Link to resources:
https://sampson.info/2025-iolta-ai

Lee's disclaimer

- The views, opinions, and information I share in this presentation are solely my own. They do not reflect the views, positions, or policies of my employer or any organization with which I am affiliated. Nothing presented should be taken as representing official statements on their behalf. Information about Maryland Judiciary projects is shared with permission.

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- Co-Chair, MSBA AI &Legal Technology Task Force

- https://sampson.info/2025-iolta-ai

WHEN WE LAST LEFT
OUR INTREPID HEROES...
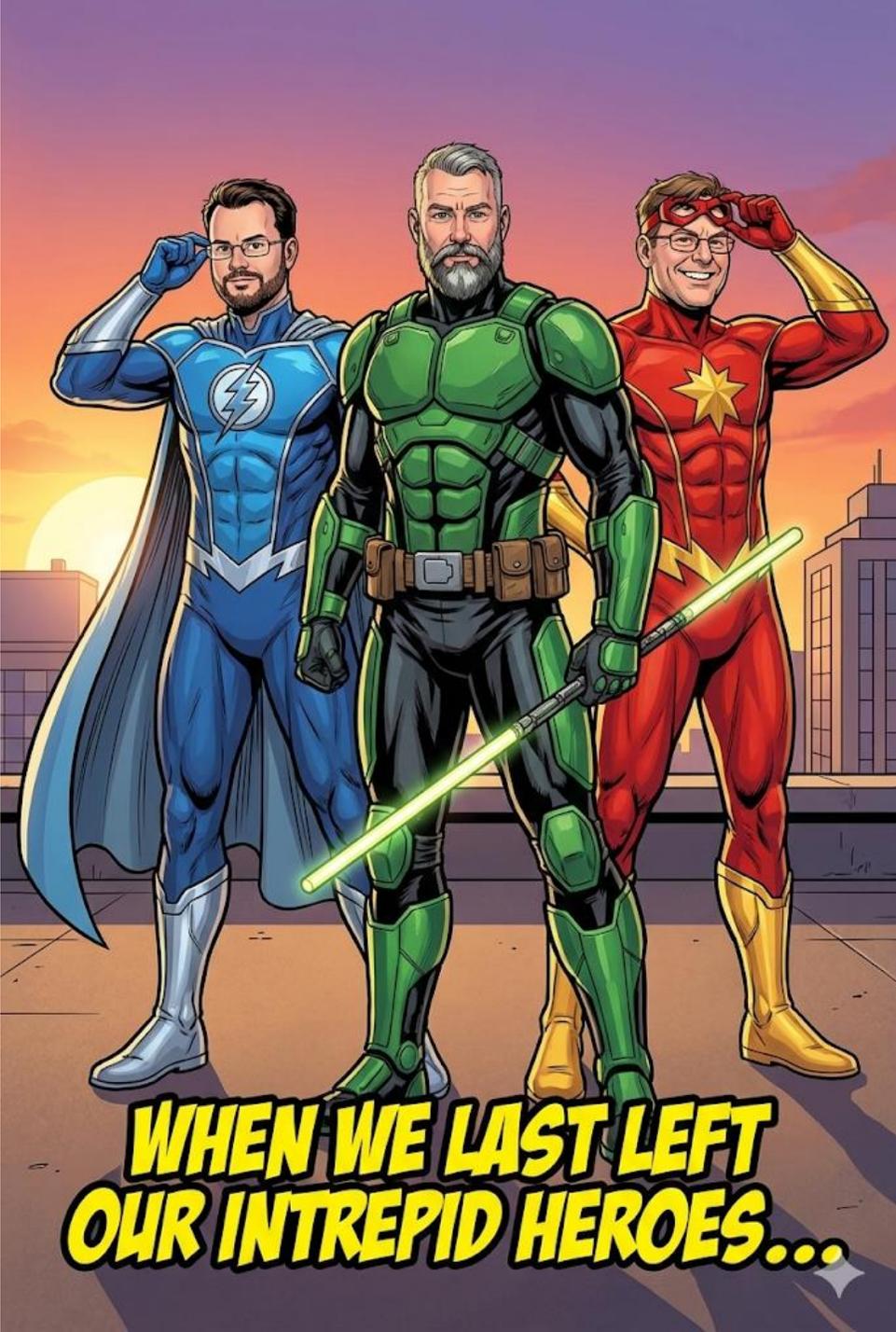
AI Use Policies

Um, we've never really talked about Information Governance

Information Governance

R&C framework - policies, procedures & processes
- R&C framework - policies, procedures & processes
- Detection of risk & fraud
- Auditing & assessing compliance

- IT security & protection
- Enterprise IT architecture
- IT security policies, procedures processes
- Decommissioning technology

- Rapid data insights
- Development of new products & services
- Detection of risk & fraud
- Knowledge management

- Privacy framework - policies, procedures & processes
- Incident response plan for data breach
- Remediation plan following data breach

- Document/data production for
  - Litigation
  - Regulatory investigations
  - Inquiries
- Issuing legal holds

- Records & archiving policy, records retention & disposal schedule
- Data/document storage & archiving
- Defensible disposition of data/documents
- Implementing legal holds

- Data policies, procedures and processes
- Data integrity
- Data management - creation, use, movement, storage

Wheel labels:
- Risk & compliance
- Cybersecurity
- Data analytics
- Privacy/ Data protection
- eDiscovery
- Records & Information management
- Data Governance

Center: Policies · Procedures · Technology · People · IG

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What IG policies do you need?

