

WEBINAR | STATE BAR OF TEXAS CRIMINAL JUSTICE SECTION

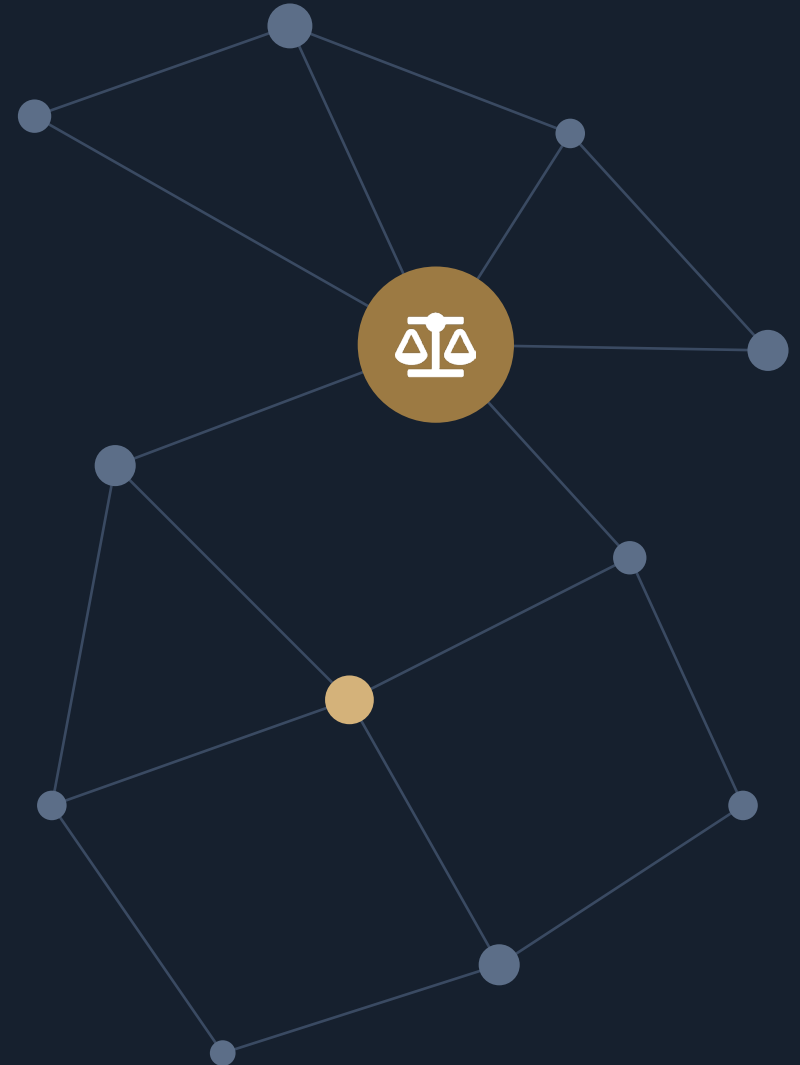
# How AI Can Make You a Better Lawyer

How AI can make you a faster, more thorough defense lawyer, and how to use it safely

