



ALFA International
THE GLOBAL LEGAL NETWORK

Everything I Know I Learned from Television Shows

2025 Labor & Employment Seminar

June 11-13, 2025 | Eau Palm Beach Resort & Spa | Manalapan, Florida

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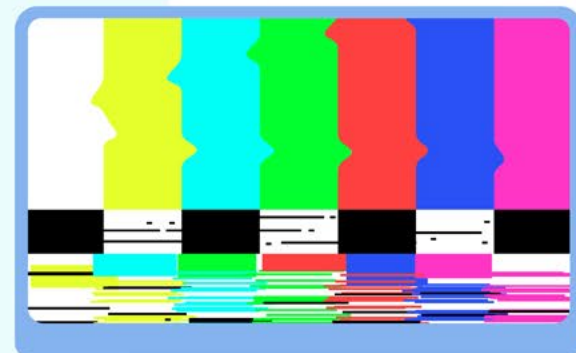
THERE'S NO SUCH THING AS QUESTIONS, JUST HIDDEN ANSWERS

CSI Meets The Employment World

Defense Attorney's Role in Digital Data Collection



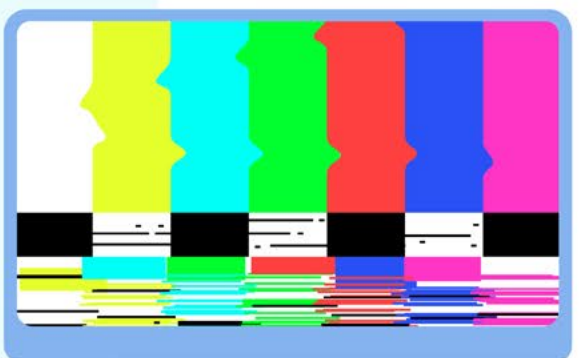
- **Set expectations with clients early:** identify data custodians and preservation obligations
- Coordinate with IT and outside vendors to ensure defensible collection
- Implement Legal Hold notices promptly
- **Avoid spoliation:** advise clients *not* to delete data
- Document chain of custody and sources of data
- **Remind clients:** screenshots ≠ complete forensic evidence



Risk Traps for Defense Counsel



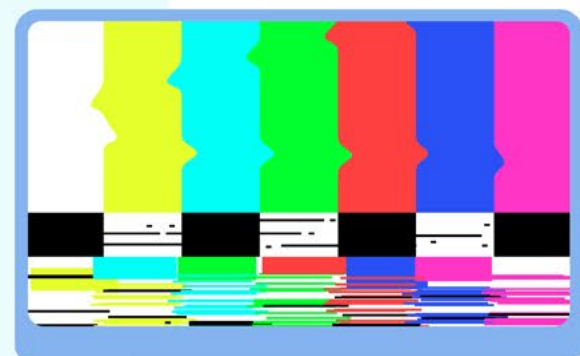
- Letting employees self-collect from personal devices
- Relying solely on corporate backups that exclude personal devices or BYOD
- Ignoring messaging apps (e.g., Signal, Snapchat, iMessage)
- Delayed forensic imaging (risk of overwriting relevant metadata)
- Failure to advise on scope of Rule 26 preservation, especially when anticipating litigation



Preparing Your Witnesses (and Clients)



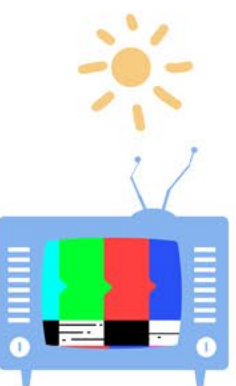
- **Pre-collection checklist:** devices, accounts, cloud storage, deleted content
- Interview custodians to identify usage habits (e.g., personal phones, side emails, USBs)
- Explain that deletion \neq disappearance (educational moment for clients)
- **Mock cross:** walk witnesses through questions about digital usage
- Reinforce confidentiality: remind witnesses not to discuss collection with colleagues



Defensible Digital Collection Practices



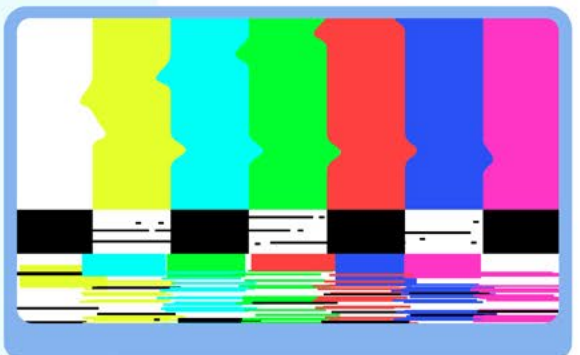
- Initiate early Rule 26(f) meet & confer to define scope, custodians, and production formats
- Engage independent forensic experts to ensure credibility and neutrality
- Authenticate ESI using hash values, custodian testimony, or Rule 902(13)/(14) certifications
- Document and disclose collection methods in privilege logs or initial disclosures when necessary
- Flag and preserve “hot” documents separately to support early case strategy and motion practice



In-House Counsel Pre-Litigation



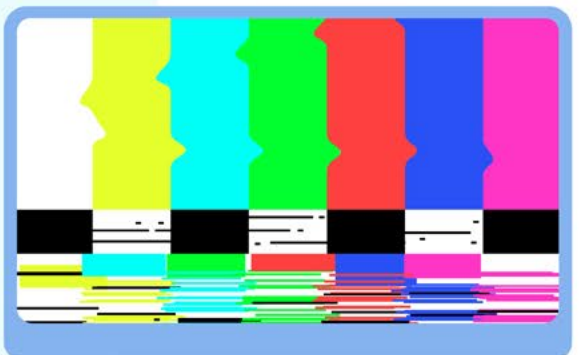
- Adopt generally applicable policies and procedures
 - Creation, retention, and deletion of data
 - Permissible use of work/personal devices and accounts
 - Legal Hold process
- Discuss practicalities with IT and others involved in data creation and management
- Use repeatable process for identifying scope of Legal Hold, tracking, and closure
- Lift Legal Hold when matter closes and return to existing practices for data retention and deletion



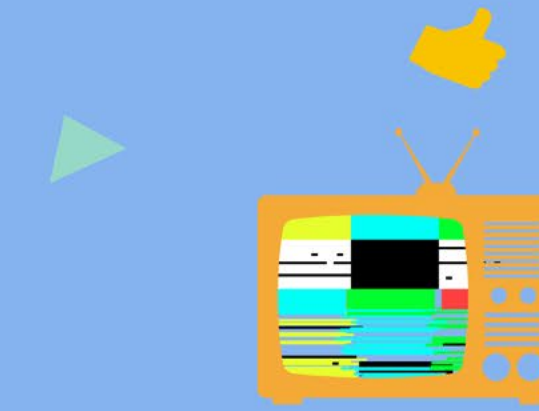
In-House Counsel Pre-Litigation



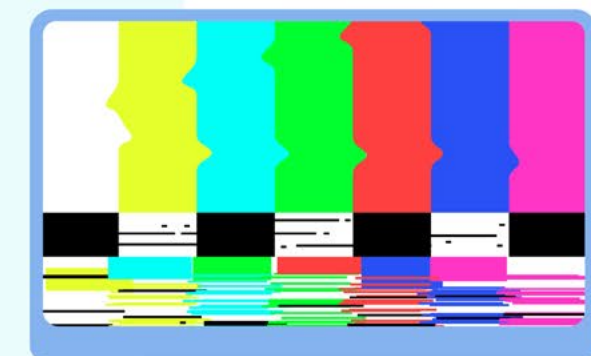
- Legal Hold Process
 - Identify potential custodians
 - Current employees
 - Former employees
 - 3rd parties – contractors, vendors, etc.
 - Standardized template and notice to identified custodians and IT
 - Scope of required preservation
 - Identification of data sources
 - Company issued devices and accounts
 - Personal devices and accounts
 - Difficult to access data – social media, vm, text, slacker etc.



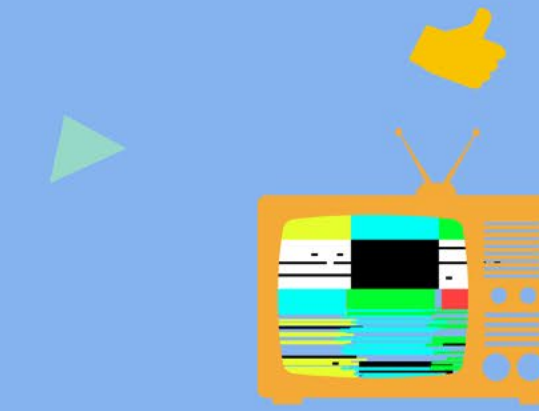
In-House Counsel Actual / Potential Litigation



- Suit Filed or On Notice That Litigation May Ensure
 - Initiate Legal Hold process
 - Active monitoring and management
 - Identify scope of Legal Hold / potential discovery efforts
 - Involve outside counsel / vendor?
- Identify who should manage data collection & retention
 - Custodians themselves?
 - In-house legal?
 - In-house IT?
 - Outside law firm?
 - Vendor?



Digital Forensics Vendor



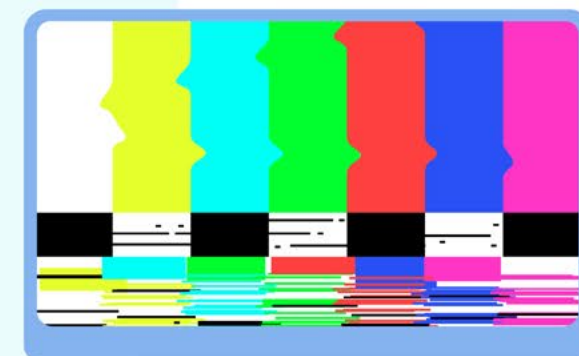
What is Digital Forensics?

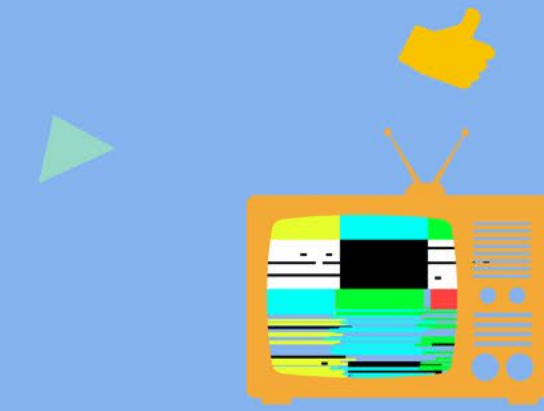
Crossover with eDiscovery

Can This Evidence Really Help Win (or Lose!) My Case?

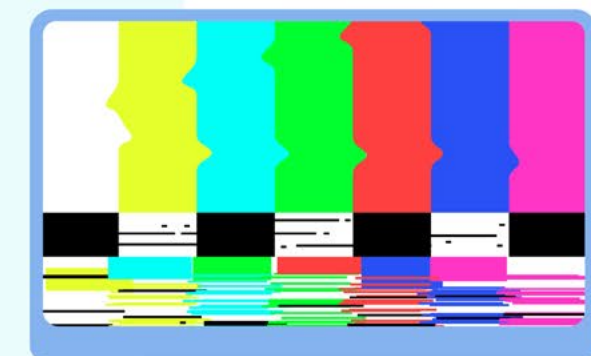
Smartphone Forensics – What Can My Phone Tell Me?

How Do I Authenticate Digital Evidence?

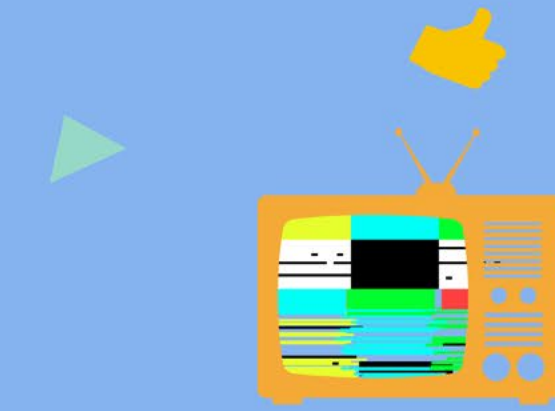




Digital Forensics: Setting the Stage



What Do We Mean by Digital Forensics?

