These trends follow the same trends in the previous states/district reviewed.

TABLE 8

Virginia Bar Disciplinary Data

Attorney Misconduct by Year of Birth	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
1980-1992	0	0	0	0	1	0	4	2	1	4
1970-1979	3	1	13	13	10	12	12	10	4	9
1960-1969	19	17	29	17	19	13	21	16	11	6
1950-1959	17	17	23	14	14	11	15	17	7	17
1940-1949	7	11	17	11	5	10	5	9	4	7
1930-1939	3	2	1	0	0	2	0	1	1	0
1920-1929	0	0	1	0	0	0	0	0	0	0
1910-1919	0	0	0	0	0	0	0	0	0	0
Total	39	48	84	55	49	48	57	55	28	43

Figure 8
Virginia



Washington: The Washington State Bar is a medium-sized Bar of 26,110 members, which makes it about 20% smaller than the also medium-sized Georgia Bar.⁶⁶ The Washington State Bar is very similar to the Georgia Bar in statistics, as borne out by the data obtained from the Washington State Bar website.⁶⁷

⁶⁶ See Washington State Bar website, https://www.wsba.org/docs/default-source/licensing/membership-info-data/countdemo_20180103.pdf?sfvrsn=ae6c3ef1_10.

⁶⁷ See Washington State Bar website, https://www.wsba.org/docs/default-source/licensing/membership-info-data/countdemo_20180103.pdf?sfvrsn=ae6c3ef1_10. Note that there are many reasons why each state/district has the same or different rates of attorney discipline.

To that end, a review of the Washington State Bar attorney disciplinary data (Table 9 and Figure 9), shows that there was a steep decline in all age groups from 2007 to 2011, where discipline reached a marked low point, with only 5 members overall, being disciplined.⁶⁸ There is no explanation for this decrease, and it could be due to lack of collection of data, stronger enforcement by the Bar or disciplinary organizations, or many other reasons.

However, since 2011, there was a steep upward trend in discipline in all age groups (not unexpectedly from such a low point) until 2014, where the trend has started to decrease again in age groups 1970-1979 (from a high of 20 attorneys disciplined in 2015 to 17 attorneys in 2016 – a 15% decrease), 1950-1959 (from a high of 21 attorneys disciplined in 2013 to a 15 attorneys in 2016 – a 24% decrease), 1940-1949 (from a high of 16 attorneys disciplined in 2014 to 11 attorneys in 2016 – a 31% decrease), with the exception of the 1960-1969 group, which showed an uptick in 2016 to 23 attorneys disciplined from 15 attorneys in 2014 (a 53% increase). Discipline in age groups 1930-1939 and 1920-1929 was negligible.

The millennials started showing discipline in 2013, where there were no attorneys disciplined prior to that year, and the number doubled to 2 attorneys in 2014, at which number it has remained stable through 2016. However, numbers are small overall for the Washington Bar.

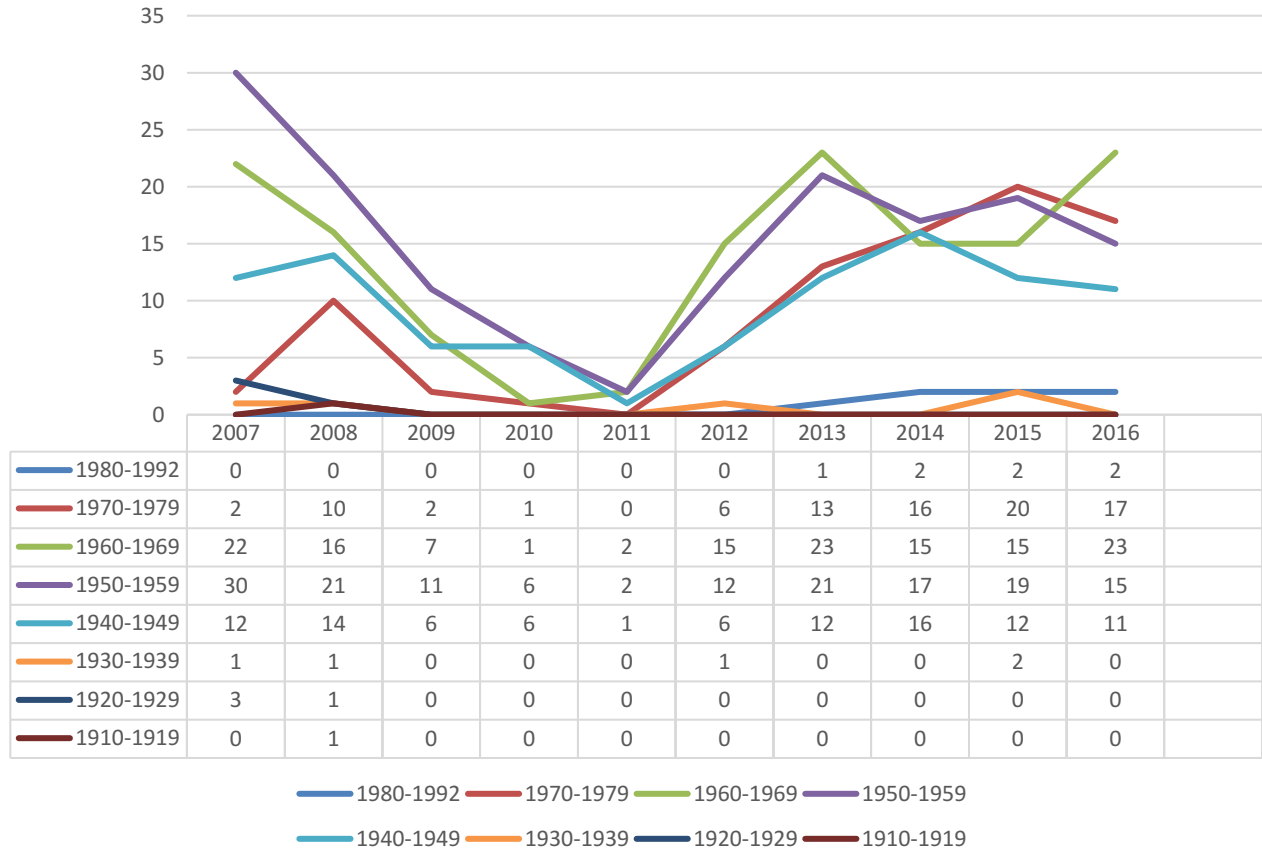
⁶⁸ Raw data thanks to Mr. Douglas J. Ende, Chief Disciplinary Counsel, Office of Disciplinary Counsel, Washington State Bar Association.

TABLE 9

Washington Bar Disciplinary Data

Attorney Misconduct by Year of Birth	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
1980-1992	0	0	0	0	0	0	1	2	2	2
1970-1979	2	10	2	1	0	6	13	16	20	17
1960-1969	22	16	7	1	2	15	23	15	15	23
1950-1959	30	21	11	6	2	12	21	17	19	15
1940-1949	12	14	6	6	1	6	12	16	12	11
1930-1939	1	1	0	0	0	1	0	0	2	0
1920-1929	3	1	0	0	0	0	0	0	0	0
1910-1919	0	0	0	0	0	0	0	0	0	0
Total	68	63	26	14	5	40	70	66	70	68

Figure 9
Washington



Wisconsin: The Wisconsin Bar is a medium-sized Bar which is similar to Washington state in size, having 25,039 Bar members.⁶⁹ The data⁷⁰ (Table 10) received from the Wisconsin Bar is similar to that of Washington with respect to overall attorneys disciplined, and the number of millennials that were disciplined.

More specifically, the millennials were not disciplined until 2013, and the numbers are very small through 2017 (i.e., 1-3 attorneys), although the trend is upward (Figure 10).

⁶⁹ See Wisconsin State Bar website, <https://www.wisbar.org/aboutus/overview/Pages/Member-Statistics.aspx>.

⁷⁰ Raw data thanks to Mr. Keith Sellen, Director, Wisconsin Office of Attorney Regulation, and as of November 28, 2017.

With respect to the older age groups, the trends are similar to previous states, which show a downward trend for all age groups, with a sharp decline in 2016-2017.⁷¹ The reason for this drop may be due to the fact that the data for 2017 is not complete (the month of December is not provided at all, and it is not certain that the other months will not be revised); however, it is not expected that the data for 2017 would show a dramatic increase from the total 10 attorneys disciplined for January-November.

In particular, age group 1970-1979 increases 2007-2013, and then decreases from 11 attorneys disciplined to 2 attorneys in 2017. Age group 1960-1969 increases to a high in 2019, and then decreases from 19 attorneys disciplined to 3 attorneys in 2017. Age group 1950-1959 increases to a high in 2012 of 22 attorneys and decreases to 2 attorneys in 2017. Age group 1940-1949 decreases from 10 attorneys disciplined in 2013 to 1 attorney in 2017. Age group 1930-1939 decreases from 4 attorneys disciplined in 2012 to none in 2017. Attorney discipline for age group 1920-1929 was negligible.

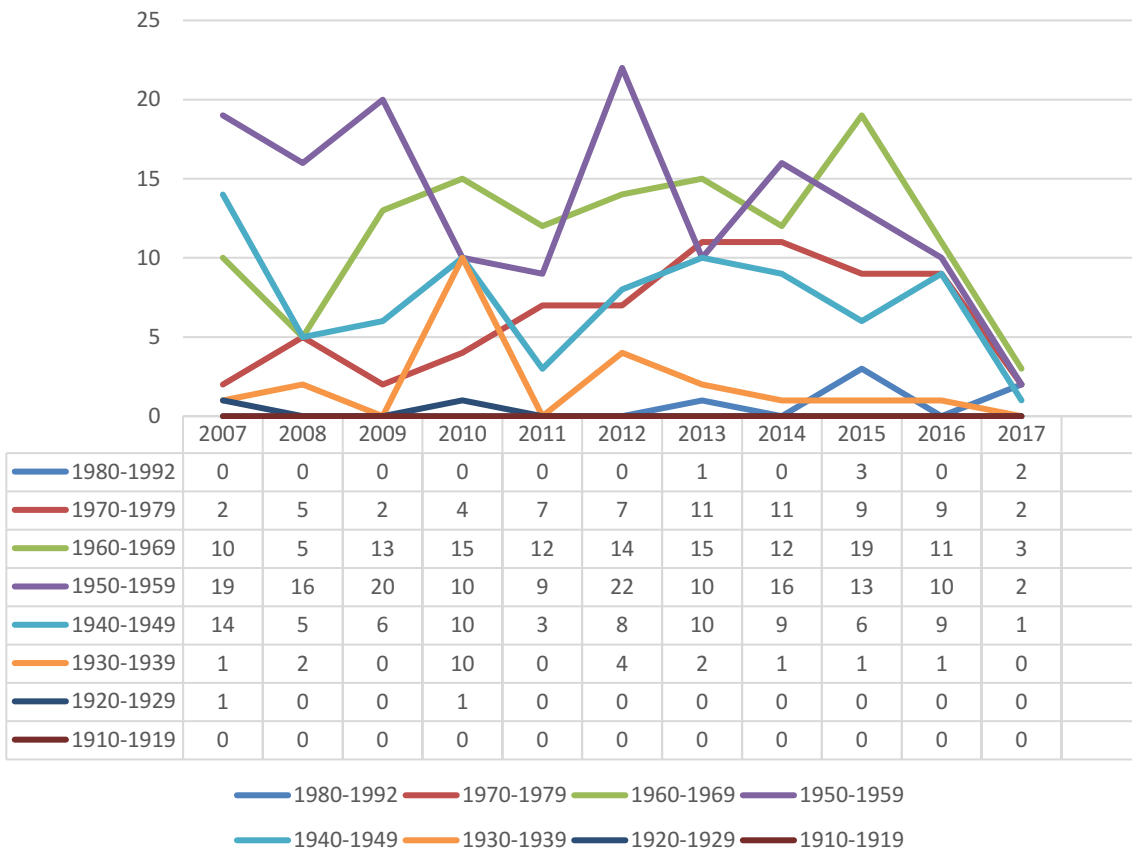
⁷¹ Data from Wisconsin Office of Lawyer Regulation, <https://www.wicourts.gov/courts/offices/olr.htm>

TABLE 10

Wisconsin Bar Disciplinary Data

Attorney Misconduct by Year of Birth	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
1980-1992	0	0	0	0	0	0	1	0	3	0	2
1970-1979	2	5	2	4	7	7	11	11	9	9	2
1960-1969	10	5	13	15	12	14	15	12	19	11	3
1950-1959	19	16	20	10	9	22	10	15	13	10	2
1940-1949	14	5	6	10	3	8	10	9	6	9	1
1930-1939	1	2	0	0	0	4	2	1	1	1	0
1920-1929	1	0	0	1	0	0	0	0	0	0	0
1910-1919	0	0	0	0	0	0	0	0	0	0	0
Total	47	33	41	40	31	55	49	48	51	40	10

Figure 10
Wisconsin



Group II States:

Group II states include those that provided attorney disciplinary information by the years of practice. Those four states include Arkansas, Minnesota, New Hampshire, and North Carolina. As noted above, although attorneys practicing 1-10 years would include millennials, this group also includes older Bar attorneys – although one would expect that number to be small in comparison to newly minted attorneys. The same holds true for the higher years-of-practice groups, which would include numbers of older attorneys than normal.

