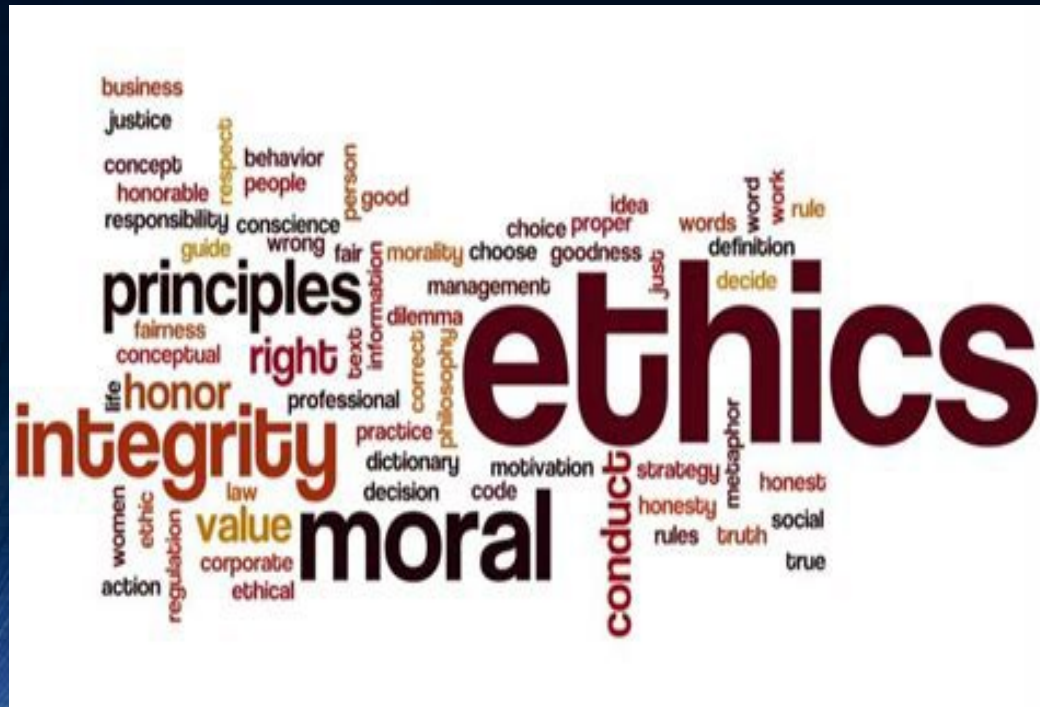


Ethics “Hot” Topics

GREG ANDERSON, DEPUTY DIRECTOR OF ADMINISTRATION
INDIANA SUPREME COURT DISCIPLINARY COMMISSION

Ethics “Hot” Topics



- Attorney Disciplinary System
- AI – Risks & Benefits
- Recent Cases

ATTORNEY DISCIPLINE SYSTEM

A LITTLE HISTORY...

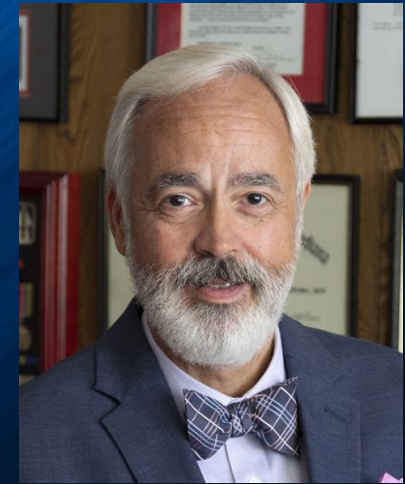
- Supreme Court has original jurisdiction over discipline of attorneys and judges. Ind. Const. Art. 7, Sect. 4
- Attorney Disciplinary Commission created June 23, 1971
- Agency of the Court
- Funded by Annual Fees



PURPOSE OF THE COMMISSION

“[T]o protect the public, the courts and the members of the of the bar of this State from misconduct on the part of attorneys, and to protect attorneys from unwarranted claims of misconduct.” Admis. Disc. R. 23(1)