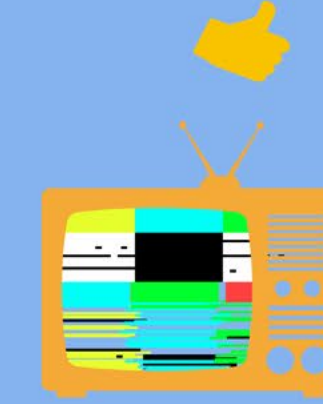


Digital forensics is the process of identifying, preserving, examining, and documenting digital evidence to be used for legal proceedings

- Investigative in nature
- **Not** just data collection
- **Not** eDiscovery



Common Scenarios/Broad Application



Employee leaves unexpectedly amid a critical project

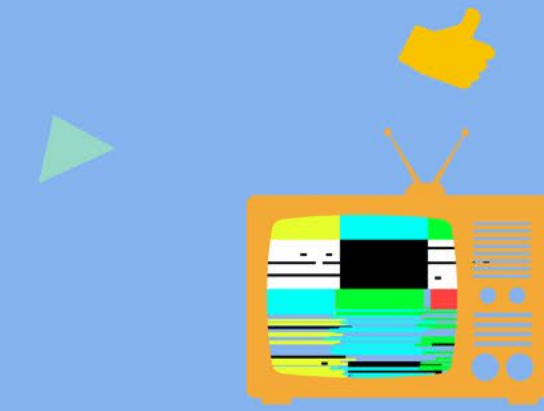
Employee tenders notice, and now wants out of his or her noncompete agreement

Family law disputes (communications, assets, user activity)

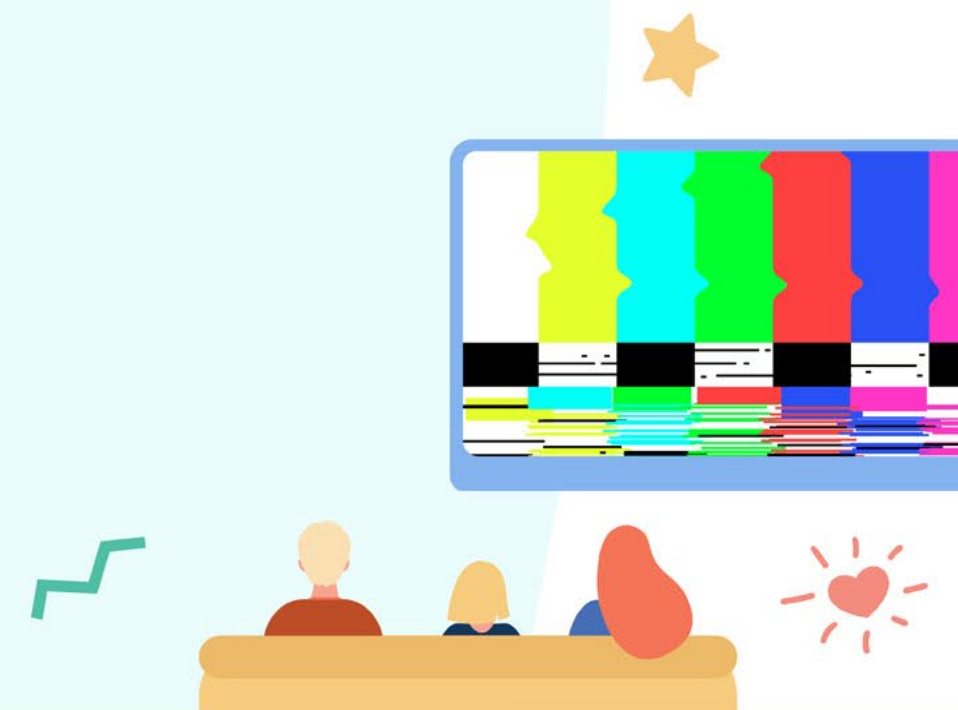
Remote sales force: subordinate submits claim of harassment by colleague or manager

Government subpoena/"dawn raid" – broad workforce and limited response time



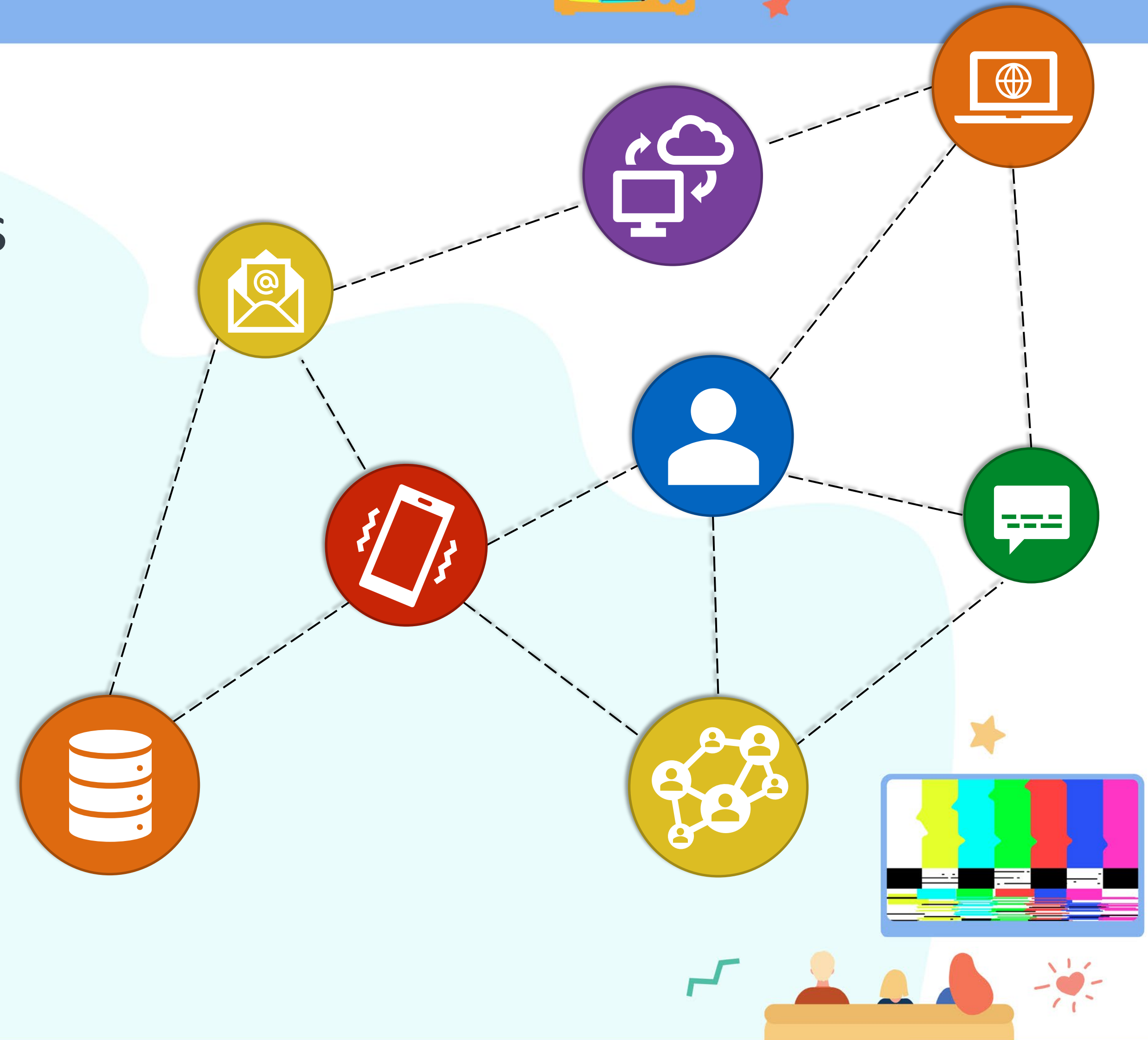


Forensic Collections



Data Maps – Critically Important

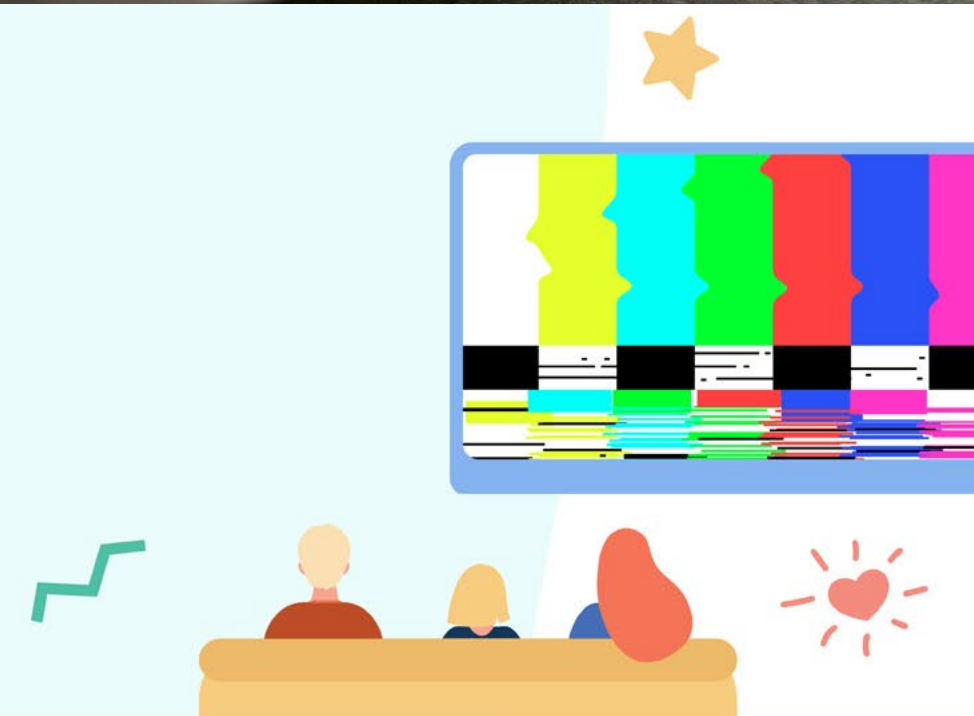
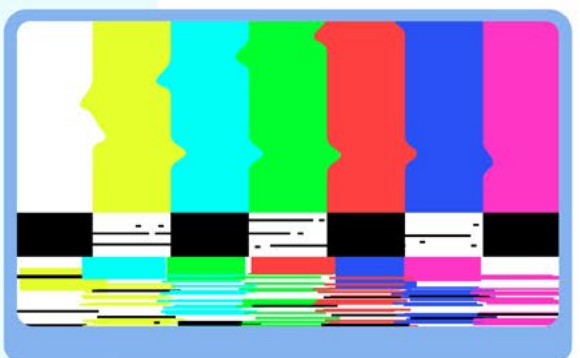
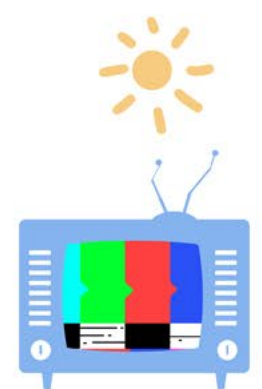
- Personal Computers
- Company-Issued Mobile Devices
- Personal Mobile Devices
- Cloud Storage
- Corporate/Shared Networks
- External Storage Devices
- Social Media



Personal Computers



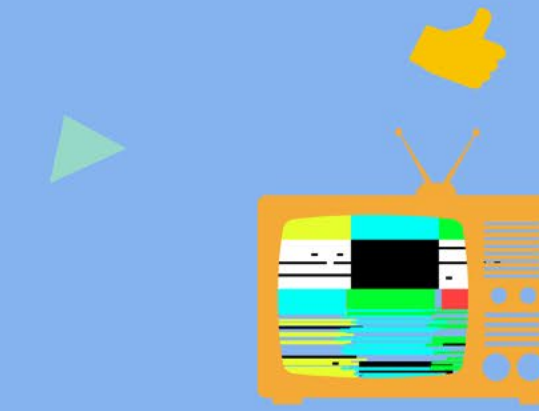
- Forensic tools can recover metadata unknown to the user
 - Deleted content
 - File(s) accessed and internet search history
 - Whether external storage devices were connected
- The model may dictate how the image can be created successfully



Company-Issued Mobile Devices

- Company-issued mobile devices often have a mobile device management tool (“MDM”) installed
 - Restricts backups/collections without the help of IT
 - MDM policy may need to be changed
 - MDM app may need to be removed
- MDM does not help with data collection from mobile devices

Personal Mobile Devices

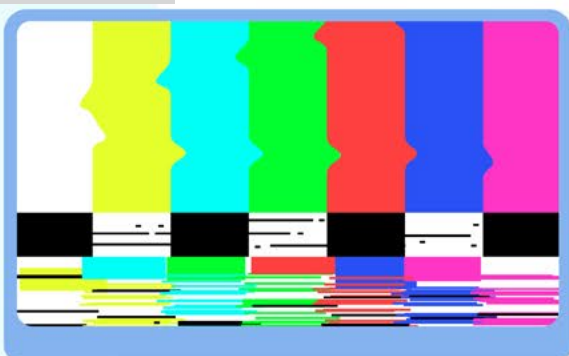
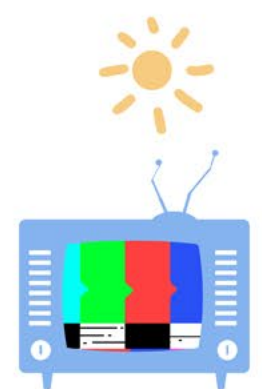


iPhone

- Generally easier to collect with some remote options
- iCloud backups may be an option for most iPhone data
- iTunes backups, even performed by the employee, may be an option

