

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

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

ROBIN M. WOLPERT
CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD
1500 Landmark Towers
345 St. Peter Street
St. Paul, MN 55102-1218
(651) 296-3952

SUSAN M. HUMISTON
DIRECTOR, OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
1500 Landmark Towers
345 St. Peter Street
St. Paul, MN 55102-1218
(651) 296-3952

July 2019

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION AND HIGHLIGHTS	1
II. LAWYERS PROFESSIONAL RESPONSIBILITY BOARD.....	8
III. DIRECTOR'S OFFICE	10
A. Budget	10
B. Personnel	11
C. Website and Lawyers Professional Responsibility Board Intranet.....	11
D. Complainant Appeals	12
E. Probation	12
F. Advisory Opinions	13
G. Overdraft Notifications	14
H. Judgments and Collections	15
I. Disclosures	16
J. Trusteeships	16
K. Professional Firms	18
IV. DISTRICT ETHICS COMMITTEES	18
V. FY2020 GOALS AND OBJECTIVES	20

APPENDIX

Lawyers Professional Responsibility Board Members	
Biographical Information	A. 1 – A. 2
Statistical Tables	A. 3 – A. 7
Years of Practice for Attorneys Disciplined in 2017 & 2018	A. 8
Average Number of Months File was Open at Disposition	A. 9
Public Discipline Decisions	A. 10
Advisory Opinion Requests Received	A. 11
Advisory Opinions 1991-2018	A. 12
Advisory Opinions Subject Matter by Rule	A. 13
2018 Summary of Public Matters Decided	A. 14
Probation Statistics	A. 15
Areas of Misconduct – Probation	A. 16
Speaking Engagements and Seminars	A. 17 – A. 19
FY2019 Organizational Chart	A. 20
Current Office Web Page	A. 21

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 2018 to June 2019 (FY2019), which represents the Board's and the Office's fiscal year. The majority of the statistical information, however, is based upon calendar year 2018, unless otherwise noted.

A Note from Board Chair Robin Wolpert.

This fiscal year, the OLPR Director, with oversight from the Board, continued to create and execute a 21st century vision of lawyer regulation that protects the public, promotes trust and confidence in the legal profession, and proactively engages with lawyers to enhance the ethical practice of law. The Director's work has the full support and confidence of the Board.

The Director and Board are committed to achieving the Board's target of 500 open files and 100 year-old files to protect the public and provide attorneys with due process of law. The Director's work, with active engagement from the Board, focused on implementation of enhanced performance standards, training, case management strategies, resource allocation strategies, and technology to meet these Board targets. The Board is confident that the Director has created and executed best management practices for achieving the Board's targets in light of existing resources.

The Director and the Board are committed to proactive compliance to promote the ethical practice of law and reduce future incidences of discipline. The advisory opinion service is a significant contribution to the ethical practice of law. This fiscal year, the Office continued to handle an increasing volume of advisory opinions. The Office created an online CLE on ethics and trust accounts. In addition, the Director, the Board Chair, and Office staff taught a significant number of CLE's across the state,

providing information about ethical standards, the disciplinary process, and resources that can assist attorneys. We are grateful to the District Ethics Committees and bar organizations across the state for being an important partner with us in community outreach and lawyer education.

The ethical practice of law goes hand in hand with lawyer well-being. This year, the Director, the Office, and the Board Chair continued to raise awareness about well-being and implement recommendations of the National Task Force on Lawyer Well-Being. In partnership with Supreme Court Justice and Board Liaison David Lillehaug, the Director and Board Chair participated in the Supreme Court's Call to Action on Lawyer Well-Being. We thank the Supreme Court, Lawyers Concerned For Lawyers, and bar organizations for giving us the opportunity to enhance lawyer education and create the conditions for concrete measurable action that makes a difference in lawyers' lives, performance, and client service.

Finally, the Director and Board addressed proposals by the Minnesota State Bar Association to change regulatory standards regarding the unauthorized practice of law and client confidentiality. As always, we are grateful for the opportunity to work with the MSBA and the MSBA's Rules of Professional Conduct Committee and appreciate their engagement, dedication, and leadership.

The success of Minnesota's attorney regulation system is based on the hard work and dedication of the Director, the Office, and the volunteer attorneys and members of the public who serve on the Board and District Ethics Committees. We extend a special thanks to Supreme Court Board Liaison, Justice David Lillehaug, for his tremendous contributions to the work of the Office and the Board.

Highlights.

Fiscal year 2019 was a solid year for the OLPR. Under the leadership of Liaison Justice David Lillehaug and Board Chair Robin Wolpert, the LPRB and OLPR focused a significant amount of time on the important topic of lawyer well-being. A centerpiece

for the year was the Court's sponsorship of the 2019 Call to Action for Lawyer Well-being on February 28, 2019. This unique event brought together national speakers and a cross-section of bar members, in an effort to educate and inspire action to improve the well-being of lawyers. Justice Lillehaug, Chair Wolpert and the Director each presented during break-out sessions. Justice Lillehaug plans to follow up with attendees as 2019 progresses to understand how attendees have answered the call to action.

The OLPR has also continued its focus on lawyer well-being. The Office devoted additional training and resources to the administration of the probation department, as a large percentage of probationers have probation terms relevant to substance use disorders or mental health. Office attorneys attend the ABA Commission on Lawyer Assistance Programs (COLAP) annual meeting in order to learn best practices. In addition to the Supreme Court's Call to Action, OLPR attorneys presented at six CLEs in FY2019 where the sole topic was lawyer well-being, and included the topic in all or almost all of the 72 CLE presentations made by OLPR attorneys. As a legal employer, the Office is also trying to lead by example, and has implemented its own well-being efforts by following the suggestions in the ABA Well-Being Toolkit For Lawyers and Legal Employees created by Anne Brafford. This has included creating a well-being committee, undertaking a needs assessment, and working toward an action plan to cultivate a thriving work culture at the OLPR.

Calendar year 2018 was another "high average" year for discipline with 45 attorneys receiving public discipline, up modestly from 41 attorneys in 2017. An "average" year for public discipline is 36. Disbarment was up over 2017 with 8 disbarments. While it is not considered discipline, one particularly notable statistic for 2018 is that six attorneys were transferred to disability inactive status in lieu of the Office proceeding with public discipline petitions. In a typical year, no more than one or two attorneys qualify for this transfer. The Office is also seeing more reciprocal

discipline cases than usual; the basis for this uptick is unknown. Suspension remained relatively high at 23, and 14 lawyers received public reprimand, some with, some without probation. Private discipline remained relatively consistent with the prior years, with 117 admonitions issued and 14 matters resulting in private probation.

The Office continued to focus its efforts on meeting the Board goals of no more than 500 open files at any one time and no more than 100 files open more than one year. Most files close within 6-7 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. Since 1999, the Office has only met the target of fewer than 500 open cases five times and fewer than 100 year-old cases one time, when measured at calendar year-end. This does not mean, however, those targets are not the correct targets.

For most of 2018, the Office maintained file inventory close to the target of 500, but ended the year with 145 cases over one year old. While several of the files over the 100 mark involved two attorneys facing complaints from multiple complainants, the Office agrees with the Court that fairness to complainants and respondents necessitates that the goals be consistently met, and that doing so must be an Office priority.

A review of attorney demographics shows that attorneys practicing between 11-20 years received the most private and public discipline, followed by attorneys with 0-10 years of experience. Calendar year 2018 was also notable for the fact that three attorneys practicing more than 50 years received private discipline. More male attorneys received discipline than female attorneys, consistent with past trends. In 2017, 77% of private discipline was issued to male attorneys; 23% to female attorneys. In 2018, 78% of private and public discipline involved men; 22% 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, diligence (Rule 1.3) and communication (Rule 1.4) remain the most frequently violated rules, 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 2019 remains generally consistent with 2018 in matters of public attorney discipline. Three attorneys year to date have been disbarred. As of June 29, 2019, a total of 21 attorneys have been publicly disciplined: 3 disbarred, 12 suspended, 3 reprimanded and placed on probation and 3 reprimanded. This number is slightly ahead of public disciplines at this time a year ago.

Complaint Filings.

The number of complaints received in 2018 was 1,107, nearly identical to the number received in 2017 (1,110). Closings were up slightly year-over-year (1,115 vs. 1,073), for a calendar year-end file inventory of 509. Tables outlining these and related statistics are at A. 3 - A. 10.

Files open at start of 2018:	517
Complaints received in 2018:	1,107
Files closed in 2018:	1,115
Files open at end of 2018:	509

Complaint filings for the first six months of 2019 are generally consistent with 2018 numbers. File closings, however, are down year to date and warrant close attention.

Public and Private Discipline.

In 2018, 45 lawyers were publicly disciplined: 8 attorneys were disbarred, 23 were suspended, 8 were reprimanded and placed on probation, and 6 were reprimanded. The eight disbarred attorneys were Joseph Capistrant, Roy Henline, George Hulstrand, Ian Laurie, Jeffrey Olson, Amoun Sayaovong, Barry Vansickle, and Richard Virnig.

During 2018, 117 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:

	2011	2012	2013	2014	2015	2016	2017	2018
Admonitions	113	122	143	143	115	115	90	117
Total Files Closed	1386	1287	1279	1248	1332	1264	1073	1115
%	8%	9%	11%	11%	8%	9%	8%	11%

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 2017.

Other Highlights.

Fiscal year 2019 was a busy year for proposed rule changes. The Minnesota State Bar Association (MSBA) proposed changes to Rule 5.5, Minnesota Rules of Professional Conduct (MRPC), and Rule 1.6, MRPC. The Rule 5.5 proposed changes related to the unauthorized practice of law in Minnesota, and sought to expand the types of activities non-Minnesota attorneys could engage in in the state, without running afoul of Minnesota’s licensing requirements. The LPRB and Director supported some of these proposed changes, and were opposed to others.

Additionally, the MSBA proposed changes to Rule 1.6(b)(8) to allow attorneys to disclose confidential information in response to public criticism of an attorney under certain circumstances. The LPRB and Director were opposed to the proposed changes but supported amending Rule 1.6(b)(8) to eliminate the word “controversy,” and replace it with language proposed by the MSBA that essentially replaces the term “controversy” with “proceeding.”

After public comment in January 2019, the Court issued an Order dated May 3, 2019, granting in part and denying in part the MSBA petition. The Court granted the changes allowing lawyers who only practice federal, tribal, or the law of their home

jurisdiction while physically located in the state, to do so without being licensed in Minnesota as long as the lawyer advises the lawyer's client that the lawyer is not licensed to practice in Minnesota. The Court also further defined "reasonably related services" in the text of Rule 5.5(c)(4) relating to the temporary practice of law to include "services that are within the lawyer's recognized expertise in an area of law, developed through the regular practice of law in that area." Finally, the Court allowed temporary practice in Minnesota by a lawyer not licensed in Minnesota if that temporary practice involved the representation of a family member. The Court declined to make any changes to Rule 1.6, MRPC.

