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June 30, 1988

The Honorable Glenn E. Kelley
Associate Justice
Supreme Court of Minnesota
State Capitol
St. Paul, MN 55155

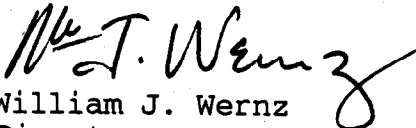
Re: Annual Report

Dear Justice Kelley:

Enclosed for filing are eight copies of the joint Annual Report of the Director of Lawyers Professional Responsibility and the Lawyers Professional Responsibility Board.

If you have any questions or comments, please contact me.

Very truly yours,


William J. Wernz
Director

WJW:JD:jd
Enclosures
cc: Office of Appellate Courts ✓

ANNUAL REPORT OF THE
LAWYERS PROFESSIONAL RESPONSIBILITY BOARD

ANNUAL REPORT OF THE
DIRECTOR OF LAWYERS PROFESSIONAL RESPONSIBILITY

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OFFICE OF
APPELLATE COURTS

JUN 30 1988

FILED

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June, 1988

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I. INTRODUCTION.

Rule 4(c), Rules on Lawyers Professional Responsibility, provides in part:

The Board shall prepare and submit to this Court an annual report covering the operation of the lawyer discipline and disability system.

Rule 5(b), Rules on Lawyers Professional Responsibility, provides in part:

The Director shall prepare and submit to the Board an annual report covering the operation of the Office of Lawyers Professional Responsibility

The Board's Report and the Director's Report are hereby jointly made. This Report covers the period June 1, 1987, through May 31, 1988.

Stability and continued improvement have been the most evident characteristics of the professional responsibility system in the last year. Case statistics, budget and personnel have changed little. Amidst this overall continuity there has, however, been a great deal of activity, marked by the following highlights:

1. The volunteer district committees have again reduced the average time for their investigations. The average age of a file in a district committee is now 1.3 months. Five years ago the average age was between four and five months. The Ramsey County Committee deserves particular commendation. On April 30, 1988, it had no files over three months old. By contrast, in 1983 and 1984 Ramsey averaged about 25 files more than three months old.

2. An ABA national survey indicated that while the numbers of complaints against lawyers were rising in other states, in Minnesota the number had declined to less than the national average. The overall number of investigation files opened in calendar 1987 declined notably, from 1,244 in 1985, to 1,233 in 1986 to 1,091 in 1987. For the third year in a row the overall total of open files on hand has declined. An article giving further details and analysis is attached at A.1-2.
3. Prompt handling of all allegations of serious unprofessional conduct. The only two files which have remained open for more than two years are pending in the Supreme Court for decision or briefing. Serious matters arising within the last year have been handled promptly because (1) adequate staff resources and reduced overall caseload have allowed prompt attention to serious matters; and (2) changes in the procedural rules proposed by the Lawyers Board and adopted by the Supreme Court in 1987 helped give prompt notice to the public and prompt presentation to the Court and its referees of the relevant charges and evidence; and (3) the Court's system of using required report dates for referees, initiated in 1986, has continued to be followed.
4. The fee paid by Minnesota lawyers for operation of the professional responsibility system has not changed since 1984. The most recent ABA survey reported that Minnesota's fee is \$6 per lawyer less than the national average. The number of employees in the Office of

Lawyers Professional Responsibility has not changed since October 1985. The Attorney Registration Fee Committee, appointed by the Supreme Court, to study the several Supreme Court boards, concluded in pertinent part:

The Committee conducted an independent investigation by obtaining and reviewing numerous documents, reports and other materials concerning the activities, needs and expenses of the LPRB. In addition, members met with the Director and his staff at the offices of the LPRB, and spoke with others involved in the disciplinary system and its procedures. Based on this review, the Committee makes the following findings and recommendations:

Rec. 1: That the LPRB operates efficiently and effectively and is entitled to its current level of funding plus its requested \$10.00 increase in the attorney license fee.¹

The fee will increase \$10 on July 1, 1988, but is not expected to rise again for several years.

5. A manual for use by Lawyers Board hearing panels will be considered for approval at the June Board meeting.

1/

- Rec. 2: That the LPRB currently reserves approximately 25% of its funds to cover cash flow, self-insurance and unforeseeable contingencies, and if practicable should purchase insurance so that the amount of money withheld is reduced.
- Rec. 3. That the Committee supports the petition before the Supreme Court to increase the costs the LPRB may recover in disciplinary actions from \$500 to \$750 and to authorize the recovery of attorney's fees.
- Rec. 4: That the LPRB explore the possibility of sharing space, equipment and personnel with other boards.

It will be available to counsel for respondent attorneys, and should enhance the consistency of handling procedural matters before panels. It will also help pro se respondent attorneys and counsel inexperienced in Panel proceedings to have greater notice of what to expect.

6. A brochure describing and illustrating proper trust account procedures is nearly complete for mailing to Minnesota attorneys. Some trust account violations are not caused by ignorance, but poor trust account procedures have often resulted in problems with client funds and some form of professional discipline.
7. The Board has proposed further amendments to the Rules on Lawyers Professional Responsibility. Among these is a rule in which investigations of complaints by criminal defendants against their attorneys would not occur during the pendency of criminal proceedings. This rule would ratify a practice adopted by the Lawyers Board, after lengthy consideration by its Criminal Law Committee. The Board has also considered, debated and approved a policy dealing with the circumstances in which attorneys formerly employed in the Director's Office may appear in discipline proceedings representing respondent attorneys.
8. As ever, some of the decisions, proposals and policies within the professional responsibility system have provoked controversy. This is as it should be, because important issues are at stake, and it is often unclear that there is a single "correct" course of action. It

is also easy for needless controversy to arise in professional responsibility matters. In the last year there have been few needless controversies.

9. What is called "stable" in good things may be called "chronic" in negative matters. There were two more major defalcations involving client funds uncovered within the last year, although they were not on the scale of the Sampson and Flanagan claims. Nonetheless, the problem of preventing defalcations, reimbursing victims and disciplining attorneys fairly but promptly remains an important set of issues, and may be a chronic problem. The number of attorneys disciplined for not filing tax returns also has begun to take on the appearance of a chronic problem.
10. The Office has again devoted a great deal of time and resources to acting as trustee for attorneys who have abandoned their practices. For example, the Office is in the process of attempting to return over 1,300 files of Mark Sampson to clients.

