

Next-generation early case assessment and investigations

New tools for rapid data-driven
decision making



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A Modern Approach to Early Case Assessment and Investigations

Today, managing risk and cost to the organization has never been more important—or as difficult to attain. When litigation is anticipated, an investigation hits or there is an urgent request for information, legal teams and investigators must find the information that will guide case strategy or tell the story—with efficiency, precision and cost-effectiveness. Rapidly finding answers to the critical questions (i.e. who, what, when) to accurately assess potential areas of liability, case strengths and risk remains challenging amidst resource pressures, severe time constraints and rising data volumes.

Many organizations, in an effort to “get the job done” and limit the volume of documents they send to outside counsel for first-pass review (along with the associated costs), use first-generation early case assessment (ECA) software to narrow the document collection. While these tools are effective at collecting from data sources, de-NISTING, sorting, filtering and culling based on keyword search,

they generally do not provide a deep dive into the data to surface the who, what, when and other pertinent questions, including the “unknown unknowns”—thus requiring a more exhaustive review later. Other organizations may rely on IT to search email boxes, manually review native files, and then, if document volumes warrant it, they pass PST files to counsel for processing, review and categorization. This manual process lacks consistency and repeatability.

Today, next-generation software can quickly surface the “who, what and where” questions to answer the key questions early on—saving law department leaders substantial cost and time, while providing early access to the key facts for fast decision-making.

This eBook discusses the new world of ESI early case assessment and investigations and a new approach that efficient and cost-conscious law departments are adopting.



New Methods Are Replacing Traditional Approaches to ECA and Investigations

When your organization has threatened or pending litigation or suspects wrongdoing or regulatory non-compliance, the clock is the enemy. You need to identify the facts quickly, surfacing critical details about who's involved and what happened, so that you can take prompt and decisive action to minimize potential costs, risk and reputational damage. Finding the key evidence as quickly as possible can inform case strategy earlier ("Is the wind at my back, or in my face?" "Should the case proceed or settle?" "Can we thoroughly and statistically demonstrate that there is no evidence to support the allegation?") These are the ultimate goals of both ECA and an investigation.

Yet all too often, organizations engage in a slower and more expensive process than is necessary to achieve the goals of ECA or an investigation—one which includes an exhaustive review of data to find the potential evidence. However, the goals of a typical litigation production review are different than one of ECA and investigations. In a litigation review, the goal is to proceed from a reasonably known set of facts to locate most of the relevant documents. In an investigation or ECA scenario, however, those facts are either not known or not well developed, and can result in exhaustive and expensive searches and overlooked pockets of evidence.

In the past, law departments relied on their IT department and perhaps ECA software to identify potential players, search email boxes, collect from other sources of data, and prepare ESI for a full production-style review. Data was de-NISTed, sorted, filtered and culled based on keyword search and metadata. Then, to get fast turnaround, legal departments defaulted to expensive outside counsel to review the entire dataset regardless of the cost or potential for budget overruns.




There's a better way




First, we'll look at the new world of electronically stored information (ESI) ECA and investigations and then turn to a new approach that efficient and cost-conscious law department leaders are adopting.

The New World of ESI Early Case Assessment and Investigations

Missteps and misconduct—whether the result of an innocent transgression or intentional wrongdoing in which an employee seeks to gain through IP theft, violation of anti-bribery laws or unethical sales and marketing practices—can wreak reputational and financial consequences for an organization. Litigation, whether based on unfounded allegations or not, can eat through legal budgets in a heartbeat. To prevent these situations from spiraling out of control, legal leaders must respond quickly to the first hint of a problem.

However, litigation early case assessment, regulatory, compliance and internal investigations are more taxing on legal departments than ever before.