In June 2019, the LPRB approved a petition to the Court proposing a minor change to Rule 1.15(o), MRPC, and additional changes to Rule 20, RLPR, relating to confidentiality and potential exceptions thereto of the Director's files. The draft petition is posted on the LPRB website.

Annual Professional Responsibility Seminar and Continuing Legal Education Presentations.

On September 28, 2018, the Board and the Director's Office hosted the 33rd annual professional responsibility seminar. Sessions included a presentation by Justice Lillehaug on key Supreme Court discipline cases and remarks by Allen Saeks on the First Board and Advice for the Future. Dr. Francis Shen, Associate Professor at the University of Minnesota Law School, presented on Aging Attorneys and the Complex Intersection of Dementia and Discipline. Additional presentations covered technology risks, lawyer well-being, common mistakes in fee agreements, a discussion on DEC departures, and a DEC investigator workshop. During the seminar, Justice Lillehaug presented the Volunteer of the Year Award to Michael Leary. As a public member volunteer, Mr. Leary gave tirelessly of his time and talents, particularly to support the work of DEC volunteers.

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 72 events, devoting over 310 hours to educating the profession. Notably, 23 of those presentations were in places other than Minneapolis or St. Paul, consistent with the Office’s commitment to extend its reach throughout the state.

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.

This year, Board Chair Robin Wolpert was reappointed to a full-term expiring January 31, 2022. Board members Norina Dove, Anne Honsa, Michael Leary, and Cheryl Prince completed their second and final terms on the Board. Brent Routman completed his partial term and declined reappointment. Landon Ascherman, Kyle Loven, Katherine Brown Holmen, Susan Stahl Slieter, and Tommy Krause were appointed to the Board. Bruce Williams and Christopher Grgurich were reappointed to second terms, to expire in 2022. A complete listing of Board members and their backgrounds as of July 1, 2019, is attached at A. 1 – A. 2.

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. The committee consists of Chair Robin Wolpert, Vice-Chair Chris Grgurich, and members Joseph Beckman, Roger Gilmore and Bentley Jackson. 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. One member, Bentley Jackson, is the liaison to the OLPR staff, and meets regularly with the OLPR staff; another member, Roger Gilmore, oversees the review of file statistics and aging of files; and member Joe Beckman is responsible for addressing any former employee disqualification matters that arise.

Panels.

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

Standing Committees.

The Board has three standing committees. The Opinion Committee, chaired by Gary Hird, 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 Jim Cullen, makes recommendations regarding possible amendments to the MRPC and the RLPR. The DEC Committee, chaired by Peter Ivy, 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 mentioned previously, the Rules and Opinions Committees spent significant time studying and debating the MSBA proposed rule changes and, with respect to the Rule 1.6 proposal, its impact on Opinion No. 24, issued by the LPRB in September 2016.

In 2018, the Opinions Committee reviewed ABA Opinion 481 and recommended amendments to LPRB Opinion No. 21, which the LPRB plans to consider at its September 2019 Board meeting.

The DEC Committee continued to focus on public member recruitment as well as recruitment of attorney members in districts where term limits have been met. The DEC Committee also focused its efforts on supporting the DEC Chairs, and hosted a high quality DEC Chairs Symposium in May 2019 at the Earle Brown Center in Minneapolis.

III. DIRECTOR'S OFFICE.

A. Budget.

Expenditures for the fiscal year ending June 30, 2019, are projected to be approximately \$3.8 million. The projected reserve balance at the end of FY19 is projected to be \$1.9 million. FY19 expenses were favorable to budget by approximately \$155,000, and revenue was also favorable to budget by approximately \$73,000. In June 2019, the Court approved the OLPR budgets for FY20 and FY21. The FY20 budget, which begins July 1, 2019, and runs through June 30, 2020, projects anticipated expenditures of \$4.5 million. This included modest staffing increases, primarily one lawyer and one investigator over the next biennium, to assist the Office in meeting the Board targets of no more than 100 cases more than one-year-old and file inventory at 500 or below, as well as to support the continued implementation of the Office's strategic plan, with its emphasis on proactive education. The database project, launched in 2016, is expected to go live in FY20.

The Director's Office budget is funded primarily by lawyer registration fees, and therefore is not dependent upon legislative dollars. FY19 projected revenue from all sources is essentially flat at \$3.4 million. The Office will continue to utilize its reserve to fund the revenue shortfall, and will exhaust its reserve over the next biennium. Accordingly, Judicial Finance has recommended to the Court that the current assessment presently allocated to the Client Security Board of \$6 per lawyer be

reallocated to the LPRB going forward, and \$1 million of the Client Security Fund be transferred to the LPRB on an as-needed basis to serve as a reserve for the LPRB. The Court approved this plan in June 2019.

In FY19, the Court provided for merit increases for Court employees from a merit pool equal to 2.5% of salaries. All employee salary increases are performance based. In FY20, merit increases will be awarded based on performance appraisals completed in May 2019 for the previous fiscal year. The merit pool for FY20 is anticipated to be equal to 2.5% of salaries.

B. Personnel.

The Director's Office employs 12 attorneys including the Director, six paralegals, an office administrator, ten support staff and one law clerk (*see* organizational chart at A. 20). With the Court's approval in June 2019, the Office will add an additional attorney and has converted a part-time open paralegal position to a full-time investigator position.

Personnel highlights in FY19 included the retirement of three long-time employees (Tina Trejo, Carol Delmonico and Tricia Jorgensen) and the hiring of two attorneys (Alicia Smith and Bryce Wang). Remarkably, two of the retiring staff members had served the Office for more than three decades and one for more than two decades. Thank you! The Office hired three staff, Amanda Tosu (law clerk), Angie Morelli (legal administrative assistant) and Arlene Bertrand (receptionist). Binh Tuong was promoted to Senior Assistant Director, and Cassie Hanson was promoted to Managing Attorney.

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 FY20 due to

competing demands related to launching the Office's updated 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 volunteer Lawyers Board members, DEC chairs and 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.

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 2018, the Director's Office received 152 complainant appeals, compared to 156 appeals received in 2017. The breakdown of the 156 determinations made by reviewing Board members in 2018 is as follows:

		<u>%</u>
Approve Director's Disposition	150	96
Direct Further Investigation	5	3
Instruct Director to Issue an Admonition	1	.6
Instruct Director to Issue Charges	0	0

Approximately 120 clerical hours were spent in 2018 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 2018, 29 new probations were opened, of which 17 were public and 12 were private. Approximately 40% (7 probations) were ordered as a condition of reinstatement to the practice of law. Notably, three public probations were opened as a result of the lawyer's failure to timely take and pass the Multistate

Professional Responsibility Exam (MPRE). There were no probation extensions in 2018. The Director also filed four petitions for revocation of probation and for further discipline. One attorney is now suspended pursuant to Rule 12(c), RLPR, and the other three petitions for revocation are awaiting hearings by a referee. Additionally, the Court publicly reprimanded a lawyer on private probation and imposed an additional two-year term of public probation. Finally, the Court modified the conditions of one indefinite probation because the probationer had not resumed the practice of law since reinstatement.

Probations involving lawyer wellness concerns continues to be on an upward trend. Eight of the new probations in 2018 involved lawyers with mental health issues and/or substance/alcohol use issues—twice the number from 2017. Overall, of all open probations in 2018, 18 implicated consideration of lawyer wellness issues, either as part of the underlying disposition or as a specific term of probation monitoring. The Court transferred one probationer to disability inactive status. Holding steady with the prior year, 17 of the new probations opened in 2018 resulted from a lawyer’s failure to properly maintain his or her trust account. Ten of the new 2018 probations involved experienced lawyers who had 20 or more years of practice, including 7 lawyers with 30 or more years of practice.

During 2018, 29 Minnesota attorneys served as volunteer probation supervisors. Three attorneys and 2 paralegals staff the probation department, and consistently commit between 40-50 hours collectively per week. Additional probation statistics can be found 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 increased modestly in 2018. In 2018, the Director's Office received 2,057 requests for advisory opinions, compared to 2,051 in 2017. (A. 11 – A. 12.) Table XIII at A. 13 shows the areas of inquiry of opinions.

In 2018, the Director's Office expended 441 assistant director hours in issuing advisory opinions. This compares with 406 hours in 2017. Dissolution/custody was the most frequently inquired about area of law. Client confidentiality was the most frequent area of specific inquiry, along with conflicts of interest, conflicts-former clients and withdrawal from representation.

G. Overdraft Notification.

Pursuant to Rule 1.15(j) – (o) of the 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 review 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.

There were 63 trust account overdraft notices reported to the Director in 2018, well above the 43 notices received in 2017, and the 52 received in 2016. Of those 63 overdraft notices, 16 resulted in disciplinary files. The most common reasons for

opening a disciplinary file are shortages found, significant record-keeping deficiencies noted, commingling of client and attorney funds and failure to cooperate. There were 54 overdraft inquiries closed by the Director in 2018, far more than the 38 closed in 2017. Oftentimes, these closures involve the Director making recommendations to the attorney’s record-keeping practices. The most common deficiencies were a lack of strict compliance with the books and records requirements, and a failure to properly reconcile the account.

In 2018, the overdraft inquiries closed without a disciplinary investigation were closed for the following reasons:

Overdraft Cause	No. of Closings
Bank error	12
Check written in error on TA	6
Late deposit	6
Other	6
Service or check charges	3
Third party check bounced	2
Bank hold on funds drawn	1
Improper/lacking endorsements	1
Mathematical/clerical error	1
Reporting error	1

A total of 199.25 hours – 59.25 hours of attorney time and 140.00 of paralegal/staff time – was spent administering the overdraft program in 2018. This was an increase over the 141.00 hours expended in 2017.

H. Judgments and Collections.

In 2018, judgments totaling \$36,346.43 were entered in 33 disciplinary matters. The Director’s Office collected a total of \$24,008 from judgments entered during or prior to 2018. In 2017, judgments were entered in 42 disciplinary matters and the Director’s Office collected a total of \$28,251. While the amount collected in 2018 is less than collected in 2017, there were fewer judgments issued in 2018. Also, in 2018 the Director

received \$3,698 toward judgments through the Department of Revenue recapture program, which is higher than the amount received in 2017.

