

TO: The Vermont Supreme Court
Honorable Jeffrey L. Amestoy, Chief Justice
Honorable John A. Dooley, Associate Justice
Honorable James L. Morse, Associate Justice
Honorable Denise Johnson, Associate Justice
Honorable Marilyn Skoglund, Associate Justice

FROM: The Professional Responsibility Board
Robert P. Keiner, Esq. - Chair
Joan L. Wing, Esq. - Vice-Chair
Steven A. Adler, Esq.
Ms. Mary Ann Carlson
Honorable Stephen B. Martin
Ms. Marion Milne
Mr. Neal Rodar

RE: Annual Report of the Professional Responsibility Program for FY 2001

Date: September 1, 2001

The Professional Responsibility Board is required by A.O. 9, Rule 1 E.(2) to provide to the Supreme Court "an annual report, including statistics and recommendations for any rule changes, which report shall be public." The following is submitted in accordance with this mandate.

I. INTRODUCTION AND OVERVIEW

This is the second annual report to be issued by the newly constituted Professional Responsibility Program which came into existence on September 1, 1999. The Program replaces the former Professional Conduct Board which operated from 1972 until April of 2000. While its predecessor's mission was focused solely on lawyer discipline, the Professional Responsibility Program has a wider mandate. It is:

(1) to resolve complaints against attorneys through fair and prompt dispute resolution procedures, (2) to investigate and discipline attorney misconduct, and (3) to assist attorneys and the public by providing education, advice, referrals, and other information designed to maintain and enhance the standards of professional responsibility.

Administrative Order 9, Preamble.

In its first year of operation, the Professional Responsibility Program succeeded in eliminating a backlog of cases, reducing its docket through prompt and speedy resolution of pending disciplinary cases, creating a Central Intake Office, recruiting and training members of its hearing and assistance panels, resolving minor complaints through an alternative to discipline program, providing formal educational programs to members of the bar on the new Rules of Professional Responsibility, providing information to the public and the bar on practice issues, and establishing guidelines, policies and procedures for the program's operations.

In its second year, the Professional Responsibility Program continued to consolidate its gains in these areas, although some fundamental personnel changes created unavoidable delays in case resolution. By the end of its second year, the Professional Responsibility Program employed a new Disciplinary Counsel and new Deputy Disciplinary Counsel. It also has in place new resources to attend to wider responsibilities than heretofore addressed.

II. REPORT OF ACTIVITIES OF THE PROGRAM

A. Report of Activities of Bar Counsel

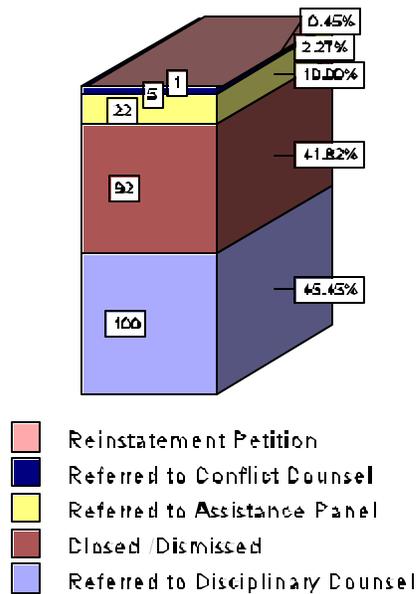
Bar Counsel is responsible for initial screening at the Central Intake level, operation of the non-disciplinary resolution program, i.e., the work of the Assistance Panels, and providing information to the public and to the bar on practice issues.

1. Screening

All written complaints are initially filed in the Office of Disciplinary Counsel where they are processed by administrative staff, then directed to Bar Counsel for screening. This fiscal year the program received 204 new cases, down somewhat from last year's total of 217. Bar Counsel was able to screen 220 cases this year, which included all but 2 new complaints as well as 1 reopened case and 17 unscreened cases held over from the previous year. Most screening decisions are made within 30 days of receipt of the complaint.