Android

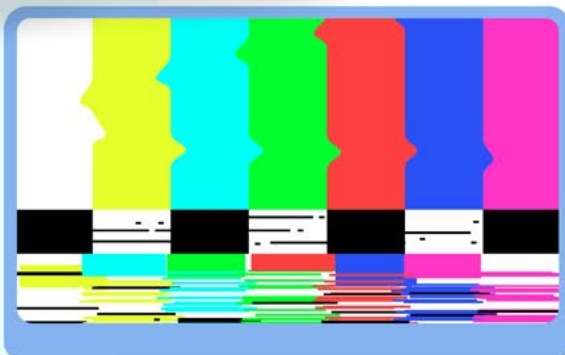
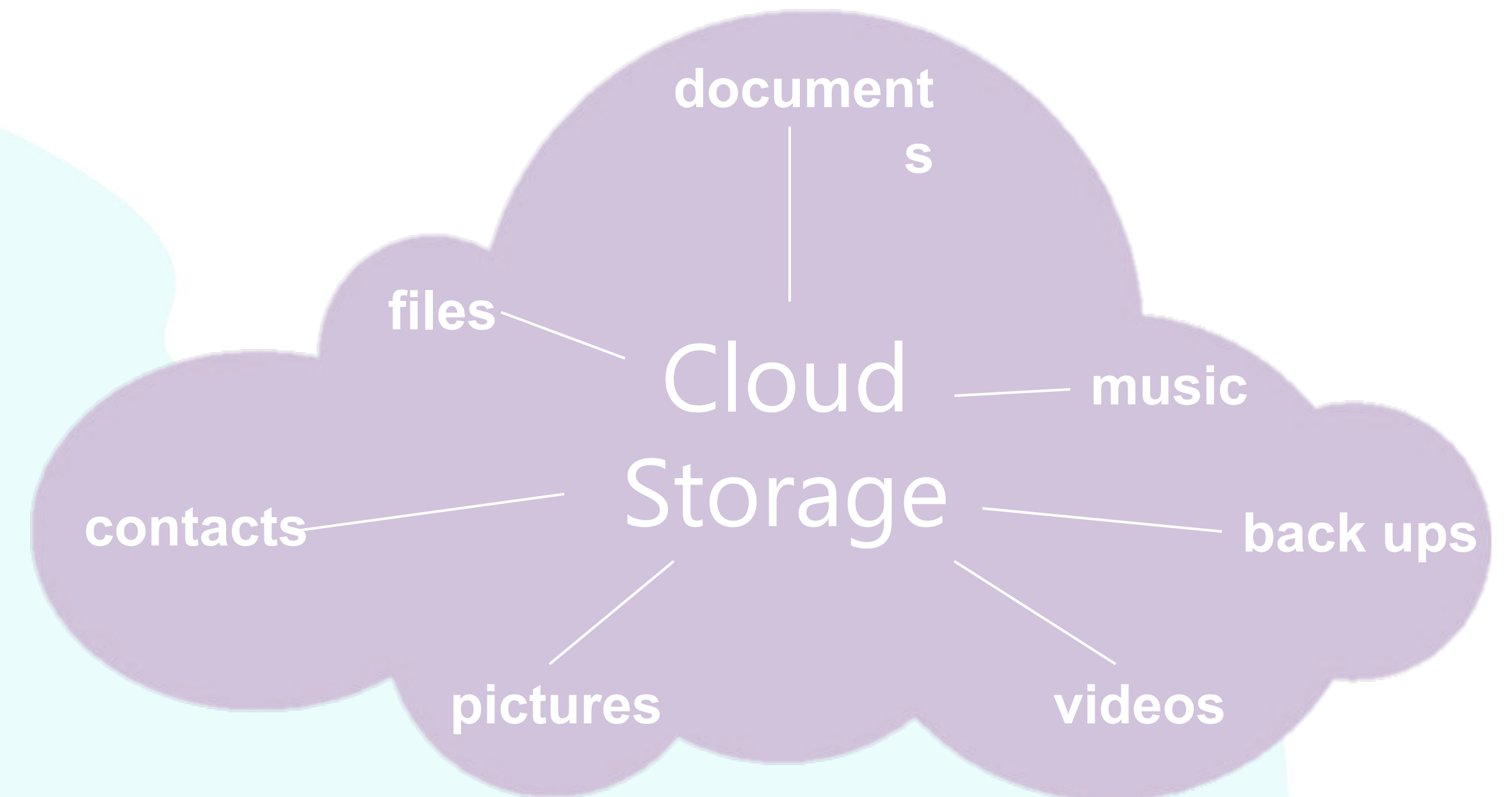
- Pretty much always requires the knowledge of a forensic specialist



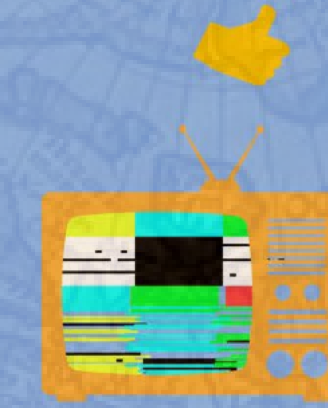
Cloud Storage Systems



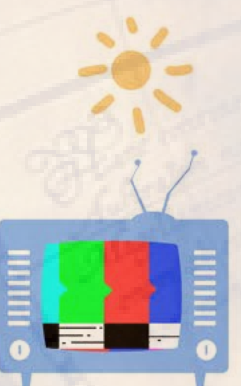
- Cloud storage may not be company-sanctioned
- Collection steps will be dictated by the cloud storage app
- Business-class cloud storage accounts typically have additional logging available
- Extremely large volumes (hundreds of GB) of data could take weeks to collect



Corporate Network Locations



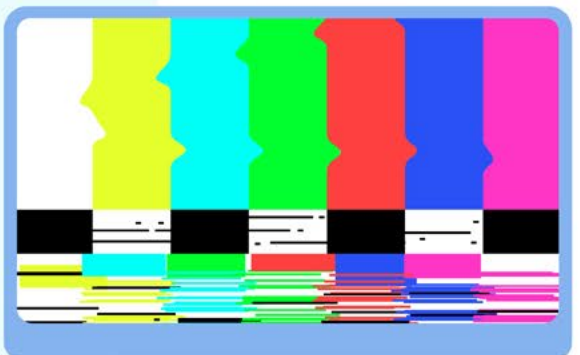
- Often considered “systems of record”
- Data Mapping - Be sure to ask your client about:
 - How their corporate networks are structured
 - Who has network access
 - Any automated deletion cycles that may apply



USB or External Hard Drives



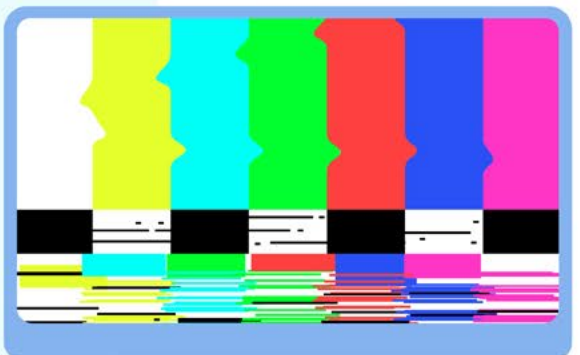
- Employees may be relying on external storage due to convenience or inability to connect to the company's network storage
- In a remote-imaging situation, the devices may be able to be plugged into the computer being collected (case specific – not a good idea for a defense case involving trade secrets theft)

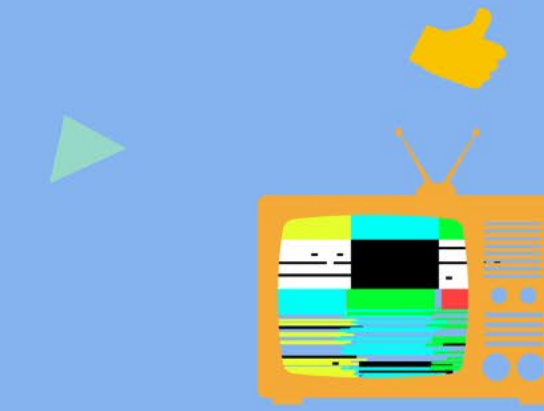


Social Media/Messaging Apps



- Slack, Teams, Facebook, Instagram, LinkedIn, etc., are commonly used by employees for both sharing work and basic communications
- eDiscovery “purpose built” tools (4IG, Onna, X1) do exist for some of the most popular platforms
 - Slack
 - FB, IG, and LinkedIn
 - Salesforce
 - Microsoft M365

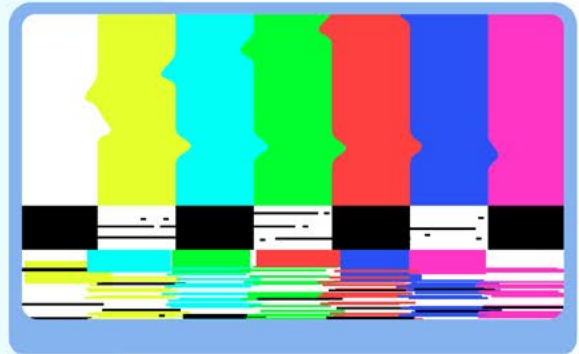
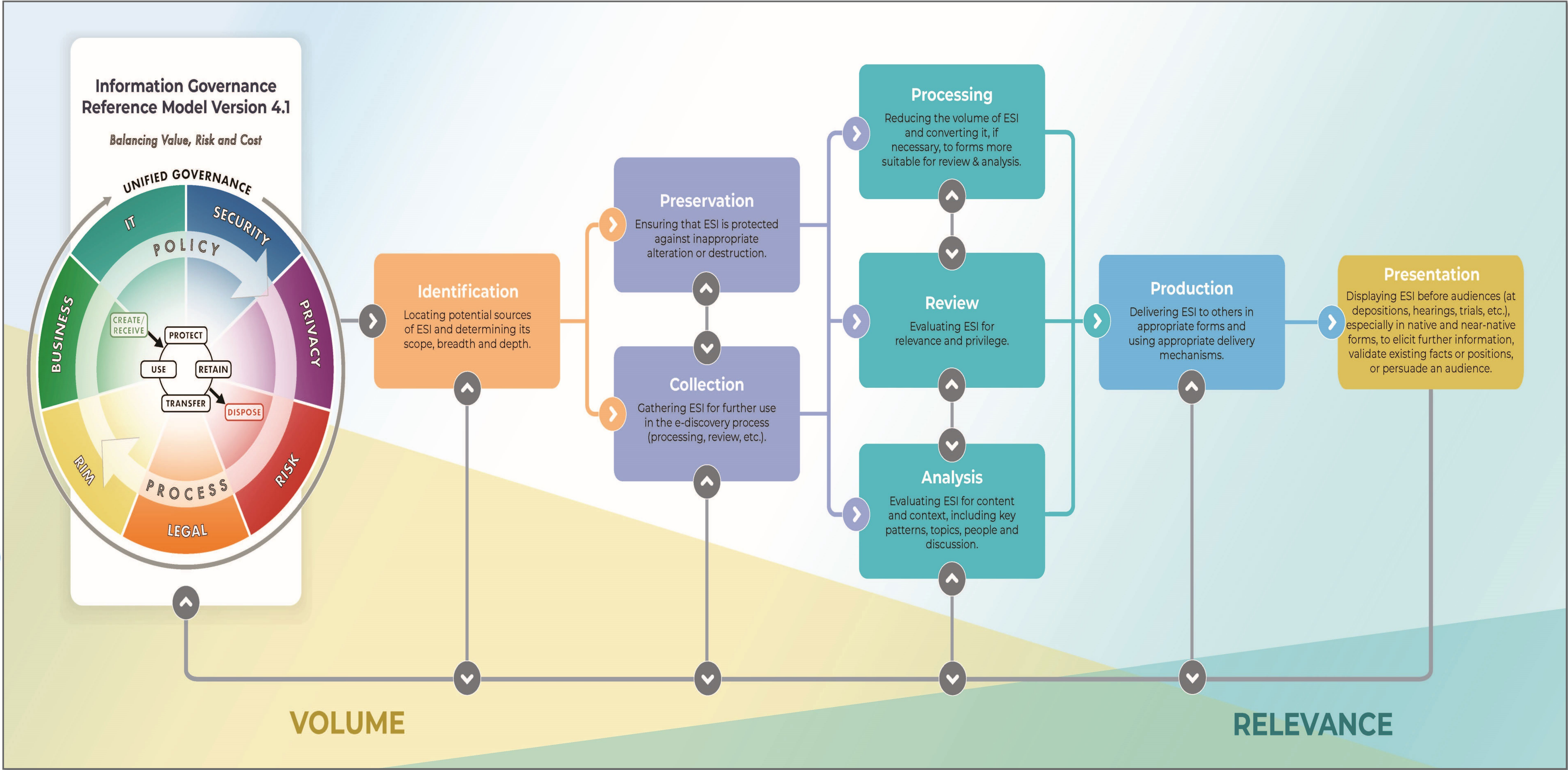
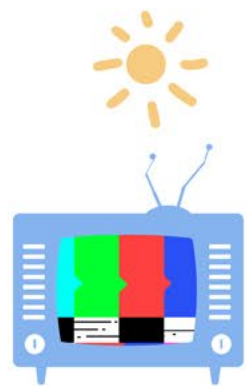
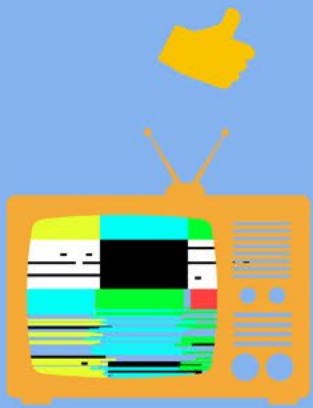




