

Records Management and Electronic Discovery

An IT Perspective

E-Discovery Forum
Role of the Electronic Records Manager
October 30, 2008

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Agenda

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- Requests: General vs. Specific
- Setting Mutual Expectations
- One Example
- Role Definition
- Retention & Destruction
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Introduction

When collaborating on e-discovery issues, how can records managers and legal counsel best communicate with their IT counterparts in a useful and constructive way for the organization?

Requests: General vs. Specific

- Initially, requests appear simple, but are often quite complex and convoluted
- At the onset of discovery, vague statements of need are not particularly useful
- If you can be as specific as possible when requesting information to be retrieved (who, what, when, which format) it would be extremely helpful
- Please try to contact IT *ASAP*—and be patient 😊
- It's often useful for all of us to understand how information is organized—up front

Setting Mutual Expectations

- Could there be a conflict of interest in discovery with IT personnel? → Find out *ASAP*
- Which data formats will be needed for inside counsel, outside counsel, or opposing counsel?
- What level of confidentiality is required?
- What level of “forensic assurance” will be considered necessary?
- When will the information be needed?
- We all need to be clear on these—up front

An Example

- Before your next event, call a meeting to bring together records managers, legal teams, and the IT teams involved in e-discovery actions
 - Remember to include vendors!
- Ask IT to explain “how things work”—at a high level—and convey a sense of their level of effort
- Get an understanding of what is possible/not
 - Then, we can avoid asking for “miracles”
- Be sure everyone understands IT scope and the distributed nature of most organizations

Role Definition

- Consider requesting a single point of contact within your IT department for e-discovery issues
- It might be helpful to draw out a high level process flow map to keep everyone on the same page
- Ensure the business units understand this is not exclusively an “IT thing” a RM issue or a “legal problem”—it is an organizational concern
- Communicate the need to drive these processes throughout the organization—perhaps RM?
- Seek consensus and buy in from all parties prior to the next “big event”

Retention & Destruction Tools

- Often, business units are not aware of their roles in setting retention requirements and communicating them to custodians. IT is a significant custodian, but does not run the business.
- Legal, IT, and Records Management must drive this point, and provide compassionate decision support
- Once the retention period has expired, the destruction period begins...but how?
- Consider organizational methods and tools for document destruction, regardless of media type

Concluding Thoughts

- In summary:
 - In some organizations IT is the de facto records manager, others have records managers...
 - Many organizations do not have records managers—and we're happy to have ours
 - RM can act as a buffer between legal and IT
- The real need is to form a true, working partnership between records management, legal, and IT to collectively and appropriately engage the entire organization in e-discovery processes

Thank You

Questions & Answers

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