

THE LAWYER DISCIPLINE PROCESS

WYANDOTTE COUNTY BAR ASSOCIATION

JUNE 26, 2025

JAMES L. SPIES

Road Map

Disciplinary Authority

Complaints

Investigations

Diversion

Review Committee

Hearing Panel

Supreme Court

Board of Discipline

John D. Gatz, Chair

Derrick L. Roberson, Vice Chair

Gregory L. Bauer

Stephen W. Cavanaugh

Jeffrey A. Chubb

Shaye L. Downing

John M. Duma

Rebecca Faurot

Thomas Hammond, II

Glen I. Kerbs

John E. Larson

Terry L. Mann

Kathryn J. Marsh

Mira Mdivani

Stacy L. Ortega

James P. Rankin

Lee M. Smithyman

Kala Spigarelli

Gaye Tibbets

Darcy D. Williamson

Office of the Disciplinary Administrator

Gayle Larkin



Disciplinary Authority

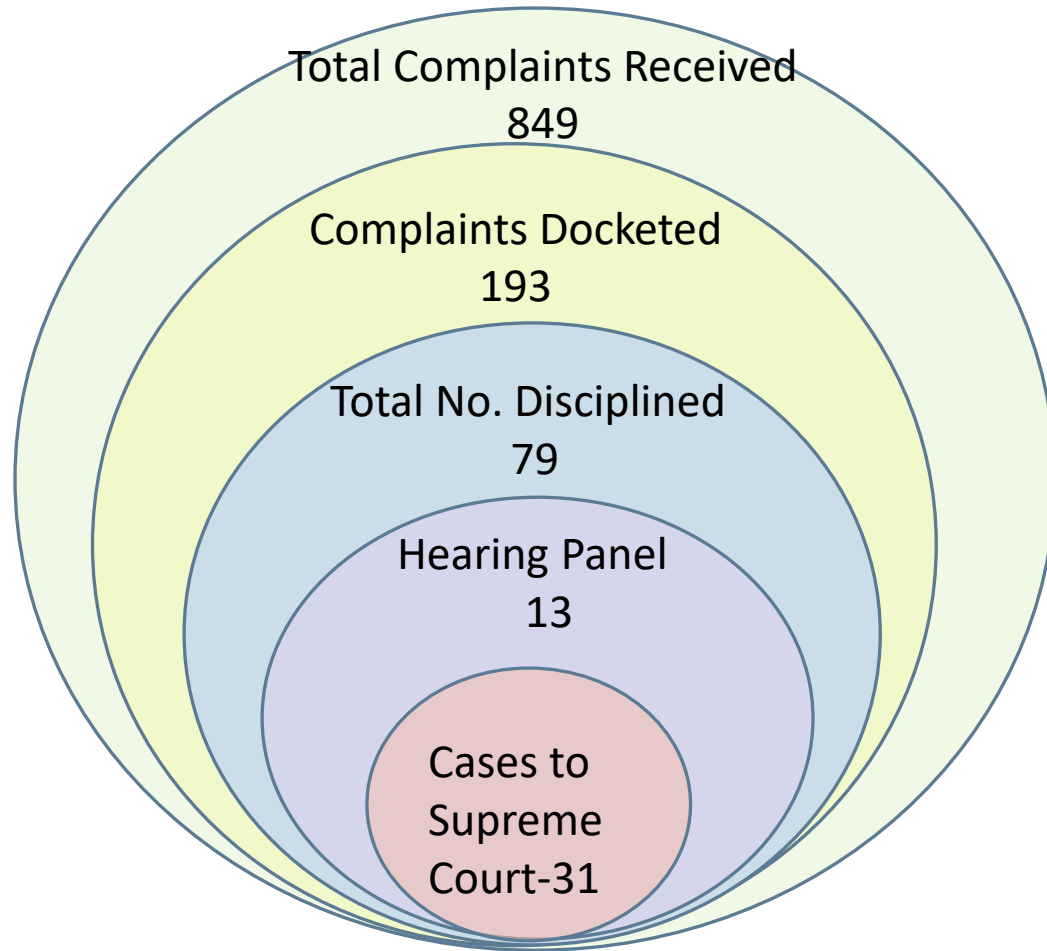
To investigate allegations of *lawyer misconduct* and make recommendations to the Supreme Court for discipline when warranted.

