

**ANNUAL REPORT OF THE  
LAWYERS PROFESSIONAL RESPONSIBILITY BOARD**

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OFFICE OF LAWYERS PROFESSIONAL RESPONSIBILITY**

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## **I. INTRODUCTION AND HIGHLIGHTS.**

Pursuant to Rules 4(c) and 5(b), Rules on Lawyers Professional Responsibility (RLPR), the Lawyers Professional Responsibility Board (LPRB) and the Director of the Office of Lawyers Professional Responsibility (OLPR) report annually on the operation of the professional responsibility system in Minnesota. These reports are made for the period from July 2014 to June 2015, which represents the Board's and the Office's fiscal year. The majority of the statistical information, however, is based upon calendar year 2014.

### **Rules and Opinions.**

The LPRB, in conjunction with the MSBA, filed a joint petition on July 30, 2014, seeking to amend the Minnesota Rules of Professional Conduct (MRPC). The petition was filed following a review of amendments to the ABA Model Rules of Professional Conduct. Few of the changes were substantive, many more of the proposed amendments dealt with amending language of various rules to reflect advances in technology, and others were to the Comments to the MRPC. On February 27, 2015, the Court issued an order adopting the proposed changes to the rules, while declining to formally adopt or acknowledge the Comments. The Court did, however, include the revised amendments to the Comments with its order for convenience. The Director's Office has printed new editions of the MRPC for distribution; the rules can also, of course, be found on the LPRB/OLPR website.

A separate petition for rule amendment was filed by a Minnesota law firm, seeking to amend the Comment to Rule 1.2 concerning lawyers advising individuals or businesses concerning the use and production of medical marijuana, which the state legislature had authorized. The apparent inconsistency of the new state law with existing federal law could leave lawyers in a quandary about advising a client about conduct that the lawyer knows is illegal under federal law. Although the Court denied

the petition, largely because it too called for amendment to an unofficial Comment rather than a rule, it urged the petitioner to seek an opinion from the LPRB.

The Lawyers Board, in response, adopted Opinion No. 23 at its April 2015 meeting, dealing with the topic, and authorizing lawyers to advise clients if certain conditions were met. A copy of the Opinion is attached at A. 14.

### **Complaint Statistics.**

The number of complaints received in 2014 was 1,293, a minor increase from the previous year's total of 1,253. It is perhaps surprising how consistent the number of complaints received, closed and resolved by each category has remained over the past years. Tables outlining these and related statistics are at A. 3 - A. 6.

<b>Year</b>	<b>Files Opened</b>	<b>Files Closed</b>	<b>Public</b>	<b>Private</b>	<b>Dismissals<sup>1</sup></b>	<b>Other<sup>2</sup></b>
2008	1258	1161	5%	11.5%	76%	7.5%
2009	1206	1229	8%	12.5%	75%	4.5%
2010	1365	1252	4%	12.6%	74%	9.4%
2011	1341	1386	7%	9.3%	78%	5.7%
2012	1287	1287	8%	10%	76%	6%
2013	1253	1279	9%	12%	72%	7%
2014	1293	1248	5%	14%	75%	6%

Files open at start of 2014:	605
Complaints received in 2014:	1,293
Files closed in 2014:	1,248
Files open at end of 2014:	650

<sup>1</sup> Dismissals may be summarily dismissed without investigation, or after investigation either by a District Ethics Committee (DEC) or by the Director's Office without referral to a DEC.

<sup>2</sup> The balance of files closed (other) consist of resignations, reinstatements, transfers to disability inactive status, trusteeships and attorneys who died during an investigation.

Complaint totals for the first four months of 2015, if unchanged, project to a year-end total of approximately 1,293, which would match this year's total. Closings are running well ahead of openings so far this year, which, if maintained, will bring the total numbers of open files well below 550. This would represent significant progress by the Office's staff.

The Board-established target that the Office have no more than 100 files over one year old, has been met only once since 2002. The Executive Committee regularly reviews with the Director the status of all files over one year old. Year-old files have remained in the range of approximately 190 to 230. Closing these older matters remains, as always, a major goal for the Office, especially the old files that remain under investigation and not yet in litigation. Approximately one-half of the year-old files are in this group. Although the Board has questioned whether these targets, which were established over 25 years ago, remain realistic, both the Board and the Director believe they remain useful as goals.

The Office continues to target that 75% of all cases will meet the Board's proposed timelines for case processing for each step in the investigation process, with varying degrees of success.

#### **Annual Professional Responsibility Seminar.**

On October 3, 2014, the Board and Director's Office hosted their 29<sup>th</sup> annual professional responsibility seminar, held again this year at the Ramada Plaza Hotel in Minneapolis. Presentations included sessions on proposed amendments to the MRPC, *pro se* lawyers and the MRPC, and medical marijuana and the MRPC, as well as regular features on current developments and DEC investigations.

The other annual highlight was the presentation by the Board's liaison Justice Alan Page of the annual Volunteer of the Year Award, this year awarded to James Ventura

from Wayzata, Minnesota. Mr. Ventura has served as a volunteer probation supervisor for many attorneys, despite his busy criminal defense practice.

### **Public Discipline Decisions.**

It was an average year for public discipline. Thirty-five attorneys were publicly disciplined in calendar year 2014, a noticeable decrease from the previous year, but nevertheless right at the historical average for the past 30 years.<sup>3</sup> See chart at A. 8. Since decisions are issued by the Supreme Court, the Director's Office cannot control the precise number of attorneys publicly disciplined in a particular period of time, which is why the average number per year is important. Cases taken under advisement by the Court late in the calendar year, for example, following oral argument or after a stipulation for discipline has been filed by the parties, obviously will not be issued until the next calendar year, yet reflects action by the Director's Office in the earlier year.

Six attorneys were disbarred in 2014, which again is almost exactly the historical average. Thomas Harrigan, Alan Albrecht, Linda Brost, Paul Moe, Mark David Holt and Rebecca Lawler were disbarred. Ms. Lawler's disbarment was a reciprocal proceeding following her discipline in North Dakota. Misappropriation of client funds or a felony conviction was the basis for all but one of the disbarments; the other was the culmination of several prior public disciplines and multiple complaints. Nineteen lawyers were suspended in 2014 and ten either reprimanded and/or placed on probation by the Court.

Through June of this year, 24 attorneys have been publicly disciplined, indicating that this year's total will be much closer to the 47 public disciplines in 2013. Forty more public matters are pending at various stages of the disciplinary process, 11 of those are already under final advisement by the Court.

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<sup>3</sup> For purposes of this statistic, public disciplines include disbarments, suspensions, stayed suspensions, public reprimands and probations. Not included in this figure are several other categories of public decisions, such as suspensions for failing to pass the professional responsibility exam as part of a probation, reinstatements and disability proceedings.

## **II. LAWYERS PROFESSIONAL RESPONSIBILITY BOARD**

### **Board Members.**

The Lawyers Professional Responsibility Board is composed of 23 volunteer members, which includes the Chair, 13 lawyers, and 9 nonlawyers. The terms of Board members are intentionally staggered so that there is roughly equal turnover in members each year. Board members are eligible to serve two three-year terms (plus any stub term if applicable). Terms expire on January 31. This year, Board members Nancy Zalusky Berg, Cassandra Ward Brown, Carol Cummins and Daniel Malmgren completed their second and final terms on the Board. Newly appointed members are Timothy Churchwell, Thomas Evenson, Shawn Judge and Gail Stremel. Gary Hird and Terrie Wheeler were reappointed to second terms, to expire in 2018. A complete listing of Board members as of February 1, 2015, is attached at A. 1 – A. 2.

Judith Rush is now in her sixth and final year as Chair. Ms. Rush has served the lawyer discipline system as Chair for six years, as Board member (including as Vice-Chair) for six years and as a DEC member for six years before that. Obviously, her experienced leadership will be greatly missed. The Court will appoint a new Chair to begin on February 1, 2016.

### **Executive Committee.**

The Board has a five-member Executive Committee, charged with oversight of the Director's Office and the Rules on Lawyers Professional Responsibility. Three of the five Executive Committee members were among the Board members whose terms ended in January 2015. Thus, a substantially new Executive Committee was appointed, albeit with very experienced Board members. The committee now consists of Chair Judith Rush, newly-named Vice-Chair Kenneth Engel, Robin Wolpert, Roger Gilmore and Terrie Wheeler.

The Executive Committee monitors the OLPR's case processing in light of the time guidelines approved by the Board, with particular attention to the number of open disciplinary files and files more than one year old. The principal focus has been on files still under investigation (not yet resolved or charged) for more than one year. Some reasons for files remaining under investigation include attorney non-cooperation and multiple complaints that need investigation. The Executive Committee is also responsible for reviewing requests by the Director to open disciplinary files pursuant to Rule 8(a), RLPR.

Each member of the Executive Committee has assigned tasks. The Chair directly oversees panel assignments pursuant to Rule 4(f), RLPR, and oversees the Director's review and reappointment process. The Vice-Chair oversees the timely determination of complainant appeals by Board members, reviews dispositions by the Director that vary from DEC recommendations, and reviews complaints against the Director or staff. One member, currently Terrie Wheeler, is the liaison to the OLPR staff; another member, currently Roger Gilmore, oversees the review of file statistics and aging of files; and one member, currently Robin Wolpert, is responsible for addressing any former employee disqualification matters that arise.

In addition to providing ongoing oversight of case processing this year, the Executive Committee also reviewed and updated its policies and procedures.

#### **Panels.**

All members of the Board, other than Executive Committee members, serve on one of six panels which make probable cause and reinstatement determinations. The Board members who act as Panel Chairs are currently: Christopher Cain, Paul Carlson, Anne Honsa, Cheryl Prince, Stacy Vinberg and Todd Wind. All are experienced Board members.



## **Standing Committees.**

The Board has three standing committees. The Opinion Committee, chaired by Todd Wind, makes recommendations regarding the Board's issuance of opinions on issues of professional conduct pursuant to Rule 4(c), RLPR. The Rules Committee, chaired by Cheryl Prince, makes recommendations regarding possible amendments to the MRPC and the RLPR. The DEC Committee, chaired by Kenneth Engel, works with the DEC's to facilitate prompt and thorough consideration of complaints assigned to them and assists the DEC's in recruitment and training of volunteers.

As discussed in the highlights section, the Opinion Committee this past year, in response to the Supreme Court's denial of a petition for rule change on the topic, drafted and recommended Lawyers Board Opinion No. 23 concerning medical marijuana. The Board, at its April meeting, adopted the Opinion.

The Rules Committee completed its joint work with the MSBA Rules of Professional Conduct Committee, preparing and filing a petition for changes to the MRPC, as discussed in the highlights section. The new rules, as adopted by the Court, took effect on April 1, 2015.

The DEC Committee initiated changes to the website to provide more information to the public regarding the DEC's and has been working with the DEC's, as described in more detail in Section IV below.

## **III. DIRECTOR'S OFFICE.**

### **A. Budget.**

#### **1. FY'15 and FY'16 Budgets.**

Expenditures for the fiscal year ending June 30, 2015, are projected to be \$3,653,694. Pursuant to revised judicial branch procedures, budgets are now made for two-year periods. The OLPR recently submitted its budgets for FY'16 and FY'17. The FY'16 budget which begins July 1, 2015, and runs through June 30, 2016, projects anticipated expenditures of \$3,861,000.

The Director's Office budget is funded primarily by lawyer registration fees, and therefore is not dependent upon legislative dollars, as is the judicial branch's overall budget. Nevertheless, at the direction of State Court Administration, the Director's Office did not budget salary increases for FY'15, as has been true for the past five years. Nevertheless, in FY'15 the Court granted a three percent across-the-board (ATB) increase for judicial branch employees, including the Director's Office. In addition, the Court awarded employees a five percent lump sum payment and reinstated merit increases for eligible employees effective on the employee's anniversary date. Merit raises were based on performance and could range from one to six percent but because of budget restrictions the overall office average had to be no more than three percent.

