



The Custodian Interview Workbook

One document to run, verify, and record a defensible custodian interview.

OVERVIEW

This kit supports the reasonable inquiry expected of counsel under FRCP 26(g) and the preservation duties addressed by FRCP 37(e). Its coverage is modeled on the Rule 26(f) ESI Checklist published by the U.S. District Court for the Northern District of California, extended to the channels where evidence actually lives today, including chat platforms, personal devices, cloud storage, and AI tools. Complete Parts 1 through 5 during the interview, Part 6 to verify the answers, and Part 7 to close every loop.

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Before You Start: How Deep to Go

Not every custodian deserves the same interview. FRCP 26(b)(1) makes proportionality a governing limit on discovery, so scale the session to the custodian's connection to the matter.

Custodian Type	Who They Are	Interview Depth
Key	Closest to the dispute and likely witnesses	Complete every part in full, including all vocabulary and chronology questions
Departmental	Administer shared systems such as HR, finance, or CRM records	Focus on Parts 3 and 4, covering systems, access, and retention rather than personal conduct
Representative	Stand in for larger groups with similar data habits	Short session confirming team norms, deviations, and anyone needing individual attention

Matter name and number	
Custodian name	
Title and department	
Custodian type (key, departmental, representative)	
Interview date, format, and interviewer(s)	
Legal hold issued (date)	
Hold acknowledged by custodian (Y/N and date)	

BEFORE YOU BEGIN

Confirm the custodian received and understood the legal hold notice, and remind them the interview is a routine preservation step and the interviewer represents the organization. Record their confirmation above.



Part 2. Role and Background

1. Describe your role and main responsibilities during the relevant period.

2. Which projects, accounts, or decisions connected to this matter did you work on, and with whom?

3. Has your role, department, office, or equipment changed since the relevant period? Describe the changes.

Part 3. Data Sources by Channel

Walk through each table with the custodian. Mark every source used, capture where it lives, and note any preservation step taken or still required.

Devices and Email

Source	Used (Y/N)	Details, Location, or Account	Preservation Notes
Work computer, phone, or tablet			
Personal devices used for work			
External drives or USB storage			
Primary work email			
Shared or departmental mailboxes			
Personal email used for work			

Chat and Collaboration Platforms

Source	Used (Y/N)	Details, Location, or Account	Preservation Notes
Microsoft Teams (channels and chats)			
Slack (channels and direct messages)			
Text messages (SMS or iMessage)			
WhatsApp, Signal, or similar apps			
Other messaging or meeting chat tools			

Cloud Storage, Business Systems, and AI Tools

Source	Used (Y/N)	Details, Location, or Account	Preservation Notes
OneDrive, SharePoint, or Google Drive			
Box, Dropbox, or personal cloud storage			
Network or shared drives			
Business systems (CRM, finance, HR, ticketing)			
AI tools (Copilot, ChatGPT, or similar)			
Paper files, notebooks, or printouts			

 PERSONAL DEVICES AND ACCOUNTS

Work data on a personal device or account can still fall within a party's possession, custody, or control under FRCP 34, and courts look at the organization's legal right or practical ability to obtain it. Record every personal source identified, and route preservation questions to counsel before collection.



Part 4. Retention and Deletion

1. Do any of your platforms auto-delete messages or files? Which ones, and after how long?

2. Have you deleted, archived, or cleaned up any potentially relevant data? What, when, and why?

3. Do you use disappearing message settings anywhere? Have they been turned off for this matter?

4. What preservation steps have you already taken since receiving the hold notice?

Code names, acronyms, and nicknames used by the team	
File naming conventions	
Key date ranges and the events that frame them	
Key players and their roles	
Others who may hold relevant data (names and roles)	
Shared systems or repositories not yet covered	
Departed or transferred employees, and who holds their data	

ALWAYS END BY WIDENING THE NET

More new custodians and data sources surface through the final rows above than through any other part of the interview. Log every name and system mentioned, and carry each one into the follow-up log in Part 7 before the session ends.

Part 6. Verify Before You Close

Accepting answers at face value does not satisfy a reasonable inquiry. Complete these steps for every custodian, and record what you find.

Done	Verification Step	Findings and Notes
	Compared the custodian's answers against IT's system map and written retention schedules	
	Confirmed with IT which auto-delete or journaling settings are active for this custodian	
	Had the custodian share a screen and open each major source they described	
	Confirmed on screen whether disappearing message settings are active	
	Checked mailbox and file volumes against what the custodian's role would predict	
	Flagged short-lived or expiring content for immediate preservation action	

INCONSISTENCY LOG

Record every conflict between what the custodian said and what IT records, colleagues, or the data itself shows. Every entry needs a recorded resolution.

Custodian Statement	Conflicting Information and Source	Resolution	Resolved By and Date

Under FRCP 37(e), what a party can prove it did often decides whether lost data leads to curative measures or sanctions. Assign every follow-up an owner and a deadline, and never leave an item without a recorded outcome.

Follow-Up Item	Type	Owner	Deadline	Status and Resolution
Example: collect WhatsApp thread from personal phone	Collection	IT Security	07/12	Closed 07/09, forensic image logged

All verification steps completed or noted as not applicable (Y/N)	
All inconsistencies resolved and documented (Y/N)	
Interviewer name, signature, and date	

Run the Whole Hold, Not Just the Interview

This workbook covers one step in the legal hold process. Venio Legal Hold connects the rest, pairing custodian questionnaires with automated hold notices, acknowledgement tracking, escalations, and a court-ready audit trail in one platform.

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References: Federal Rules of Civil Procedure, Rules 26, 34, and 37, Cornell Law School Legal Information Institute. The Sedona Conference, Commentary on Legal Holds, Second Edition. U.S. District Court for the Northern District of California, ESI Checklist for the Rule 26(f) meet and confer process.

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