- Rule 201 Definitions “Misconduct” – an act or omission that violates the KRPCs, Rules Relating to Discipline of Attorneys, or the attorney’s oath of office.
- The office does NOT settle fee disputes
- The office does NOT recover funds for client

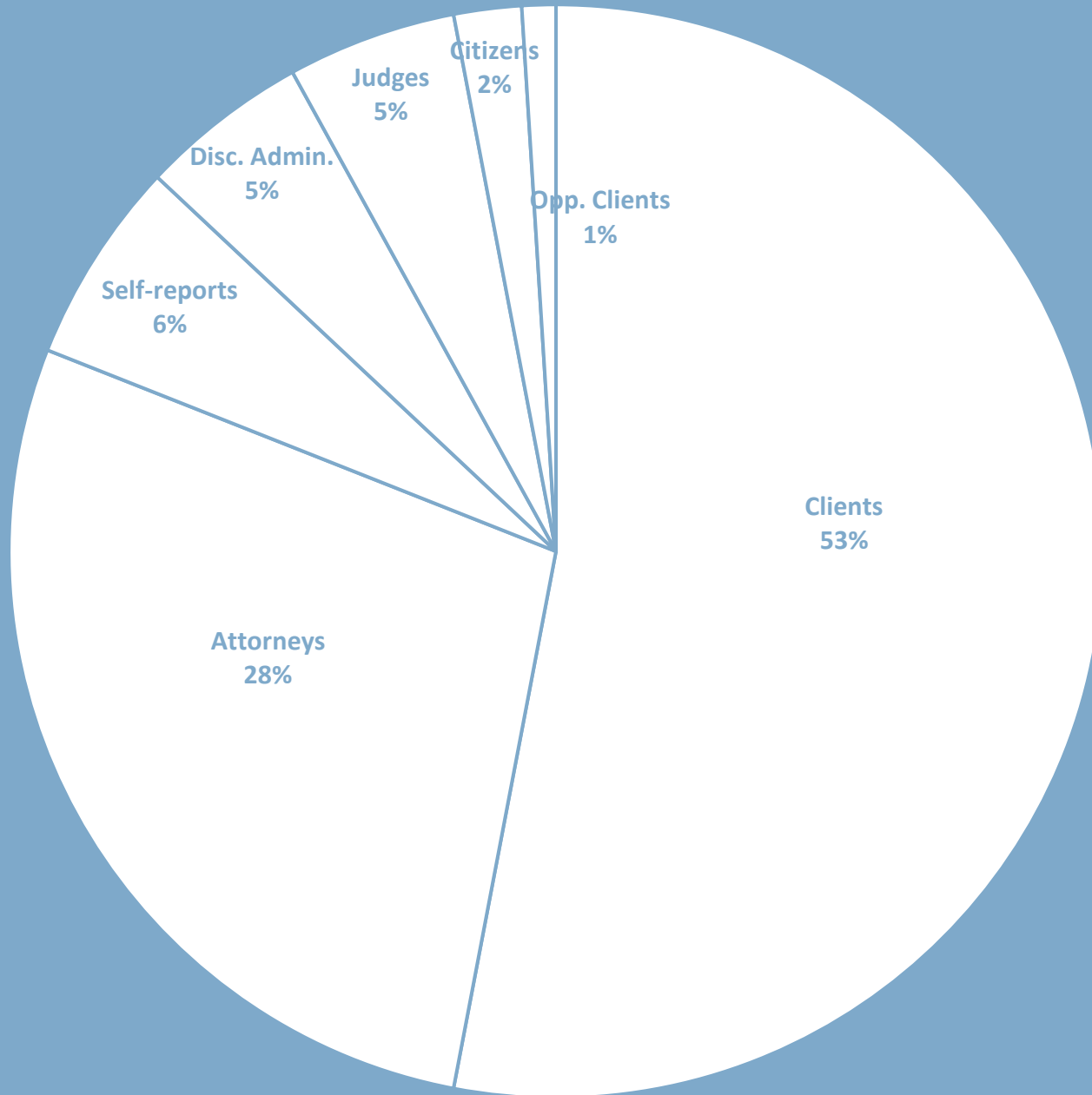
Self Reporting

- Rule 209(b): 30 days = Report lapse / cancellation / termination of insurance
