ACTIONABLE AI

presents

AI Playbook

for Florida Criminal Defense Firms

Defense Practice · A Practical Guide to Using AI Responsibly, Ethically, and Profitably

actionableai.net · Prepared by Greg Yates — Revised draft September 27, 2026

Important Notice

This playbook is educational and informational. It is not legal advice, ethics counsel, or a substitute for consultation with The Florida Bar or qualified counsel on any specific matter or on your firm's own professional-responsibility obligations.

Nothing here creates an attorney-client relationship. Actionable AI is a consulting firm, not a law firm.

Criminal law and procedure change fast. Statutes, sentencing rules, evidentiary standards, and court orders on AI use can change. This revised draft incorporates a source check dated September 27, 2026; it is not publication approval or a substitute for checking current primary authority in a client matter. Verify each statute, rule, deadline, case, and assigned judge's order before relying on it.

All sample policies, disclosures, letters, and prompts are starting points. Have a Florida-licensed attorney review them before adoption or use.

A note on numbers. Statutory amounts, deadlines, and case outcomes should be checked at the cited source. Third-party statistics identify their source. Other figures are Actionable AI working assumptions to test against your firm's own rates, volumes, and matter values, not facts to repeat. Source links, chiefly to official primary materials, are collected in Appendix F and placed beside key claims in the body.

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The Problem With Generic AI Advice

Here is what the AI influencers will not tell you: the advice flooding your inbox was written for nobody. The same deck gets sold to a marketing agency, a dental practice, and a criminal defense firm. It does not know the difference, because it was never built to.

It does not know that your client's liberty is on the line, so a careless error does not cost money. It costs a person their freedom. It does not know that a Florida felony carries a 175-day speedy-trial clock under Rule 3.191, that a single mandatory minimum can turn a negotiable case into a decade in prison, or that under Padilla v. Kentucky, defense counsel must advise a noncitizen client whether a plea carries a risk of deportation, wrong or missing advice can create an ineffective-assistance claim while the plea itself may trigger deportation. It does not know that the evidence against your client increasingly comes out of a machine, whether a device extraction, an automated license-plate reader, a facial-recognition match, an AI-assisted forensic tool, and that nobody in the courtroom fully understands how that machine reached its answer.

Generic AI advice produces generic results. In a criminal defense practice, generic results mean a missed suppression deadline, a hallucinated citation that draws a show-cause order, a confidentiality breach involving a client's own admissions, a botched scoresheet that understates your client's exposure, and an immigration consequence nobody flagged. The cost of wrong is not embarrassment. It is a client in custody, a Bar grievance, and an ineffective-assistance claim with your name on it.

What This Playbook Does Differently

This playbook was built for the small Florida firm that defends people accused of crimes, solos and firms with fewer than 25 lawyers handling felonies, misdemeanors, DUI, drug offenses, white-collar matters, juvenile cases, appeals, and record sealing. Every recommendation is pressure-tested against the Florida Rules of Professional Conduct, Florida Bar Ethics Opinion 24-1, the current Florida and federal criminal statutes and rules, and the economics of running a defense practice where the lawyer who argues the motion is also the one who answers the jail call.

It answers three questions that matter:

1. What are the real ethics risks of using AI, and how do you build guardrails that hold under a judge's scrutiny?
2. What specific tasks should you use AI for, and which ones will end your career or harm your client?
3. How do you implement AI without blowing a deadline, leaking a client's confession, or filing a fake case?

That is it. No evangelism. No predictions about the future of law. No vendor kickbacks. Just the specific, Florida-grounded, defense-side analysis a small firm needs to make good decisions in 2026.

The Actionable AI Philosophy

Tools serve lawyers. Not the other way around.

The defense firm that benefits most from AI is not the one that adopts the most tools. It is the one that chooses, governs, and trains on tools that earn their keep. In a deadline-driven, evidence-heavy practice, AI may speed an initial discovery review, flag possible Brady or Giglio material for lawyer review, produce a

first-pass motion outline, or summarize a body-cam transcript, subject to file size, format, tool limits, and mandatory attorney review. It can also invent a case, miscalculate sentencing exposure, or expose a client's statements to a third party. Those failures remain the lawyer's responsibility.

THE ACTIONABLE AI TEST

Before you put any AI tool near a criminal matter, answer four questions:

1. Does the tool have a contractual no-training-on-your-data clause?
2. Where does the client data go, and who can access it?
3. Can a lawyer verify the output before it reaches a client, the State, or a court?
4. Would you be comfortable if The Florida Bar, and the judge on your case, knew you used this tool for this purpose?

If you cannot answer all four confidently, the tool is not ready for client matters.

Why Florida Criminal Defense Is Different

Every practice area has its own relationship with AI. Estate planners worry about Florida homestead. Bankruptcy lawyers worry about deadlines. Family lawyers worry about emotional data. Civil litigators worry about hallucinated citations. A criminal defense firm carries a particular set of pressures, and they shape every recommendation in this playbook.

The Stake Is Liberty, Not Money

In most practices, an error costs a client money. In yours, it costs a client their freedom. That single fact changes the risk calculus on every AI decision you make. A civil litigator who files a brief with a bad citation faces sanctions and embarrassment. A defense lawyer who relies on a hallucinated case in a suppression motion, miscalculates a client's exposure, or misses a deadline can leave a human being in a cell. The Sixth Amendment standard for effective assistance under Strickland v. Washington, 466 U.S. 668 (1984), does not lower itself because you used a tool. If anything, the duty to verify is heavier when the downside is a person's liberty.

The Clocks Are Fast and Unforgiving

Criminal practice runs on short, hard deadlines that overlap from the first appearance forward:

— **Speedy trial:** Under Fla. R. Crim. P. 3.191, as amended effective July 1, 2025, the periods are 90 days for misdemeanors and 175 days for felonies, now measured from the filing of formal charges rather than from arrest, with a 30-day recapture window once a notice of expiration is filed. The strategy around when to demand, waive, or hold speedy trial is yours to make, not a model's.

— **Pretrial motions:** Motions to suppress, dismiss, and in limine carry court-set deadlines that vary by division and judge. A blown suppression deadline can forfeit the single argument that wins the case.

— **Statutes of limitation:** Filing windows under Fla. Stat. § 775.15 vary by offense degree and toll in defined circumstances.

— **Sealing and expunction: Petitions under Fla. Stat. §§ 943.0585 and 943.059 generally require a certificate of eligibility from FDLE before filing. FDLE says eligibility processing typically takes 12 weeks after it receives a complete application packet; its FAQ warns that the current time may exceed 12 weeks. Verify the current estimate before advising a client.** Sources: FDLE.

AI is genuinely useful here. It can generate a deadline and event checklist from a charging document in seconds. It is also genuinely dangerous here, because models trained on national data confidently give you another state's speedy-trial rule, not Florida's. A deadline an AI gives you is a hypothesis, not a calendar entry. Verify every one against the current rule, then docket it yourself.

Florida Sentencing Is a Trap for the Unwary

Florida's sentencing architecture is unusually complex, and the exposure it creates is the heart of nearly every plea decision. The Criminal Punishment Code scoresheet under Fla. Stat. § 921.0024 converts the primary offense, additional offenses, victim injury, and prior record, along with other statutory scoring factors such as legal status, community-sanction violations, prior serious or capital felonies, and firearm enhancements, into a lowest permissible sentence. Layered on top are mandatory minimums and enhancements the scoresheet does not capture: the 10-20-Life firearm statute (Fla. Stat. § 775.087), drug-

trafficking minimums keyed to weight (Fla. Stat. § 893.135), the habitual-offender and violent-career-criminal designations (Fla. Stat. § 775.084), and the prison-releasee-reoffender scheme (Fla. Stat. § 775.082(9)).

This is where AI creates a defense-specific trap. Ask a general-purpose model to score a case or compute a mandatory minimum and it will produce a confident, clean, and frequently wrong number, a number your client may rely on to accept or reject a plea. A scoresheet is a calculation a lawyer owns and checks, not a draft a model finalizes. Use AI to organize the inputs and flag the issues; do the math yourself and confirm the mandatory minimums against the current statute.