II. SUMMARY OF LAWYERS BOARD ACTIVITIES.

A. General Board Activities.

The Lawyers Board meets quarterly as a full board. Much of the Board's work is accomplished between these meetings. Members of the Board also meet in committees (the Executive Committee, current standing committees on rules and criminal law and special committees) and as hearing Panels. Board Panel chairs have special duties, including hearing Panel motion matters and reviewing proposed supplemental petitions for disciplinary action.

A group of Board members named by the Board Chair review appeals by complainants. This is a particularly time-consuming endeavor.

The Board as a whole undertakes a wide range of activities. It considers and approves budget. Pursuant to newly clarified rules, it recommends to the Court whether there should be lawyer discipline for a judge whose removal is recommended. The first case under the new rules, involving Judge Alberto Miera, came before the Board earlier this year. The Board developed a policy and related procedures for determining when it should consent to representation by former employees of the Director in current cases involving lawyer discipline--when the former employees have participated in disciplining the attorney now represented. Individual members of the Board also lend particular expertise to the Board or the Director on particular matters. For example, the Director's budgeting process has been ably assisted by a former school district administrator, Paul Kinney. Fenita Foley, experienced in personnel matters, has advised the Director's Office in that regard.

B. Laywers Board Committees.

1. Rules Committee.

The Rules Committee was formed in 1986 to study the Rules of Professional Conduct, Rules on Lawyers Professional Responsibility and Lawyers Professional Responsibility Board Opinions. The Rules Committee was extremely active during fiscal year '88. The Rules Committee members are:

7/1/87-2/1/88: Elizabeth W. Norton, Chair, Joan Morrow, Robert Shaw and Rollin Whitcomb.

2/1/88 to Present: Joan Hackel, Chair, Elizabeth W. Norton, Greg Bistram and Robert Shaw.

The Rules Committee recommended the following proposals or amendments to the Rules on Lawyers Professional Responsibility (RLPR) which were approved by the Board and presented to the Court in the Board's Petition for Rule Changes:

- a. Proposed repeal of Rule 13(b), concerning conditional admissions.
- b. Amendment to Rule 28(b) concerning disability inactive status.
- c. Amendments to Rule 20(d) concerning expunction procedures.
- d. Amendments to Rule 4(f) concerning Panel assignments and utilization of district ethics committee expertise.
- e. Amendment to Rule 14(e) concerning certificates of transcript in lawyer discipline proceedings.

The Rules Committee also updated and revised Opinions Nos. 1,4,5,8,9, and 10 of the Lawyers Professional Responsibility Board. These revisions were approved by the Board and will be published in Bench & Bar.

The Committee also recommended the following amendments to the Minnesota Rules of Professional Conduct, which were approved by the Board and will be included in a future rule change petition:

- a. Proposed amendments to Rules 7.2, concerning advertising.
- b. Proposed amendment to Rule 8.4, concerning failure to file income tax returns.

2. Criminal Law Committee.

This Committee, composed of Michael Fetsch, Julius Gernes and George Ludcke, finalized a proposed rule for dealing with complaints by criminal defendants against their defense attorneys. This resulted in proposed Rule 8(b), RLPR, on which the Court heard comment on May 12, 1988.

This Committee has recently been asked to give whatever consideration may be appropriate to the issue of imputed conflicts in the criminal law area. This issue has arisen in regard to public defender offices in light of Humphrey v. McLaren, 402 N.W.2d 535 (Minn. 1987).

III. SUMMARY OF DIRECTOR'S OFFICE ACTIVITIES AND GOALS.

A. Casework.

The four tables below show statistics reflecting case types, numbers, dispositions and time for handling cases. In the two and one-half years there has been a great deal of stability in the most important case statistics. The tables show generally continued improvement in most categories.

Last year marked the first time in the history of the Office that total open files at year end had declined three years in a row. Last year was also the first time that new files opened declined for the second year in a row. With only one exception, all attorneys subject to complaints filed before 1986 have either had the complaints resolved, or the matters have been fully briefed or argued to the Supreme Court. The exception is an attorney whose proceeding was abated pending resolution of criminal charges and appeals; that matter is now being briefed to the Supreme Court.

Table I

	<u>12/84</u>	<u>12/85</u>	<u>12/86</u>	<u>12/87</u>	<u>5/31/88</u>
Total Open Files	686	417	406	389	416
Cases at Least One Year Old	242	66	52	54	48
Complaints Received Y.T.D.	1,069	1,244	1,233	1,091	508
Files Closed	1,005	1,513	1,244	1,122	481

The large volume of files which result either in dismissal or in private discipline have generally been handled in a timely way, as shown in Table II below. A good deal of the credit for such timely handling is due to the volunteer efforts of the district ethics committees around the state. Another factor in the expeditious handling of cases is the increased use of summary dismissals, according to guidelines adopted by the Lawyers Board. The summary dismissal rate has been increased from 17% during 1982-1984, to 30% in 1985, to 34% in 1986, to 36% in 1987, to 43% (through May 31). The overall dismissal rate has remained constant, so that the increased summary dismissal practice appears to reflect better earlier yearly targeting of dismissal files, and the saving of volunteer investigative resources.

Table II

Number of Months File Was Open at Disposition

	1984	1985	1986	1987
Discipline Not Warranted/District Ethics Committee	6	6	4	4
Discipline Not Warranted/Director	11	13	6	6
Admonition	15	12	8	8
Private Probation	22	19	13	8
Sup. Ct. Reprimand	18	30	24	25
Sup. Ct. Probation	30	13	42	22
Sup. Ct. Suspension	27	30	27	25
Sup. Ct. Disbarment	35	11	13	12

Table III and IV below show the types of dispositions of complaints. Percentage correlations remain relatively constant among the general categories of dismissal and discipline, and the rate of public discipline has increased somewhat. The 1987 public discipline percentage was inflated by the inclusion of files relating to Mark Sampson, who was disbarred.