Arkansas: There are over 5,000 members of the Arkansas Bar, which is considered a small Bar, similar to Maine.⁷² However, the statistics from Arkansas are more akin to the medium-sized Georgia Bar, which has a much lower disciplinary rate than Maine, even though it has seven times the number of Bar members.⁷³

Arkansas attorney discipline data (Table 11) includes information only by years of practice.⁷⁴ Millennial attorneys would fall in the 1-10 years practice range, among possibly, older attorneys. From the data, the newer attorneys (1-10 years licensed) made up on average, 15.17% of the attorneys being disciplined over years 2006-2016. The largest number of disciplined attorneys were in the 11-20 years licensed range (i.e., 31% average) – a somewhat younger group (approximately 36-45 years age group) than expected based on the historical data which usually discloses attorneys in the 40-60 years age group - with the 21-30 and 31-40 years-licensed ranges (approximately 46-65 years age group) being similar at around 22% average. The least disciplined group was 41+ years-licensed (approximately 66 years-old and above) licensed at 8.39% average, which tracks with the data from Group I states/district.

All ranges of licensed groups trended downwards from 2006-2016 (Figure 11), from an average of 30 attorneys disciplined, to an average of approximately 6 attorneys disciplined. Millennial attorneys trended downwards from 2006-2012, then trended slightly upwards from 2012-2015, before declining from 6 attorneys disciplined in 2015 to 3 attorneys disciplined in 2016.

⁷² Data from the Arkansas Bar website, at <https://www.arkbar.com/for-public/faqs/>

⁷³ As noted above, there are many reasons why each state/district has the same or different rates of attorney discipline.

⁷⁴ Data from the Arkansas Administrative Office of the Courts/Office of the Committee on Professional Conduct, website: <https://courts.arkansas.gov/administration/professional-conduct/annual-reports>.

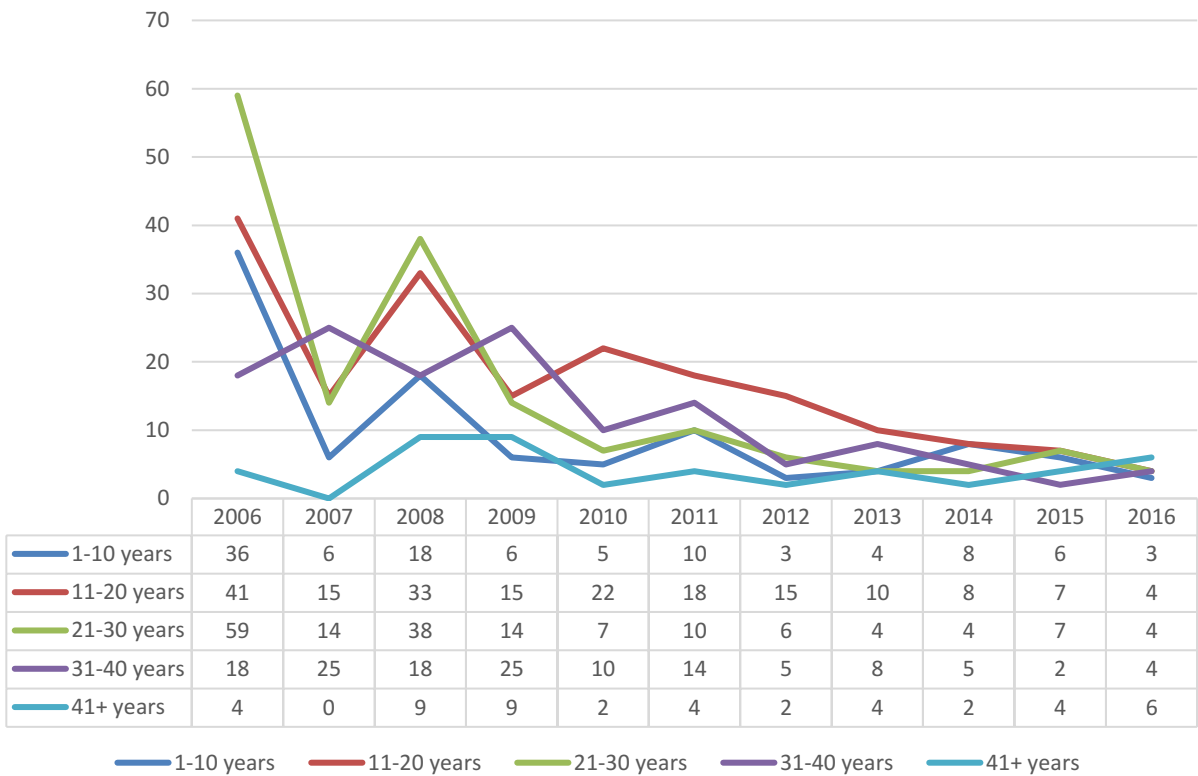
TABLE 11

Arkansas Attorney Disciplinary Data

Year Disciplined	Years Licensed	No. of Attorneys Publicly Disciplined*	Percentage (%)
2016	1-10 (2007-2016)	3	14.29
	11-20 (1997-2006)	4	19.05
	21-30 (1987-1996)	4	19.05
	31-40 (1977-1986)	4	19.05
	41+ (before 1977)	6	28.57
		Total: 21	
2015	1-10 (2006-2015)	6	23.1
	11-20 (1996-2005)	7	26.9
	21-30 (1986-1995)	7	26.9
	31-40 (1976-1985)	2	7.7
	41+ (before 1976)	4	15.4
		Total: 26	100.0
2014	1-10 (2005-2014)	8	29.6
	11-20 (1995-2004)	8	29.6
	21-30 (1985-1994)	4	14.8
	31-40 (1975-1984)	5	18.5
	41+ (before 1975)	2	7.4
		Total: 27	99.9
2013	1-10 (2004-2013)	4	13.33
	11-20 (1994-2003)	10	33.33
	21-30 (1984-1993)	4	13.33
	31-40 (1974-1983)	8	26.67
	41+ (before 1974)	4	13.33
		Total: 30	99.99
2012	1-10 (2003-2012)	3	9.7
	11-20 (1993-2002)	15	48.4
	21-30 (1983-1992)	6	19.4
	31-40 (1973-1982)	5	16.1
	41+ (before 1973)	2	6.5
		Total: 31	100.1
2011	1-10 (2002-2011)	10	18.0
	11-20 (1992-2001)	18	32.0
	21-30 (1982-1991)	10	18.0

	31-40 (1972-1981)	14	25.0
	41+ (before 1972)	4	7.0
		Total: 56	100
2010	1-10 (2001-2010)	5	11.0
	11-20 (1991-2000)	22	48.0
	21-30 (1981-1990)	7	15.0
	31-40 (1971-1980)	10	22.0
	41+ (before 1971)	2	4.0
		Total: 46	100
2009	1-10 (2000-2009)	6	10.0
	11-20 (1990-1999)	15	25.0
	21-30 (1980-1989)	14	23.0
	31-40 (1970-1979)	25	42.0
	41+ (before 1970)	0	0
		Total: 60	100
2008	1-10 (1999-2008)	18	15.4
	11-20 (1989-1998)	33	28.2
	21-30 (1979-1988)	39	33.3
	31-40 (1969-1978)	18	15.4
	41+ (before 1969)	9	7.7
		Total: 117	100.0
2007	1-10 (1998-2007)	6	10.0
	11-20 (1988-1997)	15	25.0
	21-30 (1978-1987)	14	23.0
	31-40 (1968-1977)	25	42.0
	41+ (before 1968)	0	0
		Total: 60	100
2006	1-10 (1997-2006)	36	22.5
	11-20 (1987-1996)	41	25.6
	21-30 (1977-1986)	59	36.9
	31-40 (1967-1976)	18	10.8
	41+ (before 1967)	4	2.4
		Total: 158	98.2

Figure 11
Arkansas



Minnesota: There are 25,843 members of the Minnesota Bar – a medium-sized Bar, similar in size to the Washington State and Wisconsin State Bars.⁷⁵ Table 12 shows the Minnesota disbarred and currently suspended attorneys.⁷⁶ The data is provided by years of practice.⁷⁷ As with Arkansas, although attorneys practicing 1-10 years would include millennials,

⁷⁵ Data from the American Bar Association (ABA), from website: https://www.americanbar.org/content/dam/aba/administrative/market_research/National%20Attorney%20Population%20by%20State%202017.authcheckdam.pdf.

⁷⁶ Data from Minnesota Lawyers Professional Responsibility Board, Office of Lawyers Professional Responsibility, <http://lprb.mncourts.gov/LawyerSearch/Pages/SuspendedDisbarred.aspx>.

⁷⁷ Ibid.

this group, and the higher ranges of years-of-practice groups, would also include older Bar members.

The Minnesota attorney disciplinary data in Figure 12 shows that the attorneys licensed 1-10 years had an upward trend, although the numbers are low, ending with 5 attorneys in 2016.

Attorneys licensed 11-20 years (approximately 36-45 years) shown an increasing trend in disciplinary actions from 2011-2016, after an initial decline, and this group makes up the largest number of disciplined attorneys (i.e., 31% average, compared to 15.17% for the 1-10 years-licensed group). However, as with all the data, the numbers are small overall.

The 21-30 and 31-40 years-licensed group ranges (approximately 46-65 years-old) were similar at around 22% average in numbers of attorneys disciplined, and both groups trended upwards. The least disciplined group was 41+ years-licensed (approximately over 65 years-old) at 8.39% average, which had negligible numbers, but with a trend upwards since 2008. Again, numbers were small overall.

TABLE 12

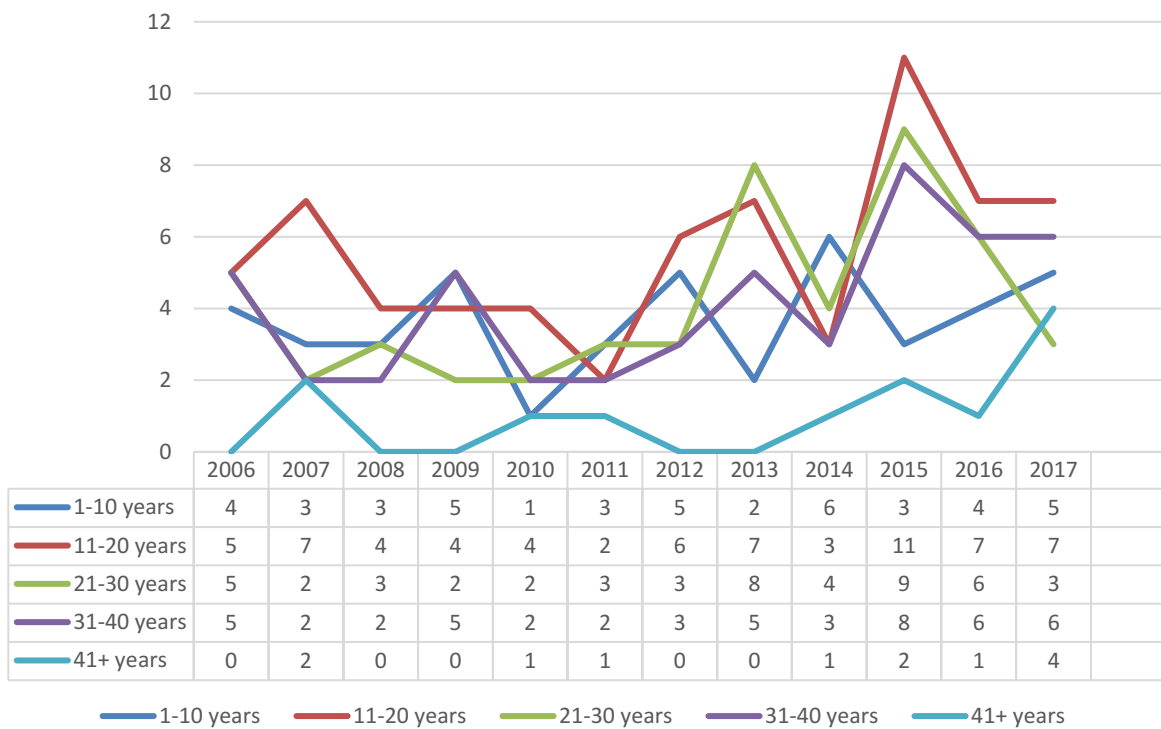
Minnesota Attorneys Professional Responsibility Board

Year Disciplined	Years Licensed	No. of Attorneys Publicly Disciplined*	Percentage (%)
2017	1-10 (2008-2017)	5	20
	11-20 (1998-2007)	7	28
	21-30 (1988-1997)	3	12
	31-40 (1978-1987)	6	24
	41+ (before 1978)	4	16
		Total: 25	100
2016	1-10 (2007-2016)	4	17
	11-20 (1997-2006)	7	29
	21-30 (1987-1996)	6	25
	31-40 (1977-1986)	6	25
	41+ (before 1977)	1	4

