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Digital Exfiltration & Departing Employees: Protecting Trade Secrets in a Modern Risk Environment

June 18, 2026

Legal Disclaimer

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Agenda

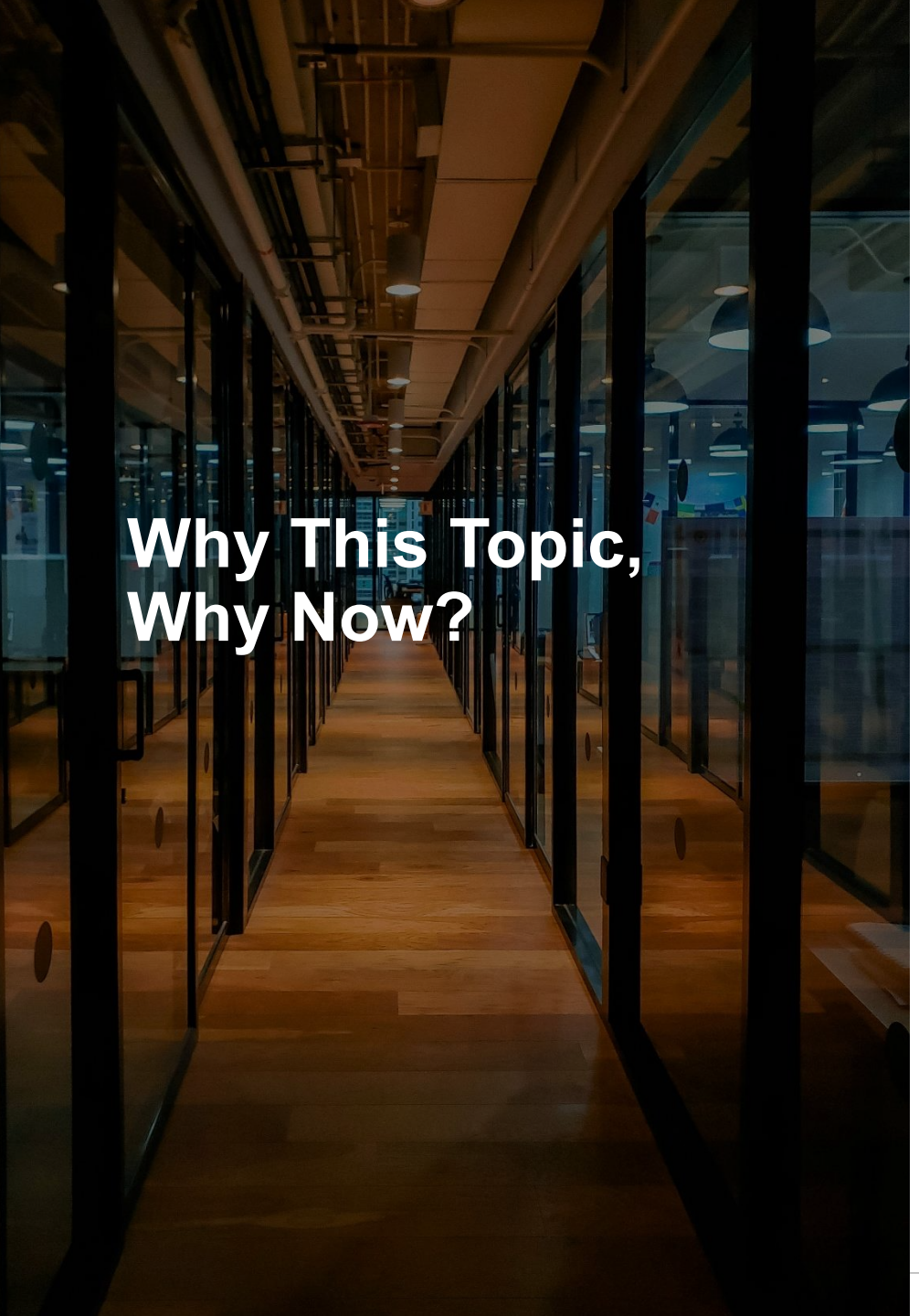
1 | Why This Matters Now

2 | How Data Walks Out the Door

3 | Prevention Strategies

4 | Responding to Departures

5 | Practical Takeaways & Action Plan



The Business & Legal Stakes Are High

- Majority of trade secret misappropriation involves **departing employees.**
  - Exfiltration vectors have multiplied
  - Narrow window to detect and respond
  - **Loss of Competitive Advantage**
  - **Litigation Cost & Disruption**
  - **Reputational & Regulatory Risk**

