EDISCOVERY HANDBOOK
10 must-read articles on search and collection

SHERPA SOFTWARE

Introduction

The need to perform electronic discovery (eDiscovery) has become a fact of corporate life. Whether that need is being created by a pending litigation, Freedom of Information Act request (FOIA) or some other directive, the process is frequently time sensitive and often onerous. Organization, automation and teamwork are key elements that allow you to be proactive rather than reactive when it comes to your organization's eDiscovery process. Proactive eDiscovery gives you the ability to actively engage with your data.

Information is one of the most powerful tools at our disposal and the advantage will go to the side who has the greater knowledge of their ESI stores and can meet the challenges of retrieving their data. Understanding where data is stored, retention schedules and having tools in place to search and collect responsive ESI are all tied to being proactive. The more the tools, risks and environment are understood, the easier it will be to focus your energy on the relevant tasks using significantly less resources.

Included in the following articles is a wealth of information concerning eDiscovery best practices and answers to frequently asked questions.

See more at: http://www.sherpasoftware.com/blog/

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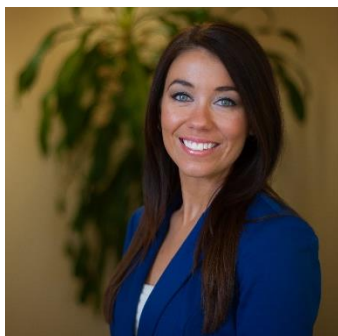
About Sherpa Software

Sherpa Software, a leading provider of technology-driven information governance solutions, has helped more than 3,500 companies worldwide. Sherpa's award-winning software, services and support address information management, regulatory compliance, electronic discovery, PST management, email archiving and more. Sherpa Altitude IG, Sherpa Software's signature information governance platform, connects to more data sources than traditional platforms, leaves your data in-place and offers robust analytics and metrics, while addressing core business issues.

About the Authors

Stephanie DiPaolo
Direct Marketing Manager

Stephanie began working with Sherpa Software in June 2010 as the marketing communications specialist. Since then, Stephanie has evolved into the direct marketing manager, where she is responsible for digital marketing campaigns and strategizing organizational development and growth. She advances the business by understanding evolving industry needs and making appropriate recommendations for inbound marketing tactics.

Stephanie manages the marketing automation system along with Sherpa's multimedia, digital advertisements, and email marketing initiatives. She also assists the software development team with product interface branding continuity and thought-leadership content development. Prior to joining Sherpa, she gained experience in the media field ranging from radio and TV stations to project management for non-profit organizations.

Originally from Pittsburgh, Pa., Stephanie attended Waynesburg University where she obtained her Bachelor of Arts degree in communications with an emphasis on electronic media. Stephanie, her husband and their daughter currently reside in the suburbs of Pittsburgh.

Marta Farensbach
Director of Product Support

Marta contributes to the development and growth of Sherpa's products and platforms and is responsible for ensuring customer satisfaction. Since joining Sherpa in 2003, she has done extensive research on eDiscovery while expanding her expertise in litigation preparedness, compliance and content management.

Prior to joining Sherpa Software, Marta oversaw the management of the information technology department for a leading logistics firm. During her tenure, Marta was instrumental in increasing profitability and efficiency of real-time data inventory reporting, while guiding the deployment of a number of web-based applications.

Marta received her Bachelor of Arts degree from Pennsylvania State University. She enjoys Sherpa's team-building activities and is a founding member of the Sherpa Movie Club. She has a zest for travel and takes great pleasure in soaking up culture, scenic beauty and adventures wherever they can be found.

Doug Yarabinetz
VP of Marketing

Doug manages the marketing team at Sherpa Software where they collectively set the overall corporate marketing strategy. In this role, Doug focuses much of his time on evaluating industry and competitive trends. He has authored many articles, white papers and blog posts on information management solutions and IT best practices. Doug has more than 15 years of marketing experience in management and leadership positions.

Prior to Sherpa Software, Doug was the director of marketing at Select International, an online assessment technology company. He is also a member of the American Marketing Association, The Business Marketing Association, The Pittsburgh Technology Council and the Association for Corporate Growth.

Doug graduated from Washington & Jefferson College with a dual Bachelor of Arts degree in English and art. He, his wife Elaine and his three kids, McKenna, Avery and Brady, reside in Murrysville, PA.

Rick Wilson
VP of Strategy and Solutions

Rick collaborates with Sherpa's senior management team to establish the organization's strategic direction and formulate specific tactical steps to achieve those goals. As a certified information governance professional through AIIM and ARMA, he also works closely with Sherpa partners and clients to shape the roadmap for Altitude IG, Sherpa's signature platform for policy-driven information governance.

Rick joined the organization in 2008 and served for several years as a product manager, during which he participated in the overall design of Sherpa's Microsoft Exchange products such as Archive Attender, Mail Attender and PST Backup Attender. Subsequent to that, he was a solutions architect in Sherpa's sales department, working closely with the account managers in formulating solutions to address each client's unique business and technical needs.