		Total: 24	100
2015	1-10 (2006-2015)	3	9.1
	11-20 (1996-2005)	11	33.3
	21-30 (1986-1995)	9	27.3
	31-40 (1976-1985)	8	24.2
	41+ (before 1976)	2	6.1
		Total: 33	100
2014	1-10 (2005-2014)	6	35.3
	11-20 (1995-2004)	3	17.65
	21-30 (1985-1994)	4	23.5
	31-40 (1975-1984)	3	17.65
	41+ (before 1975)	1	5.9
		Total: 17	100
2013	1-10 (2004-2013)	2	9.1
	11-20 (1994-2003)	7	31.8
	21-30 (1984-1993)	8	36.4
	31-40 (1974-1983)	5	22.7
	41+ (before 1974)	0	0
		Total: 22	100
2012	1-10 (2003-2012)	5	29.4
	11-20 (1993-2002)	6	35.3
	21-30 (1983-1992)	3	17.65
	31-40 (1973-1982)	3	17.65
	41+ (before 1973)	0	0
		Total: 17	100
2011	1-10 (2002-2011)	3	27.3
	11-20 (1992-2001)	2	18.2
	21-30 (1982-1991)	3	27.3
	31-40 (1972-1981)	2	18.2
	41+ (before 1972)	1	9.0
		Total: 11	100
2010	1-10 (2001-2010)	1	10
	11-20 (1991-2000)	4	40
	21-30 (1981-1990)	2	20
	31-40 (1971-1980)	2	20
	41+ (before 1971)	1	10
		Total: 10	100
2009	1-10 (2000-2009)	5	31.25
	11-20 (1990-1999)	4	25.0
	21-30 (1980-1989)	2	12.5
	31-40 (1970-1979)	5	31.25
	41+ (before 1970)	0	0
		Total: 16	100
2008	1-10 (1999-2008)	3	25
	11-20 (1989-1998)	4	33

	21-30 (1979-1988)	3	25
	31-40 (1969-1978)	2	17
	41+ (before 1969)	0	0
		Total: 12	100
2007	1-10 (1998-2007)	3	18.75
	11-20 (1988-1997)	7	43.75
	21-30 (1978-1987)	2	12.5
	31-40 (1968-1977)	2	12.5
	41+ (before 1968)	2	12.5
		Total: 16	100
2006	1-10 (1997-2006)	4	21.1
	11-20 (1987-1996)	5	26.3
	21-30 (1977-1986)	5	26.3
	31-40 (1967-1976)	5	26.3
	41+ (before 1967)	0	0
		Total: 19	100

Figure 12
Minnesota



New Hampshire: There are 3,504 active members of the small New Hampshire Bar.⁷⁸

This is a smaller number of members than the medium-sized Maine Bar, and about half the size of the medium-sized New Mexico Bar. As expected, the overall numbers are low for attorneys disciplined. Table 13 shows data on attorneys disciplined from 2007 to 2016.⁷⁹ Table 13 shows the distribution of misconduct findings sorted by the number of years the attorney was in practice at the time of docketing of the complaint. In this case, if an attorney has multiple docketed matters he/she is only counted once, whereas with the data from the other states, as noted above, multiple docketed matters are counted for each attorney.⁸⁰

The New Hampshire disciplinary data was provided in years-of-practice, in five-year increments (Table 13), rather than by age, but only up to 35 years, although the groups 1-5 years and 6-10 years would include all, but not only, millennials. The data was re-compiled in 10-year increments and shown in Figure 13. Figure 13 shows that all years-of-practice groups had a major decline in discipline in 2014. As with Washington state, there is no explanation for this apparent sharp decline, and it could be due to lack of collection of data, stronger enforcement by the Bar or disciplinary organizations, or many other reasons.

As expected since then, the numbers have recovered, with the attorneys with the least amount of experience (1-10 years) (approximately 25-35 years), showing a trend upwards from 2014, along with all other years-of-practice groups, except for the 11-15 years-of-practice group which showed a downward trend in discipline in 2016. However, as noted with Minnesota, the numbers are small overall.

⁷⁸ See New Hampshire Bar website, at <https://www.nhbar.org/about-the-bar/AboutTheAssociation.asp#governance>.

⁷⁹ Data also retrieved from the New Hampshire Supreme Court website, Attorney Discipline System, Annual Reports: <http://www.nhattyreg.org/annual.php>.

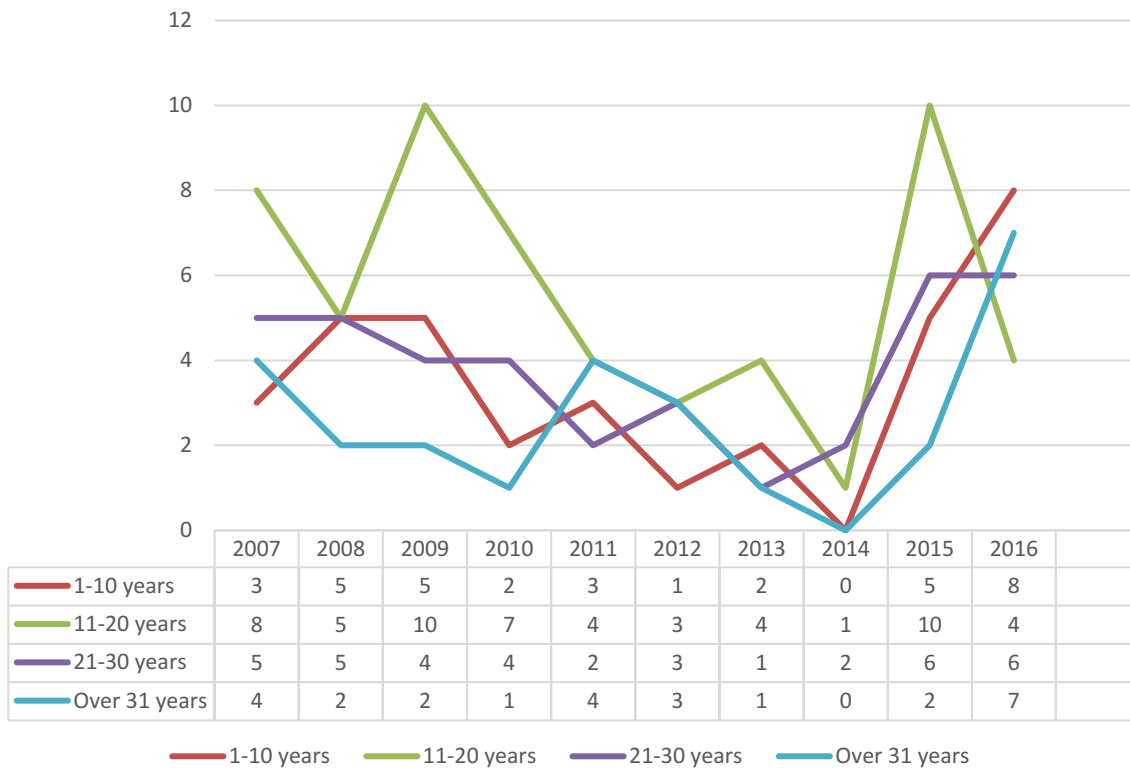
⁸⁰ Data from New Hampshire Supreme Court.

TABLE 13

New Hampshire Supreme Court Disciplinary Data

Attorney Misconduct by Years of Practice	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
1-5	0	2	1	1	2	0	1	0	0	3
6-10	3	3	4	1	1	1	1	0	5	5
11-15	3	4	8	2	2	2	2	0	5	1
16-20	5	1	2	5	2	1	2	1	5	3
21-25	3	1	0	1	1	2	1	1	3	2
26-30	2	4	4	3	1	1	0	2	3	4
31-35	3	1	1	1	3	2	0	0	0	2
36+	1	1	1	0	2	1	1	0	2	5
Total	20	17	21	14	14	10	8	4	18	25

Figure 13
New Hampshire



North Carolina: There are 11,675 members of the medium-sized North Carolina Bar, of which 1664 attorneys are under 30 years old.⁸¹ The North Carolina Bar is about half the size of the medium-sized Minnesota Bar. Table 14 shows disciplinary data from North Carolina by years of practice, not by age, and for only 2012-2016.⁸² Of course, years 1-10 would include all millennials, but not only millennials. The data was compiled in 10-year increments in Figure 14, although data for increments over 55 years are not available.

⁸¹ See North Carolina Bar website, <https://www.ncbar.gov/about-us/demoFigureic-distribution-report/>.

⁸² Raw data thanks to Ms. Heather Pattle, Administrator, Office of Counsel, North Carolina State Bar.

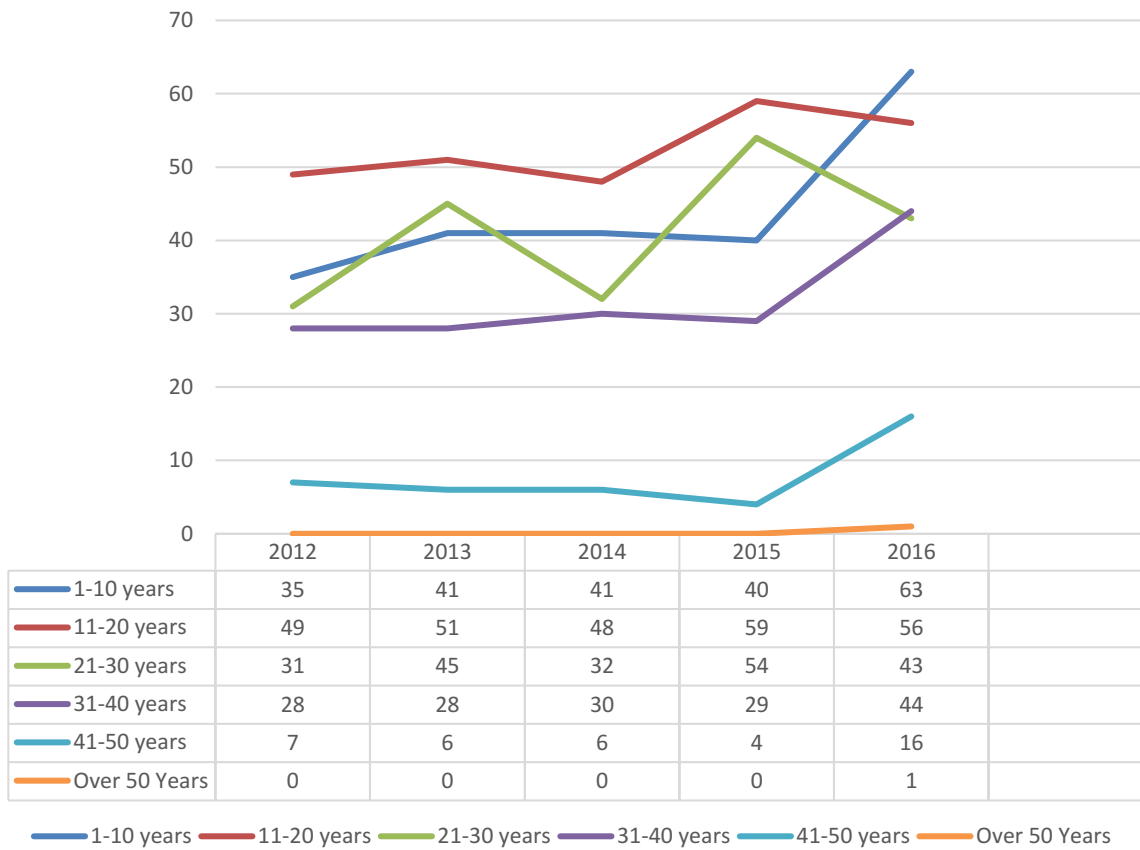
Figure 14 shows that the 1-10 years-of-practice group trended upwards after a period of stability. Also trending upwards in attorney discipline, are all other years-of-practice groups.

TABLE 14

North Carolina Bar Disciplinary Data

Attorney Misconduct by Years of License	2012	2013	2014	2015	2016
1-10 years	35	41	41	40	63
11-15 years	31	17	24	31	21
16-20 years	18	34	24	28	35
21-25 years	18	23	18	25	24
26-30 years	13	22	14	29	19
31-35 years	15	17	19	17	22
36-40 years	13	11	11	12	22
41-45 years	7	3	4	4	11
46-50 years	0	3	2	0	5
51-55 years	0	0	0	0	1
Total	150	171	157	186	223

Figure 14
North Carolina



Group III states:

Group III states include four states that provide some attorney disciplinary information on millennials, but the data did not encompass other age groups, or only a few years or data. These states include Alaska, California, Mississippi, and Oklahoma. Although the information received is provided for completeness, Group III will be minimally included in the following analysis of the data from the disciplinary organizations.

Alaska: The Alaska Bar is a very small Bar of 540 active attorneys of 628 total, and would be expected to have very small numbers disciplined overall.⁸³

Table 15 shows that the Alaska Bar had no record of any millennials being disciplined over a 12-year period (2005 to March 23, 2017).⁸⁴ In fact, only 9 attorneys were suspended over the 12-year period, and none were millennials. Figure 15 shows that over the 12-year period, the non-millennial attorneys exhibited a slight decreasing trend, although the numbers are very small.