Table III

	Percentage of Files Closed			
	1984	1985	1986	1987
1. <u>Total Dismissals</u>	82%	82%	82%	79%
a. Summary Dismissals	15%	30%	34%	36%
b. DNW/DEC	56%	36%	39%	34%
c. DNW/DIR	11%	17%	9%	9%
2. <u>Admonitions</u>	10%	7%	8%	9%
3. <u>Private Probation</u>	2%	4%	1%	2%
4. <u>Supreme Court Dispositions</u>	6%	6%	8%	9%
a. S. Court Dismissal	--	--	--	--
b. S. Court Reprimand	1%	1%	--	1%
c. S. Court Probation	1%	1%	--	1%
d. S. Court Suspension	3%	3%	3%	3%
e. S. Court Disbarment	1%	1%	5%	4%

Tax Cases. Since June 1, 1987, the Supreme Court has issued 12 disciplinary opinions in which at least one of the offenses was non-filing of tax returns. Of these twelve decisions, nine resulted in suspension, two in probation and reprimand and one in a transfer to disability status. In addition, the Director has entered into one private stipulated probation with an attorney involving tax offenses, and has dismissed two complaints. There are presently six cases involving tax matters pending before the Court or its referees, and five more matters under investigation in the Director's Office. Almost all of the complaints filed by the Department of Revenue in late 1986 have been resolved, or will be resolved shortly.

Table IV
 Supreme Court Dispositions 1976-1987
 Number of Lawyers

	Disbar.	Susp.	Prob.	Censure & Rep.	Dismiss.	Other	Total
1976	4	5	0	0	0	1	10
1977	1	2	0	1	0	0	4
1978	6	10	3	4	0	0	23
1979	6	4	2	3	0	0	15
1980	1	3	1	1	0	0	6
1981	3	4	1	1	1	0	10
1982	6	8	0	5	2	2	23
1983	4	4	0	3	2	1	14
1984	3	7	3	9	0	1	23
1985	4	15	13	10	3	1	46
1986	8	17	4	2	0	0	31
1987	5	18	7	4	0	0	34

B. Budget.

Budgets are reviewed annually by the Executive Committee, the Lawyers Board and the Court. Annual budget increases have averaged about 6% recently. No dramatic changes are expected.

1. Income.

\$10.00 Fee Increase. Effective 7/1/88 each Minnesota attorney paying the full fee will pay an additional \$10, increasing the amount allocated for the Lawyers Board to \$80 per attorney. This is the first increase in the fee since 10/1/84. It is expected that revenues will be

sufficient--assuming there are no unforeseen changes--so that another three to four year interval can transpire without an additional increase.

Numbers of Attorneys. In past years the different Supreme Court boards have not all used the same numbers of attorneys in projecting expected income. In the last year meetings have been held to arrive at agreed-upon methods for projecting the number of fee-paying attorneys. This year all boards will use the same numbers.

2. FY'88.

Budget Savings. About \$57,000 of the FY'88 available budget will not be spent during FY'88. About \$50,000 of this savings is in lower personnel costs. A good portion of the personnel savings is in not hiring an additional half-time word processing operator. Adding new equipment and enhancing existing word processing equipment has helped make these savings possible.

Budget Variations. The only major variations, other than personnel, in budget implementation have been: insurance decrease (worker's compensation insurance could not be purchased); professional services decrease (an unpredictable item); and equipment increase (payoff of the Xerox machine principal balance).

3. FY'89.

Balance Forward. The balance forward expected on 6/30/89 is \$289,103. This is roughly in line with the recommendation of the Supreme Court administration that there be a balance carried forward equal to approximately 25% of annual budget. Income should exceed expenditures by about \$80,000.

Annual Increases. The annual increases in overall expenditures for recent years have been: 5.8% (FY'87); 7.4% (FY'88); 6.4% (FY'89 budget). During this period, the Client Security Board staff expenses have been added.

Personnel Projections. The budget again reflects an additional half-time word processing operator. However, it is hoped that through additional equipment improvements and, if necessary, use of temporary employees, that this position can remain unfilled during some or all of FY'89. There are no other personnel additions projected. It should also be noted that FY'89 salary increases are limited by several employees having reached the top of their salary ranges (Wernz, Hojan, Slator, Bigelow, and Sheak).

Projection Methods. Because some line items have been highly variable (professional services and in-state travel, for example), the method used for FY'89 for such items has been to take the three year average of actual expenditures and multiply that amount by 105%. Because personnel merit increases are now done (at Supreme Court direction) on an employment anniversary basis, the calculation of annual personnel costs is complicated. Use of a computer has facilitated these calculations.

C. Administration.

In FY'88 the staff and budget functions of the Client Security Board were integrated administratively with the other Office functions. The administrative and staff costs of the Client Security Board are very low compared to the costs that would have been associated with a separate office for that Board. Fiscal year '88 has been marked by the integration of new equipment and programs in the Office, particularly computers and

word processing upgrades. The Office has continued to implement the philosophy that use of up-to-date equipment and standardized forms and procedures will produce net budget savings by reducing or delaying personnel increases.

1. Automation.

a. Computerization.

(i) TCIS - Despite significant delays in our programming, we continue to receive additional information from the TCIS system. The most recent report generated is entitled "Cases over one year old." We anticipate additional programming to allow for ease of operation and information retrieval.

In FY'88 we were successful in entering all prior discipline on the TCIS system. This has been a goal since 1985 when the system was implemented. There were approximately 1,800 closed files which required conversion to the computer.

(ii) Macintosh - In July 1987 we acquired our first Macintosh computer. We found it to be an excellent tool for budget preparation, trust account audits and light word processing. Because there was such a demand for the machine, in April 1988 we purchased a second Macintosh. Attached at A.3-4 are samples of documents prepared using the Mac. An excellent example of its usefulness is demonstrated in the Sampson trusteeship. Over

1,300 clients had to be contacted, and using data-base on the Mac streamlined this process. We also recently purchased a laser printer for the Mac which will give our computerization a more professional look.

b. Electronic Typewriters.

In FY'88 we purchased two Panasonic electronic typewriters. These have increased the productivity of our support staff by eliminating the need to retype documents.

c. Word Processing.

Since our last report, we have upgraded our dedicated word processing machines to allow for more speed and additional storage.

2. Judicial Building.

We have been working with the architects and planners in anticipation of our move to the Judicial Building in 1992.

3. Office Manual.

We continue to improve and revise our office policy and procedure manual which grew to two volumes in FY'88.

D. Personnel.

Attached at A.5 is the current Office organizational chart. There have been several changes and promotions since the last report. (1) In July 1987, Senior Assistant Director Phil Nelson resigned and Wendy Willson Legge was hired as an Assistant Director. (2) In July 1987, Mary Moriarty, our former law clerk, was promoted to Assistant Director. We have not filled the law clerk position. (3) In January 1988, three Assistant Directors,

Martin Cole, Ken Jorgensen and Betty Shaw, were promoted to Senior Assistant Directors. (4) The legal assistant position which was vacant last year was filled by Lynda Nelson. (5) In October 1987, Tina Trejo replaced Rebecca Baertsch as our word processing supervisor.

