



# USING GENERATIVE AI ETHICALLY & RESPONSIBLY IN AN ESTATE PLANNING PRACTICE

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Catherine Sanders Reach, MLIS  
Director, Center for Practice Management  
North Carolina Bar Association

Artificial Intelligence is not a new concept for lawyers who have been applying some forms of it for years. However, the recent emergence of many low-cost and accessible generative AI tools that can offer various benefits in a short time has changed the landscape. But before lawyers can take advantage of these AI assistants, they need to be aware of the ethical and practical implications. How can they ensure that using GAI for client work is secure and appropriate? The existing rules, as well as a new ethics opinion, provide guidance and some best practices. In this presentation, we will discuss what you need to consider when using GAI in your practice.



Most of these tools are in BETA stage. Released to the public, but still glitchy, prone to failure, and why would PPT supply a picture of a koala for the word BETA?

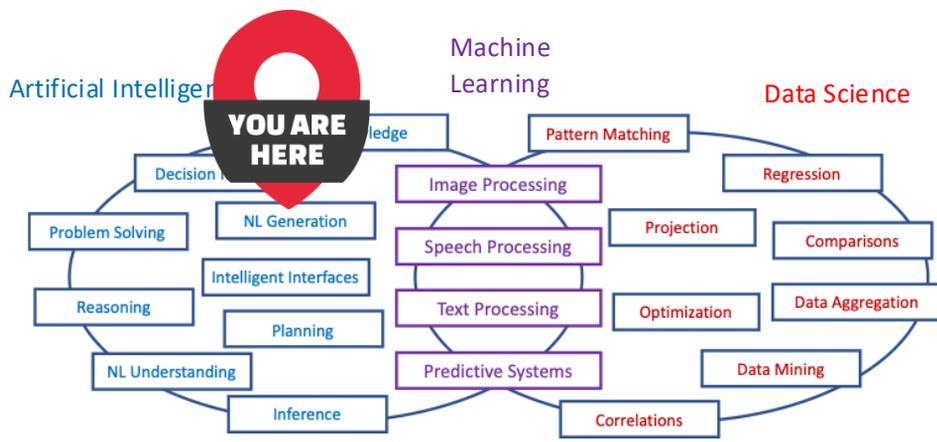
Also, Wired has an article from 2 days ago that says OpenAI's CEO Sam Altman says the "age of giant AI models is already over". The future will not come from making models bigger and there are diminishing returns on scaling up model size.

At MIT last week, Altman confirmed that his company is not currently developing GPT-5. "An earlier version of the letter claimed OpenAI is training GPT-5 right now," he said. "We are not, and won't for some time."

OpenAI's CEO Says the Age of Giant AI Models Is Already Over | WIRED  
<https://www.wired.com/story/openai-ceo-sam-altman-the-age-of-giant-ai-models-is-already-over/>

# Terms and Definitions

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**Intersection of AI and Data Science**

Source: Artificial Intelligence at Northwestern: A View from Computer Science, <https://www.mccormick.northwestern.edu/news/articles/2019/05/artificial-intelligence-at-northwestern.html>

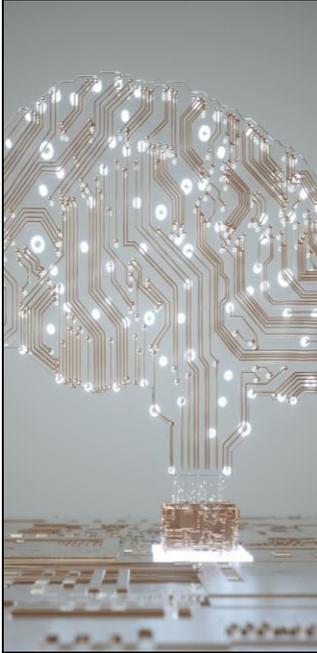


## How Does Gen AI Work?

Generative AI refers to a class of AI models, such as the GPT series or Llama, that analyze large amounts of data and generate new content, including text, images, and code, that mirrors human expression **4**. These models use neural networks to process data and create outputs that are often indistinguishable from human-created material **4**. Generative AI has applications across many industries, reshaping how organizations approach creativity and problem-solving **4**. It helps write scripts, design art, score music, predict interactions between drugs, and provide support when needed **4**. Generative AI continues to transform how we interact with technology and each other

The integration of #GenerativeAI (GenAI) models into software development presents unique challenges, primarily stemming from the inherent #probabilistic nature of these models. Unlike traditional, #deterministic approaches, GenAI outputs aren't guaranteed to be consistent across multiple runs with the same input. This variability, while sometimes a source of creative potential, can also lead to unpredictable and unreliable software behavior. This article explores the trade-offs between purely probabilistic (GenAI-based), deterministic (rule-based or simpler ML), or hybrid approaches in GenAI software development.