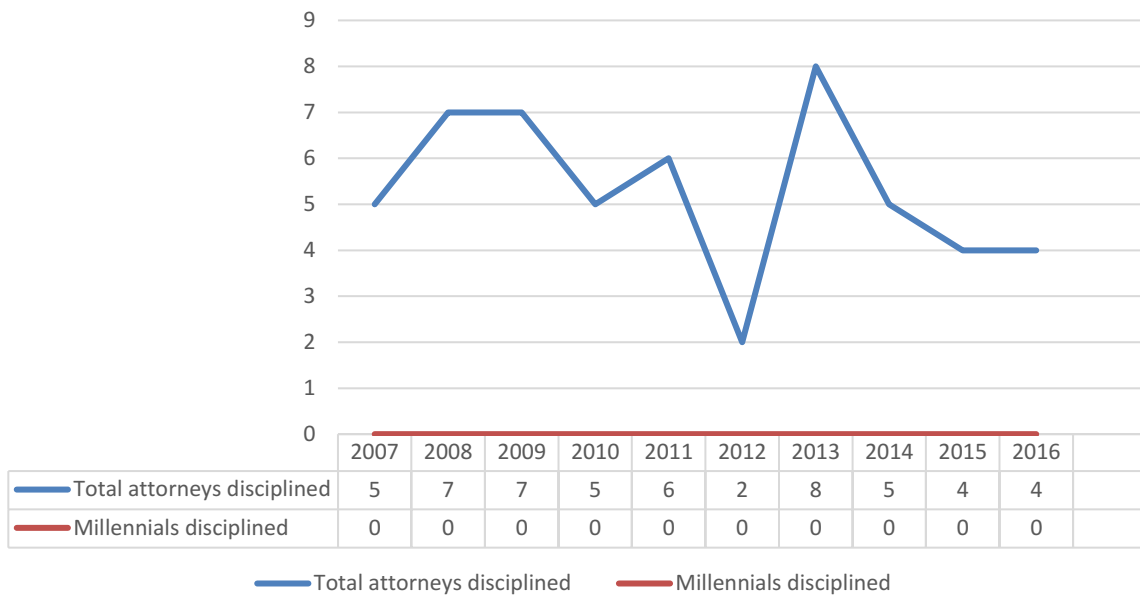
TABLE 15
Alaska Bar Disciplinary Data

Attorney Year of Birth - Misconduct	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Attorneys disciplined born 1980-1992	0	0	0	0	0	0	0	0	0	0
Total attorneys disciplined	5	7	7	5	6	2	8	5	4	4

⁸³ Data thanks to Ms. Ingrid Varenbrink, Fee Arb. Coord/MCLE Administrator, Alaska Bar Association.

⁸⁴ Data from Alaska Bar Association.

Figure 15
Alaska



California: The State Bar of California is a very large Bar, with 49,981 total millennial members (born between 1980-1992)⁸⁵ of the more than 200,000 members⁸⁶ total. This is one of the largest Bars in the country and twice the size of the large District of Columbia and Texas Bars.

The California Bar provided disciplinary data (Table 16) on millennial attorneys⁸⁷, although their Bar website does show a complete list of all attorneys disciplined by age – however, the data was too large to be mined by hand.

However, similar to the data from the Florida, Texas and the District of Columbia Bars, the California Bar data shows that no millennial attorneys were disciplined up to 2008 (Figure

⁸⁵ Data thanks to Mr. Kevin B. Taylor, Supervising Senior Trial Counsel, The State Bar of California.

⁸⁶ See <http://www.calbarjournal.com/>.

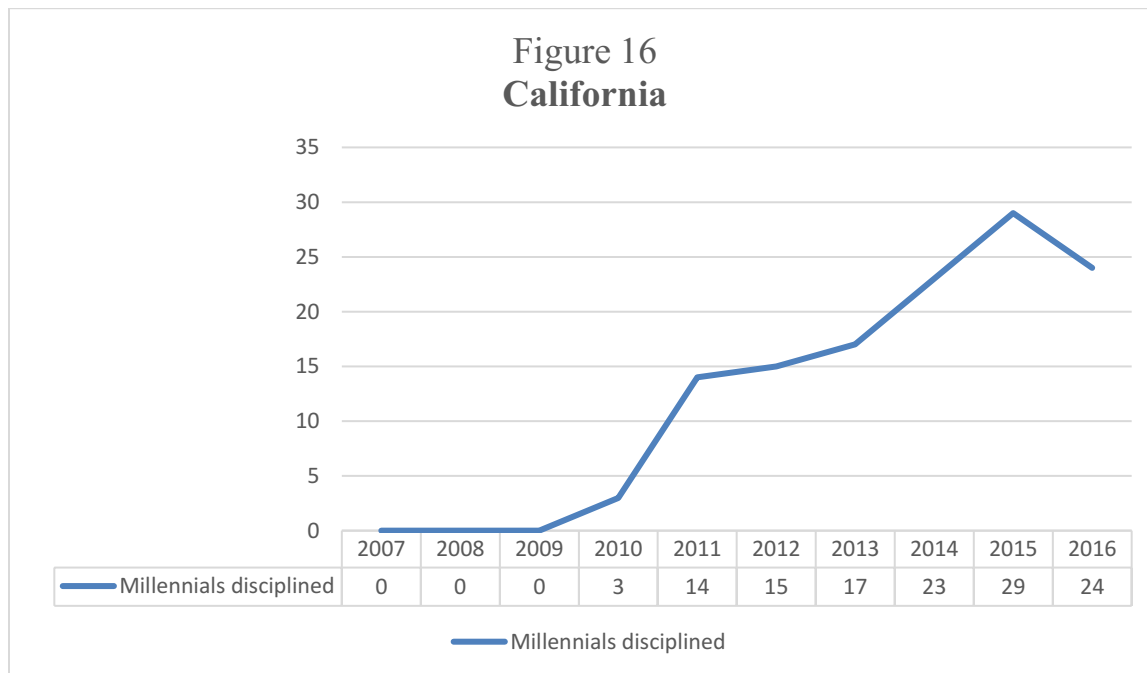
⁸⁷ Data thanks to Mr. Kevin B. Taylor, Supervising Senior Trial Counsel, The State Bar of California

16), and then the numbers begin increasing steeply, jumping from 3 attorneys in 2010 to 14 attorneys in 2011, and up again by 135.29% in 2014 to 23 attorneys in 2014, and 126% the next year to 29 attorneys in 2015.

TABLE 16

California Bar Disciplinary Data

Attorney Year of Birth - Misconduct	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
1980-1992	0	0	0	3	14	15	17	23	29	24



Mississippi: The Mississippi Bar has a small Bar of 7,011 Bar members, which is about the size of the small New Mexico Bar.⁸⁸ The Mississippi Bar (Table 17) only has the last year's data – in this case 2016-2017.⁸⁹ No other years were available. However, the numbers disciplined seem to be more similar to a large Bar with a higher number of attorneys, like Texas, for example.

Millennials (ages 25-34 years) make up 16% of the membership of the Mississippi Bar (i.e., 1,100 members), and 12% of the attorneys (55 of 469 attorneys total) charged with complaints and disciplined by the Bar in 2016-2017⁹⁰.

The attorneys with the most discipline were those 55 years and over (39% of those disciplined), who make up 41% of the Bar.⁹¹ The other age groups of 45-54 years-old, are 28% of disciplined attorneys compared to making up 20% of the Bar, and 35-44 years-old, who make up 23% of the Bar and 21% of the disciplined attorneys.⁹² This data confirms that the middle-aged attorneys (45-54 years-old) are the most disciplined group by age.

TABLE 17

Mississippi Bar Disciplinary Data

BAR COMPLAINT STATISTICAL REPORT 2016-2017 FISCAL YEAR:

469 COMPLAINTS:

Age of Attorney:

55 and Over: 39% (182)

45 to 54: 28% (133)

⁸⁸ Data from the Mississippi Bar website, <https://www.msbar.org/ethics-discipline/disciplinary-process/>.

⁸⁹ Data from the Mississippi Bar website.

⁹⁰ Data from the Mississippi Bar website.

⁹¹ Data from the Mississippi Bar website.

⁹² Data from the Mississippi Bar website.

35 to 44: 21% (99)

25 to 34: 12% (55)

Total: 469 attorneys disciplined

Bar Membership Information:

55 and Over: 41% (2878)

45 to 54: 20% (1440)

35 to 44: 23% (1593)

25 to 34: 16% (1100)

Total: 7011 Bar members

Oklahoma: The Oklahoma Bar is a small Bar of 17,738 members, which is a little smaller than the Washington and Wisconsin State Bars.⁹³ Oklahoma only has two years of data on attorneys disciplined, by age, and data was not tracked by age prior to 2015. As expected from the size of the Bar, the numbers are small overall.

The age ranges do not track the desired age range groups. Table 18 shows very little change from 2015-2016 overall numbers, with stability in ages 50-74 years, and a decline in ages 30-49 years. However, but a millennial was disciplined in 2016 for the first time, and there was a decline in discipline in ages 30-49 years, and negligible discipline for those over 75 years (1-2 attorneys) (see Figure 17).⁹⁴

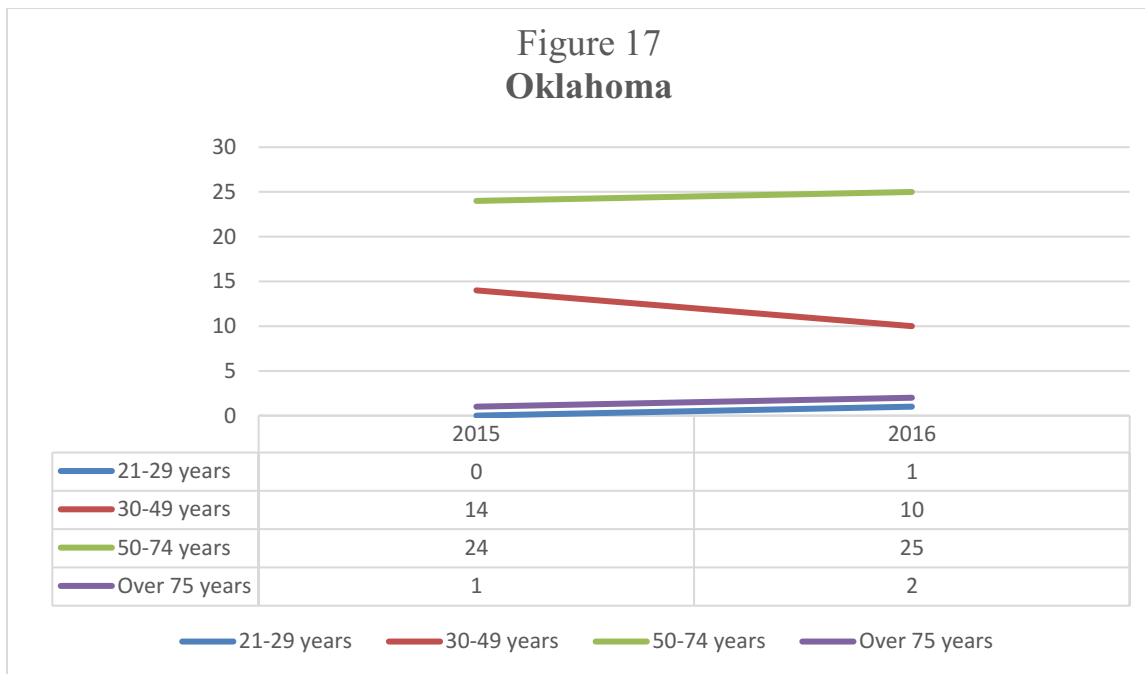
⁹³ See Oklahoma Bar website, <http://www.okbar.org/Portals/13/PDF/2016%20PRT%20Annual%20Report.pdf>.

⁹⁴ Data from Oklahoma Bar website.

TABLE 18

Oklahoma Bar Disciplinary Data

Attorney Misconduct by Age	2015	2016
21-29 years	0	1
30-49 years	14	10
50-74 years	24	25
75 or more years	1	2
Total	39	38



Chapter V

Discussion

The following analyzes the information from the disciplinary organizations of 17 states and the District of Columbia, to determine whether elevated levels of personality disorder in attorneys, particularly younger attorneys, has contributed to workplace problems resulting in attorney discipline.

Ten of the eighteen disciplinary organizations provided attorney disciplinary data by year of birth, over the ten years 2006-2016, and 2017 if available, four by years of practice, and the remainder provided some information on millennials only, or for a short number of years etc. The results were graphed, and trends were determined from the data points in the line Figures, using a rough, best fit analysis, to determine whether millennials (25-37 years old) showed a higher incidence of personality disorder resulting in attorney discipline, than older attorneys (over 37 years old).

From the results, the millennials are not the largest group making up Bar memberships, and relative to the older age groups, millennials have correspondingly smaller disciplinary numbers, as would be expected. However, from review of the data, some inferences can be drawn about millennial disciplinary history and trends.

a. The larger the Bar, the larger the effect on millennial discipline

The size of the Bars varies greatly from state/district to state/district, and despite the fact many factors can result in the disciplinary statistics for each state, some generalizations can be made about the disciplinary trends shown for the millennial attorneys.

Upon review of the data, it is clear that the larger Bars – those around 100,000 members or more – show (not unexpectedly) higher percentage rates and numbers of disciplined millennial attorneys over the reviewed period (i.e., 2007-2016), than the smaller Bars.

