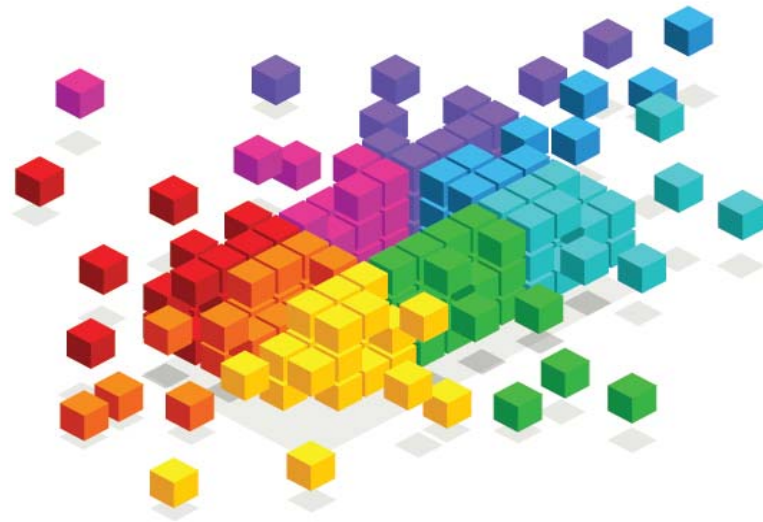


Helping Your Legal Department Meet Information Obligations and Reduce Risks

Michele Kersey

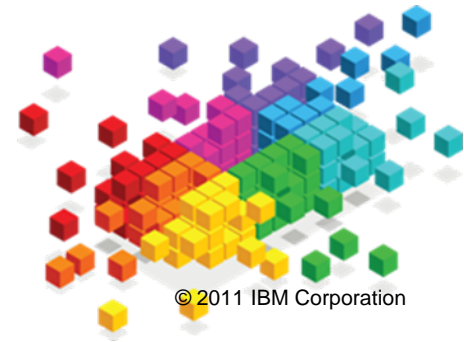
michelekersey@us.ibm.com

Putting Content to Work
ECM UserNet 2011





Topics

1. The GC's pain points
2. Addressing the problem
3. Developing the business case for change
4. Building on your expertise and ECM investments
5. Resources to learn more



Legal Duties for Information or “eDiscovery”

Duty to Preserve	Duty to Produce
<ul style="list-style-type: none"> ▪ Legal hold on all potentially relevant information must be instituted when specific litigation is reasonably anticipated ▪ Adversary does not have to request the hold ▪ Obligation to update and monitor scope ▪ Data in custody or control of company 	<ul style="list-style-type: none"> ▪ Obligation to respond to a specific request for documents or motion to compel ▪ Do not have to produce without being asked ▪ Often can avoid producing what was asked; always attempt to avoid ▪ Reviewed by counsel for relevance and privilege first -- difficult to argue irrelevance
<p style="text-align: center;"> 100% of matters</p>	<p style="text-align: center;"> 10-20% of matters</p>

Multiple Stakeholders & Increasingly Complex Process

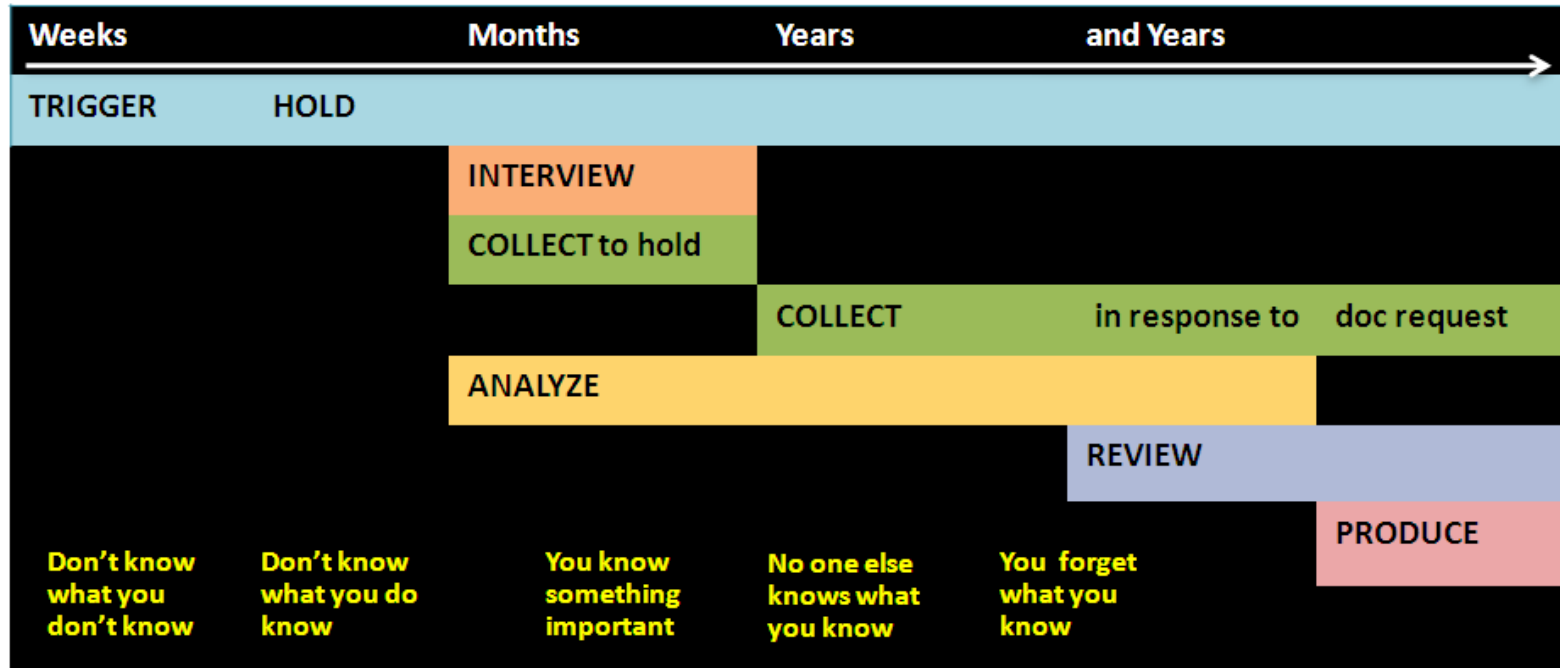


Lack of institutional process memory, reliance on “people glue” create gaps and exacerbate risk