The results of that screening are graphically represented below:

Chart 1
Disposition At Initial Screening
220 Cases

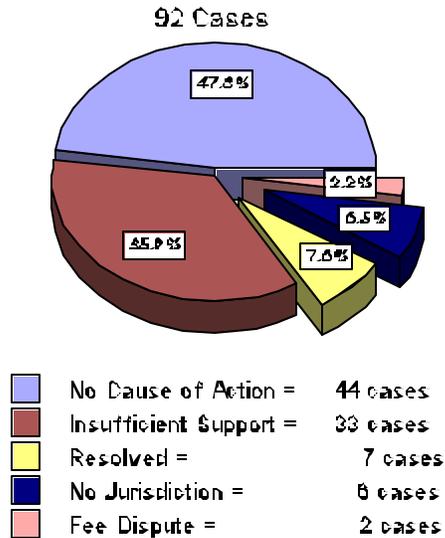


For the first time this year, Bar Counsel was able to track the reasons for closing cases at initial screening. Of the 92 cases that were closed at this stage, the vast majority - 83% were dismissed either because the complained of conduct did not constitute a violation of the Rules of Professional Conduct or because there was insufficient support for the complained of conduct. Bar Counsel resolved and closed 8% of the cases without resorting to an Assistance Panel. Bar Counsel dismissed 7% of the cases for lack of jurisdiction. These were cases that were essentially motions from inmates for post conviction relief or for substitution of assigned counsel, matters over which the Board has no jurisdiction. A small

percentage - 2% - were cases involving only disputes over fees. These were referred to the VBA Fee Arbitration Committee.

Chart 2

Reasons for Closing Cases - Initial Screening



The quality of the screening decisions to close cases without further referral appears to continue to be high. Each complainant is advised, in writing, of the reason the complaint was closed and is afforded 60 days in which to appeal that decision to the Chair of the Board. During the fiscal year, approximately one third of the complainants (35) afforded themselves of that opportunity. The chair, in turn, upheld Bar Counsel's decision in 27 or 77% of those cases. The chair referred 8 of the dismissed cases to Disciplinary Counsel for further review. After that review, Disciplinary Counsel closed each of these cases.

Given the significant number of cases that ultimately do not belong in the disciplinary system, Bar Counsel initiated a program this year to handle all telephonic inquiries in an effort to address concerns that either do not warrant the filing of a complaint or to resolve minor problems before the filing of a complaint becomes necessary. This effort met with mixed success, primarily due to the lack of sufficient resources to handle all the incoming calls. Nevertheless, during the eleven months in which Bar Counsel tracked telephonic inquiries,

some 127 phone calls were received from members of the public with questions or concerns regarding lawyers. Bar Counsel was able to resolve the caller's concerns in 89 or 70% of these cases. She recommended that the other 30% (38 callers) file complaints.

Without this attempt to speak with complainants prior to their filing complaints, the Board feels that far more meritless complaints would have been filed during the year than were actually filed. In addition, callers greatly appreciated the quick informal response to their concerns. Most importantly, this has proven to be a good opportunity to resolve attorney-client conflict early when the relationship can still be salvaged.

The typical matter which Bar Counsel was able to resolve is a call from a client who is unhappy with his or her lawyer but afraid to express that unhappiness to the lawyer for fear that the lawyer might abandon the case or charge the client more money. Upon further exploration, the client dissatisfaction usually appears to be due to a miscommunication or misunderstanding between the two. In these cases, Bar Counsel usually gets in touch with the lawyer who is often unaware of the client's dissatisfaction and grateful to learn of it so that the relationship can be repaired. Bar Counsel provides whatever mediation assistance is helpful to the parties.

2. Non-Disciplinary Resolution Program

This program, initiated last fiscal year, was greatly expanded this fiscal year. While Assistance Panels convened on only 6 occasions during FY 2000 at which time they heard 13 cases, they convened on 17 occasions this fiscal year at which time they heard some 28 different cases. These hearings were held in eight different counties throughout Vermont. Each hearing was chaired by a member of the Board.¹ Table 1 below summarizes the docket history for the program this year.

¹ Mr. Rodar chaired or participated in 15 hearings. Judge Martin, Mr. Keiner, and Ms. Carlson each participated in 4 hearings. Ms. Milne and Mr. Adler each participated in 3 hearings. Judge Fisher and Ms. Wing each participated in one hearing.