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# What you'll leave with



**Where AI saves real time**



**What it looks like on a real file**



**Ethical considerations and guardrails**

**Used carefully, AI makes a defense lawyer faster, more thorough, and more effective.**

# 01

## The Technology

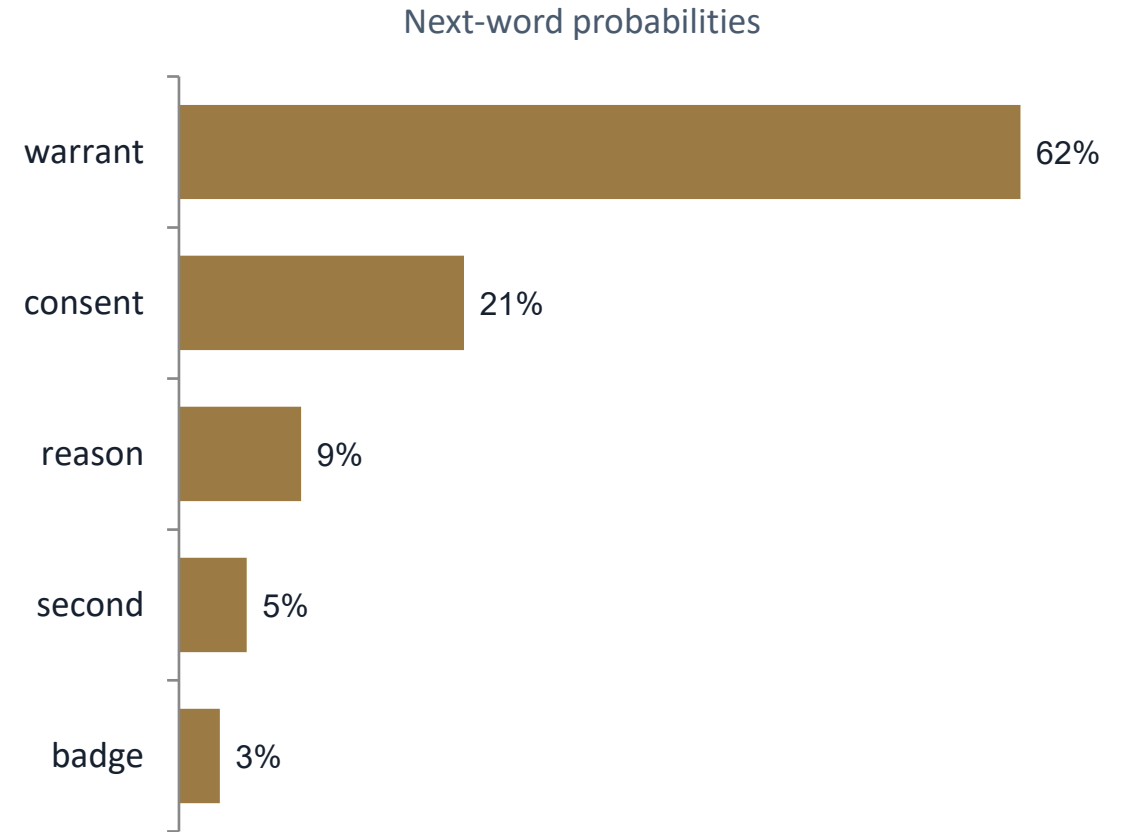
How it works · How fast it's improving · The tools · What it costs

# It predicts the next word or portion of a word (“token”)

PROMPT

*“The officer read the text messages without a \_\_\_\_”*

- **Training** on vast amounts of text builds the knowledge
- **Post-training** shapes it into a helpful assistant
- **Each word/token is a probability**, not a search in a database



*Probabilities are illustrative.*

# Available tools



## General-purpose

ChatGPT • Claude • Gemini • Copilot

**Strength** Flexible and inexpensive; strong at drafting, summarizing and analysis

**Watch** Consumer tiers; no built-in check against real case law



## Legal-specific

CoCounsel (Westlaw) • Lexis+ AI • Harvey

**Strength** Answers grounded in a real case-law database

**Watch** Fewer fake citations — not zero; higher cost



## Criminal niche

e.g., JusticeText, Reduct.Video: body-cam and jail-call review

**Strength** Built for media review

**Watch** Vet data handling like any other vendor

# The tier matters more than the brand

## Ask before you upload anything



Does it train on my inputs?



How long is my data kept?



Who can access it?



What do the terms say about confidentiality?



Can I control history and retention?



### Rule of thumb

Consumer and business tiers of the same product can have very different data terms.