Rick holds a Bachelor of Science degree in business administration from Geneva College. He is also a certified scuba diver and likes to get underwater as often as possible. He and his wife Debbie reside in the Pittsburgh area, but love traveling to Japan to visit their son, daughter-in-law, and granddaughter in Tokyo.

Srinivasan Balaji
VP of Product Management and Development

Balaji has been a part of the Sherpa team since 2002 and is responsible for analyzing the market and industry to develop Sherpa's product strategy, as well as managing the short and long-term roadmaps for Sherpa's SAAS platform. Additionally, he oversees the design, development and delivery of Sherpa's information governance solutions.

Prior to Sherpa Software, he spent eight years as senior software developer and project manager for a Pittsburgh-based consulting firm. Duties included consulting, managing and building IT solutions for companies in a variety of industries.

He received his Bachelor of Science degree in computer systems from Grove City College, and a Master of Science degree in information security from Carnegie Mellon University.

Balaji considers himself a "gadget geek" and a jock at heart. He loves tennis, running, golf, biking, travel, reading and classical music.

eDiscovery Software Basics: How and Why?

By: Stephanie DiPaolo

A 2013 Science Daily report concluded that 90 percent of all of the world's electronic data had been created in the two years prior to the study with no sign of slowing down. Companies are completely awash in data.

Now imagine that you are a company lawyer putting together a case for trial; for example, about corporate policy violations or a crime of embezzling. There would simply be no end to the available records, emails, documents, spreadsheets, pictures, calendar files, tracked activities, notes and more. Sifting, locating, securing and searching electronic data manually is no easy task and would disrupt focus from the case at hand. Luckily, electronic discovery (eDiscovery) is able to handle much of the load by quickly searching large masses of unstructured data for litigation preparedness.

EDiscovery isn't just for the legal team. It is an essential component of an integrated information governance framework for today's leading companies; it provides searchable access to large data sets for the sake of risk assessment and mitigation for internal investigations. This allows corporate policy mavens to stay on top of policy violations and issues with ease, crucial in times of growing corporate litigation. In fact, a 2013 study found that 89 percent of surveyed companies were involved in a contract dispute or other litigation in the past prior 12 months. Why is that important today?

EDiscovery is not just easier with the right software solution: it saves money, time and headaches. Where can you begin? First, evaluate available software solutions (we're partial to Discovery Attender) with your governance, risk and compliance (GRC) expert and IT personnel. There are several options on the market and we recommend

you look at one that is holistic and can handle all of the steps of the chain for your information governance lifecycle.

Then, get started today with these simple best practices, based on the Electronic Discovery Reference Model (EDRM). The EDRM standard outlines the major phases of the discovery process. Sherpa Software believes in this process and endorses the EDRM standard.
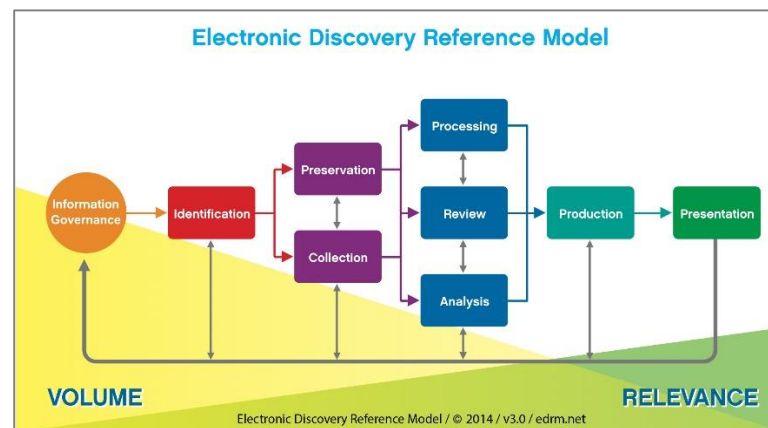
Credit: EDRM

EDRM Best Practices:

- Create an eDiscovery team, and meet with your IT, legal, audit staff and key stakeholders
- Draft eDiscovery policies to outline procedures and educate staff on data preservation
- Review and simplify your data backup procedures and organization strategies
- Verify that your policies comply with any applicable laws; local, national and any special regulations

These steps ensure that your company's data will be in great shape to follow the EDRM process of eDiscovery in the above workflow.

Now you're ready to search, collect and export findings for uses such as legal presentation and internal reporting or investigation. This can tangibly impact your business' bottom line by saving your company expensive legal fees or lost productivity time.

Make eDiscovery a critical part of your information governance strategy and your company will be ahead of the data curve.

To learn more, call 1.800.255.5155 to speak with a Sherpa representative and receive a free demo of our services and solution offerings.