Matter Lifecycle Compounds Inherent Risks

Process memory and transparency are critical factors in risk and cost



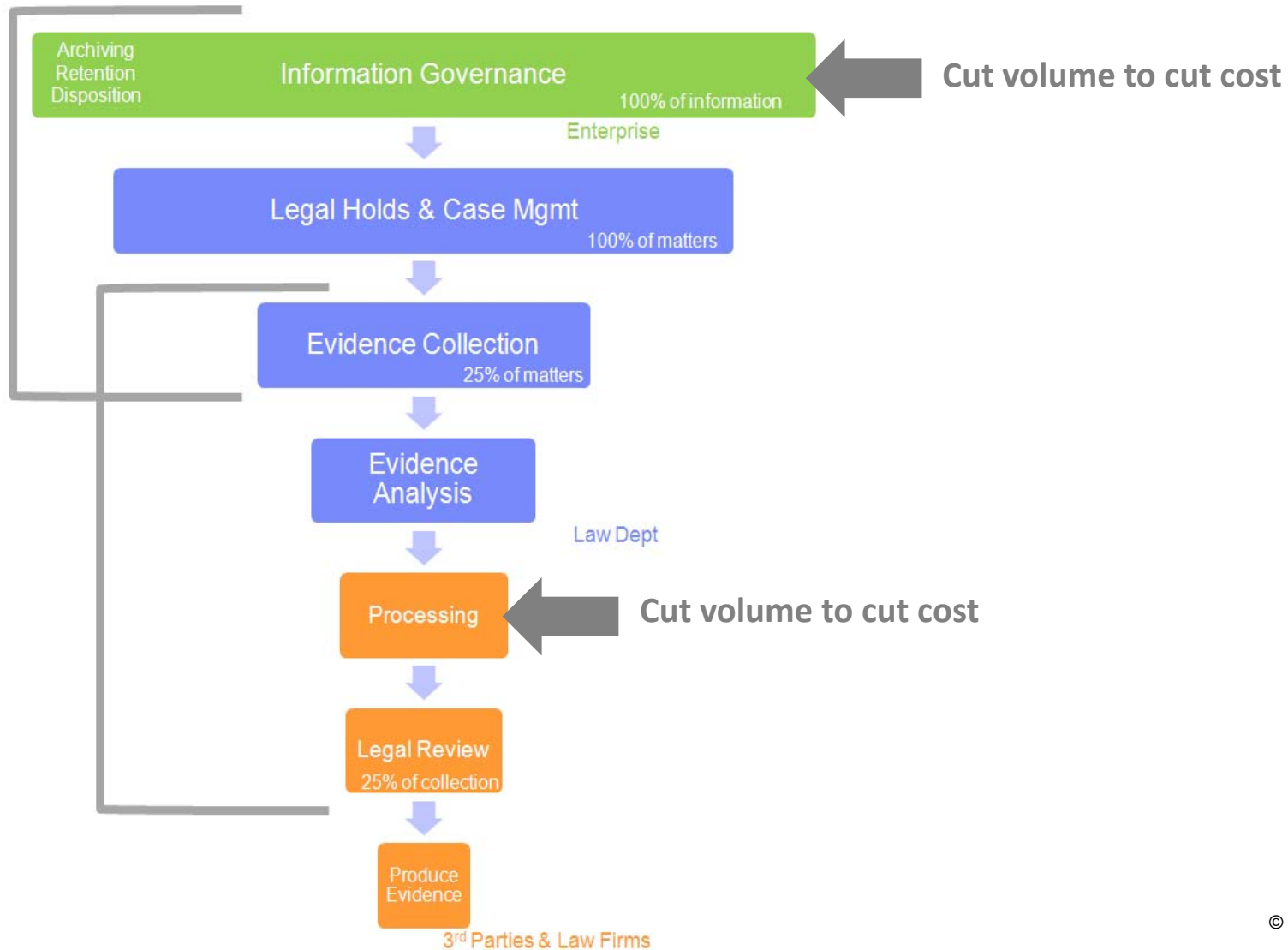
- Context on the issue in dispute
- Who and what might be in scope
- What likely case and cost trajectory will be

- Which people and data were scoped in similar matters
- How cost played out over lifecycle in similar matters
- What likely cost in this matter will be based on its scope