For example, the Group I states/district with very large Bar memberships (100,000 members or more), which include the District of Columbia and Texas, as well as large Bar Florida (at about 92,000 members), show a marked upward trend in millennial attorney discipline from 2009. The percentage increase of millennials disciplined is very high compared to the medium-sized and small Bars reviewed.

Another very large Bar with data on millennials is that of California (over 200,000 members), which showed a large increase in millennial discipline, similar to the Florida and D.C. Bars, from 2010-2012 onwards.

The Group I medium-sized Bars, such as Georgia and Virginia (around 30,000 members), show increasing millennial discipline from 2010-2011, respectively, but the numbers are correspondingly smaller to the large/very large Bars, which is reflective of their comparative size thereto. Washington and Wisconsin, which are at the low end of medium-sized Bars (about 25,000 members), and Oregon, which is a small Bar (about 12,000 members), exhibit similarly correspondingly smaller discipline statistics for millennials starting from 2009-2013.

New Mexico and Maine are small Bars in the 5,000-7,000 members range, and the received data does not correspond to the age groups which define the other Group I states which are disclosed in that section. However, New Mexico and Maine have similar statistics. New Mexico shows that their youngest group (25-35 years), which includes millennials, but not all millennials (as it includes attorneys of 36-37 years), trended relatively stable in attorney discipline, as does Maine (which only includes millennial attorneys up to 34 years). Whether

these groups would trend upwards if the age ranges were increased to 37 years, may be possible given the data obtained from the other Group I states.

Very small Bars like Alaska (only 540 members), show no millennials being disciplined – a not unlikely outcome based on its size.

Finally, the Texas Bar shows somewhat outlier statistics for a large Bar (over 100,000 members), since Table 7/Figure 7 shows that millennials trend stably after a downward dip from 2007-2008, although the numbers of attorneys disciplined are similar to that of the similar-sized Florida Bar. Although the trend in Texas among millennials decreases from 2007-2011, the trend in discipline starts upward therefrom.

Accordingly, the data on Group I states/district, as well as California (Group III), shows that millennials overall have a higher rate of increase in discipline in the larger Bars, particularly in the last 5-7 years. Further, the data supports the premise that the overall numbers of millennials disciplined track the size of the Bar membership, with the larger Bars having more millennials disciplined than the smaller Bars.

b. Millennials show disciplinary issues after only a few years of practice, and the larger the Bar, the more quickly millennials undergo disciplinary action

The data from Group I shows that attorneys born prior to 1992 show no disciplinary actions whatsoever. However, the data shows that the next age group of millennial attorneys (born 1980-1992) begin receiving disciplinary actions early in their career, within only a couple of years after entering the work force, with disciplinary action taking slightly longer to appear in disciplinary reports from the smaller Bars, as opposed to the larger Bars.

For example, the large/very large Bars (around 100,000 members), such as D.C., Florida, and California (from Group III), show that millennials begin receiving disciplinary actions at around 2009-2010, after only a few years of practice (i.e., from 2007). In fact, very large Bar Texas shows disciplinary actions being taken immediately from 2007 against millennials.

Medium-sized Bars such as Georgia and Virginia (approximately 30,000 members), show disciplinary actions appearing from 2010-2011, respectively – a year later than millennials in large/very large Bars.

Correspondingly, in the small Bars of about 25,000 members, such as Washington and Wisconsin, disciplinary actions against millennials are instituted 1-2 years after the showing in the medium-sized Bars, such as in 2011-2013.

Further, although Oregon, Maine, and New Mexico are also small Bars, the data shows that millennials start being disciplined in 2007-2009 – similarly to that of a large/very large Bar.

Accordingly, since millennials begin to provoke disciplinary actions quickly upon entering the workforce, law firms and Bar organizations may wish to address millennial mental health and substance abuse, and any other issues that may prevent these younger attorneys from being ensnared in the Bar complaint process.

c. Older attorneys are trending down in disciplinary actions in contrast to millennials

The majority of the disciplinary data in Group I shows that millennials attorneys are trending upwards in disciplinary actions. This may not be surprising considering that the longer an attorney practices, and the more responsibility and risks they undertake, the more likely it is that stress, depression, alcohol or drug abuse will affect their behavior resulting in unethical or criminal actions.

However, surprisingly, when the older age groups were reviewed in comparison to millennials, a majority of these older age groups exhibited a downward trend in disciplinary actions. This was unexpected, as it is well-documented that the middle-aged groups, for the most part, are the most subject to disciplinary actions.⁹⁵

For example, the very large D.C. Bar shows all age groups other than millennials, trending downward in discipline, except for the 1970-1979 age group (the 38-47-year-olds – i.e., younger middle-age), which showed a slight upward trend in 2016.

The Florida Bar – at the upper end of a large Bar - is similar to D.C., with the exception that the 1970-1979 age group trended upward in 2013, but which started a downward trend in 2015-2016.

The very large Texas Bar shows that the middle-aged groups, 1970-1979 (38-47 years) and 1960-1969 (48-57 years), showed a decreased in numbers disciplined after 2011, but they started an upward trend in 2014-2016. Older age groups 1950-1959 (58-67 years) and 1940-1949 (68-77 years) had an overall stable trend after 2011.

The medium-sized Georgia Bar showed a similar trend downwards in discipline (like Florida) for all age groups except millennials, and with the exception that the 1970-1979 age group - which showed an upward trend in 2009 - showed a stabilization in numbers from 2010 onwards.

The medium-sized Virginia Bar showed a downward trend for all age groups other than millennials.

The medium-sized Washington Bar shows a large drop to almost no members disciplined in 2011, but the numbers increased therefrom for all age groups, before starting to decline for age

⁹⁵ Ward, “Lawyers who self-medicate.”

groups 1970-1979, 1950-1959, and 1940-1949, from about 2013. Age group 1960-1969 (48-57 years) showed an upward trend from 2015.

The medium-sized Wisconsin Bar had swings in data but showed major declining numbers from 2014-2015 for all age groups except millennials.

The small New Mexico and Maine do not compile data in the same age ranges as other Group I states, for the older attorneys; but from the data, New Mexico shows decreasing trends for age groups 36-45 years and over 46 years, and Maine shows a decreasing trend in discipline for the 45-54 years and 55-64 years age groups, with the 35-44 years having a slight increase in discipline, and the 65+ age group having a marked increase in disciplinary trend.

In sum, from the Group I data, while the overall trend for millennials is upward in disciplinary actions, the overall trend for the older age groups is negative, with the exception of the younger middle-age group (1970-1979 group - the next step up in age from the millennials), which shows an increasing trend. Thus, although the middle-aged Bar members are supposed to show the greatest amount of discipline (which they do in overall numbers), surprisingly, trends show declining rates of discipline for the most part.

Although this data should support the inference that since older attorneys are subject to the most disciplinary issues, that millennials should start this process and show increasing rates of discipline across all age groups, the data does not show this. Rather, even though attorney discipline reaches its highest numbers in middle-age, these older age groups are trending downwards, instead of upwards.

One reason for the declining disciplinary numbers among older attorneys could be the heavy emphasis that law firms and Bar organizations are taking in implementing programs addressing attorney stress, overwork, and alcohol/substance abuse, through courses, and Bar

attorney assistance and diversionary programs. In particular, Bar diversionary and assistance programs are created not just to assist attorneys in managing stress and to curtail alcohol/substance abuse, but to prevent attorneys from entering into the Bar complaint process and avoid possible criminal action.

In fact, the American Bar Association (ABA) has recently published a report that concludes that the legal profession is falling short when it comes to well-being.⁹⁶ The ABA study points out that lawyers and law students are experiencing chronic stress and high rates of depression and substance use, which has troubling repercussions for attorney conduct.⁹⁷

Accordingly, many law firms are committed to developing internal wellness programs for their employees, to address workplace pressures that “contribute to mental illness and addiction”⁹⁸ and result in attorney discipline. Programs are being implemented that are directed to mindfulness, resilience, work-life integration, work engagement, stress, and leadership development⁹⁹, and even millennial-friendly exercise programs like yoga and Pilates¹⁰⁰.

Despite these programs, the data shows an increasing disciplinary trend. This increasing trend may be attributed to the higher incidence of personality disorder in millennials, and the difficulty millennials may have in acknowledging or managing stress while new to their careers and responsibilities.¹⁰¹ Further, the programs may be new, and not specifically directed to millennial attorneys. Thus, programs specifically directed to millennials – which are more varied

⁹⁶ American Bar Association National Task Force on Lawyer Well-Being, “The Path to Lawyer Well-Being”, *American Bar Association*, August 14, 2017, 7.

<https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportFINAL.pdf>.

⁹⁷ American Bar Association National Task Force on Lawyer Well-Being, “The Path to Lawyer Well-Being”, 7.

⁹⁸ Roberts, William, “When Counsel Needs Counseling”, *Washington Lawyer*, January 2018, 20.

⁹⁹ Paula Davis-Laack, “Lawyer Well-Being: Creating A Movement To Improve The Legal Profession”, *Forbes*, August 15, 2017, Accessed March 27, 2018, <https://www.forbes.com/sites/pauladavislaack/2017/08/15/lawyer-well-being-creating-a-movement-to-improve-the-legal-profession/#4b85e8e44d1e>.

¹⁰⁰ Roberts, “When Counsel Needs Counseling”, 20.

¹⁰¹ Roberts, “When Counsel Needs Counseling”, 20.

than simply exercise programs like yoga - may be in order to bring this disciplinary trend downwards as is occurring with older attorneys.

d. There is no one-to-one correspondence between years-of-practice and age of attorneys disciplined

Turning to the Group II states, which include Arkansas, Minnesota, New Hampshire, and North Carolina, these states collect data based on attorney years-of-practice, not by age of the attorneys. From the data obtained from the Group II states, there is no direct correlation between them and the data from the Group I states, as the years-of-practice data do not overlap with the age groups reviewed in Group I. However, some inferences can be made from the data obtained from these four states which may be applicable to the conclusions being drawn above with respect to Group I.

Arkansas, which is a small Bar of about 5,000 members, shows decreases in disciplinary data across the board for all years-of-practice groups, except that the 1-10 years-practice group showing a slight increase in trend from 2012-2016. Of course, the 1-10 years-practice group would include all millennials, but would also include older attorneys, which may skew results slightly. This would mean that the other years-of-practice groups would include older attorneys than would normally be in that group if the attorney had graduated law school at 25 years and starting practicing.

For example, when reviewing the other states in Group II, such as Minnesota, New Hampshire, and North Carolina, one would expect to see a similar decrease in discipline for the older years-of-practice groups, with the exception perhaps, of the 1-10 years-of-practice group.

In reviewing Minnesota, this state has a medium-sized Bar of about 25,000 members and shows an increasing attorney disciplinary trend with the 1-10 years-practice group. However, the

other years-of-practice groups also show increasing trends in discipline (unlike Arkansas), with the exception of the 21-30 years group, which starts a declining trend in 2015.

New Hampshire has a very small Bar of about 3,500 attorneys – smaller than the Arkansas Bar - but like the medium-sized Minnesota Bar, shows a decreasing trend in discipline until 2014, where it begins an increasing trend across all years-of-practice.

Finally, North Carolina, which has a small Bar of 12,000 attorneys, and only has five years of data (2012-2016), follows Minnesota and New Hampshire in exhibiting increasing discipline across all years-of-practice.

Thus, the group II data shows that attorneys with 1-10 years-of-practice (i.e., which likely includes older attorneys) exhibit increases in discipline in all Group II states. Further, all Group II states with higher years-of-practice groups exhibit higher trends in discipline, with the exception of Arkansas. Without knowing the specific ages of the attorneys comprising these years-of-practice ranges, it is difficult to form a definitive conclusion other than the data supports previous studies that older attorneys are subject to higher discipline rates – particularly those in middle-age.¹⁰² However, since the years-of-practice groups include attorneys of varying age ranges – they do not correspond to the age groups defined in Group I (i.e., they are likely older).

In any event, although the Group II data supports the premise that attorneys exhibit more discipline the longer they are in practice, the results are not as clearly definitive as the larger Bars of Group I - particularly since the numbers overall of the attorneys in the Group II states are small. Further, the data conflicts to some extent with the Krill study, which will be discussed below.¹⁰³

¹⁰² Ward, “Lawyers who self-medicate.”

¹⁰³ Krill and Albert, “The Prevalence of Substance Use,” 46-52.

The remaining group III states do not provide dispositive data about discipline among millennials or any other age group, other than California, as discussed above with respect to the large Bars' effect on millennial discipline.

e. Comparison of data obtained is divergent from recent studies

The information retrieved from these 18 disciplinary organizations, although not a comprehensive review of all 50 states, is comparable to the number of states from which data was received in the recent Krill self-report study on attorneys discussed earlier.¹⁰⁴ For example, the Krill study showed that data was received from 19 states directly through 15 bar associations, the 2 largest counties of one additional state, and from 3 additional states via their Bar association websites.¹⁰⁵ The states were not identified in the Krill study, but relevant data was reportedly received from 14 states.¹⁰⁶

i. Disciplinary rates by years-of-practice

Looking closely at the Krill study, the study reports that attorneys in the first 10 years of practice showed the highest rates of problematic drinking (28.9%), followed by attorneys practicing for 11-20 years (20.6%), and continuing to decrease slightly from 21 years or more.¹⁰⁷ The Krill study states that the highest rates of problematic drinking were present among attorneys under the age of 30 (32.3%), followed by attorneys aged 31 to 40 (26.1%), with declining rates reported thereafter.¹⁰⁸

In addition, the Krill study reported that levels of depression, anxiety, and stress among attorneys showed 28% experiencing mild or higher levels of depression, 19% experiencing mild

¹⁰⁴ Krill and Albert, "The Prevalence of Substance Use," 48-50.

