



**Regulation Matters:  
a CLEAR conversation**

## **Episode 39: CLEAR Investigative Excellence Award: Sharing Lessons Learned** **March 9, 2021**

**Line Dempsey:** Welcome back to our podcast, Regulation Matters: a CLEAR conversation. I'm your host, Line Dempsey. I am currently the chief compliance officer with Riccobene Associates Family Dentistry here in North Carolina, formerly from the North Carolina State Board of Dental Examiners. And I'm also the chair of the National Certified Investigator Training Committee with CLEAR.

As many of you are aware, the Council on Licensure Enforcement and Regulation, or CLEAR, is an association of individuals, agencies and organizations that comprise the international community of professional and occupational regulation. This podcast is a chance for you to hear about current topics in our regulatory community.

Today, I am joined by Nicholas Woloszczuk. He is an investigator with the Ontario College of Teachers and the recipient of CLEAR's 2020 Investigative Excellence Award. We're very glad to have you with us.

**Nicholas Woloszczuk:** It's a pleasure to be here Line; thank you.

**Line:** I know before the call, we were talking about fellow colleagues that we've had the privilege of speaking with, so you're in good company with folks from the College of Teachers there. Let me also thank our listeners for joining us today.

Furthering CLEAR's mission of promoting regulatory excellence, CLEAR has an annual program where we honor exceptional contributions to the regulatory community. The Investigative Excellence Award recognizes an investigator who has demonstrated exceptional performance in a particular case, with performance beyond what is expected or required, resulting in a direct and significant impact to the protection of the public or consumer interests.

Nick, we're pleased to have you with us today to talk about the case for which you were nominated and some of the investigative techniques you used throughout the case. First, can you tell us a little about the Ontario College of Teachers?

**Nick:** Absolutely. The Ontario College of Teachers is the provincial regulator for all teachers and administrators in the province of Ontario. In Ontario, many regulators are referred to as “colleges,” but we are not, in fact, educational institutions; we are largely self-regulated bodies. We refer to teachers and administrators as “members.” We have approximately 240,000 members in the province. It’s a large number, requiring a proficient and well-trained regulatory team of professionals.

**Line:** That absolutely sounds like it would be. Well, can you describe a little bit about the case that eventually led to CLEAR awarding you the Investigative Excellence Award?

**Nick:** Absolutely. So, this case was reported to us by a member of the public. Typically, most cases are reported to us by school boards, as required under our governing legislation, but we also accept complaints from the public. The Complainant in this matter was the mother of the victim, a 14-year-old girl who was subjected to grooming by her 38-year-old male teacher.

So, Mom, the Complainant, reported to us that the teacher had asked the Complainant’s daughter and a few other students to join a social media chat group, under the guise of wanting to keep in touch with students after the students had graduated from elementary school and were moving on to high school. I later learned from interviewing some of the students in the chat group that after the students joined the chat, the teacher targeted the victim and convinced the victim to start communicating exclusively with the teacher and outside of the chat group.

The nature of the communications between the teacher and the victim evolved to where they were exchanging personal information and expressing affection for one another well beyond what we would consider a typical student/teacher relationship. The victim and teacher also met each other on a few occasions in public places. This took place over nine months.

When I was assigned to the case, I reached out to the school board as well as police and child protective services. All of those organizations had obtained substantial evidence of grooming but no evidence of anything overly sexual such as the exchange of sexual images or videos or any sexual activity. Because of that, police decided not to lay charges, but the school board did ultimately terminate the teacher’s employment.

**Line:** What makes this case different from others you’ve worked on?

**Nick:** At first, this case seemed like an open-and-shut case of grooming, but I was concerned from interviewing some of the students in the group chat, over the extent the teacher went to specifically isolate the victim as well as the length of time the teacher and the victim were exchanging messages over social media. Despite the victim having been interviewed both by police and the school board, I elected to interview her myself.

For the first hour and fifteen minutes of the interview, the victim stuck with the narrative that she had told police and the school board, but as we progressed through the interview, the victim finally told me the truth, which was that she and the teacher were exchanging nude images and short videos of each other.

After the interview ended, the victim then told her mother everything that had happened. While the mother was devastated, they both wanted to help us. They gave us two mobile phones belonging to the victim, one of which was badly damaged and the other phone was password-protected where the victim claimed that she could not remember her password. A short time later, we learned that the teacher had given the victim a third phone that both the victim's mother and myself were unaware of. That phone was also password-protected, and the victim claimed not to know the password for that one as well.

**Line:** Wow, that's really crazy! What kind of challenges did you experience during this case? Obviously, having to do this interview for a while before she was able to finally concede this information. What other challenges?

**Nick:** Certainly the interview was challenging, and it took a while for us to get to the truth. But, by far, the biggest challenge we faced were the three phones. I was fairly certain that at least one of the phones would reveal corroborating evidence of the exchanges of sexualized images and videos, and I was certain that if we found that evidence on one or more of the phones, we would obtain the revocation of the teacher's certificate of qualification. But as an organization, we were not equipped to unlock those phones using digital forensics software, and we had never had a previous case requiring digital forensics unlocking and analysis of mobile phones.

We decided to go back to police with the new evidence that had been provided by the victim and complainant and asked if police would be willing to reopen their case and undertake the forensics work needed to get the evidence off the phones. After a lot of back and forth, ultimately, police did not agree to reopen their case. We also reached out to other regulators, most of whom did not have the technology that was needed or in the rare case where the regulator did have digital forensic hardware and software, they were not willing to assist us.