Understanding the Threat Landscape

How Data Walks Out the Door

Common Exfil Techniques

- USB Devices (thumb drives, hard drives, SSDs)
- Personal computers masquerading as company computers
- BYOD (bring your own device)
  - Backups of personal devices that store company data…
- Cloud Storage (iCloud, Google Drive, Dropbox, etc.)
- Email (Business, Personal)
- Remote Desktop/Control Software (TeamViewer, GoToMyPC, etc.)
- Printed documents
- Photos/Videos using mobile devices/tablets
- AI Platforms

How Data Walks Out the Door

Behavioral Red Flags

- Unusual after-hours access or downloads
- Sudden interest in files outside job scope
  - Requests for access permissions
- Declining performance / disengagement
- Communications with competitors
- Resignation timed to project milestones

High-Risk Data Categories

Know what you have before you can protect it.

CROWN JEWELS

STRATEGIC

RELATIONAL

Customer lists · Sales pipeline · CRM data

OPERATIONAL

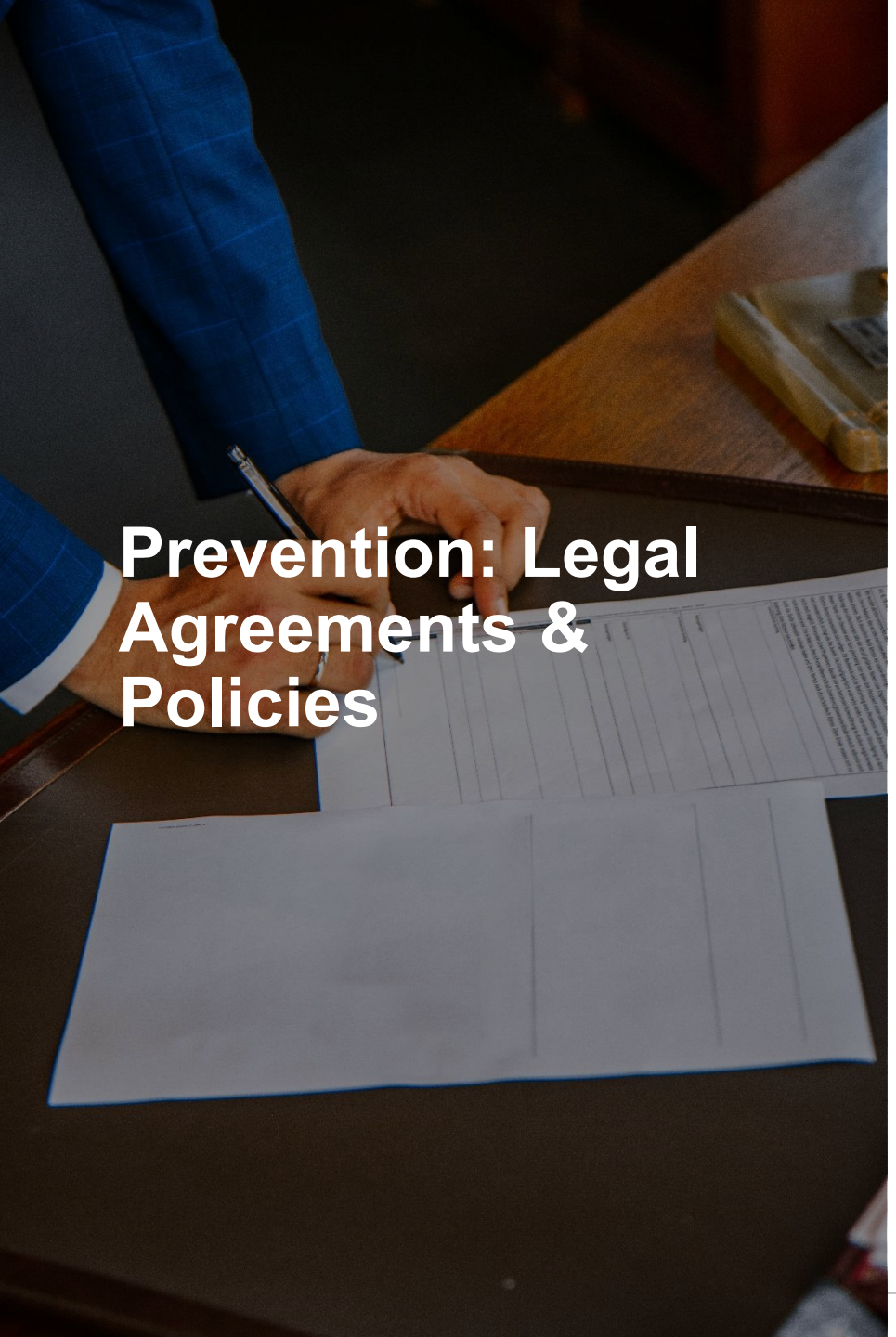
Vendor terms . SOPs · Training materials · Internal processes