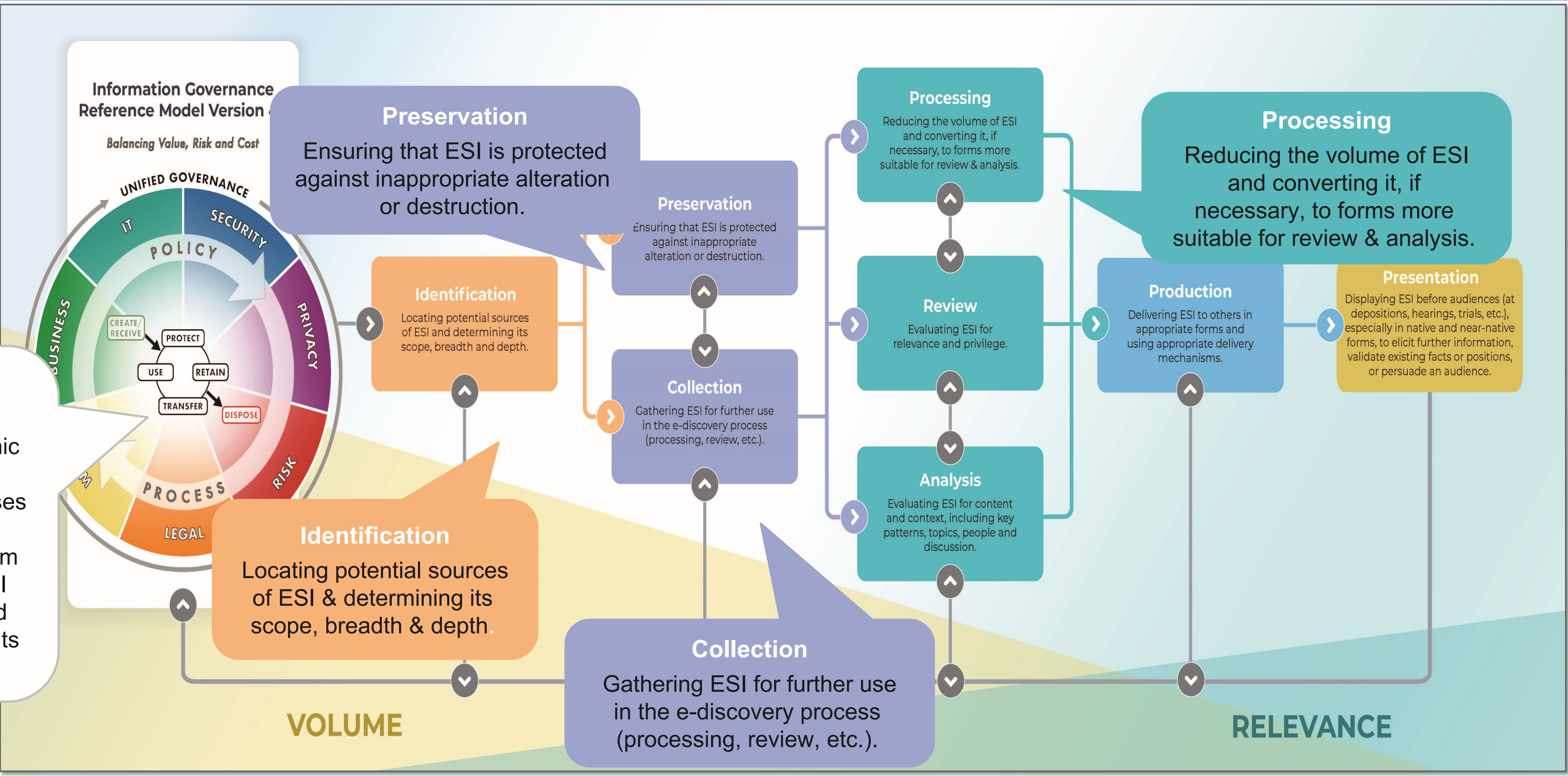
Electronic Discovery Reference Model (“EDRM”) Workflow



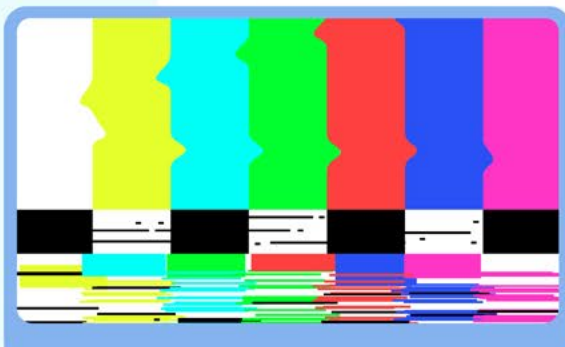
Evidence identification, collection, processing, review and production



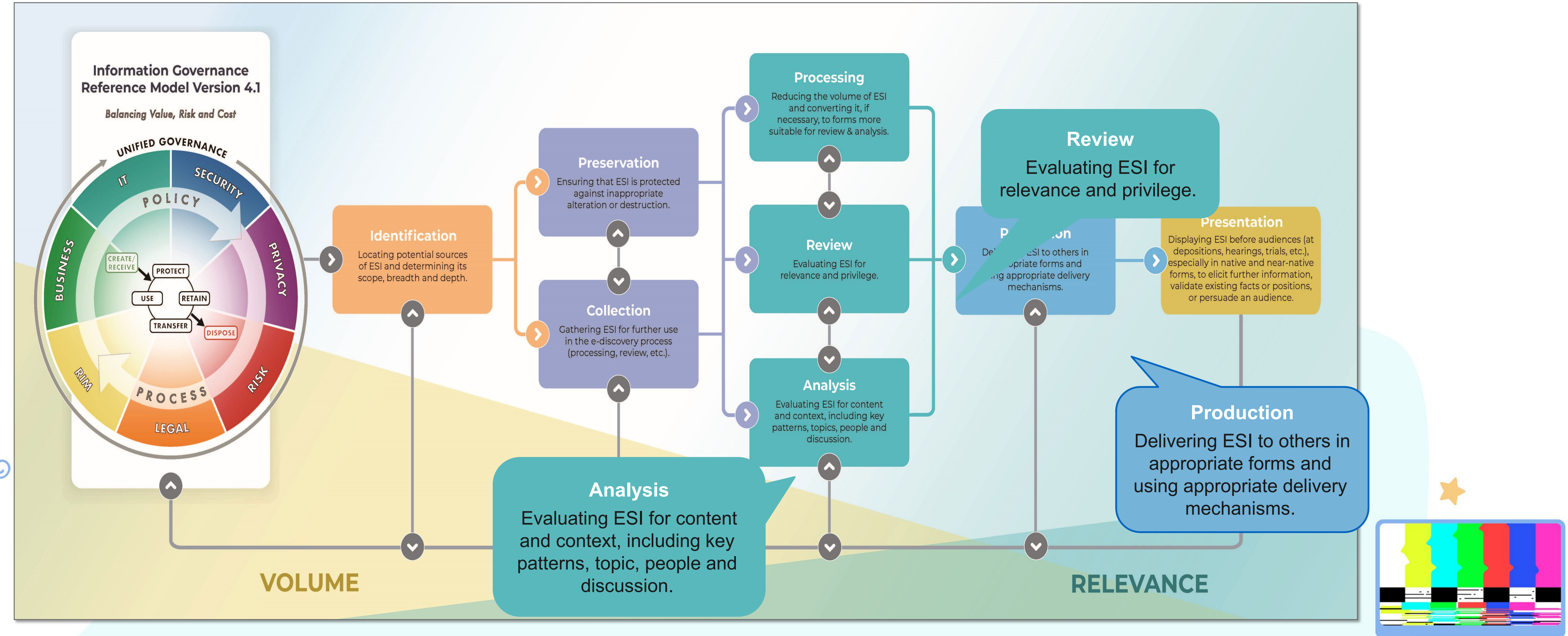
EDRM Workflow



Information Governance
Getting your electronic house in order to mitigate risk & expenses should e-discovery become an issue, from initial creation of ESI (electronically stored information) through its final disposition. .

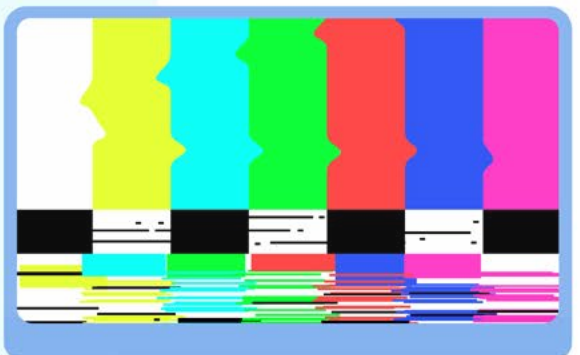


EDRM Workflow



EDRM Workflow Management

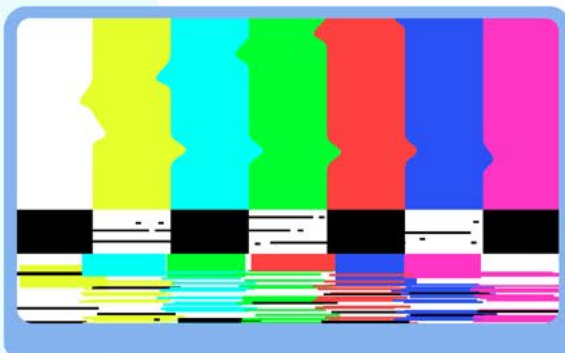
- Help attorneys offer more proactive advice that will mitigate the risk of losing important ESI.
- Need to stay on top of the measures and tactics by which organizations create ESI, retain potentially relevant evidence, and dispose of ESI.
- Without proper forethought and planning, the client's ability to find, preserve and identify relevant evidence can be severely hampered.



EDRM Workflow Considerations



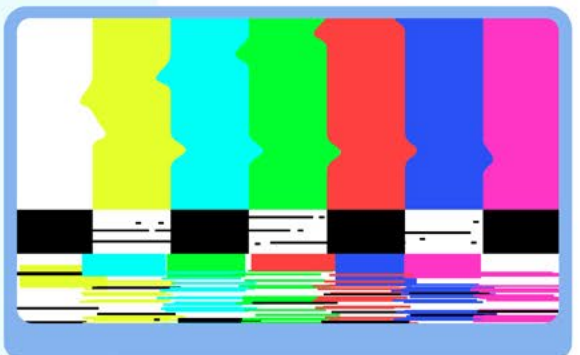
- Rule 26's proportionality standards direct attorneys to weigh what is relevant in proportion to the cost and expense in reviewing and producing that information.
- Mapping and processing can help locate then defensibly reduce a client's data set, thereby minimizing the amount of time spent on reviewing useless files.