- Records Retention and Disposal
  - Bank records
  - Grant files
- Information Security
  - Access control
  - Multi-factor authentication
  - Data breach playbook
- Mandated policies
 - From statutes, court rules, etc.

Components of a Data Estate

- **Structured Data**: Traditional databases, such as grant management systems or financial records of trust account interest.

- **Unstructured Data**: Emails, Word documents, PDFs of grant applications, and meeting recordings.

- **Metadata**: Information about the data (e.g., when a document was created, who has access to it).

- **Legacy Systems**: Older software or archival storage that may still contain critical historical information.

Elements of a GenAI Policy

1. **Purpose and scope**
2. **Governance and oversight**
3. **Data classification and handling**
4. Authorized GenAI tools
5. Authorized uses of GenAI tools
6. Prohibited uses of GenAI tools
7. **Training and competence**
8. **Security and confidentiality**
9. **Policy violations**
10. **Review and auditing**

Purpose and scope

- Mandatory section

- Defines the **organization's philosophy** and policy on use of GenAI.

- Questions to ask
  - Early adopter, fast follower, or more cautious?
  - Improve efficiency or augment skills (like data analysis)?
  - Who does the policy apply to (does it apply to vendors)?
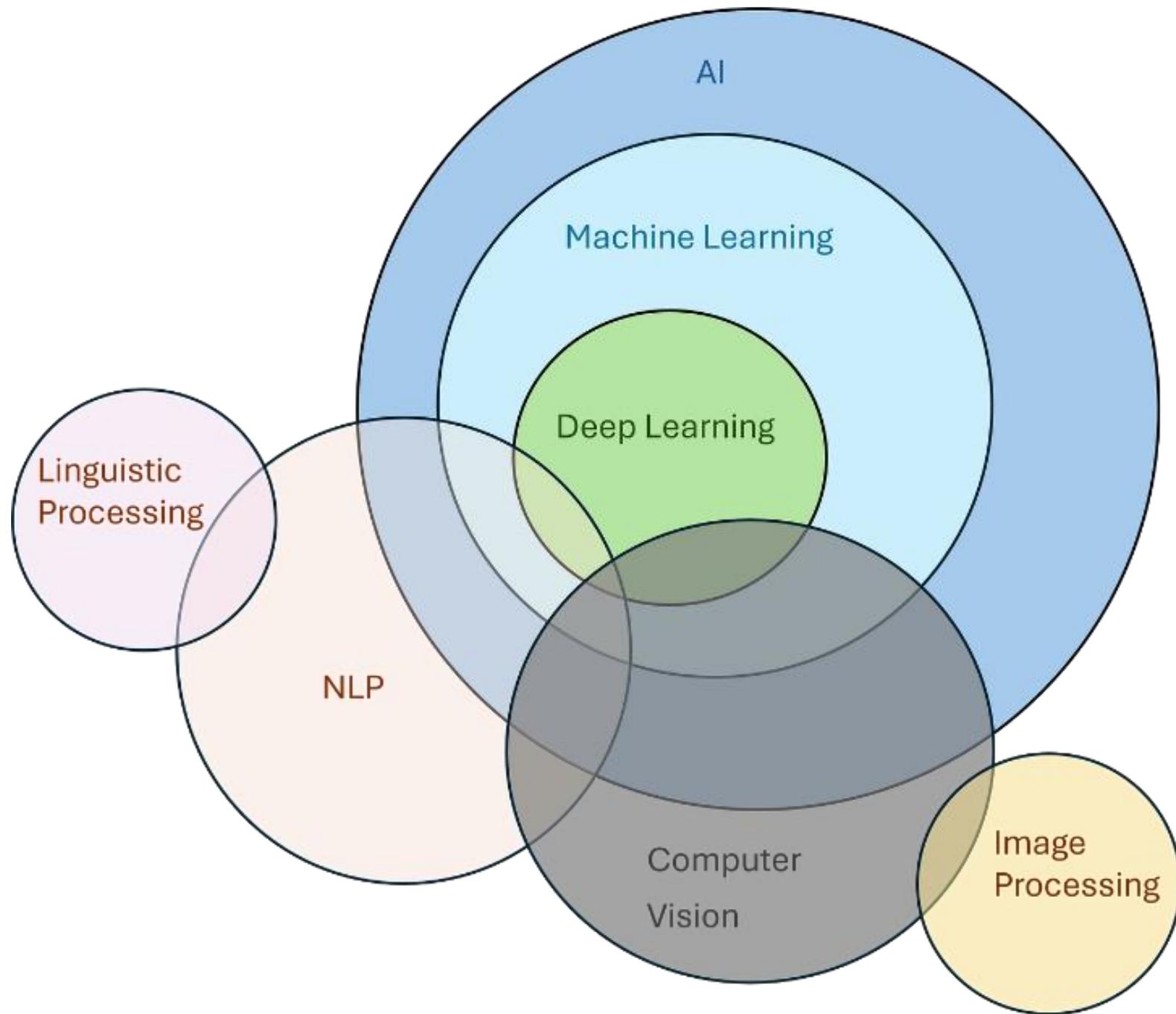
Governance and oversight

