
From: patrick hopper
Sent: Sunday, October 4, 2026 10:22 AM
To: RulesCommittee Secretary
Subject: Recommendations for October 15 Evidence Rules Meeting — Scope of Prior AI Validation

Dear Ms. Dubay,

Please forward this recommendation to the Advisory Committee on Evidence Rules and Professor Daniel J. Capra for consideration in connection with the October 15 meeting and work on Rule 707.

The proposed Committee Note already addresses validation in circumstances sufficiently similar to the case, retained records and auditability, and independent evaluation (October 15 agenda book, p. 175, lines 67–73). I suggest making explicit how those considerations apply when the system version, source data, configuration, processing, output or intended use changes after validation or human review.

The key question is:

What establishes that earlier validation or approval remains applicable to the particular AI-generated evidence now offered?

For example, an AI output may be reviewed and later regenerated after a system update, a change in configuration, or a correction to its source data. The earlier review remains part of the record, but its applicability to the later output requires explanation. Identifying who approved an output is useful; identifying precisely what that person examined, when the examination occurred, and whether it corresponds to the evidence offered makes the approval more informative.

I recommend considering guidance that encourages proponents to identify:

- The evidence to which the evaluation applies: the system version, relevant data, processing or configuration, output or class of outputs, and intended use covered by the validation or review.
- Material changes: differences between what was evaluated and the evidence now offered, including changes to the system, data, configuration, processing, or intended use.
- The basis for continued reliance: why the earlier evaluation remains applicable to the evidence offered, or what additional validation or review was performed.

Possible explanatory language is:

“Where a proponent relies on prior validation or human review, the court may consider whether that validation or review applies to the system, data, processing, output, and intended use involved in the evidence offered. Material differences and the basis for continued reliance should be identified. Any human attestation should specify the matters examined, the evidence examined, and the limits of the reviewer’s conclusions.”

The documentation should be proportionate to the evidence and proposed use. Existing records could support this inquiry without requiring a particular registry, technology, or scoring method. Such documentation would assist the reliability inquiry and would not itself establish admissibility or replace any required expert foundation.

My background is in finance and operational governance. I have commercial and intellectual property interests in AI-DigiScore™ and Temporal Drift Fusion Hash (TDFH). This recommendation is technology-neutral, discloses no implementation details, and seeks no endorsement of either initiative.

I would appreciate acknowledgment and circulation before the October 15 meeting if feasible, or consideration in subsequent Committee work.

Sincerely,
Patrick J. Hopper