



# AI Use in Civil Rights Investigations

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# ALYSSA-RAE MCGINN

Vice President

Boston



Alyssa-Rae McGinn has extensive experience serving as an investigator, decision maker, hearing chair, mediator/informal resolution facilitator, and interim Title IX Coordinator, with particular expertise in applying regulatory requirements and best practices in complex matters of sexual misconduct and identity-based harassment at educational institutions. Alyssa-Rae balances a compassionate understanding of the difficulty parties face being involved in such matters with the importance of remaining compliant with relevant law and policy.

# DAN SCHORR

President

New York



Dan Schorr is a former criminal prosecutor and municipal inspector general with more than 25 years of legal and investigative experience. He manages a variety of complex assignments, including investigations into sexual misconduct, Civil Rights, and fraud allegations at educational institutions, corporations, and government entities. In addition to specializing in Title IX investigations, Dan assists higher education and K-12 schools by conducting policy and program reviews, training personnel on all aspects of Title IX and Civil Rights compliance, and serving in hearing officer and Decision Maker roles. Dan is a pre-approved Sexual Misconduct Investigator for the United Educators ProResponse Expert Services Benefit.

# JENNA FARRELL

Investigator

Albany



Jenna Farrell specializes in investigations of sexual misconduct and discrimination allegations based on sex, gender, and race. She was previously an intern in Kroll's Business Investigations & Intelligence practice where she worked on a wide array of investigations including due diligence, fraud investigations, and pro bono human rights matters. Prior to Kroll, Jenna interned at the Washington County District Attorney's Office in New York State focusing on cases of sexual misconduct and domestic violence. She is a pre-approved Sexual Misconduct Investigator for the United Educators ProResponse Expert Services Benefit.

# WHAT DO WE MEAN BY “AI”?

- Artificial intelligence has been used in various technologies for years
- Recent boom in “AI” use is due to release of smarter agentic AI
- Increase in use of more accessible generative AI programs like ChatGPT, Grok, Claude, and Gemini
- Many individuals and organizations have adopted agentic AI for different uses

# HOW IS AI BEING USED IN CIVIL RIGHTS CASES?

- AI as part of the substance of the case:
  - Basis of the complaint
  - Evidence
- AI used by parties during case procedures:
  - Drafting complaints, and statements
  - Advice, validation, and assistance
  - Communications with investigators, coordinators, and hearing officers
- AI used by investigators:
  - Case management
  - Transcription and notes
  - Report writing
  - Decision making?

# MANAGING BIAS AND ASSUMPTIONS ABOUT AI

- As investigators, it is important to remain neutral and avoid assumptions and bias
- There are many reasons someone might use AI, including disabilities, neurodivergence, self-directed learning, and more
- AI is a tool, and it is always being directed by a person
- AI can be used to help, hurt, or neither
- Avoid extending your own feelings or experiences to others' use of AI – remember that your experience is not universal

# AI AS THE BASIS OF THE COMPLAINT

- AI use may be the substance of the complaint, for example:
  - Allegations of respondent using discriminatory AI
  - Allegations of respondent accusing complainant of using AI improperly because of protected identity, retaliation, or quid pro quo sexual harassment
  - Allegations of respondent using AI to generate inappropriate photographs or videos without complainant's consent
- When AI use is the substance of the complaint, remember the basis is still an alleged action that violates your policy
- General best practices for investigations still apply
  - Take your usual investigative steps
  - Be aware of your scope
  - Think about evidence that will prove or disprove the allegations

# AI AS THE BASIS OF THE COMPLAINT

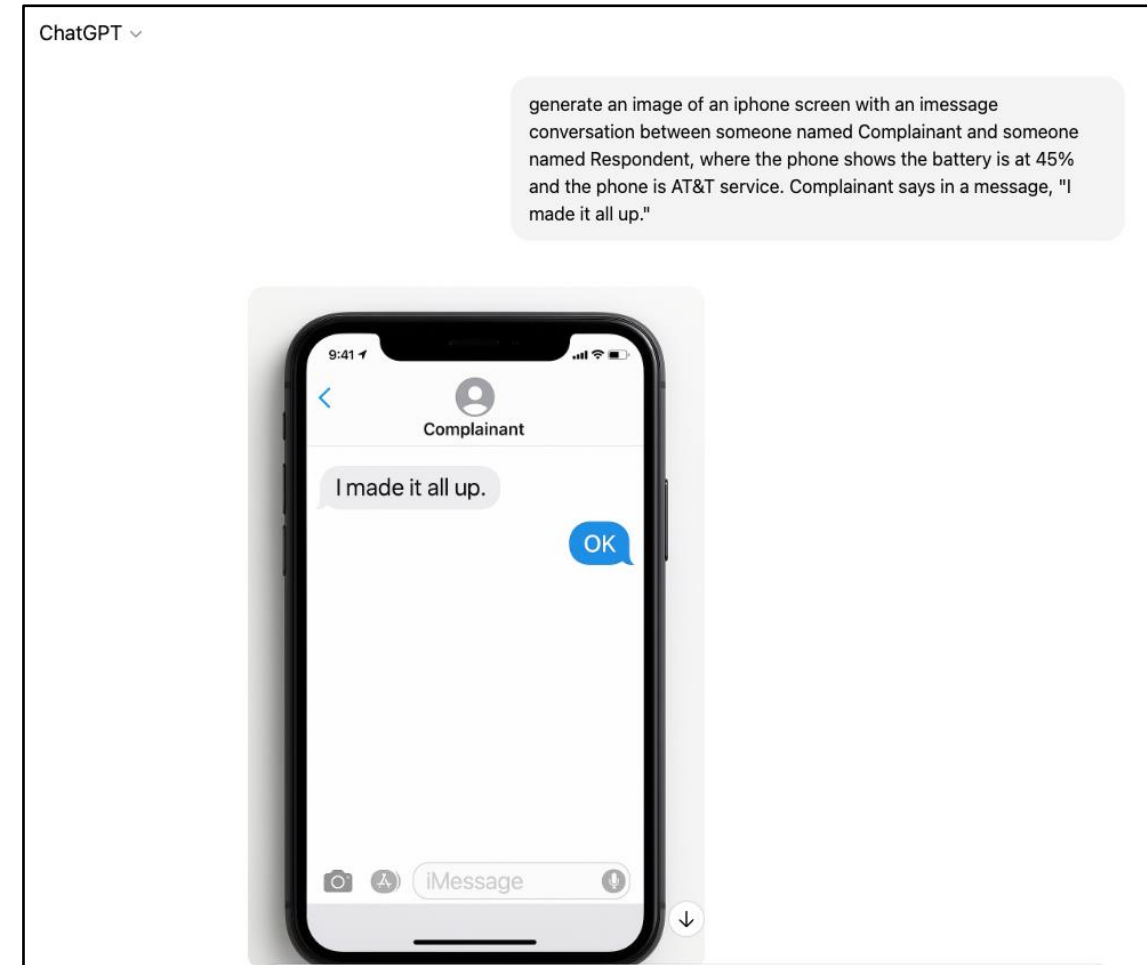
- Collect evidence and information specific to the alleged use of AI, such as:
  - Information about specific program used
  - Interviews with vendors or institutional representative for the AI program
  - Back-end information about AI program
  - Screenshots of AI prompts
  - Non-AI writing samples
  - Original photographs or videos
- There may be types of evidence we cannot anticipate now – think creatively about the footprint of alleged actions