For the FY'16 budget year, the Office was directed to budget a four percent salary increase for employees based upon the Legislature's budget approval. Whether this amount will be awarded in the form of an ATB and/or merit, remains to be seen. Increased cost for health insurance has also been budgeted for FY'16.

For the past several fiscal years, funds have been allocated to allow for an additional paralegal position and an extra clerical staff position, subject to approval by the Court (*see next section*).

The FY'16 budget, once again, includes funds to rebuild the Attorney Disciplinary Record System (ADRS). In November 2014, the business analysis section of this project was completed. In early 2015, a request for proposals (RFP) was drafted and is currently pending approval by the Judicial Branch legal division. Once approved, the project will be put out for bid. After selection of a vendor, it is hoped the development stage of this project will begin by fall of 2015.

#### **B. Personnel.**

The Director's Office now employs 12 attorneys including the Director, 5.5 paralegals, an office administrator, 10 support staff and one law clerk (*see organizational chart at A. 11*).

- In summer 2014, Cheryl Krueger announced her retirement after 30 years at the Director's Office, effective December 1, 2014.
- In September 2014, Tracy Kress-Plunkett was hired as a Receptionist/Clerk to fill a newly created clerical support position provided for in the Director's FY'15 budget.
- In October 2014, Jennifer Novak resigned her position as Law Clerk Trainee.
- In November 2014, Kelli Dornbusch was hired to fill the position of Panel Clerk vacated by Cheryl Krueger's retirement.
- In December 2014, Kim Ferencik resigned her position as DEC Volunteer Coordinator/SharePoint Clerk.
- In February 2015, Xenia Labacevic was hired to fill the DEC Volunteer Coordinator/SharePoint Clerk position.
- In January 2015, Molly Vo was hired to fill the position of Law Clerk Trainee. Ms. Vo just completed her second year at the University of Minnesota School of Law.

**C. Website and Lawyers Professional Responsibility Board Intranet.**

The OLPR website continues to be updated regularly to ensure it remains current and user friendly. The site contains a substantial amount of useful information regarding the discipline system, as well as services provided by the Director's Office. Attached at A. 12 is a recent print of the home page for the website. In June of 2015, the website software was upgraded. As part of that upgrade, additional information regarding DEC Committees will be added.

The LPRB and DEC intranet sites are widely used by volunteer Lawyers Board members, DEC chairs and investigators. Over the past several years, more volunteers are using the sites and the sites have proven to be fast, efficient and convenient for all volunteer users and OLPR staff (*see* p. 28).

#### **D. Complainant Appeals.**

Under Rule 8(e), RLPR, a dissatisfied complainant has the right to appeal most dismissals and all private discipline dispositions. Complainant appeals are reviewed by a Board member, other than members of the Board's Executive Committee, selected in rotation. During 2014, the Director's Office received 198 complainant appeals, compared to 195 such appeals in 2013. One hundred and ninety-two complainant appeal determinations were made by Board members in 2014 as follows:

		<u>%</u>
Approve Director's Disposition	180	94.0
Direct Further Investigation	10	5.0
Instruct Director to Issue an Admonition	0	0.0
Instruct Director to Issue Charges	2	1.0

Approximately 103 clerical hours were spent in 2014 processing and routing appeal files. Limited attorney time was expended in reviewing appeal letters and responding to some complainants who continued to correspond even after their appeals were decided.

#### **E. Probation.**

Attorney disciplinary probations are an important part of the attorney disciplinary system administered by the Director's Office. Disciplinary probations may be agreed to as part of the resolution of a complaint against a lawyer or they may be required by the Minnesota Supreme Court as a condition of a lawyer's reinstatement to the practice of law. Probations ordered by the Supreme Court are public. Those agreed to between the respondent lawyer and the Director, and approved by the Lawyers Board Chair, are private. The Director may pursue a private probation when the Director concludes that the lawyer's conduct does not warrant public discipline, but is too serious to justify an admonition (pursuant to Rule 8(d)(2), RLPR, the Director may

issue an admonition in any matter where the “Director concludes that a lawyer’s conduct was unprofessional but of an isolated and non-serious nature”).

In 2014, there were 30 new probations. This represents a slight decrease from the 31 new probations in 2013. Of the 30 new probations in 2014, 12 were public. Of those, six were ordered by the Court as a condition of reinstatement for attorneys who had been suspended from the practice of law.

Pursuant to Rule 18(e)(3), RLPR, subject to certain conditions, reinstated lawyers are required to pass the professional responsibility portion of the bar exam. “Unless specifically waived by this Court, any lawyer suspended for a fixed period of ninety (90) days or less, and any suspended lawyer for whom the Court waives the requirements of subdivisions (a) through (d), must, within one year from the date of the suspension order, successfully complete such written examination as may be required for admission to the practice of law by the State Board of Law Examiners on the subject of professional responsibility [MPRE]. Except upon motion and for good cause shown, failure to successfully complete this examination shall result in automatic suspension of the lawyer effective one year after the date of the original suspension order.”

In 2014, one lawyer who was placed on probation following suspension had her license again suspended, and hence her probation revoked, for failing to comply with this portion of the rules. On September 11, 2013, the Court reinstated attorney Susanne Marie Glasser to the practice of law, conditioned upon her successful completion of the professional responsibility portion of the state bar examination by June 1, 2014. Ms. Glasser failed to provide the required proof of her successful completion of the MPRE. By order dated July 9, 2014, the Court revoked Ms. Glasser’s conditional reinstatement and effectively suspended her probation as well. After providing an affidavit attesting to her compliance with the terms of the suspension order, including successful completion of the MPRE, the Court reinstated Ms. Glasser to the practice of law.

In addition to a probation being terminated because of the lawyer's suspension for failing to successfully complete the MPRE, the Director may also seek further discipline and termination of the probation if the lawyer engages in additional misconduct. One case in the past year involved revocation of probation because of further misconduct.

The types of attorney misconduct that often precedes a disciplinary probation include the lawyer's failure to provide competent or diligent representation to clients, failure to adequately communicate with clients, or failure to follow the requirements governing lawyer trust accounts. Chemical dependency and mental health concerns also contribute to attorney misconduct and, accordingly, a number of the lawyers on probation have a history of such afflictions. Given this, probations frequently include requirements that promote sound practices to ensure that the conduct does not reoccur or a continued course of mental health treatment, abstinence, and support to ensure continued mental and chemical health. For example, to make sure a probationer is diligently pursuing client matters and communicating with clients, the lawyer may be required to maintain case lists documenting the nature of the file, upcoming deadlines, communications with clients, and next anticipated action on the file.

Of the new probations in 2014 that resulted at least in part from the lawyer improperly maintaining his or her trust account, a majority of the probationers were required to provide their trust account books and records to the Director for review. Over the course of the probation, most probationers acquire the skills necessary to maintain their trust account books in compliance with the MRPC.

Seven of the new probations in 2014 involved lawyers with mental health issues. As part of these probations, the lawyers were required to treat with a licensed psychologist or other mental health professional acceptable to the Director, to complete all recommended therapy, and to provide the Director with authorizations to confirm compliance with treatment recommendations.

In cases involving chemical dependency issues, the terms of the probation may also require the attorney to demonstrate attendance in a twelve-step program or other abstinence-based program, such as Alcoholics Anonymous or Narcotics Anonymous. When appropriate, the Director may also require completion of a chemical dependency evaluation and the completion of all recommended treatment including in or out-patient treatment and aftercare or psychotherapy.

Probations involving underlying chemical dependency issues may also require the probationer to participate in the Director's random urinalysis (UA) program. In those cases, the probationer is required to call the Director's Office three days a week to determine if UA testing is required. Probationers are obligated to appear for testing, at their own expense, generally four times per month, but on occasion up to six times per month. Depending on the specific terms of the stipulation or order, the Director may decrease the number of tests per month or, if provided for in the order or stipulation, terminate the UA requirement if the probationer is fully compliant with the terms of the Director's UA program and all tests are negative. Currently, there are seven probationers participating in the Director's random UA program. Two other probationers are required to participate in a UA program only if they return to the practice of law.

#### **DISABILITY RELATED PROBATIONS**

Psychological Disorders – existing files on 1/1/14	9	
New files opened during 2014	<u>7</u>	
Total Psychological Disorder Related Files		16
Chemical Dependency <sup>4</sup> – existing files on 1/1/14	10	
New files opened during 2014	<u>2</u>	
Total Chemical Dependency Related Files		<u>12</u>
<b>Total Disability Related Probations</b>		<b>28</b>

**Probation Supervisors.** Another common element of probations is the involvement of another lawyer to supervise the probationer. During 2014, 27

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<sup>4</sup> Probations involving Alcoholics Anonymous attendance and/or random UAs.

Minnesota attorneys served as volunteer probation supervisors. Eight of the twelve supervised probations opened in 2014 were supervised by volunteer lawyers who met with the probationers on a regular basis, reviewed the probationers' case lists, and offered suggestions on file management and law office procedures. Generally, supervisors monitor a probationer's legal work, but the Court can require a supervisor to monitor other issues in a probationer's life, such as mental health or sobriety. For example, the Court required one supervisor to monitor the probationer's compliance with the conditions of probation—all of which focused on the probationer's sobriety. In another public probation, the Court ordered the probationer to provide full written disclosure to the supervisor that he had remained abstinent and participated in all recommended treatment.

Not all supervised probations have volunteer supervisors. Where the probationer is unable to locate an appropriate supervisor, the Director will appoint a lawyer who has served previously or supervise the probationer personally. In other circumstances, the Director can determine that supervision is unnecessary such as when the probationer is employed outside the practice of law or simply has no clients.

While not every probationer has a supervisor, this does not mean that the probation is "unsupervised." Even in probations with no supervisor, the Director's Office is involved in monitoring various aspects of the lawyer's probation. For example, as indicated above, lawyers with trust account issues are required to submit their trust account books and records to the Director for audit. The Director also monitors probationers' ongoing sobriety and mental health by obtaining medical and mental health records, random urinalysis and other laboratory tests.

Of the probationers whose probations opened in 2014 (and accordingly for whom the Director has data on the nature of their practice while on probation), the majority were either in solo practice or were part of very small (i.e., 2- to 3-person) firms. With the exception of five probationers who were in practice less than ten years, over half of the new probations in 2014 involved lawyers with 20 or more years of



experience. Seven probationers had practiced 30 or more years, including one lawyer with 37 years of practice and another with 40 years' experience.

Upon closing a probation, the Director asks supervisors to complete a survey regarding their practice of law, the probationer's law practice and their supervisory experience. Three probation supervisors (one solo practitioner and two lawyers from small firms) responded to the Director's survey in 2014.

The supervisors volunteered between one and two hours per week traveling to probationers' offices, reviewing client inventories and client files, communicating with probationers (either in-person or by phone and email), and reporting their observations quarterly to the Director. The primary focus of these probations was maintaining and documenting client communications, calendar and docket control systems, file organization, timekeeping and billing issues, improving law office management skills, and, in one probation, transitioning away from litigation.

It is not unusual for a supervisor's efforts to go beyond office management issues and focus on the probationer's overall well-being. One supervisor, who before agreeing to supervise, spoke to the Director's Office about the commitment and work required to supervise, agreed to supervise because he saw the probationer as a potential hire.

Each of the supervisors surveyed in 2014 was pleased with the probation system. All supervisors, with the exception of one, indicated they would likely serve again and would consider recommending service as a probation supervisor to a colleague. All supervisors responding to the Director's survey in 2014 found their probationers to be cooperative and responsive to their suggestions. One supervisor noted that his probationer realized the importance of documentation instead of "operating on a handshake." Another supervisor, whose probationer opened a solo practice over the course of the probation, believes his probationer benefited from supervision and now has a stable practice.

Overall, all supervisors were pleased with the probation system and the support received from the Director's Office. All indicated they believed the purpose of the probation was well served.

**Probation Department.** During 2014, Senior Assistant Director Craig Klausing and Senior Assistant Director Megan Engelhardt, with the assistance of two paralegals, monitored all probations.