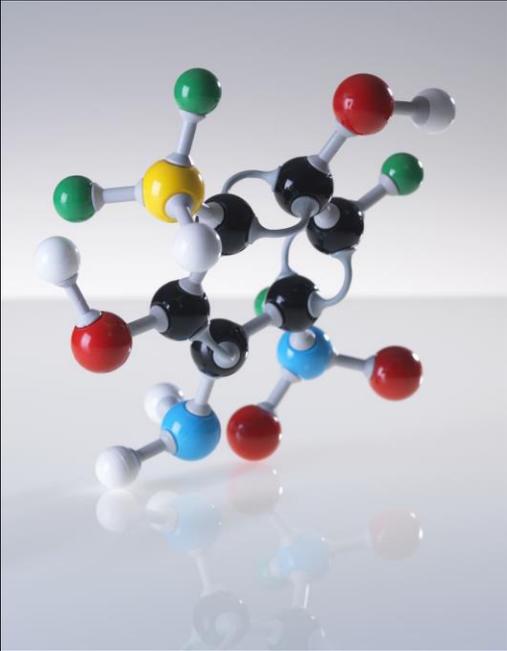
My experience across several recent projects involving GenAI models highlighted this inconsistency. The output varied significantly, even with identical inputs. This raises a crucial question: when should we leverage the power of Large Language Models (LLMs) and when is a simpler, deterministic approach preferable? The answer often lies in a careful consideration of the task's complexity and the acceptable level of variability.



# Phases of Artificial Intelligence

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- **Narrow AI** – skilled at one specific task
- **Artificial General Intelligence** – human-level intelligence; can perform a wide range of tasks
- **Super General Intelligence** – beyond the best humans in every field and dimension



## Types of Artificial Intelligence

- Generative AI
- Predictive AI
- Large language models (LLMs)
- Responsible AI
- Computer Vision
- Natural Language Processing (NLP)
- Agentic AI
- Generative Virtual Playgrounds
- Artificial General Intelligence (AGI):
- Large World Models (LWMs)
- Deep Learning 2.0
- AI-Driven Robotics

## Types of AI

### 1. Generative AI: Creating Content with Machines

**Generative AI** uses advanced algorithms to create new content, including text, images, videos, and code. Businesses can use gen AI to suggest personalized responses to customer inquiries or to help produce marketing materials, significantly improving the productivity of workers. A retail company might use generative AI to design custom clothing lines based on emerging trends and individual customer preferences, create dynamic and

interactive advertising content tailored in real-time, or produce personalized video marketing materials.

Walmart is even using generative AI to [negotiate deals with suppliers](#). We've built chatbots for banks, health care startups, and a scientific literature search company. Read more about those projects [here](#).

## 2. Predictive AI: Forecasting the Future

**Predictive AI** uses historical data to forecast future outcomes, enabling businesses to make more informed decisions about their customers, products, and supply chains. This technology is invaluable for anticipating demand, tracking market trends, and optimizing operations. For instance, Penskey Transportation Solutions is [using predictive AI](#) to anticipate maintenance needs before issues arise, helping fleet operators schedule timely repairs and prevent disruptions. We have built models to predict a market research firm's success as they scope projects; to [predict the complexity of claims](#) for a worker's insurance company; and [predictive models to forecast water levels](#) along the coastal United States for an ocean tech startup.

## 3. Large Language Models (LLMs): Advanced Language Capabilities

**Large language models (LLMs)** are powerful AI systems trained on vast datasets, capable of handling complex language tasks like answering questions, solving riddles, and writing emails. They can be used to improve customer service, generate comprehensive reports, and summarize extensive documents. A legal firm might employ an LLM to draft contracts, reducing errors and saving time on repetitive work. But human oversight is key. At our institute, we refer to AI with a human in the loop as “experiential AI” and have built chatbots employing LLMs for partners, including a healthcare company that uses it to [provide personalized information to patients](#).

#### 4. Responsible AI: Ensuring Ethical and Compliant AI Use

**[Responsible AI](#)** focuses on the ethical, transparent, and regulatory-compliant use of AI technologies. By integrating fairness and accountability into AI systems, businesses can reduce risks like bias and improve customer trust. A financial institution, for example, can deploy Responsible AI to ensure its credit scoring algorithms are unbiased and explainable, strengthening client relationships. The Institute for Experiential AI regularly helps

organizations navigate the various ethical challenges presented by AI technologies with [proprietary frameworks, risk audits, training, and more](#). Check out our Verizon [responsible AI case study](#) for a detailed look at our work.

## 5. Computer Vision: Analyzing Visual Data

Computer vision enables machines to interpret and analyze visual data from images or videos, making it ideal for tasks like quality control, facial recognition, and medical imaging analysis. In industries like manufacturing, computer vision is [already integral](#) to automating inspection processes and improving efficiency. We've used computer vision to predict the severity of Parkinson's disease from videos of patients, one of many applications for AI in healthcare.