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 also is available through the OLPR website. Informal telephone requests and responses are not tabulated. The following formal requests were received in 2018:

	<u>No. of Requests</u>	<u>No. of Attorneys</u>	<u>Discipline Disclosed</u>	<u>Open Files</u>
A. National Conference of Bar Examiners	181	181	2	0
B. Individual Attorneys	405	405	30	8
C. Local Referral Services				
1. RCBA	12	39	0	2
2. Hennepin County	0	0	0	0
D. Governor’s Office	28	86	6	0
E. Other State Discipline Counsels/State Bars or Federal Jurisdiction	81	81	2	1
F. F.B.I.	24	24	0	0
G. MSBA: Specialist Certification Program	17	127	8	5
H. Miscellaneous Requests	42	136	5	0
TOTAL	790	1079	53	16
(2017 Totals for comparison)	729	944	44	4

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 2018-2019, the

Director was appointed trustee of the client files belonging to two deceased attorneys, Joel Ray Puffer and David Lingbeck, and one attorney who abandoned his practice, David J. Van House. In the Puffer matter, the Director has inventoried client files and attempted to contact clients whose files are less than seven years old and/or contain a valuable original document(s). In the Van House matter, the Director recently completed her inventory of client files and will begin contacting clients whose files are less than seven years old and/or contain a valuable original document(s). The Director was also appointed trustee of the Van House client trust account and she is gathering bank records for the account in order to determine entitlement to the funds in the account. In the Lingbeck matter, opened in June 2019, the Director is in the process of collecting client files.

In 2018-2019, the Director closed the trusteeships of Rachel Bengtson-Lang, Ronald Resnik, Jan Stuurmans and Francis E. Muelken.

The Director continues to retain the following client files:

- Hugh P. Markley trusteeship—574 wills which are eligible for expunction in December 2019.
- 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.
- 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.

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 2017 (December 1, 2017 – November 30, 2018), there were 139 new professional firm filings. Fees collected from professional firm filings are included in the Board's annual budget. As of June 28, 2019, the Director's Office received \$67,925 from 2,446 professional firm filings during fiscal year 2019. There were 45 new professional firm filings for the period of December 2018 – April 2019. The Director's Office received \$79,350 during fiscal year 2018.

An assistant director, paralegal, and administrative clerk staff the professional firms department. For fiscal year 2019 (as of April 30, 2019), the total attorney work time for overseeing the professional firms department was 130 hours. The total non-attorney work time was 402.75 hours.

IV. DISTRICT ETHICS COMMITTEES (DECs).

Minnesota is one of only a few jurisdictions 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 2018, the Director’s Office followed DEC recommendations in 75% 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 considered by the DEC in making its recommendation. These matters are counted as not following the DEC recommendation.

In 2018, the monthly average number of files under DEC consideration was 83, fluctuating between a low of 66 and a high of 91. The year-to-date average for 2019 is 87, as of April 30, 2019. Rule 7(c), RLPR, provides a 90-day goal for completing the DEC portion of the investigation. For calendar year 2018, the DEC completed 240 investigations, taking an average of 3.9 months to complete each investigation.

For calendar year 2018, of the completed DEC investigations statewide, the following dispositions were made (measured by the number of files, rather than lawyers):

Determination discipline not warranted	166
Admonition	65
Private probation	4

The annual seminar for DEC members, hosted by the Office and the Board, will be held this year on Friday, September 27, 2019. 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 at the Earle Brown Heritage Center in Brooklyn Center. 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 DECs did not meet the 20% non-lawyer membership requirement. As of May 1, 2019, three districts are not in full compliance. The Office and Board continue to work with these districts to bring them into compliance.

V. FY2020 GOALS AND OBJECTIVES.

The OLPR primary objectives for FY20 are the same as FY19: compliance with the Board's goal of no more than 100 cases more than one year old, maintaining file inventory at or below 500, and implementation of the Strategic Plan. The Office is also looking forward to implementing its new database in FY20. When implemented, approximately 40% of cases will be managed paperlessly.

Dated: July 1, 2019.

Respectfully submitted,

/s/ Susan M. Humiston
SUSAN M. HUMISTON
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY

and

/s/ Robin M. Wolpert
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 Sapientia Law Group in Minneapolis. Principal areas of practice: Appellate practice, white collar criminal defense, complex civil litigation, and data privacy.

Christopher A. Grgurich, Minneapolis - Vice-Chair. Attorney member. MSBA nominee. Term expires January 31, 2022. Serves on Executive Committee and LPRB Rules Committee. Partner at Ballard Spahr. Focus on securities and commercial litigation. Also serves as Loss Prevention Partner to assist partners and associates in meeting and understanding their ethical obligations under the MRPC. Served three years on Fourth District Ethics Committee. Chair of Hennepin County Bar Association Professionalism and Ethics Section.

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

Joseph P. Beckman, Edina - Attorney member. MSBA nominee. Term expires January 31, 2020. Serves on LPRB Executive Committee and Opinions Committee. 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).

Jeanette M. Boerner, Minneapolis - Attorney member. First term expires January 31, 2020. Hennepin County First Assistant Public Defender. Area of law: 25 years' experience in criminal defense work.

James P. Cullen, Minneapolis - Attorney member. MSBA nominee. Term expires January 31, 2020. Chair, LPRB Rules Committee. 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.

Thomas J. Evenson, Minneapolis - Attorney member. MSBA nominee. Term expires January 31, 2021. Serves on DEC Committee. 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, 2020. Serves on LPRB Executive Committee and DEC Committee. 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.

Mary L. Hilfiker, St. Paul - Public member. Term expires January 31, 2020. Serves on the LPRB DEC Committee. Served on Second District Ethics Committee. Education Specialist/Consultant for University of Wisconsin and Bureau of Indian Education. Areas of expertise: Special education, mediation, arbitration, investigation, public administration and FINRA arbitrator.

Gary M. Hird, St. Paul - Attorney member. MSBA Nominee. Term expires January 31, 2021. Chair, Opinions Committee, and serves on LPRB Rules 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. First term expires January 31, 2022. 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. First term expires February 1, 2020. Chair of LPRB DEC 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: Currently involves conducting internal investigations for Carver County.

Bentley R. Jackson, St. Paul - Public member. Term expires January 31, 2020. Serves on LPRB Executive Committee. Operations Specialist for Children's Minnesota. Adjunct instructor and retired Burnsville police sergeant. Areas of expertise: Risk management, criminal and internal investigations, and project management.

Shawn Judge, Minneapolis - Public member. Term expires January 31, 2021. 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. First term expires February 1, 2020. Serves on LPRB Rules Committee. Served on Fourth District Ethics Committee for three years. Business management consultant specializing in alternative dispute solution services. Minnesota House Representative for District 44A.

Tommy A. Krause, Virginia - Public member. First (partial) term expires January 31, 2022. Served on 20th District Ethics Committee for six years. Serves as Vice 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 on LPRB Opinions Committee. Chief Forensics Officer for Computer Forensic Services. A sworn law enforcement investigator 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 in Reno, Nevada, the Federal Judicial Center in Washington D.C., and the University of Minnesota's MSci in Security Technologies Program. Areas of expertise: digital forensics and cybersecurity.

Kyle A. Loven, Minnetonka - Attorney member. First term expires January 31, 2022. 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.

Susan C. Rhode, Minneapolis - Attorney member. First term expires January 31, 2021. Serves on LPRB Opinions 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. 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 Rules 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.

Bruce R. Williams, Virginia - Attorney member. First term expires January 31, 2022. Serves on LPRB DEC 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. Part-time attorney for the Sixth Judicial 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. First term expires January 31, 2020. Serves on LPRB DEC Committee. Attorney, mediator and arbitrator who practices in the Rochester, Minnesota office of Witz Law P.A. 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.

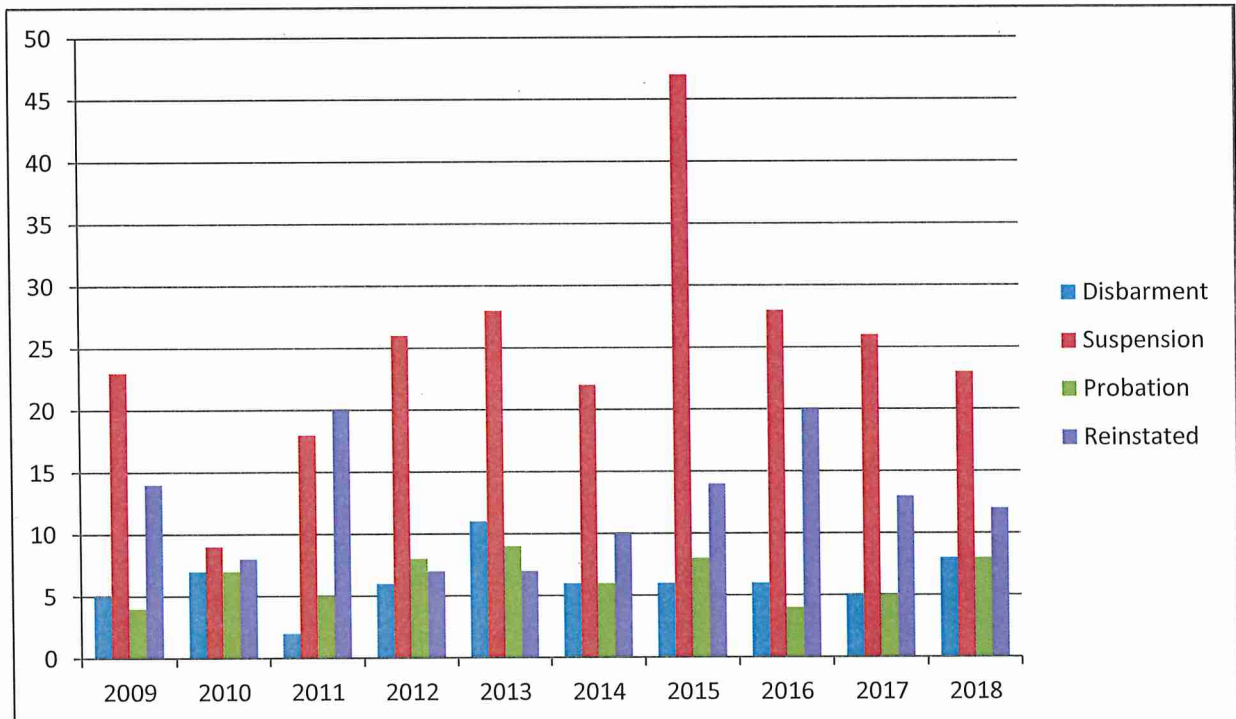
Table I
Complaint Statistics 2000–2018

	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

TABLE II
Supreme Court Dispositions and Reinstatements 2009-2018
Number of Lawyers

