



Artificial Intelligence in the Treatment Courts

**Balancing Innovation, Transparency, and Judicial
Responsibility**

Judge Brian MacKenzie (Ret.)

Justice Speakers Institute

Today's Agenda

Artificial Intelligence in the Treatment Courts

01 What AI Is — and Isn't

Definitions, limitations, and common misconceptions

02 Types of AI in the Courtroom

Rule-based, statistical, visual, audio, LLM & hybrid systems

03 How AI Enters Treatment Courts

Reports, scoring, monitoring, and hybrid workflows

04 Evidence Rules That Apply

Frye, Daubert, Rule 702, and Proposed FRE 707

05 The Five Guardrails

Transparency, validation, oversight, procurement & review

06 Judicial Leadership

Questions to ask, what to avoid, and preserving legitimacy

How Many Of You Are Using AI?



Familiarity with AI: Which Group Are You In?



ARTIFICIAL INTELLIGENCE

Lack of true understanding
Decide all based on algorithms
(if-then-else logic)

Lack of genuine emotions
Predefined rules

AI has no sense of humor or wit



ERROR

AI can't design the
humanities, ethics
rules in the absence of
input of emotion.

AI can't desire an
outcome, emotions
can't be programmed
into machines as
human beings.

AI can't
discriminate between
right and wrong.

Even in
simple
situations

AI Is Not intelligent intelligent

AI does not exercise
exercise legal
judgment or human
human reasoning

AI generates outputs
based on patterns
and follows human-
designed rules

Impact depends on design, data, and use

It Is Not One Technology

- Optimization tools
- Perception systems
- Rule-based systems
- Statistical models
- Text generation