- Rule 219(c): Report criminal charge or indictment to disciplinary administrator no later than 14 days after charge filed.
- Rule 219(d) & 219(e): 14 days = Attorney and clerk of court report criminal conviction
- Rule 221: 14 days notify the disciplinary administrator in writing after another jurisdiction disciplines an attorney or refers an attorney to the attorney diversion program or comparable program

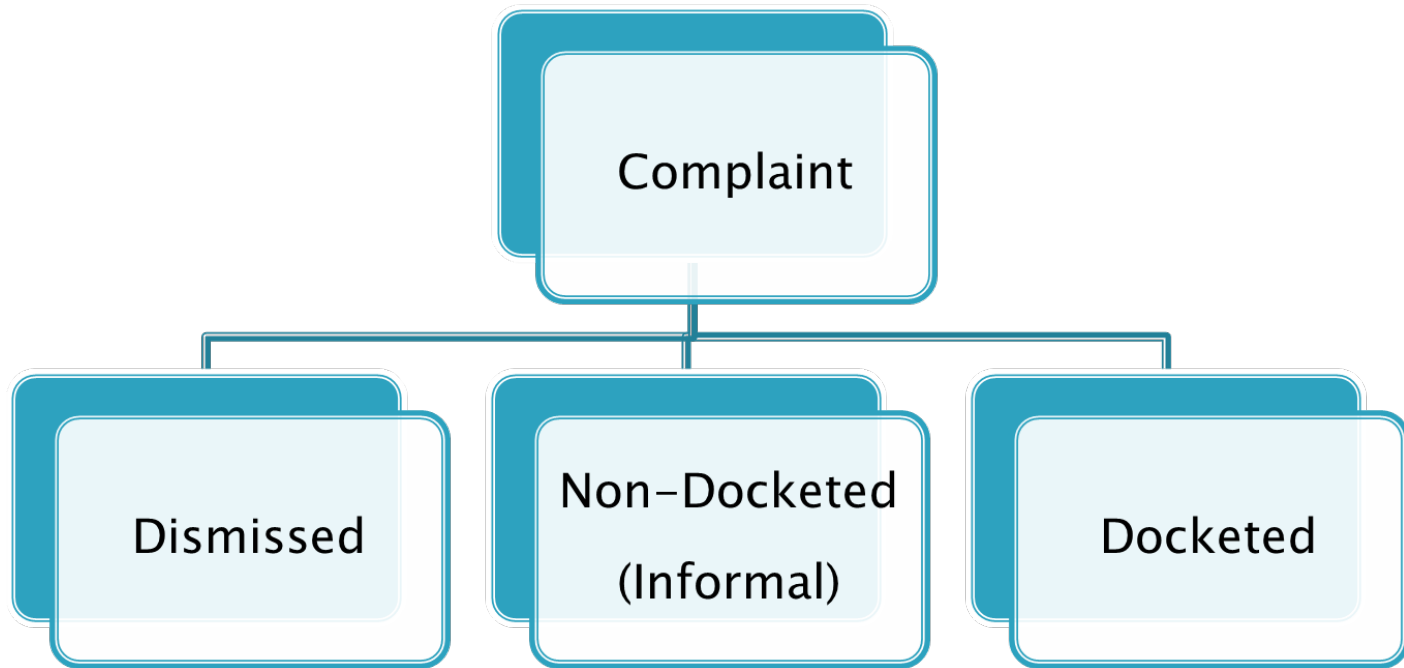
Statistics FY 2019 (July 1, 2018 - June 30, 2019)