## 6. Natural Language Processing (NLP): Understanding Human Language

**Natural Language Processing (NLP)** allows machines to understand, interpret, and respond to human language, transforming customer communication and internal processes. NLP powers chatbots, automates document analysis, and improves search functionality. In healthcare, NLP

helps providers extract meaningful insights from patient records, enhancing care coordination and decision-making. According to [one report](#), the global NLP market in healthcare and the life sciences is projected to grow from \$2.7 billion in 2023 to \$11.8 billion by 2028.

## 7. Agentic AI: Autonomous AI Agents for Real-Time Adaptation

**Agentic AI** represents the next frontier in artificial intelligence, featuring autonomous AI agents that learn and adapt in real time. Unlike traditional AI systems designed for specific tasks, agentic AI can make decisions, execute actions, and optimize processes without continuous human intervention. Think of an AI agent booking you a dinner reservation or changing your account settings. This could enable businesses to swiftly respond to changing conditions and complex scenarios, although we believe hype has led to a lot of confusion among business leaders today. Ultimately executives should focus on the business problems they're trying to solve with any AI solution. [Explore our agentic AI perspective.](#)

From: [Generative AI, Agentic AI, and Large Language Models Explained: A Guide to Seven AI Technologies Powering Business Innovation | Institute for](#)

## Experiential AI

### Up Next

- 1. Generative Virtual Playgrounds:** Building on the success of generative images and videos, the next step is creating entire virtual worlds. [These AI systems can generate interactive environments for video games and simulations on the fly<sup>1</sup>.](#)
- 2. Artificial General Intelligence (AGI):** While still theoretical, AGI aims to create AI systems with cognitive abilities comparable to humans. [This would enable machines to perform any intellectual task that a human can do<sup>2</sup>.](#)
- 3. Large World Models (LWMs):** These models are designed to create expansive, detailed virtual environments. [They can be used for gaming, simulations, and even urban planning<sup>1</sup>.](#)
- 4. Deep Learning 2.0:** [This next generation of deep learning aims to improve the autonomy, accuracy, and efficiency of AI systems, making them more capable of learning and adapting without human intervention<sup>2</sup>.](#)
- 5. AI-Driven Robotics:** Future AI will enhance

1. robotics, enabling robots to perform a wider range of tasks with greater precision and autonomy. [This includes applications in manufacturing, healthcare, and everyday life<sup>1</sup>.](#)

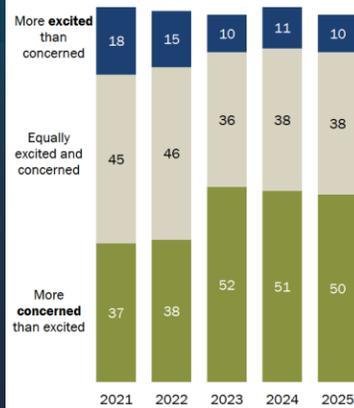
From: [What's next for AI in 2025 | MIT Technology Review](#) and [What is the future of AI \(Artificial Intelligence\)? | McKinsey](#)

# AI Sentiment

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### 50% of Americans are more concerned than excited about the increased use of AI in daily life

% of U.S. adults who say the increased use of artificial intelligence (AI) in daily life makes them feel ...



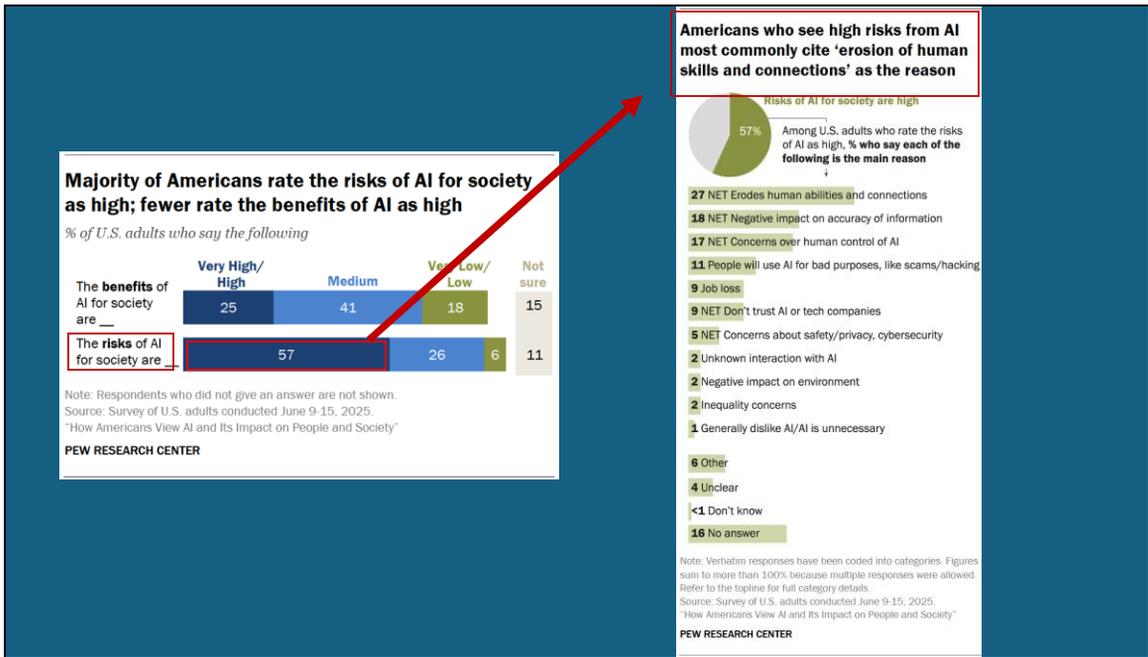
Note: Respondents who did not give an answer are not shown.

