

ANNUAL REPORT OF THE  
LAWYERS PROFESSIONAL RESPONSIBILITY BOARD

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OFFICE OF LAWYERS PROFESSIONAL RESPONSIBILITY

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July 2017

## TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION AND HIGHLIGHTS .....	1
II. LAWYERS PROFESSIONAL RESPONSIBILITY BOARD.....	6
III. DIRECTOR'S OFFICE .....	9
A. Budget .....	9
B. Personnel .....	10
C. Website and Lawyers Professional Responsibility Board Intranet.....	11
D. Complainant Appeals .....	11
E. Probation .....	12
F. Advisory Opinions .....	13
G. Overdraft Notifications .....	13
H. Judgments and Collections .....	15
I. Disclosures .....	15
J. Trusteeships .....	16
K. Professional Firms .....	17
IV. DISTRICT ETHICS COMMITTEES .....	17
V. FY2018 GOALS AND OBJECTIVES .....	19

## APPENDIX

Lawyers Professional Responsibility Board Members	
Biographical Information .....	A. 1 – A. 2
Statistical Tables .....	A. 3 – A. 7
Average Years of Practice for Attorneys Disciplined in 2015 & 2016 .....	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 1991-2016 .....	A. 12
Advisory Opinions Subject Matter by Rule .....	A. 13
2016 Summary of Public Matters Decided .....	A. 14 – A. 15
Probation Statistics .....	A. 16
Areas of Misconduct – Probation .....	A. 17
Speaking Engagements and Seminars .....	A. 18 – A. 20
FY2017 Organizational Chart .....	A. 21
Current Office Web Page .....	A. 22

## **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 2016 to June 2017 (FY2017), which represents the Board's and the Office's fiscal year. The majority of the statistical information, however, is based upon calendar year 2016, unless otherwise noted.

### **A Note from Board Chair Stacy Vinberg.**

Fiscal year 2017 has been a good year for the OLPR. The progress the Director's Office has made clearing out the older case files has been outstanding. The attorneys in the Office have taken the Court's directive to heart and have worked tirelessly to improve case processing times. Ms. Humiston and Mr. Burns have been an integral part of the Office's success in clearing the older case files.

Although the Office and Board experience its share of criticism, on more than one occasion the stories of successfully working case files come to light. Such was the case this year with not only a widow of a solo practitioner and the Office's handling of a trusteeship, but also from a respondent attorney regarding discipline for a sensitive matter.

Overall, the first full year for the Director, the liaison Justice, and the Board Chair have had its share of challenges with these key positions filled within a few months of each other. The changes made specifically by the Director in these 15 months are commendable. She has implemented changes within the OLPR that resulted in collaborative efforts among staff to achieve success in case management, a mentoring program, and taken the yearly reviews in a direction that has encouraged the staff to strive for higher personal and professional growth.

The Board remains impressed with the changes that have been implemented within the organization, the professionalism with which all the attorneys and staff complete their work, and the work ethic exhibited by everyone.

**Highlights.**

Fiscal year 2017 was a year of transition for the LPRB and OLPR as Stacy Vinberg completed her first year as Chair of the LPRB, Susan Humiston completed her first year as Director of the OLPR, and Justice Stras completed his first full year as the Minnesota Supreme Court's liaison to the LPRB and OLPR. Pursuant to the direction of the Court, the LPRB and OLPR focused primarily on case processing times. With the hard work of everyone involved, the OLPR significantly improved overall case processing times, including resolution of a significant number of files that were more than a year old at the start of the fiscal year.

As of July 1, 2016, the OLPR had 151 files over one year old out of a total file population of 516 files. Of those 151 files, 60 files were still under investigation by the OLPR after one year, and a few were under investigation despite being more than two years old. The remaining files (91) were pending with the Court in various stages of the litigation process. As of June 28, 2017, the year-old files decreased to 115, with 57 under investigation with the OLPR, and the remaining in various stages of litigation. The OLPR made this progress while still remaining current with new files. While the OLPR has not yet met the goal of all cases charged out or otherwise dispositioned within one year, great strides have been made.

Moreover, the Office is close to meeting the Board-established target of no more than 500 open files, and no more than 100 open files more than one year old. In fact, several times this fiscal year, overall file inventory fell below 500. Thank you to everyone who has worked so hard to ensure better case processing times within the attorney disciplinary system. Timely case processing is an important factor in a well-regarded regulation system.

## **Statistics.**

Calendar 2016 was also a year for higher than average public discipline with 44 attorneys receiving public discipline, down from the prior year record high of 65 attorneys receiving public discipline. An “average” year for public discipline is 36 (Table X at A. 10). Suspensions remained high at 28, the second highest number after 2015. Private discipline was very similar to 2015, with 115 admonitions and 17 private probations.

A review of attorney demographics in 2016 shows that the average years of practice for an attorney receiving public discipline was 25 years, and private discipline was 23 years. These numbers were very similar for 2015: 24 years (public) and 23 years (private). Attorneys with 11 – 20 years of practice were subject to the most discipline (Table VII at A. 8). In 2016, 82% of private discipline was issued to male attorneys; 18% to female attorneys. Ninety-one percent of public discipline was received by male attorneys; 9% by female attorneys.

Substantively, diligence (Rule 1.3) and communication (Rule 1.4) continue to be the most frequently violated rules, clients continue to submit by far the greatest number of complaints, and the most frequent areas of practice generating complaints remain criminal law and family law.

The first half of 2017 remains steady in matters of attorney discipline. As of June 28, 2017, 17 attorneys have been publicly disciplined: 4 disbarred, 11 suspended, 1 reprimanded and placed on probation and 1 reprimanded. An additional 30 matters are pending with the Supreme Court, and a total of 481 files are open as of that date.

## **Complaint Filings.**

The number of complaints received in 2016 was 1,216, essentially the same number as received in 2015 (1,210). Closings were down year-over-year (1,264 vs. 1,332), for a calendar year-end file inventory of 480. Tables outlining these and related statistics are at A. 3 - A. 10.

Files open at start of 2016:	528
Complaints received in 2016:	1,216
Files closed in 2016:	1,264
Files open at end of 2016:	480

Complaint filings for the first five months of 2017 are similar to the first five months of 2016. Closings year-to-date for 2017 continue to trend down from the 2016 number (616 vs. 517). The OLPR met the Board target of less than 500 open files during four months this fiscal year.

**Public and Private Discipline.**

As mentioned, 2016 was a “high average” year for public disciplines. Forty-four lawyers were publicly disciplined: 6 attorneys were disbarred, 28 were suspended, 4 were reprimanded and placed on probation and 6 were reprimanded. The six disbarred attorneys were Paul Jody Edlund, Pamela L. Green, Dale Allen Hansen, Timothy J. Oliver, Paul Roland Rambow and Ronald Resnik.

The attorneys disbarred in 2016 were disbarred for a variety of professional misconduct including predominantly misappropriation of client funds. Two attorneys received the next most serious discipline, five-year suspensions: one for felony conviction for first degree assault; and the other for the unauthorized practice of law after disciplinary suspension, and misappropriation of client funds. A third attorney received a four-year suspension for frivolous litigation, and multiple false statements in multiple forums. Two public cases were dismissed without discipline.

During 2016, 115 admonitions were issued, the same number issued in 2015. Please note that last year’s annual report noted 112 admonitions were issued in 2015, which did not include panel admonitions or admonitions affirmed on appeal, bringing the total for 2015 admonitions to 115. 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:

	2009	2010	2011	2012	2013	2014	2015	2016
Admonitions	117	120	113	122	143	143	115	115
Total Files Closed	1229	1252	1386	1287	1279	1248	1332	1264
%	10%	10%	8%	9%	11%	11%	8%	9%

The areas of misconduct involved in the admonitions are set forth in Table V at A. 6. Seventeen attorneys were placed on private probation, compared to 12 attorneys in 2015.

### **Other Highlights.**

Significant bar interest was generated by the Minnesota Supreme Court's 4-3 decision affirming a panel admonition in *In re Charges of Unprofessional Conduct in Panel File No. 39302*, 884 N.W.2d 661 (Minn. 2015). In that opinion, the Court affirmed an admonition for a Colorado lawyer who engaged in the unauthorized practice of law in Minnesota in representing his in-laws in a judgment collection matter. The Court was split on whether the attorney's unauthorized practice in Minnesota fell within one of several safe harbor provisions within Rule 5.5 relating to the unauthorized practice of law. The majority held that the judgment representation did not "arise out of" or "reasonably relate" to his environmental law practice in Colorado. The Rules Committee of the Minnesota State Bar Association is currently reviewing proposed amendments to Rule 5.5, Minnesota Rules of Professional Conduct.

Some bar interest was also generated by the LPRB's issuance of Opinion No. 24 relating to the ability of an attorney to share confidential information when responding to a negative on-line review. Consistent with almost all jurisdictions reviewing the matter, the Board opined that an attorney may not disclose confidential information under Rule 1.6(b)(8) as a negative review is neither an actual or potential "proceeding" or "controversy" within the meaning of the rule's language, but may disclose confidential information if it falls within another exception within Rule 1.6(b), MRPC.

## **Annual Professional Responsibility Seminar and Continuing Legal Education Presentations.**

On September 30, 2016, the Board and the Director's Office hosted their 31<sup>st</sup> annual professional responsibility seminar. Presentations included sessions on technology, social media and lawyer ethics, stipulations for discipline to the court, departures from DEC determinations, and tips for dealing with mental health and dependency issues in investigations. Justice Stras also presented on key Court ethics decisions in a well-received presentation.

During the seminar, Justice Stras presented the Volunteer of the Year Award to Kevin Kolosky. Mr. Kolosky has served on the Fourth District Ethics Committee since 2006. He is the eldest of nine children, served three years in the U.S. Navy, the majority of the time on an aircraft carrier in the Atlantic Ocean and Mediterranean Sea. He graduated from Mankato State University and from William Mitchell College of Law. His primary areas of practice are criminal defense and family law. In addition to his volunteer work with the Hennepin County DEC, he also devotes time to The Legal Aid Society of Minneapolis, Volunteer Lawyers Network and Dakota County Legal Assistance.

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. 18 – A. 20.

## **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 Stacy Vinberg was appointed in May 2016. Board members Nancy Helmich and Todd Wind completed their second and final terms on the Board. Paul Carlson completed one term on the Board and declined to be reappointed due to career commitments. In January 2017, Timothy Churchwell resigned from the Board after his appointment to the Seventh District bench. In March, Susan Rhode was appointed to fill Judge Churchwell's stub term through January 31, 2018. Virginia Klevorn, Jeanette Boerner and Peter Ivy were appointed to full-terms expiring January 31, 2020. In May 2017, Lisa Radzak resigned from the Board due to a career change. Effective July 1, 2017, the Court appointed Bruce Williams of Virginia, Minnesota, to the Board.