The stability of the staff remains remarkable. As of this date, 15 of 21 employees in the Office have been employed here three years or longer.

D. Education.

During the last year there have again been numerous involvements of the Office of Lawyers Professional Responsibility and the Lawyers Board in educational endeavors. Attached at A.6 is a list of speaking engagements involving attorneys in the Office. Included are two presentations in San Francisco at the National Organization of Bar Counsel. Another presentation is scheduled in August 1988 at the convention in Toronto.

For the last several years, the Office has sponsored a seminar for district ethics committee members from around the state. This year, the audience and subject matter have been expanded to include other topics of broader interest in professional responsibility. The highlight of this year's seminar was a panel discussion with representatives of the Board of Medical Examiners, comparing the policies and procedures of the two professions in their disciplinary matters. There was also a lively discussion of whether and when sexual relationships between attorney and client may be subject to discipline. Panelists included a Board member, respondent's counsel, a district committee member and a staff attorney.

F. Trusteeships.

During fiscal year 1988 the Director served as trustee for client files of Mark A. Sampson, Joel R. Thompson and Robert T. Stratton as ordered by the Supreme Court. The Court discharged the Director as trustee in the Thompson and Stratton matters. The Director continues to serve as trustee in Sampson. The Director is also in possession of client files which remain from the John J. Flanagan and Patrick J. Fallon trusteeships.

1. Mark A. Sampson.

In October 1986, the Court appointed Virgil C. Herrick and David P. Newman co-trustees. The co-trustees returned 390 "open" and 167 "closed" files to clients, and destroyed 13 files at clients' request. The co-trustees expended \$209.69 for postage and envelopes, and a law clerk hired at the Director's expense worked 256.5 hours at a cost of \$2,052.00. The co-trustees did not attempt to contact clients of approximately 1,300 "closed" files. The Court discharged Herrick and Newman on November 13, 1987, and ordered the remaining files transferred to the Director's Office. On May 4, 1988, the Court ordered the Director to attempt to notify the 1,300 clients with "closed" files. The Director's Office began contacting clients in May 1988.

2. Robert T. Stratton.

On February 27, 1987, the Court appointed the Director trustee. Inventory of the Stratton files showed 228 files belonging to 202 clients. The Director returned 119 files to clients and was requested to destroy 15 files. The Director was unable to locate clients of 49 files, and received no response from clients of 45 files. The Director expended \$162.00 for postage and envelopes, and 28 attorney hours and 60 legal assistant hours.

The Director was discharged April 21, 1988. The Court's order authorizes destruction of the remaining 94 files at a future date.

3. Joel R. Thompson.

The Court initially appointed attorney Timothy Tingelstad trustee on May 5, 1986. Tingelstad took possession of 174 files belonging to 174 clients, and returned 100 files. He was unable to locate clients of 17 files, and received no response from clients of 57 files. Trustee expenses were \$490.26 for desk rental, postage, envelopes and telephone, and 128.75 attorney hours at a cost of \$1,287.50. These expenses, including Tingelstad's compensation, were paid by the Director's Office.

On October 7, 1986, the Court discharged Tingelstad and ordered the files transferred to the Director's Office. The Director returned 11 files, was unable to locate clients of 31 files, and received no response from clients of 32 files.

The Director was discharged February 25, 1988. The Court's order authorizes destruction of the remaining 63 files at a future date.

4. Patrick J. Fallon.

The Court appointed the Director trustee on December 24, 1984, and discharged the Director on August 19, 1985. The Court's discharge order authorized destruction in one year of files for which no response was received from the client, and three years of files for which the client could not be located. Pursuant to the Court's order the "no response" files have been destroyed. The "not located" files are scheduled for destruction in August 1988.

5. John J. Flanagan.

The Court appointed the Director trustee on August 19, 1985, and discharged the Director on December 16, 1986. The Court ordered destruction in two years of files for which no response was received from the client, and three years of files for which the client could not be located. The unreturned Flanagan files remain in the Director's possession and are scheduled for destruction in December 1988 and 1989.

The volume of the client files in the Director's possession as a result of the above trusteeships has required additional

storage. In March 1988 the Director secured additional space for storage of trusteeship files.

IV. DISTRICT ETHICS COMMITTEES.

In 1987, the district ethics committees (DEC) continued their remarkable improvement in time required to investigate complaints. The average age of a DEC file decreased from 4.1 months in February 1983, to 1.6 months in 1986, 1.5 in 1987 and 1.3 in April 1988. These figures exceed the goal of two months set by the Board's Executive Committee in 1985. Attached at A.7 is the computer-generated District Committee aging analysis for April 1988, showing by district the number of months various files have been pending.

While the investigative time has decreased, the quality of the DEC investigative reports has increased. Most of the reports now utilize the format developed by the Director's Office. This format requires the investigator to list, inter alia, the persons contacted during the investigation, the possible rule violations, the findings, and the recommendation. The increased use of this format by the DECs has improved the ability of the Director's Office to quickly determine whether any additional investigation by the Director's Office will be necessary.

Rule 7(b), RLPR (as amended July 1, 1986), requires the DEC investigators to include in their report a draft memorandum when recommending discipline not warranted or an admonition. If the Director accepts the recommendation, the memorandum is normally attached to the Director's disposition, conserving the resources which would have been required in drafting the memorandum within the Director's Office. Although the use of memorandums by the

DECs has consistently increased and the majority of reports now include them, there remains room for improvement.

An assistant director is assigned to each district ethics committee as liaison, which has facilitated the increased use of the recommended format and explanatory memorandums. In addition, recommended procedures are discussed at the annual seminar for DEC members organized by the Director's Office.

Rule 7(b), RLPR, also requires that the investigator's report be submitted for review to the district chairman, his designee, or to a committee prior to its submission to the Director. In some of the DECs whose members are geographically dispersed, the review process may be perfunctory. However, at present this is not perceived to be a problem, particularly in light of the improvement in quality of the reports.

The number of files investigated by the DECs decreased slightly from 549 in 1986 to 523 in 1987. This decrease is due to the overall decline in complaints received by the Director's Office in 1987 (from 1,233 in 1986 to 1,091 in 1987) and to the increase in summary dismissal percentages.