Source: Survey of U.S. adults conducted June 9-15, 2025.

"How Americans View AI and Its Impact on People and Society"

PEW RESEARCH CENTER

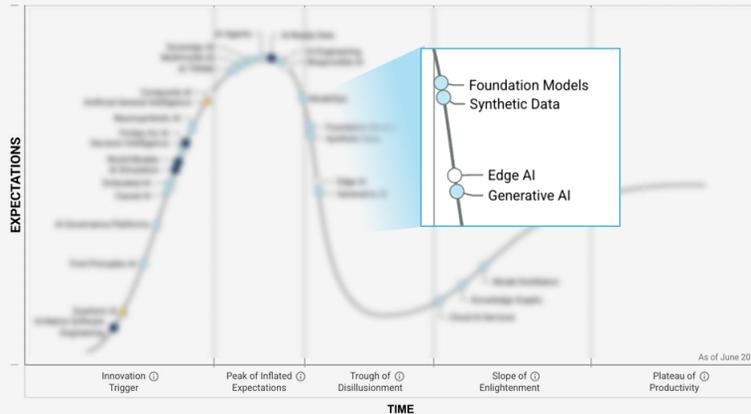
<https://www.pewresearch.org/science/2025/09/17/how-americans-view-ai-and-its-impact-on-people-and-society/>



[https://www.pewresearch.org/science/2025/09/17/americans-on-the-risks-benefits-of-ai-in-their-own-words/ps\\_2024-9-15\\_ai-and-its-impact\\_3-01/](https://www.pewresearch.org/science/2025/09/17/americans-on-the-risks-benefits-of-ai-in-their-own-words/ps_2024-9-15_ai-and-its-impact_3-01/)  
[https://www.pewresearch.org/science/2025/09/17/americans-on-the-risks-benefits-of-ai-in-their-own-words/ps\\_2024-9-15\\_ai-and-its-impact\\_3-02/](https://www.pewresearch.org/science/2025/09/17/americans-on-the-risks-benefits-of-ai-in-their-own-words/ps_2024-9-15_ai-and-its-impact_3-02/)

## Hype Cycle for Artificial Intelligence, 2025

Plateau will be reached: < 2 yrs. 2-5 yrs. 5-10 yrs. > 10 yrs.



Source: Gartner  
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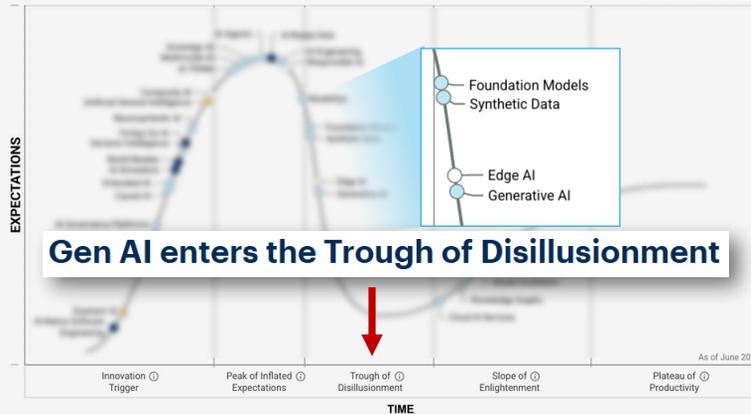
Gartner®

Gartner produces more than 130 Hype Cycles every year to help clients track the maturity and potential of over 1,900 innovations in different segments, including industries, functions and regions — as well as technological domains. Find a sampling of the insights from one of our most popular AI Hype Cycles below: <https://www.gartner.com/en/articles/hype-cycle-for-artificial-intelligence>

Despite ethical and societal concerns, last year's Hype Cycle for AI highlighted GenAI as a potentially transformational technology with profound business impacts. This year, GenAI enters the Trough of Disillusionment as organizations gain understanding of its potential and limits.