COMMISSION MEMBERS

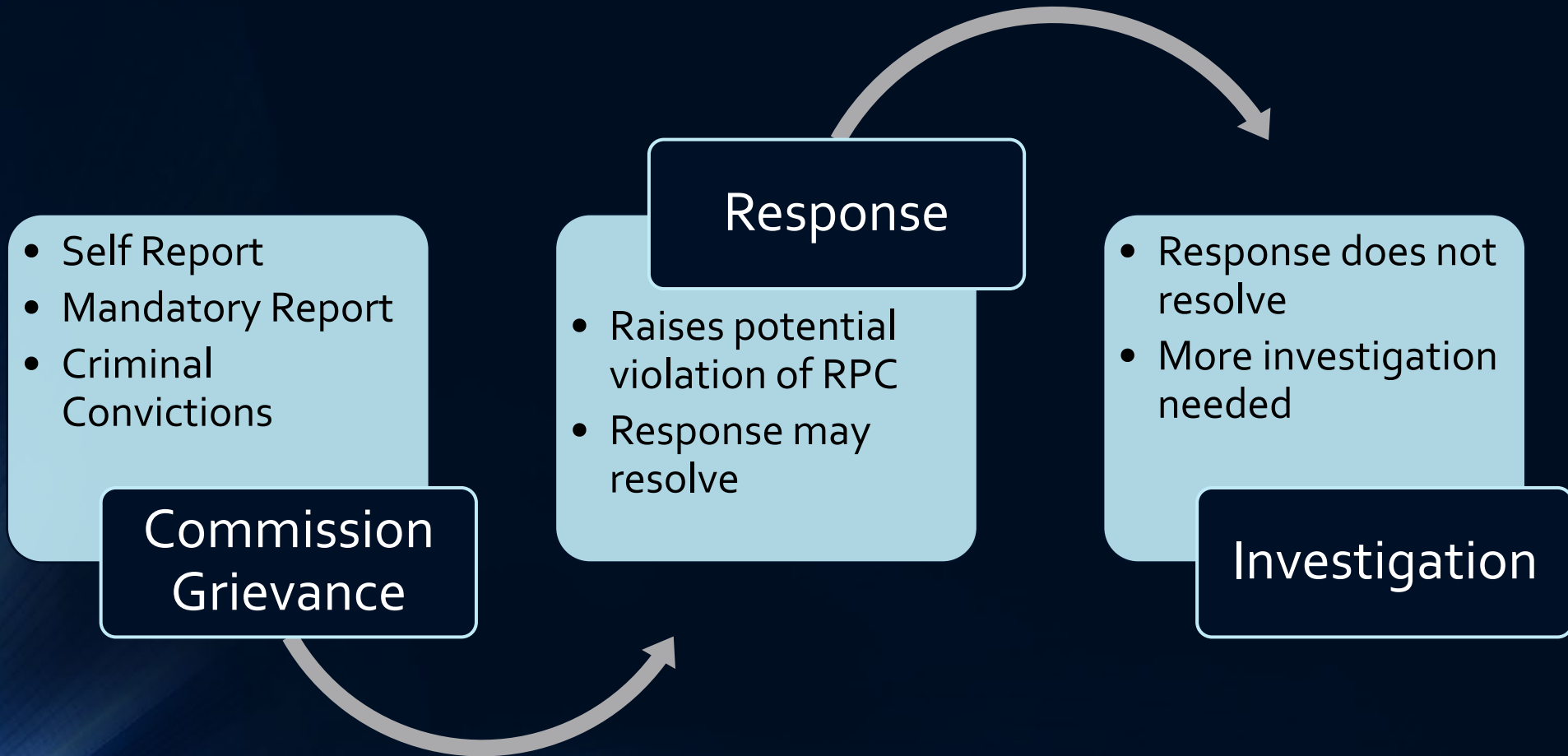


Admission and Discipline Rule 23

Grounds for Discipline

- Violations of Rules of Professional Conduct
- Violations of Code of Judicial Conduct
- Violations of “any standards or rules of legal and judicial ethics or professional responsibility in effect in Indiana...”
- Reciprocity with other jurisdictions
- Disability

DISCIPLINARY PROCESS



PRELIMINARY INQUIRY

- Commission staff screens grievances
- If no allegation of misconduct under RPC (or other ethical rules), Executive Director may dismiss with subsequent approval of Commission
- If raises a potential issue under RPC (or other ethical rules), copy of the grievance will be sent to the attorney with a request for a mandatory written response within 20 days (although initial extensions to respond typically granted)

PRELIMINARY INQUIRY (TIP #1)

RESPOND!

RESPOND!

