

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. This report is made for the period from July 2019 to June 2020 (FY2020), which represents the Board's and the Office's fiscal year. The majority of the statistical information, however, is based upon calendar year 2019, unless otherwise noted.

A Note from Board Chair Robin Wolpert.

This fiscal year, the Office and the Board worked to implement our shared vision of a 21st Century lawyer regulation system that operates with uncompromising integrity in protecting the public and enhancing the ethical practice of the law. The Board and the Office have met, and will continue to meet, case processing targets, high performance standards, and proactive compliance goals (as detailed in the report below). But our vision is not limited to these metrics. The most important goal is to ensure that members of the public and the legal profession know, based on their own experience in interacting with us, that they can trust the integrity of the process. This is particularly critical in the midst of a pandemic, where our normal processes and procedures have been, and will continue to be, reconstituted to protect the health and safety of all participants in disciplinary matters—the public, lawyers, DEC members, Board members, and Office personnel. Acting with uncompromising integrity is equally critical in the midst of a racial justice movement, where every aspect of the justice system across the country is under scrutiny. We must continue to ask ourselves, can we do better?

It is in this spirit that the Board and the Office responded to the pandemic, devoting countless hours to reconsidering how to operate virtually and, at the same time, maintain the highest standards of performance. The commitment by the Board

and the Office was, and continues to be, exemplary. Much of this work is invisible to those outside the disciplinary system, and it requires great attention to detail, the flexibility to make immediate changes as circumstances require, and constant focus on the big picture goals of access to justice, due process, transparency, and public health and safety. All members of the Board and Office should be applauded for their tireless work and commitment to public service. The Board has recently created a special committee to enhance our recruitment and other diversity and inclusion work regarding racial and gender bias. I am proud of the efforts by all stakeholders to maintain and enhance one of the most well-respected disciplinary systems in the country.

The ethical practice of law goes hand in hand with lawyer well-being. The data show that our profession is the most hazardous of all professions to our health. The Board and the Office have continued to meet the Supreme Court's Call to Action by providing countless CLEs and other resources to our lawyers. We thank the Minnesota Supreme Court for leading the Call to Action in 2019, as well as Justice David Lillehaug, Lawyers Concerned for Lawyers, Judge Donovan Frank, Tom Nelson, and the Minnesota State Bar Association for working with us to enhance the well-being of the profession. Moreover, the Board recognizes that the pandemic and events surrounding the death of George Floyd have created great demands and stresses on our profession, the Board and the Office. We are committed to continuing to provide the well-being education and resources to our lawyers to assist them through these unprecedented times.

The success of our disciplinary system is based on the hard work and commitment to public service of the Office, the Director, and the volunteers who serve on the Board and the District Ethics Committees. We extend a special thank you to Supreme Court Board Liaison, Justice David Lillehaug, for his tremendous

contributions to the work of the Board and the Office. We are grateful for everything he has contributed to us and wish him well in retirement.

Highlights.

Fiscal year 2020 was a solid year for the OLPR, capped by a highly unusual fourth quarter due to the COVID-19 pandemic. Prior to the pandemic, the Office and Board were engaged in several rule and opinion issues. Specifically, the Board considered the issue of whether to amend the Minnesota advertising ethics rules to conform to extensive revisions made by the American Bar Association (ABA) to its model rules. When first adopted, Minnesota accepted some and rejected some of the model rules on advertising. Given the changes in legal practice, the Board agreed that substantial revisions to the advertising rules were warranted, and in collaboration with the Minnesota State Bar Association (MSBA) Rules of Professional Conduct Committee, voted to petition the Minnesota Supreme Court to amend those rules to conform to the model rules. The petition is currently in process. One area of disagreement among various constituencies is the proposed amendments on the use of the term “specialist.” At its June 2020 meeting, the Board approved a substantial rewrite of Rule 20, Rules on Lawyers Professional Responsibility (RLPR), to address identified issues surrounding the confidential and public nature of OLPR discipline files.

From an opinions perspective, the Board and Office continued to review and solicit feedback from the bar on LPRB Opinion No. 21 relating to a lawyer’s duty to communicate errors to clients, in conjunction with ABA Opinion No 481 issued in 2018. LPRB Opinion No. 21 addressed the duty of communication regarding errors that constitute malpractice; ABA Opinion 481 took a more expansive approach to include material errors that cause harm or loss of confidence in counsel, not just those that give rise to an actionable malpractice claim. After extensive consideration and debate, the Board was unable to reach consensus on revisions to LPRB Opinion No. 21, and ultimately voted to repeal LPRB Opinion No. 21 at its April 2020 meeting.

Calendar year 2019 was also a solid year in terms of case management for the Office and an “average” year for discipline. Public discipline decreased year over year, with 35 attorneys receiving public discipline, down from 45 attorneys in 2018. Disbarments were also down in 2018 with 5 disbarments, compared to 8 in the preceding year. Suspensions remained relatively high at 22, and 8 lawyers received public reprimands, some with, some without, probation. Private discipline remained consistent with prior years, with 107 admonitions issued and 14 matters resulting in private probation.

The Office continued to focus its efforts on meeting the Board and Court goals of no more than 500 open files at any one time and no more than 100 files open more than one year. The Office ended calendar year 2019 with a file inventory of 482, only the sixth time since 1999 that the Office met the Board target of fewer than 500 open files at calendar year end. Most files close within six to seven months of filing (Table IX), but in cases where there is likely discipline, it has continued to take the Office longer to get those files closed, resulting in more cases pending over one year than the target of 100.

The Office ended calendar year 2019 with 119 year old files, significantly better than the prior year’s number of 145. The Office was aided modestly in its efforts due to the receipt of fewer new complaints. Notwithstanding the receipt of approximately 9% fewer complaints, the Office conducted approximately the same number of new investigations in 2019 (566) as in 2018 (572). Another notable statistic from 2019 was the number of referee trials conducted: 11, compared to only 4 in 2018. The Office continues to focus on case management practices to ensure it is timely processing all cases.

As the Office ended the decade, it is interesting to review discipline on a decade by decade basis. From 2010-2019, a total of 403 attorneys were publicly disciplined, an average of approximately 40 per year. During this decade, the yearly number of publicly disciplined lawyers ranged from a low of 26 in 2010 and 2011 to a high of 65 in

2015. For reasons that remain unclear, this number is significantly higher than numbers for the prior decade. From 2000-2009, 327 lawyers were publicly disciplined, an average of 33 a year (from a low of 19 in 2004 to a high of 48 in 2006). The '90s experienced more discipline than the '00s, but still saw numbers notably lower than the decade between 2010-2020. From 1990-1999, 365 attorneys were publicly disciplined—from a high of 55 in 1990 to a low of 20 in 2004. One thing to note about the '90s, however, is the total number of disbarments compared to other decades. In the '90s, 74 lawyers were disbarred, compared to 52 in the '00s, and 62 in the '10s. To date, the '90s have been the high point for disbarments, but the most recent decade saw the highest volume of public discipline overall. Unfortunately, the Minnesota Lawyer Registration Office does not have the ability to calculate total numbers of active lawyers by decade, making additional comparisons difficult.

A review of attorney demographics shows that attorneys practicing between 21-30 years received the most private and public discipline, followed by attorneys with 11-20 years of experience. More male attorneys received discipline than female attorneys, consistent with past trends. In 2018, 78% of private discipline was issued to male attorneys; 22% to female attorneys. In 2019, 81% of private and public discipline involved men; 19% involved women. Of active practitioners, roughly 40% of lawyers are female and 60% are male, with a small percentage identifying as non-binary. The racial or ethnic identification of discipline recipients is neither known nor tracked.

Substantively, the most frequent rule violations are diligence (Rule 1.3) and communication (Rule 1.4). Clients continue to submit the greatest number of complaints (followed by opposing parties), and the most frequent areas of practice generating complaints remain criminal law and family law, followed by general litigation and probate.

The first half of 2020 remains generally consistent with 2019 in matters of public attorney discipline. One attorney year to date has been disbarred. As of June 30, 2020, a

total of 16 attorneys have been publicly disciplined: 1 disbarred, 13 suspended, and 2 reprimanded and placed on probation. Private discipline year to date remains consistent with prior years.

Along with everyone in the United States, the OLPR and Board found themselves in uncharted waters beginning in March 2020, with the issuance by the governor of a peacetime emergency order, and stay-at-home directives aimed at slowing the spread of the novel coronavirus. Over the span of two weeks, the Office transitioned to working remotely, with the exception of one staff member in the Office managing incoming and outgoing mail. Due to the fortuitous timing of the Office's launch of a new database system in February 2020, and the availability of electronic signature software, the Office was able to continue case investigations and issuances of dispositions with little impact. Although most files continue to be in hardcopy, which has presented some logistically file-sharing issues, the Office has been able to quickly pivot to remote work, and its move to paperless files has been greatly advanced.

On June 15, 2020, the Office re-opened to the public with reduced staff, while still working remotely and conducting investigations utilizing a variety of electronic means. The Board held its first fully remote proceeding (a reinstatement hearing) at the end of May, and the Board continues to meet via Zoom. In June 2020, the Office participated in its first fully remote referee trial. While it has been challenging, it has also been heartening to see the work of the Office and Board continue unabated through changed circumstances caused by the pandemic. Most importantly, the Office has remained accessible and responsive to the public and the bar during this time.

Complaint Filings.

The number of complaints received in 2019 was 1,003, down from 1,107 in 2018. Closings were also down slightly (1,029 vs. 1,115), for a calendar year-end file inventory of 482. Tables outlining these and related statistics are at A. 3 - A. 10.

| | |
|------------------------------|-------|
| Files open at start of 2019: | 509 |
| Complaints received in 2019: | 1,003 |
| Files closed in 2019: | 1,029 |
| Files open at end of 2019: | 482 |

Complaint filings for the first five months of 2020 are down from 2019 numbers, after initially trending upward until March 2020.

Public and Private Discipline.

In 2019, 35 lawyers were publicly disciplined: 5 attorneys were disbarred, 22 were suspended, 4 were reprimanded and placed on probation, and 4 were reprimanded. The five disbarred attorneys were Craighton Boates, Boris Gorshteyn, Thomas Laughlin, Murad Mohammad and Israel Villanueva.

During 2019, 107 admonitions were issued. Pursuant to Rule 8(d)(2), RLPR, if “the Director concludes that a lawyer’s conduct was unprofessional but of an isolated and non-serious nature, the Director may issue an admonition.” Prior year totals are as follows:

| | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 |
|--------------------|------|------|------|------|------|------|------|------|
| Admonitions | 122 | 143 | 143 | 115 | 115 | 90 | 117 | 107 |
| Total Files Closed | 1287 | 1279 | 1248 | 1332 | 1264 | 1073 | 1115 | 1029 |
| % | 9% | 11% | 11% | 8% | 9% | 8% | 11% | 10% |

The areas of misconduct involved in the admonitions are set forth in Table V at A. 6. Fourteen matters closed with private probation, the same as in 2018.

Annual Professional Responsibility Seminar and Continuing Legal Education Presentations.

On September 27, 2019, the Board and the Director’s Office hosted the 34th annual Professional Responsibility Seminar. Sessions included a presentation by Justice Lillehaug on key Supreme Court discipline cases; Ethics Issues in Immigration Cases by Kathleen Moccio, Visiting Assistant Clinical Professor at the University of Minnesota Law School, and Susan Humiston, Director of the Office of Lawyers Professional Responsibility; and a presentation by Robin Wolpert, Chair of the Lawyers Professional

Responsibility Board, on Ethics and the Value of Sleep. Additional presentations covered lawyer well-being, a discussion on DEC departures, a hypothetical situation practice exercise, and a DEC investigator workshop. During the Seminar, Justice Lillehaug presented the Volunteer of the Year Award to Mary Hilfiker. As a public member volunteer, Ms. Hilfiker diligently and enthusiastically gave her time to support the Board.

Each year, attorneys in the Office devote substantial time to CLE presentations and other public speaking opportunities in an effort to proactively educate the bar about professional responsibility issues. A full list of those engagements can be found at A. 17 – A. 19. This year, staff spoke at 52 events, devoting over 244 hours to educating the profession. This is down significantly from prior years due to COVID-19 cancellations in spring 2020.

