

## Inquiry Regarding 2017 Annual Report and Analysis of the Number of Files Opened

After the Board posted its 2017 Annual Report in May 2018, the Board received an inquiry from the media. The Board was asked why the reported number of “files opened” declined after 2013.

The number of complaints received by the Board remained relatively constant. However, in 2014, the legislature transferred primary responsibility for enforcing the “90 day rule” from the Board to the chief judges in each of the state’s judicial districts. Minn. Stat. § 546.27. The 90 day rule requires a judicial officer to rule within 90 days after a matter/case has been fully submitted. Prior to the amendment in 2014, the Board was notified when a judge was in violation of the 90 day rule, and those notifications resulted in files being opened. This change resulted in an actual decline in the number of complaints.

The second change involved an increased use of a longstanding procedure for processing complaints, called summary dismissals, and a different way of administratively categorizing the complaints received after 2014. Complaints that were summarily dismissed by the Board’s Executive Secretary, subject to review and approval by a Board member, were not included in the number of “files opened.” But the total number of complaints received, with the exception of the 90 day rule change, remained relatively steady. That administrative categorization was not intended to reflect a decrease in the Board’s business. The number of complaints “summarily dismissed” has not been counted in the number of “files opened” since 2014, and this may be a source of confusion.

The summary dismissals are complaints over which the Board lacks jurisdiction. These include complaints filed against prosecutors, public defenders, lawyers, law enforcement officers, court administrative staff and members of the federal judiciary. In addition, the Board does not act as a court of appeals. It does not review a judicial officer’s discretionary decisions; its authority is limited to ethical violations and other judicial misconduct which may violate the Minnesota Code of Judicial Conduct.

The Board appreciates the inquiry and, as a result, the Board will consider whether complaints which are summarily dismissed should be counted as complaints/files opened to avoid confusion.

May 30, 2018