Table 1. Assistance Panel Activity for FY 2001

Cases referred by Bar Counsel to AP	21	
Cases referred by Disciplinary Counsel to AP	7	
Cases referred by Conflict Counsel to AP	1	
Cases pending from prior fiscal year	6	
TOTAL CASES ON AP DOCKET FOR FY 2001		35
Cases closed by resolution or dismissal	26	
Cases referred to Disciplinary Counsel for Prosecution	4	
Cases heard but conditions for dismissal not yet met	2	
TOTAL CASES RESOLVED DURING FY 2001		30
Cases pending hearing at close of FY 2001		5

3. Educational Contact with Members of the Bar

Telephonic contacts with lawyers who sought advice regarding various ethical dilemmas increased significantly during the year. Bar Counsel fielded telephone calls from 42 different attorneys and was able to provide educational material and informational resources to each of them. While last year saw an unprecedented number of CLE programs offered to the bar by attorneys with the Professional Responsibility Program, that effort was greatly curtailed this year, due in part to limited resources.

B. Report of Activities of Disciplinary Counsel

Under the Board's general supervision, Disciplinary Counsel administers the disciplinary program, investigates and prosecutes disciplinary and disability matters, and performs other tasks as assigned by the Board. Disciplinary Counsel performs three core functions: (1) investigating and litigating disciplinary and disability cases; (2) investigating reports of overdrafts in IOLTA accounts; and (3) working with the Board on issues related to the Professional Responsibility Program.

1. Disciplinary Counsel's Staff

As FY 2001 commenced, the Office of Disciplinary Counsel consisted of three staff positions: Disciplinary Counsel, Deputy Disciplinary Counsel, and Administrative Assistant to Disciplinary Counsel. The position of Disciplinary Counsel was a full-time, exempt position. The position of Deputy Disciplinary Counsel was a contract position. The Administrative Assistant position was a permanent position in which the incumbent was authorized to work

thirty-two hours per week. At the start of the fiscal year, Jessica Porter was Disciplinary Counsel, Michael Kennedy was Deputy Disciplinary Counsel, and Jill Halstead was the Administrative Assistant.

In early October, Attorney Porter left the office to take another position in state government. Attorney Kennedy was named Acting Disciplinary Counsel pending a search for a permanent Disciplinary Counsel. In early December, upon the Board's recommendation and the Court's approval, the Court Administrator appointed Attorney Kennedy as Disciplinary Counsel.

In late December of 2000, Administrative Assistant Halstead left the office for a new job. After interviewing several candidates, Disciplinary Counsel Kennedy hired Margaret Stackman as his new Administrative Assistant. Ms. Stackman, who moved to the Office of Disciplinary Counsel after several years of work in the private sector, started working in early February.

In January of 2001, the Court Administrator approved the Board's recommendation that the Deputy Disciplinary Counsel position be converted to a full-time, exempt position. After interviewing several candidates, Disciplinary Counsel Kennedy hired Beth DeBernardi as Deputy Disciplinary Counsel. Attorney DeBernardi, who had spent ten years in private practice, assumed her duties as Deputy Disciplinary Counsel in early March.

In sum, FY 2001 saw significant change in personnel within the Office of Disciplinary Counsel. The office was fully staffed for just seven months of the fiscal year. From late December until early February, Disciplinary Counsel Kennedy was the only staff member. It was not until Attorney DeBernardi's arrival in March that the staffing level returned to what it was when FY 2001 began.

2. Investigating and Litigating Disciplinary and Disability Cases

Cases are referred to Disciplinary Counsel after being screened by Bar Counsel. Typically, Bar Counsel asks the respondent to provide Disciplinary Counsel with a written response to the complaint within thirty days. After receiving the response, Disciplinary Counsel conducts whatever investigation is necessary. While each investigation is different, most involve interviewing the complaint and respondent, questioning other witnesses, and reviewing documentary evidence such as pleadings, billing records, and/or correspondence between the parties. Once an investigation is complete, Disciplinary Counsel does one of three things:

(1) dismisses the case; (2) refers the case to an Assistance Panel; or (3) starts the process by which formal disciplinary proceedings are initiated.

a. Dismissals

As the table below indicates, a case can be dismissed for one of several reasons. Approximately one half of the cases were dismissed last year because there was insufficient evidence to prove a violation by clear and convincing evidence. There is no appeal from Disciplinary Counsel’s decision to dismiss.