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 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.

Board members Joseph Beckman, James Cullen, Roger Gilmore, Mary Hilfiker and Bentley Jackson completed their second and final terms on the Board. Daniel Cragg, Paul Lehman, Kristi Paulson, Mary Waldkirch Tilley and Julian Zebot were appointed to the Board. Jeanette Boerner, Peter Ivy, Virginia Klevorn and Allan Witz were reappointed to second terms to expire in 2023. A complete listing of Board members and their backgrounds as of July 1, 2020, is attached at A. 1 – A. 2.

Executive Committee.

The Board has a five-member Executive Committee, charged with general oversight of the Director's Office and the Rules on Lawyers Professional Responsibility.

The Committee consists of Chair Robin Wolpert, Vice-Chair Jeanette Boerner, and members Shawn Judge, Virginia Klevorn and Bruce Williams. Two members of the Executive Committee are public members, demonstrating some of the significant contribution public members make to the Minnesota disciplinary system.

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.

Panels.

All members of the Board, other than Executive Committee members, serve on one of six Panels which make discipline probable cause determinations and reinstatement recommendations. The Board members who act as Panel Chairs are currently: Landon Ascherman, Thomas Evenson, Gary Hird, Peter Ivy, Susan Rhode, and Allan Witz.

Standing Committees.

The Board has three standing committees. The Opinion Committee, chaired by Mark Lanterman, 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 Peter Ivy, makes recommendations regarding possible amendments to the MRPC and the RLPR. The DEC and Training Committee, chaired by Allan Witz, works with the DECs to facilitate prompt and thorough consideration of complaints assigned to them, assists the DECs in recruitment and training of volunteers, and in FY20 assumed the additional responsibility of training Board members. All committees were very active in FY20.

III. DIRECTOR'S OFFICE.

A. Budget.

In June 2020, the Office will complete the first year of the biennium budget approved by the Court in June 2019. Expenditures for the fiscal year ending June 30, 2020, are projected to be approximately \$4.3 million. The projected reserve balance at the end of FY20 is projected to be \$1.3 million. FY20 expenses were favorable to budget, but revenues were not due to the decision to delay a \$1 million transfer from the Client Security Fund, which had been budgeted for FY20. The Office continues deficit spending and projects ending the biennium with a reserve of approximately \$450,000. The Office's largest expenditure, other than personnel costs, was completed on budget in FY20 with the delivery and acceptance of the Office's new file management database.

The Director's Office budget is funded primarily by lawyer registration fees (\$128 for most lawyers), and therefore is not dependent upon legislative dollars. FY20 projected revenue from all sources is \$3.6 million. The Office will continue to utilize its reserve to fund the revenue shortfall, and will come close, as noted above, to exhausting its reserve over the biennium. To address the funding shortfall, in June 2019, the Court reallocated \$6 of the annual registration fee from the Client Security Board to the OLPR, in addition to approving the \$1 million transfer from the Client Security Fund as needed.

B. Personnel.

The Director's Office employs 13 attorneys including the Director, six paralegals, one investigator, an office administrator, ten support staff and one law clerk (*see* organizational chart at A. 20). Personnel highlights in FY20 include the retirement of one employee (Wenda Mason), the departure of an attorney (Aaron Sampsel) and the hiring of one attorney (Jennifer Wichelman). Alicia Smith was promoted to an Attorney II, Jennifer Bovitz and Binh Tuong were promoted to Managing Attorneys, and Bryce Wang moved from a temporary to a permanent employee. In addition, Tim Burke moved to a Senior Attorney position from the Deputy Director position, and Cassie

Hanson will be moving from Managing Attorney to Senior Attorney in the near term. The Office also added the skill set of an investigator, Gina Bovege, who operated her own investigation firm for more than 20 years before moving to Minnesota. The Director, Susan Humiston, was also reappointed to a third, two-year term in 2020.

While the Office has continued its outreach efforts to the profession around well-being in the profession, it has also focused its efforts internally through the creation and active participation of a well-being committee. As part of its work, the OLPR well-being committee hosted a “surprise” Office party to celebrate the collective successes of 2019 and the teamwork necessary to make those successes happen. During the period where most of the Office was working remotely, the Office also celebrated National Lawyer Well-Being Week, the first full week of May 2020, by scheduling individual daily activities and a Zoom happy hour and slide show, to facilitate connectedness. One of the most challenging things about remote work, which is new to the Office, is finding authentic ways to connect to colleagues, which is so important to many people as part of a healthy workplace.

C. Website and Lawyers Professional Responsibility Board Intranet.

The OLPR website continues to be updated regularly to ensure it remains current. While the site contains a substantial amount of useful information regarding the discipline system, as well as services provided by the Director’s Office, it is old and not mobile-friendly. Work on a new website, however, was tabled to FY21 due to competing demands related to launching the Office’s updated file management database. Attached at A. 21 is a recent printout of the home page for the website.

The LPRB and DEC intranet (SharePoint) sites are widely used by Lawyers Board members, DEC Chairs and volunteer investigators. The Director’s Office provides regular training to new and current Board members and DEC volunteers on the use and navigation of the sites. The Office also employs a DEC/SharePoint Coordinator as the main contact for volunteers regarding questions about the sites. In FY20, the Office

updated the Board's SharePoint site to include secure Panel portals to facilitate the work of the Panels.

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 2019, the Director's Office received 129 complainant appeals, compared to 152 appeals received in 2018. The breakdown of the 129 determinations made by reviewing Board members in 2019 is as follows:

| | | <u>%</u> |
|--|-----|----------|
| Approve Director's Disposition | 123 | 95 |
| Direct Further Investigation | 4 | 3 |
| Instruct Director to Issue an Admonition | 1 | 1 |
| Instruct Director to Issue Charges | 1 | 1 |

Approximately 120 clerical hours were spent in 2019 processing and routing of appeal files. A limited amount of attorney time was expended in reviewing appeal letters and responding to complainants.

E. Probation.

The probation department administers private and public probation in conjunction with attorney discipline. In 2019, the Director opened 21 new probations, nine of which were public and 12 were private. Over three-fourths of the new public probations were supervised, whereas only about one-third of the new private probations were supervised. Nearly one quarter of the new probations were ordered as a condition of reinstatement to the practice of law. As with the prior year, 2019 had no extensions of a probation term.

This year, the Director filed seven petitions for revocation of probation and for further discipline. Strikingly, this figure marks a near-double increase over the four petitions for revocation filed in 2018. Three of the seven 2019 petitions for revocation

are under advisement with the Court. The increase in petitions for revocations is worth observing to see if the trend continues.

Probations that involve mental health and chemical dependency remain an ongoing concern. In keeping steady pace with 2018, approximately 28 percent of the new probations in 2019 involve lawyers with mental health issues and/or substance/alcohol use issues. Of the 81 open probations in 2019, approximately 21 percent (18 probations) implicated consideration of lawyer wellness issues—either as part of the underlying disposition, or as a specific term of probation monitoring.

This year, the Court transferred no probationers to disability inactive status. Nine of the new probations resulted from a lawyer's failure to properly maintain his or her trust account. Eleven of the new 2019 probations involved experienced lawyers who had 20 or more years of practice, including seven lawyers with 30 or more years of practice and three who had 40 or more years of practice.

During 2019, 24 Minnesota attorneys served as volunteer probation supervisors. Their volunteer service to assist lawyers in need is greatly appreciated. Four attorneys and six paralegals staff the probation department, and consistently commit between 40-50 hours collectively per week. Additional probation statistics are provided at A. 15-A. 16.

F. Advisory Opinions.

Advisory opinions are available to all licensed Minnesota lawyers and judges, and out-of-state attorneys with questions about Minnesota's rules. 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 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.

The number of advisory opinions requested by Minnesota lawyers and judges decreased modestly in 2019. In 2019, the Director's Office received 1,943 requests for advisory opinions, compared to 2,057 in 2018. (A. 11 - A. 12.) Table XIII at A. 13 shows the areas of inquiry of opinions.

In 2019, the Director's Office expended 396 assistant director hours in issuing advisory opinions. This compares with 441 hours in 2018. Dissolution/custody was the most frequently inquired about area of law. Client confidentiality (Rule 1.6) was the most frequent area of specific inquiry, along with conflicts of interest (Rule 1.7), conflicts-former clients (Rule 1.9) and trust accounts (Rule 1.15).

G. Overdraft Notification.

Pursuant to Rule 1.15(j) – (o), MRPC, lawyer trust accounts, including IOLTA accounts, must be maintained in eligible financial institutions approved by the Director's Office, and the bank must agree to report all overdrafts on trust accounts to the Director's Office. Administration of the trust account overdraft program includes books and records reviews and forensic auditing. Individualized education is also provided through the overdraft program to target specific deficiencies and to ensure compliance with Rule 1.15, MRPC, and Appendix 1.

Forty-one trust account overdraft notices were reported to the Director in 2019, which was down significantly from the 63 reported in 2018. During 2019, the Director converted ten overdraft inquiries into disciplinary files. (Two of those ten resulted in the opening of disciplinary files against two separate lawyers.) The most common reason for opening a disciplinary file is shortages, which is often the result of significant record-keeping deficiencies. Additional reasons to open a discipline file includes commingling of client and attorney funds and failure to cooperate. The Director closed

49 overdraft inquiries in 2019, which was comparable to the 54 closed in 2018. Of these closures, 39 were closed without a disciplinary investigation. In 36 of the 39 closures, or 92%, the Director made recommendations regarding the attorney's trust account practices. The most common such recommendations concerned a lack of strict compliance with the books and records requirements, and a failure to properly reconcile the account.

In 2019, the overdraft inquiries closed without a disciplinary investigation were closed for the following reasons:

| Overdraft Cause | No. of Closings |
|------------------------------|------------------------|
| Check written in error on TA | 13 |
| Bank error | 11 |
| Service or check charges | 5 |
| Late deposit | 3 |
| Mathematical/clerical error | 2 |
| Third party check bounced | 2 |
| Bank hold on funds drawn | 1 |
| Reporting error | 1 |
| Other | 1 |

A total of 151.75 hours – 49.50 hours of attorney time and 102.25 of paralegal/staff time – was spent administering the overdraft program in 2019. This was a decrease from the 199.25 hours expended in 2018. Significant additional hours, not reflected in the 151.75 hours accounting, were spent in 2019 in working with the LDMS project committee to convert the trust account overdraft file management system, and in collecting new “Trust Account Overdraft Notification and IOLTA Comparability Agreements” from banks in order to remind banks of the overdraft reporting requirements and interest obligations and to update the list of approved IOLTA institutions.

H. Judgments and Collections.

In 2019, judgments totaling \$31,214.67 were entered in 32 disciplinary matters. The Director's Office collected a total of \$24,579.85 from judgments and orders entered during or prior to 2019. Of the amount collected in 2019, \$2,973.47 was received through the Department of Revenue recapture program.

In 2018, judgments were entered in 33 disciplinary matters totaling \$36,346.43 and the Director's Office collected a total of \$24,008. Although the judgments entered in 2018 were \$5,131.76 less than in 2019, the Director's Office collected modestly more in 2019 than in 2018.