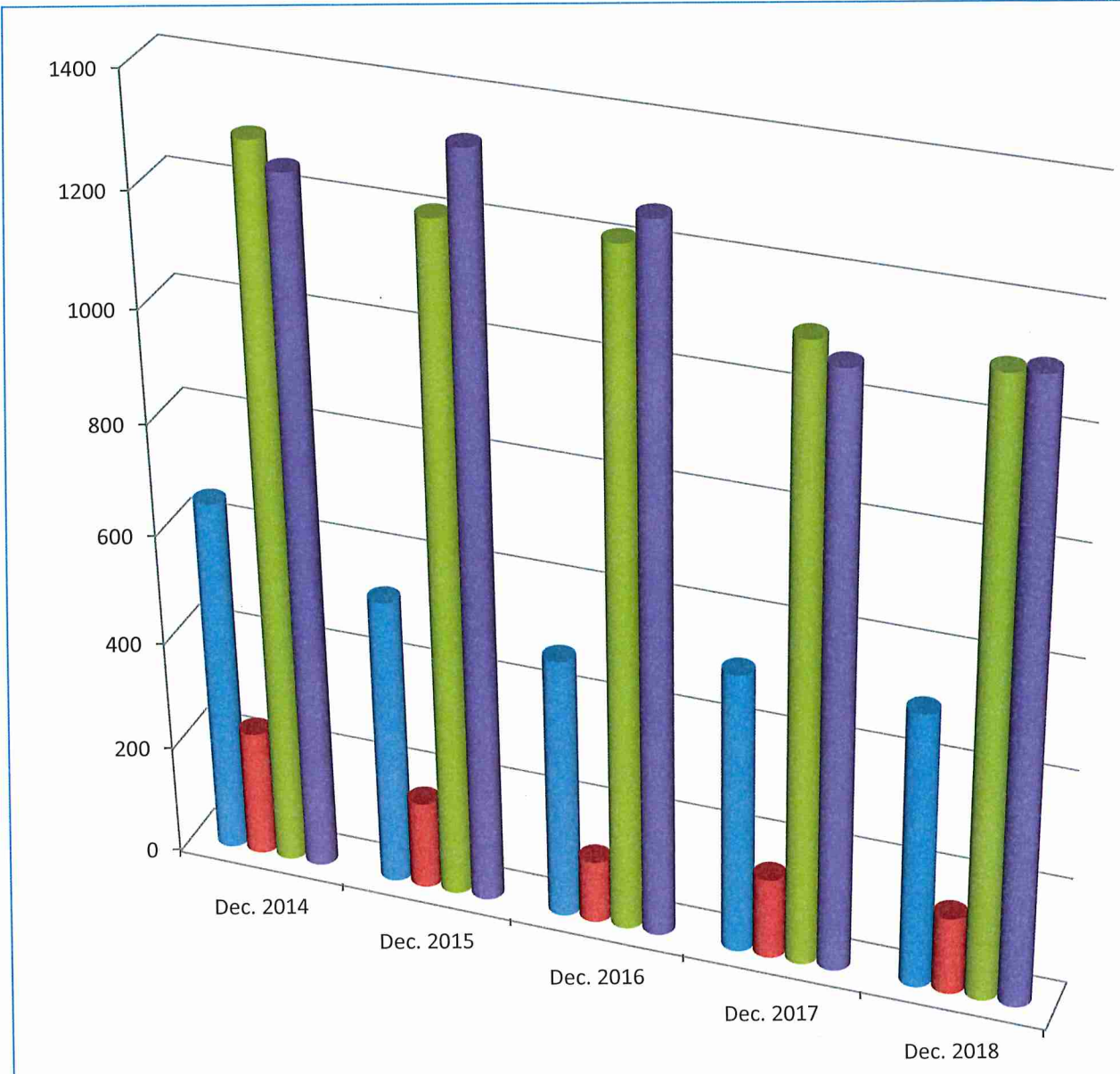
	Disbar.	Susp.	Reprimand Probation	Reprimand	Dismissal	Reinstated	Reinstate Denied	Disability	SC AD/Aff	Other	Total
2009	5	23	4	6	-	14	1	1	-	-	54
2010	7	9	7	3	1	8	2	4	-	-	41
2011	2	18	5	2	-	20	-	1	-	-	48
2012	6	26	8	1	1	7	-	-	-	-	49
2013	11	28	9	4	-	14	-	2	-	-	68
2014	6	22	6	5	-	10	1	0	0	1**	51
2015	6	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

TABLE III
Disbarments, Suspensions, Probations and Reinstatements 2009-2018



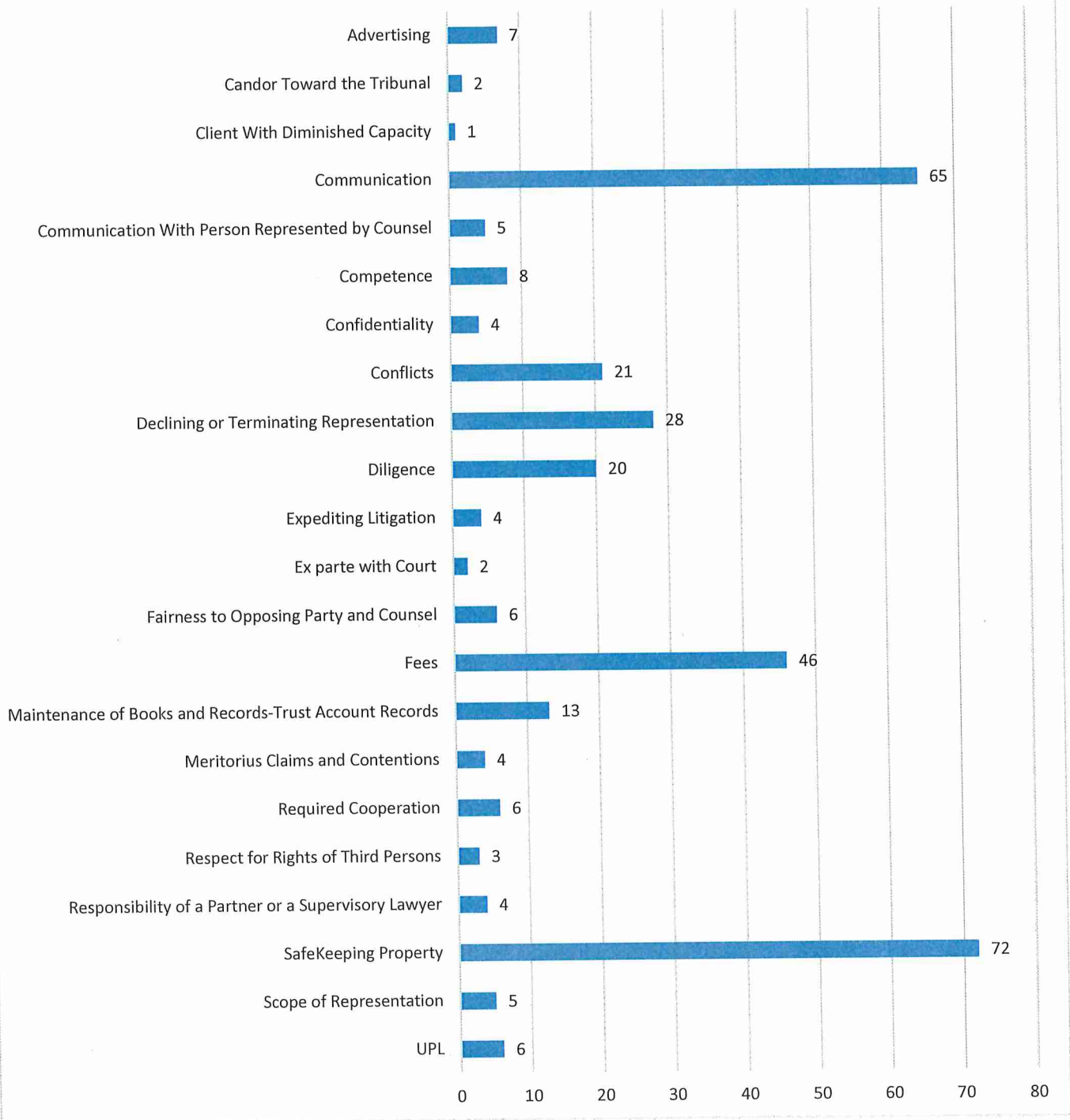
**Reinstatement dismissed

TABLE IV
File Openings, Closings and Year Old Files 2014-2018



	Dec. 2014	Dec. 2015	Dec. 2016	Dec. 2017	Dec. 2018
■ Total Open Files	650	528	480	517	509
■ Cases at Least One Year Old	231	161	115	149	145
■ Complaints Received YTD	1,293	1,210	1,216	1,110	1,107
■ Files Closed YTD	1,248	1,332	1,264	1,073	1,115

**TABLE V
AREAS OF MISCONDUCT-ADMONITIONS 2018***



*In 2018, the Office issued 117 admonitions involving 332 rule violations. This chart reflects the number of rule violations involved in those 117 admonitions, organized by area of misconduct.