Other Procedural Considerations



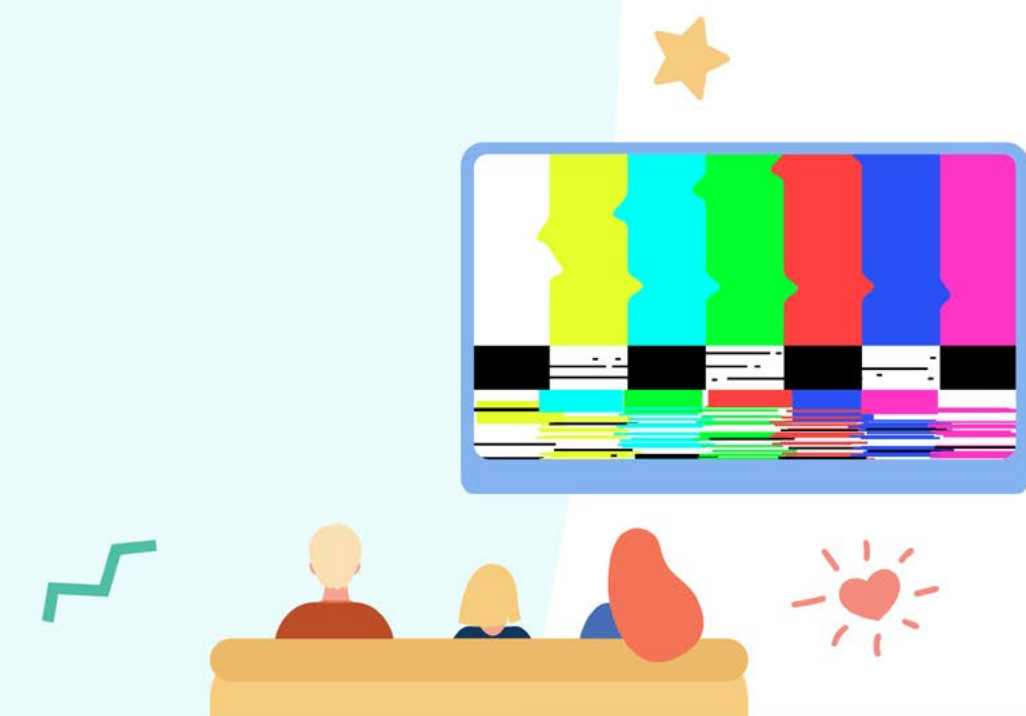
- **Preservation Obligations (FRCP 26 & 37):**
 - Duty to preserve arises when litigation is reasonably anticipated
 - Scope includes personal devices and cloud accounts used for work
 - Implement litigation hold early — document who received it and when
- **Rule 26(b)(1) – Proportionality Standard:**
 - Courts increasingly require data collection to be proportional to needs of the case
 - Evaluate burden vs. benefit before agreeing to broad or costly forensic imaging
- **Early Case Assessment (ECA):**
 - Conduct custodian interviews to map potential data locations
 - Use ECA tools to limit collection to key date ranges or custodians
- **Discovery Negotiations:**
 - Propose ESI protocols addressing format, metadata, and privilege
 - Defensibly narrow scope during Rule 26(f) conference
 - Consider clawback agreements and FRE 502(d) orders for privileged data
- **Spoliation Risks:**
 - Loss of data can trigger sanctions under Rule 37(e)
 - Establish clear procedures to avoid inadvertent deletion or overwriting

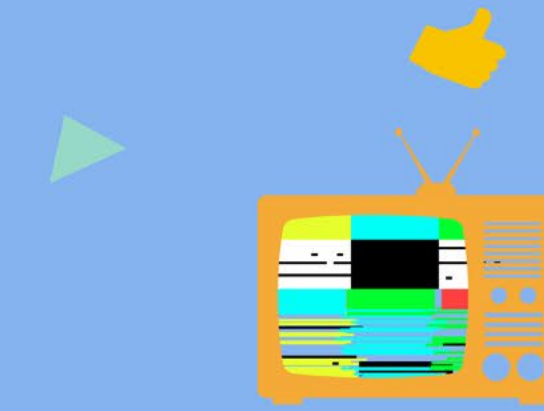


Ethical Considerations



- **Duty of Competence (ABA Model Rule 1.1):**
 - Includes understanding relevant technology (e.g., digital forensics, metadata)
 - Engage qualified forensic experts when needed
- **Duty to Supervise (Rule 5.3):**
 - Attorneys must ensure vendors, IT staff, and clients follow lawful data collection practices
 - Document all instructions given to third parties
- **Candor to the Tribunal (Rule 3.3):**
 - Do not allow clients or witnesses to conceal, alter, or delete relevant data
 - Correct misstatements about existence or scope of electronically stored information (ESI)
- **Duty of Confidentiality (Rule 1.6):**
 - Secure client data during transfer and storage
 - Avoid use of non-secure tools for ESI transmission or review
- **Avoiding Conflicts (Rule 1.7):**
 - Especially critical when representing both employer and individual employees
 - Assess whether individual witnesses need separate counsel due to differing interests





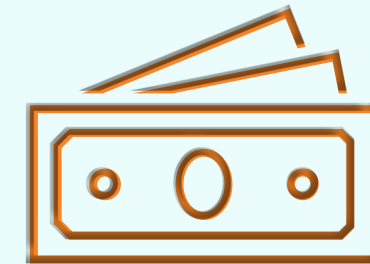
Forensic Analysis



Typical Scenario



Sam Smith,
a lead
scientist at
Superior
Science,
develops a
treatment for
Parkinson's
Disease



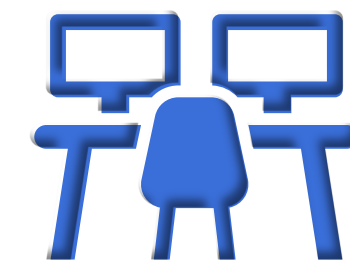
Smith says
he is
unhappy
with his
year-end
bonus



Smith goes
on a spur of
the moment
vacation to
Florida on
January 17th



Smith
resigns on
January 23rd
and returns
his company
laptop



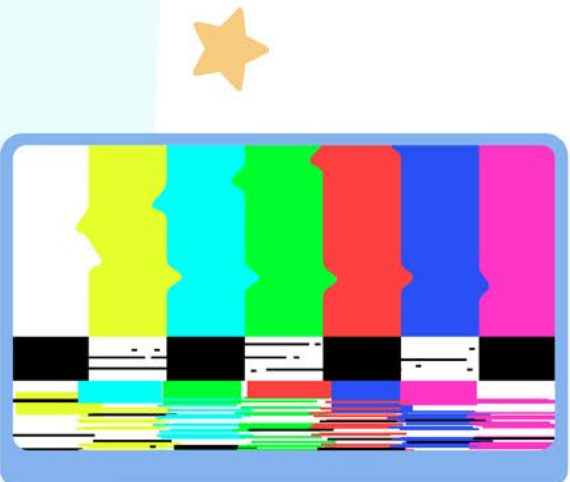
Superior
Science
hears that
Smith is now
working for
Second Best
Labs, a
competitor



PC's - Document Access Lists



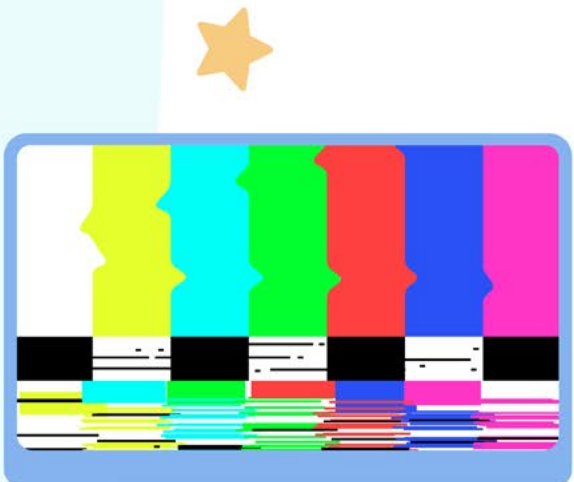
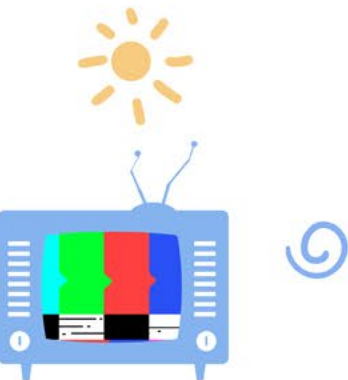
| File and Path | First Opened (EST) | Last Opened (EST) |
|--|-----------------------|-----------------------|
| C:\Users\Sam\Documents\PD Device Results.pdf | 7/7/2022 10:12:44 AM | 1/16/2023 6:14:26 PM |
| C:\Users\Sam\Documents\PD Device Testing.msg | 7/7/2022 10:08:42 AM | 1/16/2023 6:14:20 PM |
| \\MARKETSRV\Marketing\Superior Science Marketing 2023 Plan.docx | 12/15/2022 7:11:08 AM | 1/16/2023 6:11:38 PM |
| C:\Users\Sam\Documents\Sales Projections\2023 Sales Projections.xlsx | 12/6/2022 8:40:42 AM | 1/16/2023 6:11:04 PM |
| C:\Users\Sam\Documents\Accounts\North York | 7/7/2022 3:28:02 PM | 1/16/2023 6:02:32 PM |
| C:\Users\Sam\AppData\Local\Microsoft\Outlook\archive2022.pst | 1/16/2023 5:35:08 PM | 1/16/2023 6:02:08 PM |
| C:\Users\Sam\Documents\Competition\SecondBest\CompetitionComparison.docx | 4/26/2022 9:18:08 AM | 12/30/2022 7:18:08 PM |
| \\MARKETSRV\Marketing\BudgetCalculations\2023 MKT Budget.xlsx | 12/7/2022 9:30:49 AM | 12/30/2022 6:32:31 PM |
| C:\Users\Sam\Documents\Party.jpeg | 12/20/2022 9:14:54 AM | 12/20/2022 9:16:07 AM |
| C:\Users\Sam\Documents\Sales Projections\2022 Sales Projections.xlsx | 12/7/2019 7:15:47 AM | 12/15/2022 3:15:47 PM |
| C:\Users\Sam\Documents\Sales Team\Training\Sales Team How To Guide.pdf | 1/6/2022 11:57:49 AM | 12/15/2022 1:57:49 PM |



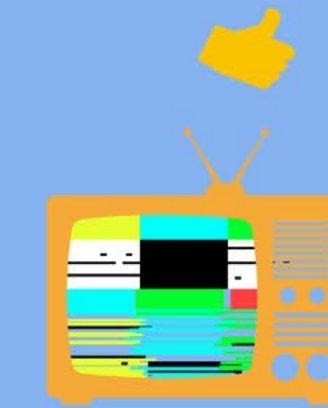
USB Storage Devices



| Description | Serial Number | First Plugged In (EST) | Last Plugged In (EST) |
|--------------------------------|-------------------------|------------------------|-----------------------|
| LEXAR JUMPDRIVE SECURE USB | 30057927667CA | 9/15/2022 7:07:39 AM | 1/16/2023 6:16:30 PM |
| WD My Passport 0748 USB Device | 57574B31453227992876E55 | 12/29/2022 9:07:03 AM | 12/29/2022 9:07:04 AM |
| USB DISK USB Device | 80B91E007EBD3391 | 7/7/2022 10:29:54 AM | 11/4/2022 12:29:57 PM |
| WD 1600BEV External USB Device | 57567892232216789223435 | 9/29/2022 8:26:57 AM | 9/29/2022 3:22:20 PM |
| USB DISK 2.0 USB Device | 09821A700122 | 9/11/2022 11:31:32 AM | 9/11/2022 11:31:32 AM |



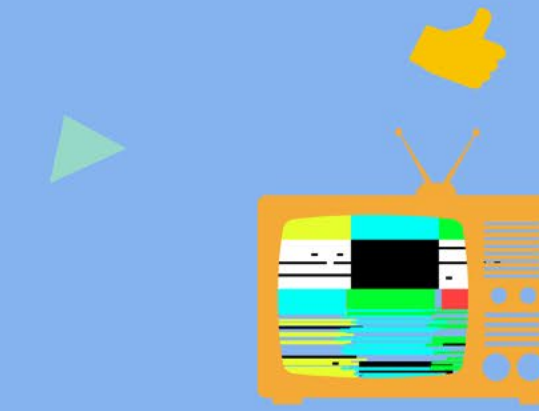
Deleted Webmail



```
<div><div class="adm"><div id="q_13a7410b18dff736_1" class="ajR h4"><div class="ajT"></div></div></div><div
class="h5"><br><br><div class="gmail_quote">On Tue, Dec 23, 2022 at 6:29 PM, Frank Farely <span dir="ltr">&lt;<a
href="mailto:frankfarelyfakeemail@aol.com" target="_blank">frankfarelyfakeemail@aol.com</a>&gt;</span>
wrote:<br>blockquote class="gmail_quote" style="margin:0 0 0 .8ex;border-left:1px #ccc solid;padding-
left:1ex"><div dir="auto"><div>Warm and wonderful.....I'll call you to... </div><div><br></div><div> <div> <br>On Dec
22, 2022, at 8:12 PM, Sam Smith &lt;<a href="mailto:samsmithfakeemail@gmail.com target="_blank"
">samsmithfakeemail@gmail.com</a>&gt; wrote:<br><br></div><blockquote type="cite"><div>Hey – Happy Holidays.
How are things in Florida? ....any ops at SB? Tired of the typical bonus BS.... </div> <div> <br>
</div><div><br></div><div><br></div><div>Sam<br>
```



Webmail to Frank Farely



On Tue, Dec 23, 2022, at 6:29 PM, Frank Farley <frankfarely@secondbest.com> wrote:

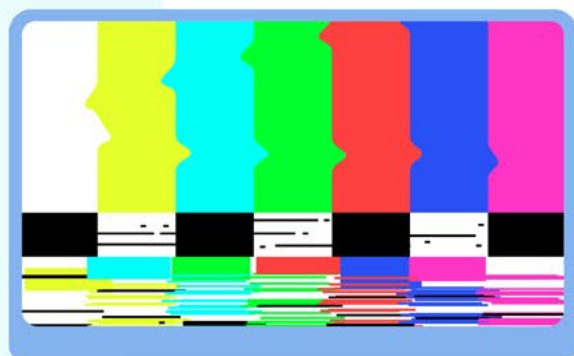
Warm and wonderful.....I'll call you to...