MSBA nominees Joseph Beckman and James Cullen together with Roger Gilmore, Mary Hilfiker and Bentley Jackson, were reappointed to second terms, to expire in 2020. Allan Witz, who was originally appointed in May 2016 to fill a stub term, was appointed to his first full three-year term. A complete listing of Board members as of July 1, 2017, 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 Stacy Vinberg, Vice-Chair Terrie Wheeler, Robin Wolpert, Roger Gilmore and Bentley Jackson. Three members of the Executive Committee are public members, demonstrating 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; another member, Roger Gilmore, oversees the review of file statistics and aging of files; and one member, Robin Wolpert, 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: Joseph Beckman, James Cullen, Thomas Evenson, Christopher Grgurich, Anne Honsa and Cheryl Prince. All are experienced Board members.

### **Standing Committees.**

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

During this fiscal year, the Opinion Committee recommended and the Board approved Opinion No. 24, which articulated the Board's position that an attorney may not disclose confidential information when responding to an on-line review, as such a review is neither an actual or potential "proceeding" or "controversy" under Rule 1.6(b)(8), MRPC.

Pursuant to the request of the Minnesota Supreme Court for its opinion, the Board responded to a public petition filed to amend Rule 6(a), RLPR, which petition

aimed to prohibit DEC investigators from conducting investigations within their subject matter expertise. The Board, upon recommendation of the Rules Committee, recommended against the proposed amendment. By order dated November 17, 2016, the Court denied the petition. Separately, the Court granted the petition of the Board to amend Rule 18(c), RLPR, to establish a ten-day time period to order a transcript when challenging a panel recommendation on reinstatement.

The DEC Committee focused 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 very successful DEC Chairs Symposium in May 2017 at the Earle Brown Center in Minneapolis.

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

#### **A. Budget.**

Expenditures for the fiscal year ending June 30, 2017, are projected to be approximately \$3,800,000. The projected reserve balance at the end of FY17 is projected to be a healthy \$2,865,318. In June 2017, the Court approved the OLPR budgets for FY18 and FY19. The FY18 budget, which begins July 1, 2017, and runs through June 30, 2018, projects anticipated expenditures of \$4,139,000. This annual amount is somewhat higher than the norm due to several items including two special projects: (1) upgrading the LPRB Courtroom at the Judicial Center to improve ADA facilitation; and (2) new service charges for Judicial IT support. The later costs were previously absorbed by the Branch; however, due to advances in technology and the demand for tech support, Judicial ITD is no longer fiscally able to handle these services without contribution. These costs will be ongoing. Lastly, the budget includes remaining funds for the completion of the LDMS database project.

The Director's Office budget is funded primarily by lawyer registration fees, and therefore is not dependent upon legislative dollars. FY18 projected revenue is

essentially flat at \$3,125,000. Accordingly, it is anticipated that the Office will utilize its reserve to fund the revenue shortfall.

In FY17, the Court provided for merit increases for Court employees from a merit pool equal to 4% of salaries. All employee salary increases are performance based. In FY18, merit increases will be awarded based on performance appraisals completed in May 2017 for the previous fiscal year. The merit pool for FY18 is anticipated to be equal to 2.5% of salaries.

**B. Personnel.**

The Director's Office employs 12 attorneys including the Director, 6.5 paralegals, an office administrator, 10 support staff and one law clerk (*see* organizational chart at A. 21).

- In July 2016, Casey Brown was hired to fill the position of DEC coordinator/SharePoint clerk.
- In September 2016, Nicholas Ryan was hired to fill the position of law clerk.
- In October 2016, Julie Bennett resigned her position as attorney.
- In February 2017, attorney Jennifer Bovitz was hired to fill the position vacated by Ms. Bennett.
- In February 2017, Tracy Plunkett resigned her position as receptionist/clerk.
- In March 2017, Laurie Johnson was hired to fill the position vacated by Ms. Plunkett.
- Several personnel celebrated service awards due to their tenure in the Office. Josh Brand, Megan Engelhardt, Wenda Mason and Kevin Slator celebrated ten years of service; Jean Capecchi celebrated 30 years of service; and Cindy Peerman celebrated 35 years of service with the Office! Congratulations and thank you to these team members for their years of service to the public.

**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 almost ten years old and needs to be updated. This project is expected to begin in 2018. Attached at A. 22 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. More volunteers are using the sites as they come to see the sites are convenient. 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 2016, the Director's Office received 175 complainant appeals, compared to 193 appeals received in 2015. The breakdown of the 175 determinations made by reviewing Board members in 2016 is as follows:

		<u>%</u>
Approve Director's Disposition	164	93.0
Direct Further Investigation	7	4.0
Instruct Director to Issue an Admonition	2	1.1
Instruct Director to Issue Charges	2	1.1

Approximately 159 clerical hours were spent in 2016 processing and routing appeal files. A limited amount of attorney time was expended in reviewing appeal letters and responding to complainants.

## **E. Probation.**

The probation department administers two types of attorney disciplinary probation: private and public. Private probation is agreed to as part of the resolution of a complaint against a lawyer, and is subject to approval by the Lawyers Board Chair. Public probation is imposed by the Minnesota Supreme Court.

In 2016, 37 new probations were opened, which was an increase from the 30 new probations in 2015. Of the new probations, 20 were public and the remaining 17 were private. Of the public probations, four were ordered by the Court as a condition of reinstatement to the practice of law. Seven of the new probations in 2016 involved lawyers with mental health issues, two involved alcohol dependency and 12 resulted from a lawyer's failure to properly maintain his or her trust account. With the exception of eight probationers who were in practice less than 10 years, almost half (17) of the new probations in 2016 were for lawyers with 20 or more years of experience. Nine probationers had practiced 30 or more years, including four lawyers with 40 or more years of practice.

The Court revoked one probation in 2016 based on a stipulation for additional discipline. The Court also revoked the law licenses of three lawyers conditionally reinstated and placed on probation for failing to timely file with the Clerk of the Appellate Courts proof of their successful completion of the professional responsibility portion of the state bar examination.

In 2016, the Director began an overhaul of the probation department with a renewed focus on providing more resources to both probationers and supervisors. Upcoming initiatives will include the creation of a trust account school for those probations that include the submission and monitoring of trust account books and records.

During 2016, 31 Minnesota attorneys served as volunteer probation supervisors. Three attorneys and two paralegals staff the probation department, and commit a

combined total of 40 hours per week. Additional probation statistics can be found at A. 16–A. 17.

**F. Advisory Opinions.**

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

The number of advisory opinions requested by Minnesota lawyers and judges decreased in 2016. In 2016, the Director’s Office received 1,888 requests for advisory opinions, compared to 2,012 in 2015. This represents a 6% decrease over last year.

(A. 11 - A. 12.) Table XIII at A. 13 shows the areas of inquiry of opinions.

In 2016, the Director’s Office expended 300 assistant director hours in issuing advisory opinions. This compares with 303 hours in 2015. Dissolution/custody was the most frequently inquired about area of law. Conflicts of interest was the most frequent area of specific inquiry, along with client confidentiality, withdrawal from representation and trust account compliance.

**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.

There were 52 trust account overdraft notices reported to the Director in 2016, fewer than the 75 notices received in 2015. Of those 52 overdraft notices, 21 resulted in disciplinary files being opened. The most common reasons for commencing an investigation are shortages found, significant record-keeping deficiencies noted, commingling of client and attorney funds and failure to cooperate. There were 66 overdraft inquiries closed by the Director in 2016, nearly identical to the 67 closed in 2015. Oftentimes, these closures involve the Director making recommendations to the attorney's record-keeping practices. The most common deficiencies were a lack of proper books and records and a failure to properly reconcile the account.

In 2016, the overdraft inquiries closed without a disciplinary investigation were closed for the following reasons:

<b>Overdraft Cause</b>	<b>No. of Closings</b>
Check written in error on TA	13
Mathematical/clerical error	11
Bank error	7
Service or check charges	5
Late deposit	4
Deposit to wrong account	2
Bank hold on funds drawn	1
Third party check bounced	0
Reporting error	0
Improper/lacking endorsements	0
Other	2

A total of 255.50 hours – 80.75 hours of attorney time and 174.75 of paralegal/staff time – was spent administering the overdraft program in 2016.

## H. Judgments and Collections.

In 2016, judgments totaling \$43,111.84 were entered in 39 disciplinary matters. The Director's Office collected a total of \$44,489.43 from judgments entered during or prior to 2016. The Director's Office collected slightly more in 2016 than in 2015, despite the fact that 11 fewer judgments were issued in 2016. In fact, the Director collected more in 2016 than the yearly amount collected in at least the past 16 years. The Director collected \$2,614 in judgments prior to 2016 through the revenue recapture program.

## 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 requests were received in 2016:

	<u>No. of Requests</u>	<u>No. of Attorneys</u>	<u>Discipline Disclosed</u>	<u>Open Files</u>
A. National Conference of Bar Examiners	178	178	6	1
B. Individual Attorneys	343	343	20	0
C. Local Referral Services				
1. RCBA	16	51	2	0
2. Hennepin County	2	2	1	0
D. Governor's Office	21	61	4	1
E. Other State Discipline Counsels/State Bars or Federal Jurisdiction	65	65	1	2
F. F.B.I.	19	21	0	0
G. MSBA: Specialist Certification Program	29	107	5	1
H. Miscellaneous Requests	36	155	5	2
<b>TOTAL</b>	<b>709</b>	<b>983</b>	<b>44</b>	<b>7</b>
(2015 Totals for comparison)	(760)	(1203)	(55)	(9)

## 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 FY17, the Director was appointed trustee of the client files belonging to four deceased attorneys: John Wade Tackett, Michael Joseph Keogh, Roger Lincourt Belfay and Michael J. Corbin, an unusually high number in a short period of time. Typically, the Office sees one a year. In each of these matters, the Director has inventoried the client files and attempted to contact each client whose file is less than seven years old.

The Director was appointed trustee of the client trust accounts of six deceased attorneys: Donna Rae Johnson, John Wade Tackett, Michael Joseph Keogh, Roger Lincourt Belfay, Access Justice (Thomas Handorff), and William J. Aase. The trusteeship for Ms. Johnson has been closed. With regard to the Keogh, Access Justice and Aase trust accounts, the Director has completed her audit of those accounts and issued checks to the clients in accordance with those audits. The balances in the Tackett and Belfay trust accounts are nominal. The Director expects to complete her review of those accounts in the near future.

The Director continues to retain the following files:

- George C. Riggs trusteeship—753 files which are eligible for expunction in October 2017.
- Rudolph G. Maurine trusteeship—244 files which are eligible for expunction in October 2017.
- Hugh P. Markley trusteeship—19 files and 574 wills which are eligible for expunction in December 2017 and December 2019, respectively.
- Joseph Awah Fru trusteeship—596 files which are eligible for expunction in June 2018.

#### **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 2015 (December 1, 2015 – November 30, 2016), there were 171 new professional firm filings. Fees collected from professional firm filings are included in the Board's annual budget. As of April 30, 2017, the Director's Office received \$60,800 from 2,267 professional firm filings. There were 53 new professional firm filings for the current reporting year. The Director's Office received \$89,725 during fiscal year 2016.