Avoiding Mishaps in eDiscovery Collections

By: Marta Farensbach

Information Technology (IT) professionals are often at the forefront of in-house eDiscovery collections. These responsibilities are often thrust upon unsuspecting technical personnel with little notice, detail or even training. Because of the nature of their work, IT can be deposed or even called into court to testify about their role in gathering data for a case. Sherpa Software recently sponsored an [MSExchange.org webinar](#) featuring Bill Tolson and myself discussing this very topic and outlining some challenge areas. As a follow-up, this article will lay out some of the more common mishaps when collecting data and provide some options for avoiding these trouble spots.

Collections occur because eDiscovery is legally mandated for parties involved in litigation. For companies on the requesting end of a production, the goal is to complete the task in an economically feasible manner while maintaining a legally-defensible process. That means getting the job done with as little time, money and stress as possible while playing by all the rules. However well-intentioned the process, there are some key areas where mistakes are commonly seen.

Failing to Protect Data from Deletions
You cannot search or collect electronically stored information (ESI) that does not exist. Deletion and wiping activities are often scrutinized by the courts in an adverse manner, which could negatively impact the case. Your organization should have a documented retention policy to support defensible deletions, however, preservation of data that is relevant to the matter is essential. When litigation is imminent, automated deletion procedures must be halted for the targeted data stores, custodians

or date ranges. Litigation hold notifications are also essential for a defensible process.

Altering Metadata
Collection isn't just about gathering ESI. The data about your files, email and social content is fair game and can be essential to making or breaking a matter. More importantly, the default production formats under the Federal Rules of Civil Procedure mandate production in native format with metadata intact. The problem is that some methods or tools can inadvertently change the dates and other properties of documents. The best chance of avoiding these issues is to have well trained personnel using tools designed for discovery searches.

Poorly Defined Scope
Document review remains the largest cost associated with eDiscovery and this is directly related to the volume of ESI collected. Over-collection, quite simply, costs money. Equally problematic is the issue of under-collection, which can undermine a case. Both of these problems can be avoided with a well-defined scope. From the outset, the parameters of the collections need to be outlined by the eDiscovery team.

This should include:

- Identifying and prioritizing key custodians
- Pinpointing pertinent ESI storage locations
- Defining the parameters of the search including dates, keywords, file types
- Choosing automated solutions and deciding on methodology

- Clarifying delivery formats for structured and unstructured data
- Establishing what is 'reasonably accessible' as related to the proportionality of the specific case

Lack of Communication

One of the most critical lapses in the collections process is when key stakeholders do not talk with one another. Communication between interested departments, especially IT and legal, is critical to keep the collection process running smoothly. Ideally, an eDiscovery liaison should be appointed. This key resource should work with IT to guide the process, establish parameters and navigate challenges. The liaison should be able to answer questions, work to safeguard defensibility, and ensure that collections address other legal or technical concerns.

Failing to Document Methodology

Defensibility is one of the main considerations in eDiscovery collections. Missing inventories and logs can weaken a case. In addition to robust documentation, effective testing should also be done to ensure process, policy and software are all working as expected. Make sure your tools are optimized for establishing a chain of custody and consistently reproducing results.

The best way to avoid difficulties and withstand legal scrutiny is to include a repeatable assessment process as part your collection plan, including:

- Document the steps that were performed
- Test software to make sure you can consistently reproduce results
- Review and validate your preservation workflow

- Lay out the quality control process as part of the initial plan of action
- Conduct pilot collections on a small set of potential custodians, before performing the overall collections effort
- Implement and monitor the litigation hold efforts to ensure enforcement

Employee Self Collection

A common (but highly unreliable) method of collection is to have custodians collect their own data. This is often a recipe for disaster due to the lack of audit trail, inconsistent searching and potential conflict of interest. Trained, impartial personnel (which often exist in the IT department) should perform the collections, preferably with peer-reviewed and commercially-available tools. This helps to avoid mistakes due to lack of knowledge of systems, scope or process.

Waiting Until the Last Minute

Lack of preparation will cost you stress, time and money. Without a plan in place, communication is compromised, there is no defensible deletion, and IT will be scrambling to get the job done. At the very minimum, have retention policy and data maps in place and updated. The more litigious a company, the more important it becomes to establish and document overall procedure. While not all of the steps can be handled by the IT department (much of the execution is as part of an overall information governance strategy), IT personnel must maintain a critical role in the process.

Smooth collections require planning and communication. If you have already addressed these areas, you are ahead of the curve.

Call 1.800.255.5155 to speak with a Sherpa representative and receive a free demo of our services and solution offerings.

Digging Deeper into Proactive eDiscovery

By: Doug Yarabinetz

Proactive eDiscovery, as its name implies, is preemptively establishing a framework to handle any litigation or regulatory searches or collections before it is needed in a real world situation. It means that tools, resources, policy and procedure will be in place well before your company has to take legally-mandated steps for compliance or litigation. Being proactive with your ESI tends to fit naturally in both burgeoning and well-established governance strategies, and it can further help to highlight weaknesses in the established system.