## Hype Cycle for Artificial Intelligence, 2025

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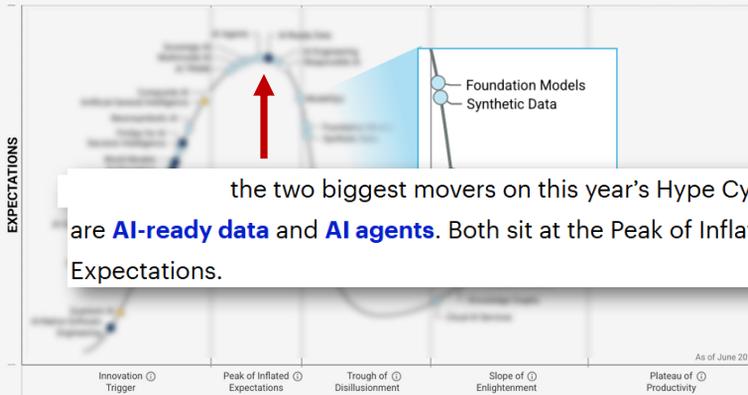
**Gartner**

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# GAI Adoption in Law Firms

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## Are Law Firms Using Generative AI? It Depends On Who You Ask.

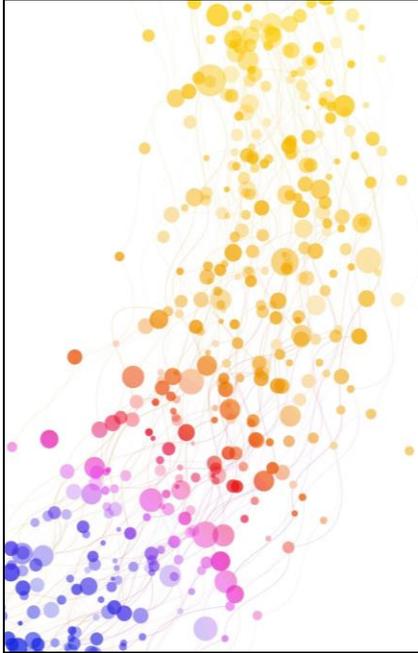
- 79% of law firm professionals now incorporate AI tools into their daily work – *NetDocuments, March 2025*
- Not only do most of the legal professionals surveyed in the report believe that they can use GenAI tools in their work – 26% say that they're *already* using GenAI, compared to 14% of respondents in the 2024 report. - *Thomson Reuters, 2025*
- There has been a significant increase in the adoption of artificial intelligence-based tools among law firms, with 30% of respondents now using AI technology compared to just 11% in 2023. By contrast, 22% of respondents said they did not know enough about AI to say whether their firm is using it, and another 18% said they simply do not know - *2024 American Bar Association's Legal Technology Survey Report.*

	Personal Use	Law Firm Use	
2024	31%	21%	*Respondents who replied "Unsure" accounted for 10% in 2023 and 15% in 2024.
2023	27%	24%	

<https://www.attorneyjournals.com/ai-driven-legal-tech-trends-for-2025>  
<https://www.fedbar.org/blog/the-legal-industry-report-2025/>  
<https://www.mycase.com/blog/ai/ai-in-law/>  
<https://legal.thomsonreuters.com/blog/genai-report-executive-summary-for-legal-professionals-tri/#usage-of-genai-by-legal-professionals>  
<https://www.lawnext.com/2025/03/aba-tech-survey-finds-growing-adoption-of-ai-in-legal-practice-with-efficiency-gains-as-primary-driver.html>

# Ethics

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“The answers are often totally wrong, but highly convincing.”

-Ed Walters, CEO and Co-Founder of Fastcase Legal Research and Adjunct professor at Georgetown Law and Cornell Law School

“Chat GPT gives smart looking answers, but the answers aren’t smart.”

# Rules Cited by Ethics Opinions Related to AI

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Rule 1.1 Competence

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Rule 1.4 Communication

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Rule 1.5 Fees and Division of Fees

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Rule 1.6 Confidentiality of Information

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Rule 3.3 Candor Toward a Tribunal Rule

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Rule 5.3 Responsibility Regarding Nonlawyer Assistance

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Rule 5.5 Unauthorized Practice of Law

## AI Hallucination Cases

This database tracks legal *decisions*<sup>1</sup> in cases where generative AI produced hallucinated content – typically fake citations, but also other types of AI-generated arguments. It does not track the (necessarily wider) universe of all fake citations or use of AI in court filings.

While seeking to be exhaustive (439 cases identified so far), it is a work in progress and will expand as new examples emerge. This database has been featured in news media, and indeed in several decisions dealing with hallucinated material.<sup>2</sup>

<https://www.damiencharlotin.com/hallucinations/>

# 18 Lawyers Caught Using AI Explain Why They Did It

 JASON KOEBLER,  JULES ROSCOE · SEP 30, 2025 AT 9:03 AM

<https://www.404media.co/18-lawyers-caught-using-ai-explain-why-they-did-it/>

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What Rule Was Violated?



## Which Rule(s) Were Violated?

A judge stated that the lawyer “took the position that the main reason for the errors in his brief was the short deadline (three days) he was given to file it.

He explained that, due to the short timeframe and his busy schedule, he asked his paralegal (who once was, but is not currently, a licensed attorney) to draft the brief, and did not have time to carefully review the paralegal's draft before filing it.”