> **CAREER-ENDING TRAP**
>
> Never let an AI-generated scoresheet or mandatory-minimum calculation drive a plea recommendation without independent verification.
>
> A wrong number here is not a typo. It is advice your client relies on to decide whether to risk trial, and it is the kind of error that becomes an ineffective-assistance claim.

The Evidence Is Increasingly Machine-Made

The State's case against your client used to be built from human witnesses and physical objects. Today it is increasingly built from machines: cell-phone extractions, automated license-plate readers, facial-recognition matches, cell-site location analysis, probabilistic-genotyping DNA software, gunshot-detection systems, and AI-assisted video enhancement. Each of these is an output you can attack, but only if you understand that a machine, not a person, generated it, and that the machine's reliability is a question the rules of evidence were not originally written to answer. This is the subject of the emerging-issue chapter, and it is the single biggest area where small defense firms are leaving arguments on the table.

Collateral Consequences Reach Past the Sentence

A conviction does more than impose a sentence. It can trigger deportation, occupational-license revocation, loss of firearm rights, sex-offender registration, immigration detention, and the loss of housing and employment. Padilla v. Kentucky, 559 U.S. 356 (2010), makes advising a non-citizen client about the deportation consequences of a plea a Sixth Amendment duty, not a courtesy. AI tools are weak on collateral consequences, they will analyze the sentence and miss the deportation trigger entirely. Every plea analysis a model produces for a non-citizen client needs a human check against the immigration consequence, every time.

You Are Outgunned by the State

Your opponent is the government, with investigators, forensic units, and resources that may exceed a small firm's. AI may narrow some of that gap by helping counsel triage a large discovery production or identify inconsistencies for human follow-up. It does not replace a lawyer's review of the record, primary-source research, or a tested defense theory. Treat any efficiency claim as something to measure in your own practice, not a promised result.

The Florida Ethics Reality

The Florida Rules of Professional Conduct were not written with AI in mind. They apply anyway. The framework is not complicated once you map it onto the way AI actually gets used in a criminal defense practice. Ignoring it is the fastest way to turn a winnable case into a Bar file.

Florida Bar Ethics Opinion 24-1, issued January 19, 2024, addresses generative AI directly. It is required reading for any Florida lawyer using these tools on client matters. Its conclusions are not novel. It applies existing rules to a new technology, but the application is what matters. Read the actual opinion at floridabar.org. The summary below is not a replacement.

Beyond the ethics opinion, the Florida Supreme Court has written AI-specific guidance directly into the Rules themselves: in In re Amendments to Rules Regulating The Florida Bar – Chapter 4, 393 So. 3d 137 (Fla. 2024) (SC2024-0032), the Court amended the Comments to Rules 4-1.1, 4-1.6, 4-5.1, and 4-5.3, effective October 28, 2024, to add explicit guidance on generative AI. Read the amended Comments alongside Opinion 24-1, not instead of it.

The Five Rules That Matter Most

RULE 4-1.1: COMPETENCE (AND TECHNOLOGICAL COMPETENCE)

The comment to Rule 4-1.1 requires keeping up with the benefits and risks of relevant technology. In a defense practice, competence has a sharp edge: you must understand AI well enough to know that the deadline it gave you might be the wrong one, that the case it cited might not exist, and that the scoresheet it produced might understate your client's exposure. Competence does not require power-user skill. It requires enough understanding to decide when AI is appropriate, to supervise its use, and to verify its output before it reaches a client or a court. Florida's CLE rules require three of the thirty hours per three-year cycle in approved technology programs under Rule 6-10.3(b), and Bar-approved AI CLEs satisfy that requirement.

> **ACTION ITEM**
>
> Within 90 days, every lawyer in the firm completes at least one CLE on generative AI in legal practice, and the firm documents it.
>
> It is the cheapest move that addresses the competence duty for the whole firm.

RULE 4-1.6: CONFIDENTIALITY OF INFORMATION

Your files may contain client admissions, sealed or juvenile records, victim and witness identities, cooperation discussions, and medical or mental-health histories. Rule 4-1.6 protects information relating to the representation. Third-party AI tools vary in retention, access, sharing, and training terms; review the actual provider, plan, contract, and account settings before use. Entering confidential information into such a tool may disclose it to a third party, depending on those terms and controls. Florida Bar Opinion 24-1 recommends obtaining the affected client's informed consent before third-party generative-AI use that involves disclosure of confidential information. Document consent and reasonable safeguards; neither vendor terms nor consent alone eliminates the lawyer's duties. Sources: Florida Bar Op. 24-1; Florida Bar Ch. 4.

The governance line your firm should draw: enterprise AI tools with signed Data Processing Agreements are appropriate for client-specific work; consumer tools are appropriate only for hypotheticals, public-law research, and tasks with no client identifiers or facts. Whether a particular tool is acceptable turns on its actual terms and safeguards, not on whether it is labeled 'free', but in practice the consumer tools rarely offer the contract you need.

> IMPORTANT
>
> No AI tool is approved for client information without a written contract that includes (1) a no-training-on-customer-data clause, (2) defined retention with deletion on demand, and (3) breach-notification obligations.
>
> If a vendor cannot give you all three, the tool is not approved, and a client's recorded statement or a juvenile record never goes near it.

RULE 4-5.3: RESPONSIBILITIES REGARDING NONLAWYER ASSISTANCE

Florida Bar guidance treats AI output the way it treats work product from a nonlawyer assistant. The model is your junior associate. In a small defense firm, it may be the only associate you have, which makes the supervision duty heavier, not lighter. You are responsible for what it produces: written policies, training, verification, and documented oversight. The risk is the solo who runs an entire practice through AI and supervises none of it.

> NOTE
>
> If a Bar grievance arrived tomorrow about AI-generated work on a current matter, what could you show them?
>
> If the honest answer is 'nothing in writing,' your supervision program has work to do.

RULE 4-3.3: CANDOR TOWARD THE TRIBUNAL

AI tools fabricate case citations and statutory provisions. This is not a bug awaiting a patch. It is how language models work. They predict plausible text, not true text. A confident paragraph citing a 2023 Florida appellate decision may be entirely invented.

Florida has its own cautionary tale. In Capital Standard, LLC v. U.S. Bank National Association, No. 2D2024-1392, 2026 WL 2450571 (Fla. 2d DCA Aug. 21, 2026), the court found at least 31 fabricated or unsupported citations in counsel's amended brief, growing to 46 after opposing counsel flagged the problem. The court struck both briefs, fined him $1,500, made him personally liable for the opposing party's appellate fees, and referred him to The Florida Bar. The lesson is not subtle. 'The AI made it up' is not a defense.

> IMPORTANT
>
> No AI-generated citation, whether a case, statute, rule, or quotation, appears in any document, filing, motion, memo, or letter, until a real lawyer has verified it against Westlaw, Lexis, or an official court or government database.
>
> Print it. Put it on the wall. Make it absolute.

RULE 4-1.5: FEES, AND THE BILLING DISCIPLINE AI DEMANDS

Criminal defense fees are not contingency fees: Rule 4-1.5(f)(3)(B) prohibits contingent fees in a criminal case. Defense work may be billed on a flat-fee or hourly basis, and appointed counsel may submit claims to the Justice Administrative Commission (JAC). Opinion 24-1 says AI efficiency does not justify falsely inflated claims of time. Sources: Florida Bar Ch. 4; Florida Bar Op. 24-1.

For flat-fee work, assess the reasonableness of the agreed fee under Rule 4-1.5(a); using AI does not by itself make a reasonable flat fee improper. For hourly matters, record and bill actual compensable lawyer time, not the hours a task might have taken without AI. For court-appointed work, follow the applicable JAC rules, authorized rates, and voucher requirements; do not assume every AI-assisted minute is claimable. Keep contemporaneous, accurate records and review the bill before submission. Sources: Florida Bar Ch. 4; Florida Bar Op. 24-1.

> **NOTE**
>
> For an hourly invoice or JAC voucher, record actual compensable time and check the applicable billing rules. Do not charge time AI eliminated or assume a flat fee must fall in proportion to hours saved. Sources: Florida Bar Op. 24-1; Florida Bar Ch. 4.
>
> For a flat fee, review the agreed fee's reasonableness; for appointed work, confirm the JAC authorization and voucher requirements before submission.

