

Agenda
Organization of Bar Investigators Conference
October 31- November 3, 2023
Boston, Massachusetts

Tuesday, October 31, 2023: Halloween- Costumes Encouraged!

3:30 pm – 5:00 pm: **OBI Board Meeting** **Smoot Board Room**
*Board meeting is a public meeting open to all members who choose to attend

3:30 pm – 5:00 pm: **First Time Attendee Meeting** **Mann Ballroom 1 & 2**
*New OBI and first-time conference attendees please join the OBI Membership Committee for a welcome meeting

5:00 pm – 7:00 pm: **Registration** **WXYZ Bar**

5:00 pm – 7:00 pm: **Meet & Greet** **WXYZ Bar**

7:00 pm – 9:00 pm: **Lawn on D (swings, lawn games, and self-supplied drinks)**
420 D Street (offsite)

***OUTDOOR** Social gathering to continue meet and greet and to network with colleagues in a social setting*

Wednesday, November 1, 2023:

7:30 am – 8:30 am: **Breakfast Buffet** **Mann Ballroom 3**

7:30 am – 8:30 am: **Registration** **Mann Ballroom 1 & 2**

8:30 am – 8:45 am: **Welcome Remarks** **Mann Ballroom 1 & 2**

Richard Abati, Acting Bar Counsel, Office of Bar Counsel of the Massachusetts Board of Bar Overseers

8:45 am – 9:00 am: **OBI Board Elections**

9:00 am – 9:30 am: **Introductions**

9:30 am – 10:45 am: **“How to Fix A Drug Scandal”: The Bar Discipline Fallout**
Presented by Joseph Makalusky, Assistant Bar Counsel, Massachusetts Office of Bar Counsel and Afton Pavletic, Assistant Bar Counsel, Massachusetts Office of Bar Counsel

Ripped from the headlines, this presentation will focus on the investigation and bar disciplinary proceedings against three former assistant attorneys general who each played a part in the failure to disclose potentially exculpatory evidence that led to the dismissal of thousands of criminal convictions in Massachusetts. The underlying facts of the cases were documented in the Netflix series, “How to Fix A Drug Scandal.” The presentation will discuss the Massachusetts Supreme

Judicial Court's recent decision in the consolidated bar discipline cases, *Matter of Kris Foster, et al.*, the historical hesitancy towards prosecuting prosecutors and the apparent current trend in the opposite direction. Insight into the investigatory difficulties and opportunities that arose will also be revealed.

Joseph Makalusky - In December 2019, shortly before the world ended and he retreated to the relative safety of his basement bunker, Joe joined the Office of Bar Counsel as an Assistant Bar Counsel. Joe devoted the preceding 19 years practicing complex civil litigation as a partner in the Boston law firm Ellis & Rapacki LLP, where he focused on consumer class actions and federal whistleblower cases. His diverse legal background also includes experience as an insurance defense attorney with Morrison, Mahoney & Miller LLP, an Assistant District Attorney in the Suffolk County District Attorney's Office and a law clerk to Justice Raya Dreben of the Massachusetts Appeals Court. Joe is a graduate of New England School of Law and Pennsylvania State University. He also teaches Law and the Ethics of Lawyering as an Adjunct Professor at his alma mater.

Afton Pavletic - Afton arrived at the Office of Bar Counsel a year and some change before Joe. After graduating from law school and becoming a member of the New York Bar, Afton worked in collegiate and professional football. She dovetailed her background in law and psychology, supporting athletes' career and identity development both on and off of the field. In 2018, seeking to contribute more directly to the public good, Afton became an investigator at the Massachusetts OBC. After joining the Massachusetts Bar, Afton transitioned to her current role of Assistant Bar Counsel in 2022. Afton is a graduate of Cornell Law School and Bates College.

10:45 am - 11:00 am: Break

11:00 am - 12:00 pm: Emotional Wellbeing and De-Escalation
Presented by Shawn Healy, PhD.

The work involved in bar investigations is often complicated by contentious or hostile responses from respondents and complainants. While you cannot control how a respondent/complainant responds to you, there are effective techniques for regulating your emotional experience that will then allow you to efficiently deploy de-escalation techniques. This program will focus on strategies to take care of your own emotional wellbeing and connecting them directly to effective use of de-escalation techniques.

