

ON THE GATE: MY 207 DAYS AT THE INDIANA BOARD OF LAW EXAMINERS

by David J. Remondini

Editor's Note: David J. Remondini served as Acting Executive Director for the Indiana Board of Law Examiners from December 2010 until July 2011. In this article, he reflects on his experiences during those seven months.

If you ever have trouble with an attorney admitted to the bar in Indiana in 2011, it is probably my fault.

From December 7, 2010, until July 3, 2011, I was the interim gatekeeper to the Indiana Bar. I had been tapped by the Indiana Supreme Court to stand in as Acting Executive Director of the Indiana Board of Law Examiners after the previous director resigned.

At first, it did not seem to be an overwhelming task. How hard could it be? It was (and is) just a small office, with only four staffers, and all it did was host a few exams and put on two admission ceremonies each year. After all, I had been a member of the Supreme Court's Character and Fitness Committee for over a decade and had conducted dozens of interviews with potential bar applicants. As the Chief Deputy Executive Director of the Supreme Court's 100-person office of State Court Administration, I had some management experience and had logged 15 years with the Supreme Court. My office and that of the Board of Law Examiners were separated only by a short elevator ride. It didn't seem like much of an added burden to my existing duties.

The reality check came quickly enough.

Those of you who are experienced directors of boards of law examiners already know that it isn't just about the bar exam. I quickly learned about security issues, multiple levels of substance abuse, "frequent fliers" (applicants who have taken or tried

to take the bar exam four or more times), a federal lawsuit challenging some of our application questions, hiring exam monitors and worrying about the tax implications of whether they were employees or contractors, professional corporations and the many rules they must follow, and Indiana's oddly phrased "Admission on Foreign License" rule. Not to mention the bewildering array of applicants' excuses for why particular documents were missing from their applications. One thing I had going for me was a first-rate staff with a deep commitment to the Board of Law Examiners and an abiding respect for confidentiality.

The biggest eye-opener came in early December, when the staffers brought me to a back office and showed me the stacks and stacks of hard plastic U.S. Postal Service tubs filled to overflowing with applications for the February 2011 bar exam. What process had the previous executive director used to evaluate them? I was told that the applications were logged in and checked against the database of previous applicants. The fee checks (\$250 for first timers in Indiana) were separated from the applications. Each application was reviewed by the staff and flagged with a red sheet of paper if it displayed any signs of various troublesome criteria such as multiple arrests, mental health issues, or ethical violations. Each application was then forwarded to the executive director. Had the prior directors reviewed each of the 300 or more applications page by page? Nobody on staff really knew the answer.

When I took the job, I had already decided that three principles would guide me during my tenure. First, I would follow the physicians' motto "Do no harm." To me that meant don't change existing processes for the sake of change, keep the staff and the board informed of my actions, and don't do anything that would damage the reputation of the office. Second, provide maximum due process to all applicants: if an applicant was unhappy with one of my decisions and had a colorable claim, I would offer to take it to the board for review. Finally, I vowed to operate with an abundance of caution, particularly with regard to a review of the applications.

The abundance-of-caution standard ultimately dictated a page-by-page review of each application. Many had already been processed by my predecessor, so I began with the backlog. Very quickly I became amazed at the range of challenges and adversity that had been faced and, at times, overcome by many of the applicants. I was often humbled by what must have been quite painful revelations of the most intimate nature in the stark black-and-white print of the applications. There were poignant tales of attempted suicide prompted by abuse by a relative, followed by years of counseling; anorexia; postpartum depression; and the lingering effects of a difficult divorce.

Equally, I was stunned by the incredibly stupid things people do and then must disclose on their bar exam applications: immature behavior leading to write-ups for college residence hall violations, smoking a joint outside a concert, having incredibly tangled financial issues, being nabbed for illegally hanging an environmental protest banner, getting

arrested for drunk driving late in the final semester of law school, and—a double stupidity bonus—getting arrested for drunk driving 3 weeks before the admission ceremony while already on the board's radar for another drunk driving arrest 10 months earlier.

Perhaps the most challenging part of the review process involved substance abuse issues. Did a teenage drunken driving arrest and a dormitory write-up for an open can of Pabst Blue Ribbon beer in a lawyer's past constitute a clear and present danger

to the public? What about the applicant who downplayed his or her attendance at counseling for a single underage alcohol possession charge but whose application included a detailed counselor's report that revealed a history of alcoholism?

Fortunately, the Indiana Supreme Court had earlier created the Judges and Lawyers Assistance Program (JLAP) to help the legal community with addiction problems. Many applicants had already found their way there. I had the option of referring specific cases for a professional evaluation by JLAP's experienced counselor, Tim Sudrovech. Under my abundance-of-caution standard, I am certain I overwhelmed JLAP with referrals, but I was grateful to have their expertise.