An assistant director, paralegal, and administrative clerk staff the professional firms department. For fiscal year 2017 (as of April 30, 2017), the total attorney work time for overseeing the professional firms department was 47 hours. The total non-attorney work time was 724.75 hours.

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

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

each is assigned a staff lawyer from the OLPR as a liaison to that DEC. Currently, there are approximately 270 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 2016, the Director's Office followed DEC recommendations in 80% of investigated matters that 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 2016, the monthly average number of files under DEC consideration was 99, fluctuating between a low of 94 and a high of 127. The year-to-date average for 2017 is 99 as of April 30, 2017. Rule 7(c), RLPR, provides a 90-day goal for completing the DEC portion of the investigation. For calendar year 2016, the DECs completed 323 investigations, taking an average of four months to complete each investigation.

For calendar year 2016, of the completed DEC investigations statewide, the following dispositions were made (measured by number of files rather than lawyers):

Determination discipline not warranted	192
Admonition	54
Private probation	6

The annual seminar for DEC members, hosted by the Office and the Board, will be held this year on Friday, September 29, 2017. 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 Minneapolis. 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 have 20% non-lawyer membership. As of May 1, 2017, three districts are not in full compliance. The Office and Board continue to work with these districts to bring them into compliance.

#### **V. FY2018 GOALS AND OBJECTIVES.**

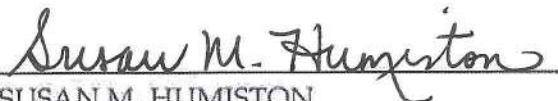
The Court has requested a Strategic Plan for the Office, so the primary objective for FY18 is the completion of a plan. One of the components of this plan will likely be implementation of several aspects of the Proactive Regulation model developed by and currently being implemented by a number of innovative state jurisdictions; a systematic approach to attorney regulation focused on preventing ethics issues in the first instance. Additionally, the Office will continue to work towards its goal of all cases being closed or charged out within one year, excepting only cases on hold pending resolution of collateral proceedings. Finally, the Office expects to launch its new case management database in early 2018.

As noted last year, substantively, the Board and Office remain cognizant of the significant impact chemical dependency and mental health issues have on the profession, particularly as it relates to violations of the rules and cooperation with the Director. Increased resources within the Office have been dedicated to the probation department as part of our effort to assist such attorneys. Effective partnerships with Lawyers Concerned for Lawyers and the MSBA remain important to tackling this issue as well. Effective succession planning for small firm and solo practitioners, particularly


in outstate Minnesota, is also an area of interest for the Board to ensure appropriate protection of client interest.

Dated: July 3, 2017.

Respectfully submitted,

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

and

  
STACY L. VINBERG  
CHAIR, LAWYERS PROFESSIONAL  
RESPONSIBILITY BOARD

## **LAWYERS PROFESSIONAL RESPONSIBILITY BOARD**

**Stacy L. Vinberg, Granite Falls** - Chair. Attorney member. Term expires January 31, 2019. Served in private sector practice for 16 years prior to becoming an Assistant County Attorney. Areas of practice while in private practice were mainly real estate, probate, wills/trusts, family law, and contract litigation. Primary area of law currently is criminal prosecution of all gross misdemeanor and felony level offenses.

**Terrie S. Wheeler, Rush City** - Vice Chair. Public member. Term expires January 31, 2018. Serves on LPRB Executive Committee and as Chair of the Board's DEC Committee. Served on the Hennepin County District Ethics Committee for two years. For over 20 years has been the president of Professional Services Marketing, LLC. Has a strong background in ethical marketing practices for lawyers, and offers marketing consulting and marketing coaching services to lawyers in Minnesota and across the country. Teaches ethical marketing strategies at two Midwestern law firms, and is a regular CLE presenter for bar associations in Minnesota and nationally.

**Joseph P. Beckman, Edina** - Attorney member. MSBA nominee. Term expires January 31, 2020. 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. Served on Hennepin County District Ethics Committee for eight years. Owner of Cullen Law Firm, Ltd. Areas of legal experience: Commercial and individual client litigation in state and federal courts; personal injury and professional liability civil actions; representation of medical professionals in civil, criminal and peer review matters and proceedings; criminal defense in state and federal courts; and service as an arbitrator in American Arbitration Association commercial and no-fault arbitration proceedings.

**Norina Jo Dove, Minneapolis** - Public member. Term expires January 31, 2019. Employed as a Senior Paralegal and Business Manager at MacLean & Michales Family Law. Areas of expertise: Family Law, Debtor/Creditor, Real Estate and Business Litigation.

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

**Roger Gilmore, Brooklyn Park** - Public member. Term expires January 31, 2020. 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.

**Christopher A. Grgurich, Minneapolis** - Attorney member. MSBA nominee. First term expires January 31, 2019. Partner at Lindquist & Vennum. Focus on securities and commercial litigation. Also serves as General Counsel 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 Assn. Professionalism and Ethics Section.

**Mary L. Hilfiker, St. Paul** - Public member. Term expires January 31, 2020. 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, 2018. Serves on the LPRB Rules Committee. Served on Tenth District Ethics Committees. Chief Operating Officer, Southern Minnesota Regional Legal Services, Inc. (SMRLS). Areas of law: Family, real estate, bankruptcy, juvenile, criminal and corporate law as well as labor relations.

**Anne M. Honsa, Minneapolis** - Attorney member. Term expires January 31, 2019. Served on the Fourth District Ethics Committee for 12 years - four years as Vice-Chair. Founder of Honsa Rodd Landry. Area of law: Family Law.

**Peter Ivy, Chaska** - Attorney member. First term expires February 1, 2020. 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 Attorney'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. 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, 2018. President and founder of The Speaker's Edge, LLC. Areas of expertise: Strategic-communications consultant and certified Qualified Administrator of the Intercultural Discovery Inventory, experienced in leading small-group and individual training sessions to develop confident speakers who get results. Clients include attorneys from major law firms and corporate executives.

**Virginia Klevorn, Plymouth** - Public member. First term expires February 1, 2020. Served on Fourth District Ethics Committee for three years. Business management consultant specializing in alternative dispute solution services.

**Michael J. Leary, Burnsville** - Public member. Term expires January 31, 2019. Serves on LPRB DEC Committee. Served on the First District Ethics Committee for two years and the Second District Ethics Committee for three years. Retired as Executive Vice President of International Dairy Queen, Inc. Areas of expertise: Mediation and arbitration; management and contract issues.

**Cheryl M. Prince, Duluth** - Attorney member. Term expires January 31, 2019. Chair of LPRB Rules Committee. Serves on LPRB DEC Committee. Shareholder in the Duluth firm of Hanft Fride, P.A. Served on Eleventh District Ethics Committee for many years, including six years as Chair. Areas of law: Family law and mediation.

**Susan C. Rhode, Minneapolis** - Attorney member. Partial term expires January 31, 2018. 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.

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

**Bruce R. Williams, Virginia** - Attorney member. Partial term expires January 31, 2019. 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. 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.

**Robin M. Wolpert, St. Paul** - Attorney member. MSBA nominee. Term expires January 31, 2020. 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.

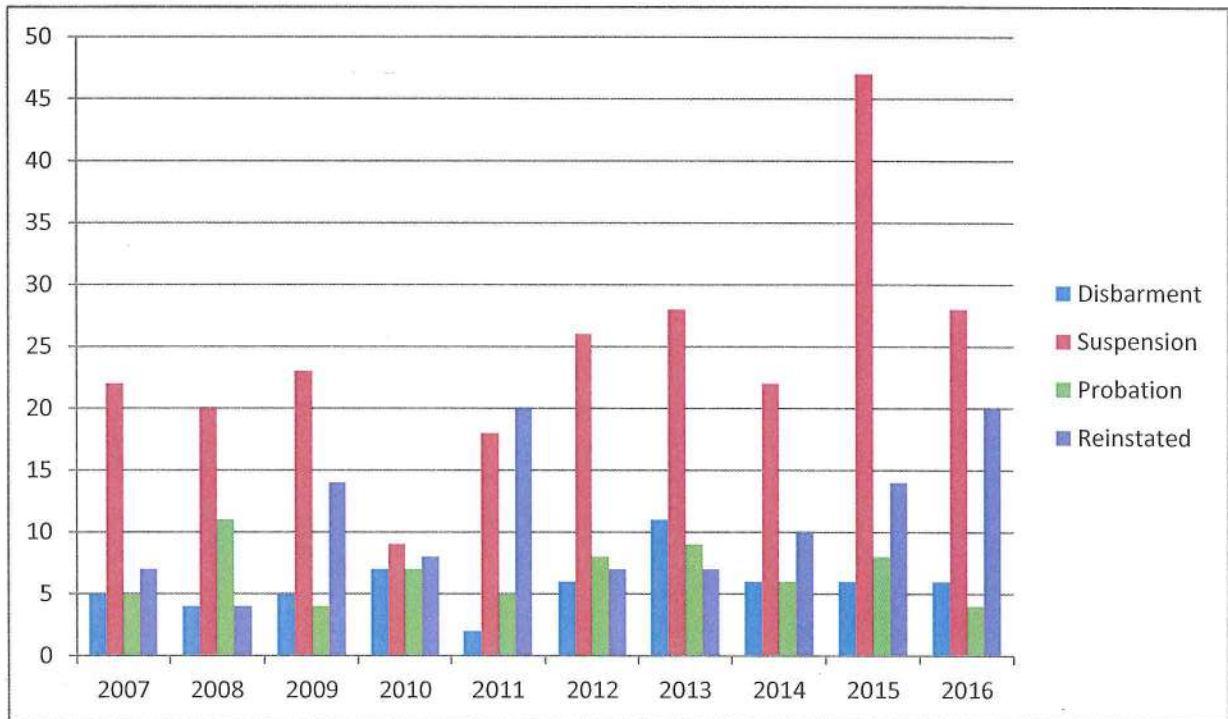
**Table I**  
**Complaint Statistics 2000–2016**