On Mon Dec 22, 2022, at 8:12 PM, Sam Smith <samsmith@superiorscience.com> wrote:

Hey – Happy Holidays. How are things in Florida?any ops ag SB? Tired of the typical bonus BS....

Thanks,

Sam



Metadata From Updated Resume

SAM SMITH

1223 Residential Rd. Everytown, PA 55555 | 555-555-5555 |
samsmithfakeemail@gmail.com

SUMMARY

Lead product developer looking to utilize his talent and knowledge to
assist a competitive company to become “superior”

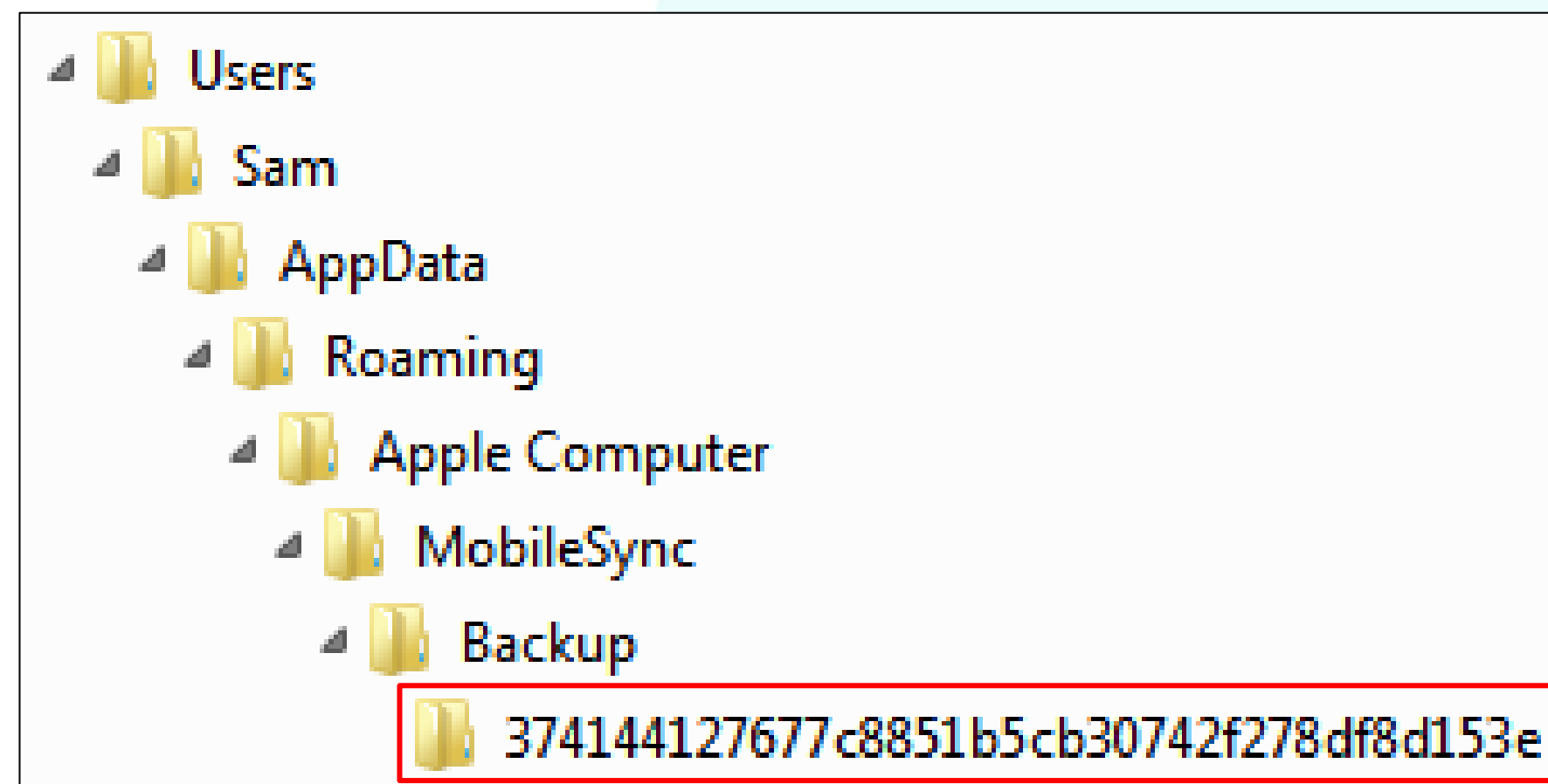
EXPERIENCE

2010 - Present Lead Product Developer, *Superior Science*

| | |
|------------------|--|
| Name | \$R43750E.docx |
| Item Number | 19 |
| File Type | Microsoft Word 2019 |
| Path | Steven Souza Recycle Bin.ad1/\.\PHYSICALDRIVE0:Partition |
| General Info | |
| File Size | |
| Physical Size | 16,384 bytes (16.00KB) |
| Logical Size | 15,626 bytes (15.26KB) |
| File Dates | |
| Date Created | 12/11/2022 6:43:38 AM (2019-12-11 10:43:37 UTC) |
| Date Accessed | 1/6/2023 1:15:07 PM (2022-01-06 18:15:07 UTC) |
| Date Modified | 1/6/2023 1:15:07 PM (2022-01-06 18:15:07 UTC) |
| File Attributes | |
| General | |
| Actual File | True |
| From Recycle Bin | True |
| Start Cluster | 124,107,024 |
| Compressed | False |
| Original Name | C:\Users\Steven\Desktop\Steven Souza Resume.docx |

iPhone Back-up

1. iPhone Backup on Sam's Computer



2. Database containing text messages

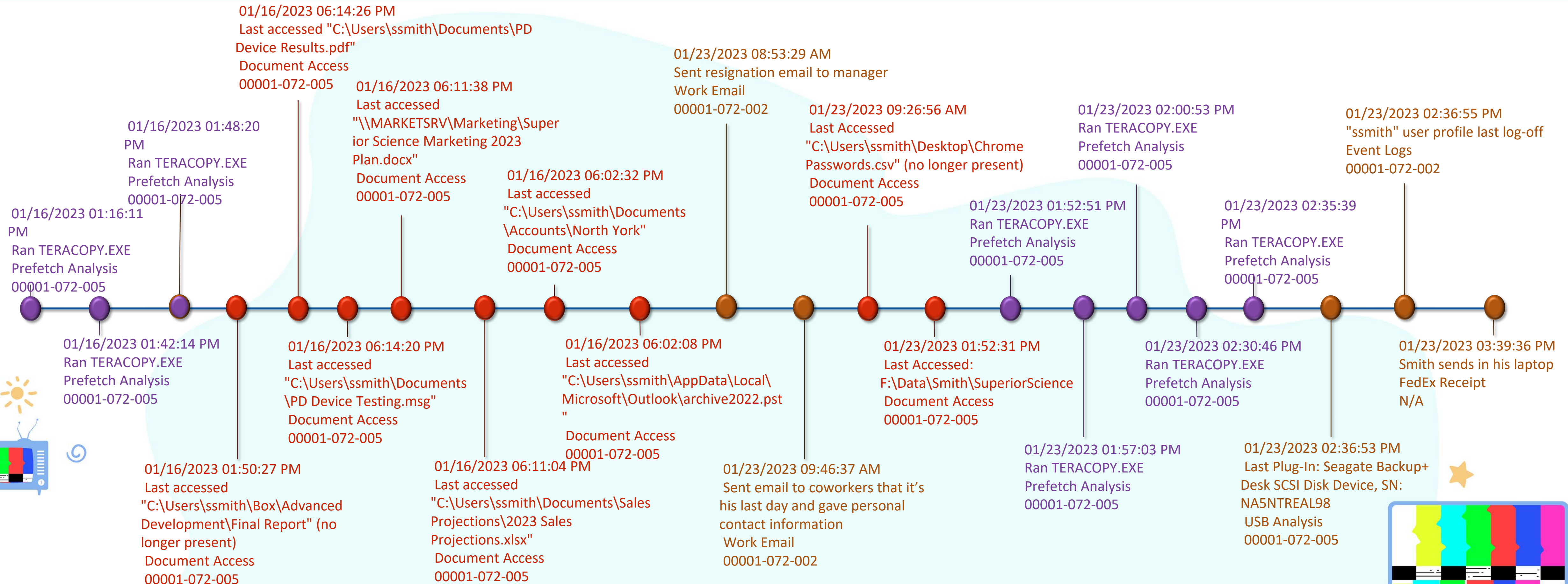
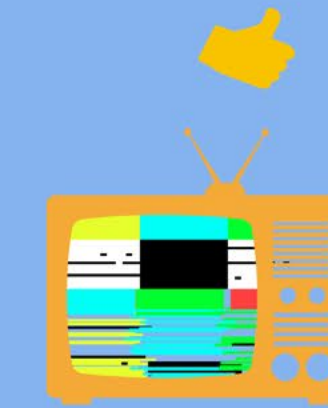
Sam's iPhone/mobile/Library/SMS/sms.db

3. Text message from Farely

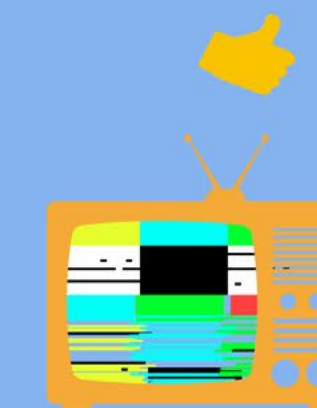
SMS received from Frank Farely. Thursday, January 1, 2023,
4:20 PM
Yeah – send it to Jim. He's expecting it.

Tie It Together:

Timeline showing key events



Tie It Together: Email Summary; Declaration; Affidavit; Expert Report



25

26

1

2

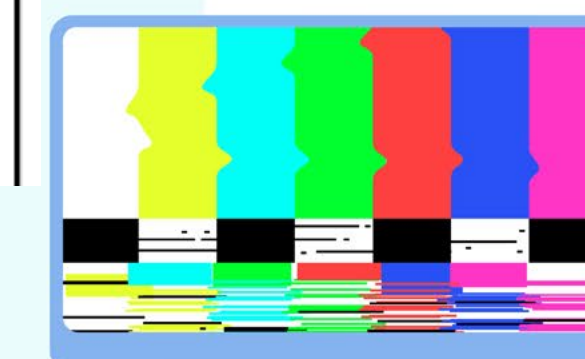
3

4

5

6

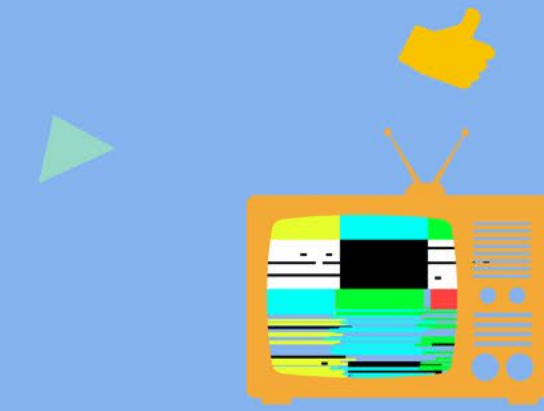
13. As part of my analysis, the internet history on the Pauly computer was also analyzed. This analysis revealed that on July 23, 2016, the date I understand Pauly resigned from CentiMark, he conducted a Google search for “how to wipe a hard drive” and subsequently visited two websites which describe the process. Attached hereto as Exhibit H is a screenshot showing Pauly’s internet browsing history and the visit of these sites on July 22, 2016 starting at 11:24 p.m. Wiping a computer is a process by which the user destroys all documents and files present on the computer, including the operating system, and renders them unrecoverable. Based on the deletion activity discussed in the sections above, it appears Pauly chose to delete documents found on his CentiMark issued computer.