¹⁰⁵ Krill and Albert, "The Prevalence of Substance Use," 47.

¹⁰⁶ Krill and Albert, "The Prevalence of Substance Use," 47.

¹⁰⁷ Krill and Albert, "The Prevalence of Substance Use," 51.

¹⁰⁸ Krill and Albert, "The Prevalence of Substance Use," 51.

or higher levels of anxiety, and 23% experiencing mild or higher levels of stress.¹⁰⁹ The Krill study states that levels of depression, anxiety and stress among attorneys were significantly higher among those attorneys screening positive for problematic alcohol use.¹¹⁰ These mental health concerns manifested on a similar trajectory to alcohol use disorders, and decreased as both age and years in the field increased.¹¹¹

In comparison, the data from Group II is more readily translatable to the Krill study, since Group II states reported their information by years-of-practice. From the Group II data (Arkansas, Minnesota, New Hampshire, and North Carolina), however, although the first 10 years of attorney practice do show increases in attorney discipline, this group is not higher in numbers or percentages than the second 10 years of practice, and the numbers disciplined in the subsequent decades-of-practice do not decrease (with the exception of Arkansas) - which conflicts with the Krill study. Further, three of the four states (Minnesota, New Hampshire and North Carolina) - which may include older attorneys in each of the decade years-of-practice groups – do show higher disciplinary rates for all attorneys the longer they practice.

ii. Percentage of attorneys disciplined in each decade of by years-of-practice

The Krill study showed that 28.9% of the attorneys self-reporting in the first 10 years-of-practice showed the highest rates of problematic drinking, followed by a lower number of 20.6% of the attorneys practicing for 11-20 years, and decreasing thereafter for the higher years-of-practice decade groups.

The Krill study percentages of disciplined attorneys are much higher for the first 10 years of practice than is shown from the data from the Group II states, such as Minnesota and

¹⁰⁹ Krill and Albert, “The Prevalence of Substance Use,” 51.

¹¹⁰ Krill and Albert, “The Prevalence of Substance Use”, 51.

¹¹¹ Krill and Albert, “The Prevalence of Substance Use”, 51.

Arkansas, although the numbers for the 11-20 years disciplined are similar, and the percentages do decrease for higher years-of-practice groups.

For example, as discussed above with respect to Table 12, the Minnesota Bar data shows that attorneys licensed 1-10 years make up 15.17% of the disciplined attorneys compared to 31% average of attorneys licensed 11-20 years. Both these years-of-practice group show an increasing trend in disciplinary actions.¹¹² The 21-30 years-of-practice group and 31-40 years-of-practice group, who each make up an average of 22% in attorneys disciplined, also trended upwards in discipline, as did the 41+ years-of-practice group, which made up 8.39% average of disciplined attorneys. Thus, the percentage of self-reported attorneys in the Krill study, 1-10 years-of-practice group, are double the actual percentage of disciplined attorneys in the Group II state of Minnesota.

These numbers are very similar to another Group II Bar – that of Arkansas - despite the size difference in the Bars (Minnesota being a medium-sized Bar of about 25,000 Bar members, compared to Arkansas' small Bar of about 5,000 members). Of the total disciplined attorneys, the 1-10 years-of-practice group made up an average of 16.9% of the attorneys disciplined – similar to Minnesota's 15.17%. Of the attorneys disciplined, the 11-20 years-of-practice group made up a 29.4% average of attorneys disciplined – again, similar to Minnesota's 31%. Of the total attorneys disciplined in Arkansas, a 26.1% average of attorneys were disciplined in the 21-30 years-of-practice group, a 20.1% average of attorneys were disciplined in the 31-40 years-of-practice group (Minnesota had a similar 22% in each group), and 7.2% average of attorneys were disciplined in the over 41 years-of-practice group (Minnesota had a similar percentage of 8.39%).

¹¹² See Table 12.

Although Minnesota and Arkansas have data from 2006-2016, New Hampshire (a very small Bar of about 3,000 members) does not group the years-of-practice similarly to Minnesota and Arkansas (it combines groups 31-40 years-of-practice, and over 41 years-of-practice), and North Carolina (a very small Bar of 11,000 members), only has data from 2012-2016.

However, upon review of the data, of the total disciplined attorneys in New Hampshire, a 19.4% average of attorneys were disciplined in the 1-10 years-of-practice group, which is similar to the Minnesota and Arkansas Bars. Of the total attorneys disciplined, an average of 36.4% of attorneys were disciplined in the 11-20 years-of-practice group (similar to Minnesota's 31%); and an average of 28.6% of attorneys were disciplined in the 21-30 years-of-practice group (similar to Minnesota's 26.1%). For the large, over 31 years-of-practice group, an average of 15.8% of attorneys were disciplined of the total number disciplined.

With respect to North Carolina, since the smaller Bars take longer to begin showing disciplinary data for millennials (see Section V.b. above), and since the North Carolina data starts five years later – i.e., in 2012 instead of 2007 - one would expect that the North Carolina data would show a higher average percentage of attorneys disciplined of the total attorneys disciplined in the 1-10 years-of-practice group, than that shown in the Minnesota and Arkansas data (which is averaged over 10 years).

In fact, North Carolina aligns with this projection, with a 24.8% average of disciplined attorneys of total disciplined attorneys in the 1-10 years-of-practice group (which includes the millennials), compared to Minnesota's 15.17%. However, this number is still 20% lower than that of the Krill study for the same years-of-practice group.

Further, North Carolina has similar data for the other years-of-practice groups to Minnesota and Arkansas – i.e., 29.6% average of attorneys disciplined of total attorneys

disciplined, in the 11-20 years-of-practice group; 23.1% average of attorneys disciplined of total attorneys disciplined, in the 21-30 years-of-practice group; 17.9% average of attorneys disciplined of total attorneys disciplined in the 31-40 years-of-practice group; and 4.5% average of attorneys disciplined of total attorneys disciplined in the over 41 years-of-practice group.

The data from the Group II states shows that the attorneys disciplined in the first 10 years of practice have a much lower average percentage compared to same in the Krill study.

Accordingly, although the Krill study shows that new attorneys (i.e., 1-10 years of practice) exhibit much higher problems with alcohol abuse, and personality disorders of depression, stress, anxiety, than attorneys practicing longer, the Group II data does not emulate the percentages disclosed in the Krill study, possibly due to a voluntary response bias in the self-reporting – a limitation which was considered by the Krill study authors.¹¹³

iii. Comparison by age

With respect to age, the Krill study discloses that the highest rates of problematic drinking were present among attorneys under the age of 30 (32.3%), followed by attorneys aged 31 to 40 (26.1%), with declining rates reported thereafter.¹¹⁴

When compared with the Krill study, there is no one-to-one correspondence with the data obtained from the Group I states/district with respect to the age of disciplined attorneys, since the Krill study divides their age categories into under 30 years, 31-40 years, 41-50 years, 51-60 years, 61-70 years, and over 70 years; and the data collected in Group I includes those by year of millennial birth (i.e., 1980-1992), and then proceeds in older groups of decades (i.e., 1970-1979, 1980-1989 etc.).

¹¹³ Krill and Albert, “The Prevalence of Substance Use,” 51-52.

¹¹⁴ Krill and Albert, “The Prevalence of Substance Use,” 51.

The data from New Mexico (a small Bar of about 7,500 Bar members), shows that younger attorneys (25-35 years – which includes most, but not all millennials), are only 4.13% of the total disciplined attorneys, and attorneys 36-45 years are only 20.4% of the total disciplined attorneys, compared to 75.5% for the middle-aged, over 46 years, group of the total disciplined attorneys. However, these numbers of disciplined attorneys by age group does not correlate to, and is vastly different from the Krill study's 32.3% of attorneys with alcohol problems being under 30 years.

The same goes for the small Maine Bar (about 5,000 members), which includes age groups of up to 34 years (i.e., mostly, nut not all millennials), and includes increments of 5 years upward. The Maine data shows that this younger age group makes up a similarly small 5.8% of the total disciplined attorneys, with the next older group of 35-44 years being 18.7% of the total disciplined attorneys. As with New Mexico, the attorneys over 45 years make up a similar 75.6% of the total disciplined attorneys (i.e., total of 31% for 45-54 years, 30% for 55-64 years, and 14.6% for the over 65 years groups).

With respect to the other Group I states/district (D.C., Florida, Georgia, Oregon, Virginia, Texas, Washington, and Wisconsin), the numbers track closely with one another, and with Maine (which more closely resembles these age groups rather than does New Mexico). The 25-37 year-old millennial attorneys (born 1980-1992) comprise 3% of the total D.C. disciplined attorneys, 2.8% of the total Florida disciplined attorneys, 1.7% of the total Georgia disciplined attorneys, 7/1% of the total Texas disciplined attorneys, 2.3% of the total Virginia disciplined attorneys, 1.4% of the total Washington disciplined attorneys, and 1.1% of the total Wisconsin disciplined attorneys.

In the next age group of 38-47 years (born 1970-1979), the attorneys disciplined comprise 17.9% of the total D.C. disciplined attorneys, 18.9% of the total Florida disciplined attorneys, 22.9% of the total Georgia disciplined attorneys, 18.7% of the total Maine disciplined attorneys, 28.3% of the total Texas disciplined attorneys, 17.3% of the total Virginia disciplined attorneys, 17.6% of the total Washington disciplined attorneys, and 15.2% of the total Wisconsin disciplined attorneys.

Only the 38-47 years group disciplined in Texas comes close to the 26.1% percentage of attorneys for the 31-40 years age group identified in the Krill study as self-reporting for alcohol problems.

It should be noted that although the age groups identified in the Krill study self-reported for alcohol and mental issues, this does not necessarily mean that these attorneys ended up in the attorney disciplinary system. Further, from the data, the fact that the percentage of young attorneys being disciplined is so small in comparison to the numbers in the Krill study, infers that the younger attorneys that are self-reporting may be having concerns or issues which have not yet resulted in actions and behavior that would cause attorney discipline. Since millennials are known to lack the same privacy concerns as older attorneys, it is not surprising that they would be self-reporting at such a higher rate.¹¹⁵

f. Data results and observations

Although the data collected over 2007-2016 or 2017 from the 18 disciplinary organizations showed that there is an increasing trend in Bar complaints for misconduct by younger or millennial attorneys, or attorneys in the first 10 years of practice, the data does not

¹¹⁵ Kevin Murnane, "How Older And Younger Millennials Differ In Their Approach To Online Privacy And Security", *Forbes*, April 13, 2016, Accessed March 18, 2018, <https://www.forbes.com/sites/kevinmurnane/2016/04/13/how-older-and-younger-millennials-differ-in-their-approach-to-online-privacy-and-security/#a8ceaf19aa3b>.

show that younger attorneys are exhibiting a corresponding increase in disciplinary action that should result from the large percentages of young attorneys self-reporting for alcohol and mental disorders disclosed in the Krill study.

In fact, the data shows that the greatest increases in Bar complaints are for those attorneys in their middle-aged years, many of these groups which are declining in incidence of discipline. For example, the largest disciplined groups from Group I are the 1960-1969 group (20.5%) and 1950-1959 (26.5%) group in D.C., the 1960-1969 (32.0%) and 1950-1959 (29.6%) groups in Florida, the 1960-1969 (28.5%) and 1950-1959 (27.1%) groups in Georgia, the 45-54 years (31.0%) and 55-64 years (30.0%) groups in Maine, the 1970-1979 (28.3%) and 1960-1969 (30.7%) groups in Texas, the 1960-1969 (33.5%) and 1950-1959 (27.5%) groups in Virginia, the 1960-1969 (28.2%) and 1950-1959 (31.2%) groups in Washington, and the 1960-1969 (28.0%) and 1950-1959 (32.3%) groups in Wisconsin. Thus, the data supports that older attorneys – those in middle-age – are the most disciplined.

Further, as far as years-of-practice are concerned, the Group II data shows that the 11-20 years of practice group is the most disciplined (Arkansas – 29.4%; Minnesota – 31%; New Hampshire – 36.4%; and North Carolina – 29.6%), rather than the 1-10 years practice group as disclosed in the Krill study.