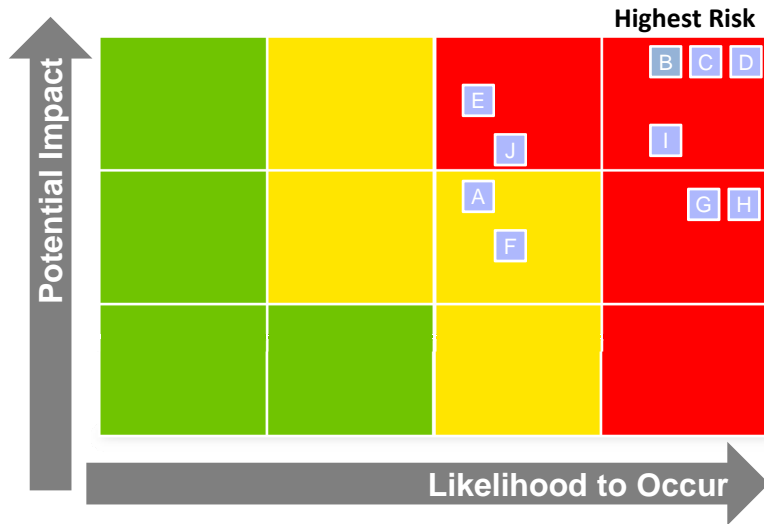
- What is really at issue
- Where relevant data is likely to be
- What the custodians said
- What the evidence itself suggests

- Custodians included and excluded when and why
- What was uncovered in interviews
- What data was collected in which matter why and from whom
- Where is it now
- What the evidence suggested

Excess Data Poses Potential Risk, Litigation Cost



Process Issues & Risks Can Create Roadmap for Adversaries



- High risk** Requires constant monitoring and review, immediate escalation on failure or impending failure. 50% likelihood
- Moderate risk** Requires frequent monitoring to prevent and detect; costly to correct or mitigate. Between 10% -50% likelihood
- Low risk** Does not require constant monitoring and is easy to prevent, detect, correct, defend. Less than 10% likelihood

Sources of Failure Risk in Manual Process:

- A.** Legal scopes the wrong employees, those employees terminate or transfer mid-matter and data subject to hold is lost.
- B.** Legal fails to identify sources of data managed by IT staff and data subject to hold is destroyed.
- C.** IT migrates, retires or modifies data subject to hold.
- D.** Legal fails to identify or follow through on information gleaned in thousands of interviews.
- E.** Data isn't collected because of a missing data source, departing employee, incomplete prior collection inventory, communication and tracking errors.
- F.** Unable to assemble, understand or defend the audit trail of discovery activities.
- G.** Retention schedules are not followed and/or the validity of the current schedule is hard to defend.
- H.** IT saves all data because they fear disposing of the wrong data, increasing discoverable mass and confusion.
- I.** IT disposes of data subject to legal obligation.
- J.** Internal compliance audit failures on records and legal holds expose the company in discovery or unable to respond to regulators.

Process Maturity Drives Excess Data, Risk and Cost

Ad-hoc, siloed processes undermine defensible disposition

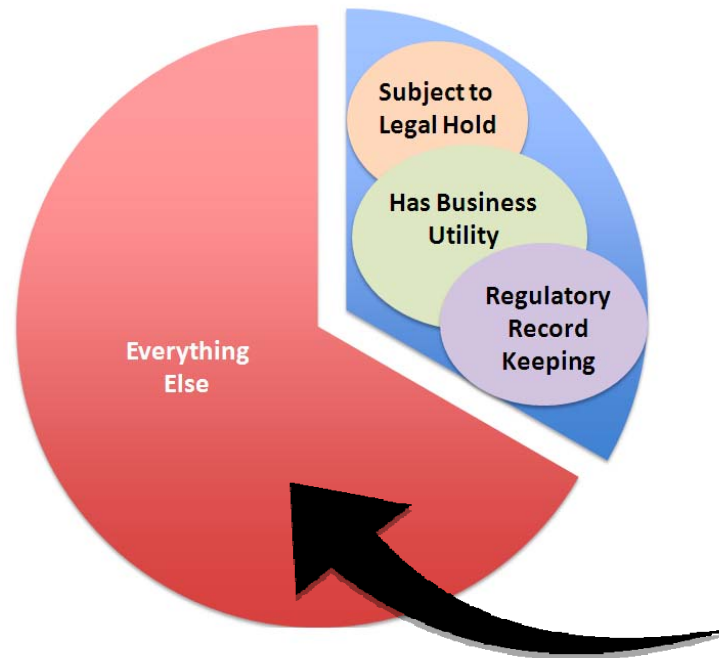
KEY PROCESSES for DEFENSIBLE DISPOSAL

Process Maturity Today
(1 ad hoc thru 4 mature)

DEPARTMENT	KEY PROCESSES for DEFENSIBLE DISPOSAL	Process Maturity Today (1 ad hoc thru 4 mature)
LEGAL DEPARTMENT	Legal Holds – How are employees identified? How is information identified?	1.5
	Publishing Holds – How are employees and IT apprised?	1
	Interview Custodians – How are facts gathered?	1
	Collection Workflow – How is data collected?	2
	Review Volume – How much data is collected and reviewed	2
	Cost Control – How are costs anticipated and controlled?	1
	Monitoring, Compliance – How is compliance managed over long case lifecycle?	2
RECORDS MANAGEMENT	Establish Retention Program, Catalog Applicable Laws – How is the retention program structured and how are laws determined? To what does it really apply?	2.5
	Manage Departmental Information Management Procedures – How do departmental practices factor into the retention program? How is information value determined?	2.5
IT DEPARTMENT	Routine Disposal – How is data disposed of today? How is decommissioning done?	1
	Disposition Legacy Data – How much legacy data has accumulated and how is it handled?	1
	Information Policy Audit – How is IT audited for records and legal compliance today?	2

Process Misalignment Results in Over Retaining and Over Spending

- If (and only if) you know what you need to keep for litigation and regulation
- And you know what you need to keep for its business value (and for how long)
- Then you can throw everything else away



Today, there is no association of specific value and legal duties to information, so you:

- Manage everything as if of value
- Hope you're in compliance
- Spend too much to manage unnecessary data
- Spend too much to preserve and produce it unnecessarily