I. Disclosures.

The disclosure department responds to written requests for attorney disciplinary records. Public discipline is always disclosed. Private discipline is disclosed only with an executed authorization from the affected attorney. In addition, the Director's Office responds to telephone requests for attorney public discipline records. Public discipline information is also available through the OLPR website. Informal telephone requests and responses are not tabulated. The following formal requests were received in 2019:

| | <u>No. of Requests</u> | <u>No. of Attorneys</u> | <u>Discipline Disclosed</u> | <u>Open Files</u> |
|---|----------------------------|-----------------------------|---------------------------------|-----------------------|
| A. National Conference of Bar Examiners | 189 | 189 | 4 | 0 |
| B. Individual Attorneys | 464 | 464 | 20 | 9 |
| C. Local Referral Services | | | | |
| 1. RCBA | 16 | 44 | 1 | 1 |
| 2. Hennepin County | 0 | 0 | 0 | 0 |
| D. Governor's Office | 21 | 69 | 1 | 0 |
| E. Other State Discipline Counsels/State Bars or Federal Jurisdiction | 92 | 92 | 1 | 1 |
| F. F.B.I. | 25 | 27 | 0 | 0 |
| G. MSBA: Specialist Certification Program | 6 | 48 | 4 | 1 |
| H. Miscellaneous Requests | 24 | 42 | 3 | 1 |
| TOTAL | 837 | 975 | 34 | 13 |
| (2018 totals for comparison) | 790 | 1079 | 53 | 16 |

J. Trusteeships.

Rule 27(a), RLPR, authorizes the Supreme Court to appoint the Director as trustee of an attorney's files or trust account when no one else is available to protect the clients of a deceased, disabled or otherwise unavailable lawyer. In June 2019, the Director was appointed trustee over the client files belonging to deceased attorney David Lingbeck. The Director has completed her inventory of client files and will begin contacting clients whose files are less than seven years old or contain a valuable original document.

In December 2018, the Director was appointed trustee over the client files and trust account belonging to one attorney who abandoned his practice, David J. Van House. This trusteeship remains open. The Director has returned 75 client files to date; gathered, reviewed and audited bank records for Mr. Van House's trust account in order to determine entitlement to the funds in the account; and conducted additional investigation into the ownership of the trust account funds. The Director anticipates

filing a final report and petition for discharge with the Court in the near future. In 2019-2020, the Director closed the trusteeship of Joel Ray Puffer.

The Director continues to retain the following client files:

- Michael Joseph Keogh trusteeship—121 files which are eligible for expunction in June 2020.
- John Wade Tackett trusteeship—97 files which are eligible for expunction in September 2020.
- Hugh P. Markley trusteeship—574 wills will be eligible for expunction in December 2020, pursuant to a request by Mr. Markley's widow for an extension of the previously designated expunction date.
- Michael J. Corbin trusteeship—213 files which are eligible for expunction in March 2021.
- Roger Lincourt Belfay trusteeship—140 files which are eligible for expunction in April 2021.
- Rachel Bengtson-Lang trusteeship—74 files are eligible for expunction in August 2021, with the exception of documents the Director determines to be of value, which are eligible for expunction in August 2023.
- Ronald Resnik trusteeship—161 files are eligible for expunction in August 2021, with the exception of documents the Director determines to be of value, which are eligible for expunction in August 2023.
- Jan Stuurmans trusteeship—37 files are eligible for expunction in June 2022, with the exception of documents the Director determines to be of value, which are eligible for expunction in June 2024.
- Francis E. Muelken trusteeship—291 files are eligible for expunction in June 2024.
- Joel Ray Puffer trusteeship—17 files are eligible for expunction in July 2022, with the exception of documents the Director determines to be of value, which are eligible for expunction in July 2024.

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 2018 (December 1, 2018—November 30, 2019), there were 88 new professional firm filings. Fees collected from professional firm filings are included in the Board's annual budget. As of June 4, 2020, the Director's Office received \$66,350 from 2,386 professional firm filings during fiscal year 2020. There were 68 new professional firm filings for the period of December 2019—June 4, 2020. The Director's Office received \$68,050 during fiscal year 2019.

An assistant director, paralegal, and administrative clerk staff the professional firms department. For fiscal year 2020 (as of June 4, 2020), the total attorney work time for overseeing the professional firms department was 155 hours. The total non-attorney time was 468.5 hours.

IV. DISTRICT ETHICS COMMITTEES (DECs).

Minnesota is one of only a few jurisdictions in the United States which continues to extensively use local volunteers 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 works well and strongly urged its continuation. Each DEC corresponds to the MSBA bar district, and each is assigned a staff lawyer from the OLPR as a liaison to that DEC. Currently, there are approximately 249 DEC volunteers.

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 2019, the Director's Office followed DEC recommendations in 83% of investigated matters which were closed during 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 prior relevant discipline that was not known, and thus, not considered by the DEC in making its recommendation. These matters are counted as not following the DEC recommendation.

In 2019, the monthly average number of files under DEC consideration was 92, fluctuating between a low of 85 and a high of 102. The year-to-date average for 2020 is 95, as of April 30, 2020. Rule 7(c), RLPR, provides a 90-day goal for completing the DEC portion of the investigation. For calendar year 2019, the DEC completed 241 investigations, taking an average of four months to complete each investigation.

For calendar year 2019, of the completed DEC investigations statewide, the following dispositions were made (measured by the number of files, rather than lawyers):

| | |
|--|-----|
| Determination discipline not warranted | 168 |
| Admonition | 59 |
| Private probation | 4 |

The annual seminar for DEC members, hosted by the Office and the Board, will be held this year on Friday, September 25, 2020. All DEC members, plus select members of the bench and bar with some connection to the discipline system, are invited. The seminar will be held virtually given uncertainty around public gatherings in the fall. Active DEC members attend the annual DEC Seminar at no cost.

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


did not meet the 20% nonlawyer membership requirement. As of May 1, 2020, only one district is not in full compliance. Additionally, one DEC is focused on recruiting new members as several current members have exceeded their term limits. The Office and Board continue to work with these districts to bring them into compliance.

V. FY2021 GOALS AND OBJECTIVES.

The OLPR is very close to obtaining compliance with the Board and Court's case processing goals in a sustainable way and will strive to meet those goals in FY21 on a consistent basis. The OLPR also looks forward to updating its website, a much needed overhaul, and continuing to focus on implementation of the Strategic Plan, which prioritizes proactive educational outreach to the profession and public.

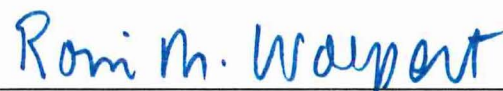
Dated: July 1, 2020.

Respectfully submitted,

 Humiston, Susan
Jul 1 2020 4:17 PM

SUSAN M. HUMISTON
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY

and



ROBIN M. WOLPERT
CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD

LAWYERS PROFESSIONAL RESPONSIBILITY BOARD

Robin M. Wolpert, St. Paul - Chair. Attorney member. Term expires January 31, 2022. Serves on LPRB Executive Committee. Served on Nineteenth District Ethics Committee for seven years. Served as MSBA President from 2016 - 2017. Attorney at Sapia Law Group in Minneapolis. Principal areas of practice: Appellate practice, white collar criminal defense, complex civil litigation, and data privacy.

Landon J. Ascherman, St. Anthony - Attorney member. MSBA nominee. First term expires January 31, 2022. Served on Fourth District Ethics Committee for three years. Founder of Ascherman Law, LLC. Area of law: Criminal.

Jeanette M. Boerner, Minneapolis - Attorney member. Term expires January 31, 2023. Serves on LPRB Executive Committee. Director of Hennepin County Adult Representation Services. Area of law: 26 years' experience in criminal and child protection defense work.

Daniel J. Cragg, Minneapolis - Attorney member. MSBA nominee. Term expires January 31, 2023. Partner at Eckland & Blando, LLP. Serves on LPRB Rules Committee. Member of MSBA's Rules of Professional Conduct Committee since 2014.

Thomas J. Evenson, Minneapolis - Attorney member. MSBA nominee. Term expires January 31, 2021. Serves on DEC and Training Committee. Shareholder at Lind, Jensen, Sullivan & Peterson, PA. Participant in Minnesota Automobile Assigned Claims Bureau, Mitchell Hamline Law School Dean's Advisory Board, and Minnesota Twins Season Ticket Holder Advisory Council. Areas of law: General litigation, with an emphasis on products liability, wrongful death, construction defects, and fraud.

Michael Friedman, Minneapolis - Public member. Term expires January 31, 2023. Serves on LPRB Opinion Committee. Served on Hennepin County District Ethics Committee nearly seven years. Executive Director of Legal Rights Center. Former Board Chair of the Minneapolis Civilian Police Review Authority.

Gary M. Hird, St. Paul - Attorney member. MSBA Nominee. Term expires January 31, 2021. Serves on LPRB Opinion Committee. Served on Tenth District Ethics Committees. Areas of law: Family, real estate, bankruptcy, juvenile, criminal and corporate law as well as labor relations.

Katherine A. Brown Holmen, Eagan - Attorney member. Term expires January 31, 2022. Serves on LPRB DEC and Training Committee. Served on Second District Ethics Committee for six years. Attorney at Dudley and Smith, P.A. Area of practice: Personal Injury.

Peter Ivy, Chaska - Attorney member. Term expires January 31, 2023. Chair of LPRB Rules Committee. Serves as Chief Deputy Carver County Attorney. Carries a felony caseload and provides legal advice to all Carver County officials and divisions. Serves as Co-Chair of the Minnesota County Attorneys Association's Ethics Committee. Area of practice: Criminal and in-house counsel to county divisions.

Shawn Judge, Minneapolis - Public member. Term expires January 31, 2021. Serves on Executive Committee. 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.

Virginia Klevorn, Plymouth - Public member. Term expires January 31, 2023. Serves on Executive Committee and LPRB Rules Committee. Served on Fourth District Ethics Committee for three years. Business management consultant specializing in alternative dispute resolution services. Minnesota House Representative for District 44A.

Tommy A. Krause, Virginia - Public member. Term expires January 31, 2022. Serves on LPRB DEC and Training Committee. Served on 20th District Ethics Committee for six years. Serves as President on the Board of Directors for Range Mental Health Center and as President of the Virginia Area United States Bowling Congress Association. Served as member of the Board of the Northern St. Louis County Habitat for Humanity. Retired law enforcement officer for the Virginia Police Department. Areas of expertise: Criminal and internal investigations.

Mark Lanterman, Minnetonka - Public member. Term expires January 31, 2021. Serves as Chairperson of the LPRB Opinion Committee. Chief Technology Officer for Computer Forensic Services. A former sworn law enforcement investigator assigned to the United States Secret Service Electronic Crimes Task Force who has also served as a neutral computer forensic analyst in both federal and state court. Faculty at the Mitchell Hamline School of Law, the University of St. Thomas School of Law, the National Judicial College, the Federal Judicial Center in Washington D.C., and the University of Minnesota's Security Technologies Program. Completed postgrad studies in cybersecurity at Harvard University and is certified as a Seized Computer Evidence Recovery Specialist (SCERS) by the Department of Homeland Security. Areas of expertise: digital forensics and cybersecurity.

Paul J. Lehman, Minnetonka - Public member. Term expires January 31, 2023. Serves on LPRB Rules Committee. Member of Minnesota Client Security Board. Served on Hennepin County District Ethics Committee for three years.

Kyle A. Loven, Minnetonka - Attorney member. Term expires January 31, 2022. Serves on LPRB DEC and Training Committee. National Director at Computer Forensic Services. Provides training throughout the country on cyber threats and internal investigations. Areas of expertise: Cyber security, investigations and compliance.

Kristi J. Paulson, Burnsville - Attorney member. MSBA nominee. Term expires January 31, 2022. Serves on LPRB Rules Committee. President of Kristi J. Paulson, Chartered, Law Firm since 1998. Minnesota Rule 114 Qualified Mediator and Arbitrator since 2017.

Susan C. Rhode, Minneapolis - Attorney member. Term expires January 31, 2021. Serves on LPRB Rules Committee. Served as Fourth District Ethics Committee Chair for six years. Partner at Moss & Barnett. Area of practice: Family law focusing on complex financial issues in dissolution matters.

Susan T. Stahl Slieter, Olivia - Public member. First Term expires January 31, 2022. Retired Renville County Court Administrator with 35 years of service to the judicial branch. Certified Court Executive, Institute for Court Management, NCSC. Areas of expertise: Court operations, budget and finance, and personnel management.

Gail Stremel, St. Paul - Public member. Term expires January 31, 2021. Serves on LPRB Opinion Committee. Served on Ramsey County District Ethics Committee for six years. Served as division director of public assistance programs at Ramsey County Community Human Services. Area of expertise: Public administration.

Mary L. Waldkirch Tilley, Marine on St. Croix - Public member. Term expires January 31, 2023. Serves on LPRB Rules Committee. Retired Victim Services Supervisor with Washington County.