	<b>Files</b>	<b>Files</b>
<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

**TABLE II**  
**Supreme Court Dispositions and Reinstatements 2007-2016**  
**Number of Lawyers**

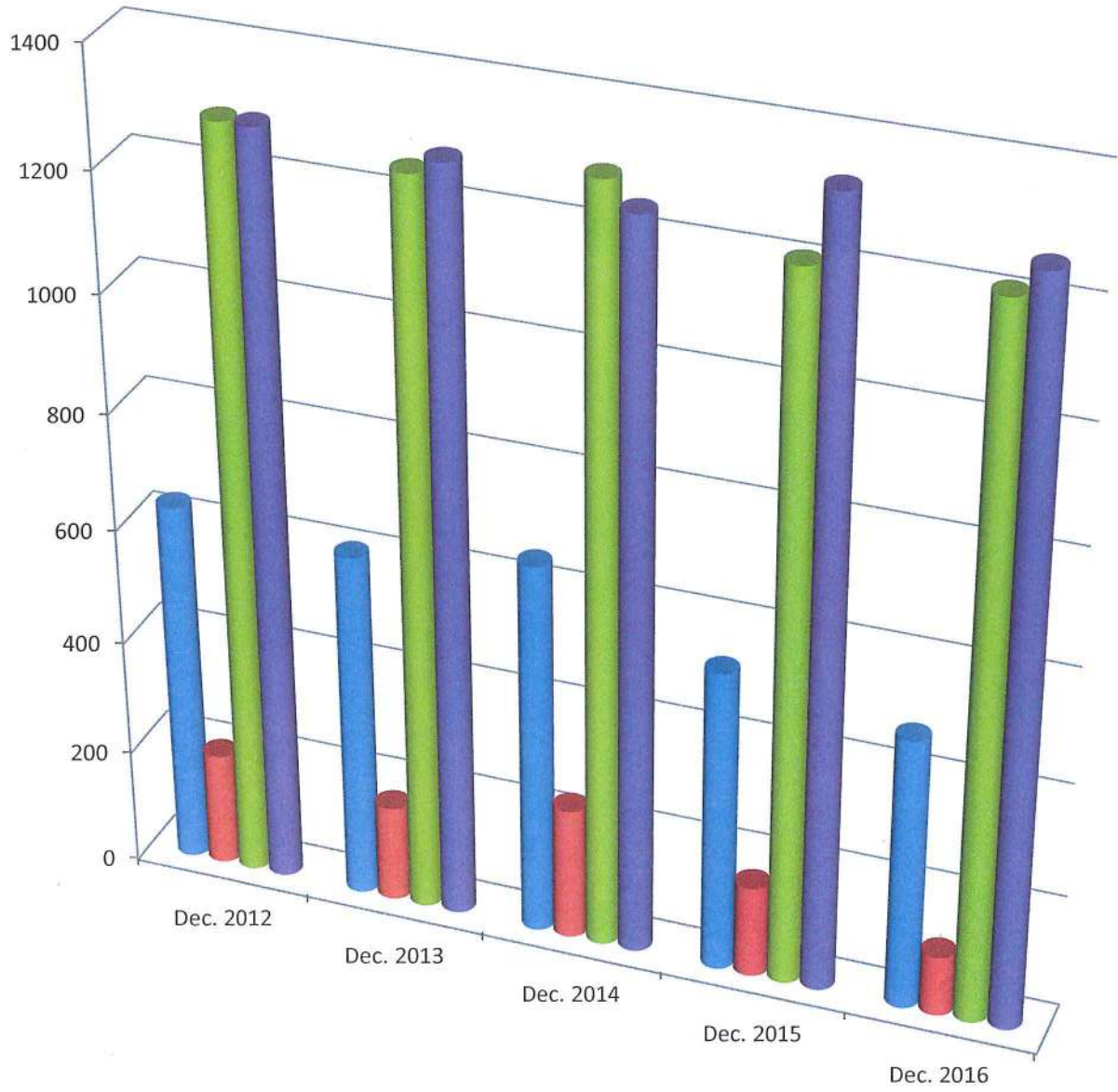
	Disbar.	Susp.	Probation	Reprimand	Dismissal	Reinstated	Reinstated Denied	Disability	SC AD/Aff	Other	Total
2007	5	22	6	-	-	7	2	-	1	-	43
2008	4	20	11	2	-	4	2	2	-	-	45
2009	5	23	4	6	-	14	1	1	-	-	54
2010	7	9	7	3	1	8	2	4	-	-	41
2011	2	18	5	2	-	20	-	1	-	-	48
2012	6	26	8	1	1	7	-	-	-	-	49
2013	11	28	9	4	-	14	-	2	-	-	68
2014	6	22	6	5	-	10	1	0	0	1**	51
2015	6	47	8	4	-	14	-	1	-	-	80
2016	6	28	4	6	2	20	2	2	1	1**	72

**TABLE III**  
**Disbarments, Suspensions, Probations and Reinstatements 2007-2016**



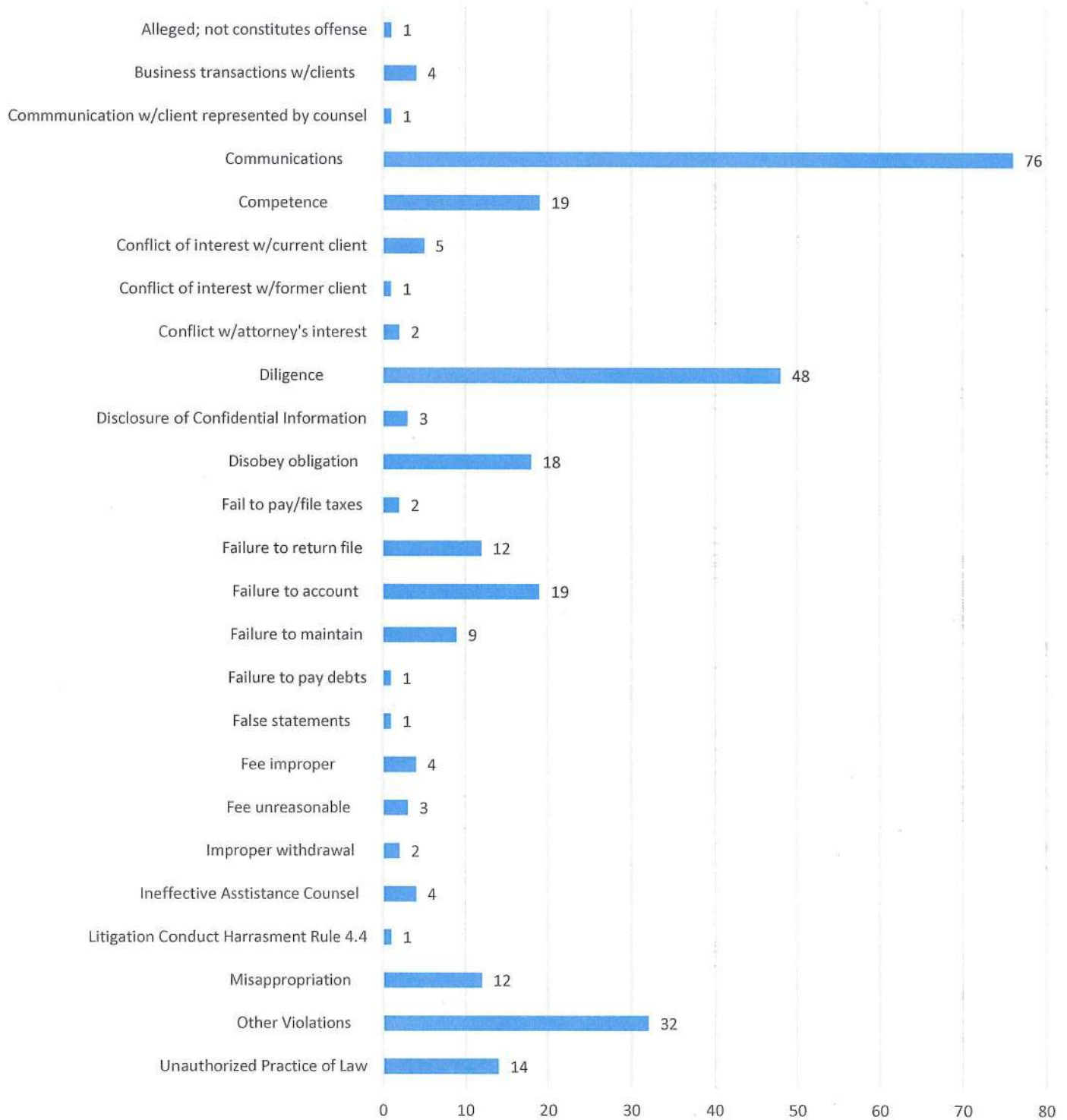
\*\* Reinstatement dismissed.

**TABLE IV**  
**File Openings, Closings and Year Old Files 2012-Present**



	Dec. 2012	Dec. 2013	Dec. 2014	Dec. 2015	Dec. 2016
Total Open Files	632	605	650	528	478
Cases at Least One Year Old	197	168	231	161	108
Complaints Received YTD	1,287	1,253	1,293	1,210	1,215
Files Closed YTD	1,287	1,279	1,248	1,332	1,264