TABLE VI
Percentage of Files Closed

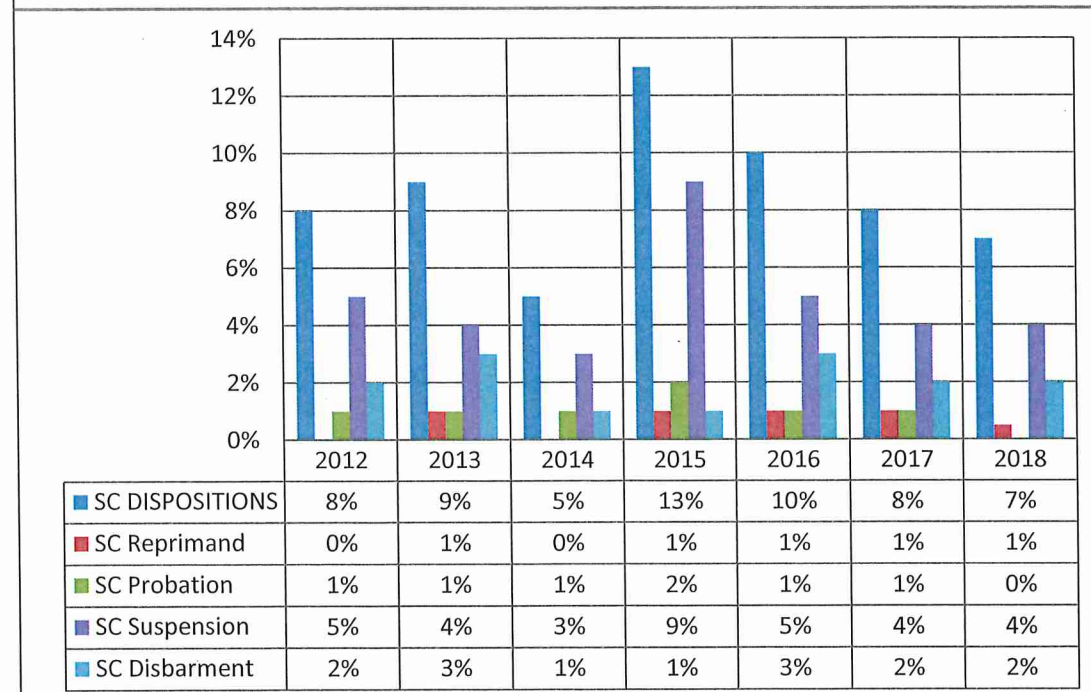
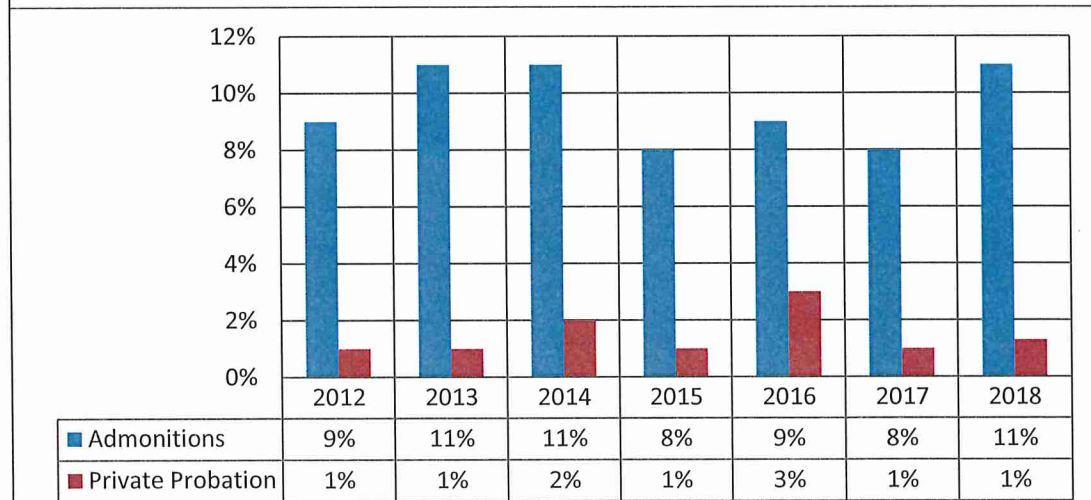
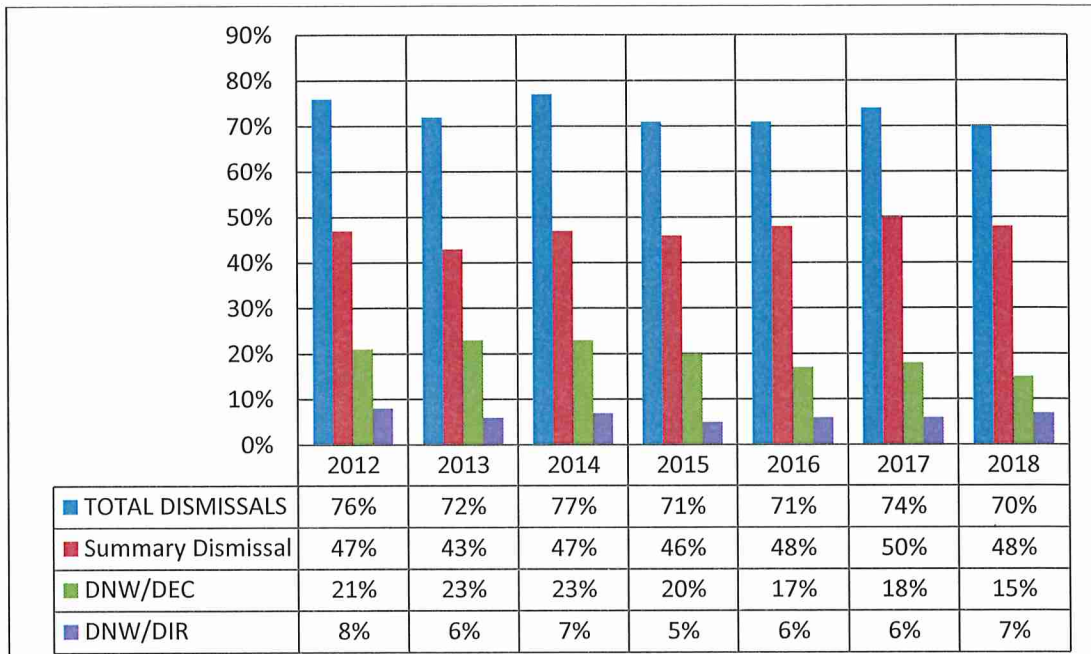