Bruce R. Williams, Virginia - Attorney member. Term expires January 31, 2022. Serves on Executive Committee. Served as Twentieth District Ethics Committee Chair from 2011 to 2017. Served as Chair for the Supreme Court Board of Continuing Legal Education from 2001 - 2002. Appointed to the Minnesota Supreme Court Advisory Committee to Review the Lawyer Discipline System in July 2007. Handles serious felony matters as part-time attorney for the Sixth District Public Defenders Office in Virginia, Minnesota since 1990. Sole practitioner. Areas of expertise: General litigation, family, criminal defense. Certified as a criminal trial specialist since 2005.

Allan Witz, Rochester - Attorney member. Second term expires January 31, 2023. Chairs the LPRB DEC and Training Committee. Licensed to practice law in Minnesota, Florida, Michigan, and South Africa (inactive). Served three years on the Third District Ethics Committee. Former Chair of the Third District Bar Association Fee Dispute Resolution Committee. Former President of the Olmsted County Bar Association. Former President of the Third District Bar Association. Principal practice areas: Business law, estate planning and immigration law.

Julian C. Zebot, Minneapolis - Attorney member. MSBA nominee. Term expires January 31, 2023. Serves on LPRB Opinion Committee. Co-General Counsel and Ethics Partner for Maslon LLP. Served on the Hennepin County District Ethics Committee for more than 10 years. Served as Vice Chair of the Ethics and Malpractice Committee within the ABA Real Property Trust & Estate Section for the past several years.

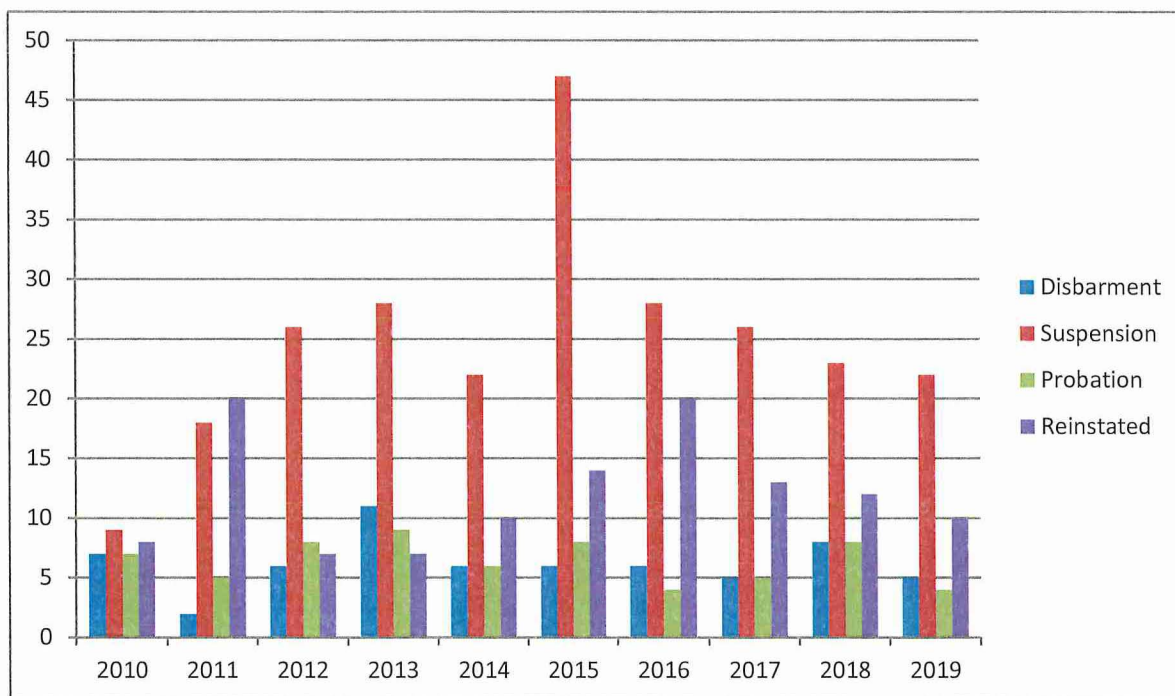
Table I
Complaint Statistics 2000–2019

| | Files | Files |
|--------------------|----------------------|----------------------|
| <u>Year</u> | <u>Opened</u> | <u>Closed</u> |
| 2000 | 1362 | 1288 |
| 2001 | 1246 | 1277 |
| 2002 | 1165 | 1226 |
| 2003 | 1168 | 1143 |
| 2004 | 1147 | 1109 |
| 2005 | 1150 | 1148 |
| 2006 | 1222 | 1171 |
| 2007 | 1226 | 1304 |
| 2008 | 1258 | 1161 |
| 2009 | 1206 | 1229 |
| 2010 | 1366 | 1252 |
| 2011 | 1341 | 1386 |
| 2012 | 1287 | 1287 |
| 2013 | 1256 | 1279 |
| 2014 | 1293 | 1248 |
| 2015 | 1210 | 1332 |
| 2016 | 1215 | 1264 |
| 2017 | 1110 | 1073 |
| 2018 | 1107 | 1115 |
| 2019 | 1003 | 1029 |

TABLE II
Supreme Court Dispositions and Reinstatements 2010-2019
Number of Lawyers

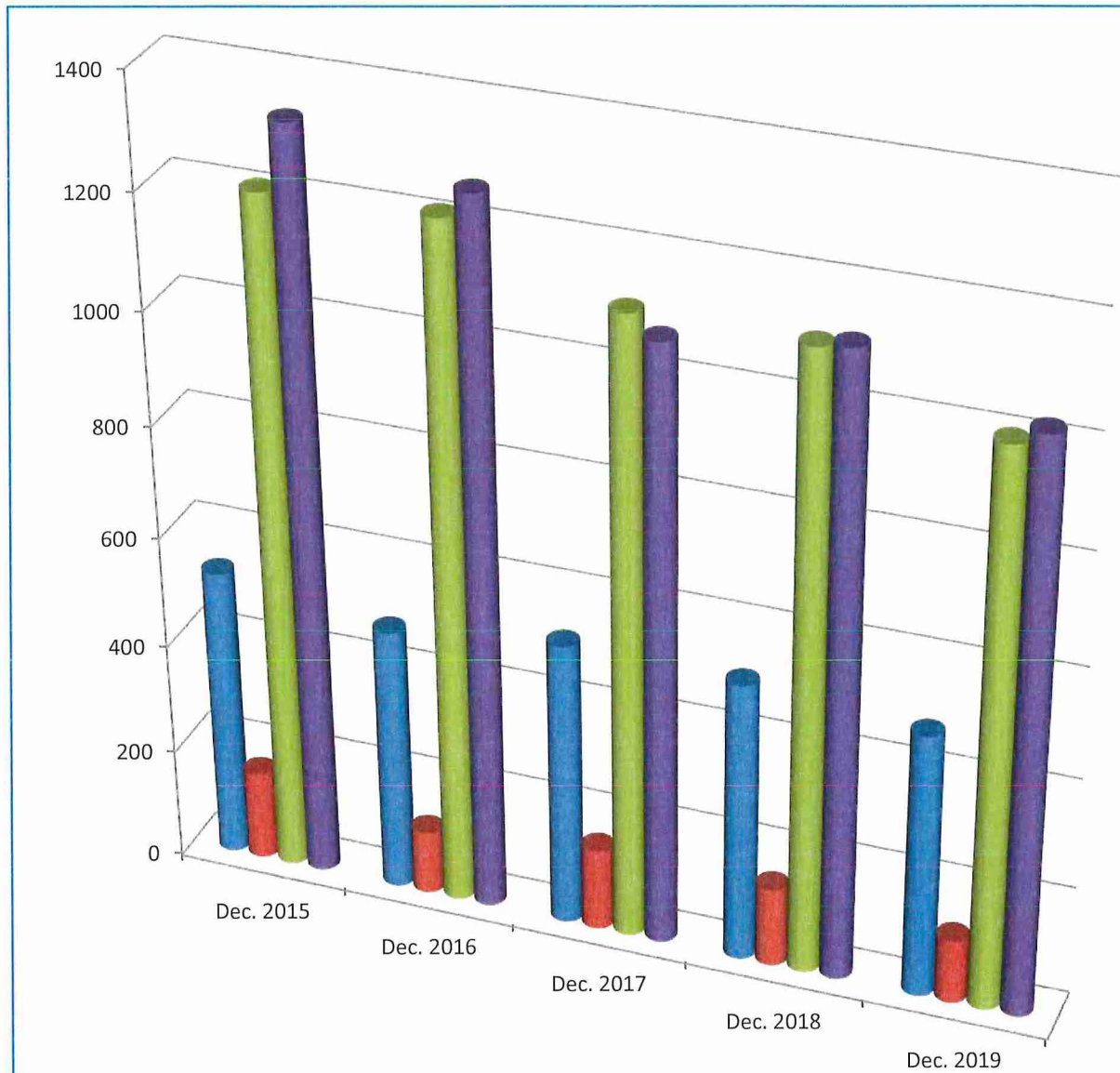
| | Disbar. | Susp. | Reprimand Probation | Reprimand | Dismissal | Reinstated | Reinstate Denied | Disability | SC AD/Aff | Other | Total |
|------|---------|-------|------------------------|-----------|-----------|------------|---------------------|------------|--------------|-------|-------|
| 2010 | 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 |
| 2015 | 6 | 47 | 8 | 4 | - | 14 | - | 1 | - | - | 80 |
| 2016 | 6 | 28 | 4 | 6 | 2 | 20 | 2 | 2 | 1 | 1** | 72 |
| 2017 | 5 | 26 | 5 | 4 | - | 13 | - | 3 | 1 | - | 58 |
| 2018 | 8 | 23 | 8 | 6 | - | 12 | - | 6 | 1 | 1** | 65 |
| 2019 | 5 | 22 | 4 | 4 | - | 10 | 1 | 1 | 1 | - | 48 |

