

OLR PROCEDURE REVIEW COMMITTEE
May 9, 2017 Meeting Minutes

Attending: Gerald Ptacek, Chair; Marsha Mansfield, Reporter; Christopher Sobic; Mark Baker; Jacquelynn Rothstein; Peggy Hurley; Jennifer E. Nashold;

Present by phone: Michael Apfeld, Amy Jahnke, Catherine La Fleur, David Meany, David Wambach, Carrie Schneider

Also present: Bill Weigel, Mary Spranger, and Keith Sellen (by phone).

Absent: Frank Lo Coco, Rick Esenberg, Rod Rogahn, Paul Schwarzenbart, Ed Hannan, Terry Johnson, David Meany, and Joe Ranney

1. Welcome by Gerry Ptacek and explanation of voting procedures
2. Discussion of meeting minutes. Will try to get approved minutes posted on the COURTNET website rather than distributing two sets of minutes in advance of each meeting.
3. Approval of April minutes as amended.
4. Discussion of stages of OLR proceedings where oversight might occur by an administrative process/person/panel other than the Court. Comment has been made by some of the justices that not every case may need Court review.

ABA Survey does not contain much information about other jurisdictions but Keith has contact information for his counterparts in other states. Could look on-line or Keith can provide contact information. A law student can explore in more depth and information can be provided to the Committee before the next meeting.

5. SUBCOMMITTEE REPORTS:

A. OLR CHARGING PROCESS SUBCOMMITTEE:

Christopher Sobic: Planning on arranging a meeting to further address issues discussed at last Committee meeting. Meeting scheduled for May 23. Topics are:

1. OLR charging discretion based upon current rules.
2. Plea bargaining (or “negotiated disposition”)
3. PRC and diversion programs

B. REFEREE SUBCOMMITTEE: Jackie: Peggy circulated relevant rules and Referee Benchbook. Julie Rich has helped circulate topics for subcommittee to consider. The topics are:

1. Referee qualifications
2. Training requirements; how often to offer, content of training.
3. Appointment, retention, and removal procedures for referees. How should appointments be made? Should there be term limits? How many should be in the referee pool?

4. Assignments of referees: Should there be a policy? Should geographic considerations be taken into consideration?

5. Other: Should there be a deadline for referee reports? Should there be other rules created that apply to referees?

C. CONFIDENTIALITY SUBCOMMITTEE

Subcommittee has been reviewing materials provided by Keith Sellen and Peggy Hurley. We expect to schedule a Subcommittee meeting within the next couple of weeks to discuss (1) members' preliminary thoughts as to what, if any, changes in confidentiality practices are necessary and (2) steps to be taken in order to complete discussion and analysis and submit a report to the Committee as a whole.

D. OLR PROCESS SUBCOMMITTEE

Subcommittee has been reviewing a summary prepared by Marsha that includes the issues under discussion. Marsha reviewed the issues that include the following:

Discussion of criminal conduct (example is converting client funds) where no criminal charges have been brought. OLR has been contacted by DA's when possible criminal conduct by an attorney has occurred and the DA asks whether the OLR has filed a complaint. Should there be a mechanism for reporting this type of conduct? Should not fall on OLR's shoulders.

Discussion of deferring OLR prosecution until the criminal case is finalized to afford the respondent his/her constitutional protections. Also OLR has the ability to stipulate a temporary suspension of an attorney's license pending appeal. Keith believes that about 12-16 cases are on hold for litigation-related reasons (about 6-7% of their caseload) at any one time.

E. Report Write-Up: Ultimately, Peggy will draft Committee's report, including proposed rule changes and petition to Court (if warranted).

6. Discussion of increasing meeting attendance. Would it help to have sub-committees meet before general meeting? Telephone use and rooms are logistical concerns. Discussion of alternate sites.

7. Committee asked to consider what people or entities we should ask to vet our work once our work is more complete but before we submit our report to the Court including the State Bar and OLR associated committees. How to better reach out to the public as well? Perhaps could convene a group of former grievants. Could have public hearing.

General Meeting adjourned at 2:40 p.m.

NEXT MEETING DATE: June 6, 1:30 p.m. at the State Bar of Wisconsin