



STANDING COMMITTEE ON LAWYER DISCIPLINE

Ray W. King, chair

The Standing Committee on Lawyer Discipline (COLD) oversees the attorney disciplinary process, including the bar's investigation and prosecution of complaints. The COLD also formulates and presents proposed amendments to Part Six, Section IV, Paragraph 13 of the Rules of the Supreme Court of Virginia, which govern the attorney disciplinary process, to the Virginia State Bar Council, which in turn decides whether to petition the Court to adopt the proposed rule amendments.

The COLD held the twenty-sixth annual Disciplinary Conference on July 10 and 11, 2005, in Charlottesville. All attorney and lay volunteers serving on district committees, the Disciplinary Board and the COLD were invited to attend the conference in addition to circuit court judges who serve on three-judge panels in attorney discipline cases.

The program included presentation and discussion of case vignettes and separate breakout sessions about the disciplinary system for new district committee members, returning district committee members, members of the Disciplinary Board and judges.

Afshin Farashahi chaired the Oversight Subcommittee in fiscal year 2006. Subcommittee members randomly reviewed more than one hundred case files to ensure that bar counsel handled them in a procedurally correct fashion. The random reviews did not reveal any instances where bar counsel had handled cases inappropriately. In addition to the random case file reviews, the Oversight Subcommittee responded to complaints about the way in which particular attorney disciplinary matters were handled and resolved.

William L. Babcock Jr. chaired the Rules Subcommittee during fiscal year 2006. The subcommittee proposed, and the COLD approved, three amendments to Paragraph 13, which were presented to the VSB Council for consideration at its meetings on October 21, 2005; March 3, 2006; and June 15, 2006. These included one amendment that was proposed and approved by the COLD in fiscal year 2005. Council approved the amendments, and the bar subsequently petitioned the Supreme Court to adopt them. One of the amendments has been adopted by the Court and the other two amendments are pending before the Court. During fiscal year 2006, the Court also rejected four rule amendments which had been approved by the COLD and Council in fiscal year 2005, including a limited right of appeal by bar counsel. Three of the amendments were resubmitted to the Court and are pending. The proposal for a limited right of appeal for bar counsel was not resubmitted. The subcommittee continues to work on a proposal that would give bar counsel a limited right of appeal.

In fiscal year 2006, the number of complaint files opened decreased compared to fiscal year 2005; however, in fiscal year 2005, the bar received a large number of matters involving procedural defaults in criminal appeals, which caused a substantial increase in the number of complaint files opened during fiscal year 2005.

The areas of law in which the most inquiries about attorney misconduct were received by the bar were first, criminal law, and second, family law. Most of the complaints made to the bar fell into three categories: first, failure to communicate; second, failure to file; and third, failure to pay amounts due from a trust account.

The COLD e-mailed a newsletter to attorney and lay volunteers who serve on district committees and the Disciplinary Board to keep them informed about rule changes and other attorney disciplinary developments.

In fiscal year 2006, the COLD Chair Ray W. King and VSB Bar Counsel Barbara A. Williams met on several occasions with the Chief Justice to identify and discuss attorney disciplinary issues. In addition, the Supreme Court of Virginia has appointed Justice Elizabeth B. Lacy as an informal liaison to the COLD on behalf of the Court.

In January of 2006, Barbara A. Williams resigned as bar counsel, having served in that position for eight years, to take a position with McGuireWoods LLP. During Ms. Williams's tenure, the disciplinary system was improved in several ways, including the following: the disciplinary process became more open to the public, and the staff of the Office of Bar Counsel was increased, resulting in an increase in the number of cases completed and a reduction in

the number of older cases, while emphasis was placed on the continuing goals of increased efficiency with fairness. The COLD extends its thanks to Ms. Williams for her dedication to the bar and efforts in improving the bar's disciplinary process.

Deputy Bar Counsel Harry M. Hirsch was appointed as interim bar counsel until a new bar counsel was appointed.

George W. Chabalewski became bar counsel effective June 15, 2006. Mr. Chabalewski's experience includes eighteen years as an Assistant Attorney General in Virginia, preceded by seven years as a public defender in Illinois.