- Mandatory section

- Defines the **ultimate arbiter** of data classification and GenAI use.

- Questions to ask
    - Where does the buck stop?
        - One person (AI Governance Officer) or a committee?

    - Is there an appeal process or are decisions final?
    - Does a user have to get permission first?

Data classification and handling

- Mandatory section

- Establishes a **multi-tiered data classification** system with **escalating restrictions** on how each data type can be used with GenAI tools.

- Questions to ask
  - Do you have one of these already?
  - Is there an existing explicit data classification policy or is there an implicit policy?

Data Classification	Definition	Acceptable AI Use
Public Data	Public Data includes any information that is publicly available, including information on the MLSC website. This includes information that grantees submit to MLSC with the understanding that it is public, including responses to reporting questions noted to be public.	Public Data may be uploaded to or used as input for any tool.
Internal Data	Internal Data is non-public information that MLSC receives or holds during its operations, but that does not meet the definition of Sensitive or Restricted Data. This generally includes grantee submissions, reports, audits, etc.	Internal Data may be ONLY uploaded to or used as input for MLSC Approved AI Tools.
Sensitive Data	Sensitive Data includes financial account information connected with any individual, organization, or business; human resources related data; and notes or recordings, if expressly stated to be confidential, of internal meetings or grantee communications.	Sensitive Data may be ONLY uploaded to or used as input for MLSC Approved AI Tools, and only with written approval from a member of the Executive Team.
Restricted Data	Internal MLSC records that include staff's date of birth, social security numbers, health related information, performance reviews or disciplinary actions.	This data may NOT be uploaded to or used as input for any AI tool.

Authorized GenAI tools

- Optional section

- Provides list of **GenAI tools** that are **authorized for use** by staff.
- Alternatives
  - **Allow list** where only these tools may be used (more restrictive)
  - **Block list** where these tools may not be used (less restrictive)

Authorized uses of GenAI tools

- Optional section

- Designates specific applications or workflows where **GenAI use is allowed**.

- Options include legal research, document drafting, administrative tasks, data analysis, brainstorming, etc.

- More restrictive approach

- **What are the user's responsibilities?**

Prohibited uses of GenAI tools

- Optional section

- Designates specific applications or workflows where **GenAI use is not allowed**.

- Less restrictive approach

Training and competence

- Mandatory section

- Establishes that GenAI tools may only be used by staff who have who have **sufficient competency** to use GenAI tools in compliance with this policy.

- Questions to ask
  - What kind of training does user need to start using AI?
    - At a minimum folks should be trained on the policy

Security and confidentiality

• Mandatory section

• Reminder of ongoing ethical and confidentiality concerns, stressing need to always be mindful of data classifications and authorized and prohibited uses.

Policy violations

- Mandatory section

- Establishes consequences for policy violations.

Review and auditing

- Mandatory section

- Defines how the GenAI Governance Officer will **monitor use** of GenAI tools by staff and **build checks into workflows** to catch any errors that may be produced by GenAI tools.

AI Governance Officer

Template available on website

Looking ahead

First, do no harm (*Ferris v. Amazon*)

- Courts exist to decide controversies fairly, in accordance with the law. This function is undermined when litigants using AI persistently misrepresent the law to the courts. AI is a powerful tool, that when used prudently, provides immense benefits. When used carelessly, it produces frustratingly realistic legal fiction that takes inordinately longer to respond to than to create. **While one party can create a fake legal brief at the click of a button, the opposing party and court must parse through the case names, citations, and points of law to determine which parts, if any, are true.** As AI continues to proliferate, this creation-response imbalance places significant strain on the judicial system.

Hallucination tracker

- https://www.damiencharlotin.com/hallucinations/
- ChatGPT
- Gemini
- Copilot
- Claude
- Ghostwriter Legal
- **CoCounsel**
- **Lexis+AI**

Are hallucinations insurmountable?

- [Why Large Language Models Hallucinate](#)

- large language models sometimes guess when uncertain, producing plausible yet incorrect statements instead of admitting uncertainty.

- language models are optimized to be good test-takers, and guessing when uncertain improves test performance.

Trouble now and trouble later?

- Your grantee's clients are using GenAI – what do we do?

- Educate about limits of ChatGPT?

- Ask OpenAI not to answer legal questions?

- Build a competitor?

- **What level of inaccuracy is acceptable?**