Table 2: Dismissals by Disciplinary Counsel for FY 2001

Reason for Dismissal	Number of Cases	Number of Respondents
Resolved	3	3
Fails to State a Violation	19	16
Insufficient Evidence of Violation After Finding of Probable Cause	40 2	34
No Jurisdiction	2	2
Transferred to Disability	3	1
Referred to Fee Dispute	1	1
Respondent Suspended in Other Prosecutions	10	1
Panel Rejects Probable Cause Request	2	2
Total	82	60

b. Referrals to Assistance Panels

There are cases in which neither a dismissal nor a formal prosecution is warranted. Those cases are referred to an Assistance Panel as an alternative to discipline. In FY 2001, Disciplinary Counsel referred 7 cases to Assistance Panels.

c. Probable Cause Requests

Upon investigating a case and determining that formal disciplinary proceedings should be initiated, Disciplinary Counsel recommends that a hearing panel find that probable cause exists to commence formal proceedings. The recommendation is accompanied by an affidavit and a memorandum of law. By rule, a petition of misconduct cannot be filed unless a hearing panel finds that there is probable cause to grant Disciplinary Counsel’s request to file formal disciplinary charges. *A.O. 9, Rule 11(C)*.

During FY 2001, Disciplinary Counsel submitted 27 requests to Probable Cause Panels. Of these requests, 25 were granted, and 2 were denied. The 2 cases where

probable cause was not found were dismissed by Disciplinary Counsel.

Formal Proceedings were then commenced in 15 of these cases -3 by stipulation and 12 by the filing of Petitions of Misconduct. Another 2 were dismissed after further investigation. The remaining 8 were pending action at the close of the fiscal year.

d. Commencement of Formal Disciplinary Proceedings

Formal disciplinary proceedings are usually commenced in one of two ways: (1) Disciplinary Counsel and the respondent file a stipulation of facts; or (2) Disciplinary Counsel files a petition of misconduct. *A.O. 9, Rule 11(D)*.

Formal proceedings are also commenced at the Supreme Court level in three different instances: (1) through Disciplinary Counsel’s petition for an immediate interim suspension pending final resolution of a disability or disciplinary proceeding, *A.O. 9, Rule 18*; (2) through Disciplinary Counsel’s petition for transfer to disability or inactive status because of information relating to an attorney’s physical and/or mental condition, *A.O. 9, Rule 21*; .and (3) through a petition for reinstatement filed by a respondent whose license to practice law had previously been limited. *A.O. 9, Rule 22(D)*.

Table 3: Formal Proceedings Commenced in FY 2001

Action	Number of Cases	Number of Respondents
Petition of Misconduct	13	6
Stipulation of Facts	8	8
Interim Suspension Request	1	1
Disability Proceeding	1	1
Reinstatement Motion	1	1
Total	24	16*

* 1 attorney was the subject of an interim suspension request and a petition of misconduct

Table 4: Outcome of Formal Proceedings Commenced in FY 2001

Status as FY 2001 Ended	Number of Cases	Number of Respondents
Final Discipline/Disability Order	8	5
Pending Hearing Panel Decision	10	8
Pending Trial	5	3
Interim Suspension Ordered	1	1

e. Final Discipline Imposed in FY 2001

Once a hearing panel issues a decision, both Disciplinary Counsel and the respondent have thirty days to file an appeal. In addition, the Supreme Court has thirty days to order review of a hearing panel decision. If neither party appeals and the Court does not order review upon its own motion, a hearing panel's decision becomes final.

As indicated in the table below, discipline was imposed in some 31 cases, down slightly somewhat from last year's total of 37 cases. While 19 lawyers were disciplined in FY 2000, 12 lawyers were disciplined in FY 2001.

Table 5: Final Discipline Orders Issued in FY 2001

Sanction	Number of Respondents	Number of Cases
Admonitions	6	6
Reprimands	2	8
Suspensions	4	10
Disbarments	1	6
Transferred to Disability	1	1
Total	12	31

f. Appeals of Initial Screening Decisions

By rule, complainants can appeal Bar Counsel's decision to dismiss a complaint. Eight such appeals were referred to Disciplinary Counsel by the chair during FY 2001. Disciplinary Counsel eventually affirmed Bar Counsel's decision in all cases. See page 4 of Section II.A.1.

