

## LAWYERS BOARD APPROVES MEDIA RELEASE POLICY

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In my April, 1982 column I discussed publicity and the disciplinary process. Public relations policies involve balancing the interests of the public, the entire bar and individual respondents. The concerns set forth in my April, 1982 column are still valid but will not be repeated here. I mention the article only as a preface to this month's column, which will discuss recent action taken by the Board in connection with media releases in disciplinary actions.

The Rules on Lawyers Professional Responsibility provide that once a panel makes a finding of probable cause, further disciplinary proceedings in the supreme court are public. Prior to the probable cause finding, disciplinary proceedings are confidential. This summer the Board studied carefully the issue of whether and when the Director should issue a media release concerning the filing of public disciplinary petition.

A Lawyers Board committee consisting of Richard Pemberton, Chairman, Stephen Rathke, Martha Zachary, Robert Shaw and Jared How were appointed to make recommendations to the full Board. The committee solicited comments from bar leaders, respondents' counsel, the media, and other interested parties. The committee also met with R. Walter Bachman Jr., former Director.

As a result of the committee's study, it recommended the following policy to the Board, which adopted it on September 16, 1983:

### **Lawyers Professional Responsibility Board Policy of General Application Respecting Media Communications**

It shall be the policy of LPRB and of the Director to issue non-advocatory news releases coincident with the filing of public petitions seeking the respondent-attorney's suspension or disbarment from the practice of law.

1. This policy is not to include cases of respondent's disability.
2. The news release shall be drafted by the Director or his designee and shall be submitted to the Executive Committee and, in the case of a panel finding of probable cause, to the chair of the panel as well, for review sufficiently in advance of release to permit commentary or suggestions by the recipients. No specific approval of the draft shall be required, and the Director shall be free to issue the news release when, in his discretion, there has been sufficient time for commentary and the circumstances dictate the issuance.
3. The news release shall not enumerate points upon which a panel has made no finding by virtue of

having terminated the hearing upon having found probable cause on some other point. Rather, the news release shall indicate, in substance, that in addition to the points upon which probable cause were found, others are alleged in the petition concerning which the panel took no action.

4. It is not the intention of this policy to limit the Director's discretion in responding to specific inquiry by the media nor in furnishing public documents upon request by the media.
5. The respondent shall receive a copy of the final press release when it is issued. It is not the intent to give the respondent a voice in the wording of the release but only to make the respondent aware of its content.

It should be noted that the foregoing statement relates principally to the means by which the Director and the Board will effectuate the general policy already mandated by the supreme court. The court's policy, as set forth in Rule 20 of the Rules on Lawyers Professional Responsibility, is that the respondent's interest in confidentiality must give way to the public's right to know once a Lawyers Board Panel has made a finding of probable cause. Consequently, under most circumstances, pre-panel proceedings are confidential while those in the supreme court are public.