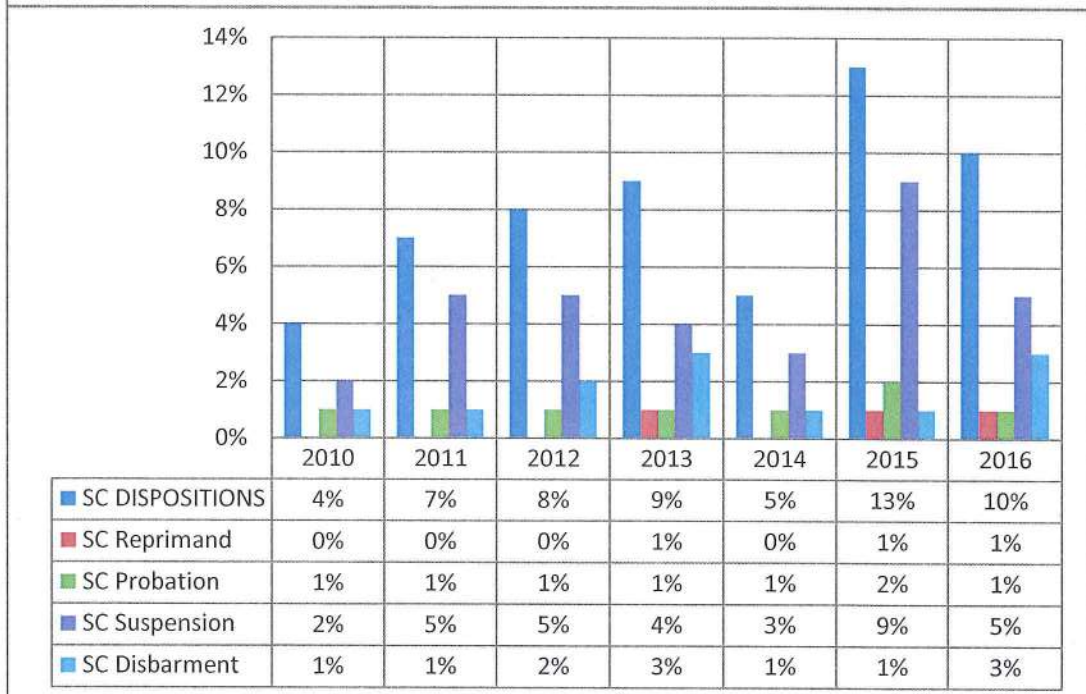
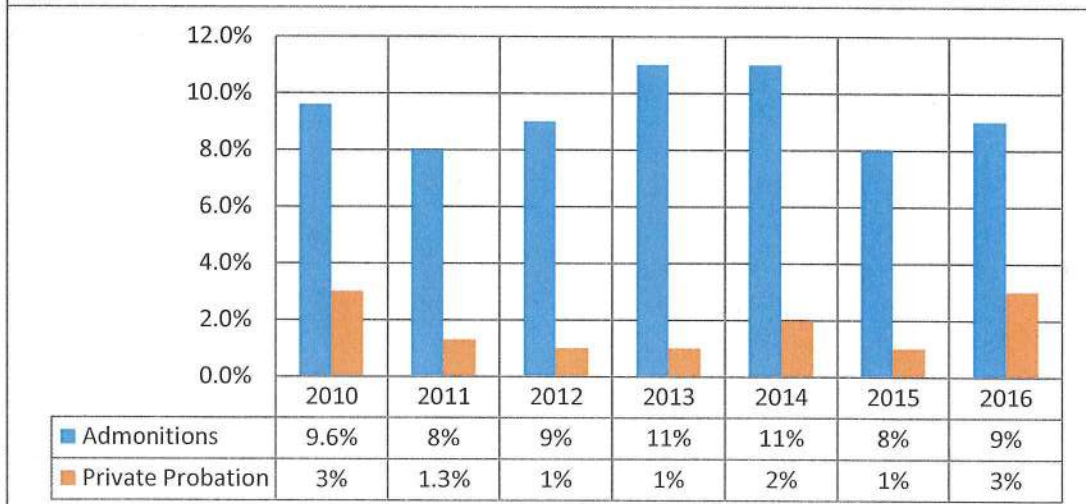
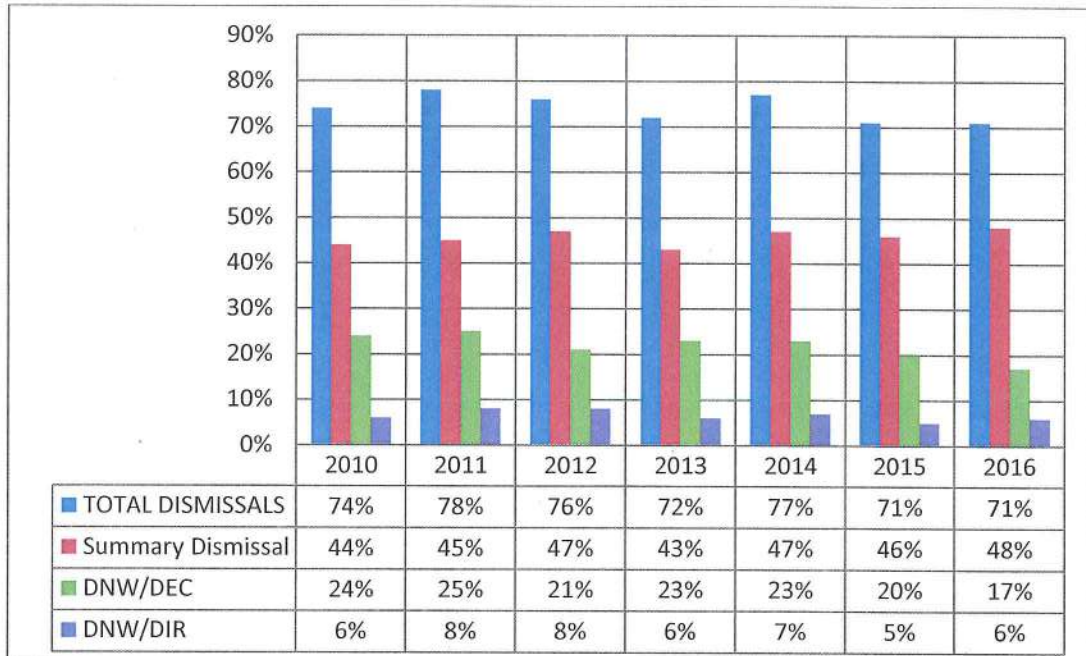
**TABLE V**  
**AREAS OF MISCONDUCT-ADMONITIONS 2016\***



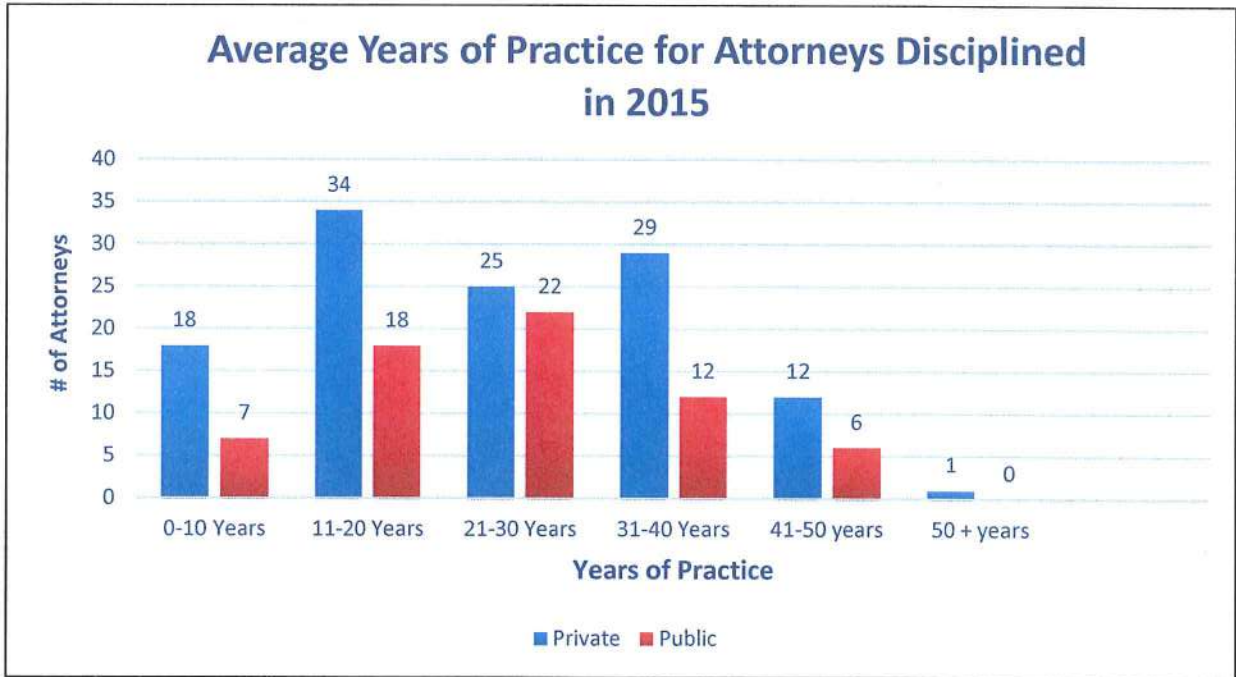
\*In 2016, the Office issued 115 admonitions involving 295 rule violations.

This chart reflects the number of rule violations involved in those 115 admonitions, organized by area of misconduct.

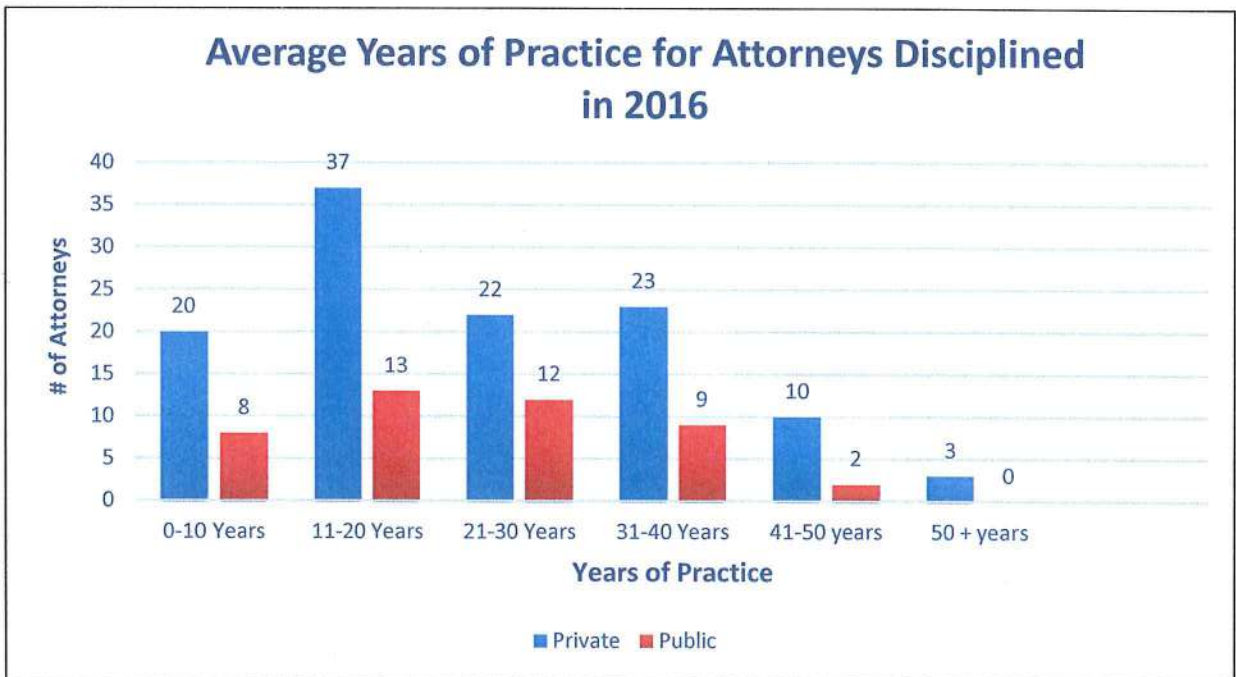
**TABLE VI**  
**Percentage of Files Closed**