# AI AS EVIDENCE

- AI use may be submitted as evidence by parties and witnesses:
  - “Outcry”
  - Contemporaneous records/journaling
  - AI use as record of work, tasks, and more
  - AI-created fake evidence
- Evaluate as you would with any evidence
- Remember that even when generative AI “replies” to a user, it is not a conversation; what an AI agent replies to a prompt is less important than the prompt, the user’s response, and the influence on the user

# AI AS EVIDENCE

- Instruct parties and witnesses to preserve AI evidence
- Get timestamps where possible
- Deleted items may still exist
- Be aware of fakes and edits
- View the source and get primary documentation when possible
- Get the full document or “chat”



# AI USE IN CASE PROCEDURES

- Parties and witnesses may use AI as they move through the investigation process, for example:
  - Complainants using AI to draft reports or formal complaints
  - Parties and witnesses using AI to draft written statements and responses
  - Parties using AI for advice, validation, and assistance
  - Parties and witnesses using AI to communicate with investigators, coordinators, and others
- Some procedural uses of AI are not harmful, or even helpful
- But, be aware that some of these uses may influence how parties and witnesses think about, remember, or share their relevant experiences
- Be open-minded and avoid assumptions, but AI use may require exploring and documenting thought processes and how AI was used

# INVESTIGATORS' AI USE

- Some investigators have started to use AI to complete their investigations, for example:
  - Managing cases, procedural steps, and tasks
  - Transcription from recorded interviews or summaries from notes of interviews
  - Drafting parts of reports, such as procedural history or synthesized summary of all interviews
- As in all situations, AI use can be helpful, harmful, or neutral
- Overall, most AI tools are not ready to handle the sensitive and nuanced issues we investigate; the human brain and heart are still best!

# INVESTIGATORS' AI USE

- Carefully consider before using an AI tool for any part of the investigation process:
  - Identification of a program
  - Confidentiality and privacy terms of the program
  - Your institution's agreement with the vendor providing the program
  - The program's history of maintaining confidentiality, ethical or unethical uses of data, and the stability of the company
  - Any potential impact of the AI program's error, bias, or limitations on the parties, the integrity of the case, or the outcome
  - The degree of human emotion, compassion, empathy, or nuance required for the task
  - Time saved vs. time spent to ensure AI program is producing at the quality necessary for a Civil Rights case
  - Whether the task is appropriate to “outsource” or reassign from investigator

# FINAL THOUGHTS

- Increasing use of agentic AI in our college communities means we will see an increase of cases involving AI
- Available AI tools are evolving quickly – stay on top of developments
- Remember that AI involvement does not change the nature of conducting a thorough and fair investigation
- Don't get nervous or distracted because of AI involvement
- Be cautious in your own use of AI in investigations
- Trust yourself and your colleagues over AI!

# THE TITLE IX AND CIVIL RIGHTS

PODCAST



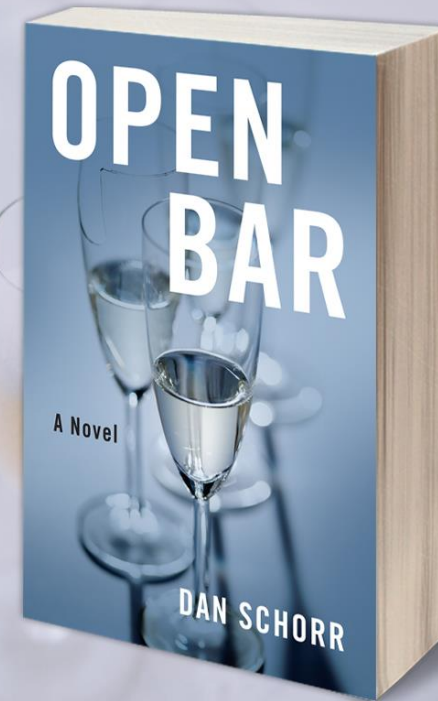
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—Gretchen Carlson, Journalist, co-founder Lift Our Voices, Female Empowerment Advocate, Author



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