The GC and CIO Share the Pain and Problem

3.5%

Percentage of revenues spent on information management (6.5% in Financial Services)

44x

Projected information growth, 2009-2020¹

¹ [IDC Digital Universe Study, May 2010](#)

\$3M

Average cost to collect, cull and review information per legal case²

70%

Portion of information unnecessarily retained³

² [Litigation Cost Survey of Major Companies, 2010](#) (from [Conference on Civil Litigation, Duke Law School, May 2010](#))

³ Industry estimates

98%

Companies that cite defensible disposal as key result of governance programs⁴

22%

Companies that can defensibly dispose today⁴

⁴ [CGOC Benchmark Report on Information Governance](#), October 2010

Questions for Litigation Executives

“Our current process is fine” requires MORE process questions

Process Element	AGC is focused on how RELIABLE the discovery process is <i>In contrast, a Director of Legal Ops is focused on how painful the process is</i>
Scope of Custodians	How accurate do you think the HR directory you're scoping from is? How easy is it to really keep track of who gets added and removed from scope over time and why? Are you sure everyone identified in the spreadsheet receives a notice and that is documented?
Scope of Data	Do you just identify and notify custodians? How does IT know how to manage those custodians' data in the background during the hold? How do they know they shouldn't migrate server data, recycle departing employee laptops? Are data sources tracked through spreadsheets or lists? How would IT handle overlapping holds on server data and tapes?
Legal Hold	Are you confident everyone receives and responds to notices? How do you ensure everyone receives a reminder and how do you track that? Do you have a standardized escalation process? How does Legal communicate the descriptions of records or information subject to hold so RIM and IT staff can comply and how much second guessing do these stewards need to do? How do you know people on hold have left the company and how is preservation of their data ensured? <i>How much time do these activities really take and is your team covering all the bases given their workload?</i>
Interviews	Do you use outside counsel to interview custodians and find out about their data? Or do you attach forms to notices that custodians must download and fill out? If so, how does your legal team reassemble the facts and follow up on all them?
Evidence Collection	How many spreadsheets are really used between legal and IT in the collection process for a single matter? For all matters? How many IT hands touch collection for a single custodian? For a single matter? How do you make sure legal doesn't have potentially relevant information in the pile of evidence already collected? Are there multiple copies of collected data for every hand that participated in the process?
Review	What portion of data collected is really relevant in any given matter? Do you over spend on processing charges and review for irrelevant and duplicate information only to find out that the small amount of actual evidence should have informed your strategy much earlier?
Early Cost Assessment	How often are you or your internal clients surprised by the cost of discovery after the game plan has long been in place? How confident are you that you provide these clients with timely, reliable insight on cost to make better decisions about case strategy? Do you find out how much discovery will cost <i>after</i> discovery?
Monitoring	How do you ensure that your holds process is consistent, non-responders are identified and addressed, custodians and collection facts are lost in spreadsheet translations, and the fact pattern will be good under scrutiny?

Topics

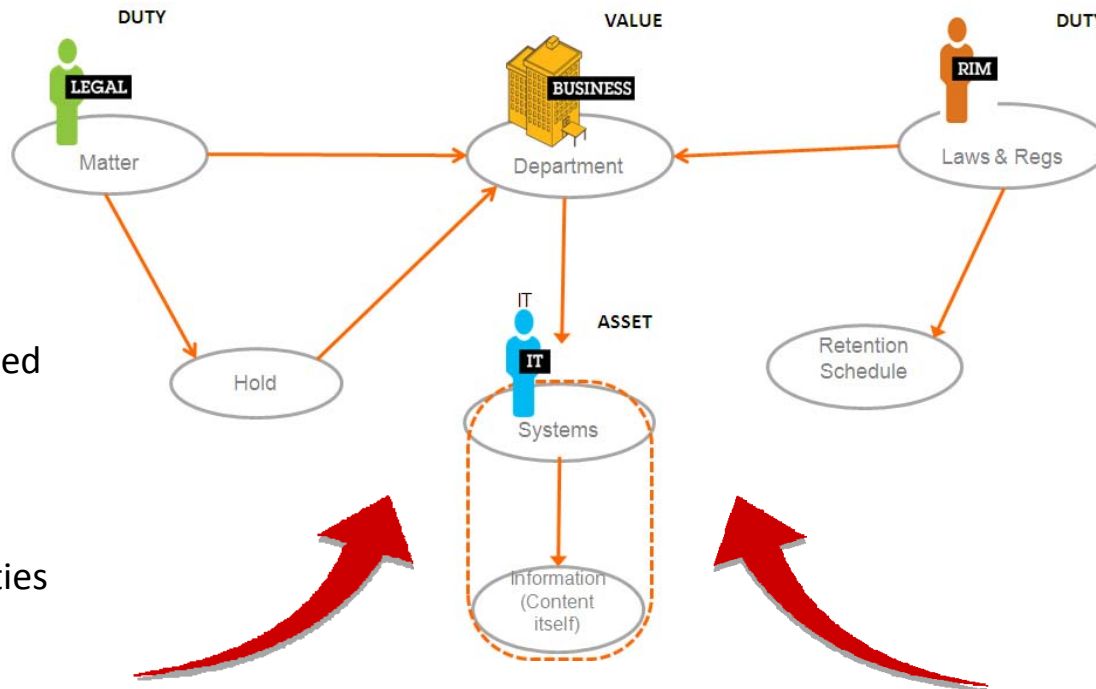
1. The GC's pain points
2. Addressing the problem
3. Developing the business case for change
4. Building on your expertise and ECM investments
5. Resources to learn more



The Enterprise Information Challenge

Legal & RIM understand information obligations

- ✓ Manual or siloed process not systematically visible to IT
- ✓ 10,000s of duties that vary by case, country and line of business