2013-2014 COMPLAINANTS (875 DOCKETED FOR INVESTIGATION)



Triaging Complaints



Kansas Supreme Court Rules 201- 207 – govern processing complaints
Form of Submission (Rule 209) Written complaint form is online at kscourts.org

Benefits of A Complaint Not Docketed

- A shorter response is often sufficient
- No formal investigation, interviews of witnesses, production of file
- Dismissal without Review Committee so more expedient
- More private (Less Reputational Risk)

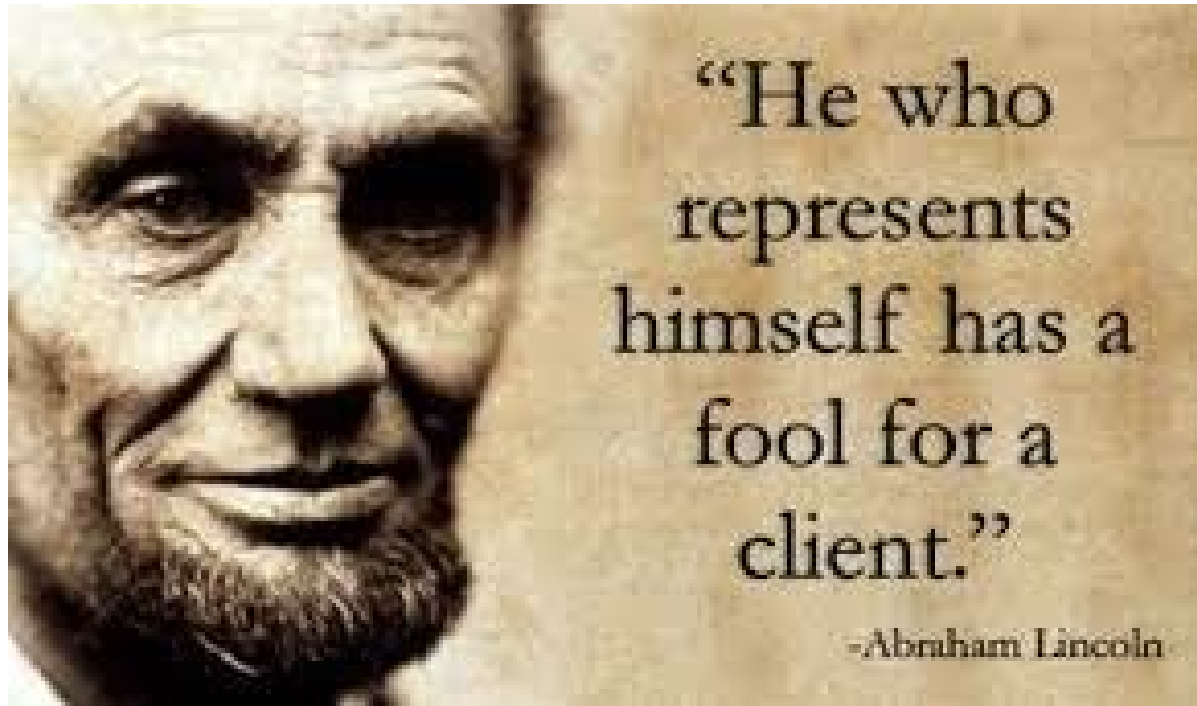
Duty to Cooperate

Written Response Required. Duty to cooperate and failure is a violation in itself. Rule 207.

The office has disciplined individuals for failing to respond to complaints that otherwise wouldn't have been a matter of concern.

In the Matter of Cole, 268 Kan. 828 (2000) (Court indefinitely suspended the respondent for failure to cooperate in the disciplinary investigation despite the fact the underlying complaint appeared to lack merit.)

