

Boston US Attorney Likely to Face Bar Probe, Ethicists Say (1)

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- DOJ decision not to prosecute doesn't end scrutiny
- Attorneys say state disciplinary board likely to act

Boston's resigning US Attorney Rachael Rollins could face potential discipline by the Massachusetts bar authority even after the Justice Department opted against prosecuting her for allegedly falsely testifying under oath to its inspector general, according to legal ethicists.

Rollins announced her [resignation](#) a day before DOJ's internal watchdog [published a report](#) Wednesday finding she violated federal regulations, DOJ policies, and her ethics agreement for a wide range of conduct during her 16 months as the chief law enforcement official in Massachusetts.

Legal ethics experts said Rollins could be investigated by the state's disciplinary agency and face a potential bar license suspension for denying in interviews with IG staff that she had leaked damaging information about a political candidate to media outlets.

"I think the bar is very likely to take some action here to enforce the idea that everyone is held accountable—even the people at the top," said Emil Ali, who counsels attorneys accused of misconduct and teaches legal ethics at Lewis & Clark Law School. "A prosecutor's job is to uphold the law, and unfortunately, the Massachusetts Board of Bar Overseers is probably going to make an example out of her."

The Massachusetts Board of Bar Overseers, through its general counsel Joseph Berman, declined to comment.

Other lawyers were reluctant to predict her fate, while noting details in the report that may constitute violations of multiple state rules of professional conduct if verified.

Rollins' attorney, Michael Bromwich, said he's not aware of any pending investigations against her "by any entity" besides the IG and the US Office of Special Counsel. The latter released the results of a separate probe Wednesday accusing Rollins of violating the Hatch Act by attending a political fundraiser with First Lady Jill Biden, ignoring the advice of DOJ ethics counsel.

The Massachusetts board can initiate investigations against attorneys without receiving an outside complaint. Although it's unclear if the IG and DOJ would hand over all investigative notes and witnesses to the state authority, the board can subpoena individuals—including Rollins' DOJ colleagues.

Richard Rosensweig, a former member of the Massachusetts board's hearing committee, cited several rules implicated by the IG's allegations.

"You've got prohibition on extrajudicial statements that could prejudice a proceeding—I think the bar counsel would probably look at that," said Rosensweig, who is a director at Goulston & Storrs and defends attorneys in disciplinary proceedings before the board. "Making statements regarding the integrity or ability of a candidate for legal office that are untrue—I think they would look at that."

He cited another rule violation, "engaging in conduct that adversely effects an attorney's fitness to practice"—as being implicated by several of the IG report's findings.

'Major Violation'

The 155-page report chronicles a series of ethical lapses, such as unauthorized travel and soliciting Boston Celtics tickets. And while the false testimony accusation didn't rise to what DOJ deemed a crime worth prosecuting, it would be subject to a lower burden of proof by state bar enforcers.

The IG found Rollins "disclosed nonpublic, sensitive DOJ information to the press" about a possible criminal investigation into a candidate running to succeed Rollins as Suffolk County district attorney. She denied being the leaker in an interview with IG staff, before later admitting to being the source.

"Bar regulators, in general, they'll get their hackles up about any sort of dishonest conduct that has any nexus with the practice of law," said Stacie Rosenzweig, a shareholder at Halling & Cayo who represents lawyers before licensing authorities.

The finding that she willfully gave false testimony under oath to investigators "would be considered, if proven, a pretty major violation," added Rosenzweig. And DOJ's decision to decline prosecution "is not dispositive of the issues" in an attorney disciplinary proceeding.

Possible Sanctions

Several lawyers said it was difficult to forecast the outcome of a potential bar investigation and ensuing recommendation to the state's Supreme Judicial Court.

"Folks should be wary of making comments before they have all of the facts," said James Bolan, a former counsel with the Massachusetts Board of Bar Overseers who's now a partner at Brecher, Wyner, Simons, Fox & Bolan. "I think it's entirely premature to guess about what happened at the DOJ and why, and what her future might present."

However, one veteran attorney in the Massachusetts disciplinary field said a legal license suspension—perhaps of one-to-two years—is a likely worst case scenario for Rollins. A more lenient would be a public reprimand with no suspension.

Regardless, "she's still in a world of trouble," said Kathleen Clark, an ethics professor at the Washington University in St. Louis School of Law. "Even being subjected to an investigation, let alone a finding of a professional violation, can be its own form of accountability."