Other Rules That Touch This Work

— **Rule 4-1.4 (Communication):** If AI is materially involved in strategy, drafting, or review, the client should generally know in advance, usually through engagement-letter disclosure (Appendix B).

— **Rule 4-3.1 (Meritorious Claims and Contentions):** An AI-drafted motion to suppress or dismiss must still have a good-faith basis in law and fact. A model will happily generate a colorable-sounding argument with no support, the merit determination is yours.

— **Rule 4-3.4 (Fairness to Opposing Party and Counsel):** Do not create, alter, or offer evidence you know to be false. As AI makes fabricated images, audio, and video trivially easy to produce, this duty now has a technological edge, it cuts against ever generating a synthetic 'exhibit.'

— **Rule 4-1.18 (Prospective Clients):** AI intake tools that screen callers create duties to people who never become clients, and can generate conflicts. Confidentiality protections apply from the first AI-handled inquiry.

— **Rule 4-5.5 (Unauthorized Practice of Law):** An AI chatbot cannot give legal advice or form a representation. Opinion 24-1 requires that prospective clients be told they are communicating with AI, not a lawyer.

— **Rule 4-8.4 (Misconduct):** Knowingly filing fabricated authority or evidence, even if an AI generated it, can be conduct involving dishonesty. The model's error becomes your misconduct once you adopt it.

— **Section 934.03 (consent to interception): Florida generally requires prior consent from all parties before a private person records a covered wire, oral, or electronic communication, subject to statutory exceptions. Before enabling an AI notetaker or transcription feature for a covered conversation, determine whether consent is required and obtain it from every party. As a firm protocol, document that consent on the record or in writing; the statute does not require the**

particular phrase 'on-the-record consent.' Check platform defaults before the call begins. Sources: Fla. Stat. § 934.03.

The Courts Are Writing Their Own Rules, Right Now

On May 28, 2026, the Florida Supreme Court amended Rule of General Practice and Judicial Administration 2.515(d)(2). A signer of a filing in a Florida state court now represents that the legal authorities identified in it exist and are accurately cited. The rule covers attorneys and unrepresented parties and permits appropriate sanctions after notice and an opportunity to be heard for a filing inconsistent with that representation. The amendment took effect June 15, 2026 (Opinion SC2026-0673). It does not govern federal filings. Sources: SC2026-0673.

NEW: STATEWIDE RULE, EFFECTIVE JUNE 15, 2026

Florida Rule of General Practice and Judicial Administration 2.515(d)(2): by signing, you represent that every legal authority you cite exists and is accurately cited.

It binds attorneys and self-represented parties alike, and authorizes sanctions, including reprimand, contempt, striking, dismissal, costs, or fees, for any filing that breaks it.

Scope: Florida state courts. It does not govern the federal courts. If you practice in the Northern, Middle, or Southern District of Florida, the federal rules and the assigned judge's standing orders control there.

The state-court signature itself makes this representation. It is not a separate AI-use disclosure requirement. Sources: SC2026-0673; AOSC26-12.

The Eleventh and Seventeenth Judicial Circuits adopted AI-related filing orders before the statewide amendment. In companion order AOSC26-12, the Florida Supreme Court said Rule 2.515(d)(2) obviates circuit-level AI-use disclosure and certification requirements and directed that courts not impose them by local administrative order, policy, judicial practice, or other means. For Florida state filings, verify the cited authorities; do not treat the superseded circuit orders as a current AI-disclosure mandate. Federal filings require a separate check of federal law and the assigned judge's orders. Sources: AOSC26-12.

If your case is in federal court, whether a § 922(g) firearm prosecution or a federal drug or fraud indictment, the Florida Supreme Court rule does not apply. Some federal judges across Florida's three federal districts, Northern, Middle, and Southern, have their own individual AI standing orders. Coverage is uneven and changing, so check the assigned judge's current procedures before you file. State-court rules and federal-court rules are not interchangeable, and assuming one covers the other is how a lawyer gets caught.

BEFORE EVERY FILING

Identify whether the filing is in a Florida state court or a federal court, then check the current governing rule and any assigned judge's standing or case-specific order.

In Florida state court, verify that identified legal authorities exist and are accurately cited. In federal court, disclose AI use only when an applicable rule or judge's order requires it. Sources: SC2026-0673; AOSC26-12.

Appendix C gives an internal state-court verification checklist and a federal disclosure template to

> use only when required.

The Emerging Issue Most Criminal Defense Firms Are Missing

This chapter looks at machine-generated or AI-assisted evidence the State may offer: device extractions, automated license-plate reader hits, facial-recognition matches, cell-site analysis, probabilistic-genotyping results, gunshot-detection alerts, and enhanced video. The defense can investigate inputs, methods, validation, output, and sponsoring witnesses. That inquiry may support a suppression, authentication, discovery, or exclusion argument in a particular case; it does not guarantee one.

AI Is Already in the Courtroom, Not the Lobby

A 2026 American Bar Association Criminal Justice article describes AI's use across investigations, evidence review, bail, sentencing, and supervision. The Department of Justice's December 2024 report surveys AI in criminal justice, including law-enforcement and forensic uses. Those sources identify important transparency and reliability questions, but opacity alone does not establish inadmissibility. Build any challenge from the particular tool, record, and governing law. Sources: ABA Criminal Justice; DOJ report.

The Rules of Evidence Are Being Rewritten Around This

Proposed Federal Rule of Evidence 707 would apply Rule 702(a)–(d) reliability standards to certain machine-generated evidence offered without an expert witness. The proposal was released for public comment in 2025. In its May 2026 report, the Advisory Committee did not recommend adoption; it revised the proposal and chose further study before any republication. Rule 707 is not in force. The committee's materials may help frame an argument, but cite existing law for the applicable admissibility standard. Sources: U.S. Courts May 2026 report.

The Advisory Committee also considered a working draft of a deepfake-specific authentication provision, possible Rule 901(c). Its May 2026 report concluded that an amendment was not warranted at that time and kept draft language under study. A party should not cite the draft as current law. Develop a fact-specific authenticity challenge under the rules that apply to the court and evidence at issue. Sources: U.S. Courts May 2026 report.

Florida applies a Daubert-based standard to expert testimony under Fla. Stat. § 90.702. Where the State offers an expert opinion based on a machine-generated forensic result, counsel can test the sufficiency of the underlying facts or data, the reliability of the method, and its application to the case. Whether § 90.702 applies to a particular output or witness, and whether the challenge succeeds, depends on the proffer and record. Proposed federal Rule 707 is not Florida law. Sources: Fla. Stat. § 90.702.

KEY FINDING

Machine-generated and AI-assisted evidence is reaching criminal courtrooms faster than the rules, or most defense firms, have adapted to it.

Florida's § 90.702 Daubert standard supplies grounds to challenge reliability, methodology, and application when the State offers expert testimony or expert forensic conclusions based on a machine or forensic tool. Proposed Rule 707 remains under study; a Rule 901 deepfake amendment was considered but not advanced. Neither is law, but the trajectory shows where federal courts are headed.

> The firm that challenges the machine's inputs, methods, and outputs, and the chain of custody and Brady disclosures behind them, is litigating a category most competitors have not noticed yet.

How to Attack the Machine

A machine-generated exhibit has more surfaces to attack than a human witness, once you know where to look:

— **The inputs:** What data was the tool fed, and was any of it incomplete, biased, or corrupted? An automated system is only as good as what went in.

— **The method:** Is the underlying algorithm validated and peer-reviewed, or proprietary and untested? Demand the validation studies, error rates, and known failure modes, and challenge reliability under § 90.702 / Daubert.

— **The output:** Has the result been independently reproduced, or is it a single unverified answer? Probabilistic tools produce likelihoods, not certainties, and the difference matters to a jury.

— **The human:** Who is sponsoring the output, and can they actually explain it? If the only witness cannot describe how the machine works, that is a confrontation and reliability problem, not a gap to wave past.

— **Disclosure: Identify what validation, error-rate, source-code, or underlying data is material to the defense and what the State possesses or controls. Brady v. Maryland requires disclosure of favorable, material evidence; it does not create an automatic right to every source-code file or validation record. Use case-specific discovery and due-process arguments.** Sources: Brady.