3. IOLTA Overdraft Notifications

When an overdraft occurs in an IOLTA account, the bank at which the account is held notifies Disciplinary Counsel. Disciplinary Counsel asks the respondent to explain the reason for the overdraft. Upon receiving the respondent's explanation, Disciplinary Counsel checks with the bank and any appropriate witness to verify the respondent's explanation. If further investigation is needed, a formal complaint is opened. If the respondent's explanation is confirmed, and it appears that the overdraft did not result from an ethical violation, no further action is taken. Table E below details the overdraft notifications that Disciplinary Counsel received in FY 2001.

Table 6: Overdraft Notifications

Notices Received of IOLTA Overdraft	20
Overdrafts Reported by Bank	17
Self Reported by Lawyers	3
Closed without Discipline	19 ²
Pending Investigation as FY Ended	1

4. Working with the Professional Responsibility Board

The Professional Responsibility Board meets on a regular basis. The Board frequently asks Disciplinary Counsel for input on matters related to the Professional Responsibility Program. Disciplinary Counsel's work with the Board during FY 2001 is summarized below.

a. Review of Hearing Panel Decisions

Every Board meeting includes a review of Hearing Panel decisions and Vermont Supreme Court decisions, if any, which have been issued since the previous Board meeting. Throughout FY 2001, Disciplinary Counsel was available to provide the Board with reports on these decisions, including a summary of the procedural process that a case traveled prior to resulting in written decision.

b. Attorney Resignation

²Most of the reported overdrafts (12) related to real estate closings. Typically, deposited funds failed to post prior to a check being presented against those funds. The other reported overdrafts resulted from a variety of clerical/administrative errors that did not rise to the level of an ethical violation.

Two cases decided in FY 2001 raised for Disciplinary Counsel the issue of whether – and how – to prosecute an attorney who engages in misconduct after having “resigned” from the bar. Other than agreeing to a disbarment by consent, Vermont does not have a licensing category for “resigned” attorneys. Thus, as a practical matter, the Board has jurisdiction over, and is charged with regulating, every person licensed by the State of Vermont to practice law, even if the person has embarked upon a completely unrelated career. It would not seem to make sense for Disciplinary Counsel to use limited resources to investigate and prosecute an attorney who has “resigned” and does not intend to return to the practice of law.

Currently, however, there is no process that requires a lawyer who is returning to the practice of law to submit his or her fitness and character for review. Thus, it is possible that an attorney could return to the practice of law without ever having to submit for review – by Disciplinary Counsel or the Board of Bar Examiners – behavior that might otherwise violate the Rules of Professional Conduct. Disciplinary Counsel expressed concern about choosing not to utilize limited resources to prosecute an attorney who has “resigned” and, as a result, running the risk that the attorney would return to the practice of law without the behavior having been addressed.

At the request of the Board, Disciplinary Counsel researched the manner in which other jurisdictions treat attorneys who resign. In addition, Disciplinary Counsel contacted the Vermont Board of Bar Examiners to obtain information about any proposed expansion of categories for attorney licensing. As a result of the research, Disciplinary Counsel drafted a proposed rule change for the Board’s consideration.

Disciplinary Counsel proposed amending A.O. 9 to include a section entitled “Petition to Resign and Surrender License for Non-Disciplinary Reasons.” Under the proposal, an attorney could resign his or her license to practice in Vermont. If the same attorney eventually chooses to return to practice, the proposed amendment would require the attorney to show that he or she has the requisite character and fitness to practice.

c. Disciplinary Regulation of Judges

In February, the Board learned of a proposed rule that would significantly alter the disciplinary control of judges and, in so doing, would have implications for the Professional Responsibility Program. Disciplinary Counsel investigated this issue with several members of the Board. See Section II.C.4 *infra*. at page 15.

d. Probable Cause Panel Issues

In April, Disciplinary Counsel raised to the Board the issue of whether members of Probable Cause hearing panels may issue written dissents from findings of probable cause.