## Which Rule(s) Were Violated?

The lawyer “goes on to state that he had no idea that such tools could fabricate cases but acknowledges that he later came to find out the limitation of such tools.

...

The lawyer then indicates that after finding about the ‘citation errors’ in his affirmation, he conducted a review of his office computer system and found out that his system was ‘affected by malware and unauthorized remote access.’

## Which Rule(s) Were Violated?

they had hired a per-diem attorney—“someone I had previously worked with and trusted,” they told the court—to draft the case, and though they “did not personally use AI in this case, I failed to ensure every citation was accurate before filing the brief.”

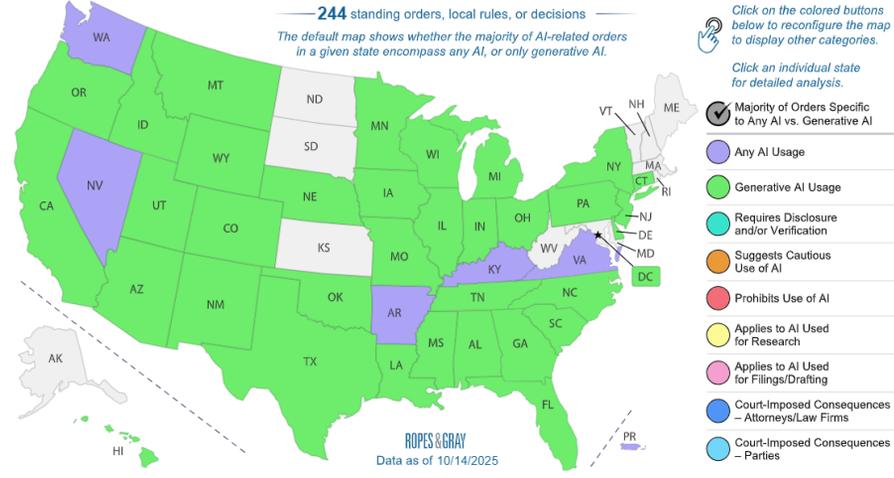
...

Nearly every lawyer is using AI to some degree, they said; it’s just a problem if they get caught.

# Court Rules and Orders

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# Standing Orders and Local Rules on the Use of AI



[Artificial Intelligence Court Order Tracker | Ropes & Gray LLP \(ropesgray.com\)](https://www.ropesgray.com/en/sites/artificial-intelligence-court-order-tracker)

<https://www.ropesgray.com/en/sites/artificial-intelligence-court-order-tracker>

# Firm Policies

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In the end, your policy will constitute a set of guidelines and regulations which make sure that the law firm's use of AI is ethical and responsible. The policy should address any cybersecurity issues, data privacy laws, federal/state regulations, ethical considerations, etc.

<https://www.alpsinsurance.com/blog/why-shadow-ai-is-a-problem-for-law-firms>

# What Should Your Policy Cover?

Accountability (AI Governance Board)

Categorize Tools by Risk

Verification Protocol

Regulatory and Ethical Compliance

Training, Training, Training

## Overarching Concepts for a Law Firm AI Use Policy

**1. Establish Clear Governance Structures and Accountability** This concept requires the formal establishment of structures, typically an **AI Governance Board**, composed of senior leadership, risk management, and technology leadership. The policy must define the Board's responsibilities, which include strategic adoption decisions, risk assessment, vendor evaluation, and policy enforcement. This pillar ensures that the firm moves from "informal AI experimentation" to "enterprise governance".

**2. Implement Risk-Based AI Classification and Approval Processes** A firm should adopt a system, such as a "**traffic light**" classification system, to categorize AI uses based on risk level, providing clear guidance for personnel.

- **Red Light uses** are generally prohibited (e.g., inputting client confidential information into non-approved consumer AI tools, or automated decision-making affecting client outcomes).

- **Yellow Light uses** (e.g., legal research or document analysis) require elevated oversight, such as department head approval and a documented risk assessment.

**3. Address the Confidentiality Imperative** The policy must treat confidentiality as paramount, introducing strict data handling and security protocols. This

includes an **absolute prohibition on entering client confidential information into non-approved AI systems**. Firms must mandate the use of only firm-approved, secure AI platforms that have signed Business Associate Agreements (BAAs). Furthermore, informed **client consent** is mandatory when AI use involves their data.

**4. Mandate Verification and Quality Control** Given that legal-specific AI tools have shown high hallucination rates (e.g., Westlaw AI-Assisted Research at 34%), the policy must make **comprehensive verification non-negotiable** ("Verify, Verify, and Verify Again"). Verification requirements must be detailed for specific use cases, such as independently confirming every case citation in legal research, verifying factual assertions in drafting, and validating medical events in analysis. Firms should also maintain verification logs showing who reviewed the output and what corrections were made.