The Litigation Lens

Most-litigated categories:

- Source code
- Customer & pricing data
- Product roadmaps

Prevention: Legal Agreements & Policies



Prevention: Legal Agreements & Policies

Employment Agreements

- **NDAs / Confidentiality**
  - Define "Confidential Information" with precision and flexibility
  - Duration, return obligations, and post-employment hooks
  - Assignment of invention
- **Non-Competes**
  - State-by-state enforceability
  - FTC rulemaking developments & status
  - Choice of law and venue strategy
  - Alternatives
- **Non-Solicits (customer & employee)**
  - Customer non-solicits vs. no-hire provisions
  - Employee non-solicits — current enforceability trends
  - Tailoring scope: who, what, how long
  - Pairing with confidentiality for layered protection
- **Return-of-Property & Cooperation**

Prevention: Legal Agreements & Policies

Acceptable Use & Technology Policies

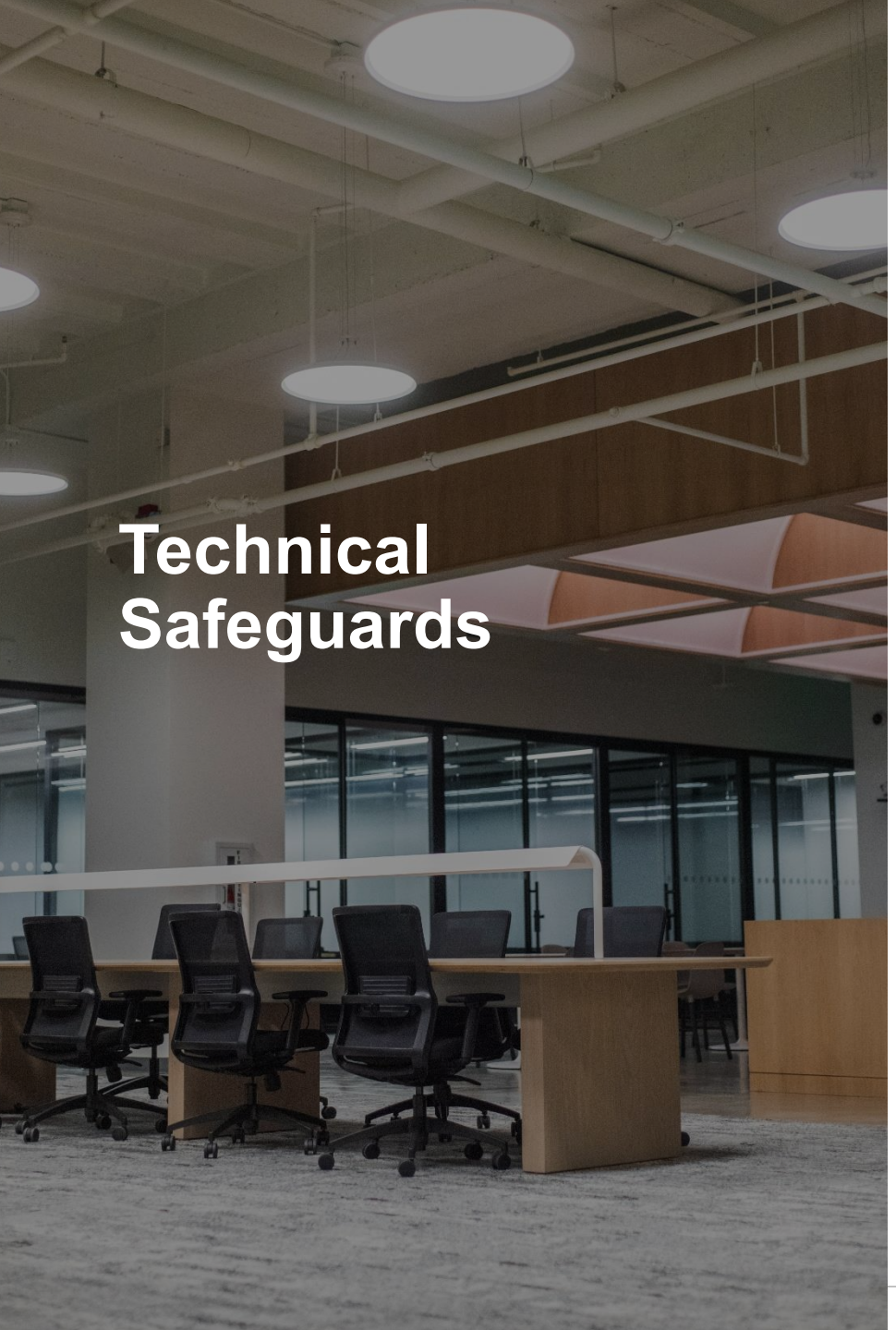
- **BYOD: employer access, remote wipe, segregation**
- **Cloud storage, personal email / Accounts**
- **AI tool use**
- **Social media & LinkedIn**
- **Monitoring & consent disclosures** — and actually monitoring