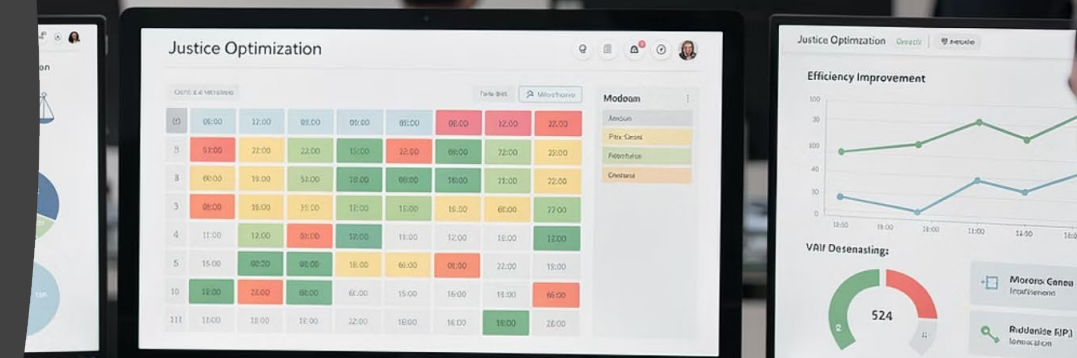
Optimization Tools

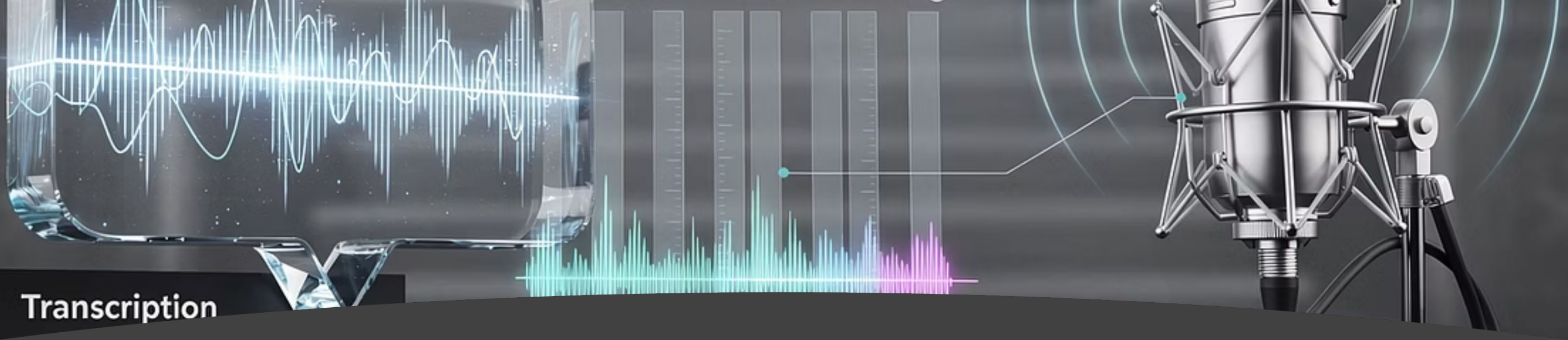
1 Manage schedules

2 Allocate resources

3 Improve efficiency

4 Indirectly influence outcomes





Perception Systems: Audio and Video

1

Transcription and monitoring

2

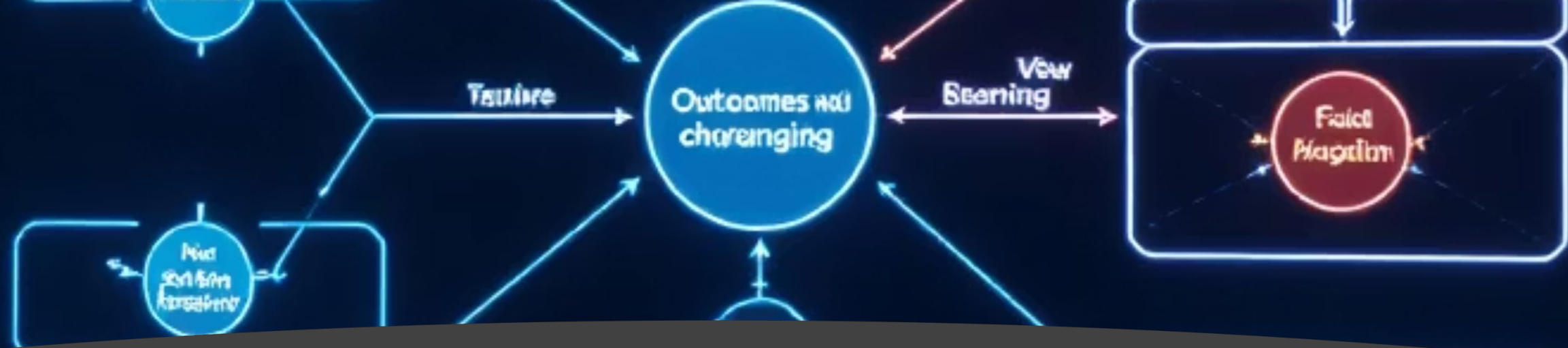
Process sound patterns, not meaning

3

Sensitive to noise

4

Errors often go unnoticed



Rule-Based Systems

Follow fixed instructions

Do not learn or change

Outcomes reflect human design

Appear neutral but enforce policy choices

Statistical Models

1

Often called risk assessment tools

2

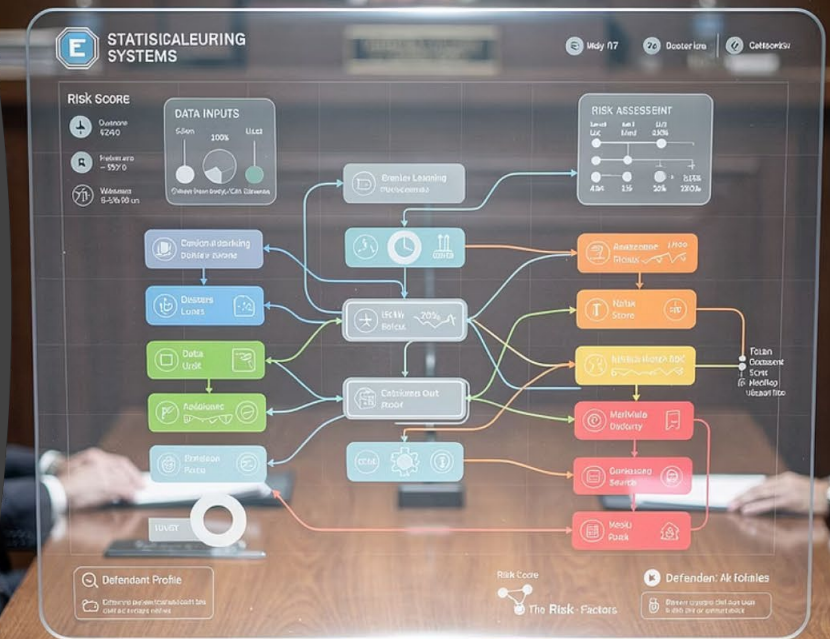
Compare individuals to groups

3

Produce probability estimates

4

Does not make individualized judgments





Predictive Scores and Indicators

Outputs, not decisions

Numbers, labels, alerts

Summarize likelihoods

Obscure underlying reasoning

Text Generation: Large Language Models

Generate text by
prediction

1

2

Do not verify facts

3

Can sound confident
and can be wrong

4

Legal risks



Hybrid Systems

1

May Include Generative AI

2

Combine scoring, monitoring, and rule-based tools

3

Can appear to make decisions

Three Functional Categories

■ Administrative tools

■ Perception Systems

■ Decision shaping



Administrative systems

1

Optimization tools (primary)

2

Some rule-based workflows (secondary)

3

Case management and reporting systems (implicit)



TREATMENT COURT

Administrative Systems: organize how cases are handled.