-  Legal departments are facing increased workloads at the same time as they are making severe cutbacks to mitigate the ongoing economic effect of the coronavirus pandemic;
-  The challenges of rapidly searching ESI to locate the evidence that supports the story has intensified;
-  The sheer volume of data makes it harder to collect from employees of interest, as ephemeral data such as IM and chat pose significant challenges during their short lifespan;

-  The increase in a mobile workforce and mobile devices requires an approach to collecting data that balances the needs of the organization with the individual data privacy rights of employees;
-  Organizations are facing more—and more varied—investigations than ever before: government and regulatory concerns such as allegations of securities fraud, market misconduct, bribery or corruption, internal misconduct involving discrimination, data privacy and more and,
-  Cybersecurity threats, both internal and from the outside, pose increasing risk to corporate IP, confidential information, trade secrets and the organization's brand and reputation.

All the while, data must be collected and assessed quickly—often within very short timeframes.

Given today's challenges, modern early case assessment and investigations require a modern approach to front-load intelligence, gain control, improve time to results, and save costs.

Front-Loading Analytics Addresses Today's Challenges

Today's modern ECA and investigation tools go far beyond keyword search, filtering and culling—overcoming the shortcoming of earlier ECA systems and full eDiscovery review approaches that have made traditional early case assessment and investigations inefficient and costly.

Next-generation ECA and investigation tools offer these capabilities and more, front loading analytics to find the actionable intel early and fast.

These tools offer powerful visualizations and analytics to go behind and beyond the text and metadata, uncovering hidden meaning, and revealing context, patterns, sentiment and sub-text. Advanced early case assessment tools provide companies with a way to rapidly and cost-effectively zero in on the case-critical intelligence lurking within large volumes of organizational information. Best of all, these methods work even when the legal or investigation team starts the inquiry with little or no concrete information.