Prevention: Legal Agreements & Policies

Exit & Offboarding Protocols

- Exit interview — remind of continuing obligations.
- Written certification of return/deletion.
- Re-sign confidentiality acknowledgments.
- Trigger departing employee forensics process where warranted.


Preventive Security
& Technical
Controls



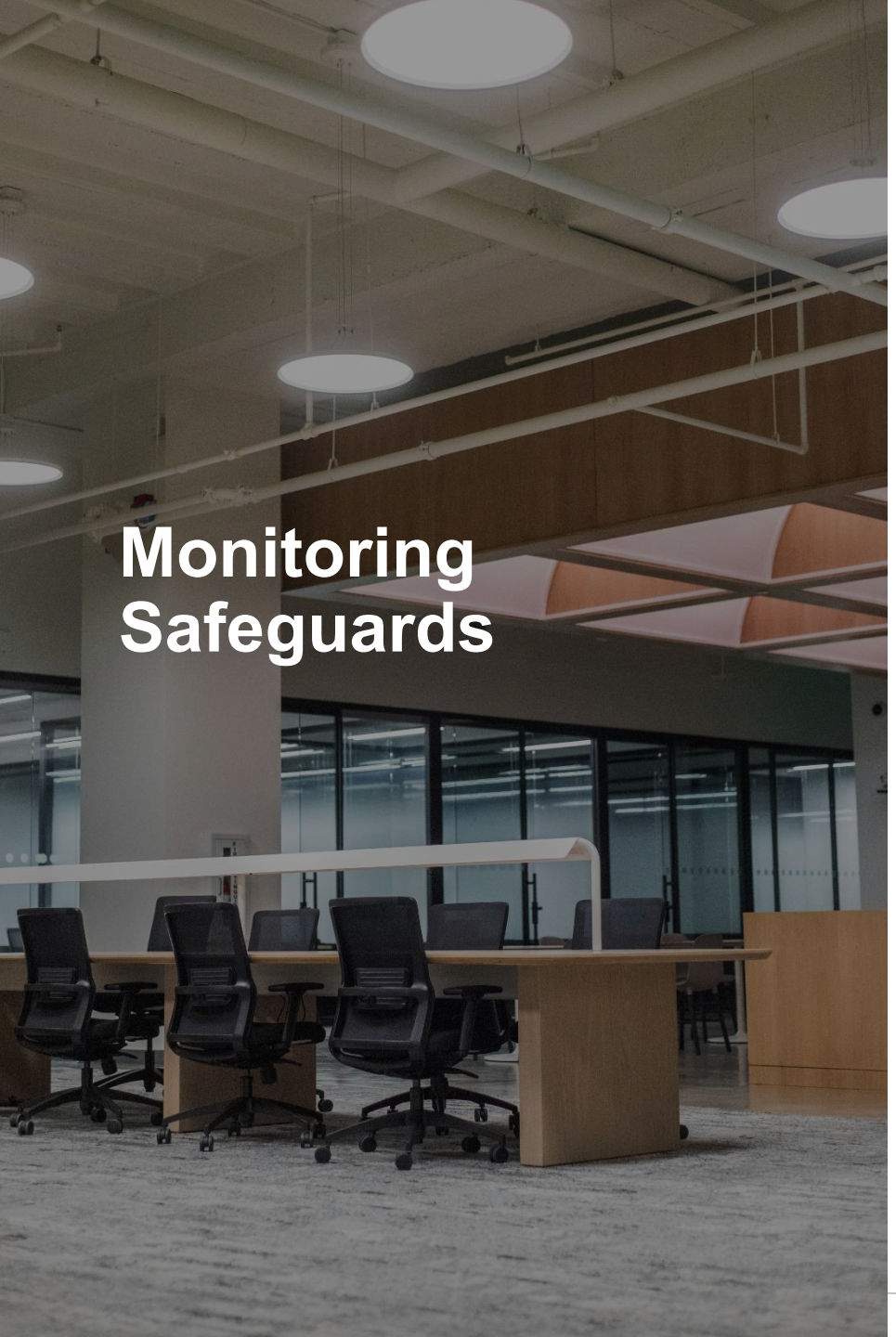
The Technical Control Stack

- **Identity & Access**
  - Least privilege principles
  - Just in Time (JIT) access
  - Multi-Factor Authentication (MFA)

- **Endpoint**
  - Endpoint Detection & Response (EDR)
  - Data Loss Prevention (DLP)

- **Cloud**
