

CHECKLIST

Discovery and Preservation Readiness Checklist

A proportional, source-aware checklist for preservation, Rule 26 planning, production, privilege, and monitoring.

FEDERAL CIVIL LITIGATION EDITION

A proportional planning aid. Preservation duties and discovery obligations depend on the matter, forum, law, orders, and facts.

PART 1

Preservation trigger and governance

- ☐ Record when litigation became reasonably anticipated and who made the determination.
- ☐ Define the subject matter, parties, claims, defenses, relevant time period, and likely sources without using an overbroad generic scope.
- ☐ Name the legal, business, IT, records, security, and outside-counsel owners for preservation.
- ☐ Issue tailored instructions to relevant custodians and obtain acknowledgement.
- ☐ Document the process, exceptions, escalation route, follow-up cadence, and release criteria.
- ☐ Reassess scope as pleadings, theories, custodians, systems, and orders change.

Trigger date / basis	
Preservation owner	
Matter scope	
Initial custodians	
Systems owner	
Review cadence	

PART 2

Custodians, systems, and sources

Custodian / owner	System / device / location	Data type	Date range	Retention / auto-delete	Preservation action

PART 3

Execution controls

- [] Suspend relevant deletion, retention cycling, mailbox cleanup, device replacement, account closure, and ephemeral-message settings.
- [] Preserve metadata and native format where needed to keep information usable and authenticatable.
- [] Address shared drives, collaboration platforms, mobile devices, cloud applications, databases, backups, archives, and third-party systems.
- [] Record collections with source identity, date, method, hash or other integrity measure, operator, and transfer history.
- [] Limit access, maintain privilege/confidentiality controls, and avoid unnecessary duplication of restricted material.
- [] Validate that holds and technical controls are working; do not rely on issuance alone.

PART 4

Rule 26(f) planning agenda

- [] Claims, defenses, disputed issues, and likely discovery needed for each.
- [] Custodians, systems, ESI sources, accessibility, date ranges, and preservation scope.
- [] Proportionality: importance, amount in controversy, access, resources, burden, cost, and likely benefit.
- [] Phasing, sampling, search methods, technology-assisted review, validation, and dispute escalation.
- [] Form of production, metadata, load files, deduplication, families, time zones, redactions, and encrypted/password-protected files.
- [] Privilege logs, clawback/nonwaiver arrangements, confidentiality, protective orders, and FRE 502 considerations.
- [] Third-party discovery, experts, depositions, interrogatories, requests for admission, and sequencing.

PART 5

Production and quality control

Control	Agreed / ordered approach	Owner	Validation evidence	Exception / escalation

PART 6

Incident and loss response

- [] Stop further loss and preserve available logs, backups, audit records, and replacement devices/accounts.
- [] Identify what was lost, when, how, by whom, from which system, and whether substitutes exist.
- [] Assess relevance, prejudice, intent, proportionality, privilege, notice, and required escalation with counsel.
- [] Preserve the investigation and remediation record; do not silently rewrite the preservation history.
- [] Update controls, custodians, scope, and monitoring based on the root cause.

PART 7

Ongoing monitoring log

Review date	Change in scope / source	Control tested	Finding	Action / owner	Next review

REFERENCE NOTES

Sources, scope, and use

These tools organize litigation work; they do not state the law for a particular case. Federal rules are a starting point only. Always check the controlling substantive law, local rules, standing orders, scheduling order, protective orders, and matter-specific facts.

1. Federal Rules of Civil Procedure, effective Dec. 1, 2025

<https://www.uscourts.gov/sites/default/files/document/federal-rules-of-civil-procedure.pdf>

2. Federal Judicial Center, Civil Litigation Management Manual, 2d ed.

<https://www.fjc.gov/sites/default/files/2012/CivLit2D.pdf>

3. Federal Judicial Center, Manual for Complex Litigation, Fourth

https://www.fjc.gov/sites/default/files/materials/30/Manual%20for%20Complex%20Litigation_Fourth%20Edition_Third%20Printing_2020.pdf

4. U.S. District Court, E.D. La., ESI Discovery Guidelines

<https://www.laed.uscourts.gov/sites/default/files/pdfs/north/E-discoveryGuidelines.pdf>

Juricratic treats every conclusion as something that should remain tied to its source, assumptions, status, and review history. Use the same discipline in every report you produce.

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This publication is general educational information, not legal advice, and does not create an attorney-client relationship. The checklists are not exhaustive. Facts, law, court orders, ethical duties, privilege, confidentiality, and preservation obligations vary by matter and jurisdiction.