<b>TIME BY PROBATION DEPT. STAFF (hrs./wk.)</b>	
Attorney 1	12
Attorney 2	8
Paralegal 1	8
Paralegal 2	<u>8</u>
<b>TOTAL PROBATION STAFF TIME PER WEEK</b>	<b>36</b>

## PROBATION STATISTICS

### **TOTAL PROBATION FILES OPEN DURING 2014**

Public Supervised Probation Files (31%)	29	
Public Unsupervised Probation Files (23%)	<u>21</u>	
Total Public Probation Files (54%)		50
Private Supervised Probation Files (12%)	11	
Private Unsupervised Probation Files (34%)	<u>31</u>	
Total Private Probation Files (46%)		<u>42</u>
<b>Total Probation Files Open During 2014</b>		92

### **TOTAL PROBATION FILES**

Total probation files as of 1/1/14	61
Probation files opened during 2014	30
Public probation extended during 2014	0
Probation files closed during 2014	<u>(22)</u>
<b>Total Open Probation Files as of 12/31/14</b>	69

### **PROBATIONS OPENED IN 2014**

#### **Public Probation Files**

Court-ordered Probation Files		
Supervised	2	
Unsupervised	<u>4</u>	
		6

#### **Reinstatements**

Supervised	4	
Unsupervised	<u>2</u>	
		<u>6</u>

**Total Public Probation Files** 12

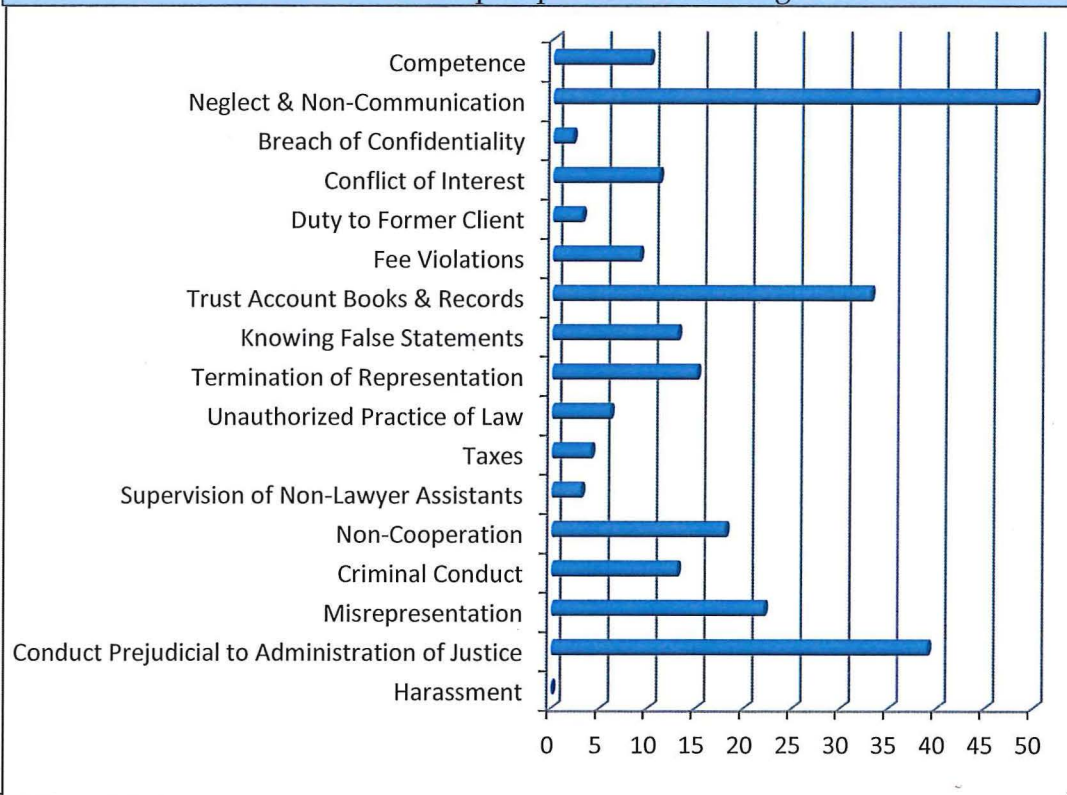
#### **Private Probation Files**

Supervised	6	
Unsupervised	<u>12</u>	
Total Private Probation Files		<u>18</u>

**Total New Probation Files in 2014** 30

## AREAS OF MISCONDUCT

As reflected in 92 open probations during 2014<sup>5</sup>



Competence (Violation of Rules 1.1 and 1.2, MRPC)	10
Neglect & Non-Communication (Violation of Rules 1.3 and 1.4, MRPC)	50
Breach of Confidentiality (Violation of Rule 1.6, MRPC)	2
Conflict of Interest (Violation of Rules 1.7 and 1.8, MRPC)	11
Duty to Former Client (Violation of Rule 1.9, MRPC)	3
Fee Violations (Violation of Rule 1.5, MRPC)	9
Trust Account Books and Records (Violation of Rule 1.15, MRPC)	33
Termination of Representation (Violation of Rule 1.16, MRPC)	15
Knowing False Statements to Others (Violation of Rule 4.1, MRPC)	13
Unauthorized Practice of Law (Violation of Rule 5.5, MRPC)	6
Taxes	4
Supervision of Nonlawyer Assistants (Violation of Rule 5.3, MRPC)	3
Non-Cooperation (Violation of Rule 8.1, MRPC)	18
Criminal Conduct (Violation of Rule 8.4(b), MRPC)	13
Misrepresentation (Violation of Rule 8.4(c), MRPC)	22
Conduct Prejudicial to the Administration of Justice (Violation of Rule 8.4(d), MRPC)	39
Harassment	0

<sup>5</sup> A file may involve more than one area of misconduct.

## **F. Advisory Opinions.**

The number of advisory opinions requested by Minnesota lawyers and judges increased slightly in 2014. In 2014 the Director's Office received 2,156 requests for advisory opinions, compared to 2,116 in 2013. This represents a two percent increase over last year. *See* A. 13. The Office gave 2021 opinions in 2014, an increase of 42 over those given in 2013.

Minnesota attorneys submitted 320 advisory opinion requests via the email link on the OLPR website in 2014, compared to 244 requests received in 2013. Like telephone advisory opinion requests, inquiries from the website are responded to by telephone.

Advisory opinions are available to all licensed Minnesota lawyers and judges. Advisory opinions are limited to prospective conduct. Questions or inquiries relating to past conduct, third-party conduct (i.e., conduct of another lawyer) or questions of substantive law are not answered. Advisory opinions are not binding upon the Lawyers Board or the Supreme Court; nevertheless, if the facts provided by the lawyer requesting the opinion are accurate and complete, compliance with the opinion would likely constitute evidence of a good faith attempt to comply with the professional regulations. As a part of most Continuing Legal Education presentations by members of the Director's Office, attorneys are reminded of the advisory opinion service and encouraged to make use of it.

Set forth below is a statistical summary of advisory opinions for the period 1991 through 2014:



YEAR	OPINIONS GIVEN BY TELEPHONE	OPINIONS GIVEN IN WRITING	TOTAL OPINIONS GIVEN	OPINIONS DECLINED	TOTAL
1991	1083 (84%)	23 (2%)	1106 (86%)	186 (14%)	1292
1992	1201 (86%)	15 (1%)	1216 (87%)	182 (13%)	1398
1993	1410 (87%)	16 (1%)	1426 (88%)	201 (12%)	1627
1994	1489 (84%)	10 (1%)	1499 (85%)	266 (15%)	1765
1995	1567 (87%)	22 (1%)	1589 (88%)	206 (12%)	1795
1996	1568 (88%)	16 (1%)	1584 (89%)	199 (11%)	1783
1997	1577 (90%)	15 (1%)	1592 (91%)	165 (9%)	1757
1998	1478 (91%)	23 (1%)	1501 (92%)	131 (8%)	1632
1999	1464 (90%)	17 (1%)	1481 (91%)	154 (9%)	1635
2000	1600 (90%)**	28 (2%)	1628 (92%)**	142 (8%)	1770*
2001	1682 (92%)	9 (.5%)	1691 (93%)	133 (7%)	1824
2002	1695 (93%)	15 (.8%)	1710 (94%)	115 (6%)	1825
2003	1758 (93%)	9 (.5%)	1767 (94%)	122 (6%)**	1889
2004	1840 (93%)	3 (.2%)	1843 (93%)	131 (7%)	1974
2005	2041 (94%)	1 (.5%)	2042 (94%)	135 (6%)	2177
2006	2119 (92%)	2 (.8%)	2121 (92%)	186 (8%)	2307
2007	2080 (94%)	2 (.9%)	2082 (94%)	141 (6%)	2223
2008	1982 (93%)	2 (.9%)	1984 (93%)	151 (7%)	2135
2009	2137 (94%)	1 (.4%)	2138 (94%)	144 (6%)	2282
2010	2134 (95%)	2 (.0%)	2136 (95%)	122 (5%)	2258
2011	2080 (99%)	2 (.0%)	2082 (94%)	133 (6%)	2215
2012	2137 (99%)	4 (.0%)	2141 (95%)	108 (5%)	2249
2013	1976 (93%)	3 (.0%)	1979 (94%)	137 (6%)	2116
2014	2020 (94%)	1 (.0%)	2021 (94%)	135 (6%)	2156

\* 2000 totals revised to reflect additional AOs that were not previously included.

\*\* Percentage amount corrected.

In 2014 the Director's Office expended 316 Assistant Director hours in issuing advisory opinions. This compares with 323 hours in 2013. Dissolution/Custody was the most frequently inquired about area of law. Client confidentiality was the most frequent area of specific inquiry.

### **G. Overdraft Notification.**

The lawyer trust account overdraft reporting program provided for by Rule 1.15(j) – (o), MRPC, has been in effect since 1990. Since that time, Minnesota banks wanting to maintain lawyer trust accounts must agree to report all overdrafts on trust accounts to the Director's Office.<sup>6</sup> When the Director receives notice of an overdraft on a lawyer trust account, the Director writes to the account-holder and requests an explanation for the cause of the overdraft and proof that it has been corrected, together with three months of the lawyer's trust account books and records, i.e., bank statements, checkbook register, client subsidiary ledgers, trial balances and reconciliations. The purposes of requesting these books and records are to (1) interpret and verify the account-holder's overdraft explanation, (2) where necessary, educate the account-holder regarding the trust account books and records requirements and assist him/her in conforming his/her trust account books and records to those requirements, and (3) identify shortages and other serious deficiencies requiring discipline.

The number of trust account overdraft notices reported to the Director in 2014 (68) represented a decrease of almost 20% from those reported in 2013 (84). This is a positive sign. The total number of overdraft inquiries closed<sup>7</sup> by the Director in 2014 (76) also decreased from those closed in 2013 (80), but by a much smaller percentage. The percentage of total closings that did not involve conversion to a disciplinary investigation in 2014 (62 or 82%) was comparable to 2013 (66 or 83%). At the end of 2014, 10 overdraft inquiry files remained open.

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<sup>6</sup> Banks are also required to agree to pay a certain minimum level of interest on lawyer trust accounts.

<sup>7</sup> When the Director receives a satisfactory explanation for the overdraft and is assured that the account-holder is adequately maintaining his/her trust account books and records, the Director will simply close the overdraft notice inquiry without any further action. Where, however, the overdraft appears to have been caused by a shortage in the account-holder's trust account and/or there are other serious deficiencies identified in the account, the Director will convert the overdraft inquiry into a formal disciplinary investigation. These numbers reflect a combination of these two types of overdraft inquiry closings.

### Overdrafts Reported by Banks

2014	68
2013	84

### Closed Inquiries During 2014

• Closed Without Need for Disciplinary Investigation	62
• Inquiry Converted to Disciplinary Investigation	14
<b>Total Trust Account Inquiries Closed</b>	<b>76</b>

### Public Discipline Decisions Related to Trust Account Overdraft Inquiry

Eleven disciplinary matters arising from a trust account overdraft inquiry were resolved in 2014. Five such matters contributed to a public discipline decision:

*In re Kramer*, 843 N.W.2d 223 (Minn. 2014) (suspension).