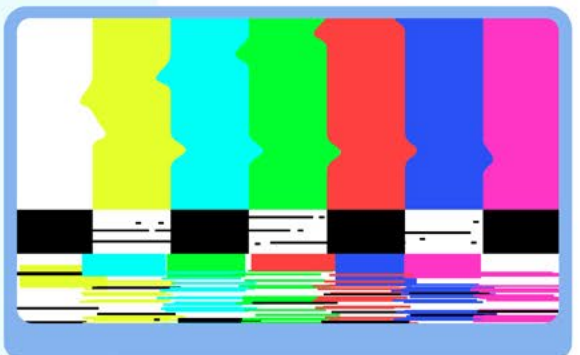
Tie It Together:

Expert Testimony occasionally the final “deliverable” (est. 1/100 cases)





Smartphone Data



Cellebrite Reader 7.55.2.2

FileViewToolsReportHelp

Home

Timeline

Analyzed Data

File Systems

Insights

Tags

Reports

Apple_iPhone XR (A1984)_2022-08-...

Search

Application (4)

Installed Applications (4)

Calendar (3) (2)

Found in Natural Language (1)

Reminders (2) (2)

Calls (20)

Call Log (18)

Voicemails (2)

Contacts (46)

Media (822)

Memos (8) (1)

Messages (225)

Chats (79) (26704 messages)

Instagram (14) (85 messages)

Native Messages (60) (26592 messages)

Recents (2) (2 messages)

TikTok (3) (25 messages)

Instant Messages (146)

Search & Web (252)

Cookies (19)

Searched Items (57)

Web Bookmarks (9)

Web History (167)

Social Media (21)

System & Logs (49)


Extraction Summary (1) xInstant Messages (146) xChat (Native Messages) (60) x

All ContentAdvanced Logical

Extraction Summary

+ Add extractionAdd external fileProject settingsGenerate report

Extractions: 1



Advanced Logical

Apple iPhone XR (A1984)

Advanced Logical

Extraction start date/time

5/6/2022 12:42:00 PM(UTC-4)

Extraction end date/time

5/6/2022 1:11:52 PM(UTC-4)

Image Hashes

Hash data is available for this extraction.

Verify image hash

Case Information

Examiner nameKP

Malware scanner

Malware scan performedNo

Content

Contacts46

Cookies19

Installed Applications4

Instant Messages146

Log Entries49

Notes8 (1)

Passwords20

Searched Items57

Social Media21

User Accounts10

Voicemails2

Web Bookmarks9

Web History167

Data Files

Audio2

Configurations11

Databases1

Documents1

Images820





Uncategorized6

43

Total: 60 Deduplication: 0 Items: 60/60 Selected: 60

Attachments (29)

– ✓ Select/Deselect all Enter text to filter...

  
Your papers are done but I haven't left yet
 4/22/2022 5:34:56 PM(UTC-4)

AutoSave Off

P. Shepherd LG V40 - Text Report.xlsx

Search (Alt+Q)

Freddie Dyroff FD

FileHomeInsertPage LayoutFormulasDataReviewViewHelpTable Design

Undo

CutCopyFormat Painter

Arial10A^A^

B I U

Font

Alignment

Number

Conditional Formatting

Format as Table

NormalBadGoodNeutralCalculationCheck Cell

Cells

Editing

Analysis

| | | | | | | |
|----|--|---------------------------|----------------|----|---|---|
| A6 | : | X | ✓ | fx | Hit on text message thread containing "GE " | |
| | A | B | C | D | E | F |
| 1 | | | bit-x-bit, LLC | | | |
| 2 | | | | | | |
| 3 | | | | | | |
| 4 | | | | | | |
| 5 | Search Term Status | Timestamp: Date/Time (ET) | From | To | Status | Body |
| 6 | Hit on text message thread containing "GE " | 05/18/2022 09:40:39 AM | 868722 | | Unread | USAA: Available balance for account ending in is \$501.03. May not include recent transactions. Go to usaa.com/account. |
| 7 | Hit on text message thread containing "Court", "GE ", "Lawsuit", "Mask", and "Order" | 05/18/2022 09:35:00 AM | 88022 | | Unread | ACTION REQUIRED I'm giving YOU priority access to sign my father's Official Birthday Card before ANYONE ELSE! HURRY & sign it: bit.ly/3 Stop2End |
| 8 | Hit on text message thread containing "GE " | 05/18/2022 09:01:46 AM | 868722 | | Unread | USAA: Available balance for account ending in is \$1,020.69. May not include recent transactions. Go to usaa.com/account |
| 9 | Hit on text message thread containing "GE " | 05/18/2022 08:56:41 AM | 868722 | | Unread | USAA: Available balance for account ending in is \$1,000.64. May not include recent transactions. Go to usaa.com/account |
| 10 | Hit on text message thread containing "GE " | 05/18/2022 08:54:22 AM | 868722 | | Unread | USAA: Available balance for account ending in is \$505.11. May not include recent transactions. Go to usaa.com/account. |
| 11 | Hit on text message thread containing "Court", "GE ", "Order", and "Sue" | 05/18/2022 08:34:27 AM | 80810 | | Unread | Paul, you're one of our TOP supporters! Only 1 MORE DONATION to become a Gold Club Member for FREE! 1HR - CLA Stop2End |
| 12 | Hit on text message thread containing "GE " | 05/18/2022 06:01:00 AM | 868722 | | Unread | USAA: A deposit labeled ATM REBATE was received for \$3.75 to account ending in Go to usaa.com/account. Reply HEL |
| 13 | Hit on text message thread containing "GE " | 05/18/2022 06:00:58 AM | 868722 | | Unread | USAA: A deposit labeled ATM REBATE was received for \$3.75 to account ending in Go to usaa.com/account. Reply HEL |
| 14 | Hit on text message thread containing "GE ", and "Order" | 05/17/2022 08:15:08 PM | 47509 | | Unread | We Did It! It's North Carolina's choice to be the Next Conservative Senator of our Great State. I wanted to personally reach out a support. In this contested primary, there were many days my team struggled to stay ahead. But, thanks to your votes, donations, and ge It is the honor of a lifetime to fight to represent our state in this general election. I know that without your help, I do not even have this one together. God bless you, North Carolina, and God bless America! stop2end. |
| 15 | Hit on text message thread containing "Court", "GE ", "Order", and "Wolf" | 05/17/2022 08:09:07 PM | 47682 | | Unread | QUICK! Republicans need your endorsement to take back the Senate! 5 minutes before the link expires! 22-now.com/gnh 1 pour FRIDAY 1300 |

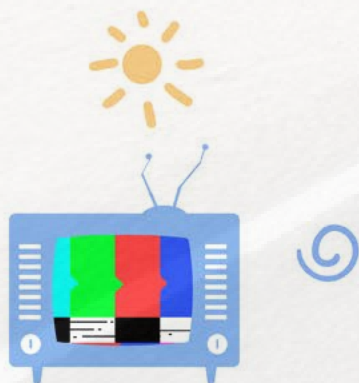
Authentication

The Patchwork Road to Admissibility



The Basics: ESI is Still “Traditional” in Many Aspects

- ✓ Must Be Relevant (F.R.E. 402)
- ✓ Must Satisfy Original Writing Rule, or Exception (F.R.E. 402)
- ✓ Must Not Be Hearsay or Subject to Hearsay Exception (F.R.E. 801/803)
- ✓ Must Not Be Prohibited Under F.R.E. 403
- ✓ **MUST BE AUTHENTICATED!** (F.R.E. 901-02)

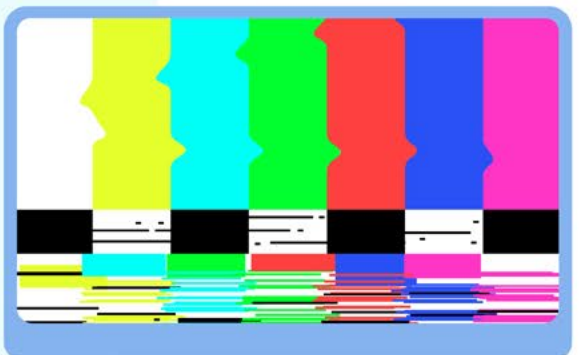
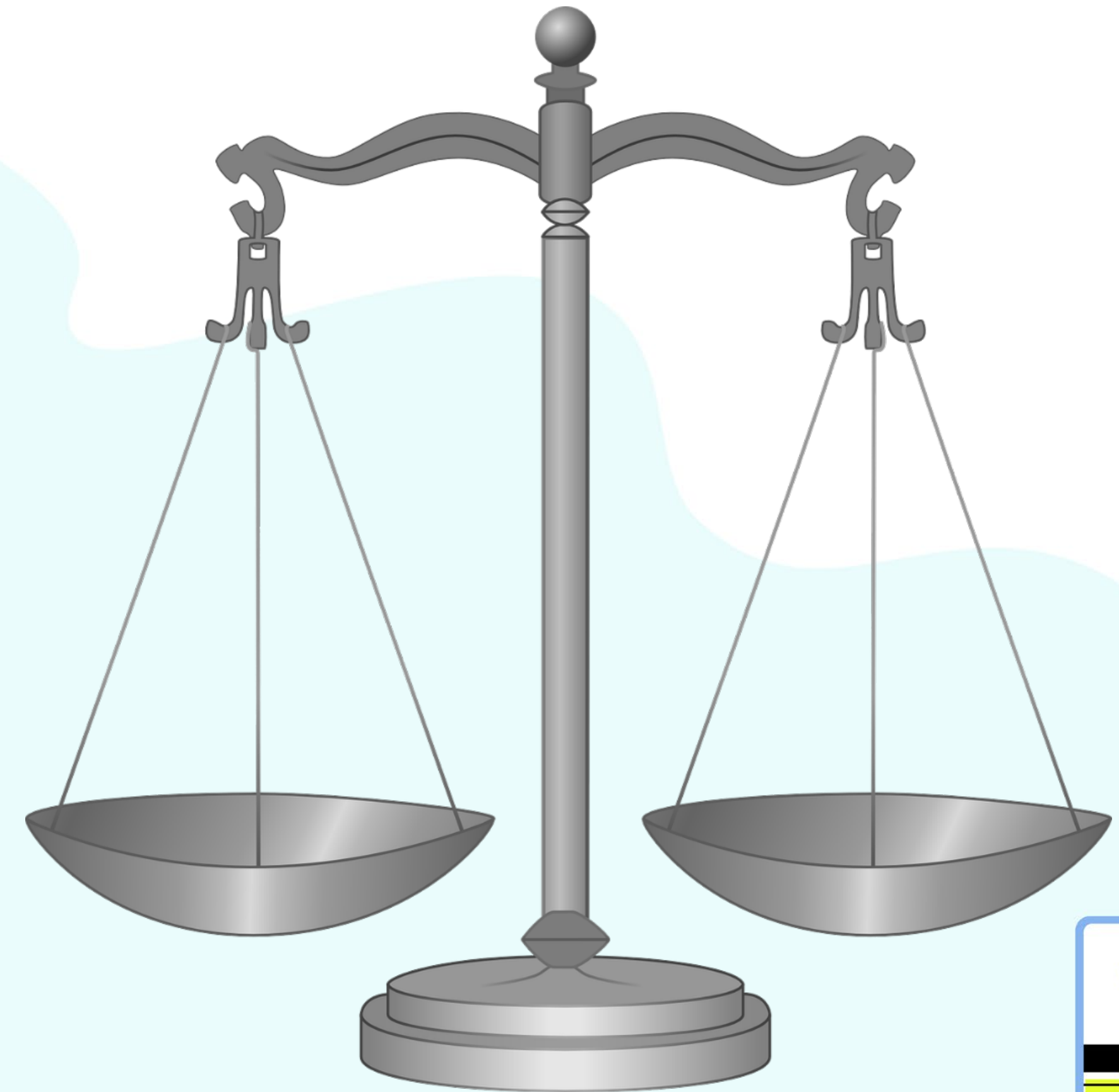