Shawn Healy, PhD - Shawn is a licensed Clinical Psychologist and a member of the clinical staff at Lawyers Concerned for Lawyers in Boston, Massachusetts where he provides individual clinical consultations and groups to law students, lawyers, judges, and legal professionals. He regularly presents and publishes on all manner of mental health topics germane to the legal community. Dr. Healy serves on the Massachusetts SJC Standing Advisory Committee on Professionalism, as well as on the Massachusetts Bar Association's Lawyer Well-Being Committee. Dr. Healy is also the coauthor of the book *The Full Weight of the Law: How Legal Professionals Can Recognize and Rebound from Depression* (ABA Publication, 2017). He can be reached via email at shawn@lclma.org.

12:00 pm – 12:10 pm: Break

12:10 pm – 1:00 pm:

Client's Security Board – Making Client Victims of Lawyer Thefts Whole for 50 Years

Presented by Linda Bauer, General Counsel and Executive Director, Massachusetts Clients' Security Board and Edward Beagan, Deputy General Counsel, Massachusetts Clients' Security Board

Every U.S. state and Canadian province has a fund to reimburse clients who are victims of thefts by their lawyers. The Massachusetts Clients' Security Fund was established in 1974, almost 50 years ago. Since then, the Massachusetts Clients' Security Board has paid more than \$57,000,000 to over 2,500 client victims. The lawyers responsible for these thefts make up less than 0.04% of all licensed Massachusetts lawyers, but the violation of client trust and the resulting harm to the profession is devastating for the victims and the profession.

Lawyers are the only professionals who have established funds to reimburse victims of thefts by former members of the profession after they are suspended or disbarred or have died. How do these funds work? When and why were these client protection funds created? Do any limits on awards exist? What investigative strategies are required to investigate claims based on conduct that often occurred many years ago and for which many financial or other records have disappeared?

Linda Bauer (General Counsel, CSB) and Edward Beagan (Asst General Counsel, CSB) – Linda and Ed both are counsel to the Massachusetts Clients' Security Board (CSB). Linda came to the CSB in January 2020, after spending over twenty-five years investigating and litigating disciplinary cases against attorneys for the Massachusetts Office of the Bar Counsel. Previously, Linda had worked for Hill & Barlow in Boston, primarily practicing in the areas of trust and estate planning and administration and probate litigation. Ed came to the CSB in October 2022, after eleven years at the Office of the Massachusetts Attorney General, where he was Senior Trial Counsel for the White Collar and Public Integrity Division, and Division Chief of the Fraud and Financial Crimes Division. Previously Ed worked as an Assistant District Attorney for the Suffolk County District Attorney's Office.

1:00 pm – 2:20 pm:

Luncheon Presentation

Mann Ballroom 1 & 2

Bias and How it Effects Bar Counsel Investigations

Presented by Tasha Marshall, Assistant Bar Counsel, Massachusetts Board of Bar Overseers in the Office of the Bar Counsel and Adam LaFrance, Assistant Bar Counsel with Massachusetts Board of Bar Overseers in the Office of the Bar Counsel.

Tasha and Adam will discuss implicit bias, what it is, and how it can lead to the unfair treatment of people who are involved in or are the subject of a disciplinary investigation. Sometimes, even when we're trying to be fair, bias from our lived experiences can lead us into making unfair decisions. Tasha and Adam will talk about accounting for the effects of implicit bias while navigating disciplinary investigations.

Tasha Marshall – Tasha is an Assistant Bar Counsel with the Massachusetts Board of Bar Overseers in the Office of the Bar Counsel. She is responsible for investigating and prosecuting complaints of attorney misconduct. Tasha is also an adjunct law professor at her alma mater, Western New England University School of Law. Before joining the Office of the Bar Counsel, Tasha served the City of Holyoke, Massachusetts, as an Assistant City Solicitor, where she specialized in real estate development and litigation. Tasha is a frequent speaker and writer on attorney well-being. She also volunteers with community service organizations that focus on mental health advocacy.

Adam LaFrance – Adam is also an Assistant Bar Counsel with the Massachusetts Board of Bar Overseers in the Office of the Bar Counsel. Before joining the BBO, Adam worked for several years in private practice, primarily in the areas of employment law and civil litigation. Prior to that he was a public school teacher. He regularly presents on legal ethics before law school classes and bar associations, and he volunteers with community organizations at the intersection of social justice, equity, and creative expression.

2:30 pm: Group Networking Outing (Dismissal)

Attendees are welcome to find any activity of their choice and share suggestions, however, it is suggested that attendees spend this time with other OBI members networking and socializing. Activity and transportation ticketing, cost, and planning is the responsibility of each individual attendee.