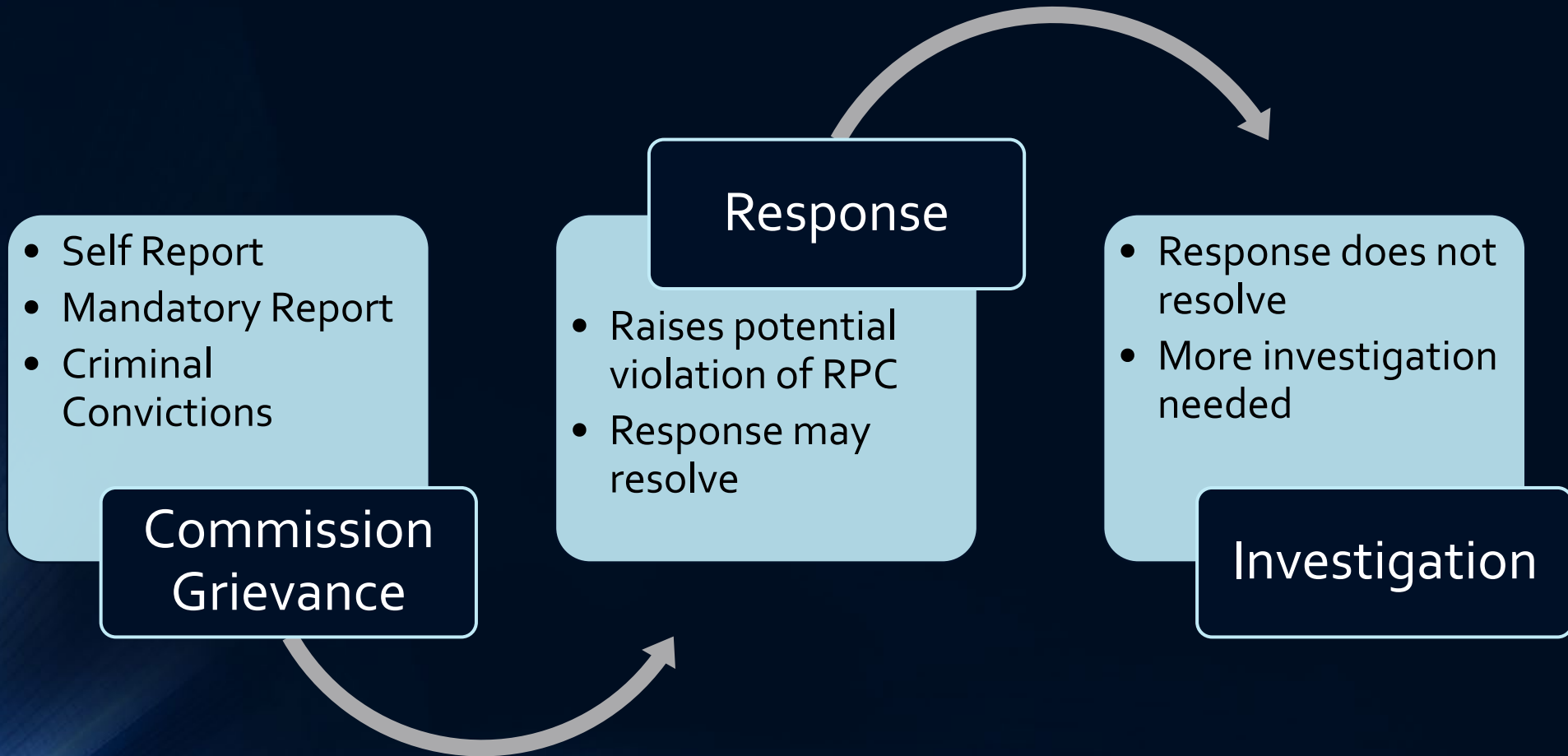
RESPOND!!!!

A&D 23, Section 10.1 – failure to cooperate by not responding to a request for information may lead to a suspension for noncooperation

PRELIMINARY INQUIRY – CAUTION LETTERS

- Executive Director may issue a caution letter to an attorney if a grievance raises a substantial question of misconduct, but the misconduct is not serious enough to warrant further proceedings or could be cured.
- Caution letter may state:
 - Facts of the alleged violation
 - Method to remedy the situation
 - Deadline to cure the situation

DISCIPLINARY PROCESS



TIP #2 - SELF-REPORTING

- Must self-report any misdemeanor or felony conviction within 10 days of conviction
- Should consider reporting (but not required) an arrest to show cooperation (esp OVWI or substance abuse arrest)
- Conviction for crime punishable as a felony likely will result in interim suspension.

Brother: breaks vase
Me: tells mom
Mom:

Mom
self report

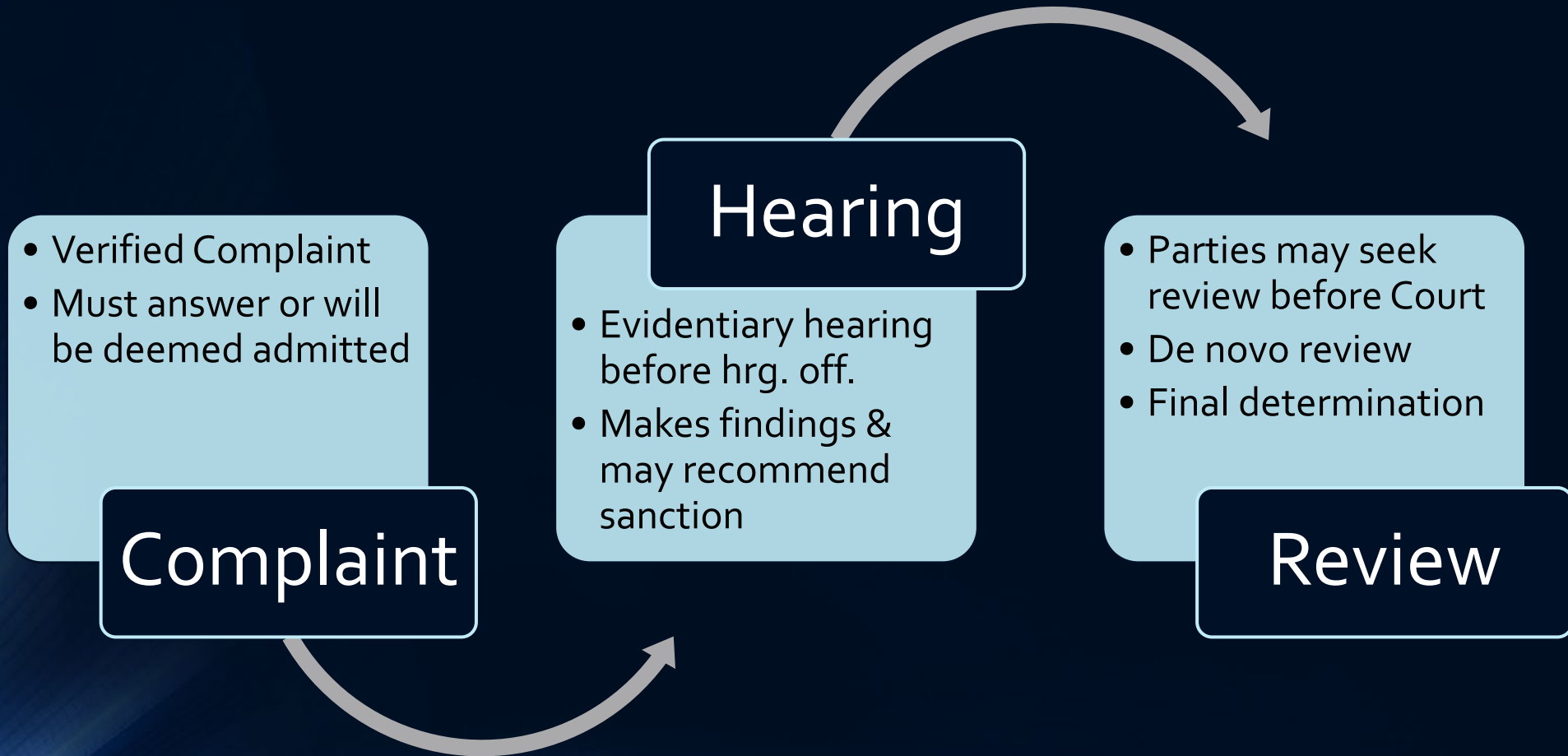


made with mematic

INVESTIGATIONS

- If matter cannot be resolved after initial response – will be docketed for investigation
- Investigations must be completed within 12 months after grievance received (unless extension received)
- Upon completion of investigation, matter presented to the full Commission for determination on whether to file disciplinary charge(s).
- Necessary standard – “reasonable cause to believe the respondent has committed misconduct which warrant disciplinary action.”

DISCIPLINARY PROCESS - CHARGING



FILING DISCIPLINARY CHARGES



- Verified Disciplinary Complaint
- Facts alleged and identifies Rules of Professional Conduct alleged to be violated
- Respondent must file an answer or facts will be deemed as true

EVIDENTIARY HEARING

- Supreme Court appoints hearing officer
- Supervises discovery, makes pretrial rulings
- Presides over evidentiary hearing – IRE applies
- Makes FFs and CLs
- Clear and convincing standard



SUPREME COURT REVIEW



- Either party may petition the Supreme Court for review
- De novo review but tends to give deference to hearing officer's credibility findings
- Final Order

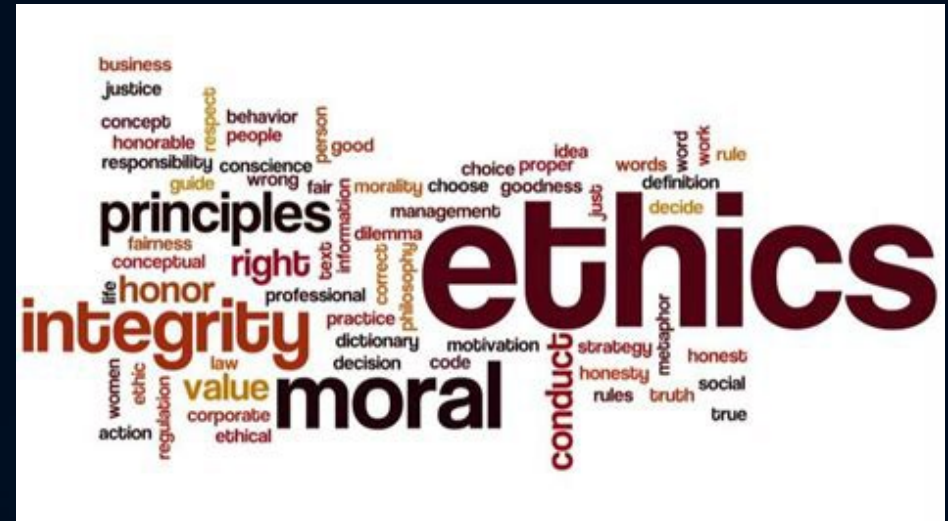
DISCIPLINARY PROCESS - RESOLUTIONS

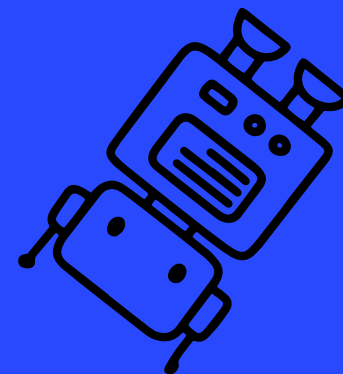
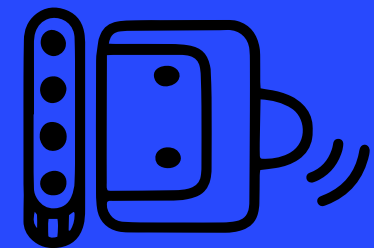
Types of Discipline

- Private Administrative Admonition
- Private Reprimand
- Public Reprimand
- Suspension with Automatic Reinstatement
- Suspension without Automatic Reinstatement
- Resignation
- Permanent Disbarment