TABLE III
Disbarments, Suspensions, Probations and Reinstatements 2010-2019



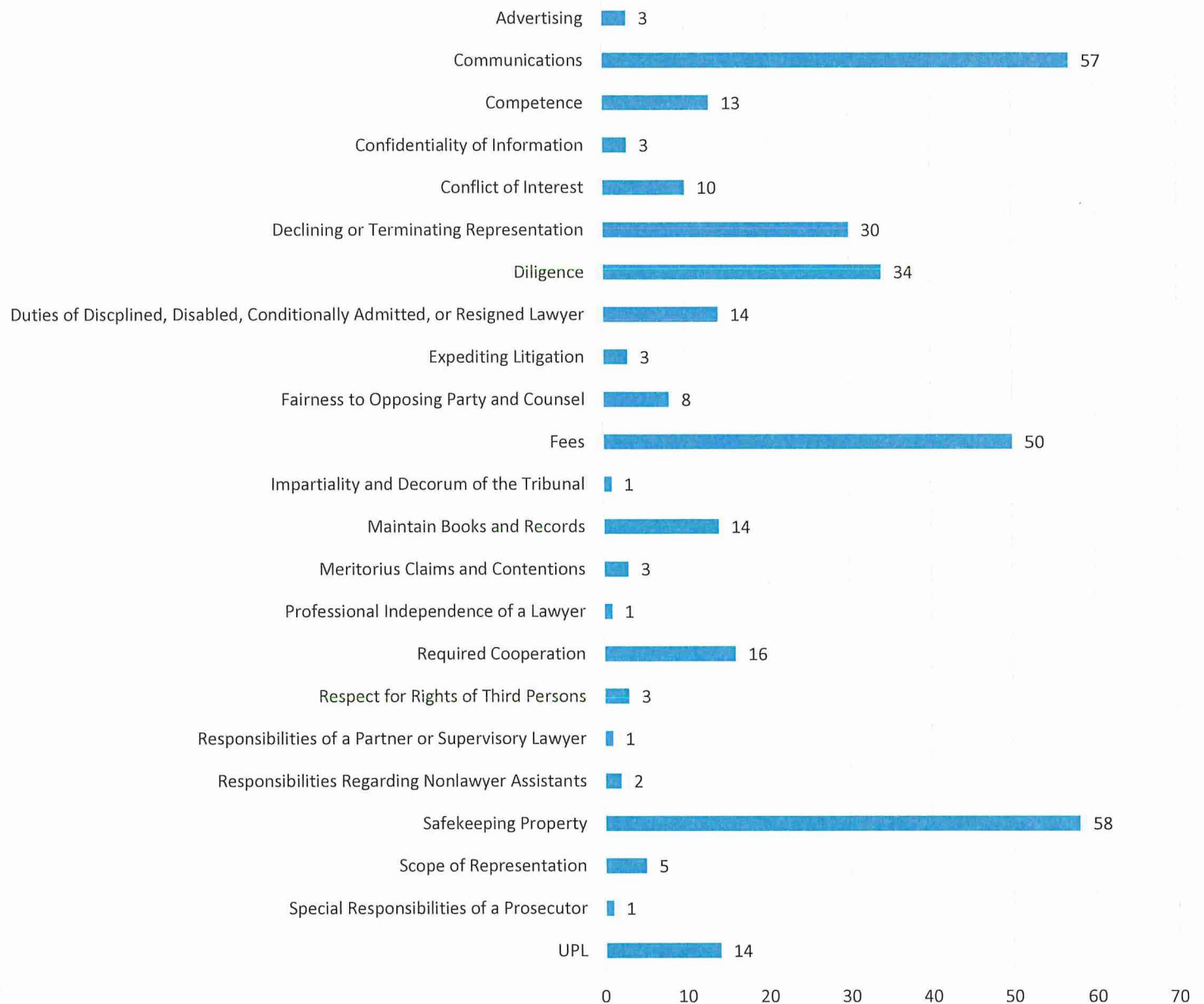
**Reinstatement dismissed

TABLE IV
File Openings, Closings and Year Old Files 2015-2019



| | Dec. 2015 | Dec. 2016 | Dec. 2017 | Dec. 2018 | Dec. 2019 |
|-----------------------------|-----------|-----------|-----------|-----------|-----------|
| Total Open Files | 528 | 480 | 517 | 509 | 482 |
| Cases at Least One Year Old | 161 | 115 | 149 | 145 | 119 |
| Complaints Received YTD | 1,210 | 1,216 | 1,110 | 1,107 | 1,003 |
| Files Closed YTD | 1,332 | 1,264 | 1,073 | 1,115 | 1,029 |

TABLE V
AREAS OF MISCONDUCT-ADMONITIONS 2019*



*In 2019, the Office issued 106 admonitions involving 344 rule violations (one admonition has been reopened pending an appeal).

This chart reflects the number of rule violations involved in those 106 admonitions, organized by area of misconduct (excluding admonitions issued as least inappropriate discipline for disbarred attorneys).

Admonition may involve more than one rule violation.