1

Scheduling algorithms

2

Caseload distribution systems

3

Violation thresholds

ELIGIBILITY
SCREENING

FORENSIC
EVIDENCE

FUT RULE ENFORCEMENT

Violations Condition Only



AD Scott Foster
Sergeant at Law
Wario that one side out or
the other side.

- Good the first time to bring out the
the A thing one. To that this
and the rules.
- Don't be late the three times
that the first time the first time
that the first time.
- Don't be late the three times
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PATIENTS
CONDITIONS.

MOSKALE
VIOLATION

FUT TREATMENT COURT



Scott Foster

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ACTUAL

AUTOMATIC
EXCLUSIONS

TO: RATIONE
EDUPLICATIONS

Sound Processing

Perception Systems

1

Convert audio, video, and images into usable outputs

2

Transcripts

3

Facial recognition (image → identity)

4

Video analysis (footage → labels/clips)

Perception Systems: Risks

1

Replace original evidence with processed outputs

2

Highlight some information and exclude the rest

3

Strip context (tone, environment, intent)

4

Introduce errors that appear as facts

Decision-Shaping Systems

1

**Statistical Models
(Primary)**

2

**Rule-Based Systems
(Execution Layer)**

3

**Hybrid Systems
(Integrated Workflows)**

Core Decision Making Functions

1

Compare individuals
to groups

2

Produce probability
estimates

3


Do not make individualized
judgments



Risk Score: Low

The Risk

- 1** Simplicity creates authority
- 2** Estimates appear objective
- 3** Often treated as conclusive
- 4** Discretion narrows

A man in a dark suit stands in a courtroom, gesturing towards a futuristic, glowing interface. The interface displays various data visualizations, including a world map, a bar chart, and a line graph. The text on the interface includes "AI OUTPUT: CONSEQUENCE ANALYSIS", "SPECIFICATION", "KEY FINDINGS", "GLOBAL DISINFORMATION IMPACT", and "RECOMMENDATIONS". The courtroom is dimly lit, with light coming from windows in the background. Other people are seated at a long table in the foreground, watching the presentation.

AI Outputs Should Be Treated As Potential Evidence

Scores influence sanctions

Reports shape perception

Alerts trigger consequences

Traditional Evidence Rules Apply

Frye where applicable

Daubert and Rule 702

Reliability required

Judges are gatekeepers



Rule 702 Considerations

- Reliability must be shown
- Not assumed
- Proper application matters





Proposed Federal Rule of Evidence 707

Proposed Rule of Evidence 707 would treat “machine-generated evidence” to the same admissibility standard as expert testimony.

To be admissible, the proponent of the evidence must show that the AI output is based on sufficient facts or data, produced through reliable principles and methods, and demonstrates a reliable application of the principles and methods to the facts.