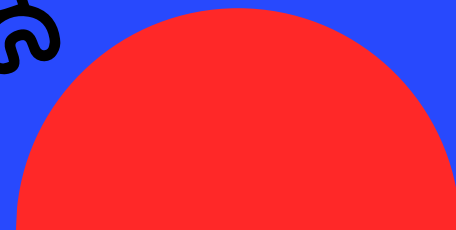
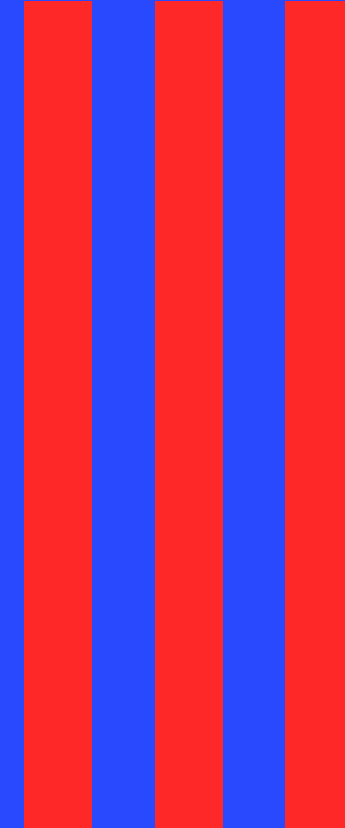
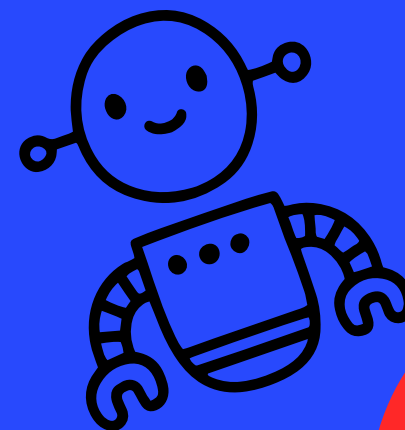
Ethical Advice in Past Year

- 3 Ethics Advisory Opinions Issued
- [Opinion #1-24 - Navigating Limited Representation at an Initial Hearing \(March 28, 2024\)](#)
- [Opinion #2-24 - Avoiding Improper Ex Parte Communications \(October 3, 2024\)](#)
- [Opinion #1-25 - Navigating a lawyer's departure from a firm \(April 7, 2025\)](#)
- [82 requests for informal ethical guidance](#)





Benefits & Risks of Artificial Intelligence

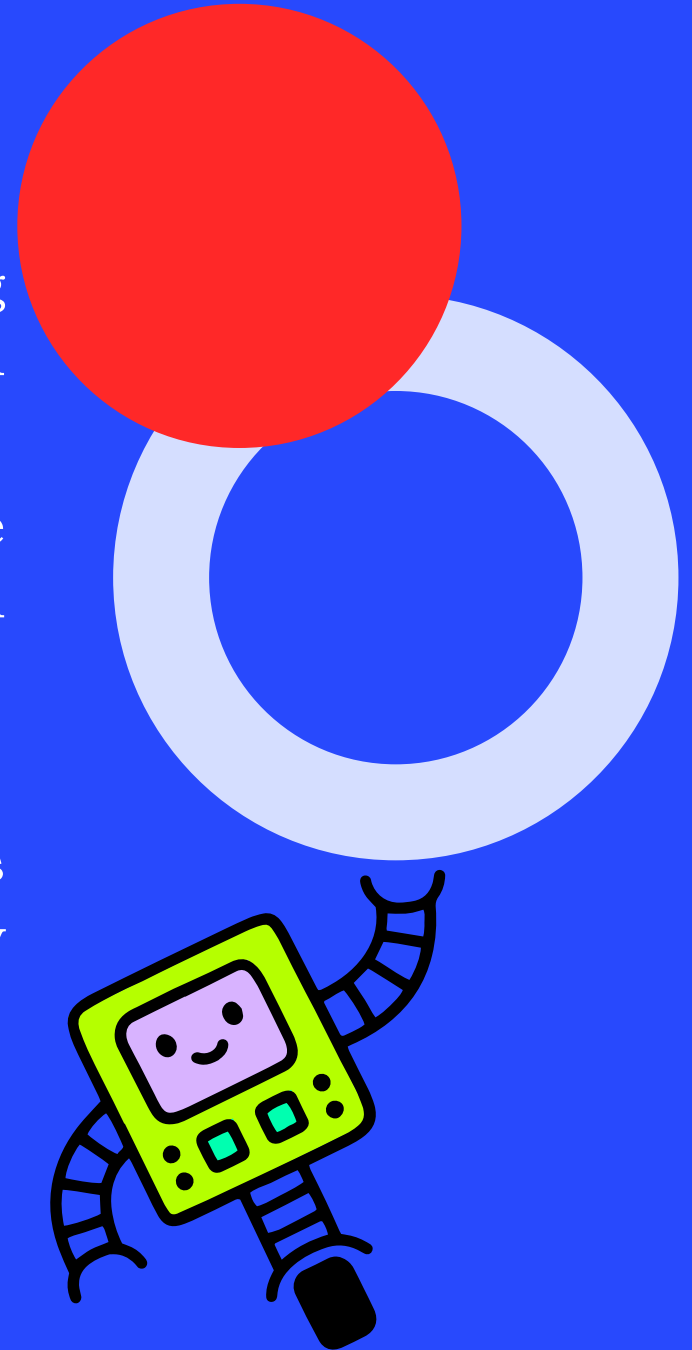


What is AI?