— **Confrontation: Crawford v. Washington addresses testimonial statements by human declarants. A machine output is not automatically a testimonial statement. Ask whether a human analyst's testimonial statements are being offered through another witness and assess the applicable confrontation cases and record.** Sources: Crawford.

Florida's 2026 Search-Warrant Amendments

Florida's 2026 search-warrant amendments are now codified in Chapter 933 and related provisions. CS/HB 359 became Chapter 2026-177, Laws of Florida, effective July 1, 2026. It addresses device warrants, remote applications, and certain drone searches. Treat the new text as a checklist for fact-specific warrant review, not a promised motion-to-suppress result. Sources: CS/HB 359.

Under Fla. Stat. § 933.05(2), the general warrant-return period is 10 days after issuance, with 20 days for specified out-of-state electronic-communications data, 30 days for specified DNA specimens, and 365 days for a warrant to search for and seize a computer, computer system, or electronic device and its data. Section 933.05(3) separately deems a device warrant timely executed if the device is seized within 10 days; subsection (4) does not require completion of data analysis within the return period. Section 933.07(5) permits a judge to authorize a remote audio-video warrant application. Drone authority must be checked under § 934.50 and the warrant's terms. Sources: Fla. Stat. § 933.05; Fla. Stat. § 933.07; Fla. Stat. § 934.50.

Moschella v. State, 413 So. 3d 851 (Fla. 2d DCA 2025), involved a device search under the former ten-day execution rule. The Legislature changed that framework in 2025 and 2026. Under current § 933.05, separate the date of seizure from the deadline to return the warrant; a 365-day return period is not a 365-

day window to seize a device. Examine the warrant's particularity, execution, seizure, data-review scope, return, and any remote-application or drone authorization on the case facts. The amendments do not dispense with Fourth Amendment requirements. Sources: Fla. Stat. § 933.05.

PRACTICE DEVELOPMENT

Add two questions to every intake and discovery review: (1) Was any AI, automated, or machine-generated tool used in the investigation, whether facial recognition, ALPR, probabilistic DNA, device extraction, video enhancement? (2) How and when was each device or data source seized and searched, and under what warrant?

Offer a digital-evidence and warrant-timeline review as a defined service. HB 359 is law as of July 1, 2026. Every case with a seized phone or computer should be screened now for § 90.702 reliability issues where expert forensic testimony is offered, Brady material related to forensic validation, and warrant-timing issues under the new statute. Most firms are not looking.

Ethics Risks & Governance Framework

A governance policy without teeth is a document in a drawer. This section gives you the framework to make yours real: the failure modes that will actually trip a small defense firm, the data classification that decides which tool sees which information, and the training that turns a written policy into practice.

High-Risk Failure Modes

THE BLOWN DEADLINE

The most catastrophic failure mode in your practice, and one AI makes more likely if you trust it. A model returns the wrong speedy-trial period or invents a motion deadline, the lawyer relies on it, and a remedy may be waived, a recapture window missed, or a client sits in custody longer than the law allows. A wrong speedy-trial calculation can damage or waive a remedy under Rule 3.191, verify the current clock, start point, and remedy before advising the client. Every AI-generated deadline is a hypothesis to verify against Fla. R. Crim. P. 3.191 and the court's own order, then docket by hand.

HALLUCINATED CITATIONS

The most publicly visible failure mode. The model invents a case or misstates a holding, the suppression motion gets filed, and a judge spots it. Florida's own example is Capital Standard v. U.S. Bank (2d DCA Aug. 2026), where 46 fabricated or unsupported citations across two briefs drew fines and a Bar referral. Every AI citation is presumptively wrong until verified.

SENTENCING AND MANDATORY-MINIMUM ERRORS

The failure mode unique to the stakes of your practice. AI miscomputes the Criminal Punishment Code scoresheet or misses a mandatory minimum under § 775.087 or § 893.135, the client relies on the wrong number to weigh a plea, and the error surfaces only after the plea is entered, as an ineffective-assistance claim. The cure is a lawyer who treats every AI sentencing output as a draft to be recomputed and verified against the current statute.

CONFIDENTIALITY VIA FREE TOOLS

A serious confidentiality failure can occur when someone enters a client's statement, juvenile record, or alleged-offense facts into a third-party AI tool without checking its protections. Depending on provider terms, access, settings, and the information supplied, this may involve a Rule 4-1.6 disclosure. Use an approved-tool policy, training, vendor diligence, data minimization, and informed consent where confidential information will be disclosed to a third-party generative-AI provider. Do not describe one scenario as the documented 'most common' failure without evidence. Sources: Florida Bar Op. 24-1.

IMMIGRATION AND COLLATERAL-CONSEQUENCE BLIND SPOTS

The failure mode that reaches past the courtroom. AI analyzes the sentence and misses that the plea is a deportable offense, a registrable offense, or a firearm disability. Padilla v. Kentucky makes the immigration advice a Sixth Amendment duty. The cure is a standing rule: no plea analysis for a non-citizen client is complete until a lawyer has checked the immigration consequence against current law, separately from anything the model said.

OVER-RELIANCE AND UNSUPERVISED STAFF USE

The slowest-burning failure modes. The lawyer stops verifying and output quality drifts; or intake and support staff adopt an unapproved tool because it is faster, and client data goes somewhere no one vetted. The cure is the verification gate as a non-negotiable workflow step, and an approved-tool list everyone is trained on.

Data Classification Framework

Not all data carries the same risk, and criminal files carry some of the most sensitive there is. A classification framework makes confidentiality decisions faster and less dependent on judgment in the moment.

Class	What it contains	Tool tier required
Tier 1: Public information	Statutes, rules, published opinions, generic legal concepts	Any approved tool, including general-purpose enterprise models.
Tier 2: Anonymized facts	Hypotheticals, fact patterns with identifiers stripped	Enterprise tools with no-training contracts. Strip identifiers first.
Tier 3: Client identifiers and matter facts	Names, charges, case numbers, dates, allegations	Only tools with a signed Data Processing Agreement, no-training terms, defined retention, and breach notification.
Tier 4: Highly sensitive	Client admissions and recorded statements, juvenile records, sealed/expunged records, victim and witness PII, cooperation/proffer information, medical and mental-health data	DPA-covered tools only, after internal review; consider matter-specific client consent; consider whether AI is appropriate at all.

IMPORTANT

Do not sign a multi-year contract for any AI tool that has not been piloted by your team on real matters.

A vendor demo is not a pilot. A pilot is your lawyers using the tool on live work, then comparing time-on-task before and after.

Approved Tool List

Your policy is only as good as the list of tools it covers. Maintain a current list specifying, for each tool: the approved use cases, the data tiers it may handle, its DPA status, the responsible owner, and the renewal date. Review it quarterly. When staff want a new tool, the default answer is ‘not yet, pending the approval process,’ which requires a DPA, defined retention, breach-notification terms, and a brief written assessment.

Staff Training Requirements

A policy without training is a document in a drawer. Everyone who touches AI on firm work needs to know:

— What tools are approved and for what tasks.

— How to classify data before choosing a tool, and that a client's recorded statement or a juvenile record is always Tier 4.

— Why every AI citation and every AI deadline requires independent verification.

— Why every sentencing calculation and every plea analysis for a non-citizen client gets a separate human check.

— Why every filing gets attorney review against current Florida and federal authority.

— What to do when unsure. Stop and escalate, not proceed and hope.

— What a confidentiality breach looks like and how to report it.

Minimum cadence: onboarding before any AI use on client matters, an annual refresh with case studies from the prior year, tool-specific training when a new tool is approved, and a signed acknowledgment in the personnel file.

Best Use Cases by Workflow Stage

A small Florida criminal defense practice runs roughly the same pipeline whether you sit in Daytona, Tampa, Orlando, or Fort Lauderdale. Here is where AI fits at each stage, and, just as important, where it does not.

Stage 1: Intake and Charge Assessment

The fastest, most visible value AI delivers in your practice. Intake is repetitive, the stakes are high, and a missed issue here shapes everything that follows.

— **AI helps:** Turning an arrest report and charging document into a structured case summary. Identifying every charge, degree, and the elements the State must prove. Generating a first-pass event and deadline checklist. Flagging issues for the lawyer's attention.