The present participation of the DECs in the disciplinary system represents a success story. The DECs are contributing high quality investigative resources to the disciplinary system while at the same time providing direct peer evaluation of alleged attorney misconduct. The Minnesota DEC system could serve as a model for other states.

V. DEPARTMENT REPORTS.

The probation department monitors respondents' compliance with probation terms. The tasks include: responding to inquiries

from supervisors; auditing books and records; reviewing reports from supervisors and counselors; and performing a final review prior to closing the file to determine respondents' compliance. Occasionally, it becomes necessary to assist respondents in locating potential supervisors. The probation department is staffed by an assistant director and a legal assistant.

A. Probation.

1. File Totals.

Total probation files as of 1/1/87	70
Probation files opened in 1987	29
Probations files closed in 1987	39
Total probation files as of 1/1/88	60

2. 99 attorneys were on probation during some portion of 1987.

a. 39 Court-ordered probations
 22 supervised
 17 unsupervised

b. 60 stipulated private probations
 29 supervised
 31 unsupervised

3. Files Involving:

Client-Related Violations	79
Non-Client-Related Violations	20

4. Areas of Misconduct*

Neglect/Non-comm.	49	Conflict of Interest	6
Taxes	9	Illegal fees	3
Criminal Conduct	3	Books and Records	23
Failure to Return Client Property/File	7	Misrepresentation	19
Non-cooperation	7	Misappropriation	6
		Other	3

10 files involved abuse of alcohol/drugs; 12 involved psychological disorder.

*A file may include more than one area of misconduct.

5. 39 Closings in 1987

Successfully completed probations	35
Revoked probations	6

B. Advisory Opinions.

During 1987, 630 telephone opinions were issued. This is a decline from 1986, when 737 telephone opinions were issued. There were also 55 written opinions.

The advisory opinion attorneys devoted 233.15 hours to advisory opinion matters. This figure is down significantly from 1986, when 458 attorney hours were expended. The decrease is primarily attributable to greater familiarity with the subject matter(s) of the inquiries. Law clerks/legal assistants contributed 550.90 hours. This figure is also down significantly from 1986, when 799.75 hours were contributed. Four attorneys, all senior assistant directors, are now involved in giving advisory opinions.

The most frequent areas of inquiry in 1987 were:

Conflict of Interest	22%
Fee Agreements and Fees	9%
Client Confidences	7%
Withdrawal from Representation	6%
Trust Accounts	5%
Return of Client Files	4%

Advisory opinion statistical reports are now generated quarterly rather than monthly. In addition, a change has been made in the way the attorneys record the subject matter of advisory opinions. These changes have been implemented to reduce the number of law clerk/legal assistant hours required by the advisory opinion service.

C. Judgments and Collections.

The judgments awarded and costs collected have both increased from the 1986 level. Moreover, slightly over two-thirds of the costs awarded in 1987 have been collected to date. As of the date of the 1987 annual report, slightly over half of the 1986 costs awarded had been collected. There has been no change in collection methods which accounts for this increased rate of collection. The costs awarded in 1987 were more than double the costs awarded in 1986. This is apparently because of the increase in costs from \$500 to \$750, because costs were awarded against 35 attorneys in 1987 as compared to 26 attorneys in 1986, and because costs of almost \$7,000 and more than \$3,000 were awarded in the Hartke and Getty cases, respectively. Effective July 1, 1987, Rule 15(a), RLPR, allows bad faith attorney's fees; such fees were recommended by referees in two cases.

1.	Costs Awarded in 1987 (35 attorneys)	\$33,823.98
2.	Costs Collected in 1987 for 1987 Dispositions. (18 attorneys)	\$14,766.74
3.	Costs Collected in 1988 for 1987 Dispositions. (8 attorneys)	<u>8,353.79</u>
4.	Total Costs Collected to Date for 1987 Dispositions.	\$23,120.53
5.	Costs Collected in 1987 for 1982 Disposition. (1 attorney)	500.00
6.	Unpaid Judgments as of January 1, 1988. (1980-1987)	\$53,627.54
7.	National Discipline Data Bank Reports	52

D. Professional Corporations.

The following are the statistics for the professional corporation department as of May 3, 1988:

699 @ \$ 25.00	\$17,450.00
27 @ 100.00	<u>2,700.00</u>
	<u>20,150.00</u>
6 for 675.00*	<u>675.00</u>
	<u>20,825.00</u>
Refunds issued:	<u>175.00</u>
	<u>\$20,650.00</u>

*Funds collected in 1987 for past unpaid fees.

Total Attorney Hours: 35

Total Non-attorney House: 175

The professional corporation department is staffed by an Assistant Director, legal assistant, and file clerk. The professional corporation roster and statistical data have been transferred to computer.

E. Complainant Appeals.

During 1987, the Director's office received 166 complainant appeals, compared to 198 such appeals in 1986. This is approximately 15 percent of files closed, down 1 percent from 1986. Board members made 173 determinations, nine of which recommended further investigation and one of which was directed to be heard before a panel. The remainder affirmed the Director's disposition. A total of 169 clerical hours were spent in 1987 processing the appeal files, as well as an unrecorded amount of attorney time.

F. Disclosure.

1. Source and Number of Requests for Disclosure.

	<u># of Requests</u>	<u># of Attorneys</u>	<u>Discipline Imposed</u>	<u>Matters Pending</u>
1. Nat'l Conf. of Bar Exam.	146	146	6	1
2. Individual Attorneys	34	34	0	0
3. Local Referral Services	40	228	3	0
4. Governor's Office	7	35	0	0
5. Other State Disc. Counsels of Bar Offices	41	40	5	0
6. F.B.I.	<u>26</u>	<u>26</u>	<u>0</u>	<u>0</u>
TOTAL	294	509	14	1

2. Department Function and Procedure.

The disclosure department consists of one attorney, one legal assistant, and the panel clerk. The department responds to requests from various sources for information about an attorney's disciplinary record.

The amount of paralegal and attorney time spent on disclosure continues to decline as a result of the July 1, 1986, change in Rule 20. During 1987 only one percent of paralegal time was spent on disclosure. Attorney time was equally low. The panel clerk's time is not recorded but appears to have increased somewhat this year because of the increased number of requests for disclosure.

The disclosure department also responds to the public who make telephone requests for public discipline imposed against attorneys and to attorney questions regarding disclosure.

