

REPORTS OF SPECIAL COMMITTEES

SPECIAL COMMITTEE TO STUDY CONSISTENCY OF DECISION MAKING WITHIN THE DISCIPLINARY SYSTEM

W. Scott Street, III, Chair

The Special Committee to Study Consistency of Decision Making Within the Disciplinary System (the "Committee") was established in June, 1996 following a recommendation by JLARC, which suggested that the bar study decisions of our district committees from across the state to make sure there were not geographical disparities in the way cases were handled. Bar Council approved this recommendation, expanding the study to include a review of any apparent disparity on the basis of race, gender or ethnic background.

Dr. Michael Pratt of the Center for Public Policy at Virginia Commonwealth University (the "Center") was retained to develop the criteria for a process to gather information for the consistency study. The information gathering process began on May 1, 1997.

When a complaint file is opened by the bar, the bar staff sends to the respondent attorney a confidential questionnaire developed by the Center and approved by this committee. Information on the questionnaire is maintained exclusively by the Center, which is in the process of compiling the responses in a database expected to form the basis for the Center's analysis of the bar's decision making consistency. All individual responses will be retained by the Center, thereby preserving anonymity to each respondent.

Because the information has been gathered only on complaints opened after May 1, 1997, the committee expects that there will be sufficient information to permit the Center to submit its initial analysis sometime around the end of 1999.

The Center's interim report, furnished in March 1998, did confirm that the practice areas of criminal law and family law together generate more complaints than all the other areas of law combined. Likewise, litigation practice apparently generates about four times as many complaints as are generated by non-litigation practice. Many of the complaints are against the same attorneys.

The committee has been pleased with the level of response to the confidential questionnaires and hopes to have sufficient information within the next six months to begin a meaningful analysis of the consistency with which decisions are made within our disciplinary system.

Jackie Epps has been appointed chair of the committee for the 1999-2000 bar year, and Tom Slater is serving as vice-chair. ❧