The discrepancy between the Krill study and the data from the Group I and Group II disciplinary organizations infers that the alcohol and mental disorders exhibited by attorneys, may not be reaching to the level of attorney misconduct and resulting Bar complaints among millennials. This could be due to one limitation discussed in the Krill study – namely, that self-reporting evoked a voluntary response bias – where those participating in the study are the ones

most affected or concerned by these issues (but not necessarily being disciplined due to those issues).¹¹⁶

However, another pertinent reason could be that younger attorneys (under 40 years) in the Krill study were the largest group responding to the self-surveys (i.e., 1,513 attorneys under 30 years, and 3,205 attorneys in the group 31-40 years, 2,674 attorneys in the group 41-50 years, 2,953 attorneys in the group 51-60 years, 2,050 attorneys in the group 61-70 years, and 348 attorneys over 71 years)¹¹⁷. This self-reporting of 4,718 attorneys under 40 years (which may be due to their more open outlook)¹¹⁸ may have skewed the results towards showing higher numbers for younger attorneys rather than older ones.

Further, the same holds true for the younger attorneys of 0-10 years-of-practice in the legal field, which the Krill study reports are prone to higher incidence of alcohol and mental health disorder.¹¹⁹ The Krill data shows 4,455 responses by attorneys were given for 0-10 years-of-practice, whereas only 2,905 responses were given for 11-20 years-of-practice, 2,623 responses for 21-30 years-of-practice, 2,204 for 31-40 years-of-practice, and 607 for 41 or more years-of-practice.¹²⁰

This is not to say that although the percentage of millennials exhibiting issues that should result in attorney discipline is not of concern. Rather, disciplinary actions involving millennials is a topic of high interest with respect to Bar Counsels and Disciplinary Boards. In fact, Maryland Bar Counsel, Ms. Lydia Lawless expressed concerns regarding younger attorneys, given their high debt, the present economy for attorneys, with many going into solo practice and

¹¹⁶ Krill and Albert, "The Prevalence of Substance Use," 52.

¹¹⁷ Krill and Albert, "The Prevalence of Substance Use," 47.

¹¹⁸ Murnane, "How Older And Younger Millennials Differ In Their Approach".

¹¹⁹ Krill and Albert, "The Prevalence of Substance Use," 48.

¹²⁰ Krill and Albert, "The Prevalence of Substance Use," 48.

not benefiting from the traditional apprenticeships of earlier generations.¹²¹ These concerns were also echoed in a recent article in the Washington Lawyer magazine, reporting that “firms and clients demand more and more” from their attorneys, and attorney well-being is of increasing importance.¹²² In fact, the American Bar Association (ABA)¹²³ and other state Bars have been emphasizing Attorney Assistance Programs (LAPs),¹²⁴ which are being implemented to divert attorneys from behavior that would lead to discipline, and instead into alcohol and substance abuse treatment where they can be helped and rehabilitated.

Thus, although the data obtained from the 18 Bars and Disciplinary Boards is not as dire as could be inferred from recent studies like the Krill study, millennial misconduct is clearly an increasing trend which will have eventual repercussions for the legal workplace. Knowing that millennial attorneys could have higher personality issues leading to a higher incidence of Bar discipline or criminal problems should persuade risk managers in law firms to take account of the wide range of undesirable consequences to the attorney and to the law firm. Even simply looking at workplace statistics - which state that 70% of workers are not engaged in their workplace and 18% are actively disengaged - and knowing that attorneys are subject to known psychological issues such as stress, depression, anxiety, and alcohol and substance abuse, shows that attorneys who are not working up to par, bring a high cost – financial, legal, and personal - to the law firm.¹²⁵ Even if the affected attorney were to separate from the law firm, such

¹²¹ From remarks by Ms. Lydia Lawless at The District of Columbia Bar, Continuing Legal Education Program, “Attorney Discipline Update 2018: District of Columbia, Maryland, and Virginia”, January 22, 2018, Washington, D.C.

¹²² Roberts, “When Counsel Needs Counseling”, 18.

¹²³ American Bar Association National Task Force on Lawyer Well-Being, “The Path to Lawyer Well-Being.”

¹²⁴ Utah Bar website, for example, at [http://www.utahbar.org/member-services/lawyershelpinglawyers/..](http://www.utahbar.org/member-services/lawyershelpinglawyers/)

¹²⁵ Brafford, “Building the Positive Law Firm,” 91.

separation costs are too high when vacancy, replacement, and training of a new attorney is considered.¹²⁶

Despite the above troubling reports and statistics, attorneys do not self-report to the Bar when they are suffering psychological problems, since they are afraid of being stigmatized among their colleagues, and are afraid that attorney assistance programs will expose them to Bar disciplinary actions (even though privilege may apply), and reporting of attorney misconduct is not a duty in many states.¹²⁷ It is well-known that attorneys are loath to admit to any mental health related problems, which they consider to be weakness or failure, and their colleagues are often hesitant to confront them.¹²⁸ In fact, 80% of addicted individuals do not seek help and treatment – mainly due to denial or self-deception.¹²⁹

In addition, millennial attorneys already start out with the impression by older attorneys that they lack work ethic, and are lazy, entitled, and do not meet deadlines or know how to make the hard decisions.¹³⁰ The narcissism of millennials (i.e., arrogance, hostility, boastfulness) is determined to lead to problems with relationships, including performance, and to produce negative reactions to the annoyance and aggravation of co-workers.¹³¹

Thus, it is clear that psychological issues may be a major factor in the resulting misconduct of attorneys, and determining which attorneys are susceptible to the pressures which would create or exacerbate these psychological disturbances, would play an important part in the risk management of law firms.¹³² If these problems reside in millennial attorneys more than the

¹²⁶ Brafford, “Building the Positive Law Firm,” 91.

¹²⁷ Ward, “Lawyers who self-medicate.”

¹²⁸ Ward, “Lawyers who self-medicate.”

¹²⁹ Green and Moriarty, “Rehabilitating Lawyers”, 165.

¹³⁰ Schmiedeler, M. Teresa, and Billian, Dina R., “Maintaining Professionalism for Millennials in the Workplace”, *Maryland Bar Journal*, May/June 2017, vol. L, number 3, 12.

¹³¹ Fenzel, J. L., *Examining generational differences in the workplace: Work centrality, narcissism, and their relation to employee work engagement*. (T. U. Wisconsin-Milwaukee, Ed.), December 2013, doi: 1524264284.

¹³² Alfieri, “Big Law and Risk Management,” 2.

general population, then steps can be taken to ensure that remediation can be implemented such that the issues which reside in this target population are resolved and managed early for the sake of the attorney, firm, or public.

g. Study Limitations

i. *Data is sparse and not comprehensive*

Since the present data spans only ten states/district in Group I, the larger implications can be surmised, but are not definitive. Further, since the correlation between these states and the four states of Group II are not one-to-one, the data is not definitive with respect to how length of practice compares to attorney age. More comprehensive data with respect to the ages and years-of-practice of disciplined attorneys are needed so that improved generalizations and identification of trends can be made.

ii. *Disciplinary actions may not all be due to character traits or mental disorder*

Although attorney misconduct encompasses many negative character traits that leads to discipline – i.e., dishonesty, harassment, etc. – the detailed circumstances of each transgression are not known for the most part, and discipline may stem from situations that include elements that are not related to personality disorder. However, based on the detailed narratives provided by some Bars on each infraction leading to discipline – i.e., California, Texas – the majority of the circumstances appear to involve some undesired character trait that would be indicative of personality disorder.

iii. *Attorneys disciplined due solely to mental health issues are undetermined*

Since attorneys fail to reveal mental health issues when disciplined, and they can only be inferred based on the circumstances of the infraction, it is difficult to determine if mental

health issues from personality disorder are the sole, or among many reasons behind certain misconduct. Further, in the very few cases where the attorney voluntarily sought a diversion program or lawyer assistance, these attorneys are diverted from the disciplinary process and not captured in the disciplinary statistics.

h. Direction for future work

i. Better data needed from the states

Obtaining data on the age of attorneys disciplined from the 41 remaining states, in the age groups defined in Group I, should be pursued to provide the depth of information from which disciplinary trends can be accurately analyzed and predicted. With the implementation of data collection on the age of attorneys disciplined, each Bar or disciplinary organization could more effectively measure the impact of mental health issues on all attorneys, at different ages, in order to design appropriate interventions.

In fact, mental health should be investigated directly with respect to the circumstances involving each attorney infraction, as although there are strong privacy concerns, if the attorney could confidentially reveal any such issues that contributed to the infraction, then better programs could be implemented by the Bar to intercept those attorneys before they act improperly.

This does not obviate the need to keep years-of-practice data, and that information is very useful as well. Thus, each state should ensure that they keep a uniform set of data, which provides the depth and comprehensiveness needed to cover all the various demographics of the Bar members and disciplined attorneys.

These data requirements would require funding that may not be available to some disciplinary organizations, and it should be a goal for multi-state organizations such as the ABA,

or each state disciplinary organization, to review the status of each state and obtain the funding to implement any changes necessary. It is untenable that states vary so widely in data collection, with some having no digitized data at all.¹³³ Further, some states have tremendous amounts of data – including demographical data on Bar members and disciplined attorneys, but simply omit the age of the disciplined attorney. The programmers that are running these statistics should be able to implement this additional category with instructions from the disciplinary organizations, in order to completely flesh out all the data they provide to the Bar and the public.

Although the ABA keeps a national database of all disbarred attorneys, they receive their data from each state; thus, if data is lacking, so is their database. It would be helpful if each state would provide more granularity to the data sent to the ABA, such that they would have all the necessary information on disciplined attorneys.

ii. Better investigation of attorneys being disciplined is needed

One factor noted in the review of the disciplinary data for Group I, was that the attorneys being disciplined included a small percentage that were disciplined more than once over several different years. These attorneys appear to proceed to being disbarred after several infractions.

Although these attorneys are small in number, the disciplinary organizations should be more comprehensive in their investigations with respect to any attorney who is disciplined more than once, as these attorneys appear to continue to recur in violations until they are disbarred. This outcome causes havoc to the disbarred attorney's clients, invoking claims to the client protection funds, and diminishes the reputation of the Bar and its members. In particular, many of these attorneys were reinstated after suspension and even disbarment, only to breach the rules

¹³³ See Appendix.

again. Any reinstatement of attorneys should be reviewed carefully for the prior offenses involved, and with the welfare of the public in mind before reinstatement is granted.

These attorneys may only constitute a very small percentage of attorneys being disciplined in any given year, but no matter how small, they do affect disciplinary results and trends.

iii. Educational programs geared to millennials

Since millennials are now the largest generation in the U.S. labor workforce¹³⁴, the implementation of Bar and law firm programs to identify and assist millennials to reverse their rising disciplinary trends should also be a goal to be implemented by Bar officials and law firm management. Otherwise, the numbers of millennials that would be vulnerable to disciplinary issues in their middle-aged years - where discipline is highest – would be untenable.

The recent report by the ABA’s National Task Force on Lawyer Well-Being is an excellent start in outlining the direction that various stakeholders should take to improve attorney quality of life.¹³⁵ These stakeholders should use this report and its recommendations as the starting point while taking into account the particular issues that revolve around millennials. Since there is little time – at most a few years - before millennials become ensnared in the Bar complaint process, time is of the essence in implementing targeted programs to this group. Some law firms are already starting on this track¹³⁶, but there needs to be wider implementation of programs geared to younger attorneys. Further, good habits and self-care instilled in these early

¹³⁴ Fry, R. (2015, May 11). Millennials surpass Gen Xers as the largest generation in U.S. labor force. *FactTank*, p. 2015.

¹³⁵ American Bar Association National Task Force on Lawyer Well-Being, “The Path to Lawyer Well-Being.”

¹³⁶ Roberts, “When Counsel Needs Counseling”, 20.

years, will prevent or ameliorate any mental health issues that may occur as these millennials age.

iv. More data is needed on private reprimands

In review of the Group I data, it was noted that some Bars have private reprimands, where attorneys are reprimanded but the reprimand is not captured by disciplinary statistics. In particular, Texas appeared to have an increasing number of private reprimands where the circumstances involving the issuance of a reprimand, and identifying information on the attorney, are not disclosed. These types of reprimands may skew disciplinary results, as they form a secondary, confidential track of discipline which is not open to public scrutiny, and from which trends cannot be inferred. Thus, data on private reprimands should be included in disciplinary statistics, even though they are not open to the public for examination.

v. Psychological testing for millennials could be considered

One way that the increasing trend in discipline for millennials attorneys may be stemmed, is through personality testing, which has been prevalent in the corporate world, but not used in the legal forum. Personality testing could be required of incoming millennials attorneys into legal practice, so that management may ascertain what risks the candidate presents – either before hiring, or after hiring (i.e., on a yearly basis).¹³⁷ This way, a candidate could be screened before hiring for an abusive or dysfunctional personality which would disrupt a law firm, including traits such as narcissism, borderline personality, or even more detrimental psychological disturbances such as psychopathy or antisocial personality disorder. After hiring, all attorneys can be monitored for increased stress resulting in potential alcohol or substance abuse, or the

¹³⁷ Jean Edwards, “Consider Requiring Personality Testing for Lawyers”, Law 360 In-Depth, September 19, 2016.

onset of mental illness, which can be intercepted and ameliorated before resulting in discipline or disbarment.