VI. FY'89 GOALS AND OBJECTIVES.

A. Education.

In January 1988 the Court issued an order indicating that it had not adopted the Comments to the Rules of Professional Conduct. The Board and the Office of Lawyers Professional Responsibility had supposed that the Comments had been adopted. The Board has begun discussions of whether the lack of Court-approved status for the Comments creates a need for the Board to do something. There is a concern that the Rules of Professional Conduct, by themselves, do not provide sufficient guidance to attorneys about many particular matters that have a professional responsibility dimension. The Board is authorized under Rule 4(c), Rules on Lawyers Professional Responsibility, to issue opinions from time to time on questions of professional responsibility. The Board will be considering whether it should issue opinions more regularly or take some other course of action to provide more guidance to attorneys.

The Director's Office will again sponsor a fall seminar in professional responsibility, provide advisory opinions, publish Bench & Bar articles and make speakers available for continuing legal education and other groups. A trust account brochure is now complete, and will be reviewed for distribution to practicing attorneys.

B. Casework.

Maintenance of the current case statistics will be the primary quantitative goal for FY'89. The timeframes involved in investigation, and particularly in presentation of fully litigated matters to the Supreme Court, are such that there is very little room for further improvement in statistics.

The Court, the Board and the Office have tried to promote consistency in professional responsibility procedures and decisions, particularly in the last few years. One area in need of study and harmonizing is that of alleged mitigating circumstances. Particularly in the last year, the Court has more regularly taken into account allegations of psychological difficulties. The Court has adopted a system in which most referee appointments are made among a group of judges. That group is tentatively scheduled to meet to discuss the subjects of alleged mitigating circumstances and consistency. The attorneys in the Director's Office will also be having a special meeting on the subject.

C. Personnel.

The Dreher Committee in 1985 reported that there was "excessive turnover in the non-lawyer staff." This problem has been rectified. Now that the great majority of employees are long-term employees, other challenges arise. Several employees are reaching the top of their pay scales. Others need to be presented with new challenges, so that they can continue to grow in their work. The introduction of computers and new word processing equipment has helped in this regard as all the non-lawyer staff (and even some of the lawyers) have become accustomed to using the word processing or computer equipment or

both. The limit on average merit increases in the Office of 4%, which has been in effect for several years, makes it difficult to give financial recognition to outstanding performance, without appearing to penalize other employees. We hope to continue to provide a congenial, challenging and stable working environment.

Board personnel have not changed at all in FY'88. This year will be an especially suitable time for Board members to deal with situations on which they can bring their considerable experience to bear. The timing of the Board's consideration of the Manual for Panel matters is especially suitable, as the Panel is meant to summarize and to codify the experience of Board members in handling Panel matters.

D. Administration.

1992 is the expected date for the Office to move to the new Judicial Center. The basic design work for the move has already been done, as well as projections for office space needs beyond the year 2000. Much will need to be done as 1992 approaches by way of decisions on furniture, equipment, etc. We have met with the Director of the Board of Law Examiners and Continuing Legal Education to consider how space could jointly be utilized so as to achieve a cost benefit.

Computerization.

1. To continue to gain knowledge of the Macintosh computer and its capabilities. To acquire more sophisticated software to assist us in the performance of our duties to familiarize all staff members with the computer and its many features.


2. To complete our programming for the TCIS computer. This has been pending for several years and has been delayed by the Information Systems office.

VII. CONCLUSION.

The accomplishments of the Board, Office, District Committees and Court in lawyers professional responsibility reflect a pattern of working together on difficult matters. Volunteers and paid staff, lawyers and nonlawyers, bench and bar all play important roles. Judged by benchmarks like promptness, fairness, participation by lawyers and nonlawyers, and openness the Minnesota lawyers professional responsibility system compares favorably with systems in other states and other professions.


Dated: June 28, 1988.

Respectfully submitted,



JOHN D. LEVINE
CHAIRMAN, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD

and



WILLIAM J. WERNZ
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY

Complaints Against Lawyers Decline . . .

Writing your own headlines is the chief perquisite associated with submitting regular *Bench & Bar* columns. The media have been furnished a copy of this article, but whether a decline in complaints against lawyers is newsworthy is not yet known. In any event, 1987 witnessed a decline of over 10 percent in complaints against lawyers, from 1,233 in 1986 to 1,091. The longer history of complaints can be seen in the table below.

Year	New Files
1978	632
1979	690
1980	919
1981	927
1982	1,013
1983	921
1984	1,069
1985	1,244
1986	1,233
1987	1,091

Why are complaints against lawyers decreasing? Maybe lawyers have become better people. To a skeptic, this would seem only marginally more likely than that clients have lowered their expectations. Perhaps the question is premature as in the past there have been other declines, followed by large increases in complaints. There are several factors that may help explain the decline.

One procedural change in the director's office may be relevant to the decline in complaints. When a complaint is received that is difficult or impossible to understand, and no clear allegation of a rule violation is made, no file is opened initially. Instead, a letter is sent to the complainant asking specific questions designed to elicit

more information. If the complainant does not reply, no complaint file is opened. Past practice was to open files and summarily dismiss at least some such complaints. This administrative change was occasioned by a 1986 amendment to Rule 8(a), Rules of Professional Responsibility, authorizing investigations by the director "upon a reasonable belief that professional misconduct may have occurred." A portion of the decline in complaints stems from no longer counting certain unintelligible letters as complaints.

A possible factor in the decline has been the decrease in the overall number

"The reduced backlog has meant that new complaints can be handled much more quickly."

of open files from about 600-800 in the period 1980-84 to about 400 in the last three years. The reduced backlog has meant that new complaints can be handled much more quickly. An attorney who generates multiple complaints can correct problems and avoid more complaints (or, in serious cases, be suspended) if the professional responsibility system is able to respond promptly. The accumulation of a large number of files over a period of time relating to a single attorney may become less likely, as the period between the

first complaint and discipline is shortened.

Other possible factors in the decline of complaints would include continuing legal education and the resumption of the advisory opinion service. Also, brochures are now sent to prospective complainants along with complaint forms. Some brochure information (for example that routine fee disputes are not investigated) may prevent or redirect certain complaints. A marginally relevant factor would be the 1986 amendment to Rule 8(a), Rules of Professional Responsibility, requiring the executive committee to authorize opening investigations which are otherwise on the director's sole initiative.