— **AI does not:** Decide whether to take the case, judge whether the client will hold up, or set a deadline you can trust. Confirm every deadline against Rule 3.191 and docket it yourself.

> **CAREER-ENDING TRAP**
>
> Never let an AI-generated speedy-trial or motion deadline go straight onto your calendar. Models routinely return another state's criminal-procedure clock instead of Florida's.
>
> Treat every AI deadline as a hypothesis. Verify it against the current rule and the court's order, then docket it by hand.

Stage 2: Bond and Pretrial Release

Early, time-sensitive, and high-impact for the client sitting in jail. AI helps you prepare a stronger argument faster.

— **AI helps:** Organizing the client's ties to the community, employment, and record into a release argument. Drafting a first-appearance or bond-motion outline. Summarizing the State's stated grounds for detention.

— **AI does not:** Read the courtroom, judge the prosecutor's posture, or decide how hard to push. Strip client identifiers before using any tool not covered by a DPA.

Stage 3: Discovery and Brady Review

Where AI most changes the balance of power between you and the State. The production is large, and the material that wins the case is buried in it.

— **AI helps:** Reading the entire discovery production overnight: reports, body-cam transcripts, witness statements. Surfacing inconsistencies, exculpatory material, and impeachment. Inventorying every machine-generated or AI-assisted item the State intends to use.

— **AI does not:** Make the final Brady or materiality call, or decide trial strategy. AI-flagged material is an input to your judgment, re-read against the source before you rely on it.

> **ACTION ITEM**

Every item an AI flags as exculpatory or as a machine-generated exhibit gets a human read against the original, and a written demand if validation data or source code is missing.

The reliability of the State's forensic evidence is something you affirmatively litigate. It will not surface on its own.

Spot-check standard: verify 20 percent of the items an AI flags in a routine discovery review against the source document.

Full-verification standard: 100 percent of scoresheet inputs, every mandatory minimum, every deadline, and every item flagged as Brady or Giglio material, on every case without exception.

Document the verification in the matter file: who checked, against what source, on what date.

Stage 4: Motions Practice and Suppression

AI produces usable first drafts of motions from your research and facts, with one inviolable rule.

— **AI helps:** First-draft motions to suppress, dismiss, and in limine from a fact pattern and research memo. Spotting Fourth, Fifth, and Sixth Amendment issues. Building the HB 359 warrant timeline and the § 90.702 reliability challenge to a machine-generated exhibit.

— **AI does not:** Cite a real case without verification. The Capital Standard v. U.S. Bank problem starts here. Use citation placeholders in any AI draft, and fill them only from a verified source.

IMPORTANT

No AI-generated case citation appears in any motion until a real lawyer has verified it against a legal database. Make this rule absolute. Print it. Put it on the wall.

Stage 5: Plea Negotiation and Sentencing Exposure

The stage where the stakes are highest and AI demands the most discipline. Most cases resolve here, on the number.

— **AI helps:** Organizing the inputs for a Criminal Punishment Code scoresheet. Laying out the range of outcomes, the mandatory minimums in play, and the trade-offs between offers. Drafting a plain-English comparison for the client.

— **AI does not:** Finalize the scoresheet, compute a mandatory minimum you can rely on, or clear a plea for a non-citizen client. Recompute the score yourself, confirm the minimums against § 775.087 and § 893.135, and check the immigration consequence separately under Padilla.

ACTION ITEM

For any AI sentencing output, verify three things by hand: the scoresheet calculation under § 921.0024, every mandatory minimum that applies, and, for a non-citizen client, the immigration consequence of the specific plea.

A model that misses one of these has not saved you time. It has set up the ineffective-assistance claim.

Stage 6: Trial Preparation

AI turns the transcript and the file from a bottleneck into an asset.

— **AI helps:** Drafting cross-examination outlines for State witnesses and analysts. Producing page-and-line summaries of depositions and recorded statements overnight. Finding contradictions between testimony, reports, and body-cam.

— **AI does not:** Try the case, read the jury, or decide when to bear down. Verify every page-and-line citation in an AI summary against the transcript before you use it to impeach.

Stage 7: Client Communication and Collateral Consequences

Your clients are frightened and under-informed, and the consequences of their case reach past the sentence. AI helps you keep them informed without burning judgment time, within limits.

— **AI helps:** Plain-English status updates and explanations of posture, an offer, or a delay. Drafting a first-pass explainer of collateral consequences, covering immigration, licensing, firearm rights, and registration, for the lawyer to verify.

— **AI does not:** Deliver the advice itself, manage the relationship, or be trusted on a collateral consequence. Every collateral-consequence explanation, and every client-facing draft, gets an attorney's eyes, and the immigration consequence gets a separate check, before it goes out.

Stage 8: Post-Conviction, Sealing, and Expunction

The long tail of the practice, and a steady source of work AI can streamline.

— **AI helps:** Screening a record for sealing or expunction eligibility as a first pass. Organizing the facts for a post-conviction motion. Drafting the procedural skeleton of a petition.

— **AI does not:** Confirm eligibility. Verify against § 943.0585 (expunction) and § 943.059 (sealing) and the FDLE certificate-of-eligibility process, or substitute for the legal analysis a post-conviction claim requires.

Prompts Library

These prompts are starting points, written for a small Florida criminal defense practice. Adapt the bracketed fields. Verify every output. They are organized by stage: intake and charge assessment, bond, discovery and Brady, motions and suppression, plea and sentencing, trial preparation, client communication, and post-conviction and sealing.

IMPORTANT

Strip client identifiers before running any of these in a tool that is not covered by a signed Data Processing Agreement. A client's own statements, juvenile records, and sealed records are the most sensitive data you hold.

Verify every case citation, statutory reference, deadline, scoresheet figure, and legal conclusion against a primary source before relying on the output.

These prompts are calibrated for Florida and federal criminal law. Treat every output as a first draft, not a final answer.

Intake and Charge Assessment

PROMPT 01: CHARGE & EXPOSURE TRIAGE · Intake Stage

```
You are assisting a Florida criminal defense attorney. From the charging document
and arrest report below, produce a one-page case summary with these sections: (1)
each charge, its statute, and its degree; (2) the elements the State must prove
for each; (3) the key dates and a first-pass event/deadline checklist, each
flagged 'VERIFY against Rule 3.191 and the court's order'; (4) the apparent
factual and constitutional issues worth a closer look; and (5) documents and
discovery to request.


Do not give a take/decline recommendation and do not compute a sentence.
Materials: [paste anonymized].
```

PROMPT 02: ELEMENT & DEFENSE MAPPER · Intake Stage

```
For the offense(s) below under Florida law, map each element the State must prove
against the known facts, identify which elements look strong and which look
vulnerable, and list the affirmative defenses and factual defenses that the facts
may support. For each defense, note what additional information would strengthen
it. Mark every statutory and case citation 'VERIFY.' Offense and facts: [paste
anonymized].
```

Bond and Pretrial Release

PROMPT 03: BOND ARGUMENT BUILDER · Bond Stage

```
Draft an outline for a pretrial-release/bond argument for the client described
below. Organize the client's ties to the community, employment, family, and record
into release factors; address the State's likely grounds for detention or high
bond; and propose conditions of release that respond to those grounds. Keep it
factual. Do not overstate the record. Flag any factor that needs documentation
before the hearing. Client background: [paste anonymized].
```

Discovery and Brady Review

PROMPT 04: DISCOVERY INVENTORY & BRADY SPOTTER · Discovery Stage

```
Review the discovery materials below and produce: (1) an inventory of each item by
type and source; (2) a list of every apparent inconsistency between reports,
statements, and any body-cam transcript, with citations to where each appears; (3)
potentially exculpatory or impeachment material flagged for attorney review; and
(4) gaps, things that should exist but are missing. Note: every Brady flag will be
re-read by a lawyer against the source. Materials: [paste anonymized].
```

PROMPT 05: DIGITAL-EVIDENCE SOURCE INVENTORY · Discovery Stage

```
From the anonymized discovery below, identify items that appear to be machine-
generated or AI-assisted. For each, identify the tool, purpose, inputs, sponsoring
witness, and potentially relevant validation or error-rate material. Flag fact-
specific authentication, § 90.702, discovery, Brady, or confrontation questions
for counsel; do not assume entitlement to source code or that every output is
testimonial. Materials: [paste anonymized].
```

