

REPORT . . . LAWYERS PROFESSIONAL RESPONSIBILITY BOARD

By

Mike Hoover, Administrative Director

Minnesota Office of Lawyers Professional Responsibility

Reprinted from *Bench & Bar of Minnesota* (July 1982)

This month's column summarizes statistics relating to the operation of the Minnesota disciplinary system during 1981.

COMPLAINTS RECEIVED

During 1981, there were 927 new matters opened, compared to 919 in 1980. This less than one percent increase is encouraging in light of an almost seven percent increase in the number of lawyers, and despite increased public awareness of the Board. Several years ago I also mentioned that although the volume of complaints is a record, it is still substantially below other jurisdictions of comparable size, including Wisconsin. This continues to be the case.

In March, 1981, we began keeping statistics concerning the area of law in which the complaints arose. The frequency for each area was as follows:

Family	21.6%
Real estate	18.1%
Miscellaneous litigation	16.0%
Probate	10.6%
Personal injury	10.2%
Criminal	8.9%
Miscellaneous commercial	3.1%
Other areas	4.6%
None	6.8%

It should also be noted that the increasing volume has led to summary dismissal in more cases. Out of 927 complaints received, 108, or 11.6%, were summarily dismissed. This compares to a summary dismissal rate of less than 5% in 1980 and prior years.

FILES CLOSED

During 1981, there were 758 files closed, compared to 721 in 1980. The vast majority of the dispositions, almost 80%, involved no discipline.

There were 108 files closed with a summary dismissal, 482 closed with dismissal after investigation, and 11 closed with a panel dismissal. These 601 dismissals accounted for 79.28% of all files closed. This compares to a 73.23% dismissal rate in 1980. Even though the volume of complaints was higher, the percentage of those found to warrant disciplinary action declined.

The number of private warnings issued by the Director declined sharply from 119 in 1980, to 58 in 1981. The 58 warnings accounted for 7.65% of all dispositions, compared to 16.5% in 1980. When warnings and dismissals are combined, the number of cases involving dispositions short of panel discipline amounted to 659, or 87.45% of all dispositions.

Under the Rules on Lawyers Professional Responsibility, panels have the authority to impose private discipline in certain cases. During 1981, 29 files were closed with discipline by panels, including warnings, reprimands and private probation. These 29 dispositions accounted for 3.81% of all dispositions made during the year. When these private disciplinary dispositions are added to the warnings and the dismissals, the result is that over 91% of the cases are disposed of with discipline short of public discipline by the supreme court.

The supreme court itself disposed of 57 files. Almost half (28) resulted in discipline short of suspension or disbarment, including reprimands and public probation. Twenty-five files resulted in disbarment, and 4 files resulted in suspension. Only 3 lawyers were disbarred, but each of them had multiple complaints against them amounting to the composite total of 25 files.

The foregoing statistics make clear that the vast, vast majority of files result in no discipline. Indeed, during 1981, the percentage of files involving no unethical conduct rose dramatically over 1980. Panel and supreme court discipline accounts for a very small percentage of the dispositions. When it is considered that lawyers publicly disciplined by the supreme court usually have multiple complaints against them, and this is often the case at the panel level as well, the number of lawyers receiving formal discipline is very small indeed.

1982 COMPARISONS

Through May 31, 1982, there were 440 complaints received compared to 366 in the same period in 1981. Through May 31, 1982, there were 509 files closed compared to 296 in the same period in 1981.

I have previously written about the substantial backlog which developed during 1980 and 1981. The increase in personnel and other resources is enabling us to both handle our incoming caseload and reduce the backlog. We are especially encouraged that the number of cases over one year old has declined from 314 at the end of February, 1982, to 220 at the end of May. We believe this trend will continue, and we are

committed to resolving complaints of unprofessional conduct as expeditiously as possible.

So far during 1982, we find that almost 80% of the complaints continue to be dismissed, including over 10% which have been dismissed summarily without investigation. An additional 6% involved the acceptance of a private warning, 7% involved private panel discipline, and only 6% involved public discipline by the supreme court.

The trend established in 1981 of a lower percentage of complaints involving actual disciplinary actions holds during 1982 as well. I emphasize this because I believe that both the press and some lawyers have misunderstood prior statistical reports. With an ever-increasing number of lawyers, it is probably inevitable that the raw number of disciplinary dispositions will increase in proportion to the increase in the number of attorneys. The percentage of attorneys in trouble, however, continues to be exceptionally low and, in fact, appears to have declined in the last several years.

CONCLUSION

The raw number of complaints received is at a record level. The number of complaints is still substantially below that experienced in comparable states and appears to be growing only in proportion to the increase in lawyers, if that much.

The raw number of disciplinary dispositions has also increased. However, the percentage of disciplinary dispositions has declined. The percentage of files closed with serious public discipline is very small, and, when it is considered that lawyers publicly disciplined usually account for multiple complaints, the number of lawyers seriously breaching ethical standards is minimal.

There is a balance to be struck in the disciplinary area. Intervention to protect the public interest is necessary in cases of serious ethical violations. It is also appropriate for the Board and the Director to give informal advice to attorneys whose shortcomings are not such that discipline is warranted, and this is done frequently. Statistics are, of course, susceptible to various interpretations. I believe, however, that our statistics reflect that both the Board and the bar as a whole are doing their respective jobs well.