I then turned my attention to the private sector and identified a digital forensics firm that did this type of work on behalf of Canadian and American local and federal law enforcement agencies. And then I went to our leadership and convinced them that this was our best chance at getting to the evidence we needed in our case. Our leadership team agreed, and shortly thereafter, the phones were sent to the lab for unlocking. During that time, I was trained on the forensic firm's digital proprietary extraction software for when we got the unlocked phones back from them.

It was definitely stressful. The first phone came back a couple of months later, and I didn't find a thing on it. I was definitely sweating at that point, given the time and investment we had made as an organization. But after another three months or so, the second phone came back with the evidence

we were looking for and which supported the victim's account of what happened. At that point, I transferred my file to a very accomplished lawyer, Ava Arbuck, and a few months later, the teacher's teaching certificate was revoked.

**Line:** Wow, that's really fascinating. Obviously, having success in this case is the ultimate outcome, which led to your award. Where there any investigative techniques or skills that you haven't discussed yet that led to this success?

**Nick:** Absolutely! I'll go back to the interview. When I was interviewing the victim, I was employing the enhanced cognitive interview technique. That included things like reinstating the victim in her exchanges with the teacher, asking her in-depth reporting of details of when she was exchanging messages with the teacher, going back and jumping ahead to different time periods when she was exchanging messages, images and videos with the teacher. I think, psychologically, this all brought her to a point where she felt a great need to tell me everything and tell me the truth.

The second really important skill I learned from this case was the extraction of digital evidence off of those mobile phones and maintaining a secure evidence chain up until prosecution. Just looking at society in general, I think users of this technology using it for the explicit purpose of targeting children, are becoming more sophisticated in hiding their steps. I think the use of digital forensics is more important than ever, in particular in a COVID era where young students are learning online.

**Line:** Absolutely; I've heard horror stories from friends of mine that are parents and the difficulties they've had, especially now that everybody has a communication device that is a very powerful computer in their pocket. What would you say are the most important things you learned from this case? Obviously, we've touched on a couple things there—but something maybe other investigators could take away from this case?

**Nick:** I think the lessons I'm gonna pass on are not necessarily specific to this case. I think they're lessons that many investigators have to learn time and time again. Certainly, the first one was perseverance. I think that many of us in regulation would say that we have more than enough work to do and we often have too little time to complete it. This case could have easily been a quick open and shut case of grooming, and it would have been completely reasonable to treat it as such. I believe perseverance in the work that we do, and more broadly in life, breeds success, and that perseverance certainly did in this case. And really, I'm speaking to the interviews, where I could have just accepted the interviews of police and the school board, but I decided not to and to go further.

The second point I'd like to pass on to everyone is the importance of professional development. This one I really believe in. And it wasn't, again, only in this case that we learned this lesson. I can tell you that when I hear investigators say things like, 'I have 20 to 30 years of experience, and I know what I am doing; I don't need more training' - in my view, that is a false narrative. Successful investigators and individuals continually try to improve themselves. So being trained in enhanced cognitive interviewing and the extraction of digital evidence most definitely contributed to our success, and

those were all brought about by additional training. I would encourage everyone who has the opportunity to take courses that will help in the work that you do, go back to school if you can, or become a licensee in a regulated profession - or do all of it. Virtually everything in this world is becoming more complex, including virtually every investigation that we're undertaking. To stay on top of it, we really do need to continually improve.

**Line:** I think that's a brilliant statement, and I couldn't agree with you more as far as this push towards additional education and continuance of what we've already built upon, and understanding that while our knowledge is certainly vast and we have many years of experience, being able to look at it from a different perspective or outside approach is very helpful. So, that's great. Looking back, is there anything you would have done differently with this or similar cases? Looking at it now, hindsight being 20/20, as it is.

**Nick:** Yeah, it's always easier to Monday-morning quarterback, for sure. In this case, the phones were definitely the issue and delayed this case. We all know that regulators are conservative by nature. Because of that, I wish that I had spent more time up-front figuring out who was going to be able to help us with our problem and who wasn't. As everyone knows, delay in moving a case along can have significant repercussions. I was really fortunate that the Complainant and her daughter bought into the investigative process and stuck with it right until the end. This was a lengthy case indeed.

**Line:** Excellent. I think this has been a great discussion. I appreciate you, Nick, being a part of CLEAR's podcast. And again, congratulations on the award. It is always wonderful to be able to hear about examples of excellence from our regulatory colleagues. Again, congratulations on that, and thank you for speaking with us today.

**Nick:** I'm really grateful for the opportunity to speak with you today, Line. Thank you to everyone at CLEAR and to all the listeners that took the time to tune in to the show.

**Line:** Absolutely; it has been a pleasure. And I also want to draw our members' attention again to the CLEAR Awards. The call for nominations for the 2021 CLEAR Awards is now open, so we invite you to consider submitting a nomination to recognize excellence in the regulatory community. More information about that and the nomination forms can be found on the CLEAR website under the Awards tab in the main menu.

I also want to take a moment to thank our listeners for tuning in for this episode. We'll be back with another episode of Regulation Matters: a CLEAR conversation very soon. If you're new to the CLEAR podcast, please subscribe to us. We're available on Podbean, Apple Podcasts, Google Podcasts, Stitcher, Spotify, TuneIn, Alexa for Amazon Echo devices, iHeartRadio, Player FM, ListenNotes, and Pandora. I know that's a lot, but it just shows you how far we can be reached. If you've enjoyed this podcast episode, please leave a rating or comment in the app. Your reviews help us improve our ranking and make it easier for new listeners to find us. Feel free to visit our website at [www.clearhq.org](http://www.clearhq.org) for additional resources and a calendar of upcoming online programs and events.

Finally, I'd like to thank our CLEAR staff, specifically Stephanie Thompson, Content Coordinator and editor for our program. Once again, I'm Line Dempsey, and I hope to be speaking to you again very soon.

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