Many organizations simply meet baseline compliance standards and react to more complex matters as they arise; this is a serviceable method, but leaves you vulnerable to the long-term pitfalls of poorly managed information governance. As your organization begins to retain junk data, your system becomes disorganized and your rapid response capability is diminished. This leads to increased costs, limited ability to retrieve information and internal disorganization.

Proactive eDiscovery does have an up-front cost as systems are set up and resources are allocated to outline, query and process data. However, the ultimate payoffs can far exceed the initial investment. All it takes is a single costly settlement to show the worth of a proactive solution, fines that perhaps could be avoided if a proactive solutions are in place.

Cost effectiveness also extends to the ESI sources themselves. Time is money, and improperly curated data can lead to lengthy delays when company-wide data stores need to be sifted for the relevant information. The costs pile up even more when an organization is relying on outsourced professional eDiscovery services. Of course, this is to be expected when only one percent of companies feel that they possess an in-house eDiscovery solution

capable of meeting their needs. This reactionary model is not an adequate replacement for an in-house, proactive system. Furthermore, the benefits of a proactive approach increase as the industries become more regulated. For example, Law firms and hospitals benefit immensely from enforcing specific retention and organizational policies related to the multitude of regulations imposed on those industries.

Let's look at another example from the litigation world. When two parties engage in a "meet and confer" session to discuss terms, production formats and the like, the advantage will go to the side who has the greater knowledge of their ESI stores and can meet the challenges of retrieving their data. Understanding where data is stored, retention schedules and having tools in place to search and collect responsive ESI are all tied to being proactive. The more the tools, risks and environment are understood, the easier it will be to focus your energy on the relevant tasks using significantly less resources.

EDiscovery is not about being able to respond to every possible contingency, it is about preparing for the inevitable. You need to understand that risk is going to be present no matter what you do. Even the best eDiscovery solution will not be able to protect you from data leaks, divested information or security breaches. EDiscovery is damage control, but proactive eDiscovery gives you the ability to actively engage with your data. It is an evolving process that needs to be able to bend to accommodate sudden shifts in needs. Information is one of the most powerful tools at our disposal, and it would be a terrible waste not to proactively utilize it to its fullest.

Being proactive is not the be-all and end-all for problems your organization might be facing. If there are rampant internal issues

(employee strife, harassment, hierarchical conflict), simply engaging with your ESI data stores in a proactive way won't eliminate these issues, but will shed light on them making them visible and open to resolution. Next, it's simply a matter of implementing the appropriate policies. There is little that cannot be improved by the additional oversight and control of a solution that empowers you to work with your own information. To be proactive is to maximize the return on your organization's information and to protect yourself from the inevitable liability and expense of simply being reactive.

For more information visit http://www.SherpaSoftware.com or contact your Sherpa Software account executive.

Spring Cleaning: Scrub Away ROT

By: Stephanie DiPaolo

Spring cleaning – a time when everyone is ready to rid themselves of the winter months and refresh their homes, cars, workstations and even wardrobe. During this time, you probably received multiple online deals for carpet cleaning, auto-detailing, and personal cleaning services, and while all of this is most likely needed, we can't help but ask, "What about cleaning your data?" We know this isn't the most common project that comes to mind each spring, but what do you expect from an information governance solution provider like Sherpa Software?

ROT (redundant, outdated, or trivial information) is a common phrase used within the industry. Basically, it consists of all the information that a company keeps but doesn't necessarily need, including:

- Email conversations between coworkers
- Outdated contact information
- Broken links and missing web content
- Duplicate information

Chances are, your organization has more than just four months of ROT built up over the course of a long winter. In fact, according to AIIM.org, as much as 80% of electronically stored information is ROT. That's a lot of non-essential information taking up vital storage space. This can cause a ton of issues for organizations including information risk, storage costs, and wasted time and resources.

Although ROT is a major problem, we like to refer to it as the "low hanging fruit" of content analysis. This type of data can easily be found and removed, as long as you know what to look for and where. Your organization just needs to dedicate some time towards

scrubbing away ROT, rather than throwing more money into storage space. So, where do you start? First, know your options. There are solutions available to organizations of all shapes and sizes, such as Sherpa Altitude IG®. Altitude IG's Reports & Analytics technology will locate and inventory unstructured data throughout your organization. Then, it will help you visually assess core areas of information governance concern, including ROT, intellectual property and risk, and data inventory. Altitude IG's visual reporting offers standardized views into these areas of concern. From here, your organization knows which data to eliminate first.

Figure 1: Altitude IG's Reports & Analytics module

It's time to scrub away ROT with this year's Spring Cleaning! Register for a free 15-minute preview of Altitude IG's Reports & Analytics module to see for yourself just how easy and efficient this task can be.

