



Early Discovery Checklist

A PRACTICAL GUIDE FOR SMALL & BOUTIQUE LAW FIRMS

Developed by Everest Discovery, a security-certified eDiscovery provider trusted by law firms nationwide.

A Checklist to Support You in Early Discovery

Document discovery is a necessary evil that can become a complicated headache. Large volumes of data in multiple places means custodians are often scrambling against aggressive timelines and complicated production demands.

Small and boutique firms feel this pressure even more, and don't have the same resources as their larger counterparts. We've created this helpful checklist to remind clients of their obligations, and why the little things are often the most important.

This checklist is designed to help firms:

- Control the discovery process at the earliest stages
- Spot potential red flags and learn how to avoid them
- Make defensible decisions without micromanaging the process
- Reduce unnecessary review and rework, saving you time and money
- Stay focused on the merits of the case—not small-picture data management

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Case Scoping & Proportionality

Objective: Define the scope of discovery before any data is collected

Over-collection is not only burdensome, but it's a drain on time and resources that quickly becomes counter-productive. Taking a focused approach early on will not only help with analyzing relevant data but can bring everyone added peace of mind.

Steps:

- Identify key claims, defenses, and factual issues
- Identify likely custodians early
- Estimate data volume across email, devices, and cloud platforms
- Define proportionality limits aligned with budget and deadlines
- Clearly document what data will not be collected

RED FLAG:

"Let's collect everything and sort it out later."

2

Preservation & Legal Holds

Objective: Preserve data defensibly and consistently

Data preservation is crucial, but clients should understand why that is, and exactly what is required. Clear communication of legal holds and compliance requirements helps mitigate risk and ensures that data remains secure throughout the collection process.

Steps:

- ❑ Issue written legal holds with clear, plain-language instructions
- ❑ Track acknowledgments and compliance
- ❑ Identify systems with auto-delete or retention policies
- ❑ Update holds as custodians and data sources change

RED FLAG:

Reliance on informal reminders or verbal instructions for data preservation.

3

Data Source Identification

Objective: Avoid late collections and missing data sources

Collecting data for discovery is like packing for a big holiday – it's not something you want to do at the last minute. Relevant data may be in obscure or rarely used places, so creating a comprehensive list of sources early can make retrieval smoother later on.

Sources to Check:

- ❑ Email systems (Microsoft 365, Gmail, on-prem)
- ❑ Local devices (laptops, desktops, mobile phones)
- ❑ Collaboration platforms (Teams, Slack, Zoom chat)
- ❑ Cloud storage (OneDrive, Google Drive, Dropbox)
- ❑ Line-of-business systems (CRM, accounting, case management)
- ❑ Third-party or external data sources

RED FLAG:

Only collecting email and shared drives without paying attention to potential other sources.

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Collection Strategy

Objective: Develop defensible, repeatable collections protocols

Should your data collection be challenged in litigation, a clear and consistent process can help preserve your credibility. Don't reinvent the wheel; incorporate tried and tested methods that are duplicable as required.

Steps:

- Use forensically sound, documented collection methods
- Preserve metadata, timestamps, and file paths
- Avoid self-collection unless necessary
- Maintain a clear chain of custody from the start

RED FLAG:

Custodians exporting their own data without oversight or a clear understanding of the process and its importance.

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Early Data Reduction

Objective: Reduce data volume before review begins

Applying the right filters, removing duplicate and unnecessary pieces, and conducting preliminary analysis avoids wasting time and resources.

Steps:

- Filter out known system and program files
- Apply date filters tied to case facts
- Identify duplicates and near-duplicates
- Use targeted keyword or analytics-based culling
- Apply email threading and domain analysis

RED FLAG:

Loading all raw data directly into review.

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Review Workflow Planning

Objective: Develop a review workflow before review begins

Who is going to conduct the initial review? Who will give a second review for quality control? How are documents being tagged, and how is privilege being identified? Establish these criteria in advance of review to ensure all documents are assessed based on consistent standards and to control cost.

Steps:

- Define review goals related to responsiveness, privilege, and other issues
- Decide who will review (firm attorneys, contract reviewers, or hybrid)
- Establish consistent tagging and coding standards
- Implement QC and escalation procedures

RED FLAG:

Building the workflow as review progresses.

7

Production Planning

Objective: Prevent last-minute production issues

Beyond legal review, the technical details should also be sorted prior to any production. Establish clear specifications for how data will be formatted, how privilege will be logged and identified, and test everything prior to implementation to avoid later catastrophes.

Steps:

- Confirm production format early (TIFF, native, hybrid)
- Address redactions and privilege logging in advance
- Align production specifications with court orders or agreements
- Test productions before deadlines

RED FLAG:

Making production decisions days before a deadline.

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Documentation & Defensibility

Objective: Be prepared to explain the process

If your process comes under scrutiny, you need to be ready to explain it thoroughly. Clear documentation about your process and all decisions made will help you stand up to any potential challenges.

- Document discovery decisions and workflows
- Maintain audit trails and reporting
- Ensure the process can be clearly explained if challenged

RED FLAG:

Making discovery decisions without documenting them.



How Everest Discovery Helps

Everest Discovery supports defense-side and complex litigation teams by handling the heavy lifting of discovery so attorneys can stay focused on strategy.

We provide white-glove service with a lean, practical mindset without:

- Unnecessary processing
- Bloated workflows
- Discovery decisions made on autopilot

If you want a second set of eyes on your early discovery approach—or need help simplifying an existing workflow—we're ready to step in.

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