Fla. Stat. § 90.702 Brady Crawford

Motions and Suppression

PROMPT 06: SUPPRESSION ISSUE SPOTTER · Motions Stage

```
Analyze the facts below for Fourth, Fifth, and Sixth Amendment suppression issues
under Florida and federal law: the stop, the search, any warrant, statements and
Miranda, and identification procedures. For each potential issue, state the
governing standard, the facts that support suppression, the State's likely
response, and the strength of the argument (weak / defensible / strong). Mark
every citation 'VERIFY.' Facts: [paste anonymized].
```

PROMPT 07: HB 359 WARRANT TIMELINE ANALYZER · Motions Stage

For the warrant and device below, build a timeline under current Fla. Stat. § 933.05. Separate (1) issuance and seizure within the ten-day device execution window from (2) the applicable 10/20/30/365-day return period. Also analyze particularity, search scope, return, remote application under § 933.07, and any drone authority under § 934.50. Flag possible issues; do not assume that 365 days permits a later seizure or that analysis must finish by the return date. Mark legal citations VERIFY. Facts and warrant: [paste anonymized]. Fla. Stat. § 933.05 Fla. Stat. § 933.07 Fla. Stat. § 934.50

PROMPT 08: MACHINE-EVIDENCE RELIABILITY CHALLENGE · Motions Stage

Draft a motion outline challenging the particular machine-generated evidence below, if the facts support it. Analyze whether § 90.702 applies to the witness's opinion; identify inputs, method, validation, error rates, and application to this case. Separately identify any material favorable evidence potentially subject to Brady and any human testimonial statement that raises a Crawford issue. Do not assert an automatic right to source code or apply proposed federal Rule 707 as current law. Insert [CITE – verify] placeholders. Evidence: [paste anonymized]. Fla. Stat. § 90.702 Brady Crawford U.S. Courts May 2026 report

Plea and Sentencing

PROMPT 09: SENTENCING SCORESHEET SANITY CHECK · Sentencing Stage

Organize the inputs for a Florida Criminal Punishment Code scoresheet for the case below: primary offense, additional offenses, victim injury points, prior record, and other statutory scoring factors (legal status, community-sanction violations, prior serious/capital felony points, firearm enhancements). Lay out how each maps to § 921.0024, and identify any mandatory minimums or enhancements the scoresheet does not capture (e.g., § 775.087 firearm, § 893.135 trafficking), any habitual or violent-career exposure under § 775.084, and any prison-releasee-reoffender exposure under § 775.082(9). Do NOT state a final lowest-permissible-sentence number as authoritative, label all figures 'DRAFT: attorney must recompute and verify against the current statute.' Case data: [paste anonymized].

PROMPT 10: PLEA COMPARISON & COLLATERAL-CONSEQUENCE FLAG · Sentencing Stage

```
Compare the plea options below for the client described. For each option, lay out the charge of conviction, the sentence range and any mandatory minimum, and the trade-offs. Then flag collateral consequences to investigate: immigration (note Padilla, flag any potentially deportable or inadmissible offense for separate verification), occupational licensing, firearm rights, and registration. Do not give the final recommendation or treat the immigration analysis as complete, mark it 'ATTORNEY MUST VERIFY immigration consequence separately.' Options and client background: [paste anonymized].
```

Trial Preparation

PROMPT 11: CROSS-EXAMINATION OUTLINE · Trial Stage

```
Draft a cross-examination outline for [State witness / officer / analyst]. The key issues are [list]. Structure it to establish background and bias, lock the witness into specific facts, expose inconsistencies with [reports / body-cam / prior statements], and limit damage on the State's strong points. For any forensic analyst, include reliability, validation, and chain-of-custody lines. Mark topics where we expect evasion. Materials: [paste anonymized].
```

PROMPT 12: STATEMENT & TESTIMONY INCONSISTENCY FINDER · Trial Stage

```
Compare the witness statement or testimony below against the attached [report / body-cam transcript / prior statement / deposition]. Identify every material inconsistency, quote both versions with citations, and rate each on impeachment value. Output a table: Topic, Source A (cite), Source B (cite), Impeachment Value. Note: every citation will be checked against the source before use. Materials: [paste anonymized].
```

Client Communication

PROMPT 13: PLAIN-ENGLISH STATUS UPDATE · Client Comms Stage

```
Write a clear, warm, plain-English status update for a client who is anxious and not a lawyer. Explain the current posture, what just happened, what happens next, and the realistic timeline. Avoid legalese and false reassurance. The update concerns: [describe]. An attorney will review before sending.
```

PROMPT 14: COLLATERAL-CONSEQUENCES EXPLAINER (DRAFT) · Client Comms Stage

```
Draft a plain-English explainer of the potential collateral consequences of the
disposition below, covering immigration, occupational licensing, firearm rights,
driving privileges, and registration where applicable. Write it for a non-lawyer
client. Mark every consequence 'ATTORNEY TO VERIFY against current law,' and add a
prominent note that immigration consequences require separate confirmation.
Disposition: [paste anonymized].
```

Post-Conviction and Sealing

PROMPT 15: SEALING / EXPUNCTION ELIGIBILITY SCREEN · Post-Conviction Stage

```
As a first-pass screen only, assess whether the record below may be eligible for
sealing or expunction under Florida law. Identify the disposition type, whether
adjudication was withheld, and any prior sealings or disqualifying offenses, and
map them to the criteria in § 943.059 (sealing) and § 943.0585 (expunction). State
clearly that eligibility must be confirmed by an attorney and that an FDLE
certificate of eligibility is required before filing. Do not state a definitive
eligibility conclusion. Record: [paste anonymized].
```

Appendix A: Sample AI Governance Policy

Copy this template. Adapt the bracketed fields. Adopt it by firm vote, circulate it to all staff, and add it to onboarding. Have outside ethics counsel review before adoption.

[FIRM NAME]: ARTIFICIAL INTELLIGENCE USE POLICY

Version 1.0 | Effective Date: [Date] | Review Date: [Date + 1 Year]

1. Purpose

This Policy establishes [Firm Name]'s guidelines for the use of artificial intelligence in the practice of criminal defense law. It exists to ensure that all AI use complies with the Florida Rules of Professional Conduct, protects client confidentiality under Rule 4-1.6, satisfies the supervision obligations of Rules 4-5.1 and 4-5.3, honors the firm's Sixth Amendment duty of effective assistance, and aligns with Florida Bar Ethics Opinion 24-1.

2. General Principles

— AI tools may assist in the practice of law. They do not replace attorney judgment, supervision, or professional responsibility.

— All AI output communicated to a client, the State, or a court is reviewed by a licensed attorney before transmission or filing.

— Client confidentiality under Rule 4-1.6 applies in full to all AI use, including a client's own statements and admissions.

— Every AI-generated citation is verified against a primary source before inclusion in any filing, motion, or client deliverable.

— Every AI-generated deadline is verified against the current rule and docketed by an attorney.

— Every AI-generated sentencing calculation is recomputed and verified by an attorney before it informs a plea recommendation, and every plea for a non-citizen client is checked for immigration consequences.

3. Definitions

'AI Tool' means any generative artificial intelligence software, including large language models, document-review platforms with AI features, and any other software producing output through machine-learning inference.

'Approved Tool' means an AI Tool on the Firm's current Approved Tool List that has executed a Data Processing Agreement and been authorized by the AI Policy Supervisor for use on client matters.

'Confidential Information' has the meaning given in Rule 4-1.6 of the Florida Rules of Professional Conduct.

4. Permitted Uses

— Internal administration and standard operating procedures.

— Charge and case summaries, deadline checklists (verified by an attorney), and plain-English client communication, after attorney review.

— First-draft assistance from attorney-supplied facts on motions, discovery review, and correspondence.

— Document, transcript, and discovery review as an input to attorney judgment.

— Reviewed marketing and educational content.

5. Prohibited Uses

— Client identifiers or Tier-3/Tier-4 data in non-approved public AI tools, never a client's recorded statement, a juvenile record, or a sealed record.

— AI as the sole source of legal authority, or any unverified citation in a filing, motion, or deliverable.

— Any AI-generated deadline relied upon without independent verification against the current rule.