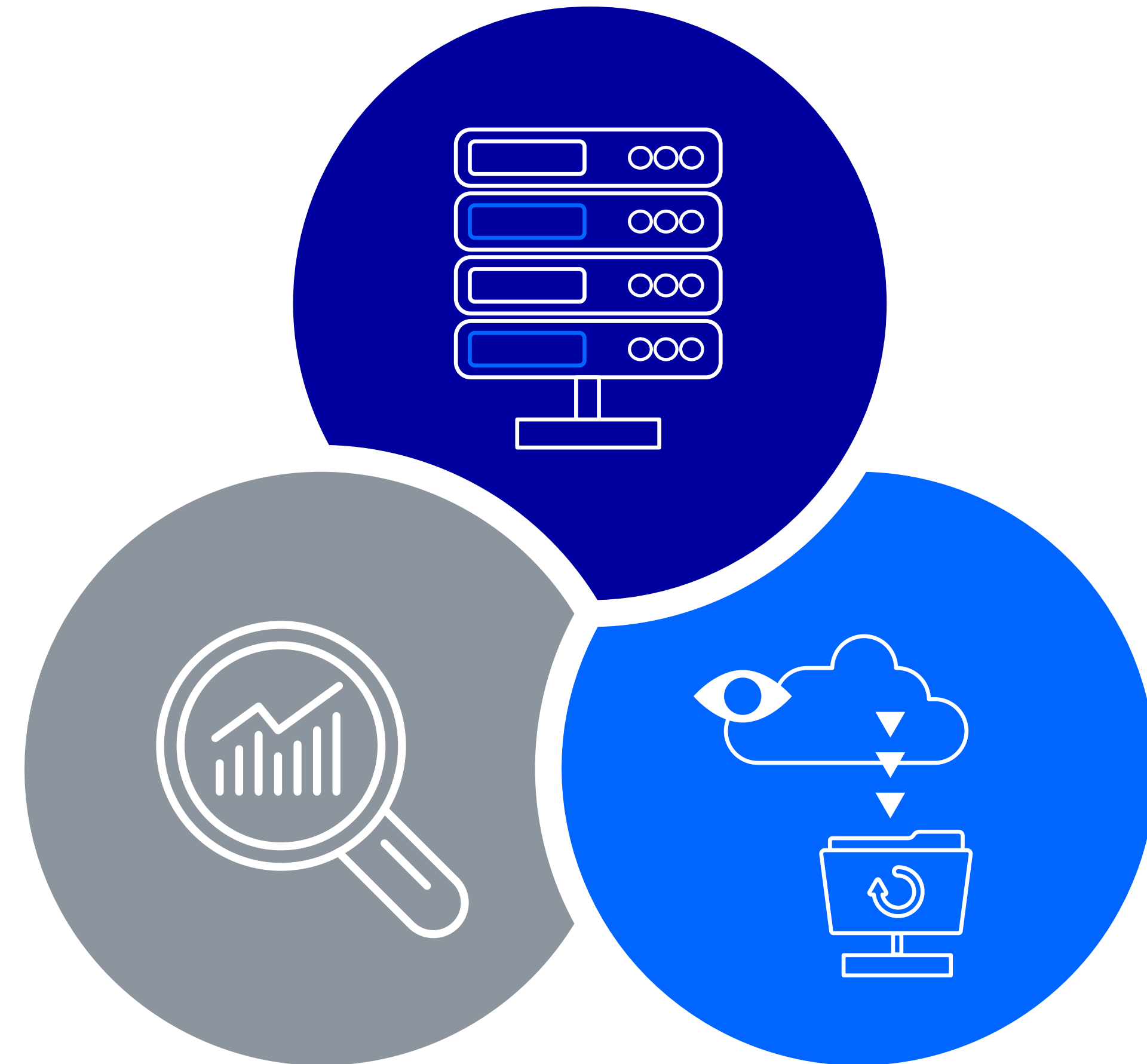
Essential Capabilities

Forward-thinking legal teams leverage a full spectrum of advanced analytic capabilities to gain control over ECA and investigations and winnow extensive datasets down to critical ESI that may include: who, what, when, why and how.

While the specifics of the approach are flexible, there are three main phases to consider:

- Identify, collect and cull ESI to gather the right data while culling any extraneous information.
- Organize and visualize those results; and
- Analyze and interrogate the data to gain actionable insights.

This approach expedites ECA and investigations while limiting unnecessary time, budget or resource expenditures.



Phase 1: Identify, Collect and Cull Data

Organizations must identify and collect data from a variety of sources quickly, comprehensively, and easily. Data connectors should be able to crawl data sources such as ECM systems, cloud repositories and file shares to identify potentially relevant data and seamlessly collect it.

At this stage, an investigator is battling two opposing forces: (1) the need for broad search terms that will extract all relevant content, and (2) data filters that will limit the amount of extraneous or unnecessary data.

In this stage, investigation technology should include automatic de-NISTing and deduplication to avoid needless review and email threading to ensure that the most inclusive emails in a thread are identified.



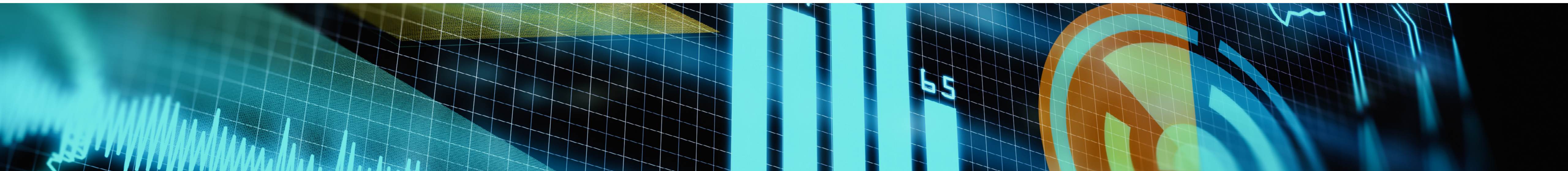
Phase 2: Organize and Visualize Results

In the second phase, the goal is to begin to familiarize yourself with the data and create an organized dataset through data visualization and other analytic tools, enabling rapid insights and additional data targeting.