TABLE VI
Percentage of Files Closed

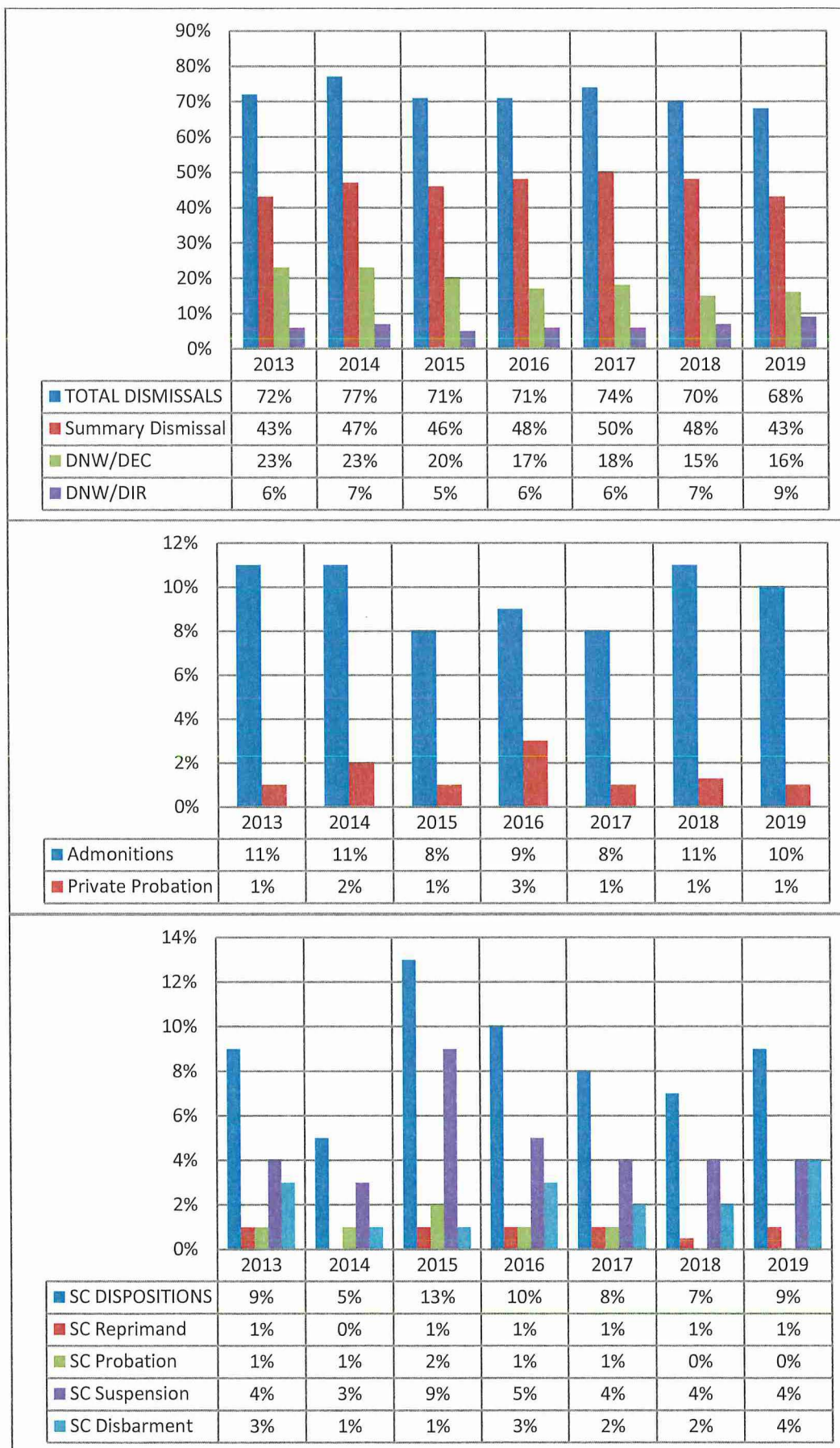


TABLE VII

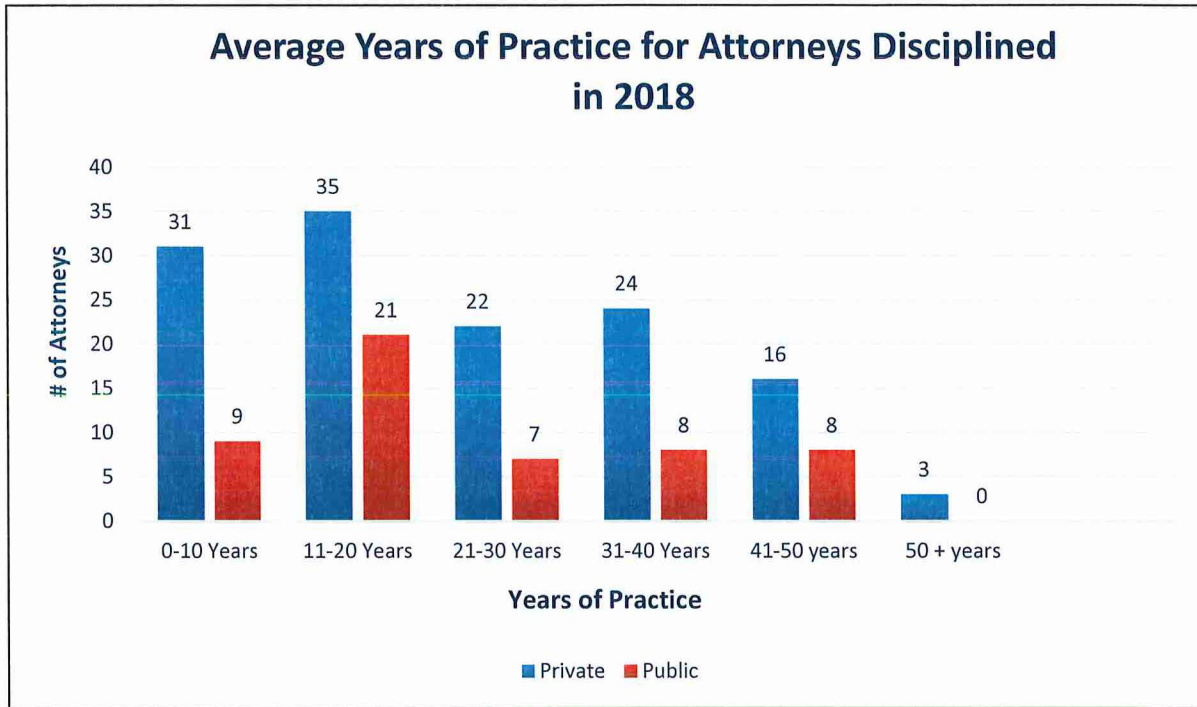


TABLE VIII

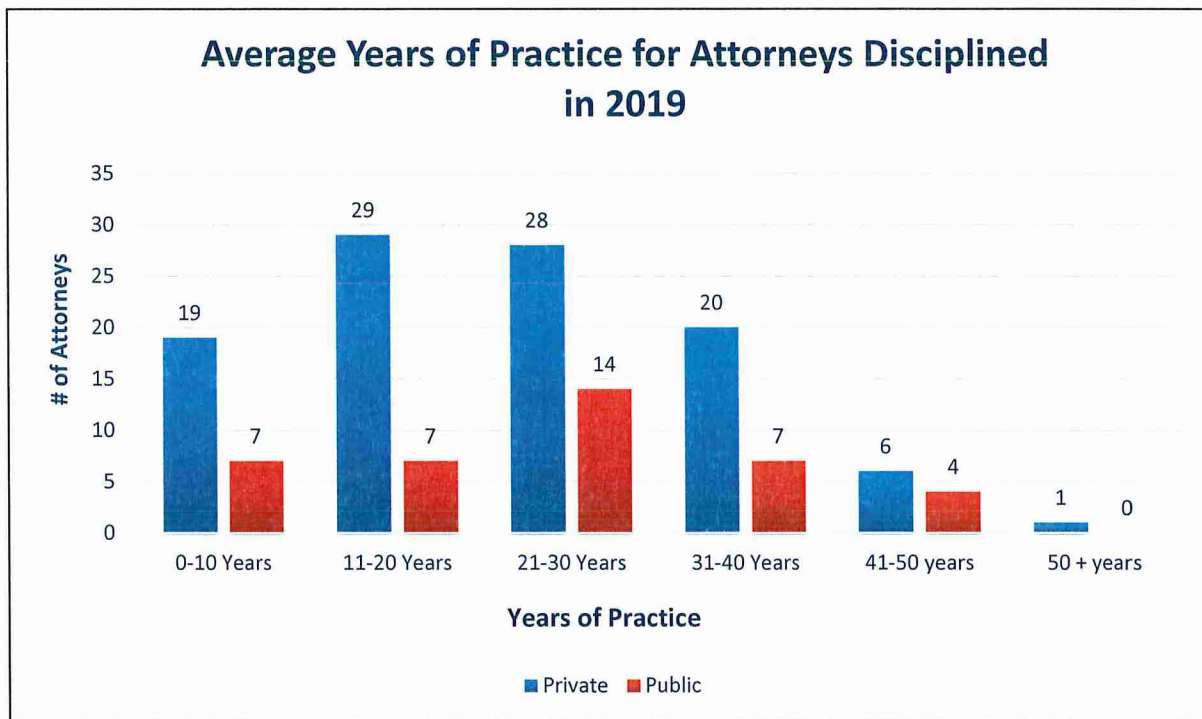
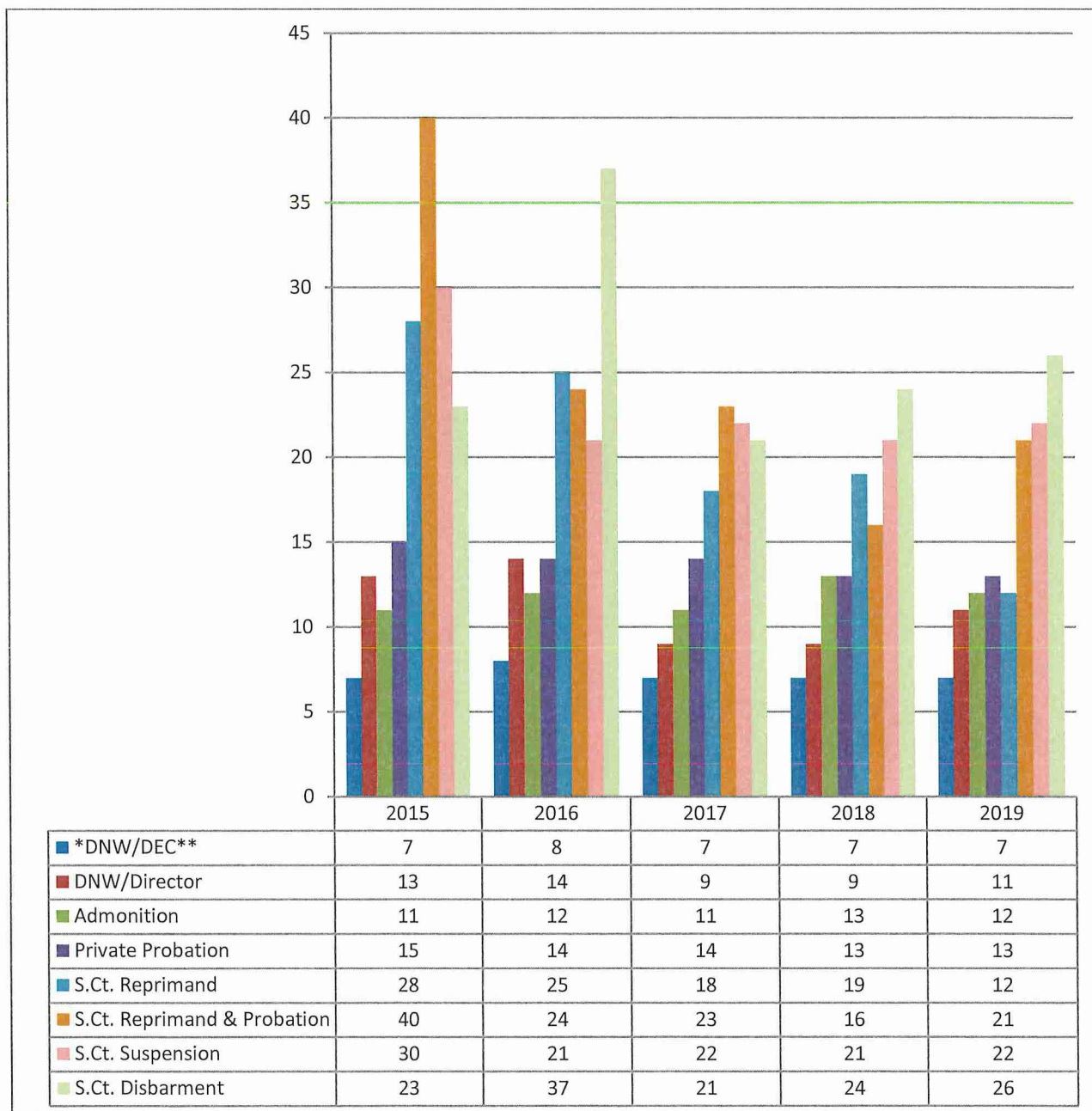


TABLE IX
Average Number of Months File was Open at Disposition



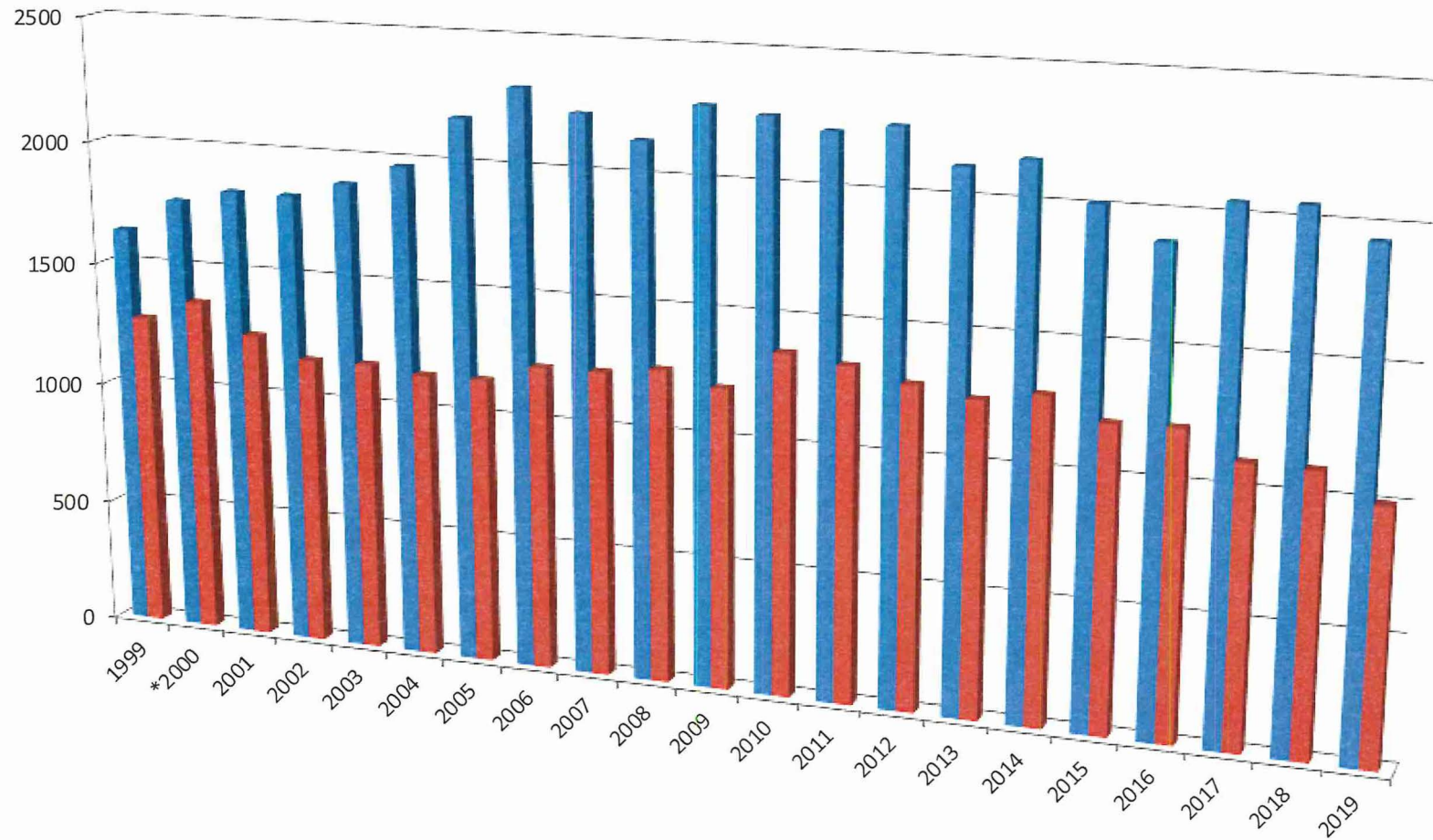
*Discipline Not Warranted

**District Ethics Committee

TABLE X
PUBLIC DISCIPLINE DECISIONS 1985-2019

| Year | Disbarments | Suspensions (all) | Probations | Reprimands | Total |
|---------------|--------------------|--------------------------|-------------------|-------------------|--------------|
| 1985 | 4 | 13 | 13 | 12 | 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 | 27 | 10 | 10 | 55 |
| 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 | 27 | 8 | 4 | 45 |
| 1996 | 4 | 27 | 5 | 0 | 36 |
| 1997 | 10 | 16 | 7 | 2 | 35 |
| 1998 | 15 | 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 | 6 | 47 | 8 | 4 | 65 |
| 2016 | 6 | 28 | 4 | 6 | 44 |
| 2017 | 5 | 26 | 6 | 4 | 41 |
| 2018 | 8 | 23 | 8 | 6 | 45 |
| 2019 | 5 | 22 | 4 | 4 | 35 |
| TOTALS | 213 | 692 | 246 | 123 | 1274 |

TABLE XI
Advisory Opinion Requests Received
and
Number of Complaints Opened
1999 - 2019



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

TABLE XII
Advisory Opinions 1991-2019

| 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 |
| 2015 | 1866 (93%) | 3 (.0%) | 1869 (93%) | 143 (7%) | 2012 |
| 2016 | 1770 (94%) | 2 (.0%) | 1772 (94%) | 116 (6%) | 1888 |
| 2017 | 1912 (93%) | 1 (.0%) | 1913 (93%) | 138 (7%) | 2051 |
| 2018 | 1901 (93%) | 3 (.0%) | 1904 (93%) | 153 (7%) | 2057 |
| 2019 | 1850 (95%) | 5 (.0%) | 1855 (95%) | 88 (5%) | 1943 |

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

** Percentage amount corrected.

| Table XIII | | | |
|---|---|------|------|
| Advisory Opinions Subject Matter by Rule* | | | |
| Rule | Description | 2018 | 2019 |
| 1.1 | Competence | 16 | 19 |
| 1.2 | Scope of Representation | 45 | 52 |
| 1.3 | Diligence | 17 | 9 |
| 1.4 | Communication | 86 | 85 |
| 1.5 | Fee Agreements and Fees - Generally | 100 | 82 |
| 1.6 | Client Confidentiality | 368 | 297 |
| 1.7 | Conflict of Interest - Generally | 342 | 285 |
| 1.8 | Conflict of Interest - Transactions | 76 | 73 |
| 1.9 | Conflict - Former Clients Generally | 183 | 183 |
| 1.10 | Imputed Disqualification - Generally | 56 | 40 |
| 1.11 | Government Lawyer Conflicts Generally | 35 | 16 |
| 1.12 | Former Judges & Law Clerks | 13 | 13 |
| 1.13 | Organization as Client | 29 | 11 |
| 1.14 | Disabled Client - Generally | 60 | 48 |
| 1.15 | Trust Accounts - Generally | 168 | 190 |
| 1.16 | Withdrawal from Representation | 318 | 252 |
| 1.17 | Sale or Termination of Law Practice | 31 | 38 |
| 1.18 | Prospective Clients | 61 | 53 |
| 2.1 | Advisor | 0 | 1 |
| 2.4 | Lawyer Serving as 3rd Party Neutral | 1 | 2 |
| 3.1 | Meritorious Claims | 20 | 14 |
| 3.2 | Expediting Litigation | 3 | 0 |
| 3.3 | Candor Toward the Tribunal | 59 | 51 |
| 3.4 | Fairness to Opposing Counsel | 28 | 26 |
| 3.5 | Contact with jurors or venire | 3 | 8 |
| 3.6 | Trial Publicity | 1 | 1 |
| 3.7 | Attorney as Witness | 23 | 28 |
| 3.8 | Special Prosecutor Duties | 7 | 7 |
| 4.1 | Candor to Others | 10 | 11 |
| 4.2 | Contact with Represented Party | 74 | 82 |
| 4.3 | Contact with Unrepresented Party | 34 | 27 |
| 4.4 | Respect for Third Persons' Rights | 35 | 27 |
| 5.1 | Supervisory Lawyers | 5 | 3 |
| 5.2 | Subordinate Lawyers | 3 | 0 |
| 5.3 | Non-Lawyer Employees | 10 | 11 |
| 5.4 | Professional Independence | 33 | 19 |
| 5.5 | Unauthorized Practice | 86 | 96 |
| 5.6 | Covenants Not to Compete | 8 | 7 |
| 5.7 | Responsibilities Regarding Law Related Services | 4 | 7 |
| 5.8 | Employment of Suspended Attorney | 5 | 2 |
| 6.1 | Voluntary Pro Bono | 0 | 2 |
| 6.3 | Legal Services Organizations | 0 | 0 |
| 6.4 | Law Reform Activities | 2 | 0 |
| 6.5 | Pro Bono Limited Legal Services Programs | 1 | 2 |
| 7.1 | Advertising Generally | 38 | 45 |
| 7.2 | Technical Requirements | 29 | 18 |
| 7.3 | Solicitation Generally | 25 | 22 |
| 7.4 | Specialization | 2 | 2 |
| 7.5 | Letterhead & Firm Name | 35 | 21 |
| 8.1 | Admission and Discipline | 0 | 0 |
| 8.2 | Legal Officials | 2 | 1 |
| 8.3 | Duty to Report Attorney Misconduct | 83 | 70 |
| 8.4 | Misconduct | 57 | 44 |
| 99 | Dormant File Procedures | 136 | 152 |
| | Totals | 2866 | 2555 |