  - Cloud Access Security Brokers (CASB)
    - sharing controls,
    - shadow IT discovery

- **Data** classification, tagging, encryption



Employee Monitoring: Legal Guardrails

- Clear, conspicuous notice
- Written consent
- State-law variations (CA, NY, IL, CT, etc.)
- Cross-border considerations

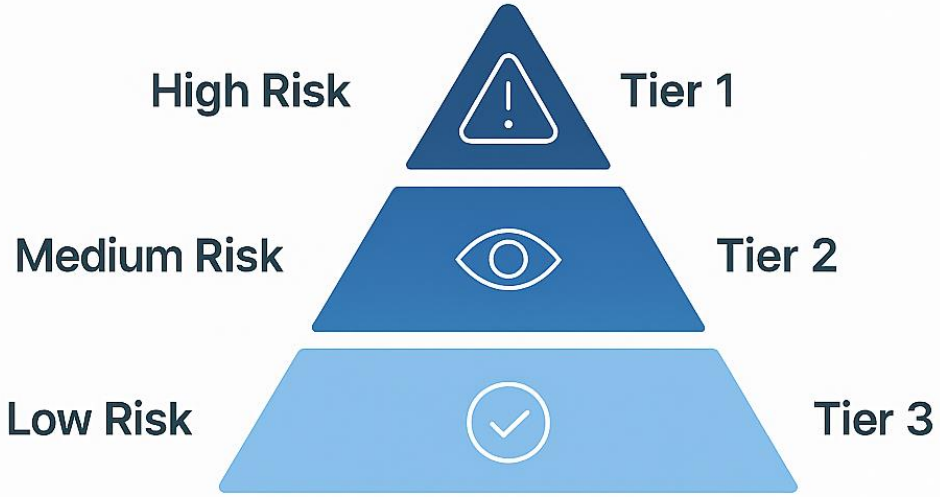

When an Employee
Departs

Triggering an Investigation

Employee Departure Playbook

Risk-Tiered Approach

Not every departure warrants a deep dive



- Proactive forensic review vs. reactive investigation
- Coordinated playbook: HR + IT + Legal + Management