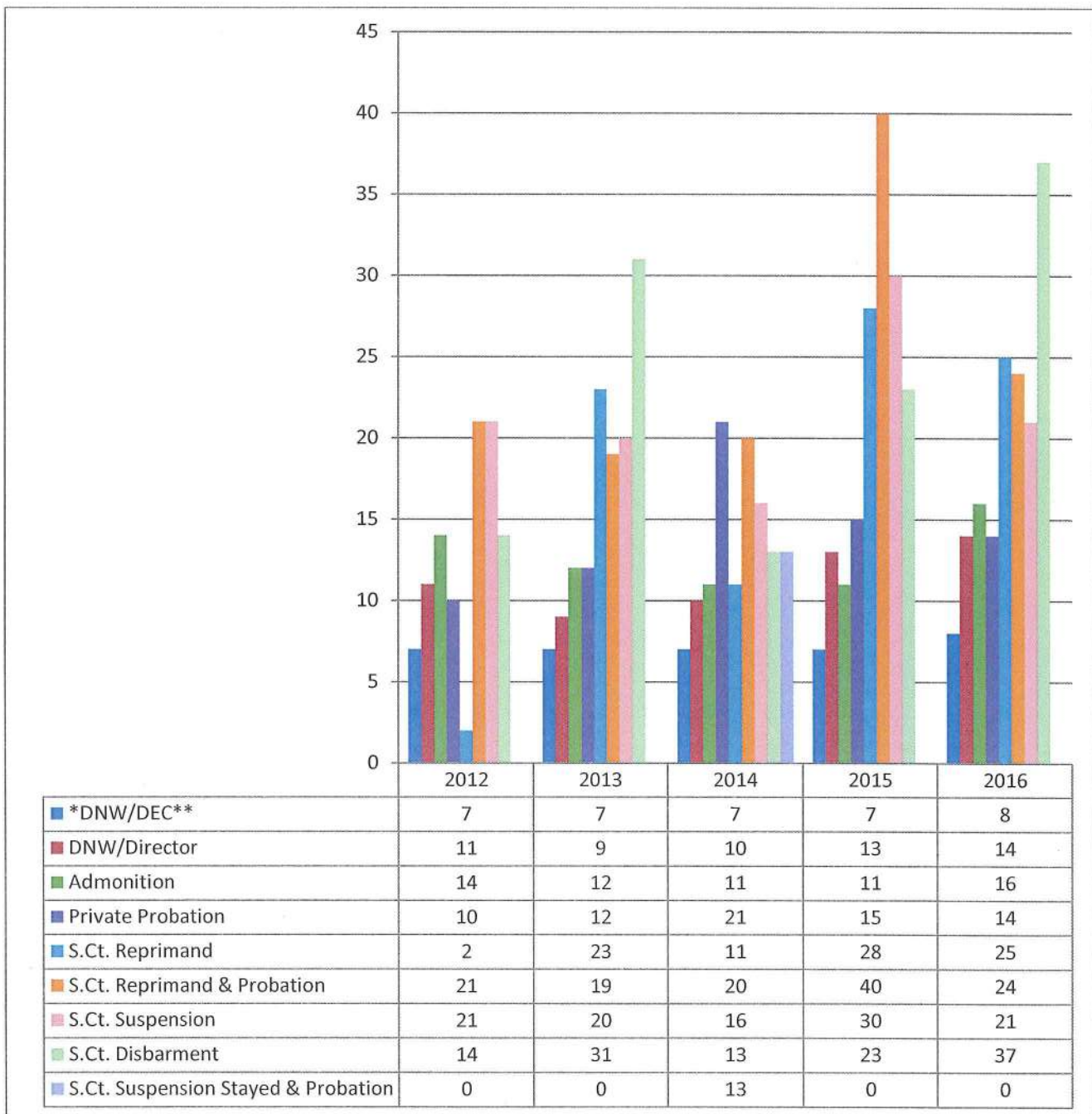
**TABLE VII**



**TABLE VIII**



**TABLE IX**  
Average Number of Months File was Open at Disposition

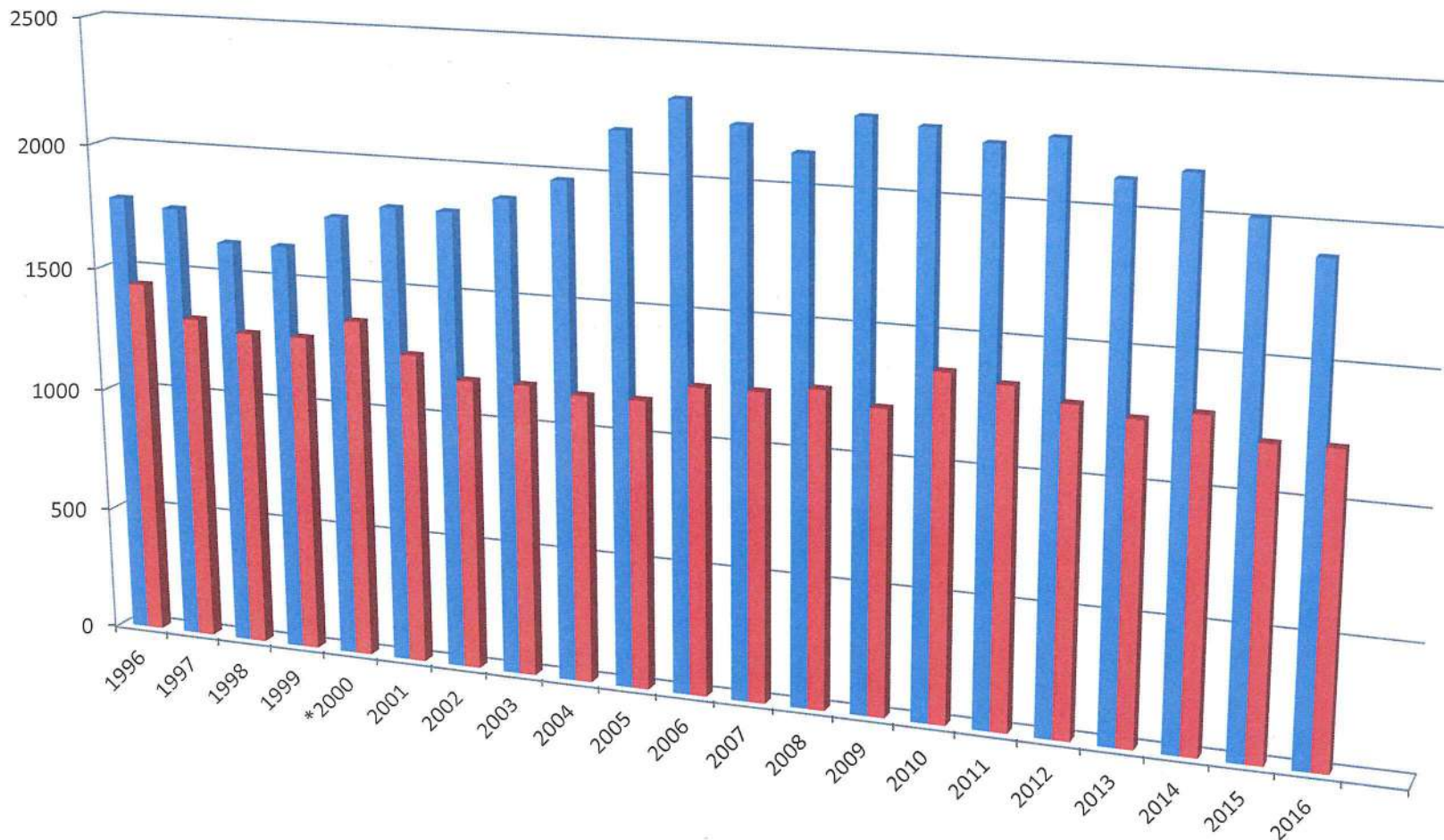


\*Discipline Not Warranted  
\*\*District Ethics Committee

**TABLE X**  
**PUBLIC DISCIPLINE DECISIONS 1985-2016**

<b>Year</b>	<b>Disbarments</b>	<b>Suspensions (all)</b>	<b>Probations</b>	<b>Reprimands</b>	<b>Total</b>
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
<b>TOTALS</b>	<b>195</b>	<b>621</b>	<b>228</b>	<b>109</b>	<b>1153</b>

**TABLE XI**  
**Advisory Opinion Requests Received**  
**and**  
**Number of Complaints Opened**  
**1996 - 2016**



	1996	1997	1998	1999	*2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	
■ Advisory Opinions Received	1783	1757	1632	1635	1770	1824	1825	1889	1974	2177	2307	2223	2135	2282	2258	2215	2249	2116	2156	2012	1888	
■ Complaints Opened	1438	1314	1275	1278	1362	1246	1165	1168	1147	1150	1222	1226	1257	1206	1365	1337	1287	1253	1293	1210	1216	

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

**TABLE XII**  
**Advisory Opinions 1991-2016**

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

\* 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	2015	2016
1.1	Competence	16	17
1.2	Scope of Representation	55	52
1.3	Diligence	8	7
1.4	Communication	31	50
1.5	Fee Agreements and Fees - Generally	104	119
1.6	Client Confidentiality	245	271
1.7	Conflict of Interest - Generally	246	279
1.8	Conflict of Interest - Transactions	62	69
1.9	Conflict - Former Clients Generally	169	193
1.10	Imputed Disqualification - Generally	57	41
1.11	Government Lawyer Conflicts Generally	15	13
1.12	Former Judges & Law Clerks	8	8
1.13	Organization as Client	11	25
1.14	Disabled Client - Generally	50	38
1.15	Trust Accounts - Generally	174	162
1.16	Withdrawal from Representation	232	281
1.17	Sale or Termination of Law Practice	34	50
1.18	Prospective Clients	55	43
2.1	Advisor	1	0
2.4	Lawyer Serving as 3rd Party Neutral	0	4
3.1	Meritorius Claims	16	10
3.2	Expediting Litigation	1	2
3.3	Candor Toward the Tribunal	41	49
3.4	Fairness to Opposing Counsel	37	30
3.5	Contact with jurors or venire	8	2
3.6	Trial Publicity	1	0
3.7	Attorney as Witness	16	15
3.8	Special Prosecutor Duties	5	5
4.1	Candor to Others	2	7
4.2	Contact with Represented Party	81	72
4.3	Contact with Unrepresented Party	18	30
4.4	Respect for Third Persons' Rights	24	26
5.1	Supervisory Lawyers	1	2
5.2	Subordinate Lawyers	4	1
5.3	Non-Lawyer Employees	5	8
5.4	Professional Independence	13	13
5.5	Unauthorized Practice	87	76
5.6	Covenants Not to Compete	7	7
5.7	Responsibilities Regarding Law Related Services	4	3
5.8	Employment of Suspended Attorney	4	8
6.1	Voluntary Pro Bono	0	1
6.3	Legal Services Organizations	1	0
6.5	Pro Bono Limited Legal Services Programs	2	2
7.1	Advertising Generally	38	25
7.2	Technical Requirements	22	16
7.3	Solicitation Generally	35	29
7.4	Specialization	3	0
7.5	Letterhead & Firm Name	49	25
8.1	Admission and Discipline	1	2
8.2	Legal Officials	0	1
8.3	Duty to Report Attorney Misconduct	56	69
8.4	Misconduct	50	47
99	Dormant File Procedures	167	100
	<b>Totals</b>	<b>2372</b>	<b>2405</b>

\* Some calls involve more than one rule.