# What it costs



Value

Extremely low cost to benefit ratio

| Category                                       | What it costs                                                                                                                                              | Note                                    |
|------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|
| General-purpose, individual                    | About \$20/month: ChatGPT Plus, Claude Pro, Google AI Pro, Microsoft 365 Premium                                                                           | Consumer terms                          |
| General-purpose, business                      | \$20–25 per seat/month: ChatGPT Business (2-seat minimum), Claude Team. Copilot Business: \$21 add-on. Gemini: included in Google Workspace from \$14/user | Admin and data controls                 |
| Legal platforms (CoCounsel, Lexis+ AI, Harvey) | Quote-based                                                                                                                                                | Often sold with a research subscription |
| Criminal niche (e.g., JusticeText)             | Custom pricing                                                                                                                                             | Built for defense discovery review      |

U.S. list prices as posted by vendors, September 2026

# 02

## Use Cases: State v. Mercer

Five everyday tasks on a fictional case file

## THE CASE

# State v. Daniel Rowan Mercer

### WHAT HAPPENED

A fight in a bar parking lot. Daniel Mercer shot Nolan Price in the leg.

### CHARGE

Aggravated assault with a deadly weapon

### DEFENSE

Self-defense. Mercer says Price threatened to get a tire iron and came back at him.

### THE FILE

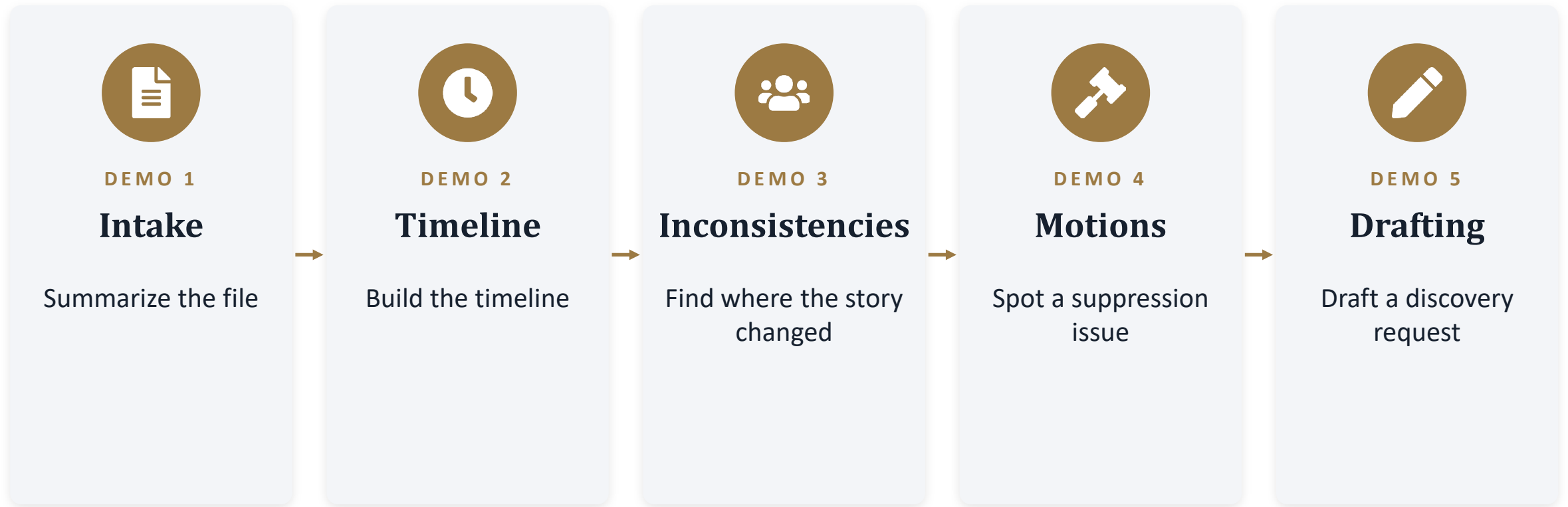
Police reports, 911 calls, body-cam logs, bar video logs, phone records, lab and medical records

# 95

pages of State discovery

D-000001 to D-000095

# Five everyday tasks



# Summarize the file

## PROMPT

*“Summarize this discovery for a defense lawyer in one page: what happened, who the witnesses are, and what the defense is. Cite page numbers.”*

## RESULT

95 pages become a one-page, cited summary.