Criteria for Risk-Tiering Rubric Role • Access • Destination • Behavior

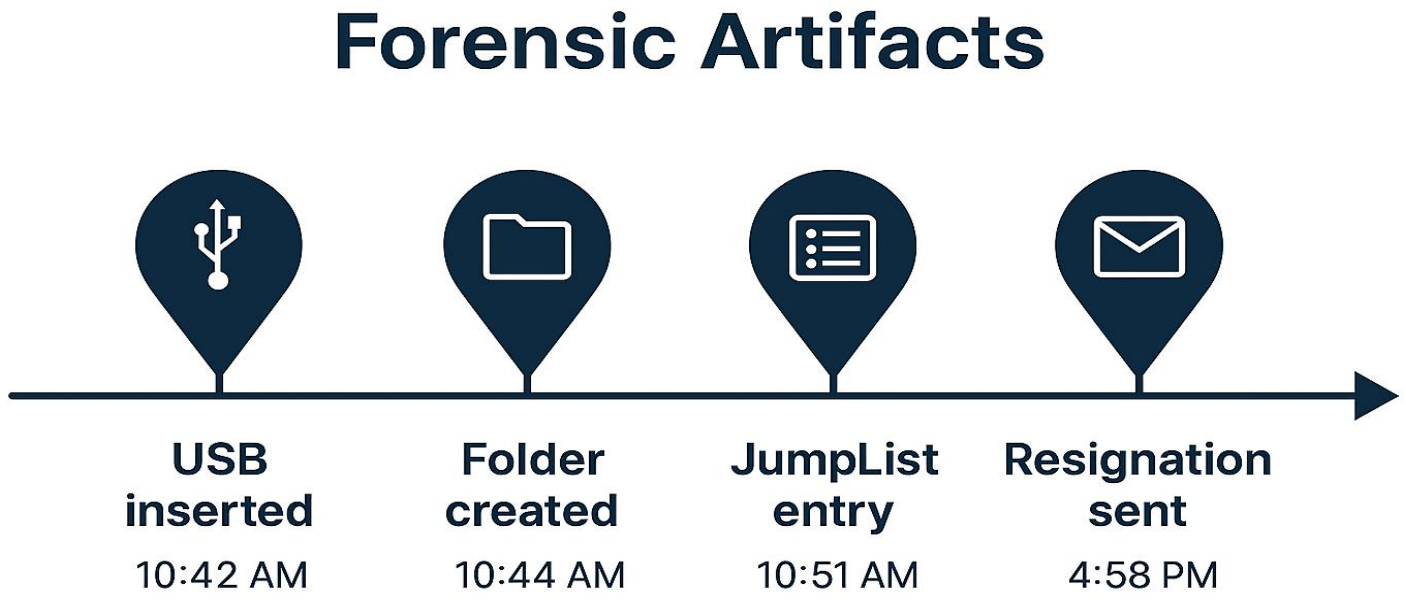
Forensic Preservation & Evidence Collection

- Primary sources:
  - laptop image,
  - email,
  - cloud logs,
  - mobile devices,
  - badge data

- Often overlooked:
  - USB history,
  - browser artifacts,
  - printer logs,
  - chat exports,
  - mobile device pictures, videos, and audio recordings,
  - **AI tool history**

Forensic Investigation

Building the Narrative from Artifacts



- Stitching activity into a coherent timeline
- Corroboration across data sources

What To Do When It Happens

What To Do When It Happens:

Rapid Legal Response

Pre-Litigation: Preservation & Demand

- Litigation hold
- Cease-and-desist strategy and timing
- Demand return, deletion, and certification
- **Emergency & Injunctive Relief**
  - TROs and preliminary injunctions — standards & evidence
  - Expedited discovery & forensic protocols

What To Do When It Happens:

Considerations for the New Employer

New Employer Liability

- Vicarious liability & inducement claims
- Knowledge-based theories (willful blindness)
- Onboarding protocols that protect the company
- Ethical walls, screening, and agreed protocols


Practical
Takeaways

Takeaways

- Prevention is layered
  - legal + policy + technical
- Speed wins
  - the first 72 hours matter most
- Documentation is your best evidence
  - before, during, and after