Business teams know the value of information

- ✓ No modern mechanism to communicate specific value to IT (or legal)
- ✓ 1000s or 10,000s of departments doing various business functions with variable info value

IT has the information but *no visibility to its obligations or business value*

- ✓ No safe disposal, serious constraints on migration and consolidation
- ✓ Uses capital to manage garbage rather than information of utility to the business

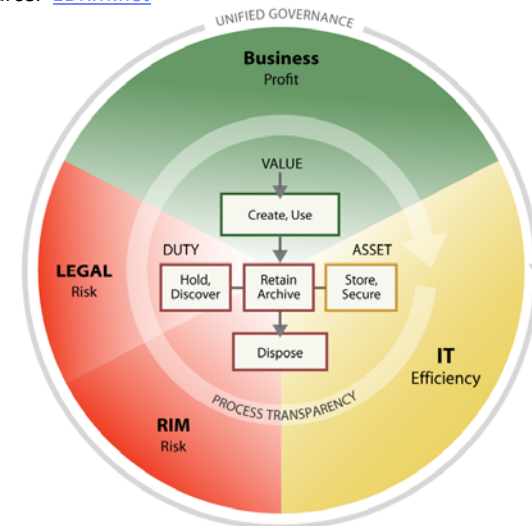
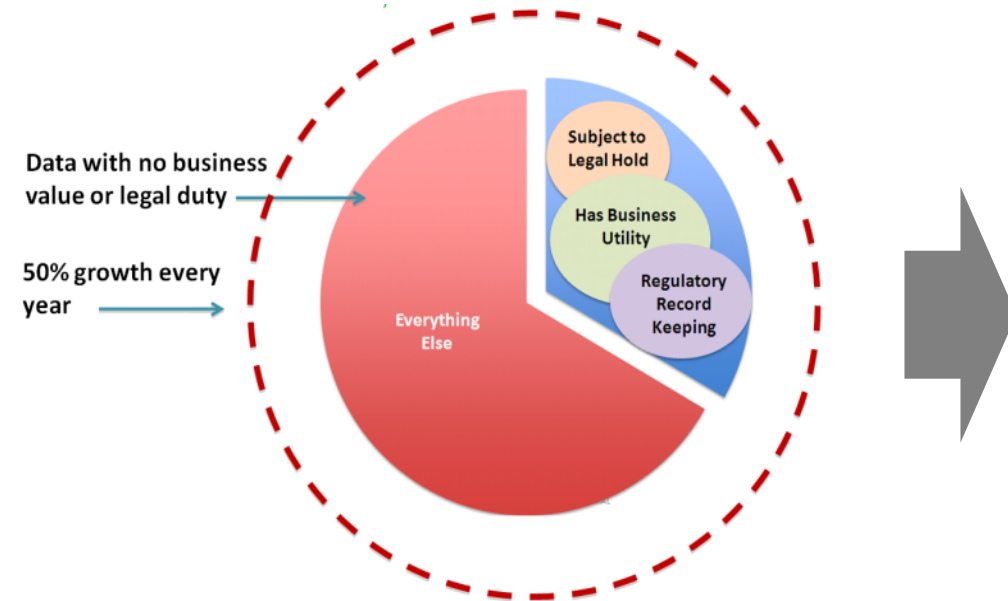
The Path from Ad Hoc to Shared Responsibility

Lower risk and cost, higher value

Information Governance Reference Model (IGRM)

Linking duty + value to information asset = efficient, effective management

Source: EDRM.net



Duty: Legal Obligation for specific information

Value: Utility or business purpose of specific information

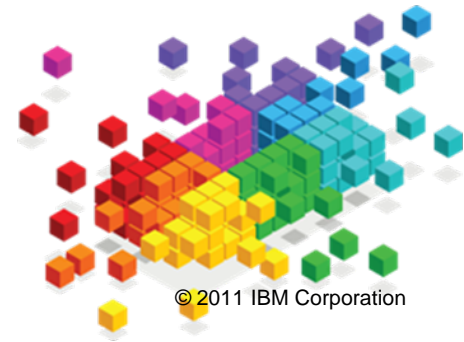
Asset: Specific container of information

If you can't determine specific value and legal duty, you must:

- Manage everything as if of value
 - Guess if you're in compliance
 - Spend too much to manage unnecessary data
 - Spend too much to preserve and produce it unnecessarily
- If you know what you need to keep for litigation and regulation
 - And you know what you need to keep for its business value (and for how long)
 - Then you can throw everything else away

Topics

1. The GC's pain points
2. Addressing the problem
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Path to Lower Risk & Cost



A

Excess Legal Risk & Cost, Stakeholder Disconnects

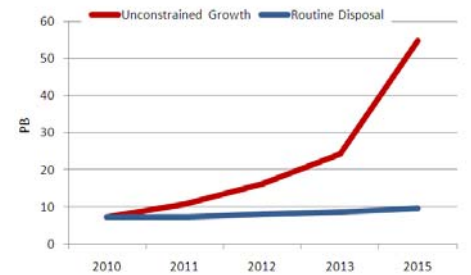
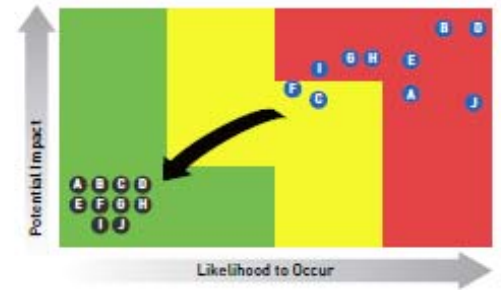