3:30 pm – 5:30 pm: Beacon Hill Crime Walking Tour

The Massachusetts’s Board of Bar Overseers has sponsored an (optional) Beacon Hill Crime tour. This is a one-mile walking tour (please pack/wear appropriate attire/footwear). Transportation to and from the tour is NOT sponsored by OBI or the Massachusetts BBO (It is a 1.5-mile walk from the hotel, or you may utilize public transit or Uber/Lyft). The tour will end in downtown Boston at Cheers, near the Boston Common, Freedom Trail, etc. Cash gratuities for tour guides is encouraged.

TBD: Group Salem Excursion

This excursion is time consuming and will have significant transportation costs associated that attendees are responsible for. It is TBD if the Salem group will have time to do the walking tour in Boston before traveling to Salem. Additional information will be provided at the conference.

5:30 pm: Dinner on your own

*A list of bars and restaurants will be provided with your welcome package

Thursday, November 2, 2023:

7:30 am - 8:30 am: Breakfast Buffet Mann Ballroom 3

8:30 am - 10:00 am: Technical Competence and Digital Footprints: Understanding What Data Says

Presented by Justin Fitzsimmons, Associate Vice President at the National White Collar Crime Center (NW3C)

Justin will be discussing technical competence, social media investigations, digital footprints, tips, and tricks on more thorough investigations, raising level of understanding of what data says about users (developing leads).

Justin Fitzsimmons- Justin is an Associate Vice President at the National White Collar Crime Center (NW3C). Justin oversees NW3C's prosecutorial and judicial programs and legal resources. In this position, he assists in the development and implementation of cyber, high-tech, and economic crime curriculum while providing training and technical assistance to law enforcement, prosecutors, and the judiciary across the nation.

Before joining NW3C, Justin worked for SEARCH Group, Inc. as the Director of High-Tech Training Services. Before SEARCH, Justin held the position of Senior Attorney with the National District Attorneys Association (NDAA). Justin also previously served as an assistant state's attorney (ASA) in State's Attorney's Offices in Kane and DuPage Counties, Illinois, prosecuting cases involving sexual exploitation and digital evidence.

10:00 am - 10:15 am: Break

10:15 am - 11:00 am: Investigating Mental Health Issues as Mitigation in Discipline
Presented by Pamela A. Harbeson, Assistant Bar Counsel with Massachusetts Board of Bar Overseers and Heather LaVigne, Assistant Bar Counsel with the Massachusetts Board of Bar Overseers

Pam and Heather will discuss the current wave of awareness regarding mental health and substance abuse issues among lawyers. This panel will explore what signs investigators should look for when exploring mental health and substance abuse issues with respondents. The panel will discuss some investigatory techniques to watch for when investigating. Finally, the panel will discuss how some courts view mental health and substance abuse issues as mitigation when sanctioning lawyer misconduct.

Pamela A. Prior to joining the B.B.O. in 2016, Ms. Harbeson worked in private practice for more than twenty years as a bankruptcy and commercial law practitioner. She is a frequent contributor to CLE programs, having participated in many educational programs on behalf of the Office of the Bar Counsel. Ms. Harbeson is a graduate of Boston College Law School and is a member of the Boston Bar Association, the Massachusetts LGBTQ Bar Association, and the National Organization of Bar Counsel.

Heather LaVigne – Heather has been an Assistant Bar Counsel with the Massachusetts Board of Bar Overseers in the Office of Bar Counsel since 2017. She is responsible for investigating and prosecuting complaints of attorney misconduct. She is a frequent speaker and writer on topics relating to attorney ethics and administrative law. She previously worked as an administrative hearing officer with the Department of Public Utilities and as a litigation associate at Choate, Hall & Stewart, LLP. She is a 2006 graduate of Boston College Law School and a 2003 graduate of Clark University.

11:00 am - 12:00 pm: How to Conduct a Thorough Financial Investigation
Presented by Mike McCall, MPM Consulting

Mike will discuss techniques on how to conduct a thorough financial investigation, using the power of subpoena, as well as ways to use this information to confirm or refute an allegation of fraud.

Mike McCall, MPM Consulting, LLC – Mike is a former FBI agent, CFE, and certified interviewing expert seeking to assist companies reach satisfactory conclusions by properly analyzing and preserving evidence, locating key witnesses and hidden assets. Mike is also a college

professor and speaker. As an FBI Agent, Mike developed his white-collar investigative skills as an IRS-CID Special Agent. Mike was trained at the Federal Law Enforcement Training Center (FLETC) and the FBI Academy on "how to follow the money."