Building a Collaborative eDiscovery Team

By: Rick Wilson

Over the last decade, the need to perform electronic discovery (eDiscovery) has become a fact of corporate life. What began in 2006 as a legal mandate prompted by amendments to the U.S. Rules of Civil Procedure, has rapidly spread to jurisdictions in other parts of the world. Whether the need to search for electronically stored information is being created by a pending litigation, Freedom of Information Act request (FOIA) or some other directive, the process is frequently time sensitive and often onerous.

Part of the reason eDiscovery is challenging is due to its ad-hoc nature. Requests routinely arise without prior warning and, in many organizations, personnel dedicated to performing eDiscovery are a luxury. Consequently, when a request arises it can become a major interruption that delays or adversely impacts other planned projects. Here are three collaboration tips shared by our clients that can help you optimize the eDiscovery process:

1. **Make it a team sport.** Placing all of the burden for performing eDiscovery on one person may not be the best use of your available resources. For example, the IT team certainly understands where the information may be stored and the best way to access it, but they really need the expertise of a legal resource to help narrow the search criteria and keyword list. Consider creating an eDiscovery strike force with representatives from IT, legal and upper management to collaborate on the project and maximize the efficiency of your response.

2. **Speak a common language.** When you do involve team members from different disciplines make sure they understand one another. Both IT and legal are notorious for

layering their conversations with technical jargon. If IT is talking about MAPI access to PST files on virtual machines and legal is warning about custodian hold notifications and spoliation, you definitely have a failure to communicate. Cross train your team on the meaning of common terms and caution them to explain new lingo to everyone involved instead of just assuming implicit understanding.

3. **Don't over collect.** When there is confusion about what information to produce, the tendency is to 'give them everything'. While this may be fine from a compliance standpoint, it will substantially increase the cost of your review and production process. Over collecting is a huge problem in the eDiscovery world and an excellent reason to have a collaborative team working on any response. If your IT team can conduct the search and legal can review those results interactively, they can rapidly spot issues with the results set and adjust key words or other search criteria accordingly so IT can re-run the search to generate more efficient results.

Sherpa recently introduced an eDiscovery module for our popular Altitude IG® platform. Altitude IG eDiscovery was purpose built to help in-house teams collaborate effectively during the beginning stages of an eDiscovery project. Using Altitude's role based access, our clients can allow IT to initiate a search and have those results gathered to a central location. Legal can then immediately begin reviewing and culling those results down to a responsive data set.

For more information visit http://www.SherpaSoftware.com or contact your Sherpa Software account executive.

Latest eDiscovery Reference Model (EDRM) Focuses on Importance of Information Governance

By: Doug Yarabinetz

Wouldn't it be great if implementing a strong information governance (IG) framework at your business were as simple as a software download? The reality is that IG touches many areas of a business and requires stakeholder buy-in, policy development and enforcement, and a thorough understanding of information management. It's both complex and difficult and that's where reference models come in; they help establish best practices and assign responsibility while also creating a loose workflow for your company to follow.

Luckily, a reference model for information governance was published in 2012 to improve understanding of information governance (IGRM). But now, the Electronic Discovery Reference Model (EDRM) has also been updated to prominently include information governance as a key part of the electronic discovery process. Let's take a look at the updates:
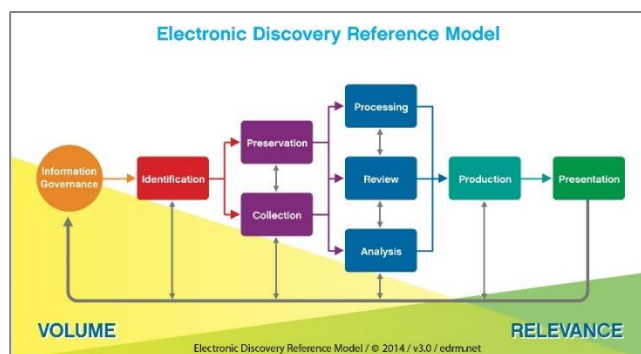
The diagram's designers describe the changes made to version 3.0 of the model released in May of last year:

"The leftmost item in the model has been renamed "Information Governance" and its shape has been changed from a rectangle to a circle. These edits better align this diagram with EDRM's Information Governance Reference Model (IGRM). The adoption of a circle also is meant to show that every well-managed e-discovery process should start and end with sound information governance.
In addition, the line from Presentation to Information Governance has been widened. This emphasizes that no e-discovery process is fully completed – no matter at what stage it stops – until it has been looped back to IG."

EDRM has created these practical resources to improve eDiscovery and information governance. Launched in May 2005, EDRM was established to address the lack of standards and guidelines in the eDiscovery market. These updated models should help frame discussions and provide a sound starting point for organizations trying to improve their information management and eDiscovery processes.