C

Value Roadmap

- Essential solution capabilities for immediate legal risk and cost reduction
- Path to stakeholder interlock, for lower data volume and lower legal and IT costs
- Partner with subject matter expertise

B



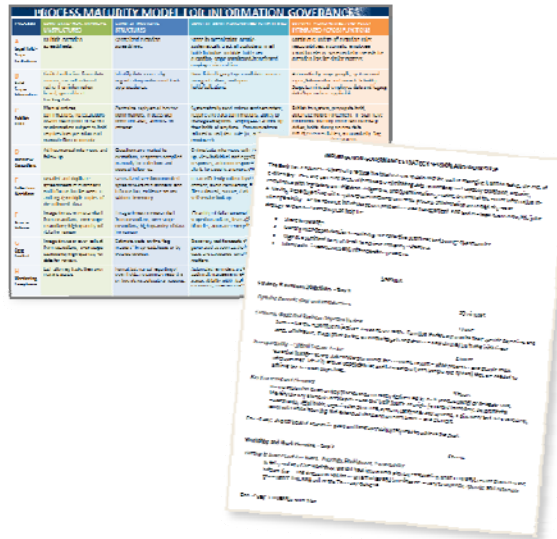
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Step wise Approach

1



2



3



Calibrate value with executive sponsor
 → Agreement on risk, cost reduction potential

Assess current processes
 → Determine current risks and costs using IG Process Maturity Model

Fact finding interviews
 → Senior Attorney
 → Dir of eDiscovery
 → Legal controller
 → VP Records
 → Record Liaison
 → VP IT
 → IT manager

Provide risk & cost reduction recommendations
 → Executive report on current costs and risks
 → Process improvement recommendations
 → Risk and cost reduction benefits
 → Roadmap to value

Topics

1. The GC's pain points
2. Addressing the problem
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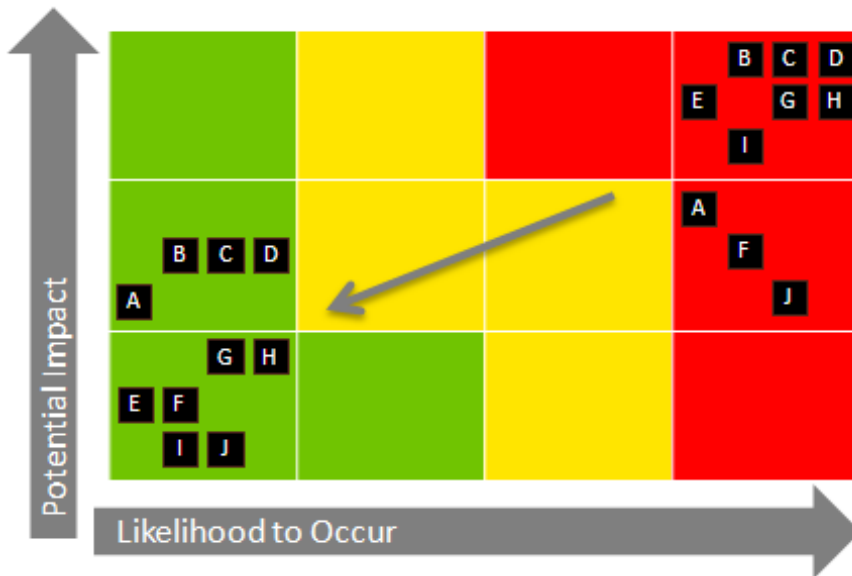


IBM's eDiscovery Solution Helps Significantly Lower Risk & Cost

3 Cost Reduction Levers

1	2	3
Precise, Automated Holds & Collections with IT Transparency	Assess Evidence in Place & Cull Automatically	Continuously Forecast Costs & Do Scenario Plans
↓	↓	↓
Avoid unnecessary data accumulation and reduce duplicate effort	Improve case strategy, reduce volume of data collection and reviewed	Negotiate scope with facts, avoid unnecessarily high cost

10 Risk Reduction Levers

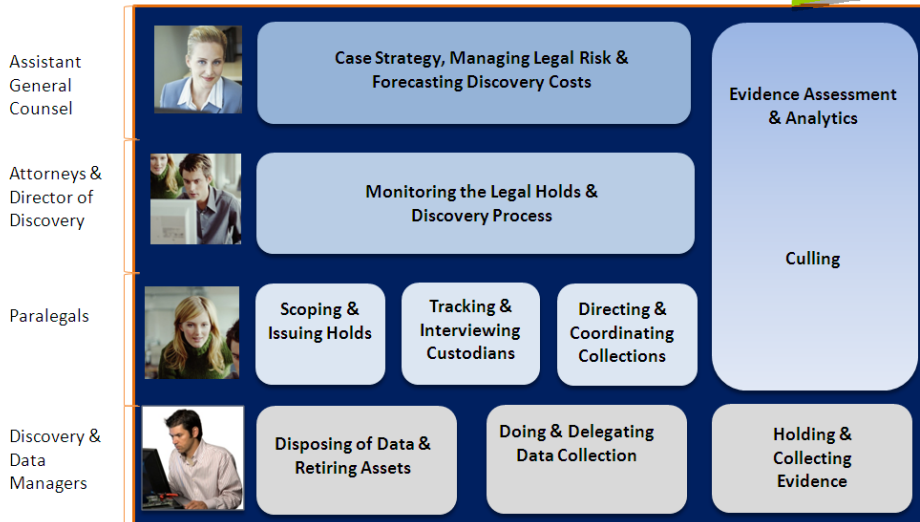


Risk Mitigation Achieved with Software
Legal can reliably scope custodians by current and historical organization hierarchy and automatically detect terms and transfers.
Legal can reliably and accurately scope data and information managed by IT and RIM staff source
Legal holds can be automated on data in place and IT and RIM staff are systematically alerted; they have continuous visibility to holds on systems and records.
Interviews are conducted online, results automatically compiled and follow up action items trigger alerts and exceptions
Information inventory workflow and tracking link legal with RIM, business and IT information owners for transparency, automated collections and tracking.
Hold and collection audit trails are generated automatically to eliminate double record keeping, errors and risk.
Business specific schedules can be easily and sustainably managed and automated.
IT saves only data of value or that which is subject to legal obligation, and performs routine, defensible disposal.
IT saves and manages data commensurate with its value
Predictable audit compliance and highly defensible legal holds and disposition.