Collection of technologies that are “capable of simulating human learning, reasoning, and deduction through processes such as:

- (1) acquiring and analyzing information to improve operational accuracy through improved contextual knowledge;
- (2) identifying patterns in data; and
- (3) improving operational outcomes by analyzing the results of a previous operation and using the analysis to modify the operation to achieve an improved result.”

Ind. Code § 4-13.1-5-1





Rule 1.1: Competence

[5] Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners.

[6] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including **the benefits and risks associated with the technology** relevant to the lawyer's practice, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.



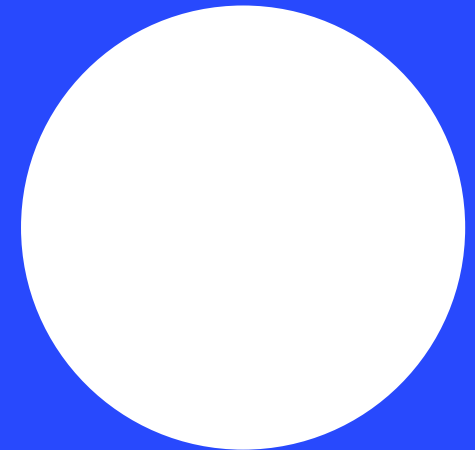
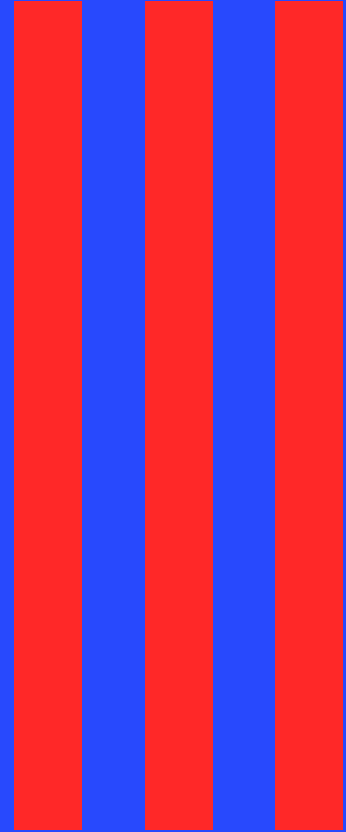
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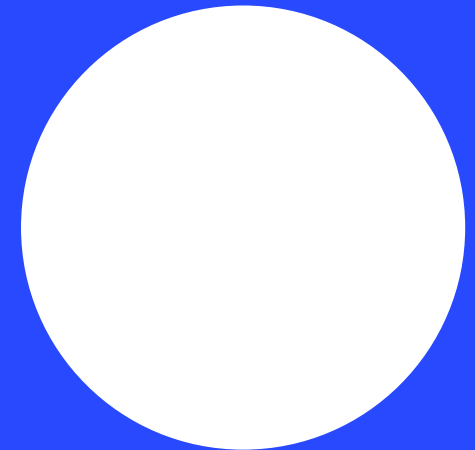
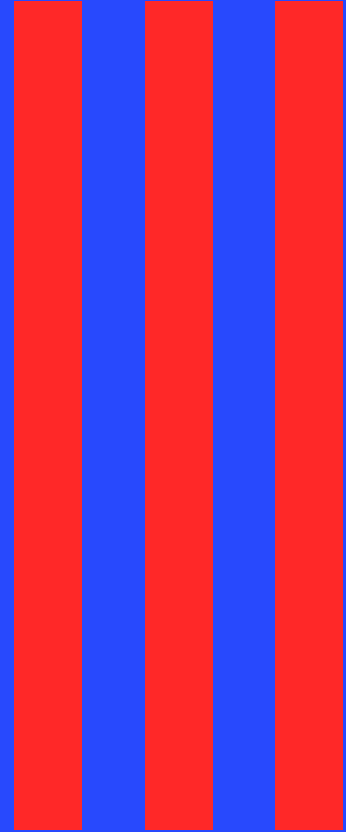
Generative v. Non-Generative AI

- Generative AI creates new content (text, images, etc.) based on learned patterns—e.g., ChatGPT rewriting a recipe in Gordon Ramsay’s style.
- Non-Generative AI analyzes existing data to make predictions—e.g., Netflix recommendations or spell checkers.
- Generative tools are more flexible, but also more prone to error (“hallucinations”).