TABLE VII

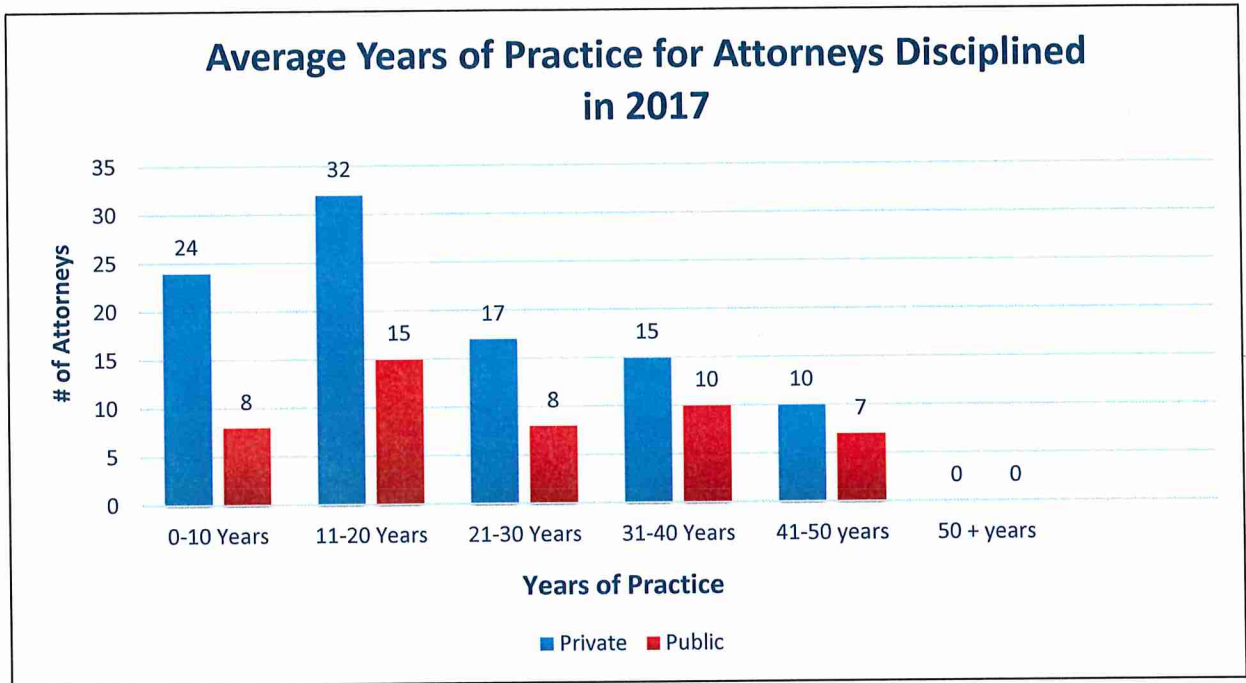


TABLE VIII

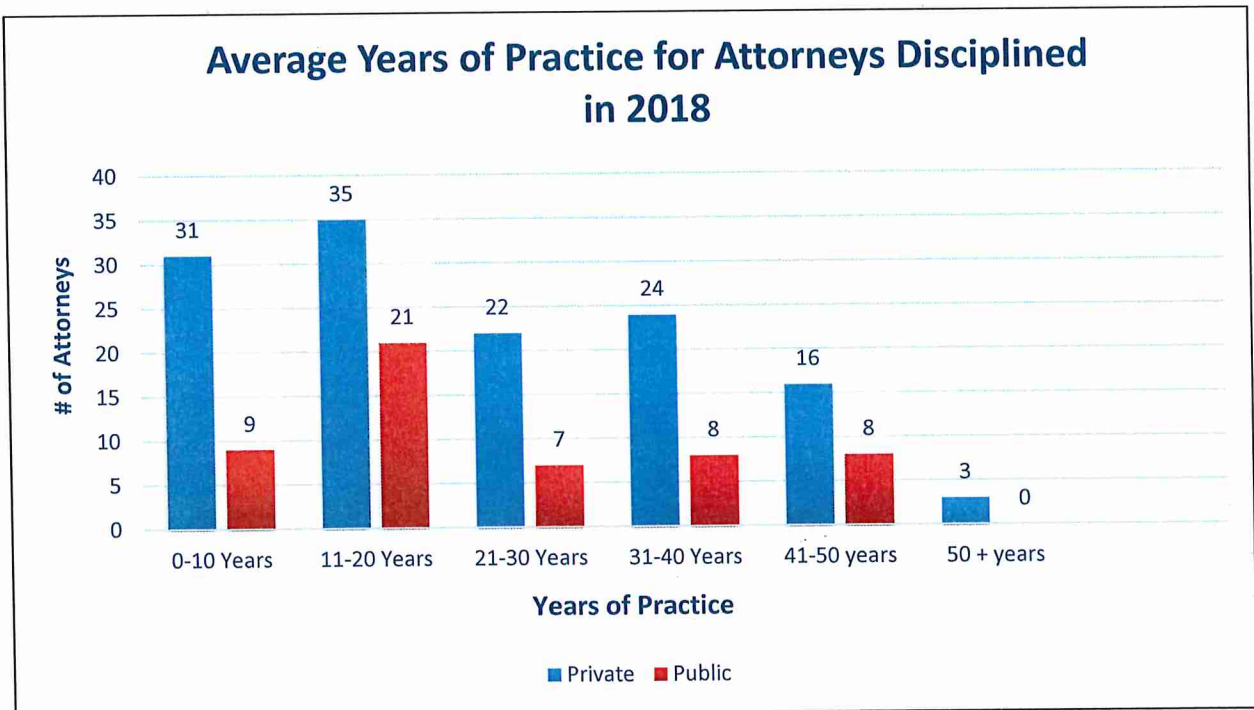
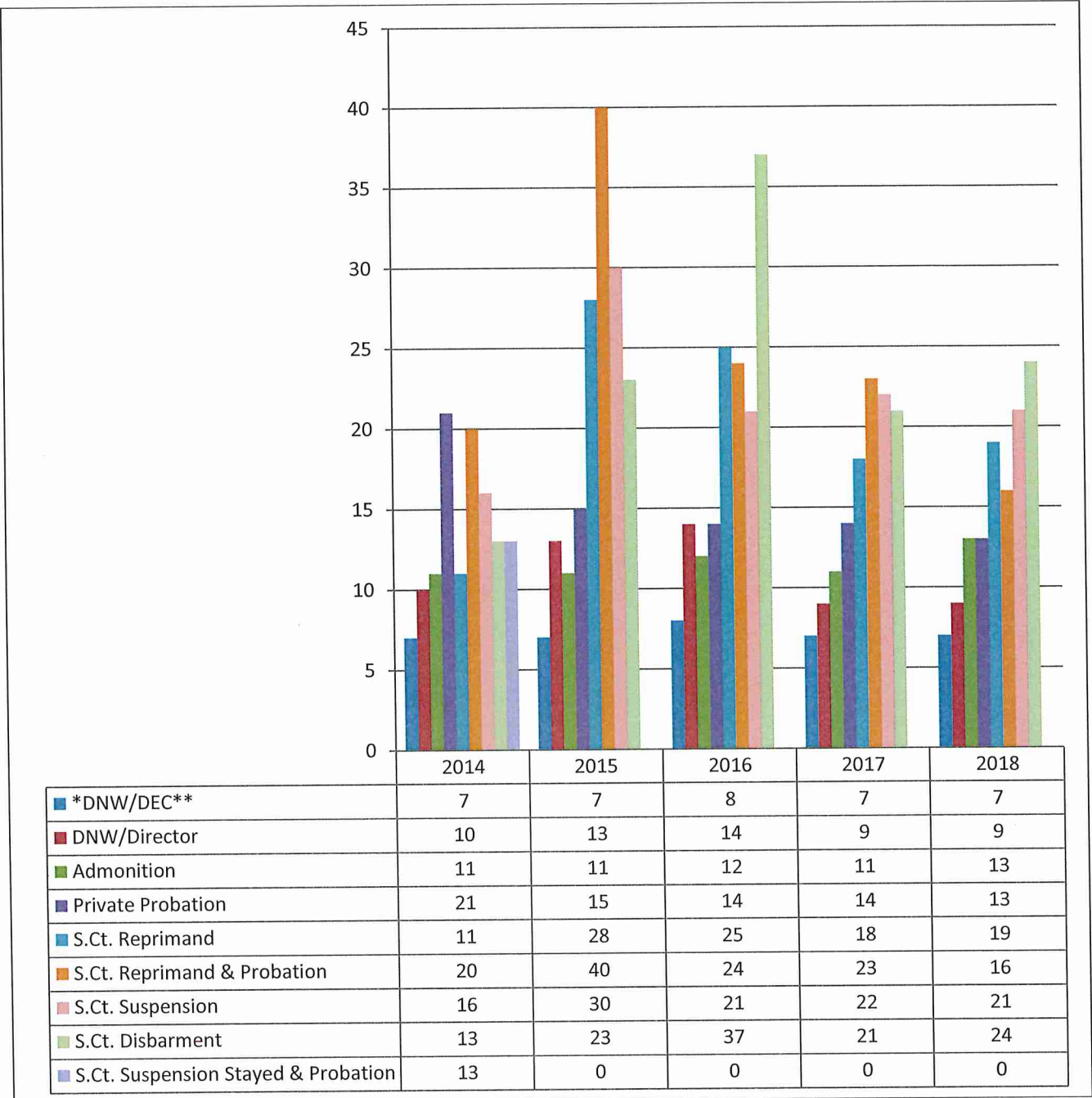


TABLE IX
Average Number of Months File was Open at Disposition

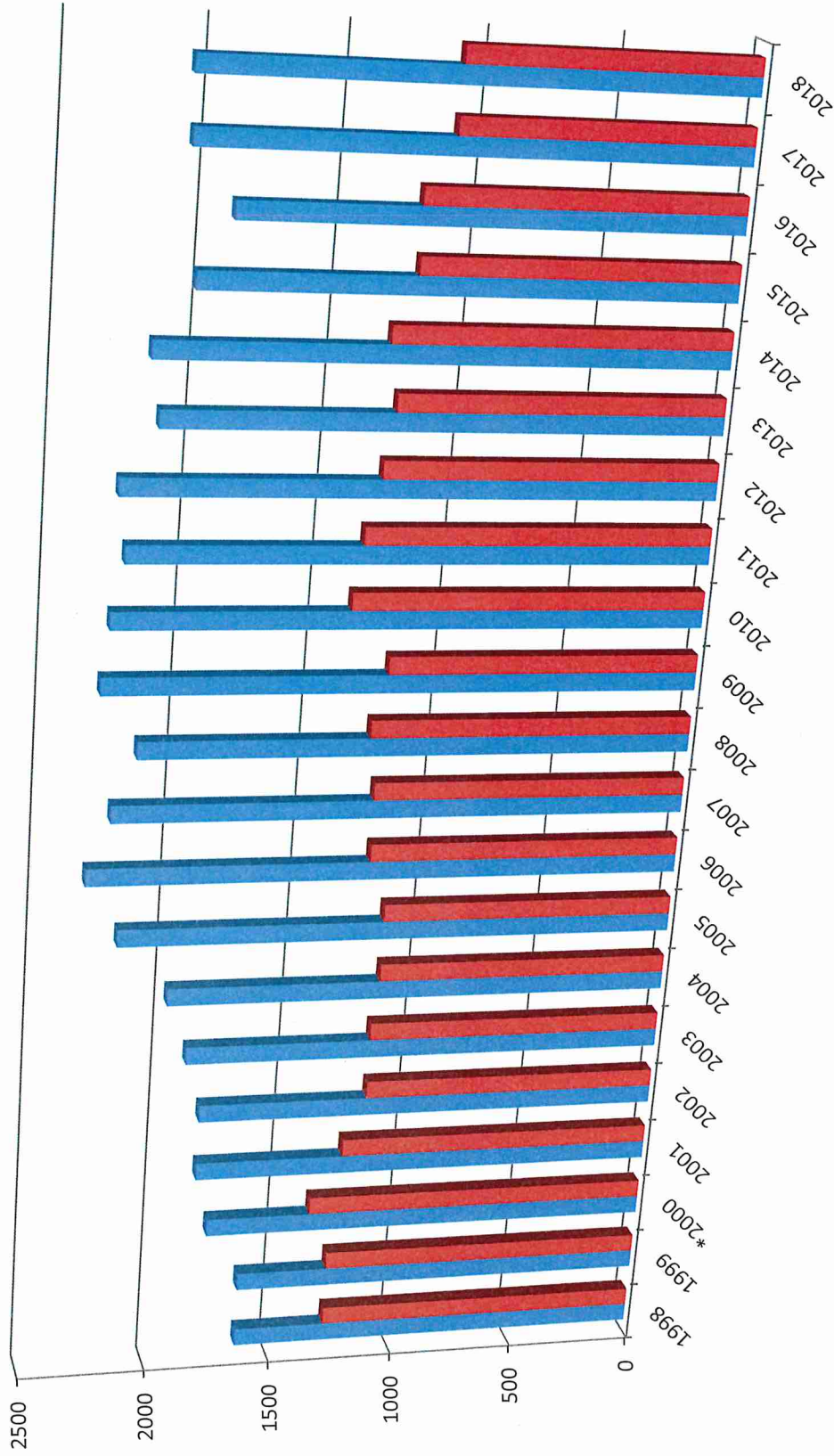


*Discipline Not Warranted
**District Ethics Committee

TABLE X
PUBLIC DISCIPLINE DECISIONS 1985-2018

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
TOTALS	208	670	242	119	1239

TABLE XI
Advisory Opinion Requests Received
and
Number of Complaints Opened
1998 - 2018



	1998	1999	*2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Advisory Opinions Received	1632	1635	1770	1824	1825	1889	1974	2177	2307	2223	2135	2282	2258	2215	2249	2116	2156	2156	1888	2051	2057
Complaints Opened	1275	1278	1362	1246	1165	1168	1147	1150	1222	1226	1257	1206	1365	1337	1287	1253	1293	1210	1216	1110	1107

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

TABLE XII
Advisory Opinions 1991-2018

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

* 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	2017	2018
1.1	Competence	17	16
1.2	Scope of Representation	51	45
1.3	Diligence	9	17
1.4	Communication	82	86
1.5	Fee Agreements and Fees - Generally	93	100
1.6	Client Confidentiality	328	368
1.7	Conflict of Interest - Generally	273	342
1.8	Conflict of Interest - Transactions	59	76
1.9	Conflict - Former Clients Generally	186	183
1.10	Imputed Disqualification - Generally	41	56
1.11	Government Lawyer Conflicts Generally	23	35
1.12	Former Judges & Law Clerks	8	13
1.13	Organization as Client	20	29
1.14	Disabled Client - Generally	68	60
1.15	Trust Accounts - Generally	208	168
1.16	Withdrawal from Representation	271	318
1.17	Sale or Termination of Law Practice	37	31
1.18	Prospective Clients	40	61
2.1	Advisor	1	0
2.4	Lawyer Serving as 3rd Party Neutral	0	1
3.1	Meritorius Claims	17	20
3.2	Expediting Litigation	3	3
3.3	Candor Toward the Tribunal	43	59
3.4	Fairness to Opposing Counsel	34	28
3.5	Contact with jurors or venire	1	3
3.6	Trial Publicity	5	1
3.7	Attorney as Witness	20	23
3.8	Special Prosecutor Duties	0	7
4.1	Candor to Others	10	10
4.2	Contact with Represented Party	76	74
4.3	Contact with Unrepresented Party	27	34
4.4	Respect for Third Persons' Rights	33	35
5.1	Supervisory Lawyers	0	5
5.2	Subordinate Lawyers	5	3
5.3	Non-Lawyer Employees	6	10
5.4	Professional Independence	17	33
5.5	Unauthorized Practice	101	86
5.6	Covenants Not to Compete	5	8
5.7	Responsibilities Regarding Law Related Services	4	4
5.8	Employment of Suspended Attorney	4	5
6.1	Voluntary Pro Bono	0	0
6.3	Legal Services Organizations	0	0
6.4	Law Reform Activities	0	2
6.5	Pro Bono Limited Legal Services Programs	3	1
7.1	Advertising Generally	27	38
7.2	Technical Requirements	19	29
7.3	Solicitation Generally	23	25
7.4	Specialization	2	2
7.5	Letterhead & Firm Name	31	35
8.1	Admission and Discipline	2	0
8.2	Legal Officials	0	2
8.3	Duty to Report Attorney Misconduct	78	83
8.4	Misconduct	58	57
99	Dormant File Procedures	151	136
	Totals	2620	2866

* Some calls involve more than one rule.

