



Washington State Department of
Information Services

An Introduction to E-Discovery

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Data Governance/Organization of E-Records Stakeholders

- Legal
 - Records Officials, Legal Counsel, Risk Management
- IT
 - State CIO, Agency CIOs, IT security and privacy staff, and enterprise architects
- Agency Lines of Business
 - Agency staff who produce potentially discoverable information
- Records Management
 - Experts in organizing large amounts of information assets
- Archivists/Digital Preservation
 - Experts in storing and preserving valuable state information for long term



Financing Models for E-Records Initiatives

- Benefits funding
- Bonds
- Budget and appropriation strategies
- Fee-for-service revenue
- Investment funds
- Outsourcing and Managed services
- Performance-based contracting
- Public-private partnerships
- Purchasing and Procurement strategies
- Sharing services
- Grants



Determining Where Electronic Information is Located within the State

- Enterprise Electronic Storage Options
 - Electronic Records Management System
 - Electronic Content Management System
 - Electronic Document Management System



Four Dimensions of Electronic Records

- Data Devices
 - Mainframes, servers, PC/s, laptops cell phones, PDAs, digital cameras, black boxes, RFID, thumb drives
- Data Locations
 - In-house, network, hosted
- Data Formats
 - Work processing document, spreadsheet, database, email,xml,html
- Digital Object Types
 - Office documents, e-mail, databases, web pages, audio, video, voicemail, log files, instant messages



Determining Who Owns the Electronic Information

- Physical vs. legal custody of information
- Many electronic copies of the same record are transmitted to others
 - Sender's responsibility for records retention
- Transmission of a records by e-mail should not change retention period that applies to the records



Prioritizing Opportunities for E-Records Management Initiatives

- Key Benefits
 - Information readily available and accessible for public policy decision-making, open public records requests, inter-agency or inter-government information sharing
 - Opportunity for agencies to simplify and streamline back-office activities to increase efficiency, productivity, and legal compliance
 - Reduction of risk and liability
 - Shared services opportunities



Records Retention Schedules: How Long Information Should be Kept

- Varies according to state
- Common concepts may apply
 - Bulk of e-mail may not need to be stored because of its transitory nature
 - Standards exist for addressing the retention of e-mails and include standards from American National Standards Institute and others
 - Turn off auto-archive functions
 - Investigate auto-delete functions
 - E-mails can be stored or classified when received



Washington State Approach

- Analyzed four approaches to retaining information according to the impact of each on liability, employee productivity, process, and cost:
 - Save nothing
 - Selective deletion
 - Selective retention
 - Saving more “intelligently”
- Selected the last approach



Processes for Retrieving Electronic Information (for legal holds and other purposes)

- Key is communicating to employees their responsibility to preserve discoverable electronic information

- What employees need to know about legal holds
 - Scope of the hold order and types of electronic records and any specific content covered
 - Locations under hold including any employee home work stations
 - Employees covered
 - Timeframes covered



Compliance and Enforcement of E-Records Management Processes and Policies

- Retention schedule
- Consider automating processes that support record retention schedules to fullest extent possible
- Monitoring
- Training

- Contractors
 - Incorporate provisions into contracts that address contractor duty to retain information created or handled by the contractor



Educating Employees/Training and Awareness

- Training and awareness is essential for successful implementation of records retention and discovery
- Must include
 - Overview of issues and challenges related to electronic records management in state government
 - Records retention policies and schedules along with associated security, privacy and acceptable use policies
 - Procedures for records retention
 - Using any new technologies that have been implemented
 - Understanding how records retention applies to alternate electronic communication devices and methods: PDA's, Instant Messaging and Chat Rooms



Looking to the Future of E-Records Management and Digital Preservation

- Wikis, blogs, Twitter, Instant Messaging, and other Web 2.0 platforms and mobile messaging devices present new challenges
- On-going efforts must continue to ensure preservation of e-records
- Fundamental principle: “a records is a record” regardless of the form