- **Visual communications mapping** is critical to help identify key players, additional custodians and uncover the patterns—or outliers—around communication domains, timeframes, and activity. This ensures that all data custodians have been identified and that all relevant sources of ESI have been identified and preserved so that case-critical information is protected.
- **Email thread visualization** enables reviewers to spot any missing or unique messages, yielding dramatic time savings and unique insights.

- **Concept analysis** groups documents based on the contextual meaning of associated common phrases, allowing the investigation team to gain context into the meaning of documents beyond merely the keywords included in those documents.
- **Sentiment analysis** provides a faster and deeper understanding of data by categorizing documents according to whether they contain positive, negative, or neutral sentiments.

Note that this stage may overlap with the next, as some organization and visualization tools will also reveal insights into the data.



Phase 3: Interrogate Data and Gain Insights

Once the case-critical data has been identified, filtered, and organized, legal and investigation teams can interrogate that dataset to uncover actionable insights. Effective ECA using robust technology allows users to get to the heart of the matter, rapidly identifying the key facts and patterns. Key early case assessment and investigation features that savvy teams employ at this stage to save time and money and gain insight include:

- **Entity identification** uncovers pivotal events, key people, places, and things without requiring a manual, linear review of documents.
- **Predictive filters** predict which search terms and parameters are most likely to uncover valuable insights, what content is likely to be privileged and which custodians are likely to have additional helpful documents.

- **Predictive search** finds documents more like a selected sample, finding other ESI with conceptually similar content.
- **Phrase analysis** allows an investigator to include or exclude phrases across the dataset, searching with both the precision to narrow results and the breadth to discover terms that were previously missed; and
- **Negative proximity** operators reduce false hits by ignoring keyword matches when the second term is used extraneously.



Benefits of Front-Loaded Analytics

Deploying powerful front-end analytics offers numerous benefits for organizations faced with short timelines and budget constraints:

Efficiently capture but limit the data collected to save on downstream analysis effort and cost

By using a robust set of data connectors, legal teams can seamlessly crawl and collect data from a variety of data sources including ECM systems, cloud repositories and file shares. At the same time, integrated de-NISTing and deduplication limit the collection of extraneous data.

Quickly identify additional witnesses and custodians

The success of any investigation depends on the ability to quickly identify key witnesses and involved parties and comprehensively collect potentially relevant documents. Modern analytics can offer visualizations that reveal the connections between individuals and elucidate their conversational chains—ensuring that all key evidence is identified and recognized for its significance.

Gain actionable intelligence for fast decision-making

With front-loaded analytics, legal teams can quickly and more easily uncover the information to put all the pieces of the puzzle together. Armed with a deep understanding of the circumstances legal teams can quickly and accurately evaluate the strengths and weaknesses of a case, which allows them to confidently make well-founded strategic decisions.