Action Items

- **Legal & Compliance**
  - Audit & update NDAs, non-competes, IP assignments
  - Document an exit/offboarding protocol with legal and IT checkpoints
  - Map your crown jewels
- **HR & Management**
  - Train managers on behavioral red flags
  - Standardize exit interviews with confidentiality reminders
  - Cross-functional coordination on high-risk departures
- **IT & Security**
  - Inventory & classify sensitive data
  - Tune DLP, logging, and egress visibility
  - Pre-build a forensic preservation playbook
  - Tabletop the departure scenario before you need it

thank you

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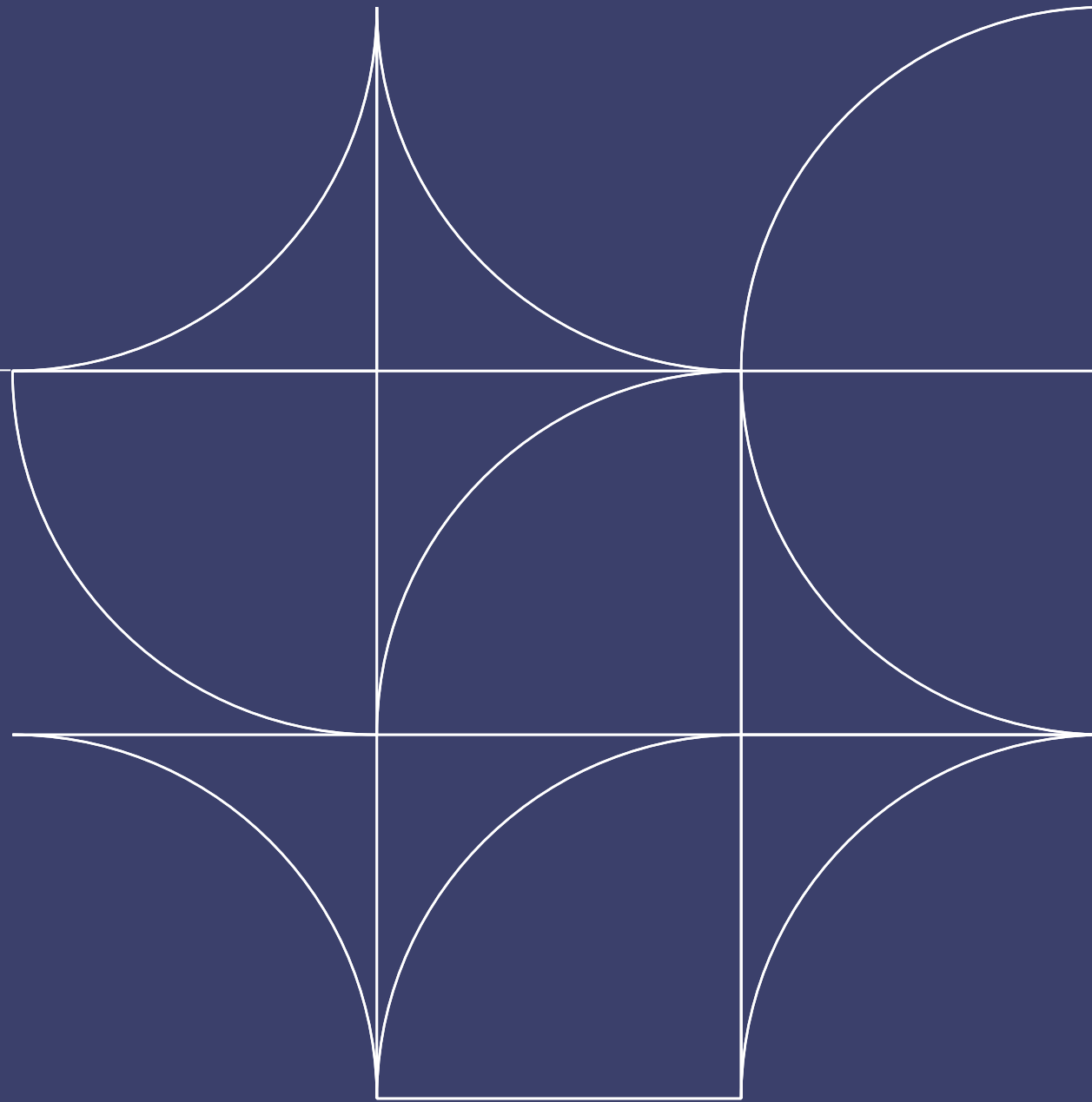

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