Not sure where to start? Sherpa Software offers numerous resources with industry insight, knowledge and best practices. Our signature platform, Altitude IG®, provides information governance solutions including policy management, eDiscovery and reporting and analytics.

To learn more, contact us at 1-800-255-5155.

Tomato-Tomahto, eDiscovery and Information Governance

By: Marta Farensbach

The relationship between eDiscovery and information governance (IG) is one of shifting perspectives and is often defined differently by diverse experts. Are they two different words for the same thing? Can they be used interchangeably and why does it matter? One opinion seems to be that eDiscovery is based upon or synonymous with IG, while another strong belief is that eDiscovery is, or should be, a subset of a full IG strategy. This distinction tends to be dependent on viewpoints – authors immersed in the world of eDiscovery tend to focus on that process as the mover and shaker of the connection. Stakeholders in other fields tend to take the view that eDiscovery should be a by-product of a stable IG system, not its core.

Dealing with organizations in all stages of IG deployment, it becomes clear that an eDiscovery focus is the reality for many organizations, while the other is the ideal that they strive to achieve. It can't be ignored that eDiscovery is, as the Sedona Conference mentioned, – 'the tail that wags the information management dog'. A recent blog post noted, "… for many organizations, critical policies and procedures are implemented as a reaction to the threat of litigation, rather than with an eye to furthering the goals of the business, agency or nonprofit that is tasked with creating them." This view can also be seen with the EDRM reference model which includes IG as a component and a tieback because 'no e-discovery process is fully completed – no matter at what stage it stops – until it has been looped back to IG'.

Good eDiscovery policy should include defensible deletion, litigation hold notices and good communication between stakeholders. This significantly reduces risk in the face of litigation. But if these eDiscovery steps are the only component of a corporate IG strategy, other problems can arise due to the lack of true data management processes. Suggested approaches from ARMA's GARP, AIIM, Sherpa and others all stress the importance of an overall strategy to handle as Gartner states: "the valuation, creation, storage, use, archival and deletion of information. It includes the processes, roles, standards and metrics that ensure the effective and efficient use of information…" Any organization approaching IG with a narrow view of policy may deploy eDiscovery plans to cover urgent requirements. However, if these strategies were put in place without accommodating overall business needs, the corporation will run the risk of missing warning signs of critical issues including:

- Non-compliance for many industry regulations
- Loss of critical information assets due to lack of oversight and policy
- Security failures including data breaches or introduction of malware
- Unmanaged content creation leading to bloated, redundant systems
- Legacy data with no support
- Lack of insight into corporate information assets
- Unofficial use of company resources

An effective eDiscovery policy place to start is to establish an IG framework. It helps avoid adverse judgment, fines, spoliation of data, stress, time and money. But it is only half of the picture. No matter what the perception, calling it tomato or tomahto, the true goal should be a complete and comprehensive strategy that covers all aspects of managing the information lifecycle.

To learn more, contact us at 1-800-255-5155.

Teamwork is Key for Information Governance and In-House eDiscovery

By: Marta Farensbach

Teamwork is one of the critical building blocks for handling eDiscovery requests for in-house talent. Without teamwork, time, expense, stress and risk can find their way into the collection processes. Additionally, having full cooperation among team members is essential in order to avoid disruption and chaos in critical day-to-day business operations. This article will highlight the process of building a solid in-house eDiscovery team by placing importance on collaboration and teamwork.

There is a legally-mandated duty imposed upon opposing parties by the Federal Rules of Civil Procedure, specifically the 26(f) meet-and-confer guidelines. There are many resources covering this topic with knowledgeable commentary, but less prevalent in the literature is advice on creating and deploying an internal eDiscovery team to help with in-house collections.

The goal of an effective eDiscovery collection is to help the process run smoothly while reducing cost, friction, and potential liability or risk. To have a trouble-free process in place, two important components must be present – 1.) Proactive planning, and 2.) The practical necessity of implementation. Collaboration, among all, is key in both areas.

Defining information governance policies
Many organizations grow organically and never have the time or the impetus to define their formal information governance (IG) policies. Yet, these policies are essential when preparing for the defensibility and effectiveness of any type of search or collection, not just

eDiscovery. It is very helpful in any company, let alone those under the threat of litigation, to have practical, operative plans in place to manage their information assets. Preemptively strategizing is essential; once the threat (be it impending litigation, subpoena, FIOA, compliance, etc.) becomes a reality, it may be too late to follow an optimal approach. This is the proactive aspect of IG planning and the formation of a wide ranging team collaborating with each other is essential to success of any deployment effort.

The planning phase
In the planning phase, the creation of policy and definition of an overall information governance strategy is paramount and input is needed from representatives in critical departments. The right mix of expertise – business needs, technical experience, records management and legal understanding of requirements – should be present and have the influence to force buy-in of policy, including an eDiscovery plan. Other types of planning can and should include defensible deletion, internet use strategies, security assessments, data mapping, and with all the above being well documented, audited and communicated to staff.