Because of the decline in complaints, budget and staff increases for the Professional Responsibility Board have not been fully implemented. No staff increase has occurred for two years, although the director's office now also performs staff services for the Client Security Board. The 1987 ABA Survey on Lawyer Discipline Systems reports a Minnesota budget allocation per lawyer for professional responsibility of \$6 less than the national average. The same survey indicated that the ratio of complaints received to licensed lawyers in Minnesota was slightly less than the national average in 1986. The 1987 decline in complaints should place Minnesota significantly below the national average in next year's survey.

One of the steadiest complaint statistics is generated by the so-called "honest procrastinators" of our profession. In 1987, as in every previous year,

complaints of neglect and noncommunication by lawyers represented 40 to 45 percent of total complaints. Another steady (but by no means correlated) set of statistics is that lawyers in family law receive the most complaints (24 percent), followed distantly by those in general litigation (16 percent), criminal law (12 percent), probate (9 percent), personal injury (8 percent), real estate (8 percent), and miscellaneous commercial (5 percent).

No statistics are kept correlating discipline with areas of law, but many disciplinary proceedings are only incidentally related to a practice area — Mark Sampson stole with equal abandon from estates, family law clients, and real estate clients. The overall percentage of dismissed complaints has remained at about 80 percent for several years. In 1987 the percentages of dispositions by category were: dismissals (79 percent); private admonitions (9 percent) private probations (2 percent); Court discipline (9 percent).

How can complaints best be avoided? First, by communicating regularly with the client and proceeding promptly. Second, by establishing a clear written understanding of what services will be provided and the fees that will be charged. Of course, some complaints simply cannot be avoided because it is in the nature or interest of some people to complain.

What should an attorney do when notified of an ethics complaint against him or her? If the complaint is at all serious, or the attorney is burdened with chemical or psychological problems, counsel should be retained. Respond to the investigative request. If the request is thought to be unreasonable, specify what is unreasonable and why. Rule 25, Rules on Lawyers Professional Responsibility, requires responses to reasonable requests and provides procedures for testing whether requests are reasonable.

How can Supreme Court discipline best be avoided? A survey of cases

indicates that the answers are fairly simple: be honest; if you are burdened with chemical dependency or a mental illness, get help and make arrangements for your work; file tax returns when due; keep trust account records straight; don't neglect several clients' affairs; don't obstruct the legal system; be especially careful in fiduciary matters and with vulnerable people; and obey the criminal laws. Thirty-six attorneys were disciplined publicly by the Supreme Court in 1987 for falling short of one or more of these basic prescriptions. The Court also reinstated three suspended lawyers, conditionally reinstated one disbarred lawyer, and denied reinstatement to one disbarred lawyer.

Statistics tell only a small part of any story, including that of lawyers' professional responsibility in Minnesota. The small story they have told for 1987 is largely encouraging news, especially so in light of the bad publicity generated by a small number of lawyers involved in very serious misconduct. ■

2. UTILIZATION OF LEGAL ASSISTANT RESOURCES: PERCENTAGE OF TIME SPENT (MARCH 1988)

	Kevin	Tricia	Trace	Linda
AREA:				
CASEWORK				
General Investigation	50.27%	10.68%	19.08%	10.55%
Books and Records			21.91%	17.40%
Document Organization		4.37%	3.89%	
File Review		2.27%	1.41%	6.30%
Conf. w/attorney	1.09%	2.27%	2.12%	4.79%
Depo: prep./attend				
Pre-hearing/other mtg.	8.42%	1.62%	1.41%	3.56%
Trial: prepare/attend	13.04%	35.92%		1.10%
Drafting: letters/pleadings	4.35%	6.47%	4.24%	17.40%
Legal Research	2.99%			10.82%
Small projects	7.61%	4.05%	8.48%	1.23%
Trusteeship	3.80%	2.59%		
Tax cases		23.30%		
Other cases (explain)		0.97%		
TOTAL CASEWORK	91.58%	94.50%	62.19%	73.15%
DISCIPLINARY DEPARTMENTS				
Probation				21.23%
Disclosure				
Expunction				
Judgment and Collections			5.65%	
Professional Corporations			2.47%	
Client Security Fund			28.62%	
TOTAL DISCIPLINARY DEPT'S			36.75%	21.23%
L/A SUPERVISION	1.63%			
ADMINISTRATION				
Office Meetings		0.32%	0.35%	0.68%
Phone Duty	0.54%	0.16%		1.51%
Time Records	0.54%	0.16%	0.35%	0.41%
Training (L/A Only)				
Other Admin. (explain)	1.63%	2.27%		1.10%
TOTAL ADMINISTRATION	2.72%	2.91%	0.71%	3.70%
MISCELLANEOUS				
Professional Reading	2.45%	2.27%	0.35%	
Other miso.	1.63%	0.32%		1.92%
TOTAL MISCELLANEOUS	4.08%	2.59%	0.35%	1.92%
GRAND TOTAL	100.00%	100.00%	100.00%	100.00%