— Any AI-generated scoresheet or mandatory-minimum calculation relied upon to advise a plea without independent recomputation and verification.

— AI as the last set of eyes on any filing, motion, or plea analysis that leaves the Firm.

— Hourly or court-appointed (JAC) billing time that does not reflect hours actually worked, including any inflation for AI-saved time.

— Generating synthetic images, audio, or video offered as evidence; AI communicating with clients, the State, or any tribunal as if it were a lawyer.

6. Confidentiality and Data Handling

No confidential information is entered into any AI tool unless that tool is approved for the relevant data class. Strip client identifiers wherever the task does not require them. Use the Firm's Data Classification Framework to choose the tool tier. A client's own statements, juvenile records, and sealed records are always Tier 4. When in doubt, do not paste, anonymize, ask, or use an approved enterprise tool.

7. Court and Tribunal Filings

Before filing AI-assisted work, identify the court and applicable rule or order. In Florida state court, Rule 2.515(d)(2) requires the signer to stand behind the existence and accurate citation of legal authorities; AOSC26-12 disallows added circuit-level AI-use disclosure or certification mandates. In federal court, check the assigned judge's standing and case-specific orders and provide an AI-use disclosure or certification only when required. In every court, independently verify the filing. Sources: SC2026-0673; AOSC26-12.

8. Criminal Defense Practice Addendum

— No sentencing scoresheet or mandatory-minimum figure produced with AI assistance is communicated to a client or court without independent attorney recomputation.

— No plea analysis for a non-citizen client is complete until an attorney has separately verified the immigration consequence under current law (Padilla v. Kentucky).

— Machine-generated or AI-assisted evidence offered by the State is assessed for any fact-supported authentication, § 90.702/Daubert, discovery, Brady, or confrontation issue; no one theory applies automatically. Sources: Fla. Stat. § 90.702; Brady; Crawford.

— Speedy-trial and motion deadlines are verified against Fla. R. Crim. P. 3.191 and the court's order, never against an AI output alone.

9. Incident Response

If a potential confidentiality breach through AI use occurs: stop using the tool immediately, document what information was entered and into which tool, notify the AI Policy Supervisor within 24 hours, and follow the Firm's data-incident protocol. Do not delete logs or evidence.

If a breach exposes client or third-party personal information, the firm's own notification duty runs on a fixed clock, separate from any vendor obligation. Under the Florida Information Protection Act, Fla. Stat. § 501.171, a covered entity must notify affected individuals within 30 days of determining a breach occurred (extendable up to 15 more days for good cause shown in writing), and must notify the Florida Attorney General within 30 days if the breach affects 500 or more Florida residents. Build this deadline into the incident-response step above; a vendor's own breach notice to the firm does not restart or replace it.

10. Acknowledgment

All attorneys and staff sign the AI Policy Acknowledgment on hire and upon any material revision. The Firm keeps signed acknowledgments in personnel records.

Appendix B: Client AI Disclosure Statement

Engagement-letter language for a firm that proposes to disclose confidential information to a named third-party generative-AI provider. Complete every bracketed field and have Florida counsel approve it before use. Sources: Florida Bar Op. 24-1.

ENGAGEMENT-LETTER CONSENT: THIRD-PARTY GENERATIVE AI

[Firm Name] proposes to use [provider and tool, including plan] for [specific tasks] on your matter. We would disclose only [specific categories of confidential information] for those tasks. We will not use this permission for other providers, data categories, or purposes without discussing a material change with you.

The provider may [describe who can access the data], will retain it for [period], and [will / will not] use inputs or outputs to train or improve models under [contract and settings]. We have reviewed [security and confidentiality terms], but any third-party system carries residual risk of unauthorized access, error, or data exposure. We will minimize data shared and attorney-review any AI-assisted work.

Your attorney—not the tool—will make and verify legal decisions, including sentencing, pleas, and immigration advice. You may decline the proposed disclosure. If you decline, we will use [alternative workflow] and discuss any expected effect on timing or cost before proceeding.

Your choice for the specific third-party disclosure described above: ☐ I consent. ☐ I do not consent. Client signature: [signature] Date: [date]. Sources: Florida Bar Op. 24-1.

Implementation Notes

— Include this disclosure in your standard engagement letter, not as a separate page the client may skip.

— Put the completed disclosure and explicit consent choice in the engagement letter before any confidential information is sent to the named third-party AI provider.

— If a client declines, do not make the described third-party disclosure; document the choice and discuss available alternatives and any effect on time or cost.

— Identify the provider, data categories, purposes, access and retention protections, and material risks. Seek fresh informed consent before a material change in provider, data, or use.

Appendix C: Court Filing Verification and Required AI Disclosure

Since June 15, 2026, Florida state-court Rule 2.515(d)(2) has required the signer to represent that identified legal authorities exist and are accurately cited. AOSC26-12 bars added circuit-level AI-use disclosure or certification mandates. Use the internal citation-verification checklist below for state filings; it is not a separate document to file. In federal court, check the assigned judge's order and use the AI-use disclosure template only if that order requires it, tailoring the exact words to the order. Sources: SC2026-0673; AOSC26-12.

INTERNAL CHECKLIST: FLORIDA STATE-COURT FILING

Before signing, verify that each legal authority identified in the filing exists and is accurately cited, as Rule 2.515(d)(2) requires. Separately verify material factual assertions and comply with all other professional duties.

Attorney reviewer: [name] | Review completed: [date]

Keep this checklist in the matter file. Do not attach it to the filing unless another valid authority specifically requires a filed statement. Sources: SC2026-0673; AOSC26-12.

OPTIONAL: AI-USE DISCLOSURE (FEDERAL COURT / JUDGE-SPECIFIC ORDER)

Use only when the assigned federal judge's standing or case-specific order requires AI-use disclosure. Match that order's exact language, scope, and timing:

[Insert the disclosure or certification required by the assigned judge's order. Describe actual AI use accurately; do not use generic language that conflicts with the order.]

s/ [Attorney Name] | [Florida Bar Number] | [Date]

Implementation Notes

— For a Florida state filing, verify each cited legal authority before signing. Rule 2.515(d)(2) supplies the representation through the signature; do not attach a separate AI-use certification merely because an older circuit order once requested one.

— For a federal filing, check the assigned judge's standing and case-specific orders in the Northern, Middle, or Southern District of Florida and follow the language, scope, and timing actually required.

— If no federal rule or judge-specific order requires AI-use disclosure, this Playbook does not recommend a voluntary disclosure. Independent verification and candor obligations still apply.

— Adapt the language to what you actually did. Do not use boilerplate that misdescribes your process. Keep a log of which filings involved AI assistance and how.

Appendix D: Letter to AI Vendors

Send this before signing with any AI vendor that will touch client data. A vendor that cannot answer these in writing is not ready for your firm.

DATA SECURITY & HANDLING: VENDOR QUESTIONNAIRE

1. Do you train or improve your models on our inputs or outputs? Provide the contractual no-training clause.
2. Where is our data stored and processed, and which subprocessors and personnel can access it?
3. What is your data-retention period, and can we require deletion on demand?
4. What are your breach-notification obligations and timelines?
5. Will you sign a Data Processing Agreement and a confidentiality addendum covering highly sensitive records?
6. How do you handle especially sensitive criminal-matter data, a client's recorded statements and admissions, juvenile records, sealed or expunged records, and victim and witness identifiers?
7. What certifications do you hold (SOC 2 Type II, ISO 27001), and will you share the current report?
8. How is access controlled, whether by single sign-on, role-based permissions, or audit logging?
9. On termination, how is our data returned or destroyed, and on what timeline?

Appendix E: 90-Day Implementation Roadmap

Firms fail with AI when they try to do everything at once. Start narrow. Get good at two or three workflows. Then expand. Here is the ninety-day path for a criminal defense firm.

Days 1–30: Foundation

WEEK 1: POLICY AND TOOLING

— Designate an AI Policy Supervisor. In a small firm, usually the managing partner.

— Confirm Florida technology-CLE compliance under Rule 6-10.3(b). If short, register for an approved AI CLE now.

— Pull your malpractice policy and read the technology and cyber endorsements. Email the carrier with your AI coverage and disclosure questions.

— Audit current tool use honestly. Ask what AI is already running inside Lexis, Westlaw, your case-management system, and any standalone tools staff adopted.