## What you get



The incident



The four eyewitnesses



The charge



The self-defense claim

# Build the timeline

## PROMPT

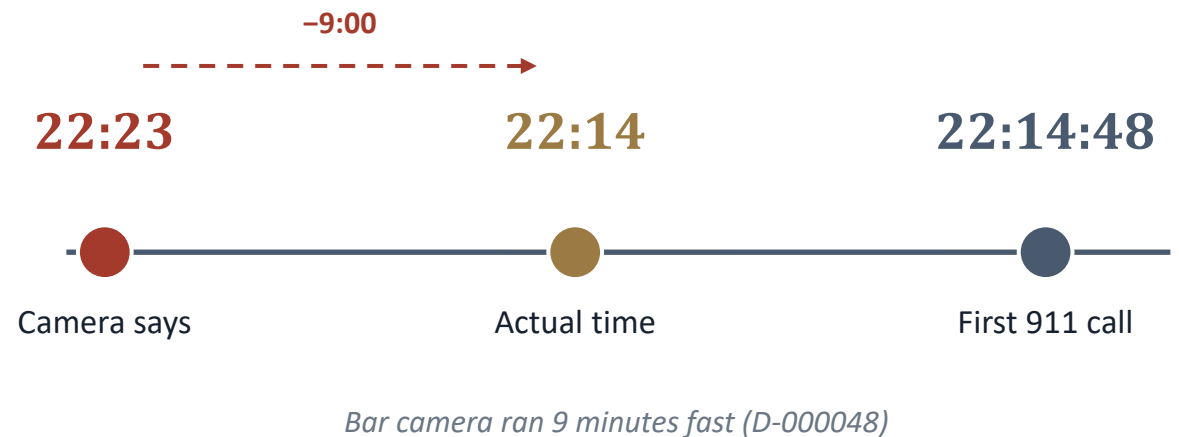
*“Build a timeline of the night from all the documents. For each entry, give the time, what happened, and the source.”*

## FOLLOW-UP

*“The bar’s camera clock may be off. Use the clock worksheet at D-000048 to correct the camera times, then flag any document that used the wrong time.”*

## RESULT

The camera ran 9 minutes fast. Corrected, the shot lines up with the first 911 call, and the probable cause affidavit used the wrong time.



# Find where the story changed

## PROMPT

*"List every statement Nolan Price made about the fight, to police, EMS, and hospital staff. Where does his story change? Cite each."*

## RESULT

Three versions of the same moment, each with a page cite, and one of them helps the defense.

***"Might have caught his sleeve"***

Field interview · D-000028

***"Never touched him"***

Follow-up · D-000030

**Shoved him, went for a tire iron**

To EMS · D-000077

# Spot a suppression issue

## PROMPT

*“Did the officer have a legal basis to read Mercer’s text messages? Walk through the facts with page cites, then the Texas and Fourth Amendment law.”*

## RESULT

Mercer let the officer use his phone to make a call, not to read his messages, and he objected on camera.



**Consent**  
to make a call

D-000012



**Objection**  
on camera

D-000045

# Draft a discovery request

## PROMPT

*“List everything this file mentions that the State hasn’t produced. Then draft a letter to the prosecutor requesting those items under article 39.14 of the Texas Code of Criminal Procedure. Put it in a Word document.”*

## RESULT

A gap list and a first-draft letter, ready for your edits.

## What it found missing



A witness’s position sketch



A video clip on the bar manager’s phone



The original video files

# Draft cross-examination outlines for the State's witnesses

## PROMPT

*"Draft cross examination outlines for the State's witnesses. If there is information in the reports or other evidentiary items that can be used that may be useful for impeachment, reference those next to the question. Output a Word document."*

## RESULT

An organized cross-examination outline for each prospective witness with cites to support for the questions.

### Included on its own initiative



Themes



Evidentiary authority



Additional items to follow up on pretrial

# Other uses worth a look



## Sentencing

Guidelines cross-checks and sentencing-memo drafts



## Mitigation

First drafts of mitigation narratives



## Client letters

Plain-language explanations of process and options



## Translations

Foreign language witness statements



## Media at volume

Jail calls and body cam, summarized and indexed



## Legal Research

Preparation for pretrial issues and those that may arise in trial.