After presentation on this issue, the Board decided that Probable Cause hearing panels should just indicate whether or not probable cause was found, without issuing any written opinions or decisions.

Disciplinary Counsel also reported to the Board on the issue of a second request for a finding of probable cause in the same matter, after denial of the original request. Disciplinary Counsel recommended that any second request be brought only if there is new or different information to bring to the panel's attention, further recommending that any second request be made to the same panel as heard the first request. The Board agreed with these recommendations.

5. Disciplinary Counsel's Docket as FY 2001 Began & Ended

Previous annual reports have analyzed Disciplinary Counsel's docket at two moments in time: the first and last days of the fiscal year. Those snapshots have focused on the age of the cases and the number of cases in which formal proceedings had yet to be commenced. The table below provides a glimpse at Disciplinary Counsel's docket as it existed on July 1, 2000, and on June 30, 2001.

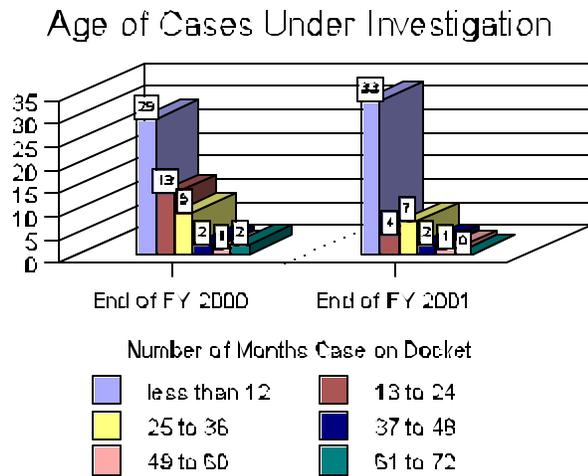
Table 7: Disciplinary Counsel's Docket

Open Cases	END FY 2000	END FY 2001
Under Investigation - Decision to refer, prosecute or dismiss has not yet been made	56	47
In Litigation	31	22
Petition of Misconduct Filed - Hearing Pending		7
Stipulation of Facts Filed - Hearing Pending		6
Probable Cause Found - Further Action Pending		5
30 Day Appeal Period from Panel Decision		2
Hearing Held - Panel Decision Pending		1
Appeals Argued - Court Decision Pending		1
Total Cases	87	69

The size of the docket and the age of the cases under investigation was a significant issue for a number of years. The situation has changed dramatically in the past three years. For instance, at the end of FY 1999, there were 205 cases on the docket. At the end of FY 2000, there were only 87. At the end of FY 2001, there were 69 cases on the docket. The age of the docketed cases; i.e., how long it takes for a case to reach final resolution, has also

decreased, as indicated in the following chart:

Chart 3



A comparison of Disciplinary Counsel’s docket at the beginning and at the end of FY 2001 reveals that it was an active year that resulted in a substantial reduction of older cases. Given the work accomplished in FY 2001, the Professional Responsibility Program seems poised to eliminate the backlog in FY 2002. A number of facts support this conclusion:

1. As FY 2001 began, 48% of the cases under investigation were more than a year old. As the year ended, only 30% of the cases under investigation were more than a year old.
2. As FY 2001 began, there were 14 “old” cases, i.e., cases more than 2 years old and still under investigation. As the year ended, only 3 of those cases remained under investigation.
3. Disciplinary Counsel’s docket had a net reduction of 18 cases in FY 2001. This reduction occurred despite the fact that Disciplinary Counsel opened nearly 120 new cases in FY 2001. Most of those cases – 100 – were referred by Bar Counsel. The remainder constitutes appeals, cases returned by Assistance

Panels, and complaints opened by Disciplinary Counsel. Thus, the work in reducing the number of older cases is not causing the newer cases to go unattended.

4. Disciplinary Counsel's staff was in flux throughout much of FY 2001. The office entered FY 2002 fully staffed and expects that situation to continue throughout the next fiscal year.

There will always be work to do. Indeed, new cases continue to flow into the office as FY 2002 begins. Nevertheless, the statistics indicate that FY 2001 was a successful year in terms of the effective, efficient, and fair investigation of ethics complaints that are filed against Vermont attorneys.