— Select starting tools: one research AI, one document-review tool, one enterprise general-purpose model, each with a DPA.

WEEK 2: TRAINING

— Run a 60-minute firm training on the AI policy, the data-classification framework, and the approved tools.

— Walk through three live examples: one safe use, one that requires caution, one prohibited use.

— Add the Appendix B disclosure to your engagement letter.

— Post the approved tool list where staff can see it.

WEEKS 3–4: PILOT

— Pick one high-volume, low-risk workflow to pilot: charge/case summaries or discovery inventory are natural starts.

— Have one attorney run the pilot and document time saved, quality, and any near-misses.

— Adopt the Appendix A governance policy, customize it, and have all staff sign the acknowledgment.

Days 31–60: Build Proficiency

— Implement AI-assisted first drafts for motions, discovery review, and client communications.

— Build the verification gate into every research and drafting workflow: no citation filed, no deadline docketed, no scoresheet relied on, without independent confirmation.

— Build the firm prompt library from this playbook, customized to your case mix.

— Train the team on the document-review and transcript tools, and on Tier-4 data handling.

Days 61–90: Optimize and Expand

— Measure time saved per matter type and confirm your hourly and JAC records reflect the actual hours.

— Move AI into discovery and machine-evidence review on an active matter, inventory every machine-generated exhibit and build the reliability challenge.

— Start the digital-evidence and warrant-timeline review at intake on every case with a seized device, the opportunity in the emerging-issue chapter.

— Update the approved tool list and policy, and schedule the annual review. Check the Bar, the Florida Supreme Court, and your courts' orders for new AI directives.

WHAT SUCCESS LOOKS LIKE AT DAY 90

Every lawyer and staff member knows which AI tools are approved and which are not.

Every AI-generated deadline is verified against the rule and docketed by hand.

Every AI-generated citation is verified against a primary source before it appears anywhere it can be seen.

Every sentencing calculation is recomputed by a lawyer, and every non-citizen plea is checked for immigration consequences.

No client's recorded statement, juvenile record, or sealed record has gone near a tool without a DPA.

The AI Policy Supervisor can show, in writing, what is approved, who has been trained, and how the firm responds when something goes wrong.

Appendix F: Key Authorities

Authorities and source materials cited in this Playbook. Official primary sources are used where available; the ABA article is commentary and the Moschella link is a reproduced court opinion. Verify current authority, amendments, and case status before client use.

Speedy Trial and Deadlines

- Fla. R. Crim. P. 3.191, speedy trial (amended eff. 7/1/2025) — source
- FDLE, Seal and Expunge Process (processing time) — source
- Fla. Stat. §775.15, statute of limitations — source
- Fla. Stat. §943.0585, expunction — source
- Fla. Stat. §943.059, sealing — source

Sentencing

- Fla. Stat. §921.0024, Criminal Punishment Code scoresheet — source
- Fla. Stat. §775.087, 10-20-Life firearm mandatory minimums — source
- Fla. Stat. §893.135, drug trafficking mandatory minimums — source
- Fla. Stat. §775.084, habitual/violent career criminal — source
- Fla. Stat. §775.082(9), prison releasee reoffender — source

Search Warrants

- CS/HB 359 (2026), Ch. 2026-177, Laws of Florida, eff. 7/1/2026 — source
- CS/CS/CS/HB 1371 (2025), 45-day interim device-warrant execution window — source
- Fla. Stat. § 933.05 (device seizure and warrant return) — source
- Fla. Stat. § 933.07 (remote warrant application) — source
- Fla. Stat. §934.50, Freedom from Unwarranted Surveillance Act (drone warrants) — source
- Fla. Stat. §934.23, out-of-state electronic-communications disclosure — source
- Moschella v. State, 413 So. 3d 851 (Fla. 2d DCA Apr. 9, 2025) (No. 2D2023-0044) — source

Evidence and Suppression

- In re Amendments to the Florida Evidence Code, No. SC19-107 (Fla. May 23, 2019), adopting the Daubert standard for §90.702 — source
- Fla. Stat. § 90.702 (expert testimony) — source
- Advisory Committee on Evidence Rules, May 2026 report (Rules 707 and 901(c)) — source
- Proposed Federal Rule of Evidence 707, machine-generated evidence (under study) — source
- Brady v. Maryland, 373 U.S. 83 (1963) — source
- Crawford v. Washington, 541 U.S. 36 (2004) — source

Effective Assistance and Collateral Consequences

- Strickland v. Washington, 466 U.S. 668 (1984) — source

— Padilla v. Kentucky, 559 U.S. 356 (2010) — source

Florida Legal Ethics and Recording

— Florida Bar, current Rules Regulating The Florida Bar, Chapter 4 — source

— Fla. Stat. § 934.03 (prior consent to interception) — source

— Florida Bar Ethics Opinion 24-1 (Jan. 19, 2024) — source

— In re Amendments to Rules Regulating The Florida Bar — Chapter 4, 393 So. 3d 137 (Fla. 2024) (SC2024-0032), eff. 10/28/2024 — source

— Rule 4-1.5(f)(3)(B), Rules Regulating The Florida Bar, contingent-fee prohibition in criminal cases — source

Court Citation Rule

— Florida Supreme Court Opinion SC2026-0673, amending Fla. R. Gen. Prac. & Jud. Admin. 2.515(d)(2) — source

— Administrative Order AOSC26-12 — source

AI in Criminal Justice

— ABA Criminal Justice article (2026; commentary, not primary law) — source

— U.S. DOJ, Artificial Intelligence and Criminal Justice report (Dec. 2024) — source

Case Law

— Capital Standard, LLC v. U.S. Bank National Association, No. 2D2024-1392, 2026 WL 2450571 (Fla. 2d DCA Aug. 21, 2026) — source

About Actionable AI

Actionable AI is a solo AI-adoption consultancy for small law firms. Founded by Greg Yates, a former Big Law corporate equity partner at Steptoe (NYC Managing Partner) and Seyfarth Shaw, it exists because most firms have nowhere to turn for honest, practice-area-specific AI guidance. The big consultancies do not know your practice. The vendors are not neutral. The CLEs are too general. And the firm down the street is guessing the same way you are.

The firm works only with small law firms in Florida. Not tech companies. Not generic small businesses. Law firms. The specificity is the point. Every recommendation, prompt, and policy is tested against actual Florida Bar guidance, actual Florida and federal law, and the actual workflow of the practice it is written for.

What We Do

— **AI readiness assessments:** where your firm is, where the gaps are, what to fix first.

— **Implementation support:** selecting tools, negotiating enterprise agreements, building governance that holds.

— **Prompts and training:** building the firm-specific prompt libraries and workflows that actually get used.

— **Ongoing advisory:** as the tools and Bar guidance change, your implementation changes with them.

Who This Playbook Is For

The managing partner of a small Florida firm that defends people accused of crimes, who knows AI matters, has probably experimented with it, and wants a practical roadmap from someone who has done the work. If that is you, this playbook is the first step. The conversation about your specific practice is the next one.

READY TO IMPLEMENT AI IN YOUR DEFENSE PRACTICE?

Book a free 15-minute assessment call to discuss (https://actionableai.s.gy/9Ei2uw):

— Which tools fit your case mix and your budget.

— Which two or three workflows to start with for your volume.

— How to build a governance policy your staff will actually follow.

— Florida-specific ethics guardrails for your practice, your circuit, and your judges.

— Whether your caseload includes seized-device and machine-evidence cases ripe for a reliability or suppression challenge.

No pitch. No deck. No obligation.

actionableai.net · Greg Yates · gyates@actionableai.net

Actionable AI

Download the free Florida AI Starter Playbook.

Eight practical resources for managing partners and firm administrators: a readiness checklist, five pilot workflows, a tool-approval scorecard, a lawyer verification checklist, and a 90-day plan. It is free, and the button below downloads it directly.

Scan to download the Starter Playbook

Download the Starter Playbook (PDF)

Direct download: Florida AI Starter Playbook (PDF)

Want a second set of eyes on which workflow to pick?

I take 15-minute calls with managing partners and administrators. I will tell you whether there is a fit. No deck.

Book a 15-minute introductory call

Book a 15-minute introductory call