Chapter VI

Conclusion

Attorney disciplinary data collected from the disciplinary organizations of 17 states and the District of Columbia, shows that millennial attorneys exhibit an increasing trend in disciplinary actions beginning shortly after the start of their legal practice, which may be attributed in part to a higher incidence of personality disorder stemming from stress and anxiety and resulting alcohol abuse and substance abuse. The data shows that the overall trend for millennials in disciplinary actions for attorney misconduct is increasing, whereas older age groups show a decreasing trend in discipline, although the numbers of millennials overall is moderate. The data contradicts recent studies which reported a large percentage of millennials at risk for mental issues and substance abuse and is more in line with previous studies on middle-aged attorneys being the most disciplined of all attorneys. Data collection on disciplined attorneys is not uniform over the states, and a uniform set of statistics should be collected in order to ensure that better predictions of trends can be made. Increased attorney assistance programs should be implemented through the Bar organizations or law firms, which can intervene with younger attorneys before they exhibit behavior that may destroy their legal careers or their personal lives and diminish the reputation of the Bar and its members.

APPENDIX

Table 1. Attorney Disciplinary Organizations by State or District

Number	State/District/Website	Response to Request for Data	Open Source Data	Other Information
1	Alabama https://www.alabar.org/for-the-public/find-a-member/	3/14/2017 - No data received. No disciplinary data on millennials.	No disciplinary data provided on website.	N/A
2	Alaska https://www.alaskabar.org/servlet/content/complaints_against_a.html	3/23/2017 – Data on attorney discipline received – those born between 1980-1992; and public discipline data from 2005-2017.	No disciplinary data provided on website.	N/A
3	Arizona http://www.azbar.org/attorneyconcerns/disciplineprocess/reportsofattoorneydiscipline	No response to two letters. Called 1/9/2018 – no year of birth (YOB) data.	Disciplinary data provided on AZ Bar website, but does not include year of birth (YOB).	N/A
4	Arkansas https://courts.arkansas.gov/administration/professional-conduct/annual-reports	Response to second letter of inquiry was form response regarding how to obtain legal representation.	Disciplinary data provide on AK Bar website, but does not include YOB.	Data on disciplinary actions provided by years of Bar admittance on website.
5	California http://www.calbarjournal.com/	3/23/2017 – Disciplinary data received on attorneys born between 1980-1992, with list of those publicly disciplined.	Data on all attorneys disciplined on website. Not organized by YOB.	N/A
6	Colorado http://coloradosupremecourt.com/AboutUs/AnnualReport.asp	No response to two letters. Called 1/9/2018.	Data on age of active attorneys by year, but no data on attorneys disciplined by age.	N/A
7	Connecticut http://www.ctbar.org/?page=ProfessionalDiscipli	3/13/2017 – Denied request due to attorney discipline being confidential data.	No data on Bar website.	N/A
8	Delaware https://www.courts.delaware.gov/odc/digest/	3/24/2017 – Response stated that do not compile statistics on	Disciplinary data provided on Bar website but does not include YOB.	N/A

		attorney discipline by age.		
9	Florida https://www.floridabar.org/rules/conduct/ https://www.floridabar.org/wp-content/uploads/2017/04/16-17-Statistics-for-Web.pdf	3/10/2017 – Attorney discipline data received.	N/A	N/A
10	Georgia https://www.gabar.org/forthepublic/recent-discipline.cfm	Data received on Bar discipline by YOB and year of discipline.	N/A	N/A
11	Hawaii http://www.odchawaii.com/News.html	No response to two letters. Called 1/9/2018 and received confirmation that the data requested is not archived.	Data on attorney discipline on Bar website does not include YOB.	N/A
12	Idaho https://apps.isb.idaho.gov/bar_counsel/public_discipline.html	No response to two letters. Called 1/9/2018. Received data on 2/5/2018 that 6 millennials were disciplined over the last 12 years.	Data on disciplined attorneys on Bar website, but not by YOB.	N/A
13	Illinois http://www.iardc.org/co_recentdiscdec.html	No response to letter. Called 1/9/2018 and received confirmation that the data requested is not available.	Data on disciplined attorneys on Bar website, but not by YOB.	N/A
14	Indiana http://www.in.gov/judiciary/2768.htm	3/20/2017 – Disciplinary data that we requested is not captured.	Data on disciplined attorneys on Bar website, but not by YOB.	N/A
15	Iowa https://www.iacourtcommissions.org/icc/SearchDiscipline.do?action=recentSearch	No response to two letters. Called 1/9/2018.	Data on disciplined attorneys on Bar website, but not by YOB	N/A
16	Kansas http://www.kscourts.org/rules-procedures-forms/attorney-discipline/cases.asp	No response to two letters. Called 1/11/2018 – do not keep data by YOB.	Data on disciplined attorneys on Kansas Judicial Branch website, but not by YOB.	N/A

17	Kentucky http://www.kybar.org/search/custom.asp?id=4087	3/14/2017 – Do not keep disciplinary data that we requested.	Data on disciplined attorneys on Bar website, but not by YOB.	N/A
18	Louisiana https://www.ladb.org/DR/Default.aspx?TAB=DB	4/3/2017 – Response received that do not have attorney disciplinary data. Called 1/9/2018, and data too difficult to compile.	Have data by year, but not by YOB.	N/A
19	Maine http://www.mebaroverseers.org/about/annual_reports.html	No response to letter. Called 1/11/2018. Referred to data on Bar website. Disciplinary data retrieved from Bar website by age of attorney.	Data on disciplined attorneys on Bar website, including by YOB.	N/A
20	Maryland http://courts.state.md.us/attygrievance/sanctions.html	3/16/2017 – No data on birth year of attorneys disciplined. Recommends public websites.	Data on disciplined attorneys on Bar website, but not by YOB	N/A
21	Massachusetts https://www.massbbo.org/Decisions	4/3/2017- Do not keep attorney disciplinary data by YOB. Called 1/11/2018 but there is no way to access data by YOB.	Data on disciplined attorneys on MA Board of Bar Overseers website, but not by YOB.	N/A
22	Michigan http://www.adbmich.org/ANNUALRPT.HTM	3/30/2017 – No disciplinary data kept by attorney year of birth. Recommends public website.	Data on disciplined attorneys on Bar website, but not by YOB	N/A
23	Minnesota http://lprb.mncourts.gov/AttorneySearch/Pages/SuspendedDisbarred.aspx	3/24/2017 – No disciplinary data kept by attorney year of birth.	Data on disciplined attorneys on MN Attorneys Professional Responsibility Board website, but not by YOB.	Data on disciplinary actions provided by years of Bar admittance.
24	Mississippi https://www.msbar.org/ethics-discipline/disciplinary-process/	No response to two letters. Called 1/11/2018.	Bar provides some statistics on attorney complaints on	N/A

			website, but only for 2016-2017.	
25	Missouri https://www.courts.mo.gov/page.js?p?id=109856	No response to letter. Called 1/11/2018 – no disciplinary data kept by attorney YOB.	Supreme Court of Missouri does not provide any attorney detail or YOB on disciplined attorneys in their annual reports on website.	N/A
26	Montana http://www.montanaodc.org/Default.aspx?tabid=1229	3/24/2017 – Referred to public website. Does not keep attorney infraction data by birth date.	Office of Disciplinary Counsel for the State of Montana does not provide attorney discipline data by YOB.	N/A
27	Nebraska https://supremecourt.nebraska.gov/administration/professional-ethics/attorney-discipline-ethics/attorney-sanctions	4/4/2017 – Data not digitized and could not provide information on attorney discipline.	Attorney discipline data on Nebraska Supreme Court website does not show YOB of attorneys disciplined.	Response: Complaints against attorneys with 20+ years had more complaints than all other groups (1-2 years, 3-5 years, 6-10 years, 11-15 years, 16-20 years, and 20+ years); those with less than 2 years had no complaints.
28	Nevada https://www.nvbar.org/about-us/annual-reports/	3/17/2017 – Does not keep disciplinary data on birth year of attorney. Referred to website.	Website only allows you to search for attorney by name. No other reports are provided.	N/A
29	New Hampshire http://www.nhattyreg.org/annual.php	No response to letter. Called 1/11/2018 – do not keep YOB information on disciplined attorneys.	Website for New Hampshire Supreme Court includes disciplinary data	N/A

			by year, but not by attorney YOB.	
30	New Jersey http://drblookupportal.judiciary.state.nj.us/RecentDisciplinedCases.aspx	3/23/2017 – Does not keep disciplinary data on attorneys.	Disciplinary Board of the Supreme Court of New Jersey compiles annual reports on their website on attorney discipline, but not in any detail and not by YOB.	N/A
31	New Mexico https://nmdisboard.org/QuarterlyReport.aspx	3/23/2017 – Received statistical reports on attorney discipline from 2005-2016.	Website include data on attorney discipline but not by YOB.	N/A
32	New York http://www.nycourts.gov/courts/ad1/Committees&Programs/DDC/	No response to two letters. Called 1/11/2018, and Attorney Registration informed me that they do not keep data by YOB.	Attorney discipline annual reports on New York Courts website does not provide any detail on YOB of attorneys.	N/A
33	North Carolina https://www.ncbar.gov/lawyer-discipline/reports-of-the-office-of-counsel/	3/23/2017 – Response with attorney discipline data from 2012-20017 (only data digitized), but does not include attorney birth year. Also referred to website.	State Bar does not provide any detail on disciplined attorneys, including none by YOB.	N/A
34	North Dakota http://www.ndcourts.gov/lawyers/senior.htm	No response to letter. Called 1/11/2018 – no disciplinary data by age, and some data is confidential.	Website lists attorneys by Bar admission date, but no YOB.	
35	Ohio https://www.supremecourt.ohio.gov/DisciplinarySys/odc/	No response to two letters. Called Board of Professional Conduct on 1/11/2018 – they do not keep disciplinary data by age.	Website does not provide detail on attorneys disciplined, or any information such as YOB.	N/A
36	Oklahoma http://www.okbar.org/members/GeneralCounsel/annualreport.aspx	No response to two letters. Called 1/11/2018 – YOB data no available before 2015.	Data shows age of attorneys disciplined on website for only 2015 and 2016.	

37	Oregon https://www.osbar.org/publications/dbreporter/dbreport.html	3/31/2017 - Data available for a fee. Data requested 1/2018, and received 2/6/2018.	Website does not provide detail on attorneys disciplined, or any information such as YOB.	
38	Pennsylvania http://padisciplinaryboard.org/lookup/supreme-court-actions.php	3/17/2017 - No data on attorney discipline by birth year.	Website does not provide detail on attorneys disciplined, or any information such as YOB.	N/A
39	Rhode Island https://www.courts.ri.gov/PublicResources/disciplinaryboard/Pages/default.aspx	3/17/2017 – No data on attorney discipline by birth year.	N/A	N/A
40	South Carolina http://www.sccourts.org/discCounsel/#	No response to two letters. Called 1/11/2018.	Website does not provide information on attorneys disciplined by YOB. Does provide information on attorneys disciplined due to mental health issues, but not by YOB.	N/A
41	South Dakota http://www.statebarofsouthdakota.com/p/cm/ld/fid=45	No response to two letters. Called 1/11/2018.	Website does not provide information on attorneys disciplined.	
42	Tennessee http://www.tbpr.org/news-publications/annual-reports	3/17/2017 – Data on attorney discipline not captured per parameters of our request.	Website does not provide information on attorneys disciplined.	Response: 19 attorneys born between 1980-1992 that have been disciplined over last 12 years.
43	Texas https://www.texasbar.com/AM/Template.cfm?Section=Grievance_and_Ethics_Information1&Template	No response to two letters. Called 1/11/2018.	Only data for 2017 provided by YOB. No older data on website.	

	=/CM/HTMLDisplay.cfm&ContentID=30128			
44	Utah http://www.utahbar.org/opc/history-annual-reports/	3/14/2017 – Does not track attorney discipline data by birth year. Referred to annual reports.	Website does not provide information on attorneys disciplined.	
45	Vermont https://www.vermontjudiciary.org/about-vermont-judiciary/boards-and-committees/professional-responsibility	No response to letter. Called 1/11/2018 – no data by YOB on attorneys disciplined.	Website does not provide information on attorneys disciplined.	
46	Virginia http://www.vsb.org/site/regulation/disciplinary-system-actions/	3/20/2017 – Received attorney discipline data over years 2007-2017.	N/A	N/A
47	Washington https://www.mywsba.org/DisciplineNotice.aspx	4/12/2017 – Received attorney discipline data from years 2007-2017, by year of discipline.	N/A	N/A
48	West Virginia http://www.wvdc.org/	No response to two letters. Called 1/11/2018 – do not have disciplinary data by YOB.		
49	Wisconsin https://compendium.wicourts.gov/app/search	Data received on attorney discipline.	Website does not provide YOB information on attorneys disciplined.	
50	Wyoming https://www.wyomingbar.org/wp-content/uploads/Disciplinary_Summary.pdf	4/19/2017 – Does not have data in format requested on attorney discipline and birth years.	Website does not provide information on attorneys disciplined, including YOB.	Response: Bulk of disciplinary orders are for attorneys in 15-25 years practice, and attorneys with less than 10 years rarely disciplined.
51	District of Columbia http://www.dcbbar.org/attorney-discipline/disciplinary-decisions.cfm	9/22/2016 – Data received on attorney discipline from 2009-2016. Data for 2017 also obtained at	N/A	N/A

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