C. Report of Other Activities of the Board

1. Annual training meeting

In March 2001, the Board held its second annual training meeting in Rutland which was attended by the members of the Board, the staff, members of the Assistance Panels, and members of the Hearing Panels. Organized primarily by Board member Joan Wing, the meeting gave everyone an opportunity to discuss common problems and to forge solutions to them.

Significantly, the meeting highlighted the importance of continued training for the 25 lawyers and 16 public members who are the front line resources of the program. The good will of these volunteers cannot be taken as evidence that they are all equally conversant in the requirements of probable cause or the importance of precedents in decision making.

2. Policies and Practices

During the fiscal year, the Board convened on 7 occasions and addressed various personnel and policy issues as they arose. Pursuant to Rule 1.E (1), it formally adopted five new policies, in addition to the eleven adopted in the previous year. In addition, the Board struggled with a number of challenging issues as described throughout this report. The new policies are:

1. Complainants will be allowed sixty days to appeal Bar Counsel's dismissal of their complaint. Bar Counsel informs the Complainant of this deadline and advises of a deadline in which to respond. This information has been added to the current language used in the dismissal letters sent out by Bar Counsel. (November 30, 2000).
2. Bar Counsel will inform participants in cases referred to Assistance Panels that

failure to carry out a directive of the Assistance Panel could be grounds for a separate disciplinary violation. (February 16, 2001).

3. A probable cause decision will follow the standard form and will only indicate whether or not probable cause was found. There will be no written decisions. (April 26, 2001).

4. Second requests for probable cause are only submitted if the presence of different or new information is to be brought to the panel's attention. (April 26, 2001).

5. Respondents will be notified when the Complainant appeals Bar Counsel's decision to dismiss. (June 14, 2001).

3. Consistency and Educational Value of Decisions

Unlike its predecessor, the Professional Responsibility Board is not an adjudicatory board. Instead, thirteen separate and distinct panels render decisions on cases assigned to them. These panels, which include public and lawyer members of widely divergent backgrounds and experiences, work to apply their training and the Rules to the matters before them. Although the number of cases decided by these panels is not, at this point, a large sample, the Board has noted that the consistency in style and quality of the decisions is more difficult to monitor and maintain given the organizational structure to the program. The move from the single adjudicatory board has meant the consequential loss of the collective memory and experience of the program. This may have unintentionally eliminated a self-critical aspect of the program and created the potential for a loss of consistency among the decisions being issued. The Board is continuing to look at this issue.

4. Disciplinary Regulation of Judges

In February of 2001, the Board began review of a proposal by a committee appointed by the Vermont Supreme Court to radically change the disciplinary regulation of judges. As proposed, the rule would authorize the Judicial Conduct Board to retain Disciplinary Counsel to investigate and prosecute allegations of judicial misconduct. It also envisioned changes in the traditionally confidential nature of a conduct complaint, opening up the process to public scrutiny at a very early stage. The Professional Responsibility Board had a number of questions about this proposed rule, and Disciplinary Counsel was asked to work with members of the Board on this project. Ultimately, discussions were held with Christopher Davis, Chair of the Judicial Conduct Board, as well as other members of the JCB about the proposal to use Disciplinary Counsel to investigate judicial conduct complaints. Although there did not appear to be a large number of ethical complaints that would have to be investigated and/or prosecuted annually, the Board was concerned about aspects of the proposed rule, and ultimately wrote to the Court to express its views.

III. CONCLUSION

The Professional Responsibility Program has matured in its second year. Policies have been developed to improve the oversight and coordination of the Board activities. Particular areas of focus for the ensuing year include:

1. Continuing oversight of Hearing Panel Decisions to ensure that they are remaining consistent both in the nature of discipline imposed and in the presentation of the decisions to maximize their educational value;
2. Continued diligence in preventing the recurrence of backlogs which can be caused by individual and particularly time consuming cases; and
3. Streamlining probable cause panels while increasing training and regular feedback for hearing and assistance panels.

cc: Hearing Panel Members & Assistance Panel Members
Michael Kennedy, Disciplinary Counsel
Beth DeBernardi, Deputy Disciplinary Counsel
Wendy Collins, Bar Counsel
Deb Laferriere, Administrative Assistant
Margaret Stackman, Administrative Assistant