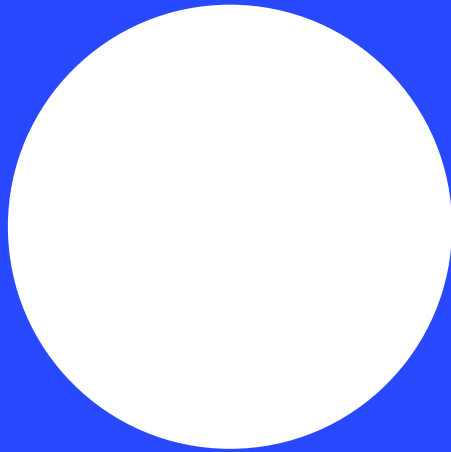


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Open v. Closed: What Lawyers Need to Know



Open AI

- ChatGPT (free tier), Google Gemini, Claude (public versions)
- Data is retained, logged, or used for future training
- Requires client consent if input contains sensitive information

Closed AI

- Lexis+ AI, Westlaw AI, Casetext CoCounsel, Microsoft Copilot for Enterprise
- Sometimes encrypted and siloed, but some paid platforms can use your data depending on your settings
- Some programs built with legal practice in mind (compliance, confidentiality)

Mata v. Avianca, Inc

- Attorneys filed a brief with six fake ChatGPT cases.
- When challenged, the attorneys doubled down by submitting a fake “opinion” and continued to cite hallucinated cases in sworn affidavits.
- Court found bad faith and imposed Rule 11 sanctions for wasting resources and violating candor.

678 F. Supp. 3d 443; 2023 U.S. Dist. LEXIS 108263

Hall v. Academy Charter School

- Attorney filed brief with three fake cases.
- When confronted with fake cases, attorney acknowledge that the cases were misreported to the court and discontinued her client's claim.
- At show cause hearing, attorney explained her law clerk drafted the brief, using Google AI.
- Attorney failed to check citations, explaining recent death of spouse.
- Court declined to impose sanctions.

U.S. District Court, Eastern District of New York 2:24-cv-08630-JMW

Bad Faith v. Mistake

Bad Faith:

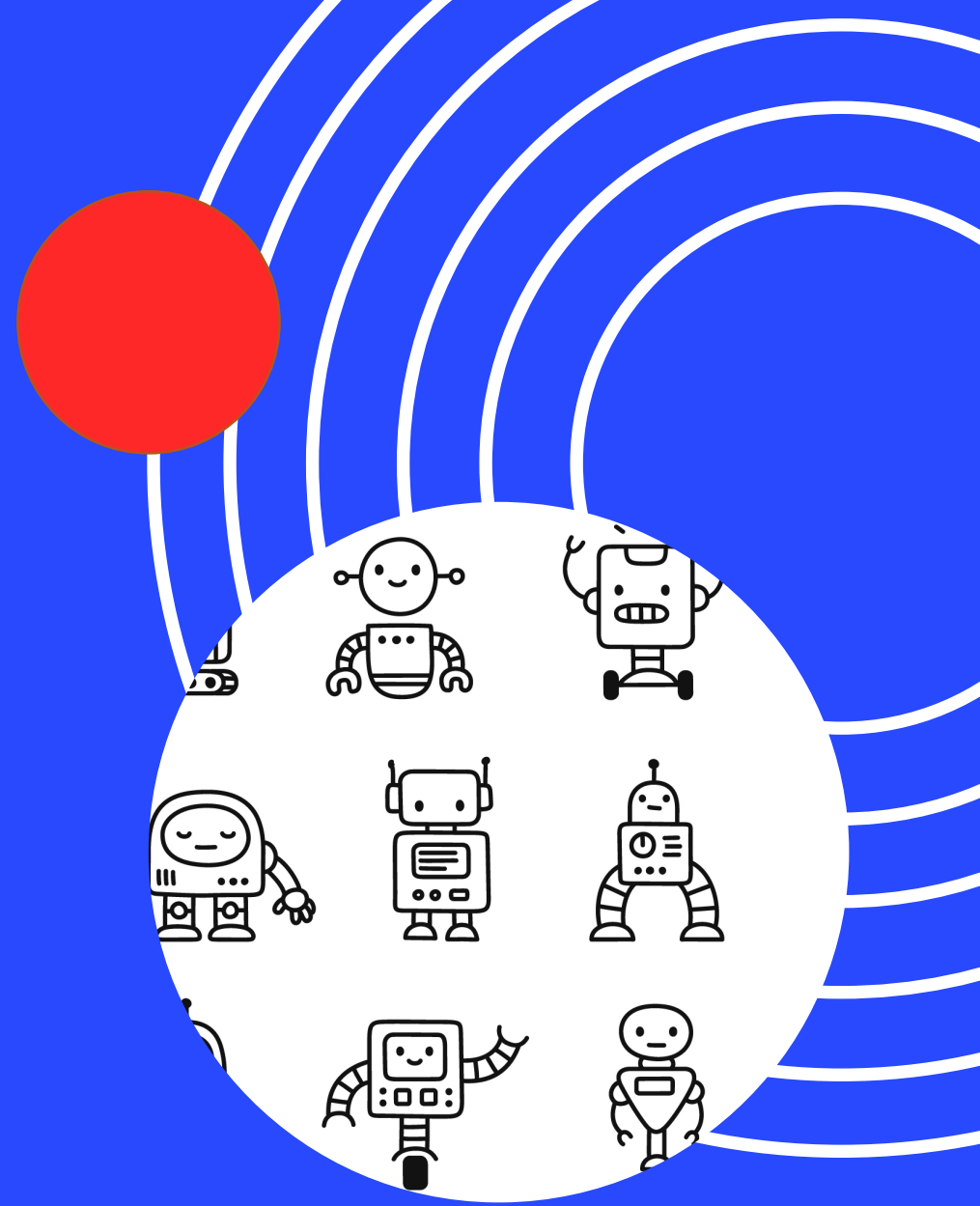
- Failed to tell the court when attorney could not find hallucinated cases.
- Continued to cite to hallucinated cases after not being able to find citations.
- Failed to withdraw his brief after discovering the cases were fake.
- Failing to read the cases cited in brief before submission of brief.
- Falsely asserting that AI was supplement to research when sole method of research.