Regular team meetings
This information governance group should meet regularly, ideally beginning with a realistic assessment of the current state of process, technology and requirements (regulatory or otherwise) for the organization. This team should have a hand in crafting strategy before moving on to overseeing deployment of policy, selection of technology, and personnel. The members should meet regularly to

discuss and organize auditing and any policy changes that are necessitated by new technology, regulation, or business needs.

Implementation of eDiscovery plan

Once litigation (or subpoena) becomes a reality, a smaller, more nimble team should be formed to organize and execute the eDiscovery plan for the matter at hand. It is essential that both legal and IT are represented in the lineup and that they understand each other's processes, tools, syntax, data maps and restrictions. As a recent article noted, once litigation is anticipated, the team should work together to:

- Define the scope and requirements
- Identify relevant custodians
- Initiate and manage legal holds
- Locate potential sources of ESI, whether active, legacy, or backup
- Address outliers such as encrypted files or corrupt data stores
- Search, filter, and collect relevant data
- Anticipate potential problems
- Document and validate the methodology

Provide constant feedback

To effectively manage the process, an eDiscovery liaison should be at the forefront to provide communication and feedback between the critical legal and IT functions. This key resource should guide the process, establish parameters, protect defensibility, and inform 26(f) meet-and-confer sessions. A successful liaison will understand the structure of the company, be knowledgeable about the matter at hand, and have good judgment to make prompt decisions while balancing the constraints of technology, litigation and personnel.

With a collaborative team in place, your company will be better equipped to handle the challenges of eDiscovery requests. The process may vary from one organization to another, but the need for a collaborative in-house eDiscovery team remains the same. Above all, having a plan prepared and agreed upon will not only align your team, but it will safeguard you from future problems while reducing your long-term risk and exposure.

To learn more, go to http://www.SherpaSoftware.com

Records Management, Legal and IT:
Can't we all just get along?

By: Doug Yarabinetz

In any organization, when the conversation turns toward electronically stored information (ESI), it almost always revolves around three core groups. These individuals are the lucky few whose daily routines center on the management of that information. The three core groups are legal and/or compliance, records management and IT. Despite the fact that they all, at some point, have responsibility for an important business function associated with this data, they are seldom on the same page. This begs the question; *how do we communicate and collaborate better to ensure we all get along when it comes to better information management and eDiscovery processes?*

You may want to read Rick Wilson's article Building a Collaborative eDiscovery Team. The tips he provides are the basic cornerstones of building a collaborative eDiscovery team and come straight from Sherpa Software's customer best practices. The purpose of this article is to reinforce the importance of his foundational message but also to see if we could expand the concept to improve communication and collaboration across the entire enterprise information management strategy. Let's start the discussion by looking at these groups of employees and their roles, responsibilities and the challenges they face for team collaboration.

Let's start with records management or RIM, our data retention specialist. Often, these individuals come from a background of managing paper records. They sometimes aren't familiar with the strategy for managing electronic data often because they weren't involved, surprisingly enough, in the process for where it resides, how it got there and how best to access it when necessary. Our IT team is more frequently involved but can be so involved they run into bandwidth issues. They are focused on storage management, security, policy enforcement, reporting and analytics, search and collection and trying to maintain a data inventory. Likewise, legal has their core responsibility for lawsuits and litigation, internal investigations, legal holds and eDiscovery. And if you have a compliance officer or team, they are involved with regulatory compliance, data leakage, internal policies and risk management. As you can see, there are a lot of moving parts that overlap and don't naturally integrate. This is why communication and collaboration are so critical when it comes to the operational issues associated with ESI.

Over the past 14 years or more, we have been fortunate at Sherpa Software to work with many great individuals in each of these departments. Every organization is different and most have varying levels of integration within these teams. Furthermore, much of the landscape is shifting under their feet as ESI proliferates and as the emphasis on information governance continues to get traction. You can start to see why there is a bit of disconnect when it comes to the data that is the backbone linking these individuals and groups together. Why so many challenges? Well think about it, these individuals have all the respective responsibilities mentioned earlier, as well as their other diverse daily initiatives and responsive tasks that always arise. On top of that, there are preservation obligations, data destruction, departing employees, cyber security threats and updates, new technology, legacy repositories, data mapping and the list goes on and on. So, how do you deal with all these concerns and

get these groups working together? Answer: with a [corporate information governance program (CIGP).](#)

Gartner defines IG as, "… the specification of decision rights and an accountability framework to encourage desirable behavior in the valuation, creation, storage, use, archival and deletion of information. It includes the processes, roles, standards and metrics that ensure the effective and efficient use of information in enabling an organization to achieve its goals." Simply put, IG is a set of interdisciplinary policies and procedures used to regulate the electronic assets of an organization from creation to disposal. Think of it as the administration of the electronic information lifecycle. The first step in creating a CIGP also happens to be the most critical in creating a collaborative environment amongst the teams we are discussing.