Sampson Closed Files - Client List 3/15/88

First	Last	Address	City State Zip	Box	Ltr #1
		836 Hampden Ave.	St. Paul, MN 55114	12	
		537 Superior Street	St. Paul, MN 55102	1	
Richard M.		P.O. Box 3635	Dillon, CO 80435	1	
Edmond L.		2751 Hayes St. NE	Minneapolis, MN 55418	13	
Alan A. & Sus		2024 Gunflint Trail	Brooklyn Park, MN 55444	3	
Reggie		1101 - 46th Ave. NE	Columbia Heights, MN 55421	10	
		7935 Beech St.	Fridley, MN 55432	12	
Mark R.		7828 Sunnyside Road	Mounds View, MN 55432	13	
Timothy J.		9901 Polk St., NE #302	Blaine, MN 55432	1	
Elizabeth		11327 Swallow	Coon Rapids, MN 55433	2	
Melody K.		4628 Tyler Street NE	Columbia Heights, MN 55421	2	
Sidney L.		Route 1, Box 38	Isanti, MN 55040	3	
Denise R.		2217 - 22nd Ave. NE	Minneapolis, MN 55413	10	
Brian and Ren		5566 Asbury Street	Shoreview, MN 55112	12	
Jill Marie		820 - 27th Ave. NE	Minneapolis, MN 55418	14	
Oral (Butch)		4225 - 149th NE	Anoka, MN 55303	17	
Judy F.		1282 Norton Ave.	Fridley, MN 55432	17	
Danny K.		700 - 57th Avenue	Fridley, MN 55432	2	
Orrin		2616 Harriet Ave. S. #316	Minneapolis, MN 55408	5	
Charles A.		7805 East River Road, #207	Fridley, MN 55432	14	
Mary R.		1121 Beech St.	St. Paul, MN 55106	9	
Randy Q.		2828 Verndale Ave. #3	Anoka, MN 55303	11	
Richard C.		no address		3	
		ir: 240 Sylvan Lane NE	Fridley, MN 55432	5	
Ronald A.		1211 - 30th Ave. N.	Minneapolis, MN 55411	14	
Mary Beth		8650 Davenport St., NW #204	Blaine, MN 55434	1	
Joe		3075 - 21st Lane NW	New Brighton, MN 55112	3	
Michael		no current address		12	
Larry Lee		St. Cloud Reformatory, Box B	St. Cloud, MN 56301	10	
Christine		9377 - 6th St.	Blaine, MN 55434	10	
Beth Ann		7899 University Ave. NE #302	Spring Lake Park, MN 55432	5	
Beth E.		4822 Girard Ave. N.	Minneapolis, MN 55430	14	
Timothy S.		7458 W. Circle	Fridley, MN 55432	13	
Lee		1756 - 132nd Lane NE	Blaine, MN 55434	5	
Kenneth J.		5 Pine Drive	Circle Pines, MN 55014	15	
Daniel S.		3331 N. 106th Place, #1204	Omaha, Nebraska 68134	13	
Everett and C		5849 - 2 1/2 St. NE	Fridley, MN 55432	14	
Michelle L.		11265 Verdin Circle	Coon Rapids, MN 55433	10	
Gregory P.		2101 Wuthering Heights Road	St. Paul, MN 55122	15	
David L.		3817 Liberty Lane	Circle Pines, MN 55014	1	
David H.		721 Hamel Road	Hamel, MN 55403	15	
Dorothy L.		7027 Hickory Drive	Fridley, MN 55432	13	
Mary		12929 Crooked Lake Blvd.	Coon Rapids, MN 55433	15	
Michael D.		8317 Jersey Ave. N.	Brooklyn Park, MN 55445	2	
Terrance C.		3118 Benjamin St. NE	Minneapolis, MN 55418	11	

Director
William J. Wernz¹

First Asst Director
Thomas C. Vasaly

Senior Asst. Dir.
Candice M. Hojan

Senior Asst. Dir.
Martin A. Cole¹

Senior Asst. Dir.
Betty M. Shaw

Senior Asst. Dir.
Ken L. Jorgensen

Assistant Director
Wendy W. Legge

Assistant Director
Mary F. Moriarty

Office Administrator
Joanne Daubenspeck

Legal Asst Supervisor
Kevin Slator

Disciplinary Clerk
Lisa Bigelow

Computer Clerk
Cindy Peerman

Legal Assistant
Patricia Burns

Legal Assistant
Tracy Hoppe ¹

Legal Assistant
Lynda Nelson

Receptionist
Jean Capecchi

File Clerk
Anne Hennen

File Clerk
Cheryl Sheak

Word Proc. Sup.
Tina Trejo

Atty Reg. Clerk ²
Nancy Tschimperle

Accounting Clerk²
Pamela Wicker

Word Proc. Oper.³

Word Proc. Oper.
Melody Anderson

Word Proc. Oper.³
Linda Bolton

¹ Also Client Security Board Staff

² Sup. Ct. employees not administratively subject to Director's office. Office pays part of their salaries.

³ Part-time positions

FY'88

SPEAKING ENGAGEMENTS

<u>DATE</u>	<u>COURSE TITLE</u>
8/6/87	National Organization of Bar Counsel - "Character Witnesses"
8/7/87	National Organization of Bar Counsel - "Disc. Pros. Under Rules of Professional Conduct"
10/9/87	District Ethics Committee Seminar
10/16/87	Minnesota Association of Legal Assistants
10/21/87	Ramsey County Bar Association - "The Practicalities of Professionalism"
12/7/87	"Bridge-the-Gap" Seminar
12/12/87	Minnesota State Bar Association CLE: Family Law Seminar
1/16/88	Minnesota State Bar Association - Criminal Law Seminar
2/11/88	Minnesota Institute of Legal Education - Probate Seminar
3/23/88	Washington County Bar Association
3/25/88	Advanced Legal Education - "Anatomy of a Criminal Case"
4/15/88	Continuing Legal Education - "Senior Citizen Law 1988"
4/22/88	Minnesota Institute of Legal Education - Crime Seminar
5/11/88	Minnesota Institute of Legal Education - "Client vs. Lawyer" Seminar
5/25/88	Minnesota Trial Lawyers Association Young Lawyers Seminar
5/27/88	"Landlord Tenant Law"

AMENDED DEC SUMMARY AND REPORT APRIL 1988

MONTHS OPEN	12	11	10	9	8	7	6	5	4	3	2	1	0	TOTAL
DEC #/ LIAISON														
DISTRICT 1 - KLJ								1	1	1	2	6	5	16
DISTRICT 2 - CMH										2	2	4	10	18
DISTRICT 3 - BMS												2	0	2
DISTRICT 4 - MAC			1			2	1	1	1	4	6	21	23	60
DISTRICT 5 - KLJ													0	0
DISTRICT 6 - BMS												1	1	2
DISTRICT 7 - BMS								1	0	0	1	6	3	11
DISTRICT 8 - BMS												1	0	1
DISTRICT 9 - BMS													2	2
DISTRICT 10 - BMS													1	1
DISTRICT 11 - VYL									2	0	3	0	1	6
DISTRICT 12 - KLJ												1	0	1
DISTRICT 13 - BMS													0	0
DISTRICT 14 - VYL							1	1	0	1	1	1	1	6
DISTRICT 15 - VYL									1	0	1	2	6	10
DISTRICT 16 - KLJ													0	0
DISTRICT 17 - KLJ											2	1	0	3
DISTRICT 18 - KLJ													1	1
DISTRICT 19 - KLJ								1	0	0	0	2	0	3
DISTRICT 20 - VYL													0	0
DISTRICT 21 - KLJ										1	1	1	3	6
TOTAL FILES	0	0	1	0	0	2	2	5	5	9	19	49	57	149
NO. OF MOS.	0	0	10	0	0	14	12	25	20	27	38	49	0	195
AVERAGE NO. OF MONTHS IN DEC						1.3								