12:00 pm - 1:30 pm: Lunch (on your own)

1:30 pm- 2:50 pm: Recent financial fraud trends as well as a case study of a recent real estate wire fraud/email compromise scheme involving an Illinois attorney

Presented by Kathleen Queally and Vivian Barrios, Special Agents with the Federal Bureau of Investigations

Kathleen will present an awareness briefing on recent financial fraud trends such as investment (cryptocurrency) fraud, call center fraud, romance fraud, and business email compromise fraud schemes. Additionally, they will discuss statistics reported to the FBI and ways in which individuals can report the frauds to law enforcement. Vivian will be presenting a case study of a recent RE wire fraud/email compromise scheme involving an Illinois attorney.

Kathleen Queally, FBI SSA -Kathleen entered the FBI as a Special Agent in 2022. She was assigned to the NY Office Corporate Securities Fraud Squad, focusing on international securities fraud and insider trading investigations. From 2008-2010 Kathleen was a Program manager in the Economic Crimes Unit at FBI HQ, overseeing the East Coast Offices and the Securities/Commodities Fraud Programs.

Vivian Barrios, FBI SA – In 2014, Vivian entered the FBI, where she was assigned to the Boston Field Office. From 2014 to 2018 Vivian was assigned to the Boston Health Care Fraud Squad. In 2018 she moved to the Complex Financial Crimes Squad where she investigates matters including bank fraud, mortgage fraud, money laundering, internet fraud and mail/wire fraud.

2:50 pm - 3:00 pm: Break

3:00 pm - 4:00 pm: Crimmigrations: The Intersection of Criminal and Immigration Law

Presented by: Jennifer Kein, Esq., Staff Counsel in the Immigration Impact Unit at the Committee for Public Counsel Services, the Massachusetts public defender's office

Jen is going to discuss a defense attorney's obligations to advise clients regarding the immigration consequences of a conviction under *Padilla v. Kentucky*, and its progeny in Massachusetts. She will address what type of conduct may rise to the level of a bar complaint and discipline, and how an attorney's actions may depend on available resources in their jurisdiction.

Jennifer Klein, Esq. – Jen is Staff Counsel in the Immigration Impact Unit at the Committee for Public Counsel Services, the Massachusetts public defender's office. She provides advice and expertise in individual cases on the impact of criminal and juvenile delinquency charges on immigration status, as well as the impact of immigration status on child welfare/family defense cases, mental health, and other civil commitment proceedings. Along with her colleagues, Ms. Klein engages in impact litigation on issues involving the intersection of criminal and immigration law in Massachusetts and nationally. She holds a BA in International Studies from the University of Chicago and a J.D. from Boston University School of Law.

4:10 pm - 5:00 pm:

Attorney Consumer Assistance Program

Presented by James D. Corbo, Assistant Bar Counsel, Office of Bar Counsel, Massachusetts

The ACAP division is the first line of defense for the Office of Bar Counsel by assisting the public with questions about, or problems with, their attorney.

In Massachusetts, the Office of Bar Counsel (OBC), an independent administrative body, investigates and evaluates complaints of unethical conduct against attorneys. Investigators and attorneys who work in the OBC's Attorney and Consumer Assistance Program (ACAP) are the first point of contact at the OBC for people with questions or complaints about an attorney. ACAP receives over 3,000 grievances each year. Approximately ten percent of these matters result in the opening of a disciplinary file. In this program, you will learn about the Massachusetts ACAP program and the methods used to investigate and resolve client complaints prior to any discipline proceedings.

James D. Corbo – James is an assistant bar counsel who works in the Attorney Consumer Assistance Program (ACAP) unit of the Massachusetts Office of Bar Counsel. Prior to joining the Office of Bar Counsel in 2022, Jim practiced criminal defense, juvenile law, and civil litigation for 24 years as a small firm associate, solo attorney, and as a staff attorney for the Massachusetts Public Defender's Office.

6:00 pm- 8:30 pm:

Banquet

Summer Ballroom

Friday, November 3, 2023

7:30 am – 8:30 am:

Breakfast Buffet

Mann Ballroom 3

8:30 am – 11:30 am:

Open Forum/Closing Remarks

Mann Ballroom 1&2

Back by Popular demand: Moderator led round table discussion. Topics will be selected from matters brought up by attendees. Members can share information, ask questions, and discuss matters of importance or concern. This is an opportunity to discover what other agencies are doing in certain situations, discuss different programs used by different agencies and discover the pros and cons about them, discuss a case that has relevance to other agencies or may be a trend coming to other areas, and anything members would like to share with other members or gain from other members. Please be prepared to share tips and tricks for obtaining information from third parties, successful multi-jurisdictional resources, as well as your single favorite investigative resource or tool.

Upon conclusion of the Open Forum there will be closing remarks to end the conference.