*In re Tigie*, 843 N.W.2d 583 (Minn. 2014) (suspension).

*In re Waters*, 847 N.W.2d 248 (Minn. 2014) (suspension).

*In re Schutz*, 846 N.W.2d 82 (Minn. 2014) (suspension).

*In re Andresen*, 846 N.W.2d 82 (Minn. 2014) (public reprimand/probation).

The other six disciplinary matters were resolved as follows:

Private probation:	5
Admonition:	0
Dismissal:	1

In 62 (or 84%) of the inquiries closed without a disciplinary investigation, the Director recommended changes or improvements to the lawyer's trust account books, records and/or practices. This is an increase from the percentage of inquiries in which such guidance was given in 2013 (52 or 79%). The most common deficiencies discovered in lawyers' trust account books and records were a lack of proper books, failure to properly reconcile the account and minor unintentional commingling.

In 2014 the overdraft inquiries closed without a disciplinary investigation were closed for the following reasons:



<b>Overdraft Cause</b>	<b>No. of Closings</b>
Check written in error on TA	7
Bank error	11
Service or check charges	13
Late deposit	9
Mathematical/clerical error	8
Third party check bounced	2
Reporting error	0
Deposit to wrong account	5
Improper/lacking endorsements	0
Bank hold on funds drawn	3
Other	4

#### Disciplinary File Openings

As noted, the Director will convert an overdraft inquiry into a disciplinary investigation if shortages or other significant problems are identified in the lawyer's trust account books and records, the lawyer fails to respond to the overdraft inquiry or the lawyer's response does not adequately explain the overdraft. During 2014, overdraft inquiries were converted into disciplinary investigations for the following reasons:

<u>Reason for Investigation</u>	
Shortages	7
Response fails to explain overdraft	4
Commingling	1
Other	2
<b>Total</b>	<b>14</b>

#### Time Requirements

The Director's time requirements to administer the overdraft notification program are as follows:

	<u>1/13-12/13</u>	<u>1/14-12/14</u>
Attorney	91.25	74.25
Paralegal and other staff	<u>203.00</u>	<u>166.00</u>
<b>Total</b>	<b>294.25</b>	<b>240.25</b>

The total time requirements in 2014 (240.25 hours) decreased significantly from 2013 (294.25 hours). Part of this decrease is likely attributable to almost a 20% decline in the number of overdrafts reported by banks.

In early 2014, the Director's Office mailed updated "Trust Account Overdraft Notification and IOLTA Comparability Agreements" to all approved institutions. The purposes of this mailing were to remind banks of their overdraft reporting and interest comparability obligations and to ensure that the Director's list of approved institutions was accurate and complete.

#### **H. Judgments and Collections.**

In 2014 judgments were entered in 32 disciplinary matters totaling \$30,660.25. The Director's Office collected a total of \$23,023.18 from judgments entered during or prior to 2014.

A comparison of the 2013 statistics and 2014 statistics is presented below:

	<b>2013</b>	<b>2014</b>
Number of judgments entered:	48	32
Dollar value of judgments entered:	\$57,001.17	\$30,660.25
Total amount collected:	\$40,146.87	\$23,023.18
Portion attributable to current year's judgment:	\$32,619.55	\$13,680.93
Portion attributable to judgments of prior years:	\$7,527.32	\$9,342.25

Fifteen out of the 32 judgments entered in 2014 were paid in full during the 2014 calendar year. One additional judgment from 2014 was paid in full in early 2015. While the Director's Office collected substantially more in 2013 than in 2014, there were 16 more judgments entered in 2013 than in 2014. Additionally, in 2014 the Director's Office collected more money attributable to judgments of prior years than it did in 2012 or 2013.

**I. Disclosure.**

**1. Department Function.**

The disclosure department responds to written requests for attorney disciplinary records. Public discipline is always disclosed. Private discipline is disclosed only with a properly executed authorization from the affected attorney. In addition, the Director's Office responds to telephone requests for attorney public discipline records. Public discipline information also is available through the OLPR website. These informal telephone requests and responses are not tabulated.

**2. Source and Number of Written Requests for Disclosure.**  
**Calendar Year 2014.**

	<u>No. of Requests</u>	<u>No. of Attorneys</u>	<u>Discipline Imposed</u>	<u>Open Files</u>
A. National Conference of Bar Examiners	200	200	6	0
B. Individual Attorneys	422	422	31	5
C. Local Referral Services				
1. RCBA	22	38	1	0
2. Hennepin County	3	195	5	0
D. Governor's Office	16	35	3	1
E. Other State Discipline Counsels/State Bars or Federal Jurisdiction	102	105	2	1
F. F.B.I.	14	14	0	0
G. MSBA: Specialist Certification Program	19	189	7	3
H. Miscellaneous Requests	42	99	5	0
<b>TOTAL</b>	<b>840</b>	<b>1297</b>	<b>60</b>	<b>10</b>
(2013 Totals)	(721)	(1170)	(36)	(12)

**3. Press Releases.**

The disclosure department also handles the issuance of press releases, which are issued upon the filing of contested public petitions seeking suspension or disbarment, and again with every Supreme Court public disciplinary decision. The Director's Office

continues to see an increase in the number of news organizations requesting to be added to the list of recipients of news releases issued by the Office.

#### **J. Trusteeships.**

##### **Rule 27(a), RLPR, states:**

**Appointment of Trustee.** Upon a showing that a lawyer is unable to properly discharge responsibilities to clients due to disability, disappearance or death, or that a suspended, disbarred, resigned, or disabled lawyer, or a lawyer whose conditional admission has been revoked, has not complied with Rule 26, and that no arrangement has been made for another lawyer to discharge such responsibilities, this Court may appoint a lawyer to serve as the trustee to inventory the files of the disabled, disappeared, deceased, suspended, disbarred or resigned lawyer, or a lawyer whose conditional admission has been revoked, and to take whatever other action seems indicated to protect the interests of the clients and other affected parties.

The Director's Office was assigned two new trusteeships this year. On October 17, 2014, the Director was appointed trustee of the client files of Rudolph G. Maurine. Mr. Maurine passed away on August 15, 2014. The Director's Office took possession of and inventoried files relating to approximately 280 clients. The Director has notified those clients with files less than seven years old and those files are in the process of being returned to clients.

On December 11, 2014, the Director was appointed trustee of the client files of Hugh P. Markley. Mr. Markley is suffering a disability and unable to practice law. The Director took possession of approximately 37 client files. The majority of Mr. Markley's current files had already been returned to the clients. In addition, the Director took possession of several boxes of original documents, consisting mostly of wills, ranging in dates from 1958 to 2013. All files and original documents have been inventoried. Notice to clients, where applicable, have been sent. Files and/or original documents are in the process of being returned at the client's request.

Other trusteeship activities were:

- In July 2013 the Director's Office was appointed trustee of the trust account of deceased attorney Sandra K. Agvald. The trusteeship was closed in July 2014.
- In October 2014 the Director's Office was appointed trustee of the trust account of deceased attorney Rudolph G. Maurine. An audit has been completed and clients have been contacted. This trust account will be closed at the conclusion of the Maurine client files trusteeship matter.
- In November 2013 the Director's Office was appointed trustee of the client files of attorney Joseph Awah Fru. This was a very large trusteeship with the majority of files involving immigration clients for whom English was not their first language. All of these factors contributed to greater than usual Director staff time being expended in processing the files. Such processing concluded in March 2015. The trusteeship was closed in June 2015.
- In January 2015 the Director's Office was appointed trustee of the trust account of deceased attorney John A. Hatling. An audit has been completed. It was determined all funds belonged to Mr. Hatling. Arrangements are being made for distribution of funds to Mr. Hatling's widow.

The Director's Office continues to retain the following files:

- Deno Walter Berndt trusteeship—494 files which are eligible for expunction in March 2016.
- Steven K. Marden trusteeship—149 files which are eligible for expunction in March 2017.
- George C. Riggs trusteeship—753 files which are eligible for expunction in October 2017.

Storage space continues to be maintained in the building for the long-term storage of trusteeship files.

#### **K. Professional Firms.**

Under the Minnesota Professional Firms Act, Minn. Stat. § 319B.01 to 319B.12, professional firms engaged in the practice of law must file an initial report and annual reports thereafter demonstrating compliance with the Act. The Director's Office has

handled the reporting requirements under this statute since 1973. Annual reports are sought from all known legal professional firms, which include professional corporations, professional limited liability corporations and professional limited liability partnerships. The filing requirements for professional firms are described on the OLPR website.

Professional firms pay a filing fee of \$100 for the first report and a \$25 filing fee each year thereafter. In reporting year 2013,<sup>8</sup> there were 171 new professional firm filings. Fees collected from professional firm filings are included in the Board's annual budget. As of April 30, 2015, the Director's Office received \$68,350 from 2,392 professional firm filings. There were 89 new professional firm filings for the reporting year. The Director's Office received \$78,950 during fiscal year 2014.

An Assistant Director, paralegal, and administrative clerk staff the professional firms department in the Director's Office. For fiscal year 2015 (as of April 30, 2015), the total attorney work time for overseeing the professional firms department was 35 hours. The total non-attorney work time was 929 hours.

#### **IV. DISTRICT ETHICS COMMITTEES (DECs).**

Minnesota is one of a few jurisdictions that continue to extensively use local DECs to conduct the preliminary investigation of the majority of ethics complaints. The Supreme Court Advisory Committee considered the continued vitality of the DEC system in 2008 and determined that the Minnesota system continues to work well, and strongly urged its continuation. Each DEC corresponds to the MSBA bar districts, and each is assigned a staff lawyer from the OLPR as a liaison to that DEC.

Initial review of complaints by practitioners and nonlawyers is valuable in reinforcing confidence in the system. The overall quantity and quality of the DEC investigative reports remain high. For calendar year 2014, the Director's Office followed DEC recommendations in 86% of investigated matters that were closed during

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<sup>8</sup> December 1, 2013 – November 30, 2014.

the year. Many of the matters in which the recommendation was not followed involved situations in which the DEC recommended a particular level of discipline, but the Director's Office sought an increased level of discipline. This typically involved attorneys with substantial prior relevant discipline that was not considered by the DEC in making its recommendation. These matters are counted as not following the DEC recommendation.

In 2014 the monthly average number of files under DEC consideration was 136, fluctuating between a low of 122 and a high of 148. The year-to-date average for 2015 has decreased to 127 as of April 30.

Rule 7(c), RLPR, provides a 90-day goal for completing the DEC portion of the investigation. For calendar year 2014, the DEC's completed 396 investigations, taking an average of four months to complete each investigation.

The Hennepin DEC is the state's largest district and Hennepin statistics are separately monitored. In calendar year 2014, 163 matters were referred back to the Director's Office from the Hennepin DEC; it took an average of 3.7 months to complete the DEC investigation of these matters. Eight matters were withdrawn.

For calendar year 2014, of the completed DEC investigations statewide, the following dispositions were made (measured by number of files rather than lawyers):

Determination discipline not warranted	281
Admonition	110
Private probation	13
Reprimand	1
Suspension	10
Disbarment	1
Deceased	3

The annual seminar for DEC members, hosted by the Office and the Board, will be held this year on Friday, October 2, 2015. All DEC members, plus select members of the bench and bar with some connection to the discipline system, are invited. The

seminar again will be held at the Ramada Plaza Minneapolis. Active DEC members are able to attend the annual DEC Seminar at no cost.

The Lawyers Board DEC Committee has continued its efforts to strengthen the DEC process and effectiveness, assist the DEC's in volunteer member recruitment, training and retention, and make recommendations for improving the processing and handling of complaints at the DEC level. Particular aims of that committee are to ensure that all DEC's have the requisite number of nonlawyer (public) members and that more effective recruitment efforts are made for DEC members, both lawyer and nonlawyer. Rule 3(a)(2), RLPR, requires that at least 20% of each DEC be nonlawyers. The rule's 20% requirement is crucial to the integrity of the disciplinary system and to the public's perception that the system is fair and not biased in favor of lawyers. Compliance with that requirement has improved since 2011, when 11 of the 21 DEC's did not have 20% nonlawyer membership. Currently, three districts are not in full compliance. Each of those noncompliant districts (the 1<sup>st</sup>, 8<sup>th</sup> and 18<sup>th</sup> DEC's) need only add one additional public member (or reduce the number of lawyer members by one) in order to meet the 20% requirement. The 8<sup>th</sup> DEC has taken steps to be in full compliance, it is anticipated, on or about July 29, 2015. If that occurs, only two districts will then not be in full compliance. The Board received assistance of MSBA president Richard Kyle in communicating the importance of each DEC reaching 20% nonlawyer participation. The committee continues to address how best to assist the DEC's in meeting both the language and the spirit of the rule.