Only IBM Addresses eDiscovery Risks and Costs + Their Root Cause

Complete solution for

1. Rigorous eDiscovery
2. Value-based retention and archiving
3. Defensible disposal



Smart Archive for IT

- Archive Office and Collaboration Content
- Archive SAP and Structured Data



eDiscovery Management for Legal

- eDiscovery Process Management
- Case Assessment & Analytics



Records & Retention Management for RIM

- Retention Policy & Schedule Management
- Enterprise Records Management



Disposal & Governance Management for the CIO

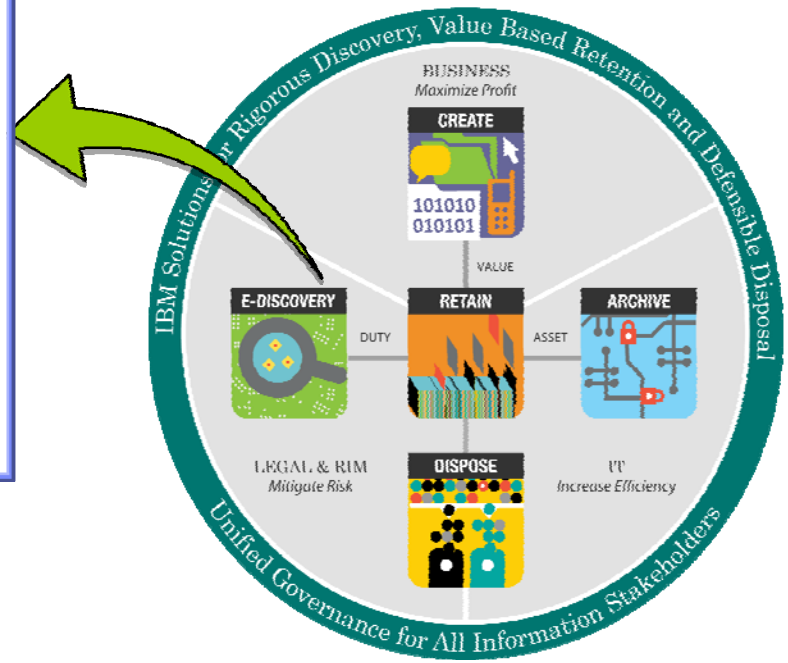
- Disposal Enablement
- Governance & Risk Management



IBM eDiscovery Management Solution Set

Build on your existing ECM investment

Process Needs	Capabilities Required	Products that can help
eDiscovery Process Management	<ul style="list-style-type: none"> ▪ Issuing Holds ▪ Custodian Interviews and tracking ▪ Scoping people, data sources & records ▪ Coordinating and conducting collections ▪ Enterprise map for rapid discovery ▪ Monitoring and reporting on the eDiscovery process ▪ Defensible disposition of collected data ▪ Enforcing and releasing holds ▪ Compliance coordination for IT, employees and records managers 	<ul style="list-style-type: none"> ▪ Atlas Discovery Management for Legal* ▪ Atlas Discovery Management for IT* ▪ Atlas Discovery Management for Employees*
Case Assessment & Analytics	<ul style="list-style-type: none"> ▪ Evidence assessment and analytics ▪ Case cost assessment ▪ Cross-portfolio cost forecasting ▪ First pass review ▪ Cross-portfolio custodian, case and evidence pattern analysis 	<ul style="list-style-type: none"> ▪ Atlas Discovery Cost Forecasting* ▪ eDiscovery Manager ▪ eDiscovery Analyzer ▪ IBM CM8 or FileNet P8 ▪ IBM Content Collector



* - New ILG portfolio elements

Quickly & Reliably Identify People & Data Sources in Scope Over Course of Matter

Browse the organization tree, select one or more departments and automatically get a list of both employees and data sources.

Select and deselect to refine the scope. Add or remove both custodians and data sources over time.

Look at the organization and employee roles for a period in the past to get the most accurate list of custodians.

Organizations

- Corporate (AA)
 - Aerospace and Defense (A&D) (US)
 - Energy (AA)
 - Downstream (US)
 - Legal Counsel (US)
 - Trading - Energy (US)
 - Trading - Energy - UK (GB)
 - Upstream (US)
 - Exploration (US)
 - Pipeline Development (US)
 - Production (US)
 - Financial (US)
 - Operations (AA)
 - Pharmaceuticals (US)
 - Professional Services (US)
 - Sales101 (US)
 - Sample Org (20K) (US)
 - Terminated Employees (US)

Persons with Assigned Roles

From: Aug 28, 2011 To: Aug 28, 2011

Name	Role
More, Addison	Records Coordinator

Total Persons: 1

Data Sources

Data Source	Start Date
Peoplesoft	Mar 6, 200
Shared Server	Mar 19, 20
Enterprise Vault - Email (Upstream - US)	Jan 23, 20
ECM - Energy (US)	Jan 23, 20
Exchange Email Server	Mar 19, 20
Sharepoint - Upstream	Jan 23, 20
Introspect - Upstream	Jan 23, 20
Enterprise Vault	Mar 6, 200
File Shares	Aug 7, 200
Desktops - Physical Evidence	Aug 14, 20
BI Reporting Tool	Mar 3, 201
Personal File Drawers	Apr 8, 201
Phone System (VOIP)	Apr 8, 201
Trading System	
RM (IBM)	Jul 28, 201
Smart Archive (Email)	Aug 2, 201
Records Repository	Aug 2, 201