Harder still were the decisions about which applicants to refer to the full 10-member board for either a "paper review" or an in-person appearance. Without substantial institutional knowledge, I was not always sure what level of scrutiny was required. Again, I erred on the side of caution and loaded the board up with work for my first two board meetings. Consisting of an eclectic mix of savvy country

and whip-smart big-city lawyers, a law professor, a former judge, and a tough-as-nails university president, the board impressed me with its commitment to the integrity of the bar admissions process and a continuing quest for the strictest confidentiality. For those applicants with a particularly checkered past, a board appearance could be an especially excruciating experience. It didn't take long to figure out why the staff put a box of tissues at the table where the applicant sat. Women and men used the tissues equally, and board meetings frequently were cloaked in emotion.

But there were also stories of deep redemption. Instances of the classic misspent youth were at times followed by first-rate public service and spotless behavior. On one occasion, a youthful felony offender so impressed an attorney on the case that the attorney later wrote a letter of reference for the applicant's bar exam packet. And so many, many applicants included nary a whiff of any transgression—not a single parking ticket, ethical wrinkle, or moving violation. Secretly, I hoped they all took our admonition against perjury seriously.

Frequently I was aided, and amazed, by the staff's vast, almost encyclopedic knowledge of the applicants, especially of the frequent fliers. "What's the deal with so-and-so?" was frequently answered with a concise recap of an applicant's particular foibles, how many times the applicant had taken the bar exam, or the applicant's last appearance before the board.

As the February 2011 bar exam drew near, I became fascinated by the intricate processes and strict security protocols for the Multistate Bar Examination and the Multistate Performance Test (and frustrated by the seemingly endless re-editing of the six questions for the Indiana Essay Examination).

Our February exam took place at a popular function hall just west of Indianapolis, right off Interstate 70. When I went inside, I was greeted by the nervous buzz of over 250 exam takers, one of whom was taking it for the seventh time (and later passed!). About a dozen test takers in need of special accommodations (another foreign concept to me) were being tested in the board's offices in downtown Indianapolis.

We were aided by a complement of seasoned monitors, and I was aided by a binder with a detailed script of instructions created largely by the National Conference of Bar Examiners. (My staff had thoughtfully included—in jest, I think—a cover sheet for the binder that read "Bar Exams for Dummies.")

At the appointed hour, I walked to the podium in front of the vast sea of test takers. The constant murmur dropped to absolute silence. There wasn't a whisper, a single sound of fidgeting, or a squeak of a chair leg. I remember being struck by the waves of tension rolling off the examinees—so much so that I departed momentarily from my prepared "Dummies" text and said, "Breathe, people. It is going to be okay." Next I told them that the staff's job was to create a secure, comfortable testing environment and that their job was to . . . I paused, waiting for an obliging examinee to shout out, "Pass!" When I got that, I replied, "What I was looking for was 'Not cause Dave any trouble,' but I will accept 'Pass.'" With that, some of the tension began to evaporate, and then the serious business of testing began.

As exams go, the staff told me it went pretty smoothly; only one minor testing hiccup. And, at the end of each of the two days, a few examinees' cars had to be jump-started by the Indiana State Police trooper assigned to the exam. But that was about it. When the exam booklets (no computer testing in Indiana yet, but soon, we hope) were loaded in our courier's truck, he asked if he could keep them in his

garage overnight instead of driving all the way back downtown. I hesitated for a second but ultimately decided that I didn't want to be the first administrator in Indiana Bar Exam history to misplace a truckload of exam booklets. Off they went to the board's offices.

While the grading was under way, I felt comfortable enough, due to my extreme confidence in the staff, to travel to Ukraine for 19 days as a consultant for the United States Agency for International Development's Rule of Law Project. I was fortunate enough to have one of the directors at State Court Administration, Brenda Rodeheffer, handle the day-to-day grass fires at the Board of Law Examiners while I was gone.

We also began planning for the May admission ceremony in a venerable and classy downtown ballroom called the Indiana Roof. That's when I learned about the piano. It seems that to fit all the appellate judges onstage for the ceremony, the grand piano had to be moved offstage to the ballroom floor. Cost: \$750. Why so much, I asked? "Well," the Roof contact explained, "we also have to move it back." With that much invested just to have the piano be a paperweight, I figured we might as well use it. One staffer contacted a friend who is a professional concert pianist. For a few hundred bucks, she provided elegant background music before the ceremony and cranked out a rousing processional when the appellate judges entered the Roof Ballroom.

Throughout the spring, the search for a new executive director had continued. But one thing I had learned about the Board of Law Examiners is that the flow of paper never stops. A tide of July bar exam applications had already begun to cascade into the office. We were expecting somewhere between 400

and 500 applications. I was committed to processing all of the applications so that the new executive director, who would likely start in early July, could focus on the mechanics of putting on the July bar exam.

By now, I had a more streamlined process, but I still needed help. I had earlier named one of the attorneys in State Court Administration, Elizabeth Daulton, as Acting Counsel to the Board of Law Examiners. She dove into the final boxes of applications and helped me finish just as the Supreme Court named Bradley Skolnik, an experienced attorney and respected public servant, as the new executive director.

With the succession plan in place, on July 3, I had an emotional farewell with the staff and left the office in their capable hands with a far deeper appreciation and respect for the difficult and important work of the Board of Law Examiners. 📷



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