In order to be successful, an IG program should be viewed as an enterprise-wide initiative that is endorsed by senior management and supports the overall business objectives of the organization. Since IG will ultimately touch every area of a business, it's important to have an IG committee responsible for its implementation and ongoing management and auditing. Rick Wilson, Sherpa Software's VP of Strategy describes an ideal IG committee, "IG committee members should represent a cross-section of the organization in order to bring diverse expertise and knowledge to the project.

Typically, the committee will be represented by various departments that have direct knowledge of, and potential responsibility for,

handling your organizations internal and external data requirements. This may also include regulatory requirements. Most IG committees have representation from the executive team, compliance, IT, HR, legal, records, and/or security. The IG committee members should know where the organization's data is kept, what information needs stored, how long it should be stored, what information should be deleted, when it should be deleted and how information is accessed and moved within the organization. Treat your committee as a group of trusted advisors; they will have the knowledge to help you identify which areas of the business can benefit most from an information governance project, what the degree of difficulty will be to implement that initiative and how best to socialize the project within each segment of the business."

Creating an IG strategy isn't easy and neither is organizing a team of individuals this diverse across your organization, but if you are able to build a consensus that information governance can successfully reduce risk while increasing the value of your electronic assets, you'll be well on your way to integrating your teams and creating a collaborative environment in your organization. An information governance committee, along with the overall strategy for handling electronic information that is inherently part of the IG process, will help records, legal and IT not only get along but prosper.

To learn more, go to http://www.SherpaSoftware.com or call 1.800.255.5155 to speak with a Sherpa representative and receive a free demo of our services and solution offerings.

Sherpa Altitude IG New eDiscovery Module

By: Srinivasan Balaji

Sherpa Altitude IG® is an on-demand platform designed to provide organizations with a comprehensive information governance solution. This evolving platform features a hosted back-end, which offers ubiquitous administrative access – and at the same time ensures secure, on-premises enforcement for corporate data to remain in place. Previously, Altitude IG offered data analytics, inventory and policy enforcement designed to conveniently and consistently locate, identify, catalog and manage corporate electronic data.

The next step in the Altitude IG evolution is the addition of the eDiscovery module. Recently released in early 2015, the eDiscovery features leverage the power of the platform architecture to selectively identify and collect responsive documents and emails from a variety of data silos. The end result of this process is an efficiently culled data set ready to be imported and reviewed by a legal authority.

Cross-matter custodian management
The management of the eDiscovery process in Altitude IG begins with a matter. All subsequent tasks – associating custodians, generating legal holds, defining search criteria and identifying items to collect – are tied to the specific matter. Altitude IG allows for the creation and management of multiple matters simultaneously, and custodians can either be added manually or drawn automatically from the organization's Active Directory (AD). Configuration of a scan of the corporate AD infrastructure sets up an automated mechanism to keep the custodian details updated with changes in the environment.

Legal hold notifications
Altitude IG's eDiscovery module offers an end-to-end legal hold notification mechanism. Custodians may be notified through the application; both the dispatch and the acknowledgement of the notification by the custodian are tracked. Additionally, notices can be re-sent to custodians failing to acknowledge the original announcement. Multiple holds applied to individual custodians are tracked separately while providing administrators oversight over all custodians across all matters.

Federated search across multiple data silos
A number of criteria are available to be used to identify content relevant to the specific matters; the available criteria is sensitive to the context of the source of the data being searched. For instance, emails may be searched based on sent/received dates, senders and recipients while files may be targeted based on the accessed date. All content – password protected PDF files included – may be targeted by keywords, phrases and patterns of text. In the initial release of the eDiscovery module, the searchable content areas include:

1. Emails stored in Microsoft Exchange mailboxes and archives
2. Office 365 mailboxes and archives
3. PST files located on user's computers
4. Network shares and files stored on user's desktops and accessible network shares

In future releases, support will be added for content stored in IBM Connections and Microsoft Sharepoint.

Unlimited number of searches can run in parallel

Searches may be scheduled to run at pre-defined intervals or initiated manually from the console. Depending on the content and the areas of an organization being searched, the Altitude IG search process is distributed, significantly improving performance. Also, the work is completed on live data; no prior indexing of the information is necessary, ensuring minimal preparatory effort and infrastructure. Metadata information of the search results are available to be reviewed through the administrative console; filtering options provide a more efficient mechanism to identify items to be collected.

Scalable architecture with distributed processing

A collection of the tagged items can then be initiated from the console; emails and documents will be collected to a pre-defined collection location in native format within the corporate environment along with an EDRM load file, an inventory log of all collected items and an exception log of items that failed to be collected. These logs and the status of the collection process may also be reviewed from within the administrative console. Similar to the search effort, the collection of the data is also performed simultaneously using the distributed architecture of Altitude IG.