64 Decisions Involving 115 Files

Disbarment	25 files	8 attorneys	VAN BRUGGEN, MATTHEW STEWA WOOD, RYAN JOSEPH	A18-1424 A17-2055	1 2
Reprimand	6 files	6 attorneys	BRUGGEMAN, JULIE LYNN KOCH, SCOTT J LARSON, PAMELA ANN MC CLOUD, SAMUEL A SPRINGER, SCOTT KERRY WILLIAMS, JOSHUA REACE	A17-2077 A17-2013 A18-1843 A18-855 A18-1101 A18-1133	1 1 1 1 1 1
Disability Inactive Status	17 files	6 attorneys	BENGTSON-LANG, RACHEL ELIZAB BENJAMIN, MARK W DEFENBAUGH, WILLIAM E JR. EGTVEDT, PAUL ARTHUR FOX, KRISTI ANN KELLEY, PATRICK MICHAEL	A18-804 A18-1257 A17-1626 A18-1718 A17-1771 A18-1244	1 4 1 2 8 1
Reinstatement	8 files	8 attorneys	BEERLING, REBECCA KAY BRANTINGHAM, JEREMY LLOYD FISCHER, BRIAN CAMPBELL KENNEDY, DUANE A KINNEY, MICHAEL JAMES MOLLIN, RICHARD C JR. OLSON, DAVID WALTER WOLFF, THOMAS EDWARD	A18-165 A16-674 A15-1483 A17-1448 A17-1630 A17-1337 A16-1374 ADM05-8001	1 1 1 1 1 1 1 1
Reinstatement & Probation	4 files	4 attorneys	MACDONALD, MICHELLE LOWNEY MAYER, JAMES RICHARD SHEAHAN, WILLIAM MICHAEL WITTNER, JESSICA JANE	A16-1282 A17-2008 A17-884 A17-1268	1 1 1 1
Reinstatement Dismissed	1 files	1 attorneys	SELMER, SCOTT	A18-504	1
Disbarment	25 files	8 attorneys	CAPISTRANT, JOSEPH MICHAEL HENLINE, ROY B III HULSTRAND, GEORGE E JR. LAURIE, IAN SCOT OLSON, JEFFREY H SAYAOVONG, AMOUN VANG VANSICKLE, BARRY L VIRNIG, RICHARD S	A17-429 A17-790 A16-1589 A18-1215 A17-1772 A15-1320 A18-838 A18-743	1 4 11 1 1 4 1 2
Suspension	45 files	23 attorneys	BRANTINGHAM, JEREMY LLOYD BUTLER, GRAHAM M CRABTREE, TODD A EICHHORN-HICKS, TRACY R FISCHER, BRIAN CAMPBELL KENNEDY, DUANE A KERSCHBAUM, ANTHONY JOHN KLOTZ, ADAM WILLIAM LOCKWOOD, MARY ELIZABETH MACDONALD, MICHELLE LOWNEY MANN, BRADLEY CRAWFORD MELNIK, DENNIS MOHAN, LAUREL MOLLIN, RICHARD C JR. NORBERG, AMY BETH NOVAK, MARK FRANCIS NWANERI, PATRICK CHINEDU ROSSO, STEVEN T THOMPSON, MARY JACLYN TROMBLEY, CAROL TOWNSEND VAN HOUSE, DAVID J WITTNER, JESSICA JANE WOLFF, THOMAS EDWARD	A16-674 A18-583 A17-1657 A17-1039 A15-1483 A17-1448 A18-610 A16-1631 A18-951 A16-1282 A18-912 ADM05-8001 A18-885 A17-1337 A17-488 A18-1329 A16-57 A18-1454 A18-1182 A17-493 A17-1617 A17-1268 ADM05-8001	1 1 1 3 1 1 5 4 1 2 3 1 1 1 2 7 1 2 1 1 3 1 1
Reprimand & Probation	9 files	8 attorneys	CARLSON, PAUL FRANCIS HACKERT, THOMAS ANDREW MCGRAW, BEAU DANIEL NEPP, DOUGLAS E ROONEY, BECKY TOEVS THOMPSON, TRAVIS CRAIG	A18-1425 A18-959 A18-1613 A18-961 A18-1381 A18-651	1 1 1 1 1 1

PROBATION STATISTICS

TOTAL PROBATION FILES OPEN DURING 2018

Public Supervised Probation Files (31%)	30	
Public Unsupervised Probation Files (29%)	<u>28</u>	
Total Public Probation Files (60%)		58
Private Supervised Probation Files (17%)	17	
Private Unsupervised Probation Files (23%)	<u>23</u>	
Total Private Probation Files (40%)		<u>40</u>
Total Probation Files Open During 2018		98

TOTAL PROBATION FILES

Total probation files as of 1/1/18	72
Probation files opened during 2018	29
Probation files closed during 2018	<u>(42)</u>
Total Open Probation Files as of 12/31/18	59

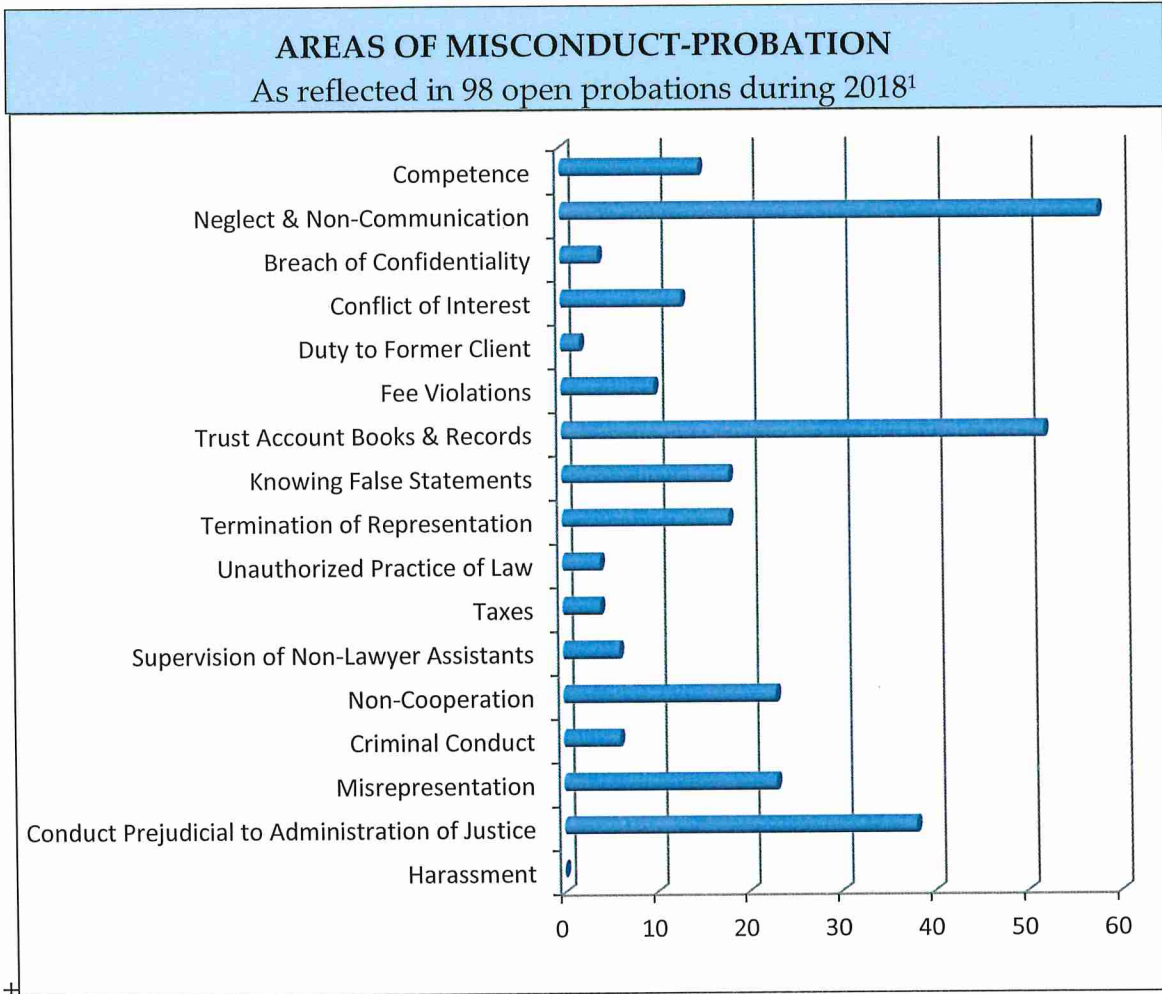
PROBATIONS OPENED IN 2018

Public Probation Files

Supervised	7	
Unsupervised	<u>10</u>	
Total Public Probation Files		17

Private Probation Files

Supervised	6	
Unsupervised	<u>6</u>	
Total Private Probation Files		<u>12</u>
Total New Probation Files in 2018		29



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

**Office of Lawyers Professional Responsibility
Speaking Engagements and Seminars July 2018 – June 2019**

Date	Topic	Location	Organization	Initials
7/18/18	Ethical Dilemmas in Criminal Law	Anoka	Anoka County Bar Association	JSB
7/25/18	Ethics for the Workers' Comp. Professional	Webcast	MNCLE	SMH
8/7/18	Ethical Retainer Agreements for the Solo/Small Firm Practitioner	Duluth	MNCLE	SMH
8/14/18	Ethics of Limited Scope Representation	Minneapolis	HCBA	SMH
8/16/18	Ethics Year in Review	Webcast	MNCLE	CBH ADS
8/22/18	The Top 20 Things All Criminal Lawyers Should Remember about Ethics	Minneapolis	Criminal Justice Institute	ADS
8/22/18	Ethics: The Importance of Being a Trauma-Informed Criminal Practitioner	Minneapolis	Criminal Justice Institute	JSB
9/14/18	Ethical Issues in Prosecution	Bloomington	Suburban Hennepin County Prosecutors Association	JSB
9/21/18	Trauma Informed Practices for Paralegals & Staff	Minneapolis	MNCLE	JSB
9/21/18	Ethics for Paralegals	Minneapolis	MNCLE	AMH LJN
9/28/18	Professional Responsibility Seminar	Minneapolis	Office of Lawyers Professional Responsibility	SMH JSB KMR AMH
10/1/18	Ethical Issues for In-House Compliance Professionals	Minneapolis	MNCLE	SMH
10/4/18	Disciplinary Update: Synopsis of Recent Cases	Center City	10th Judicial District	BTT ADS
10/11/18	Training for New Prosecutors	St. Paul	Minnesota County Attorneys Association	JSB
10/15/18	Wellbeing and the Profession	Minneapolis	U of M Law School	CBH
10/19/18	Unplugging to Recharge: An Ethical Discussion on the Benefits and Pitfalls of Today's Technologies	Minneapolis	Minnesota State Bar Association	TMB
10/29/18	Ethical Considerations in Drafting Contracts	Minneapolis	MNCLE	SMH
10/31/18	Everything You Need to Know About Trust Accounts	St. Paul	Supreme Court Law Library	JSB CBH LJN
10/31/18	Civil Litigation Pitfalls	Minneapolis	MNCLE	AMH
11/2/18	Ethical Considerations in Real Estate Matters	St. Paul	MNCLE	SMH
11/2/18	Ethics Refresher for Family Law Practitioners	St. Paul	AAML Conference	ADS KMR