On May 1, 2015, the Fourth Annual DEC Chairs Symposium, sponsored by the Lawyers Board DEC Committee, was held in Saint Cloud. There, members of the Board and staff members from the Director's Office discussed a variety of matters of importance to the DEC's. Recruitment, training, investigation, meaningful participation of all committee members, and the relationship between the DEC's and the OLPR liaisons were discussed. Next year's Symposium will be held in Duluth.



The OLPR hired Xenia Labacevic to replace Kimberly Ferencik to fill the position of DEC Volunteer Coordinator/SharePoint Clerk. Ms. Labacevic assists in monitoring the makeup of the DEC's, assists in DEC recruitment and training, monitoring investigation progress, serves as a SharePoint resource, and assists the OLPR liaisons in matters regarding the DEC's.

Each of the DEC's is assigned a lawyer from the OLPR to serve as liaison to the DEC. The OLPR liaisons have been urged to try to meet with each of their DEC's at least once a year to work on training and recruitment and to discuss any issues that the DEC's might wish to raise. Many of the DEC's have taken advantage of their liaisons to assist in the training of new investigators. Feedback from the DEC Chairs at the recent DEC Chairs Symposium was positive with respect to the assistance received from the liaisons.

The Office continues to implement and improve the DEC SharePoint intranet site to facilitate effective involvement of, and communication between, DEC members by making it easier for DEC investigators to share reports, proposed recommendations, and provide input. The intranet permits DEC members to post reports and recommendations on a secure site available only to the Office and the DEC members. DEC members are able to discuss the report and vote on a proposed recommendation via the intranet. Additionally, DEC members have access to a variety of resources through the intranet. This last year, dispositions of complaints investigated by the DEC's have been posted to the intranet so that DEC investigators may view the ultimate result of matters they investigated. In the last year, the number of DEC's utilizing the intranet has increased.


During the first weekend in June, the SharePoint intranet site underwent a software upgrade to SharePoint 2013. After several months of preparatory work and testing, the upgrade was accomplished with minimal interruption, and the site was ready to use on June 8, 2015.

The DEC's provide a valuable service to the lawyer discipline system. The Board and the Office remain committed to the support and training of DEC volunteers, both lawyer members and public members.

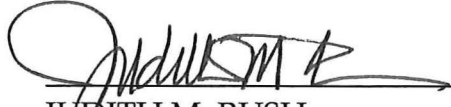
**V. FY2016 GOALS AND OBJECTIVES.**

Implementation of the Board's recommendations to assist the DEC's with recruitment and timely resolution of investigations will be an ongoing project this coming year, which is the final year of current Board Chair Judith Rush's term. The new Chair may have additional goals for the remainder of the year. Another ongoing project is building a new data and record-keeping system for the OLPR, which will be important to the long-term effectiveness of the system. The speedy processing of complaints, reduction of the overall number of open files, and particularly those matters that are more than a year old and still in investigation remain major goals for the next year.

Dated: July 17, 2015. Respectfully submitted,

  
\_\_\_\_\_  
MARTIN A. COLE  
DIRECTOR OF THE OFFICE OF LAWYERS  
PROFESSIONAL RESPONSIBILITY

and

  
\_\_\_\_\_  
JUDITH M. RUSH  
CHAIR, LAWYERS PROFESSIONAL  
RESPONSIBILITY BOARD



## **LAWYERS PROFESSIONAL RESPONSIBILITY BOARD**

**Judith M. Rush, St. Paul** - Attorney member; current LPRB Chair; term expires January 31, 2016. Director of Mentor Externship, University of St. Thomas School of Law; served six years as member of the Lawyers Board and served six years on the Ramsey County District Ethics Committee. Areas of expertise: Appellate and family law and ethics and professional liability advisory work.

**Kenneth S. Engel, Minneapolis** - Attorney member. Term expires January 31, 2016. LPRB Vice-Chair. Chair of LPRB DEC Committee. Serves on the LPRB Executive Committee and Rules Committee. Served on Hennepin County District Ethics Committee for four years. Attorney in the firm of Engel Professional Association. Areas of law: Real estate, corporate, merger/acquisition/disposition, finance, and business/family business succession planning law, and strategic advisory counsel. Experience also in construction, entrepreneurial private placement/PPM, entity formation and governance, franchising and employment law.

**Joseph P. Beckman, Edina** - Attorney member. MSBA nominee. Term expires January 31, 2017. Partner in the law firm of Hellmuth & Johnson. Areas of law: Current - Business Transactions (corporate governance, commercial transactions, technology); Past - Civil Litigation (contract disputes, business breakups, insurance coverage).

**Christopher D. Cain, Mankato** - Attorney member. MSBA nominee; term expires January 31, 2016. Serves on the LPRB DEC Committee. Assistant City Attorney for the City of Mankato. Served five years on the Sixth District Ethics Committee. Adjunct Professor Minnesota State University – Mankato. Areas of expertise: Criminal law and forfeitures.

**Paul F. Carlson, Wadena** - Attorney member. Term expires January 31, 2017. Served on Seventh District Ethics Committee for six years. Partner in the law firm of Kennedy, Carlson & Van Bruggen. Focus on civil litigation and defense of electrical cooperatives in liability cases throughout the State of Minnesota. Veteran of the U.S. Army and was awarded two Army Commendation Medals and the Korea Defense Service Medal.

**Timothy M. Churchwell, Long Prairie** - Attorney member. Term expires January 31, 2018. Served on Seventh District Ethics Committee as an investigator for six years, and as Chair since 2012. Shareholder in the firm of Peters & Churchwell, P.A. Areas of law: Municipal law, litigation and public service-oriented matters.

**James P. Cullen, Minneapolis** - Attorney member. MSBA nominee. Term expires January 31, 2017. Served on Hennepin County District Ethics Committee for eight years. Owner of Cullen Law Firm, Ltd. Areas of legal experience: Commercial and individual client litigation in state and federal courts; personal injury and professional liability civil actions; representation of medical professionals in civil, criminal and peer review matters and proceedings; criminal defense in state and federal courts; and service as an arbitrator in American Arbitration Association commercial and no-fault arbitration proceedings.

**Norina Jo Dove, Minneapolis** - Public member. Term expires January 31, 2016. Employed as a Senior Paralegal and Business Manager at Marilyn J. Michales & Associates, P.A. Areas of expertise: Family Law, Debtor/Creditor, Real Estate and Business Litigation.

**Thomas J. Evenson, Minneapolis** - Attorney member. MSBA nominee. Term expires January 31, 2018. Shareholder at Lind, Jensen, Sullivan & Peterson, PA. Participant in Minnesota Automobile Assigned Claims Bureau, MSBA Assembly, and Hamline University School of Law Alumni Association Board. Areas of law: General litigation, with an emphasis on products liability, wrongful death, construction defects, and fraud.

**Roger Gilmore, Brooklyn Park** - Public member. Term expires January 31, 2017. Served 10 years on Hennepin County District Ethics Committee. Served as member of the Supreme Court Advisory Committee to Review Lawyer Discipline System 2007-2008. Retired Captain, U.S. Navy Supply Corps., and retired Manager, FMC Corporation, Fridley. Areas of expertise: Defense Department contracting; contract administration and claims resolution; logistic support; program management; community mediation.



**Nancy L. Helmich, Minneapolis** - Public member. Term expires January 31, 2017. Retired. Serves on LPRB Rules Committee. Formerly Senior Civil Litigation Paralegal at the Office of the Minnesota Attorney General for 29 years.

**Mary L. Hilfiker, St. Paul** - Public member. Term expires January 31, 2017. Served on Second District Ethics Committee. Consultant for Indian Education for University of Wisconsin and DOE. Areas of expertise: Special education, mediation, arbitration, investigation.

**Gary M. Hird, St. Paul** - Attorney member. MSBA Nominee. Term expires January 31, 2018. Serves on the LPRB Rules Committee. Served on Tenth District Ethics Committees. Chief Operating Officer, Southern Minnesota Regional Legal Services, Inc. (SMRLS). Areas of law: Family, real estate, bankruptcy, juvenile, criminal and corporate law as well as labor relations.

**Anne M. Honsa, Minneapolis** - Attorney member. Term expires January 31, 2016. Served on the Fourth District Ethics Committee for 12 years - four years as Vice-Chair. Founder of Honsa & Associates, P.A. Area of law: Family Law.

**Bentley R. Jackson, St. Paul** - Public member. Term expires January 31, 2017. Adjunct Instructor at Rasmussen College - Law Enforcement Skills Program and Mankato State University. Retired Burnsville police officer. Areas of expertise: Criminal, internal, and forensic investigations.

**Shawn Judge, Minneapolis** - Public member. Term expires January 31, 2018. President and founder of The Speaker's Edge, LLC. Areas of expertise: Strategic-communications consultant and certified Qualified Administrator of the Intercultural Discovery Inventory, experienced in leading small-group and individual training sessions to develop confident speakers who get results. Clients include attorneys from major law firms and corporate executives.

**Michael J. Leary, Burnsville** - Public member. Term expires January 31, 2016. Serves on LPRB DEC Committee. Served on the First District Ethics Committee for two years and the Second District Ethics Committee for three years. Retired as Executive Vice President of International Dairy Queen, Inc. Areas of expertise: Mediation and arbitration; management and contract issues.

**Cheryl M. Prince, Duluth** - Attorney member. Term expires January 31, 2016. Chair of LPRB Rules Committee. Serves on LPRB DEC Committee. Shareholder in the Duluth firm of Hanft Fride, P.A. Served on Eleventh District Ethics Committee for many years, including six years as Chair. Areas of law: Family law and mediation.

**Gail Stremel, St. Paul** - Public member. Term expires January 31, 2018. Served on Ramsey County District Ethics Committee for six years. Served as division director of public assistance programs at Ramsey County Community Human Services. Areas of expertise: Social work and public administration.

**Stacy L. Vinberg, Granite Falls** - Attorney member. Term expires January 31, 2017. Serves on LPRB DEC Committee. Assistant County Attorney for the Yellow Medicine County Attorney's Office. Served on Twelfth District Ethics Committee for 10 years, including one year as Chair. Areas of law: Real estate transactions, criminal prosecution, family law and probate.