**OLPR Summary of Public Matters Decided  
2016**

**71 Decisions Involving 143 Files**

<b>Disbarment</b>	<b>40 files</b>	<b>6 attorneys</b>
EDLUND , PAUL JODY	A16-914	1
GREEN , PAMELA L	A15-682	1
HANSEN , DALE ALLEN	A16-1413	5
OLIVER , TIMOTHY J	A15-1285	1
RAMBOW , PAUL ROLAND	A14-804	19
RESNIK , RONALD	A16-1026	13
<b>Suspension</b>	<b>60 files</b>	<b>27 attorneys</b>
AKWUBA , JOHN NWABUWANE	A15-1316	1
BECKER , SCOTT ALAN	A15-1877	1
BOSMAN , PAUL JOSEPH	A15-1930	5
BRANTINGHAM , JEREMY LLOYD	A16-674	2
BULL , ERIC DAVID	A16-324	1
DUCHON , JAMES CARL	A16-1274	5
GILLETTE , ADAM ANDREW	A16-1195	1
GREEN , KEVIN O'CONNOR	A16-1685	1
HANSMEIER , PAUL ROBERT	A15-1855	4
JOHNSON , JAREN LEE	A16-240	1
KENNEDY , DUANE A	A15-1390	2
LEWIS , JONATHAN C	A15-999	1
MAYER , JAMES RICHARD	A15-1274	1
OBASI , CHRISTOPHER OZIOMA	A16-1132	1
OBASI , CHRISTOPHER OZIOMA	A16-1718	1
OLSON , DAVID WALTER	A16-1374	1
PENDLETON , ALAN F	A15-1996	1
PETRY , RICKIE LEONARD	A16-366	14
POPPE MACKENZIE , JILL ALANE	A15-1888	4
PRICE , CHARLES A	A16-921	1
RIEHM , MICHAEL JOHN	A13-1786	3
RUFFING , AMANDA LYN	A15-1243	1
SANCHEZ , JORGE LUIS	A16-66	1
SMITH , VICTOR HARLAN	A16-409	1
SWANSON , RICHARD LEE	A14-1589	1

THOMAS , DARRYL CHARLES II	A15-1901	3
WANDLING , DAVID EDWIN	A15-1946	1
<b>Suspension/Reprimand</b>	<b>1 files</b>	<b>1 attorneys</b>
GREENMAN , MARK ALAN	A16-491	1
<b>Reprimand &amp; Probation</b>	<b>6 files</b>	<b>4 attorneys</b>
KRAUS , THOMAS J	A16-688	2
LEE , FONG ERIC	A16-228	1
PEARSON , TODD CURTIS	A15-1818	1
ROBINSON , MITCHELL ALAN	A15-1357	2
<b>Reprimand</b>	<b>9 files</b>	<b>6 attorneys</b>
ALTSCHULER , DEBRA ELISE	A16-193	1
DUGAS , MICHAEL KEVIN	A16-1204	2
KENNEDY , DANIEL L M	A15-1698	2
SMALL , ANDREW MARC	A16-1832	1
STONEBURNER , ROBERT D	A15-441	1
VAN BEEK , TROY ALLEN	A15-536	2
<b>Dismissal</b>	<b>2 files</b>	<b>2 attorneys</b>
IGBANUGO , HERBERT AZUBUIKE	A15-1319	1
OLSON , DANIELLE HEATHER	A16-280	1
<b>Disability Inactive Status</b>	<b>2 files</b>	<b>2 attorneys</b>
CARTER , RALPH F	A16-435	1
KOEPKE , KEVIN MICHAEL	A16-791	1
<b>Reinstatement</b>	<b>5 files</b>	<b>5 attorneys</b>
OLSON , DAVID WALTER	A16-1374	1
PENDLETON , ALAN F	A15-1996	1
RUFFING , AMANDA LYN	A15-1243	1
SHEYS , KEVIN MICHAEL	A15-1867	1
TIEN , WENDY SLOANE	A16-319	1

<b>Reinstatement &amp; Probation</b>	<b>15 files</b>	<b>15 attorneys</b>
AKWUBA , JOHN NWABUWANE	A15-1316	1
BECKER , SCOTT ALAN	A15-1877	1
BOSMAN , PAUL JOSEPH	A15-1930	1
GILLETTE , ADAM ANDREW	A16-1195	1
GREEN , KEVIN O'CONNOR	A16-1685	1
JOHNSON , JAREN LEE	A16-240	1
KENNEDY , DUANE A	A15-1390	1
KUNZ , BRUCE ANTHONY	A15-178	1
KURZMAN , MARC G	A14-1416	1
NYBERG , KENT E	A15-1632	1
O'GARA , CAROL LYNN	A16-671	1
OYEN , KRISTIAN LEE	A14-1384	1
SWANSON , SCOTT WILLIAM	A15-1011	1
SWANSON , RICHARD LEE	A14-1589	1
ZITNICK , KARA JANE JENSEN	A15-743	1
<b>Reinstatement Denied</b>	<b>2 files</b>	<b>2 attorneys</b>
GRIFFITH , CLARK CALVIN II	A15-1186	1
SEVERSON , LARRY S	A16-596	1
<b>Reinstatement Dismissed</b>	<b>1 files</b>	<b>1 attorneys</b>
TOBERMAN , RACHEL LAUREN	A16-67	1

PROBATION STATISTICS

**TOTAL PROBATION FILES OPEN DURING 2016**

Public Supervised Probation Files (38.4%)	38	
Public Unsupervised Probation Files (18.2%)	<u>18</u>	
Total Public Probation Files (56.6%)		56
Private Supervised Probation Files (15.1%)	15	
Private Unsupervised Probation Files (28.3%)	<u>28</u>	
Total Private Probation Files (43.4%)		<u>43</u>
<b>Total Probation Files Open During 2016</b>		<b>99</b>

**TOTAL PROBATION FILES**

Total probation files as of 1/1/16	71
Probation files opened during 2016	36
Private probation extended during 2016	1
Probation files closed during 2016	<u>(36)</u>
<b>Total Open Probation Files as of 12/31/16</b>	<b>72</b>

**PROBATIONS OPENED IN 2016**

**Public Probation Files**

Court-ordered Probation Files		
Supervised	12	
Unsupervised	<u>4</u>	
		16

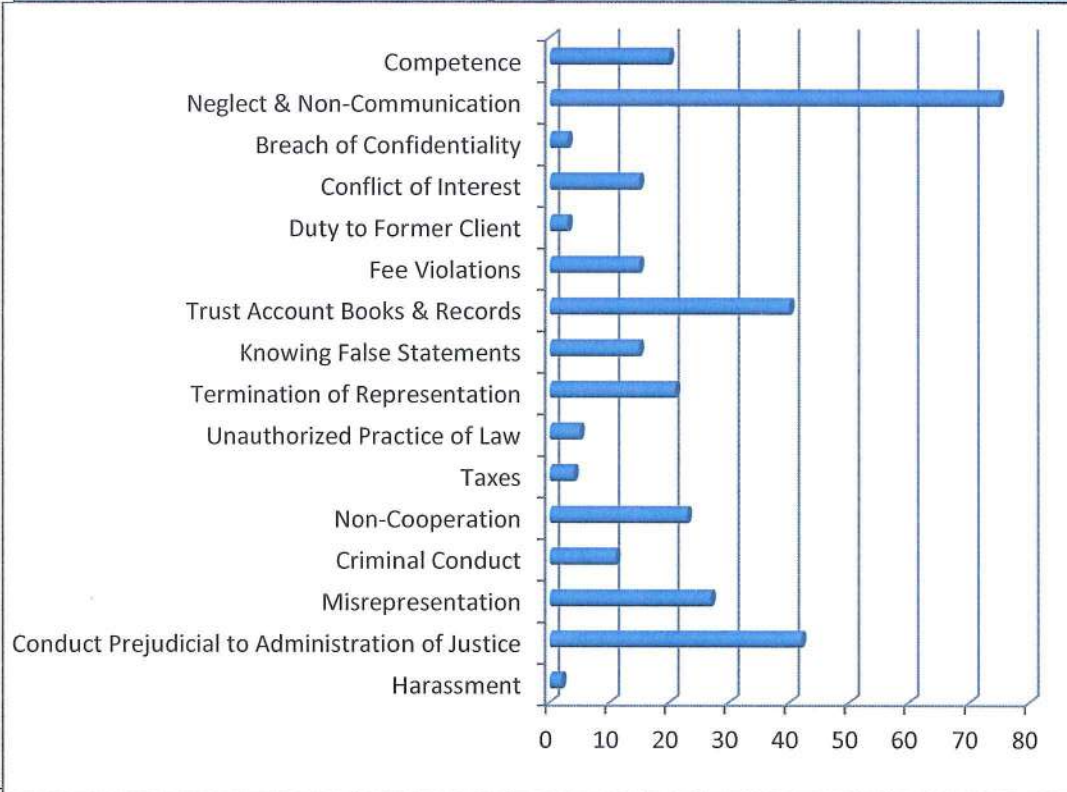
**Reinstatements**

Supervised	1	
Unsupervised	<u>3</u>	
		<u>4</u>
<b>Total Public Probation Files</b>		<b>20</b>

**Private Probation Files**

Supervised	9	
Unsupervised	<u>8</u>	
		<u>17</u>
<b>Total Private Probation Files</b>		<b>17</b>
<b>Total New Probation Files in 2016</b>		<b>37</b>

**AREAS OF MISCONDUCT-PROBATION**  
As reflected in 99 open probations during 2016<sup>1</sup>



Competence (Violation of Rules 1.1 and 1.2, MRPC)	20
Neglect & Non-Communication (Violation of Rules 1.3 and 1.4, MRPC)	75
Breach of Confidentiality (Violation of Rule 1.6, MRPC)	3
Conflict of Interest (Violation of Rules 1.7 and 1.8, MRPC)	15
Duty to Former Client (Violation of Rule 1.9, MRPC)	3
Fee Violations (Violation of Rule 1.5, MRPC)	15
Trust Account Books and Records (Violation of Rule 1.15, MRPC)	40
Termination of Representation (Violation of Rule 1.16, MRPC)	21
Knowing False Statements to Others (Violation of Rule 4.1, MRPC)	15
Unauthorized Practice of Law (Violation of Rule 5.5, MRPC)	5
Taxes	4
Non-Cooperation (Violation of Rule 8.1, MRPC)	23
Criminal Conduct (Violation of Rule 8.4(b), MRPC)	11
Misrepresentation (Violation of Rule 8.4(c), MRPC)	27
Conduct Prejudicial to the Administration of Justice (Violation of Rule 8.4(d), MRPC)	42
Harassment (Violation of Rule 8.4(g), MRPC)	2

<sup>1</sup> A file may involve more than one area of misconduct.