Innocent Mistake:

- Personal tragic circumstances shows severe carelessness—not bad faith.
- Attorney was repeatedly apologetic to court and opposing party.
- Attorney sought treatment for her mental health issues.
- Attorney admitted and took full responsibility for failing to check citations.

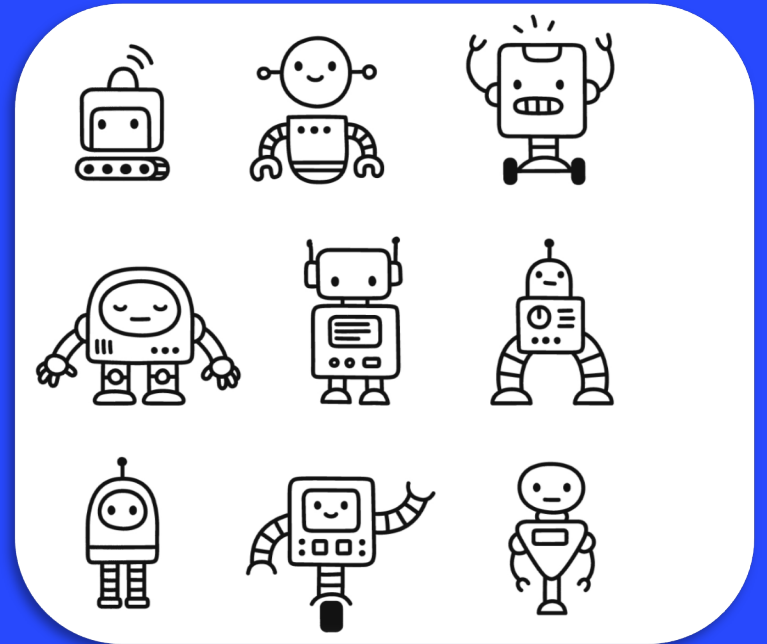
People v. Zachariah C. Crabill

- Crabill filed a motion with unverified, fictitious ChatGPT citations.
- He misled the court and blamed an intern before admitting fault days later.
- Received a one-year-and-one-day suspension (90 days served) for rule violations.



Bar Counsel v. Steven J. Marullo, Esq

- Marullo's associate used AI to generate fake citations and failed to verify them.
- Amended filings failed to correct all errors after judicial notice.
- Marullo was sanctioned \$2,000 and publicly reprimanded.



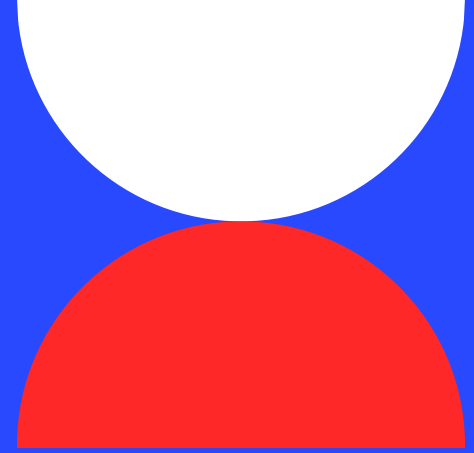
Rule 1.6

Confidentiality of Information

(a) A lawyer shall not reveal information relating to representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by paragraph (b).

Develop Responsible AI Use Policy

- 1) Approved Tools Only
- 2) Definitions & Scope
- 3) Mandatory Human Oversight
- 4) Internal Approval Procedures
- 5) Purpose-Driven Use



AI Lawyers?



What's the takeaway?

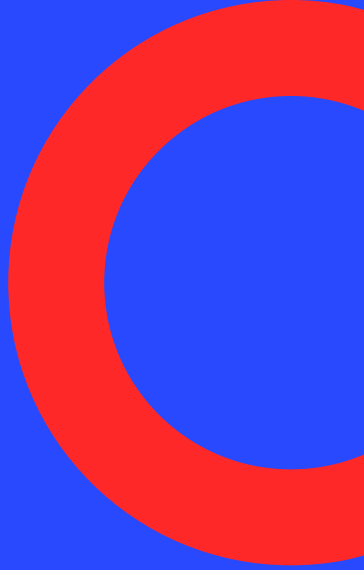


v.



A Helpful Resource

- American Bar Association
- Formal Opinion 512
- Generative Artificial Intelligence Tools



RESOURCES

- Formal Advisory Opinions:
 - www.in.gov/courts/discipline/opinions/
- Request Ethics Guidance:
 - www.in.gov/courts/discipline/guidance/
- General Disciplinary Commission Information & Attorney Discipline Decisions:
 - www.in.gov/courts/discipline/



Thank you

Greg Anderson

Deputy Director of Administration

Office of Judicial and Attorney Regulation

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