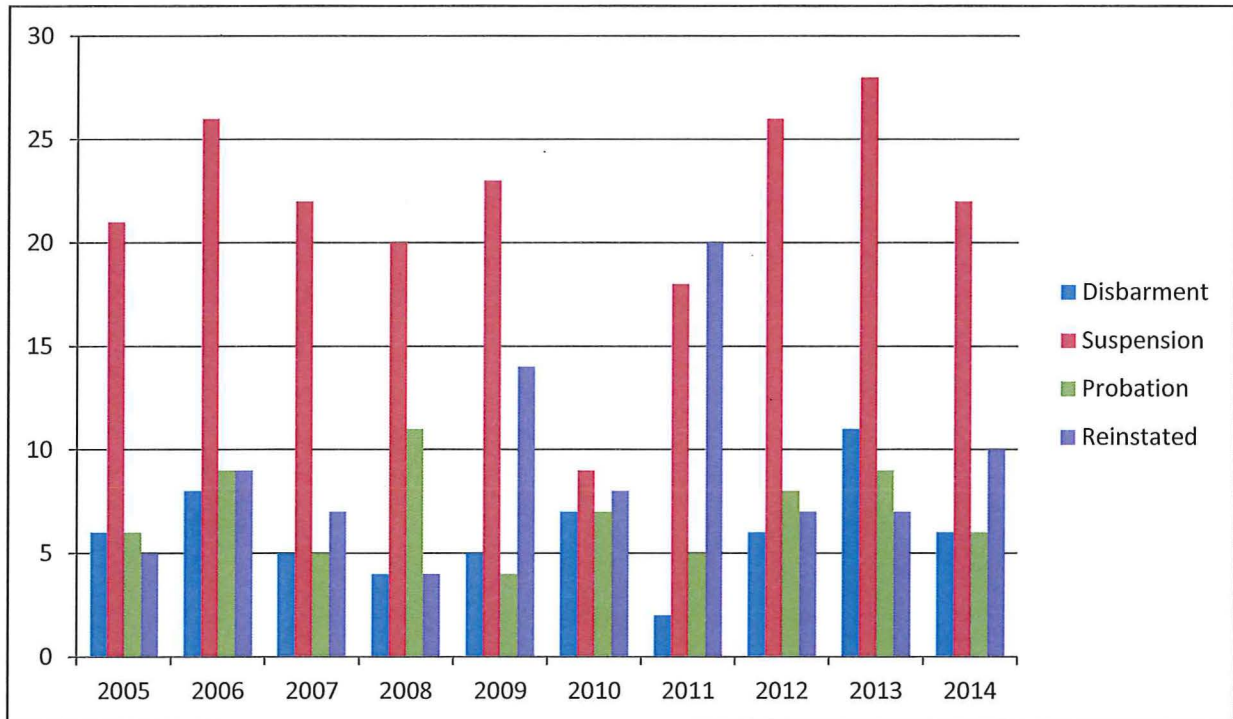
**Terrie S. Wheeler, Rush City** - Public member. Term expires January 31, 2018. Serves on LPRB Executive Committee and DEC Committee. Served on Hennepin County District Ethics Committee for two years. President of Professional Services Marketing, Inc. for over 20 years. Areas of law: Strong background in ethical marketing practices for lawyers, marketing consulting and coaching for lawyers, marketing CLE presenter.

**Todd A. Wind, Minneapolis** - Attorney member. Term expires January 31, 2017. Chair of LPRB Opinion Committee. Shareholder in the firm of Fredrikson & Byron. Served on Hennepin County District Ethics Committee from 1998 to 2010 as investigator, Vice-Chair and Chair. Areas of law: Civil litigation, antitrust, employment and construction.

**Robin M. Wolpert, St. Paul** - Attorney member. MSBA nominee. Term expires January 31, 2016. Serves on LPRB Executive Committee. Served on Nineteenth District Ethics Committee for seven years. Employed as Assistant County Attorney, Washington County Attorney's Office.



The graph below shows the number of disbarments, suspensions, probations and reinstatements ordered by the Supreme Court over the last ten years. Clearly, these are the four largest public professional responsibility categories handled by the Director's Office and reviewed by the Court. The table below the graph indicates the variety of matters and exact number of Supreme Court dispositions and reinstatements since 2005.



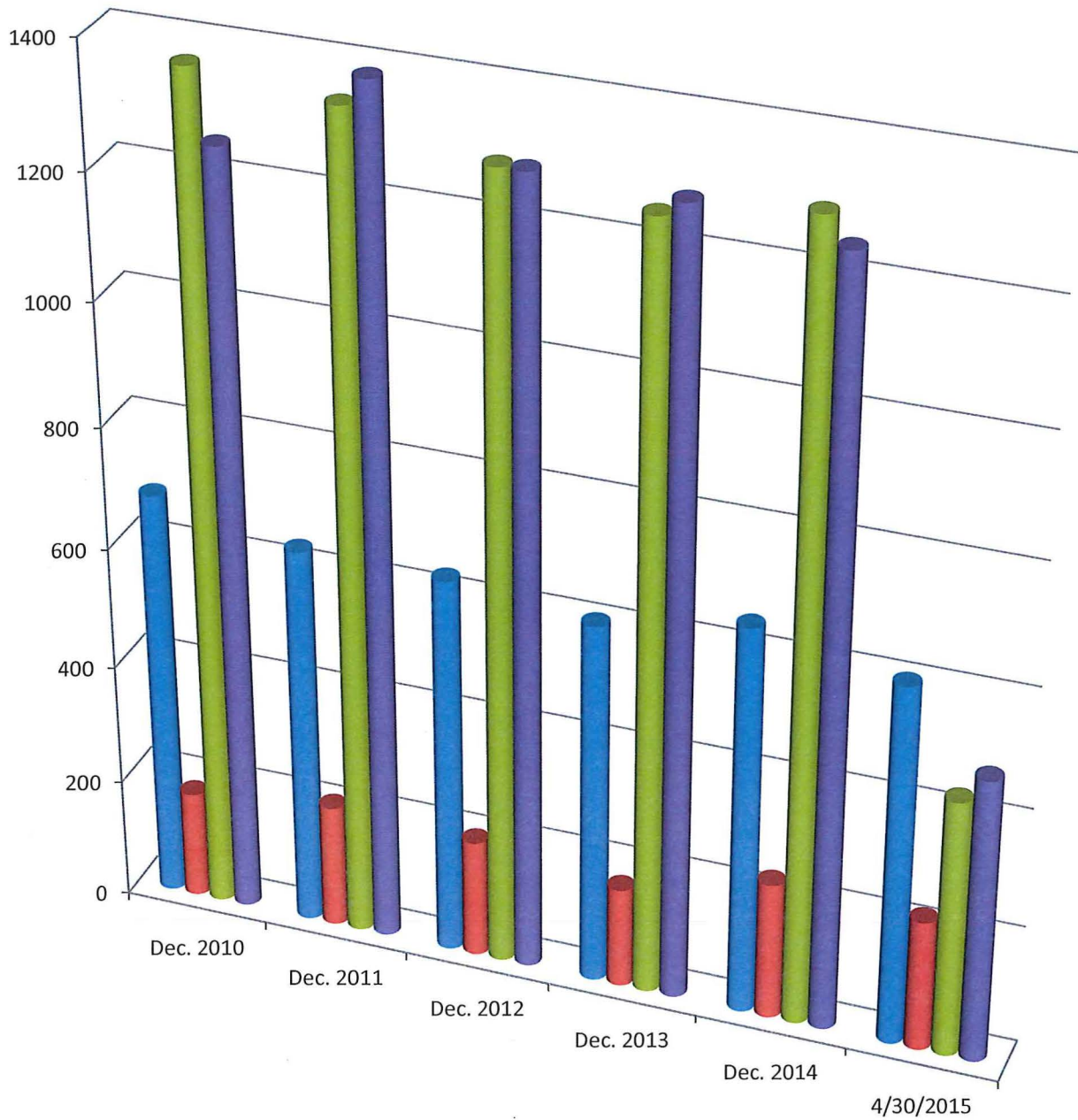
**TABLE I**  
**Supreme Court Dispositions and Reinstatements 2005-2014**  
**Number of Lawyers**

	Disbar.	Susp.	Probation	Reprimand	Dismissal	Reinstated	Reinstate Denied	Disability	SC AD/Aff	Other	Total
2005	6	21	6	1	-	5	-	2	1	-	42
2006	8	26	9	5	-	9	-	2	-	7*	67
2007	5	22	6	-	-	7	2	-	1	-	43
2008	4	20	11	2	-	4	2	2	-	-	45
2009	5	23	4	6	-	14	1	1	-	-	54
2010	7	9	7	3	1	8	2	4	-	-	41
2011	2	18	5	2	-	20	-	1	-	-	48
2012	6	26	8	1	1	7	-	-	-	-	49
2013	11	28	9	4	-	14	-	2	-	-	68
2014	6	22	6	5	-	10	1	0	0	1**	51

\* 4 Supreme Court stays, 3 reinstated to retired status, 1 conditional reinstatement pending.

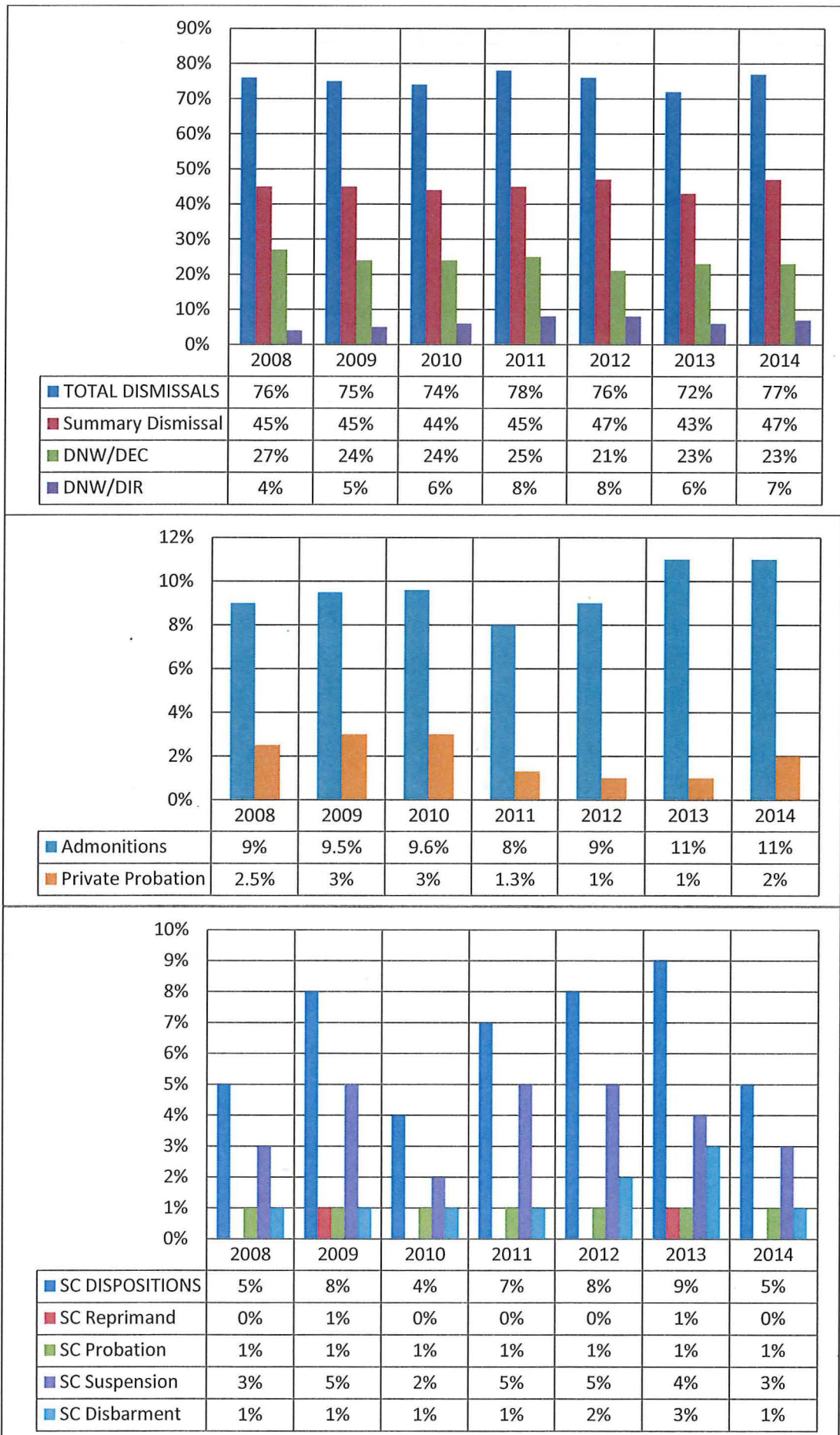
\*\* Reinstatement dismissed.