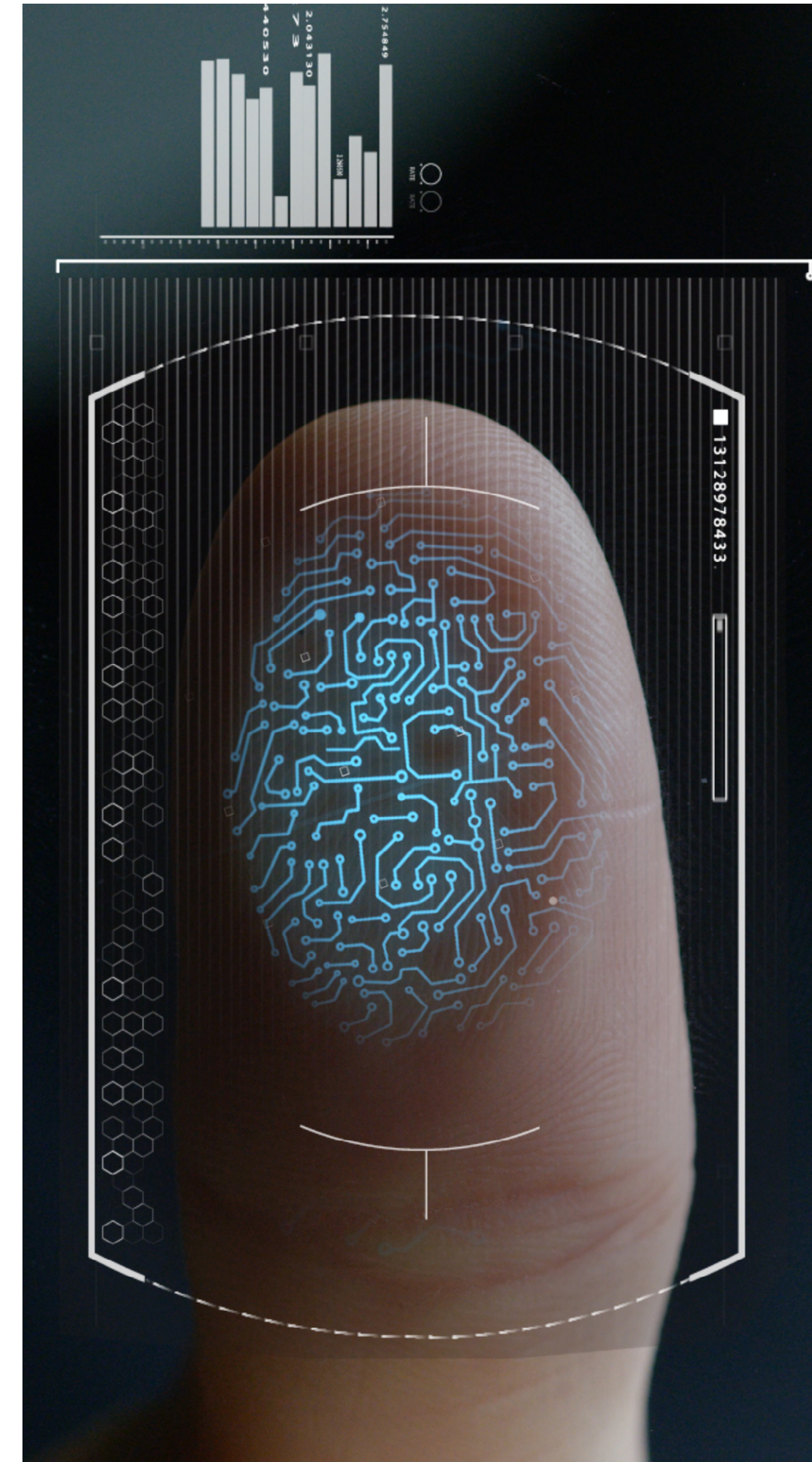
Analytics-Driven Early Case Assessment and Investigations from OpenText

To enable rapid response at the first hint of a problem and minimize financial and reputational risk organizations need a way to rapidly identify the key players and facts at the heart of an allegation. From regulatory inquiries and HR complaints to pre-litigation assessments and charges of misconduct, time is **always** of the essence.

OpenText™ Axcelerate™ Investigation is a single, comprehensive next-generation ECA and investigation solution for quickly finding data-driven insights to guide litigation-related early case assessment, internal, regulatory and compliance investigations, and other requests for information. In addition to robust collection, culling and processing capabilities, Axcelerate Investigation front-ends advanced analytics, allowing for a quick deep dive into the data by the entire legal investigation team so that they can understand the strengths and weaknesses of the case, find the key documents and then use those key documents to quickly uncover similar evidence.