47 Decisions Involving 107 Files

Disbarment **40 files** **5 attorneys**

| | | |
|-------------------------------|----------|----|
| BOATES , CRAIGHTON THOMAS | A18-2099 | 1 |
| GORSHTeyN , BORIS ALEKSANDROV | A17-1635 | 18 |
| LAUGHLIN , THOMAS J | A19-575 | 1 |
| MOHAMMAD , MURAD MOWAFFAK | A17-1920 | 12 |
| VILLANUEVA , ISRAEL ESQUIVEL | A18-2015 | 8 |

Suspension **45 files** **22 attorneys**

| | | |
|--------------------------------|----------|---|
| ANSEL , GARY DAVID | A18-1817 | 1 |
| APPELMAN , AVERY LORIN ETHAN | A19-1335 | 1 |
| CONVERSE , MITCHELL WILLARD | A18-2077 | 1 |
| DONOHUE , JAY MAGER | A18-2138 | 1 |
| ESSIEN , MICHAEL ANIETIE | A19-113 | 1 |
| FRENCH , WILLIAM L | A18-1648 | 2 |
| IZEK , DAVID | A18-1782 | 4 |
| KAMINSKY , JOSEPH | A19-1117 | 3 |
| LICHTENWALTER , MARK ALLEN | A19-467 | 2 |
| LORENTZEN , MARK STEPHEN | A19-806 | 2 |
| MCCOLLISTER , MATTHEW DAVID | A17-1922 | 2 |
| MIDDLETON , CHRISTINE MICHELLE | A19-1351 | 2 |
| MILLER , DANIEL S | A19-501 | 4 |
| MULLIGAN , D GREGORY | A19-1932 | 3 |
| NELSON , CHRISTOPHER J | A18-1149 | 2 |
| NORA , WENDY ALISON | A18-1574 | 1 |
| ONYEMEH SEA , BOBBY GORDON | A17-1548 | 1 |
| SCHUTZ , NICHOLAS BRADLEY | A18-1606 | 1 |
| SEVERIN , GRETCHEN RENEE | A18-454 | 3 |
| SKLAR , LORI J | A18-1330 | 1 |
| SUTTON , PATRICK MICHAEL | A19-131 | 5 |
| WESTERMAN , DANIEL THOMAS | A18-1646 | 2 |

Reprimand & Probation **6 files** **4 attorneys**

| | | |
|--------------------------|----------|---|
| BODENSTEINER , WILLIAM L | A19-1319 | 1 |
| IRBY , JOSEPH CHARLES | A18-1350 | 3 |
| KEEGAN , DAVID C | A19-106 | 1 |
| THAO , NOM FUE | A19-693 | 1 |

Reprimand **4 files** **4 attorneys**

| | | |
|--------------------------|----------|---|
| DART , NAHSHON JOSHUA | A19-720 | 1 |
| JEW , LEON EMMANUEL | A18-1808 | 1 |
| NAROS , KRISTEN KATHERYN | A19-762 | 1 |
| NORINE , WILLIAM LUND | A19-1086 | 1 |

Disability Inactive Status **1 files** **1 attorneys**

| | | |
|--------------------------|---------|---|
| STAEHR , JOSEPH PAUL JR. | A19-305 | 1 |
|--------------------------|---------|---|

Reinstatement **5 files** **5 attorneys**

| | | |
|---------------------------|------------|---|
| FRENCH , WILLIAM L | A18-1648 | 1 |
| MELNIK , DENNIS | ADM05-8001 | 1 |
| NWANERI , PATRICK CHINEDU | A16-57 | 1 |
| SKLAR , LORI J | A18-1330 | 1 |
| SUTTON , PATRICK MICHAEL | A19-131 | 1 |

Reinstatement & Probation **5 files** **5 attorneys**

| | | |
|-----------------------------|----------|---|
| ESKOLA , RICHARD S | A18-1703 | 1 |
| ESSIEN , MICHAEL ANIETIE | A19-113 | 1 |
| MCCOLLISTER , MATTHEW DAVID | A17-1922 | 1 |
| SEVERSON , LARRY S | A17-895 | 1 |
| WANDLING , DAVID EDWIN | A19-269 | 1 |

Reinstatement Denied **1 files** **1 attorneys**

| | | |
|--------------------------|---------|---|
| ESSIEN , MICHAEL ANIETIE | A19-113 | 1 |
|--------------------------|---------|---|

PROBATION STATISTICS

TOTAL PROBATION FILES OPEN DURING 2019

| | | |
|---|-----------|-----------|
| Public Supervised Probation Files (32%) | 26 | |
| Public Unsupervised Probation Files (28%) | <u>23</u> | |
| Total Public Probation Files (60%) | | 49 |
| Private Supervised Probation Files (15%) | 12 | |
| Private Unsupervised Probation Files (25%) | <u>20</u> | |
| Total Private Probation Files (40%) | | <u>32</u> |
| Total Probation Files Open During 2019 | | 81 |

TOTAL PROBATION FILES

| | |
|--|-------------|
| Total probation files as of 1/1/19 | 60 |
| Probation files opened during 2019 | 21 |
| Probation files closed during 2019 | <u>(21)</u> |
| Total Open Probation Files as of 12/31/19 | 60 |

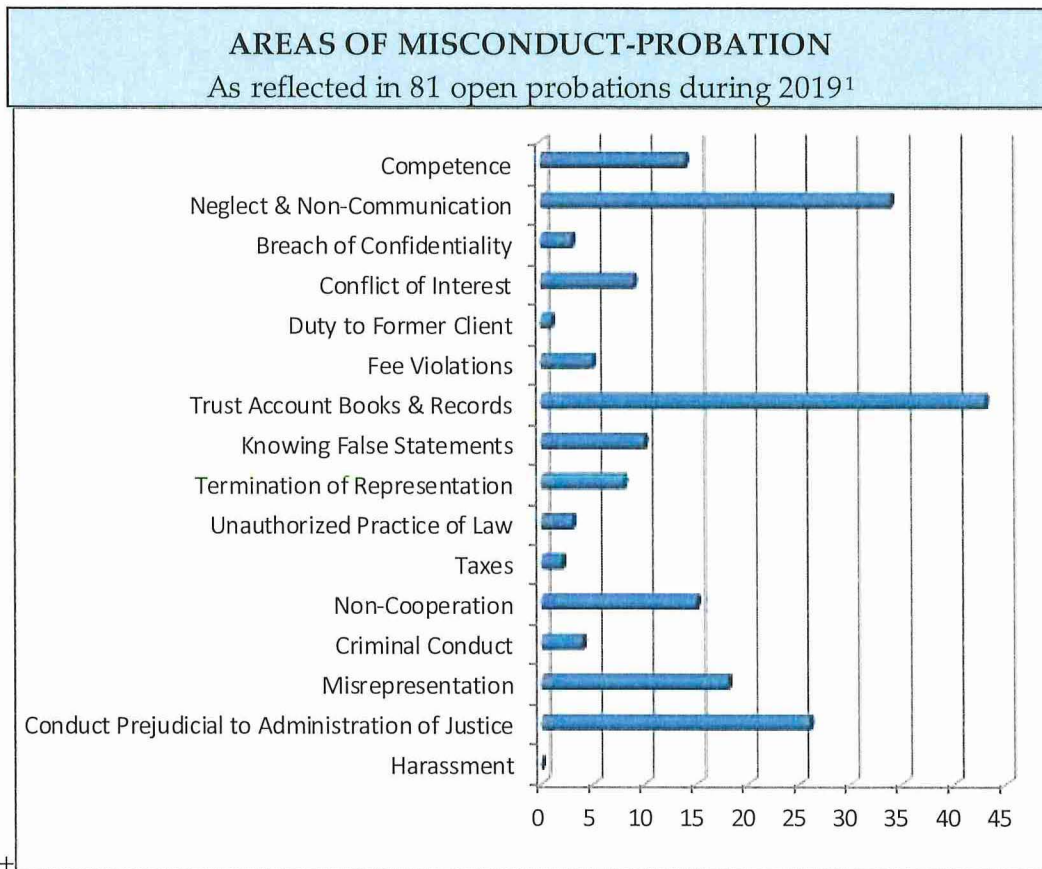
PROBATIONS OPENED IN 2019

Public Probation Files

| | | |
|-------------------------------------|----------|----------|
| Supervised | 7 | |
| Unsupervised | <u>2</u> | |
| Total Public Probation Files | | 9 |

Private Probation Files

| | | |
|--|----------|-----------|
| Supervised | 4 | |
| Unsupervised | <u>8</u> | |
| Total Private Probation Files | | <u>12</u> |
| Total New Probation Files in 2019 | | 21 |



| | |
|--|----|
| Competence (Violation of Rules 1.1 and 1.2, MRPC) | 14 |
| Neglect & Non-Communication (Violation of Rules 1.3 and 1.4, MRPC) | 34 |
| Breach of Confidentiality (Violation of Rule 1.6, MRPC) | 3 |
| Conflict of Interest (Violation of Rules 1.7 and 1.8, MRPC) | 9 |
| Duty to Former Client (Violation of Rule 1.9, MRPC) | 1 |
| Fee Violations (Violation of Rule 1.5, MRPC) | 5 |
| Trust Account Books and Records (Violation of Rule 1.15, MRPC) | 43 |
| Termination of Representation (Violation of Rule 1.16, MRPC) | 8 |
| Knowing False Statements to Others (Violation of Rule 4.1, MRPC) | 10 |
| Unauthorized Practice of Law (Violation of Rule 5.5, MRPC) | 3 |
| Taxes | 2 |
| Non-Cooperation (Violation of Rule 8.1, MRPC) | 15 |
| Criminal Conduct (Violation of Rule 8.4(b), MRPC) | 4 |
| Misrepresentation (Violation of Rule 8.4(c), MRPC) | 18 |
| Conduct Prejudicial to the Administration of Justice (Violation of Rule 8.4(d), MRPC) | 26 |
| Harassment (Violation of Rule 8.4(g), MRPC) | 0 |

¹ A file may involve more than one area of misconduct.