**TABLE II**



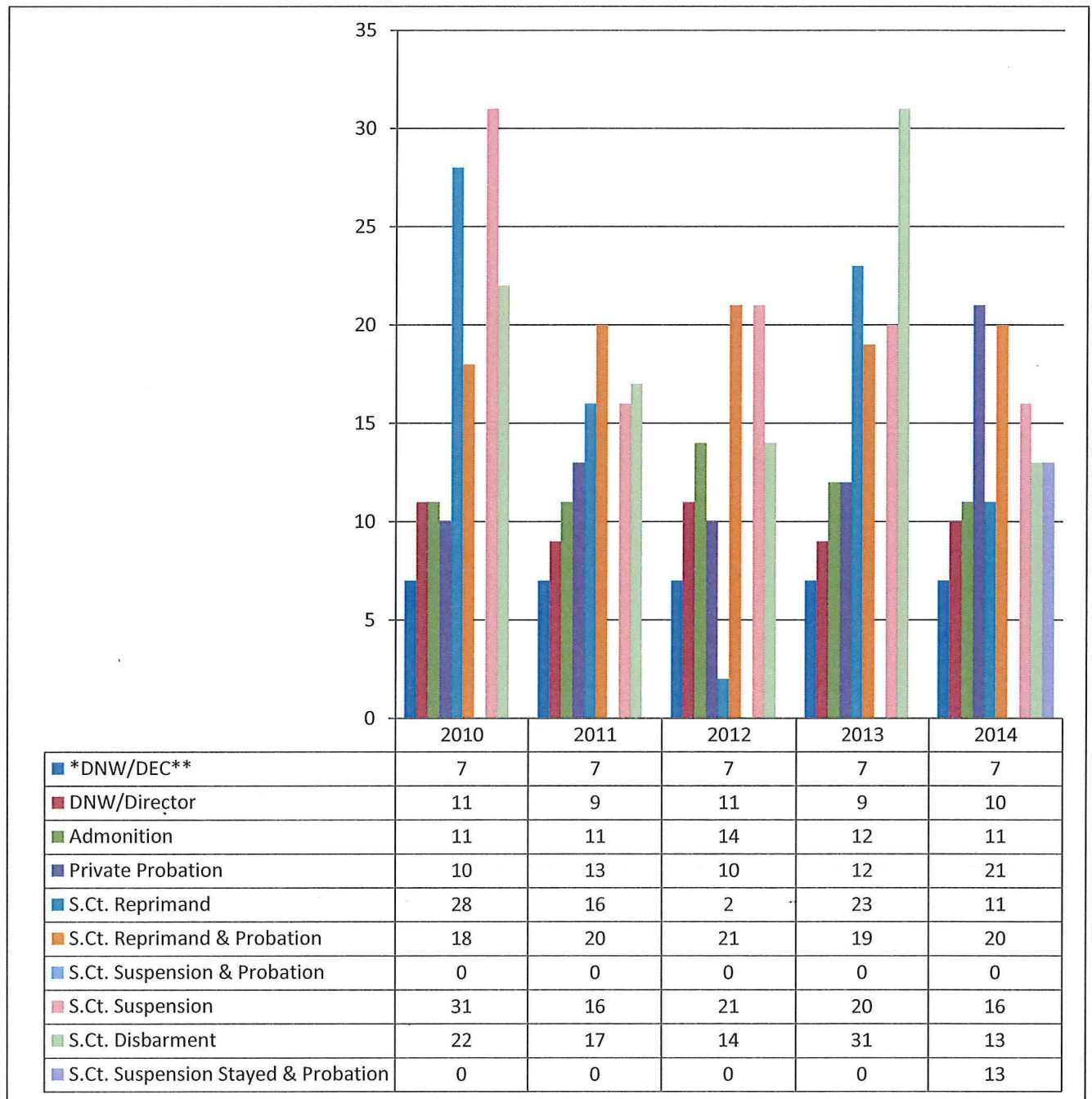
	Dec. 2010	Dec. 2011	Dec. 2012	Dec. 2013	Dec. 2014	4/30/2015
Total Open Files	682	634	632	605	650	604
Cases at Least One Year Old	179	206	197	168	231	221
Complaints Received YTD	1,365	1,341	1,287	1,253	1,293	433
Files Closed YTD	1,252	1,386	1,287	1,279	1,248	478

**TABLE III**  
**Percentage of Files Closed**





**TABLE IV**  
Number of Months File was Open at Disposition



\*Discipline Not Warranted  
\*\*District Ethics Committee



## 2014 OLPR Summary of Public Matters Decided

### 51 Decisions Involving 70 Files

<b>Disbarment</b>	<b>14 files</b>	<b>6 attorneys</b>
ALBRECHT, ALAN J	A13-520	3
BROST, LINDA A	A13-2307	2
HARRIGAN, THOMAS G	A13-542	2
HOLT, MARK DAVID	A14-1106	5
LAWLER, REBECCA LEE	A14-1281	1
MOE, PAUL ARTHUR	A13-1611	1
<b>Suspension</b>	<b>33 files</b>	<b>22 attorneys</b>
ANDERSON, WILLIAM THOMAS	ADM05-80	1
ARNOLD, JOHN B	A14-924	1
BOTTEMA, KENNETH M	A12-1421	1
DAVIS, WILLIE HERMAN JR.	A13-1548	2
EGTVEDT, PAUL ARTHUR	A14-20	3
ENNO, LUKE ENGLERT	A13-2242	1
GLASSER, SUSANNE MARIE	A11-2126	1
KRAMER, JEREMY THOMAS	A13-1858	1
KUNZ, BRUCE ANTHONY	A14-435	1
MACKENZIE, DOUGLAS E	A12-1254	1
MCGEE, JASON WILLIAM	A14-211	3
MEIDINGER, JOAN LA RAE	A14-354	1
MICHAEL, LORI MAE	A12-1101	1
RICHTER, DAVID ALAN	A14-638	1
RUEB, TERRY H	A14-316	2
RUFFING, AMANDA LYN	A13-184	1
SCHUTZ, NICHOLAS BRADLEY	A13-1791	1
SHAFT, GRANT HARRISON	A14-582	1
SMITH, VICTOR HARLAN	A13-2110	1
TARIO, CAMERON JAMES	A14-1894	6
TIGUE, RANDALL D	A13-519	1
WATERS, VINCENT FRANCIS	A13-1303	1
<b>Suspension Stayed &amp; Probation</b>	<b>2 files</b>	<b>2 attorneys</b>
HARDWICK, BRIAN T	A14-273	1
LEROI, CHRISTOPHER DANIEL	A14-1739	1

<b>Reprimand &amp; Probation</b>	<b>4 files</b>	<b>4 attorneys</b>
ANDRESEN, CRAIG WILLIAM	A14-661	1
DINNEEN, PATRICK SCOTT	A14-537	1
JANES, JULIAN CLIFFORD	A14-710	1
OWENS, THOMAS L	A14-176	1
<b>Reprimand</b>	<b>5 files</b>	<b>5 attorneys</b>
AMUNDSON, LISA MARIE	A14-1461	1
CLARK, GILDA MARLENE	A14-862	1
KLIMA, TIMOTHY JOSEPH	A14-1551	1
LI, FRANCES S	A13-2272	1
NOVAK, MARK FRANCIS	A14-1334	1
<b>Reinstatement</b>	<b>5 files</b>	<b>5 attorneys</b>
ANDERSON, WILLIAM THOMAS	ADM05-80	1
CHRISTENSEN, G CRAIG	A13-1580	1
GLASSER, SUSANNE MARIE	A11-2126	1
RUFFING, AMANDA LYN	A13-184	1
SHAFT, GRANT HARRISON	A14-582	1
<b>Reinstatement &amp; Probation</b>	<b>5 files</b>	<b>5 attorneys</b>
DAVIS, WILLIE HERMAN JR.	A13-1548	1
EGTVEDT, PAUL ARTHUR	A14-20	1
PAUL, WILLIAM D	A13-842	1
PLUNKETT, PETER DANIEL	A13-2083	1
TIGUE, RANDALL D	A13-519	1
<b>Reinstatement Denied</b>	<b>1 files</b>	<b>1 attorneys</b>
MOSE, WILLIAM G	A12-380	1
<b>Reinstatement Dismissed</b>	<b>1 files</b>	<b>1 attorneys</b>
ALBRECHT, ALAN J	A13-491	1

# PUBLIC DISCIPLINE DECISIONS 1984-2015

Year	Disbarments	Suspensions (all)	Probations	Reprimands	Total
1984	3	8	5	4	20
1985	4	13	<b>13</b>	<b>12</b>	42
1986	7	17	2	4	30
1987	5	18	4	7	34
1988	4	22	7	5	38
1989	5	19	8	3	35
1990	8	<b>27</b>	10	10	<b>55</b>
1991	8	14	10	6	38
1992	7	16	7	5	35
1993	5	15	12	3	35
1994	8	5	7	0	20
1995	6	<b>27</b>	8	4	45
1996	4	<b>27</b>	5	0	36
1997	10	16	7	2	35
1998	<b>15</b>	18	10	2	45
1999	3	12	6	0	21
2000	6	19	10	2	37
2001	3	15	9	2	29
2002	4	18	6	1	29
2003	6	14	4	0	24
2004	5	10	3	1	19
2005	6	22	6	1	35
2006	8	26	9	5	48
2007	5	21	5	0	31
2008	4	20	11	2	37
2009	5	23	4	6	38
2010	7	9	7	3	26
2011	2	17	5	2	26
2012	6	24	8	1	39
2013	11	23	8	5	47
2014	6	19	5	5	35
2015*	2	19	3	0	24
<b>TOTALS</b>	<b>188</b>	<b>573</b>	<b>224</b>	<b>103</b>	<b>1088</b>