Common Methods of Traditional Authentication

Under F.R.E. 901



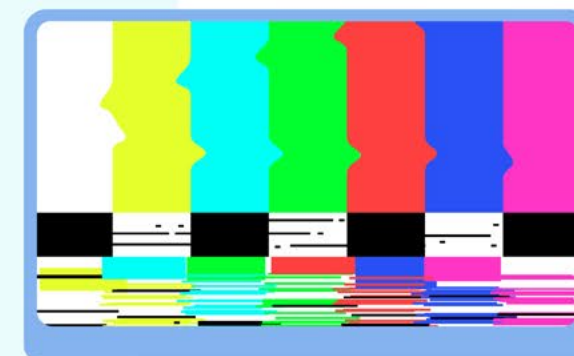
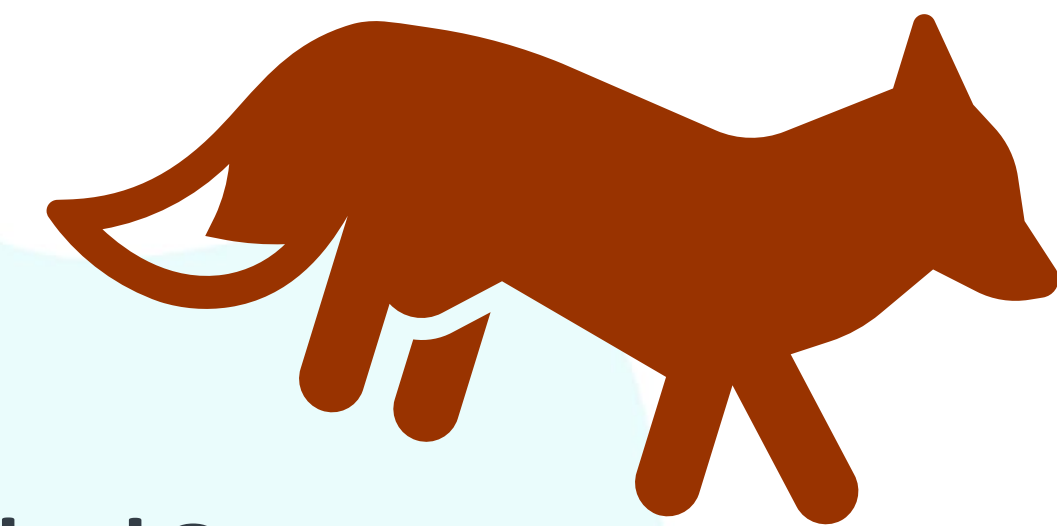
- (b)(1): witness with personal knowledge (internal IT delegate)
- (b)(3): comparison by an expert witness (retained expert)
- (b)(9): evidenced describing a process/system of showing it produces an accurate result (either of the above, depending on the circumstances)



Why Is Authentication So Important?



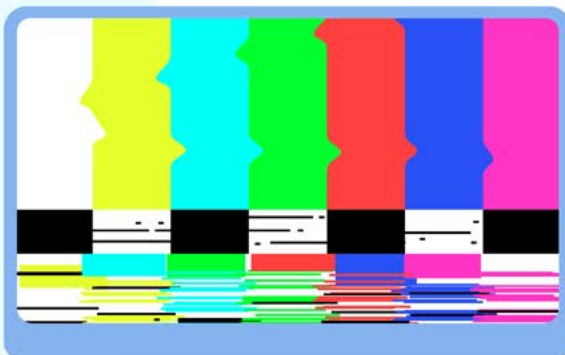
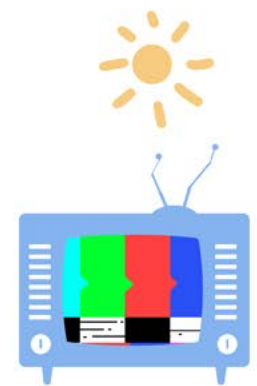
- Hash Value: a digital fingerprint of the content of a file derived from an algorithm (e.g., MD5/SHA256)
 - A value so distinctive that the chance of any 2 files sharing the same hash value is nearly impossible.
- The quick brown fox jumps over the lazy **d**og.
 - MD5 Hash Value: e4d909c290d0fb1ca068ffaddf22cbd0
- The quick brown fox jumps over the lazy **l**og.
 - MD5 Hash Value: 269615d22954c4829f46258103deedeb



Authentication Under F.R.E. 902(13)



- Covers certified records generated by an electronic process or system
- Must have a “qualified person” create a full forensic image of the device
 - Don't wait. Image the device ASAP and put it “on the shelf” for evidence if needed
 - Risk: waiting for formal discovery to commence, or worse, trial preparation
- Only allow “in-house” IT persons to collect evidence
 - Risk: alteration of important evidence such as document access dates
 - Keep a copy of the Chain of Custody records (common subject of cross-examination)



Best Practices - Digital Evidence Authentication



- Obtain a Certification of the “Process” [902(13)] or the “Copy” [902(14)]
 - Get “hash values” of the document as a means of “digital identification.”
 - Certification by a qualified person allows the ESI to be “self-authenticating” without need of further testimony.
 - Notice must be given to the opposing side: if no objection or challenge, the evidence becomes self-authenticating at trial (no need for a live witness)
 - Be sure to work with forensic experts to prevent or eliminate pretrial challenges

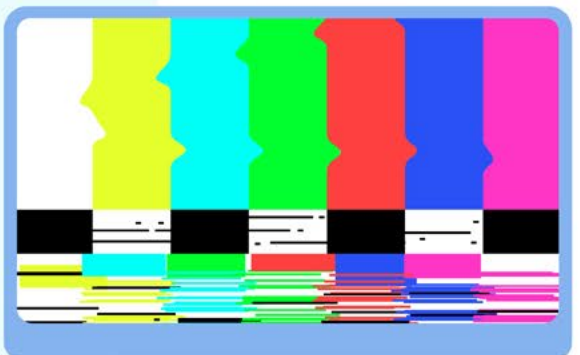


Presenters



SHAWN KACHMAR is the Managing Partner of Hunter Maclean. He focuses his practice on employment, restrictive covenant, and business litigation issues in Georgia and South Carolina, and provides representation, counseling, and training to both private and public entities. He also advises employers on policies, handbooks, and regulatory compliance matters, and drafts employment, executive compensation, severance, and settlement agreements. Shawn is a frequent speaker at employment law and human resources seminars, has served as a mediator and arbitrator, and has extensive experience before regulatory agencies and in federal and state courts. Shawn is also an elected member of the Savannah-Chatham County Public School Board and serves on the boards of several organizations, many devoted to education. He received his B.S. in Public Policy from Pennsylvania State University and his J.D. from Emory University School of Law.

Shawn Kachmar
Managing Partner
Hunter Maclean
200 East St. Julian St.
Savannah, GA 31401
(912) 944-1642
skachmar@huntermaclean.com



Presenters

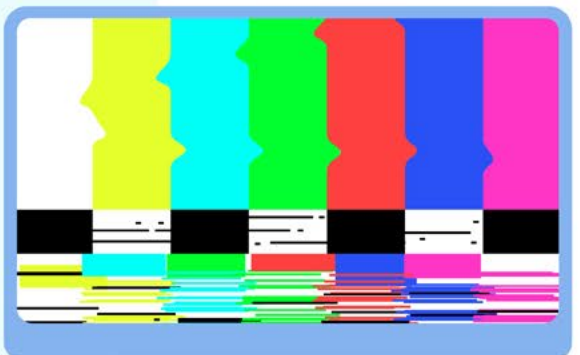
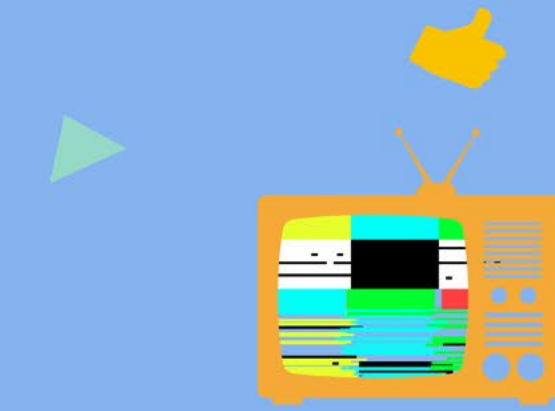


Jackie Longfellow

Member

Baker Sterchi Cowden & Rice LLC
2400 Pershing Road, Suite 500 |
Kansas City, Missouri 64108-2533
(816) 471-4537
jlongfellow@bakersterchi.com

JACKIE LONGFELLOW is a civil trial lawyer with more than 20 years of experience in civil litigation. She is admitted to practice in both Missouri and Kansas. Jackie regularly defends companies and individuals in lawsuits in state and federal courts, including class action litigation. She also routinely defends employers facing charges of discrimination filed with local, state and federal agencies. In addition to her litigation practice, Jackie regularly trains, counsels, and advises her clients on various employment issues, workplace policies, and compliance with local, state and federal laws. She understands the importance of providing practical and preventative advice to assist her clients in assessing and minimizing their risks in a cost-effective and efficient manner. Jackie regularly prepares policies, employee handbooks, employment agreements, including non-compete, non-solicitation and confidentiality agreements, as well as severance agreements for her clients. Jackie is chair of Baker Sterchi's Employment and Labor Practice Group and a frequent speaker on a wide range of employment-related topics both regionally and nationally. Jackie received her bachelor's degree from the University of Kansas and received her J.D. from University of Kansas School of Law.



Presenters



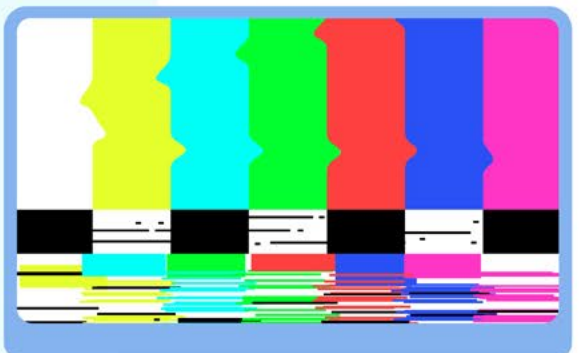
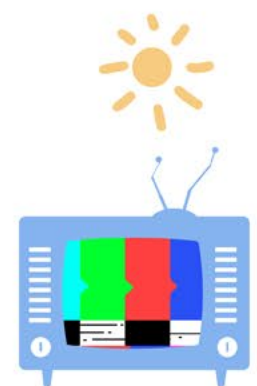
John Unice

Chief Executive Officer
bit-x-bit

501 Grant Street, Suite 875
Pittsburgh, PA 15219
(412) 325-4033
john.unice@bit-x-bit.com

JOHN UNICE directs the business, strategic and overall operations of bit-x-bit. Providing exceptional high-level expertise and guidance to bit-x-bit's clients, John draws on two decades of experience as chief corporate counsel and as a trial lawyer in major corporate and large law firm settings. John's wide-ranging portfolio includes litigating sophisticated cases, utilizing complex electronic evidence and leading digital risk-mitigation initiatives, both in the U.S. and internationally. Before joining bit-x-bit, John was Assistant Secretary and a senior legal advisor at the Pittsburgh headquarters of Covestro LLC and, prior, at Bayer Corporation, advancing his clients' interests in highly regulated industries. At Covestro, he oversaw legal affairs for the company's U.S.-based polycarbonate business and held global responsibility for the company's litigation docket. John also led and collaborated on a range of strategic e-discovery, cybersecurity, and digital records management initiatives to mitigate corporate risk and win cases. As an associate with the Trial Practice Group at Jones Day (Pittsburgh), John's savvy use of e-discovery and digital forensics helped him secure favorable outcomes in numerous multi-million-dollar cases for both the defense and the prosecution.

John is also an oft-after speaker, sharing expertise on issues including corporate compliance, technology assisted review and e-discovery, information governance, and the conflicts between U.S. discovery and corresponding laws of other countries. He is a leader in major trade associations, having previously served as President of the Association of Corporate Counsel's Western Pennsylvania Chapter and having held various leadership roles with the International Association of Defense Counsel. He is also a faculty member of the Electronic Discovery Institute. John earned his J.D. from the University of Pittsburgh School of Law (cum laude; topics editor, Law Review; Order of the Coif) and his B.A. in Leadership Studies from the University of Richmond (summa cum laude).



Presenters



Brett Creasy,
CISSP, GCFA, CCE
President and Director of
Digital Forensics
bit-x-bit
501 Grant Street, Suite 875
Pittsburgh, PA 15219
(412) 325-4033
brett.creasy@bit-x-bit.com

BRETT CREASY directs the company's overall operations in digital forensics, e-discovery, cybersecurity and incident response. An expert in digital forensics, Brett has conducted hundreds of forensic examinations for matters involving intellectual property theft, unauthorized use of computer systems, harassment, computer hacking, criminal and white-collar crimes, and employment class action cases, as well as arbitration proceedings and internal investigations. He has been designated as an expert in state and federal courts throughout the country and has testified in scores of cases on a variety of topics and matters, most notably in cases involving the theft of confidential and trade secret information. Brett has more than a decade of experience in information security, and in handling a wide variety of cybersecurity and incident response matters, including hacking attacks, malware, PII and PHI breaches, and other fast-paced engagements.

Brett's credentials include:

- Certified Information Systems Security Professional (CISSP)
- GIAC Certified Forensic Analyst (GCFA)
- Certified Computer Examiner and Member, International Society of Forensic Computer Examiners