# 03

## Using AI Wisely and Safely

Where it fails · Ethics rules · Privilege · Discovery · AI as evidence

# What the ethics opinions say



## Texas Opinion 705

Feb. 2025

- Competence under Rule 1.01 includes understanding how the tools work and verifying output
- Protect confidential information
- Vet the tools; train your staff



## ABA Formal Op. 512

July 29, 2024

- Competence and confidentiality
- Client communication
- Meritorious claims and candor
- Supervision and fees

### WHERE THEY DIFFER: CLIENT CONSENT

**Texas:** stops short of requiring client consent to use AI tools.

**ABA:** boilerplate engagement-letter authorization isn't enough.

# Hallucinations: verify everything



## *Mata v. Avianca, Inc.*

678 F. Supp. 3d 443 (S.D.N.Y. 2023)

Counsel filed ChatGPT-fabricated cases and kept relying on them after they were challenged.

## Verification protocol

1

### Pull every cited case

Read it. Don't trust the summary.

2

### Confirm every quote and pin cite

Word for word, page for page.

3

### Check your courts' rules

Standing orders and local rules may require AI disclosure or certification.

## CLOSER TO HOME

**Proposed Tex. R. Civ. P. 13(c)(1) and Tex. R. App. P. 9.1(d):** signing certifies that citations, quotations, and holdings are not fabricated (Misc. Dkt. No. 26-9054).  
**S.D. Tex. General Order 2025-04:** counsel answer under Rule 11 for anything AI helped draft.

# The Heppner problem



## *United States v. Heppner*

No. 25-cr-00503-JSR (S.D.N.Y. Feb. 17, 2026)

- A criminal defendant's documents generated with consumer Claude: not privileged, not work product
- Counsel-directed use might come out differently — still open

## What to do now



### Written client warning

Tell clients not to use consumer AI to conduct research for their case.



### Engagement-letter language

Address AI use by the firm and by the client.



### Enterprise tier only

Client data goes only into a vetted business or enterprise tool.

# Discovery landmines



## Tex. Code Crim. Proc. art. 39.14(e)

The defense team may not disclose State discovery to a third party absent a court order or prior public disclosure.

**Is uploading it to an AI vendor a disclosure to a “third party”?** Unsettled. The vendor-as-agent argument exists but is untested.

## Check before you upload



Medical Records



Grand jury material



Sealed records



PSRs



**Contraband media —  
never**

# AI as evidence — on both sides of the courtroom



## Deepfakes

Authentication of media from either side is now a live issue.



## *Washington v. Puloka*

No. 21-1-04851-2 (Wash. Super. Ct. King Cnty. Mar. 29, 2024). The defense's AI-enhanced video was excluded under Frye.



## Proposed FRE 707

Stalled. In June 2026 the Judicial Conference's rules committee sent it back for revision and further study alongside deepfakes. No rule in effect.



## The State's AI

AI-drafted police reports and facial recognition create discovery and cross-examination angles.

# Two more duties that don't change



## Supervision

Rule 5.03 applies to AI work product the same way it applies to staff.

*“Looks right” is not “is right.”*



## Fees

ABA 512: bill the time you actually spent.

*Don't pass general AI overhead through as a cost.*

# 04

## The Road Ahead

What it means for your practice and our profession

# What changes for the practice



## Better lawyering

Review everything, not a sample.



## Less work

Same tasks, fewer hours.



## Rate pressure

Downward pressure on what the market will pay.



## Flat fees change the math

Efficiency goes to margin, not lost billables. Rate pressure shows up later, as competition on flat fees.

## MEANWHILE

### The other side will have it too

DA offices, police-report tools, AI-generated pro se filings.

### Clients arrive with AI answers

Expect to manage expectations set by a chatbot.

# Criminal defense is insulated — mostly

## MORE EXPOSED



Discovery review



Chronologies and summaries



Motion drafting



Legal research

## MORE INSULATED



Liberty stakes



Jury trials



In-person court appearances



Client trust



Negotiating with prosecutors

*The paper-heavy work is not insulated. The courtroom and the client relationship are.*

A QUESTION TO LEAVE YOU WITH

**When does not using AI become a standard-of-care question?**

# Questions

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