Core Principles of Proposed FRE 707

Courts must know AI was used

Disclosure before admission

Transparency is foundational

The Five Guardrails

1

Transparency

2

Validation

3

Human oversight

4

Ethical procurement

5

Continuous review

Guardrail One: Transparency

Understand tools

Disclose AI use

Avoid black boxes





Guardrail Two: Validation

1

Independent testing

2

Error rates

3

Bias review



Guardrail Three: Human Oversight

1 Is data retained

2 Is data used to train outside models

3 Does the system provide audit trails

4 Are the outputs reproducible

5 Does it cite back to source material

6 What are the contractual confidentiality protections



Guardrail Four: Ethical Procurement

1

Vendor disclosure

2

Defense access

3

No trade-secret shield

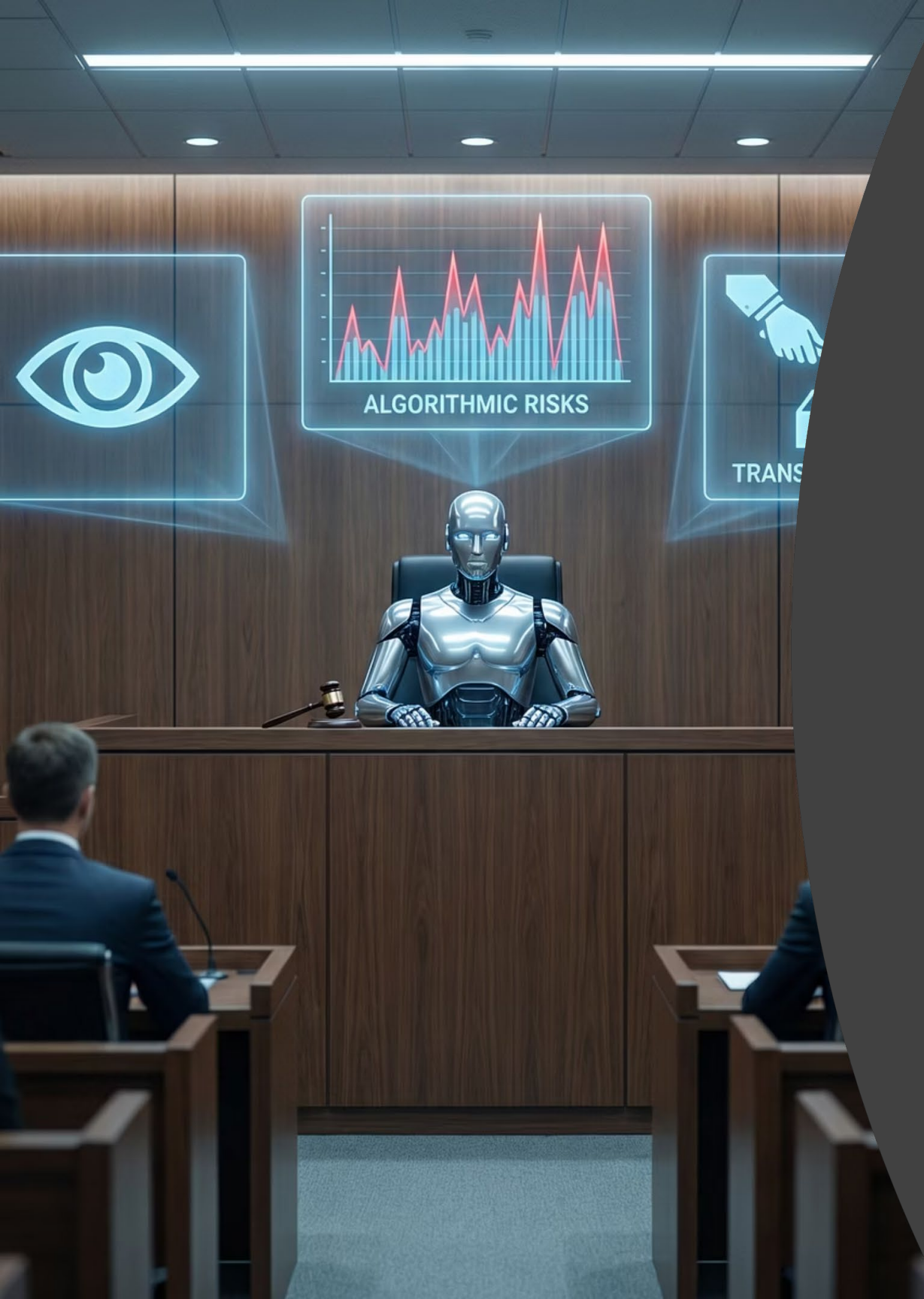
Guardrail Five: Continuous Review

Ongoing audits

Monitor outcomes

Suspend if needed





What Courts Should Avoid

Silent AI adoption

Treating scores as facts

Delegating judgment

A photograph of a judge in a courtroom, viewed from the side, writing in a notebook. In the background, a panel of judges is seated on a bench. The image is dimly lit and has a dark overlay.

Judicial Leadership

Ask questions

Demand explanations

Preserve legitimacy

Questions to Ask

TRANSPARENCY

- What type of AI is this — rule-based, statistical, or hybrid?
- What data was it built on, and how old is it?
- What variables does it use — and exclude?

VALIDATION

- Has this been independently validated?
- What is the documented error rate?
- Has it been tested for racial or socioeconomic bias?

HUMAN OVERSIGHT & DATA

- Is participant data retained or used to train your models?
- Does the system produce a full audit trail?
- Who has access to the data we enter?

ETHICAL PROCUREMENT

- Will you disclose your methodology to defense counsel if challenged?
- Does your trade-secret policy limit our ability to contest outputs?
- What is your policy if a court orders full disclosure?

CONTINUOUS REVIEW

- How will we be notified if the model is updated or changed?
- Who is accountable when an output harms a participant?
- Under what circumstances will you suspend or recall the tool?

WALK AWAY IF...

- Vendor can't explain the tool in plain language
- No independent validation or bias testing exists
- Trade-secret rules would prevent any court challenge

If a vendor cannot answer these questions clearly — that itself is an answer.

Closing

A faint, grayscale background image of a pair of scales of justice. In the center of the scales is a globe of the Earth, showing the Americas. The scales are balanced, and the background is a dark gray.

AI is already shaping decisions in your courtroom

It will not ask permission

It will not announce itself

The question is not whether you use it

The question is how you control it

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**Thank You For Your
Kind Attention**

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m**

Judge Brian MacKenzie (Ret.)

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