**Office of Lawyers Professional Responsibility  
Speaking Engagements and Seminars July 2016 – June 2017**

<b>Date</b>	<b>Topic</b>	<b>Location</b>	<b>Organization</b>	<b>Initials</b>
7/29/16	CLE for Law Clerks	Rochester	MNCLE	CBH
8/18/16	Pro Se Litigants and Professional Responsibility	Hastings	Minnesota Judicial Branch	SMH
9/8/16	“Good” Attorneys, Bad Decisions	Minneapolis	University of St. Thomas School of Law	JHB
9/14/16	New Law Series–Vision of OLPR	Webcast	MNCLE	SMH
9/17/16	Ethical Pitfalls for Family Law Attorneys	Minneapolis	MSBA	SMH
9/30/16	Technology, Social Media & Ethics	Minneapolis	Office of Lawyers Professional Responsibility	TMB
9/30/16	Stipulations for Discipline and the Court	Minneapolis	Office of Lawyers Professional Responsibility	CDK
9/30/16	Practical Tips for Dealing with Mental Health and Chemical Dependency Issues in Investigations	Minneapolis	Office of Lawyers Professional Responsibility	CBH
9/30/16	Case Studies: When the OLPR Departs from DEC Recommendations	Minneapolis	Office of Lawyers Professional Responsibility	BTT
9/30/16	District Ethics Committees Workshop	Minneapolis	Office of Lawyers Professional Responsibility	PRB
10/10/16	Ethical Issues in Pro Bono Work	Alexandria	MNCLE	AMM
10/21/16	Ethics for Law Librarians and Legal Advice Clinics	West St. Paul	Minnesota Judicial Branch	SMH
11/2/16	Unbundled Legal Services	Minneapolis	MNCLE	MDE
11/3/16	Behind the Scenes Look at a Case Study Complaint Involving Real Estate Issues	St. Paul	Real Estate Institute	AMM
11/3/16	Anoka County Bar Association Seminar	Anoka	Anoka County Bar Association	TMB
11/4/16	Conflicts in Real Estate	St. Paul	MNCLE	SMH
11/5/16	Topics in Ethics	St. Paul	Air National Guard	KTS
11/9/16	Ethics Issues in Lawyers’ Use of Social Media	Excelsior	West Metro CLE Seminars	JHB
11/17/16	Professional Responsibility	Minneapolis	University of St. Thomas School of Law	PRB
12/14/16	MSBA Seminar on Rule 5.5	Minneapolis	MSBA/CLE	PRB
12/19/16	IOLTA Seminar	Minneapolis	MSBA/CLE	PRB
1/12/17	Ethics Issues in Lawyers’ Use of Social Media	Anoka	Tenth Judicial District	CDK
1/13/17	Year in Review	Lilydale	First District Ethics Committee	CBH

**Office of Lawyers Professional Responsibility  
Speaking Engagements and Seminars July 2016 – June 2017**

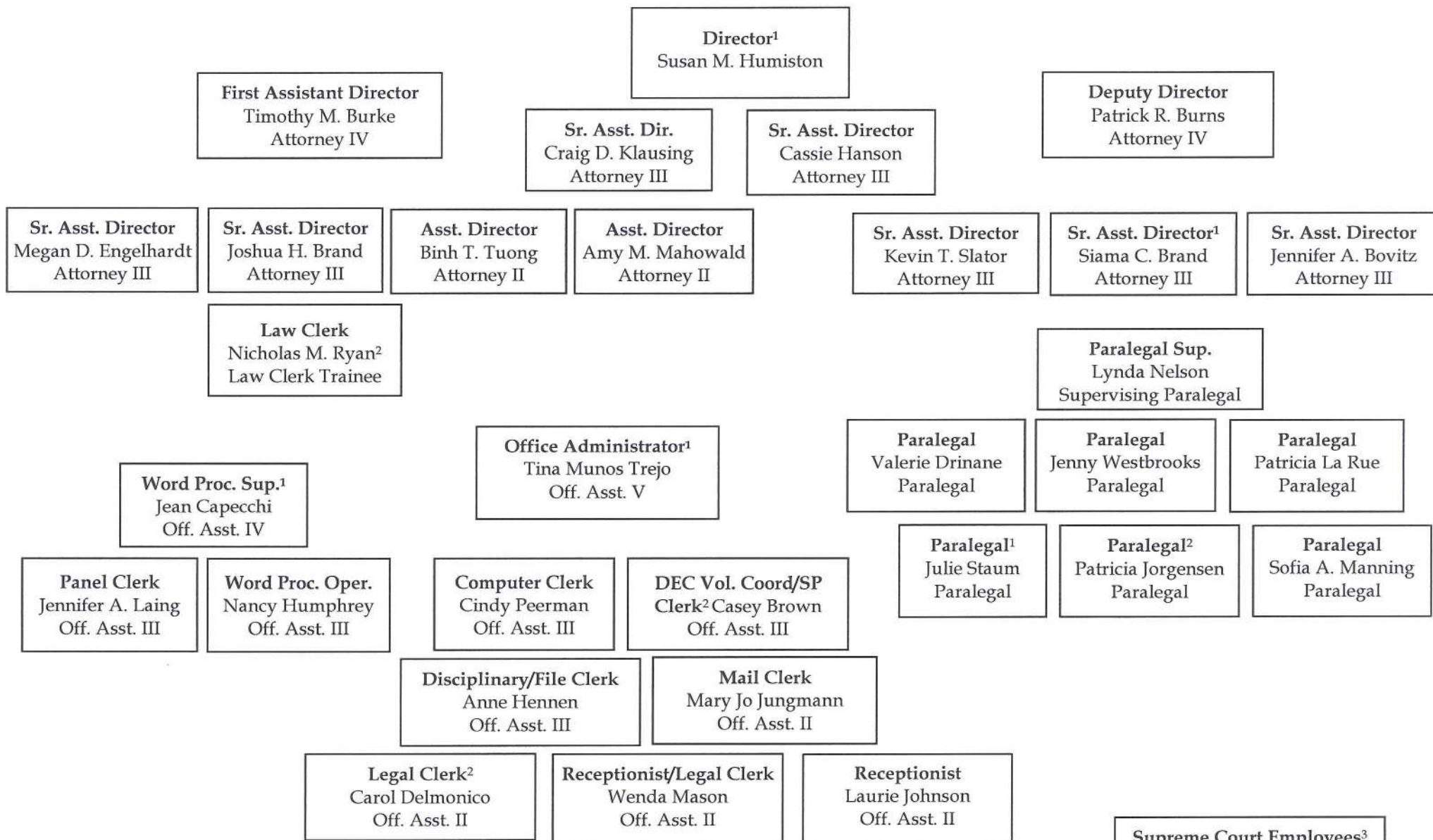
<b>Date</b>	<b>Topic</b>	<b>Location</b>	<b>Organization</b>	<b>Initials</b>
1/13/17	Year in Review	Benson	12th District Bar Association	SMH
2/15/17	Ethics for Civil Litigators	Minneapolis	MNCLE	MDE
2/24/17	Where Malpractice and Ethics Converge	Duluth	Minnesota Association for Justice	SMH
2/28/17	Volunteer Lawyers Network Seminar	Minneapolis	HCBA	PRB
3/2/17	Dorsey Seminar - WI & MN Recent Developments	Minneapolis	Dorsey & Whitney	PRB
3/8/17	MPA Probate & Tax Sectional, "Ethics for Paralegals"	Minneapolis	Minnesota Paralegal Association	LJN
3/10/17	Year in Review	Minneapolis	Hennepin County Bar Association	SMH
3/16/17	Major Case Developments in Ethics & Professional Responsibility	Minneapolis	Hennepin County Law Clerks	CBH
3/21/17	Family Law Institute	St. Paul	MNCLE	CBH TMB
3/21/17	Professional Responsibility Class	St. Paul	Mitchell Hamline School of Law	PRB
3/23/17	Volunteer Lawyers Network Annual Housing Seminar	Minneapolis	Faegre Baker Daniels	MDE
3/24/17	Ethics & the Criminal Lawyer	Minneapolis	University of Minnesota Law School	JSB SMH
3/29/17	Advising the Disadvantaged Seminar	Minneapolis	MNCLE	PRB
4/13/17	Estate Planning and Administration Seminar	St. Paul	RCBA	PRB
4/18/17	Client Threatening Self Harm	Webcast	MNCLE	TMB
4/19/17	Conflicts of Interest Basics	Webcast	MNCLE	SMH PRB
4/19/17	Life of a Complaint	Webcast	MNCLE	JSB CDK
4/20/17	NOBC Receiverships Webinar Organizer	Webinar	NOBC	JHB
4/27/17	Workers Compensation Ethics	Minneapolis	MNCLE	SMH
5/5/16	DEC Chairs Symposium	Brooklyn Center	LPRB	SMH PRB CB
5/5/17	Ethics of Civil Trial Specialist	Minneapolis	ACTLM	SMH
5/9/17	Alternative Dispute Resolution Seminar	Minneapolis	MSBA	PRB
5/11/17	Unbundling	Webcast	MSBA	PRB

**Office of Lawyers Professional Responsibility  
Speaking Engagements and Seminars July 2016 – June 2017**

<b>Date</b>	<b>Topic</b>	<b>Location</b>	<b>Organization</b>	<b>Initials</b>
5/17/17	Trust Account CLE	Minneapolis	MNCLE	CBH MDE LJN
5/18/17	Presentation in Dakota County	Hastings	MNCLE	AMM
5/19/17	Cross-Border Ethics	Grand Forks, North Dakota	MSBA/SBND	SMH
5/24/17	Issues & Trends in the Ethical Use of Social Media & Technology	St. Paul	RCBA	AMM
5/25/17	PR Topics for the PI Lawyer	Minneapolis	Minnesota Association for Justice	SMH
6/16/17	DWI Ethics	St. Paul	MN County Attorneys Association	JSB
6/21/17	Retainer Agreements & Fees and Termination of Representation	Webcast	MNCLE	KTS AMM
6/21/17	From the Director's Office: Putting Yourself Out There— You and Social Media	Webcast	MNCLE	SCB JHB
6/23/17	Ethics Issues for Prosecutors- Year in Review	St. Paul	MN County Attorneys Association	SMH
6/30/17	Year in Review	Webcast	MNCLE	PRB

# Office of Lawyers Professional Responsibility

## FY'17 Organizational Chart



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

<sup>2</sup> Part time position

<sup>3</sup> Not administratively subject to Director's Office.

Office pays percentage of their salary

**Supreme Court Employees<sup>3</sup>**  
 Accounting - 5% each  
 Teresa Fung  
 Vacant  
 Jeanne Frick



MINNESOTA  
Lawyers Professional Responsibility Board  
Office of Lawyers Professional Responsibility

1500 Landmark Towers 651-296-3952  
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### Announcements

**Save the Date - September 29, 2017 - Lawyers Professional Responsibility Seminar**

**June 9, 2017, Board Meeting Agenda and Materials**

**Draft April 14, 2017, LPRB Meeting Minutes**

**Attention Attorneys - Scam Alert!**

**Court Amends Rule 18, Rules on Lawyers Professional Responsibility, Effective January 1, 2017**

**Board adopts new Opinion No. 24 regarding Confidentiality of Information**

**Congratulations to Kevin Kolosky 2016 Volunteer of the Year**

**Lawyers Board Meetings 2017**

**LPRB and OLPR File Annual Report July 1, 2016**

**Lawyers Board Amends Appendix 1 to MRPC**

### What's New

**"Helping victims of lawyer dishonesty," MN Bench and Bar, May/June 2017**

**"Congressional interest in lawyer advertising," MN Bench and Bar, April 2017**

**"Your duty to report," MN Bench and Bar, March 2017**

**"Private discipline in 2016," MN Bench and Bar, February 2017**

**"2016 year in review: Public discipline," MN Bench and Bar, January 2017**

**"Client confidentiality and client criticisms," MN Bench and Bar, December 2016**

**"What happens to clients upon your death or disability?" MN Bench and Bar, November 2016**

**"Multijurisdictional practice and UPL risk," MN Bench and Bar, October 2016**

**"Is your trust account in order?" MN Bench and Bar, September 2016**

**"'Reply all' and some thoughts on flat fees," MN Bench and Bar, August 2016**

### 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

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345 St. Peter Street  
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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 Susan Humiston at [loraba@courts.state.mn.us](mailto:loraba@courts.state.mn.us) or at 651-296-3952. 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/ADA/ADAaccommodation.aspx](http://www.mncourts.gov/ADA/ADAaccommodation.aspx) for information on how to submit an ADA Grievance form.