Responding To Complaints



Tips For Responding To Complaints

- The ODA is flexible in extending time to respond.
- The Attorney's response may be attached to the formal complaint.
- Accept your mistakes.
- Clear violations warrant consideration of diversion.
- Take measures to proactively mitigate matter.
- For a docketed complaint – submit more than a bare response. Provide supporting documents.

Investigations

SOME
THINGS
YOU
SHOULD
KNOW



- If there is something amiss with trust funds, the Disciplinary Administrator can issue subpoenas for trust and operating accounts.
- Investigator interviews Complainant and gathers all relevant documentary evidence.
- Investigator interviews all other relevant witnesses.
- Investigator interviews responding attorney.

Supreme Court Rules 205, 207, 210 and 223

Diversion

Diversion Program:

- Alternative to disciplinary action
- Participation is a privilege; not a right
- No prior disciplinary history.
- Not for violations involving dishonesty or theft
- Goal is to protect the public by improving the professional competency, education, and rehabilitation of members of the bar

Review Committee

Members:

- 2 Board Members
- 1 Attorney At Large

Meetings:

- Continuously address cases through email, but meet in person quarterly as well.

Function:

- To determine if probable cause exists for a violation.

Review Committee

If The Committee Recommends:

- Dismissal
- Diversion Recommendation OR
- Informal Admonishment

Then the case ends at this stage.

Any other discipline and formal proceedings go forward.

Formal Complaint

- The ODA serves Formal Complaint
 - Rule 224(a) 14 days after the Formal Complaint the ODA serves a witness list for the panel hearing
- Attorney Response within 21 days (Rule 215(b))
 - Rule 224(b) 14 days after Answer to formal complaint Respondent to file and serve witness list

Discovery Procedure

- Scheduling conference
- Witness & exhibit lists
- Expert designations
- Rebuttal experts
- Subpoenas
- Depositions

Prehearing Deadlines

- Rule 224(c): **21 days** after formal complaint = Any party designate expert witness including report or summary of opinions.
 - **21 days** after designation = Designate rebuttal expert including report or summary of opinions.
- Rule 223(c): Parties submit agreement for summary submission of case to hearing panel no later than **30 days** before hearing.
- Rules 216(a), 227(a), 217(b)(4): **14 days** before hearing = File motions, **plan for probation**, motion to quash subpoena.
 - **7 days** before hearing response/opposition to motions

Summary Submission

New Procedure (Rule 223)

- Agreement of parties
- Submit case directly to Supreme Court foregoing Panel Hearing
- Stipulation:
 1. Respondent admits *the misconduct as alleged*
 2. Contents of the record
 3. Findings of fact and conclusions of law, including *violations of rules or oath*
 4. Recommendation for *discipline*
 5. Waiver of a panel hearing
 6. No exception to the findings / conclusions will be filed
- Board may approve or disapprove
- If not approve = panel hearing
- If approve = straight to court

Securing Witnesses' Appearances

- **30 days** before the hearing = respondent must request (Disciplinary administrator may issue subpoenas)
- **21 days** before the hearing = subpoena must be served
 - Mileage, travel and meals = paid by the party requesting the subpoena
- **14 days** before hearing = file motion requesting witness to appear by video or phone

Panel Hearing

- Open to the public
- Witnesses
- Cross-examination
- Initial finding of violation
- Presentation of evidence of aggravation and mitigation
- Panel deliberation
- Report