\*- as of June 18, 2015

**Office of Lawyers Professional Responsibility**  
**Speaking Engagements and Seminars July 2014 – June 2015**

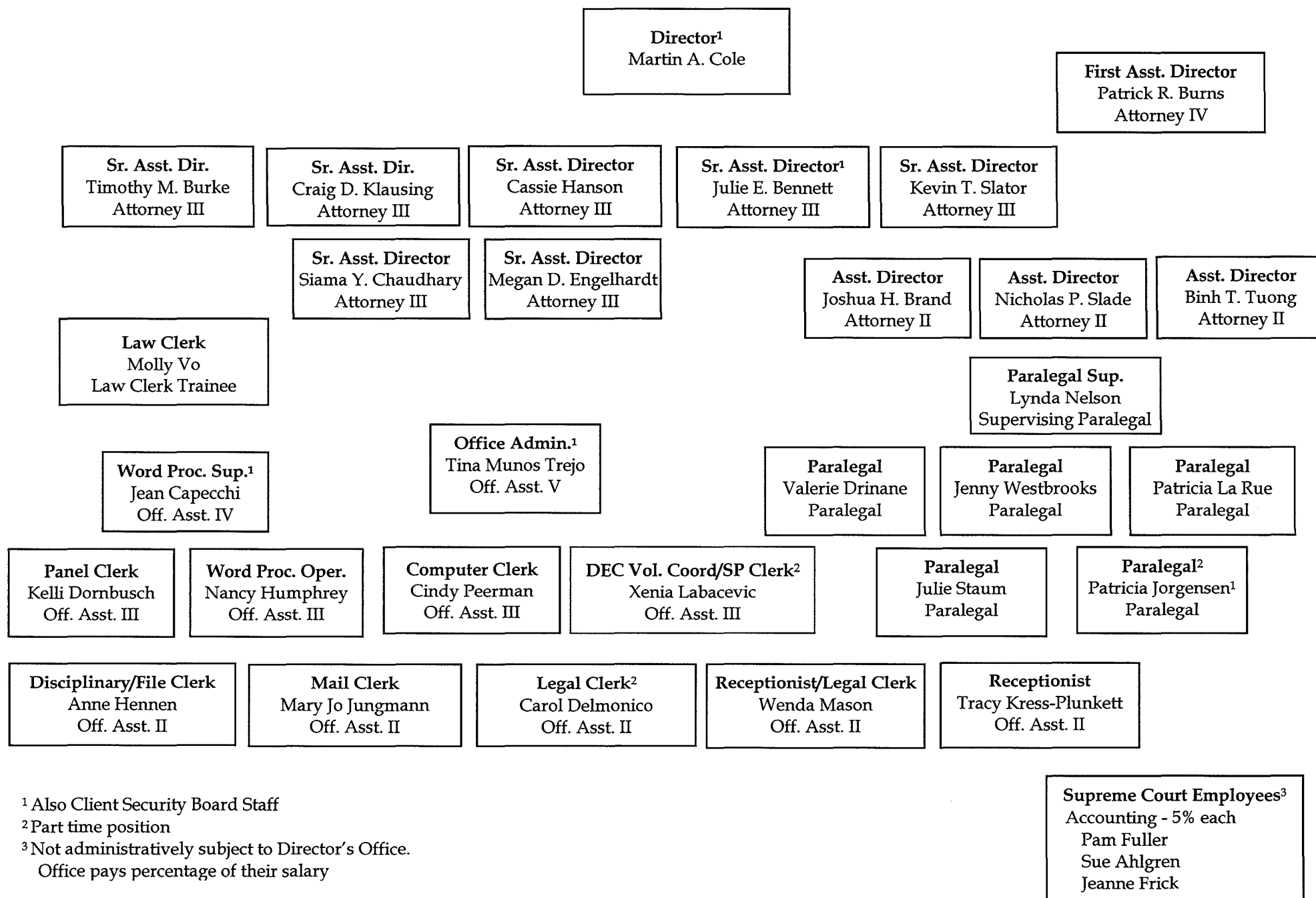
<b>Date</b>	<b>Topic</b>	<b>Location</b>	<b>Organization</b>
7/23/14	Debtor/Creditor SCRA	Minneapolis	MNCLE
7/30/14	IAP Orientation	Minneapolis	Legal Corps
8/6/14	Complaint and Investigative Process and How to Avoid Ethics Pitfalls	Faribault	Fifth District Ethics Committee
8/8/14	Social Media and Ethics for New Lawyers	Alexandria	Seventh District Law Clerks (Otter Tail County)
8/28/14	Good Attorneys, Bad Decisions	Minneapolis	University of St. Thomas School of Law
9/18/14	Recent Rule Changes	Lake Elmo	Jardine, Logan & O'Brien
9/25/14	Ethics for Paralegals	Minneapolis	MPA Employment Law Sectional
9/25/14	Trust Accounts	St. Paul	Murnane Law Firm
10/3/14	Public Defenders Seminar	Minneapolis	Teamsters
10/14/14	Real Estate Division	Minneapolis	MN Paralegals Association
10/29/14	Fee Issues	Minneapolis	St. Thomas Law School
11/4/14	Advising the Disadvantaged Seminar	Minneapolis	MNCLE
11/4/14	Technology, Social Media and Ethics	St. Paul	Office of the Revisor of Statutes
11/5/14	Recent Developments	Excelsior	West Metro CLE Seminar Jake O'Connor's Public House
11/12/14	About the OLPR	Minneapolis	MSBA
11/13/14	IOLTA Webinar	Minneapolis	MSBA
12/3/14	Speak at MCAA Meeting	Bloomington	MCAA
12/9/14	Ethics FAQs	Minneapolis	MNCLE
12/9/14	Speak on Ethics Panel (Clarion Legal Thompson West)	Eagan	Clarion Legal
12/10/14	Ethics for Paralegals	Minneapolis	MPA Probate Sectional
12/12/14	Cousineau McGuire Seminar	Minneapolis	
12/12/14	HCBA Professionalism Seminar	Minneapolis	HCBA
1/12/15	Recent Developments	Minneapolis	Dorsey & Whitney
1/14/15	School Law Seminar	Minneapolis	
1/14/15	Moderate "Ethics CLE"	Minneapolis	MNCLE
1/15/15	Unbundling Seminar	Minneapolis	MSBA
2/11/15	Ethics for Paralegals	(By telephone)	MPA Probate Sectional
2/13/15	7 <sup>th</sup> District Bar Association Seminar	Alexandria	7 <sup>th</sup> District Bar Association
2/26/15	Trust Account Seminar	Minneapolis	MSBA
3/6/15	Tax Law Seminar	Minneapolis	MNCLE
3/18/15	Ghostwriting Seminar	Minneapolis	MN Freelance Attorney Network

**Office of Lawyers Professional Responsibility**  
**Speaking Engagements and Seminars July 2014 – June 2015**

<b>Date</b>	<b>Topic</b>	<b>Location</b>	<b>Organization</b>
3/23/15	Family Law Institute	St. Paul	MNCLE
3/25/15	LCL/Wellness Seminar	St. Paul	William Mitchell
3/25/15	MSBA Seminar	Minneapolis	MSBA
3/31/15	IP Seminar	Minneapolis	MNCLE
4/10/15	Tort Law Section Seminar	Town & Country Club	MSBA
4/24/15	Olmstead County CLE	Rochester	Olmstead County Attorney Spring Retreat
4/27/15	Complaint and Investigative Process and How to Avoid Ethics Pitfalls	Worthington	Thirteenth District Ethics Committee
5/1/15	DEC Chairs Symposium	St. Cloud	OLPR
5/5/15	Recent Amendments to the Minnesota Rules of Professional Conduct	Duluth	Eleventh District Ethics Committee
5/8/15	Privacy and Security	Minneapolis	MNCLE
5/11/15	Ethics Seminar	Minneapolis	MNCLE
5/12/15	Discipline Process	Apple Valley	Dakota County Law Library
5/15/15	Prosecutor Discipline	Bloomington	Suburban Hennepin County Prosecutors Association
5/15/15	Criminal Law CLE	Minneapolis	HCBA
6/11/15	9 Days in June	Lakeville	MSBA
6/12/15	MSBA Convention Seminar	Brainerd	MSBA
6/15/15	Ethics FAQs	Duluth	MNCLE
6/24/15	Prosecutor Ethics	Bloomington	Washington County Law Library
6/26/15	MCAA CLE	St. Paul	MCAA
6/30/15	Learning from the Mistakes of Others Webcast		MNCLE
6/25/14	Ethics	Apple Valley	Dakota County Bar

# Office of Lawyers Professional Responsibility

## FY'16 Organizational Chart



<sup>1</sup> Also Client Security Board Staff

<sup>2</sup> Part time position

<sup>3</sup> Not administratively subject to Director's Office.  
Office pays percentage of their salary

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[Court Amends Rule 7.3\(b\), MN Rules of Professional Conduct, effective June 11, 2015](#)

[Board Adopts New Opinion No. 23 Regarding Medical Marijuana Law in Minnesota](#)

[Court Amends MN Rules of Professional Conduct, effective April 1, 2015](#)

[2015 Lawyers Board News Release](#)

[Congratulations to James Ventura 2014 Volunteer of the Year](#)

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### Quick Links

### Legal References

### What's New

["Conflicts - Again," Minnesota Lawyer, May 2015](#)

["Ethics: Opinion No. 23 and Medicinal Marijuana," Minnesota Lawyer, May 2015](#)

["New and Noteworthy," MN Bench and Bar, April 2015](#)

["Summary of Private Discipline," MN Bench and Bar, March 2015](#)

["Responsibility for the Conduct of Others," Minnesota Lawyer, March 2015](#)

["Summary of Public Discipline," MN Bench and Bar, February 2015](#)

["An Overview of the Disciplinary Process," Minnesota Lawyer, February 2015](#)

[2014 LPRB-OLPR ANNUAL REPORT](#)

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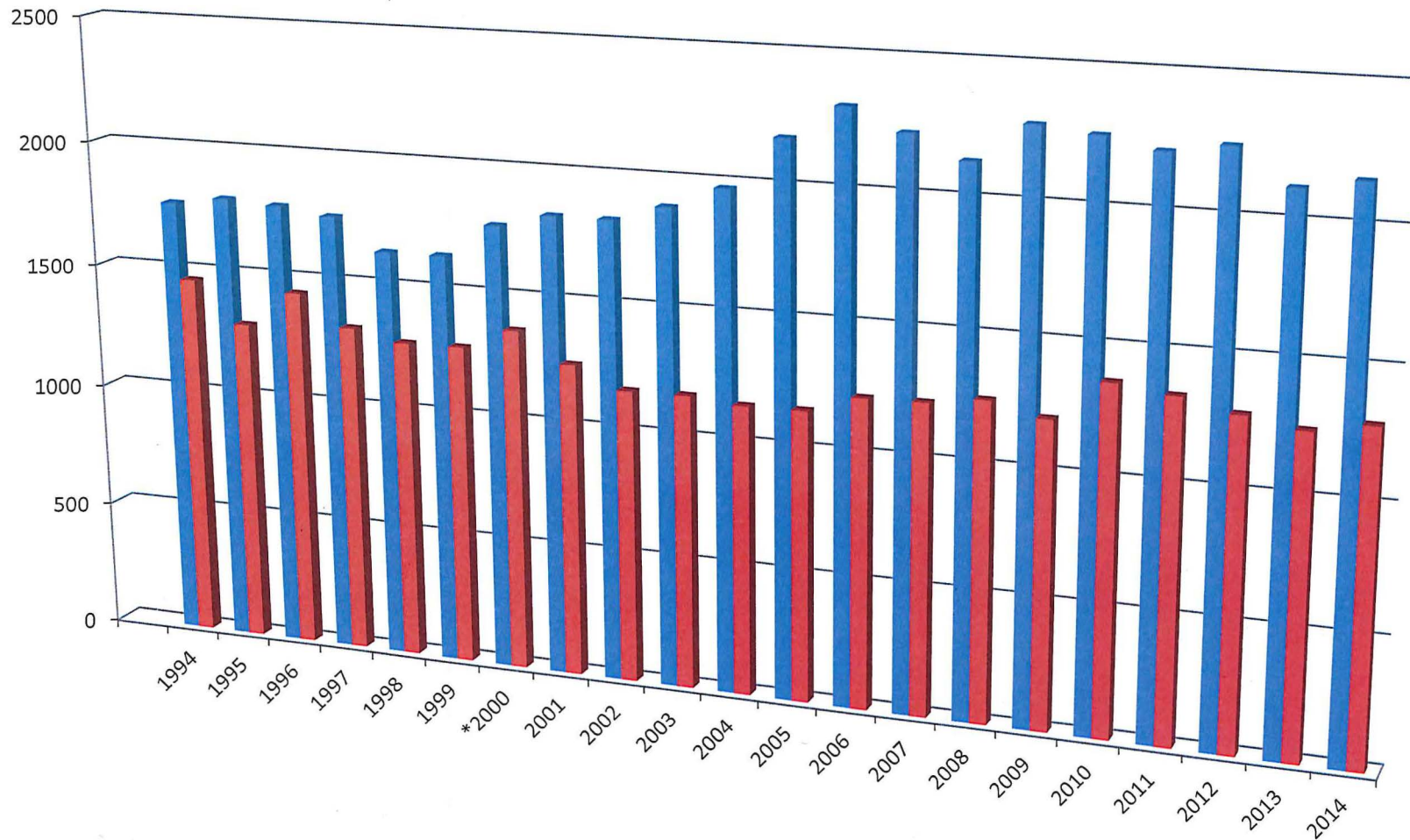
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**Advisory Opinion Requests Received  
and  
Number of Complaints Opened  
1994 - 2014**



		1994	1995	1996	1997	1998	1999	*2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
■ Advisory Opinions Received		1765	1795	1783	1757	1632	1635	1770	1824	1825	1889	1974	2177	2307	2223	2135	2282	2258	2215	2249	2116	2156
■ Complaints Opened		1456	1290	1438	1314	1275	1278	1362	1246	1165	1168	1147	1150	1222	1226	1257	1206	1365	1337	1287	1253	1293

\* 2000 total advisory opinions (AO) received was revised to reflect additional AO's not previously included.

## **LAWYERS PROFESSIONAL RESPONSIBILITY BOARD**

### **OPINION NO. 23**

A lawyer may advise a client about the Minnesota Medical Marijuana Law and may represent, advise and assist clients in all activities relating to and in compliance with the Law, including the manufacture, sale, distribution and use of medical marijuana, without violating the Minnesota Rules of Professional Conduct, so long as the lawyer also advises his or her client that such activities may violate federal law, including the federal Controlled Substance Act, 21 U.S.C. §841(a)(1).

Adopted: April 3, 2015.