**5. Ensure Regulatory Compliance and Ethical Alignment** The policy must require continuous adherence to the complex regulatory and ethical landscape. Key components include compliance with **ABA Formal Opinion 512** (covering competence, confidentiality, and candor) and state-specific ethics opinions. Compliance must also cover court-specific requirements, such as local rules for **AI disclosure and certification** in court filings, as well as adherence to various privacy laws (e.g., CCPA, HIPAA). Law firms must also provide mandatory training to ensure technological competence, as required by ABA Rule 1.1.

# Shadow AI

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## The 'Shadow IT' Problem: How Lawyers Are Creating Data Security Nightmares

The Legal Intelligencer  
By Mark G. McCreary

## Shadow AI: The IT Risk We Can't Ignore

Melissa Heidrick

Aug 31, 2025 ⌚ 7 min read



Artificial Intelligence

Business Continuity

Practice Management

Solo & Small Firms

Technology

Young Lawyers

There's an old saying in cybersecurity: "Your biggest security risk isn't the hacker in a hoodie, it's the well-meaning employee with a Dropbox account." Now, replace "employee" with "lawyer," and the risk level multiplies. Welcome to the world of Shadow IT, where attorneys, often unintentionally, create data security nightmares for their firms and clients. (Rather than call out "company" and "firm" throughout this article, I will collectively refer to "firm.")

<https://www.foxrothschild.com/publications/the-shadow-it-problem-how-lawyers-are-creating-data-security-nightmares>

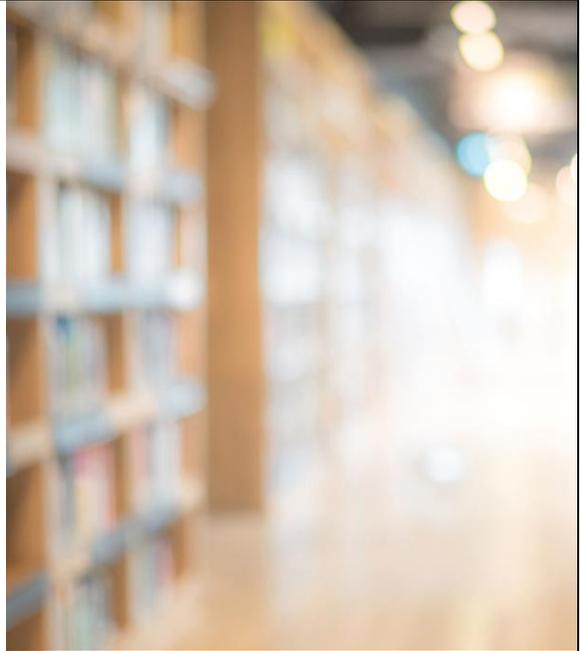
[https://www.americanbar.org/groups/law\\_practice/resources/law-practice-magazine/2025/september-october-2025/shadow-ai-it-risk/](https://www.americanbar.org/groups/law_practice/resources/law-practice-magazine/2025/september-october-2025/shadow-ai-it-risk/)

# Choosing an AI

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## Scope of Information

- What LLM(s) Are Underlying?
- When was it last updated?
- Does it include a web index?
- Any idea on the training data?
- Is the model updated or retrained?
- Is the model open source or proprietary?





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## Data Privacy/Security

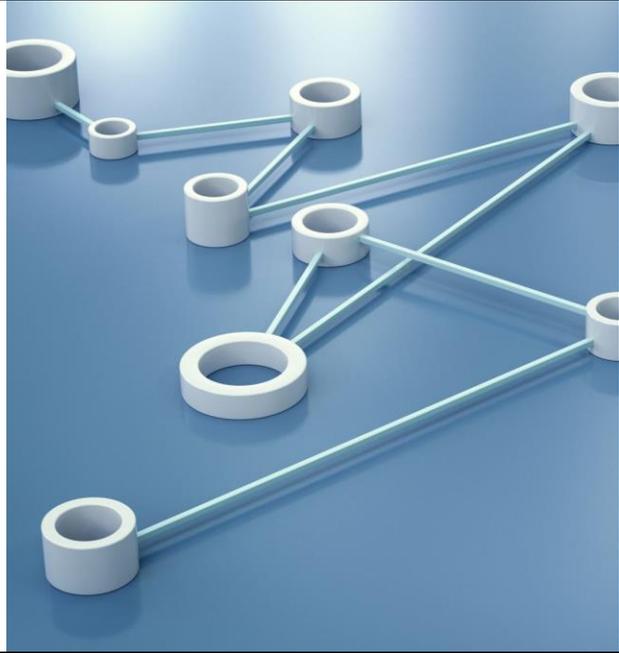
- Who has access to my data (inputs and outputs)?
  - Do humans review the responses?
- How does the tool comply with data protection laws like GDPR or HIPAA?
- Can I securely input confidential data?