Axcelerate Investigation offers the industry's most extensive suite of analytics and search tools to help teams rapidly surface key information: predictive search and filter, concept, phrase and sentiment analysis, entity identification and Hypergraph communications map, extensive turn-key connectors and multi-faceted concurrent search powered by OpenText™ MindServer™, and a Visualizer dashboard that surfaces key data analytics in a 360-degree view, delivering rapid insight into any matter regardless of size and complexity.

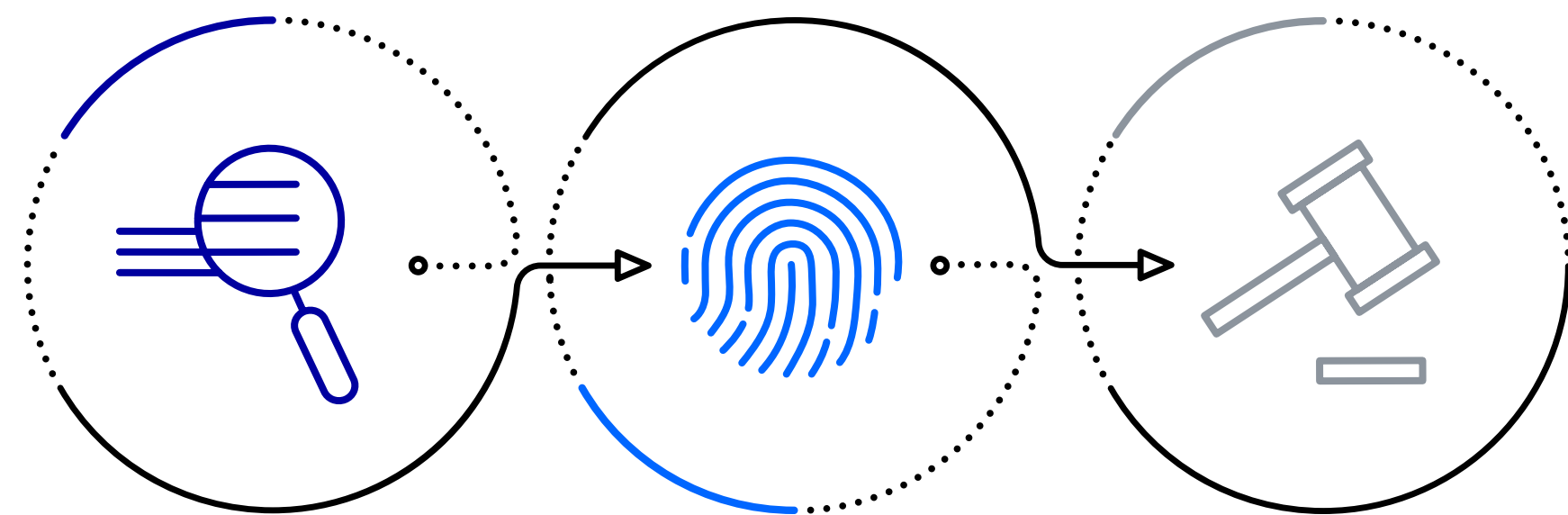
Armed with Axcelerate Investigation's technological power, legal teams gain rapid insights into complex overlapping communications, uncover additional custodians and datasets to ensure that evidence is not overlooked, and get faster access to the facts so that they can take action.



Analytics-Driven Early Case Analysis and Investigations from OpenText

Available on-premise or OnDemand in the cloud, when review and production is warranted, Axcelerate Investigation data can be moved seamlessly to the Axcelerate cloud for review and production leveraging powerful technology-assisted review based on continuous machine learning, automated identification and bulk redaction of sensitive content, an intuitive production wizard and more.

If additional expertise are required to fill capability gaps, OpenText eDiscovery experts help corporations master the demands of complex investigations, litigation and regulatory compliance matters with speed, accuracy and cost-effectiveness. The team provides flexible support across every phase of an investigation or eDiscovery project, from ESI collections, managed document review and technology-assisted review consulting to full end-to-end investigation support with Recon Investigations.



About OpenText

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