Office of Lawyers Professional Responsibility
Speaking Engagements and Seminars July 2019 – June 2020

| Date | Topic | Location | Organization | Initials |
|-------------|---|---------------------------|---|--------------------------|
| 7/12/19 | 2019 Impaired Driving: New Laws, New Issues, and New Decisions | St. Paul | Minnesota County Attorneys Association | KMR |
| 7/23/19 | Ethical Impact of Stress | St. Paul | MJC Law Library | TMB |
| 8/2/19 | Beyond an Ethical Doubt: Common Pitfalls for Criminal Defense Lawyers | Alexandria | Eighth District Public Defender | KMR |
| 8/8/19 | Dark Web and CyberSecurity | San Francisco, California | NOBC | SMH |
| 8/16/19 | Should I Stay or Should I Go? Conflicts of Interest and Withdrawing from Representation | Duluth | Eleventh District Ethics Committee | NSF |
| 8/17/19 | Ethical Considerations for the Trial Lawyer | Duluth | Minnesota Defense Lawyers Association Trial Tactics | NSF |
| 8/22/19 | Ethics Investigation | Anoka | Anoka County Bar Association | TMB |
| 9/2/19 | The Dissatisfied Criminal Client: Frequently Seen Complaints at the OLPR | Minneapolis | MNCLE | KMR |
| 9/4/19 | Duty to Report (w/Board on Judicial Standards) | Madden's | MJC Judicial Conference | SMH |
| 9/11/19 | Ethics: Trauma Informed Practitioner | Webinar | MCAA | JSB |
| 9/11/19 | Bias: Exploring the Connections Between Implicit Bias, Incivility, and Toxicity in the Legal Profession | Webinar | MCAA | JSB |
| 9/12/19 | Criminal Justice Institute | Minneapolis | MNCLE | KMR |
| 9/16/19 | Ethics Issues in Labor and Employment Practice | Minneapolis | MNCLE | JSB |
| 9/19/19 | Common Ethics Issues in Elder Representation | Minneapolis | MSBA Elder Law Committee | SMH TMB |
| 9/19/19 | Ethics for In House Counsel | Minneapolis | MNCLE | SMH |
| 9/24/19 | Law Clerk Ethics | St. Paul | Minnesota Judicial Center | AMH BDW |
| 9/25/19 | Solo Practice Seminar | Minneapolis | University of St. Thomas Law School | AMH |
| 9/26/19 | Ethics For Parent Attorneys: Clients With Diminished Capacity And Conflicts Of Interest | Minneapolis | MNCLE | SMH |
| 9/27/19 | Professional Responsibility Seminar | Minneapolis | Office of Lawyers Professional Responsibility | SMH SCB JSB TMB |
| 9/30/19 | Ethical Supervision of Paralegals and Related UPL Issues | St. Paul | Supreme Court Paraprofessional Subcommittee | SMH |

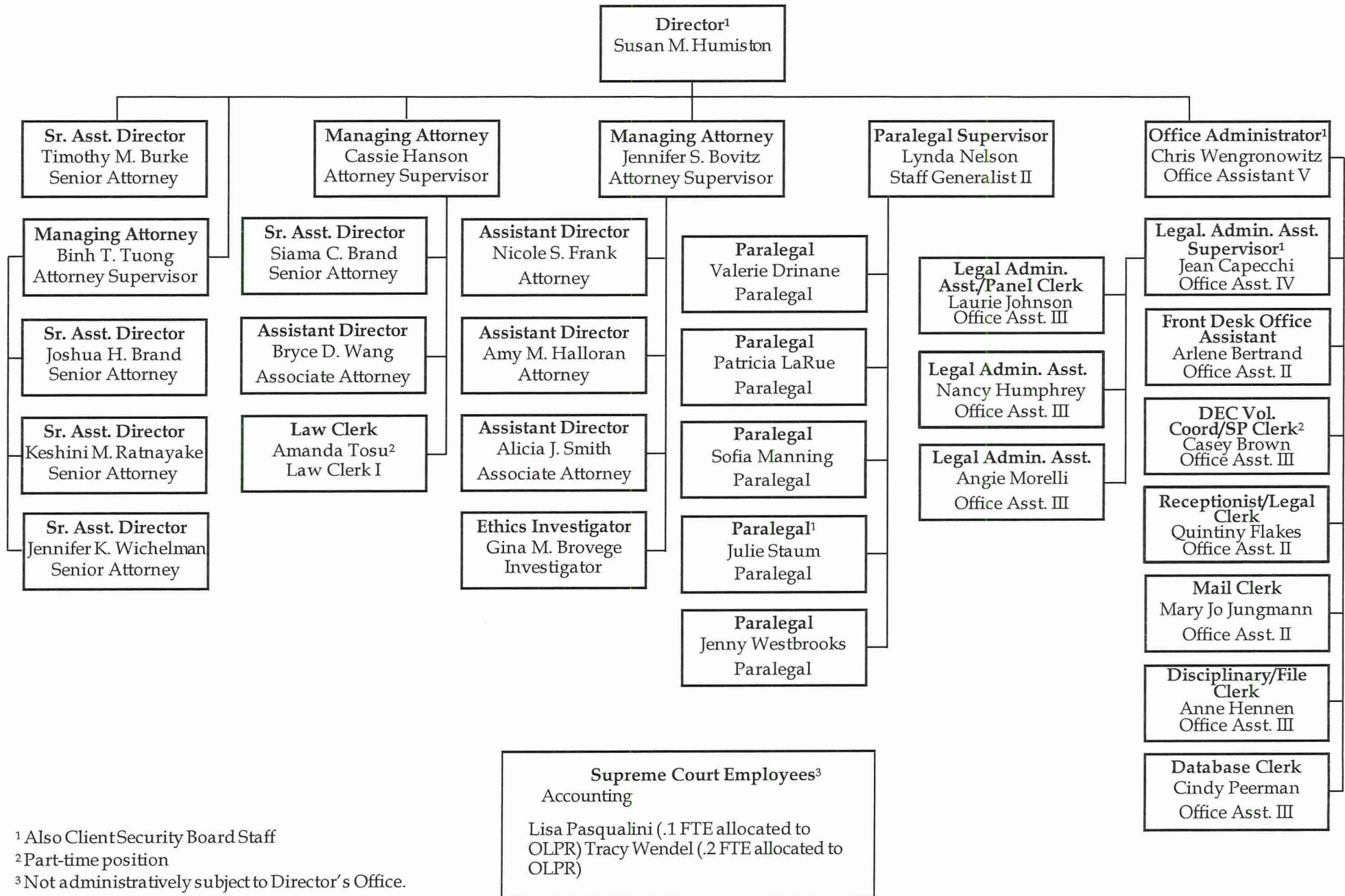
Office of Lawyers Professional Responsibility
Speaking Engagements and Seminars July 2019 – June 2020

| | | | | |
|----------|---|---------------|--|------------|
| 10/4/19 | Ethical Issues in Social Media Use | St. Paul | Hmong American Bar Association | SMH |
| 10/7/19 | Advanced Contract Issues for In-House Counsel | Minneapolis | MNCLE | SMH |
| 10/8/19 | Technology, Social Media & Ethics | St. Cloud | Minnesota Family Support & Recovery Council | SCB |
| 10/10/19 | Law Clerk Wellness | St. Paul | Law Library | AMH BDW |
| 10/25/19 | 2019 ADR Institute | Minneapolis | MNCLE | AMH |
| 10/31/19 | Multijurisdictional Practice and Other Ethics Issues for Real Estate Lawyers | St. Paul | MNCLE | SMH |
| 11/20/19 | Hot Topics in Ethics | St. Paul | RCBA Board | SMH |
| 11/25/19 | Business Litigation Ethics and Civility | Minneapolis | MNCLE | KMR |
| 12/3/19 | Disclosing Mistakes: Guidance for Understanding Your Ethical Obligations | Minneapolis | MNCLE | CBH BDW |
| 12/3/19 | Ethical Issues in Social Media Use | Minneapolis | Federal Bar Association Young Lawyers Committee | SMH |
| 12/12/19 | How to Litigate a Civil Case in Minnesota | Minneapolis | MNCLE | JKW BTT |
| 12/13/19 | Anatomy of an Ethics Complaint | St. Paul | MSBA | AJS |
| 12/18/19 | The Intersection of Legal Ethics and Mental Health—Our Clients, Our Colleagues, Ourselves | Minneapolis | MNCLE | CBH |
| 1/13/20 | Ethics and Attorney Wellbeing | St. Paul | MSBA | SMH |
| 1/14/20 | Dark Web and Cybersecurity | Webinar | NOBC | SMH |
| 2/3/20 | A Lawyer's Guide to Alzheimer's and Dementia | Minneapolis | MNCLE | BTT |
| 2/7/20 | Legal Ethics 2020: Case Developments and Hot Topics | Minneapolis | MNCLE | AMH NSF |
| 2/10/20 | Speaking with a Mentor Externship Class as a Member of a Panel | Minneapolis | University of St. Thomas Law School | JHB |
| 2/13/20 | Privacy & Data Security | Minneapolis | MNCLE | BTT |
| 2/15/20 | Proving Dishonesty in Discipline Cases | Austin, Texas | NOBC | SMH |
| 2/21/20 | 2019 Year in Review | Minneapolis | Hennepin County Law Library | BTT |
| 2/24/20 | Real Property Law in Minnesota | Minneapolis | MNCLE | BTT |
| 3/3/20 | Trials and Tribulations: Trying a Civil Case Ethically and Professionally | Minneapolis | Minnesota State Bar Association | JKW |
| 3/11/20 | Practice Management and Marketing Section: The Ethics of Social Media | Minneapolis | Minnesota State Bar Association | NSF |

Office of Lawyers Professional Responsibility
Speaking Engagements and Seminars July 2019 – June 2020

| | | | | |
|---------|--|-------------------|------------------------------------|------------|
| 3/13/20 | Professional Responsibility Year in Review | WebEx | HCBA | SMH |
| 3/16/20 | How to Avoid Costly Ethics Mistakes During Transitions | Minneapolis | MNCLE | SMH BTT |
| 3/18/20 | Bankruptcy Law Section | Minneapolis | Minnesota State Bar Association | JHB |
| 3/19/20 | Advising the Disadvantaged | Minneapolis | MNCLE | JSB |
| 4/7/20 | Business Law Seminar | Zoom Presentation | University of Minnesota Law School | AMH |
| 4/29/20 | Ethical Issues in a Pandemic | WebEx | Stinson LLP | SMH |
| 6/26/20 | Working with Pro Se Litigants | Minneapolis | Minneapolis City Attorney's Office | KMR |
| 6/29/20 | Ethical Issues Relating to Fee Agreements | St. Paul | Mitchell Hamline School of Law | SMH |

Office of Lawyers Professional Responsibility FY20 Organizational Chart



¹ Also Client Security Board Staff

² Part-time position

³ Not administratively subject to Director's Office.
Office pays percentage of their salary

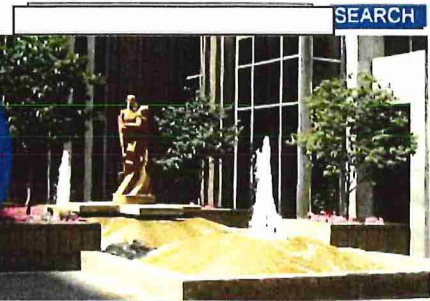


MINNESOTA

Lawyers Professional Responsibility Board Office of Lawyers Professional Responsibility

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[OLPR "soft" reopening June 15, 2020.pdf](#)

[June 19, 2020 Lawyers Professional Responsibility Board Meeting Materials.pdf](#)

[Legal Ethics in a Pandemic.pdf](#)

[Amended January 31, 2020, Board Meeting Minutes](#)

[New-Public Access to Remote OLPR Hearings](#)

[Updated Notice Regarding OLPR Operations](#)

[General and Lawyer Email Addresses.pdf](#)

[Lawyers Board Meetings 2020](#)

[LPRB and OLPR File Annual Report July 1, 2019](#)

What's New

["Legal ethics in a pandemic," MN Bench and Bar, May/June 2020](#)

["When may a lawyer ethically threaten criminal prosecution?" MN Bench and Bar, April 2020](#)

["2019 private discipline," MN Bench and Bar, March 2020](#)

["Public Discipline in 2019," MN Bench and Bar, February 2020](#)

["Ethical fee agreements," MN Bench and Bar, January 2020](#)

["Lawyer Well-Being: Prescribing sleep \(Part 2\), Minnesota Lawyer, March 2019](#)

[Lawyer Well-Being: Sleep - an amazing breakthrough for lawyers," Minnesota Lawyer, March 2019](#)

Quick Links

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Legal References

MN RULES OF
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Contact

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Office of Lawyers Professional Responsibility

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Fax: 651-297-5801

TTY users call MN relay service toll free:
1-800-627-3529

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