**Office of Lawyers Professional Responsibility
Speaking Engagements and Seminars July 2018 – June 2019**

Date	Topic	Location	Organization	Initials
11/7/18	Do the Right Thing - A Primer on Lawyer Ethics for the Personal Injury Practice	Minneapolis	MNCLE	BTT
11/15/18	Recent Disciplinary Cases	Mankato	Sixth District Bar Association	JSB
11/15/18	#MeToo in the Legal Profession	Minneapolis	MNCLE	SMH
11/15/18	Case Updates and Fees	Owatonna	Steele County Bar Association	AMH
11/15/18	Dakota County CLE	Hastings	Dakota County	AMH
12/7/18	Workers' Comp.	Minneapolis	MNCLE	TMB
12/12/18	Legal Aid	Webinar	St. Paul	BTT
12/20/18	Ethics & Fee Agreements - Practice Management Pointers	St. Paul	CCLI	ADS KMR
1/10/19	Trust and Estates	St. Paul	Ramsey County Bar Association	BTT
1/16/19	Legal Ethics in E-Age	Eagan	Clarion Legal Education	NSF
1/24/19	Technology Hazards	Las Vegas	NOBC	SMH
1/24/19	One Profession	Duluth	Sixth Judicial District	JSB
2/8/19	Professional Responsibility Year in Review	Minneapolis	Hennepin County Bar Association	SMH
2/11/19	Judicial Externship Class	Minneapolis	University of St. Thomas Law School	KMR
2/13/19	Winthrop & Weinstine Paralegal CLE	Minneapolis	Minnesota Paralegal Association	AMH
2/19/19	Ethics for the Real Estate Practitioner	St. Paul	Ramsey County Bar Association	SMH
2/26/19	Ethics for Employment Lawyers	Webinar	MNCLE	SMH
2/26/19	CHIPS Division	Minneapolis	Hennepin County Public Defender	KMR
2/28/19	Supreme Court Call to Action: Wellbeing in the Legal Profession Breakout: In-House Counsel	Minneapolis	Supreme Court	SMH
3/5/19	Unauthorized Practice of Law and In-House Counsel	Minneapolis	MNCLE	SMH
3/8/19	Ethics Surrounding Appellate Advocacy and Technology	Webcast	MNCLE	NSF
3/13/19	Ethics in the Electronic Age - Fees and Case Update	Excelsior	West Metro CLE	AMH
3/18/19	Ethics for Paralegals	St. Paul	Family Law Institute	NSF LJN
3/27/19	Real World Ethics: Advising the Disadvantaged	Minneapolis	MNCLE	BTT
3/29/19	The Importance of Being a Trauma Informed Practitioner	Webcast	MNCLE	JSB
4/1/19	Judicial Externship Class	Minneapolis	University of St. Thomas Law School	KMR
4/2/19	Civility & Discipline in the Profession	St. Paul	Mitchell Hamline	ADS
4/4/19	Ethics for Law Clerks	Elk River	10th District Law Clerks	NSF AJS

**Office of Lawyers Professional Responsibility
Speaking Engagements and Seminars July 2018 – June 2019**

Date	Topic	Location	Organization	Initials
4/11/19	Ethics: Pay Disparity, Harassment and Glass Ceilings - #MeToo in the Legal Profession (Environmental Law Institute)	Minneapolis	MNCLE	SMH
4/17/19	Ethics Counsel for Law Firms Seminar - What to do When Trouble Troubles One of Your Colleagues: Issues and Options for Firm Counsel Handling Board Ethics Complaints	Minneapolis	Best & Flanagan	NSF
4/19/19	Major Ethics Developments in 2018	Minneapolis	Hennepin County Law Library	BTT ADS
4/24/19	Ethics & Your Duty to Report	St. Paul	Ramsey County Attorney's Office	ADS KMR
4/30/19	DWI Science and Advocacy: Advanced Practice Strategies	Minneapolis	MNCLE	BTT
5/3/19	Ethics: How Trauma Affects Native Lawyers and the Practice of Law in Tribal Communities	Prior Lake	MNCLE	JSB
5/7/19	Business Transactions with Clients (Business Law Institute)	Minneapolis	MNCLE	BTT
5/10/19	Ethics for the Pro Bono Attorney	Detroit Lakes	Legal Aid NWMN	SMH
5/16/19	Ethics for Prosecutors	Minneapolis	Minneapolis City Attorney	KMR
5/17/19	DEC Chairs Symposium	Brooklyn Center	LPRB	SMH NSF JSB ADS
5/21/19	#MeToo in the Legal Profession (Employment Law Institute)	St. Paul	MNCLE	SMH
5/30/19	It's Your Professional Responsibility to Sleep Well	Minneapolis	MNCLE	JSB
6/10/19	Probate & Trust Law Section Conference	St. Paul	MNCLE	BTT
6/14/19	Ethics Year in Review for Prosecutors	St. Paul	MCAA	SMH
6/19/19	Ethical Consideration in Contract Drafting and Negotiation for the Health Law Attorney	Minneapolis	MNCLE	SMH
6/25/19	Ethics: Lessons Learned from the Mistakes of Others - A Synopsis of Recent MN Lawyer Discipline Cases	Webinar	MNCLE	SMH AJS
6/27/19	Ethics Issues for Retiring Lawyers	Prior Lake	Minnesota State Bar Association	BTT
6/28/19	Important Lessons from Recent Attorney Discipline Cases	Prior Lake	Minnesota State Bar Association	SMH



MINNESOTA Lawyers Professional Responsibility Board Office of Lawyers Professional Responsibility

1500 Landmark Towers 651-296-3952
345 St. Peter Street 1-800-657-3601
St. Paul, MN 55102-1218



Home File Complaint ▾ Lawyer Search ▾ Rules ▾ Articles ▾ Lawyer Resources ▾ About Us ▾

Announcements

April 26, 2019, Board Meeting Agenda and Materials

Court Appoints Public Member Tommy A. Krause to the Lawyers Professional Responsibility Board

Court Appoints Public Member Susan Stahl Slieter, MSBA Nominee Landon Ascheman and Attorney Members Kyle Lovén and Katherine Holmen to LPRB and Reappoints Chair Robin Wolpert and Board Members Bruce Williams and Chris Grgurich

Comments Regarding MN State Bar Association Petition to Amend Rule 1.6(b), Minnesota Rules of Professional Conduct

Comments Regarding MN State Bar Association Petition to Amend Rule 5.5, Minnesota Rules of Professional Conduct

Well-Being Toolkit for Lawyers and Legal Employees

LPRB and OLPR Strategic Plan (July 2018 - June 2023)

Congratulations to Michael J. Leary 2018 Volunteer of the Year

Lawyers Board Meetings 2019

Court Amends Rules of the Supreme Court on Lawyer Registration and Rule 1.15, MRPC, Effective July 1, 2018

What's New

"Ethical 'of counsel' associations," MN Bench and Bar, April 2019

"Private discipline in 2018," MN Bench and Bar, March 2019

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

Lawyer Well-Being: Sleep - an amazing breakthrough for lawyers," Minnesota Lawyer, March 2019

"2018 year in review: Public discipline," MN Bench and Bar, February 2019

"Suicide prevention: Every lawyer's opportunity," MN Bench and Bar, January 2019

"Attention general counsel: UPL and you," MN Bench and Bar, December 2018

Quick Links

[FILE A COMPLAINT](#)

[LAWYER SEARCH](#)

Legal References

[MN RULES OF PROFESSIONAL CONDUCT](#)

[FOR LAWYERS ONLY: ADVISORY OPINIONS](#)

[Professional Responsibility Seminar](#)

[Trust Accounts](#)

[Professional Firms](#)

[LPRB Opinions](#)

[Disciplinary History Request](#)

[Proposed and Pending Rules & Opinions](#)

Contact

Lawyers Professional Responsibility Board
Office of Lawyers Professional Responsibility

1500 Landmark Towers
345 St. Peter Street
St. Paul, MN 55102-1218

651-296-3952
1-800-657-3601
Fax: 651-297-5801

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

Resources

[MN Client Security Board](#)

[MN Lawyer Registration Office](#)

[MN IOLTA Information](#)

[MN Board of Continuing Legal Education](#)

[MN Board of Law Examiners](#)

[MN Board of Legal Certification](#)

[MN Judicial Branch](#)

[MN State Bar Association](#)

[ABA Center for Professional Responsibility](#)

Links

[Lawyers Board Directory](#)

[OLPR Lawyer Directory](#)

[Annual Reports](#)

[Contact Us](#)

If you have a disability and anticipate needing an accommodation, please contact the Office at ljprada@courts.state.mn.us or at 651-296-3952. **PLEASE USE THIS EMAIL ADDRESS FOR ADA REQUESTS ONLY. COMPLAINTS AGAINST ATTORNEYS MAY BE SUBMITTED BY CLICKING ON THE "FILE A COMPLAINT" BOX ON THE HOME PAGE. NON-ADA COMMUNICATIONS TO SUSAN HUMISTON SHOULD BE MAILED TO THE OFFICE ADDRESS OR EMAIL TO susan.humiston@courts.state.mn.us** All requests for accommodation will be given due consideration and may require an interactive process between the requestor and the Office of Lawyers Professional Responsibility to determine the best course of action. If you believe you have been excluded from participating in, or denied benefits of, any Office of Lawyers Professional Responsibility services because of a disability, please visit www.mncourts.gov/ADAaccommodation.aspx for information on how to submit an ADA Grievance form.