**Why:** Protects sensitive information and complies with data protection laws.

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## Data Management

- Can I access, archive, or review past inputs/outputs?
- Is the model trained on my interactions?
- Can my interactions be deleted/not tracked if I choose to do so or end my subscription?



Vital for legal compliance, audits, and maintaining a record of AI interactions

## Costs and Subscription Models

- What is the pricing structure/pricing models?
- Are there additional or hidden fees?
- Are training and support included? Like what?



**Why:** Critical for budgeting and avoiding unexpected expenses.

## Usage and Limitations

- What are the ideal use cases of this tool in the legal profession?
- What limitations should I be aware of in terms of restrictions on number of inputs/outputs?
- How are interactions defined and counted (volume, transactions, complexity)

**Why:** Helps evaluate the tool's effectiveness and appropriateness for your tasks.

# Terms and Conditions

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## Terms of Use and Rights

- How am I allowed to use the AI generated content?
- Are there restrictions on commercial use or distribution?
- What are the copyright and indemnification policies?
- Do you receive notices regarding changes to underlying policies? How?

**Why:** Ensures legal compliance and understanding of your rights in using AI-generated content.

**Why:** Due to the rapid development in this market, many providers change terms and policies frequently

## Bard Privacy Notice

**Last updated:** November 16, 2023

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If you are 18 or older, then by default Google stores your [Bard activity](#) with your Google Account for up to 18 months, which you can change to 3 or 36 months at [myactivity.google.com/product/bard](https://myactivity.google.com/product/bard). Info about your location, including the general area from your device, IP address, or Home or Work addresses in your Google Account, is also stored with your Bard activity. Learn more at [g.co/privacypolicy/location](https://g.co/privacypolicy/location).

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# Designer for Web Image Generator and Brand Kit Terms Preview

Last Updated: December 1, 2023

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Do not include any private or sensitive information.

- Include a screenshot
- Share prompt, generated response, relevant content samples, and additional log files? [Learn more](#) \*

 contextData.txt ...

Microsoft may contact you at [csandersreach@ncbar.org](mailto:csandersreach@ncbar.org) about your feedback. [Learn more](#) about how this data is used and your rights. By pressing Submit, your feedback will be used to improve Microsoft products and services. [Privacy statement](#).

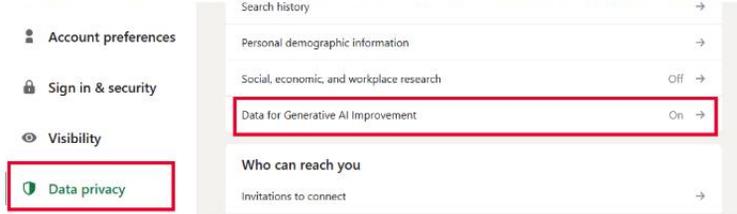
Cancel

Submit



To opt out, you should go to your LinkedIn privacy settings:

- Navigate to Settings & Privacy > Data privacy > Data for Generative AI Improvement.



- Toggle off Use my data for training content creation AI models.

← Back

#### Data for Generative AI Improvement

Can LinkedIn use your personal data and content you create on LinkedIn to train generative AI models that create content?

Use my data for training content creation AI models



When this setting is on, LinkedIn can use your data and content to train content-generating AI models that are used in product features. The data we use for this purpose does not include your private messages. [Learn more](#)

**Where Can You Safely Use It?**

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## What Do I Need To Do?

- Document automation
- Contract review and analysis
- Ediscovery
- Predictive analytics
- Client intake and interactions
- Compliance monitoring
- Meetings and Depositions
- Legal Research
- Writing/Editing
- Brainstorming
- Knowledge Management
- Marketing
- Summarize/Digesting
- Note taking
- + + + + +



## Is The Tool For

### Personal Use

- e.g. Microsoft Designer, Gemini, NotebookLM

### General

- e.g. ChatGPT, Claude, Poe, Perplexity

### Business

- e.g. MS Copilot, Numerous.ai, Clarifai, Jasper

### Purpose Built

- e.g. Fireflies.ai, Hemingway, Grammarly, Albus

### Legal work

- eg. Lawdroid Copilot, Regi, Josef, Ontro, LN+Advance, Casetext, Vincent, Visalaw.ia, Harvey

<https://www.springworks.in/albus/>

## You Don't Have to Look Far to Find (AI) Help In Tools You May Already Use

### Office Tools e.g.

- MS Copilot
- Google One/Workspace
- Adobe Acrobat

### Law Office Technology e.g.

- Smokeball Archie assistant
- Clio Duo
- MyCase IQ

### Other Tools/Services e.g.

- Smith.ai
- Gavel
- Evernote
- Zoom

### Discovery and Litigation e.g.

- Relativity
- Lexbe
- Everlaw

QUESTIONS?

Email Catherine at  
[csandersreach@ncbar.org](mailto:csandersreach@ncbar.org)

Catherine Sanders Reach, MLIS  
Director, Center for Practice Management  
North Carolina Bar Association  
<https://www.ncbar.org/cpm>