Disciplinary Actions

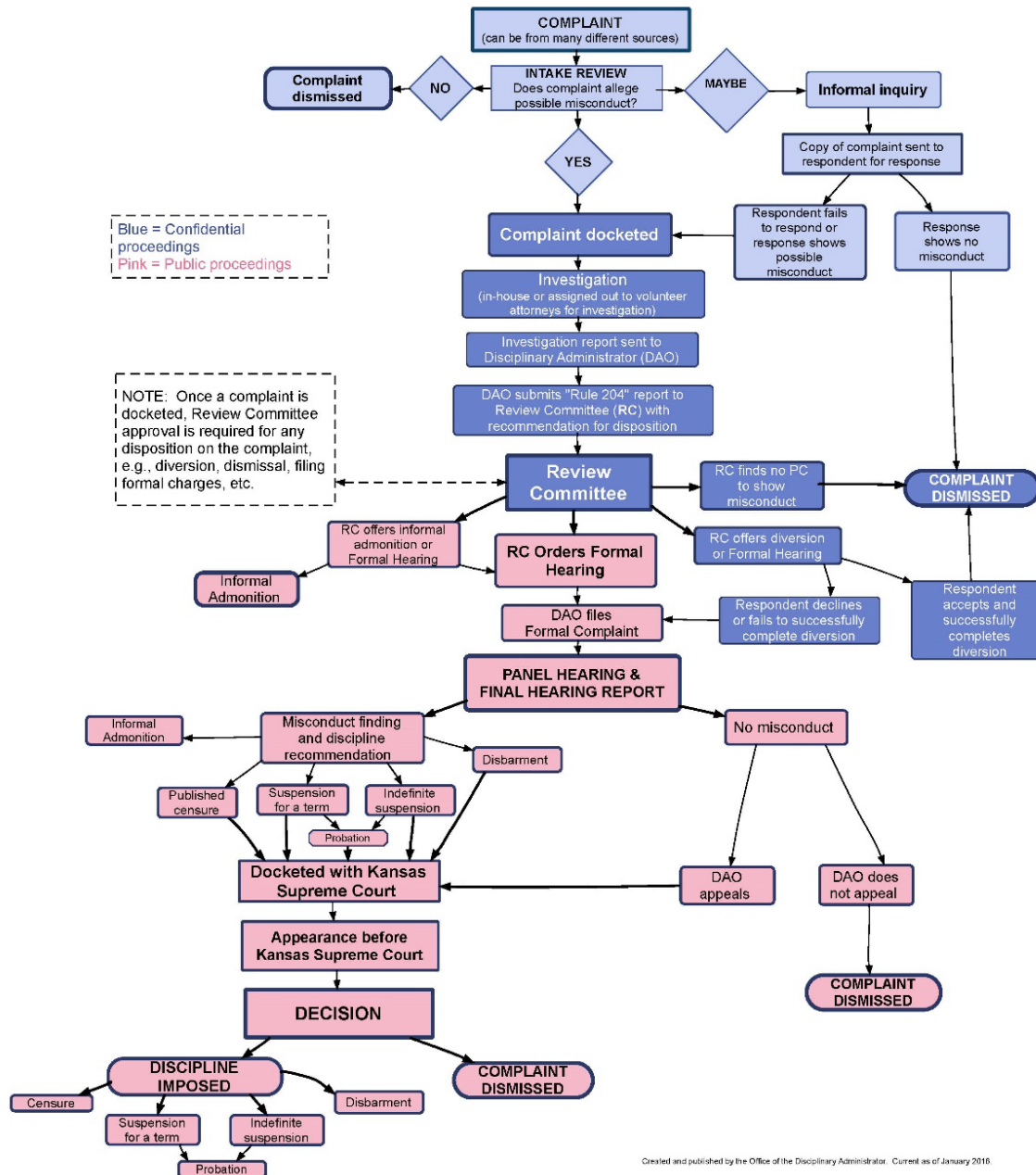
Rule 203- Types of Discipline. The Panel may recommend:

- No violation and dismissal of complaint. ODA can appeal this to the Supreme Court
- Informal Admonishment – Case Ends
- Public Censure – Goes to Supreme Court
- Probation – Goes to Supreme Court
- Suspension– Goes to Supreme Court
- Disbarment (Rule 217) – Goes to Supreme Court
- Any other discipline deemed appropriate

Kansas Supreme Court Oral Arguments



Kansas Disciplinary Complaint Flowchart



SPECIAL NOTE OF THANKS
TO THE OFFICE OF DISCIPLINARY
ADMINISTRATOR STAFF
FOR PROVIDING INFORMATION
USED IN THIS PRESENTATION