Organization Members

Name	Email	Start Date
Cabin, Jayden	jayden@somecompany.com	Jul 28, 2001
Camisa, Anthony	anthony@somecompany.com	Jul 28, 2002
Doran, James	james@somecompany.com	Jul 28, 2002
Fitsimmons, Andrew	andrew@somecompany.com	Jul 28, 2002
Gainor, Alex	alex@somecompany.com	Jul 28, 2003
Gatto, Julia	julia@somecompany.com	Jul 28, 2003
Harris, Emma	emma@somecompany.com	May 5, 2002
Mattingly, Ken	ken@somecompany.com	Jul 28, 2003
Page, Nicholas	nicholas@somecompany.com	Jul 28, 2002
Peppers, Don	don@somecompany.com	Jul 28, 2001
Peterson, Matthew	matthew@somecompany.com	Jul 28, 2000
Saler, Christian	christian@somecompany.com	Apr 3, 2011
Shiffon, Chloe	chloe@somecompany.com	Jul 28, 2007
Wiese, Noah	noah@somecompany.com	Mar 3, 2003

Single-Click Hold Notice Creation, Nuanced Escalations Reduce Effort & Increase Control

Use confirmations with confident response tracking to reduce risk. Dynamically create notice from templates; simply provide matter-specific elements of the hold. Route to attorneys for review.

Establish default escalation policies for first, second and subsequent non-responses or define specific escalation handling for a specific matter.

Automatically apply different subject and body text for escalations to managers.

Create a New Notice

- Notice Name: Hold Notice and Questionnaire for Key Custodia
- Request: 426 - Letter received from FERC
- Content Template: Standard Hold Notice template - English
- Rules Template: Hold Notice and Questionnaire Rules for Key C

YOUR OBLIGATIONS

DO NOT DELETE OR FORWARD THIS EMAIL
 You must read and understand this HOLD NOTICE. You must preserve and retain all Relevant Materials. You must respond to this HOLD NOTICE within seven (7) days upon receipt.

CONFIRMATION VERIFICATION - RESPONSE REQUIRED
 Confirmation is made by opening this email, clicking on the link below and responding via the browser.

Yes No Do you understand your obligation and will you fully comply with this request?

If you do not see the controls properly in the email, please click the following link to submit the response: [click here](#)

III. HOLD NOTICE DETAILS - RELEVANT MATERIALS

Name:	--FERC Pipeline Investigation
Subject Matter:	Investigation of environmental infractions and impact regarding pipeline projects.
Managing Attorney:	Gentry, Carol
Materials Defined as:	"Materials" are more than just paper. The term covers all computer files and written, recorded, or graphic materials of every kind, regardless of where stored, maintained or located. This also covers information, or data recorded or stored in any form, including but not limited to: hard copies of documents, drafts, copies of documents, and originals, handwritten notes, and information maintained electronically (e.g., on hard drives, portable or removable drives, email computers and devices), spreadsheets, and databases, and a paper version also exists. All attachments, including voicemails attached to emails, are preserved and retained if they fall within the scope of Relevant Materials below.

Escalation Rules

	Escalation Rule #1	Escalation Rule #2
Usage	First 3 missed deadline(s)	Next 1 missed deadline(s)
Send Confirmation Reminder	Yes	Yes
Confirmation Reminder Subject	Confirmation Reminder \$ResentNoticeNumber - LEGAL HOLD NOTICE for \$MatterName	URGENT Reminder \$ResentNoticeNumber: LEGAL HOLD NOTICE for \$MatterName: Please review and comply
Escalate to Manager	No	No
Escalation Template	N/A	N/A
Generate Non-Response Alert	No	Yes

Relevant Time Period Covered: From: Jul 28, 2011 To: Or "Ongoing Obligation"

Relevant Materials: "Relevant Materials" are those that relate in any way to the Subject Matter within the time period covered, including but not limited to any of the following categories:

1. Licenses
2. Permits
3. Internal Environmental Impact Studies
4. 3rd Party Environmental Impact Studies

Interview Custodians Online About Data Habits & Employee Involvement to Lower Risk, Outside Counsel Fees

Set up standard questions or easily create matter-specific questions, including mandatory and conditional elements.

Pre-set action items to question/answer combinations such as “yes” to “Do you know other people with relevant information?”

Responses are collated automatically; sort by custodian, action pending, or question and specific answers to save time and reduce risk of oversight. Add comments as needed.

1. Do you have any relevant information (in any form) or any knowledge of this matter and business activity?
 Yes
 No

2. Do you know of others with potentially relevant information?
 Yes
 No

3. Please list the others that you are aware of with potentially relevant information

4. Where on your desktop do you have potentially relevant information for this matter?
 My Documents
 Network Drive - X:\
 C:\
 Other
 Thumb Drive
 External Drive

Matters w --Age Discrimination Matter - Greg Sol

Interview Results

Detail · Requests · Holds · Interviews · Collections · Master List · Documents · Search · Cost

Plans · Logs · Results

Plan: Data location survey
 Interview Sent: Jul 7, 2009
 Recipient Name:
 Question: Do you store files on your PC in locations other than "My Documents" or on the Desktop?

Interview Notes
 Notes
 Please search her entire hard drive.

Recipient	Interview Sent	Question	Answer	Detailed Response	Notes	Actions
Gordon, Bob	Jul 7, 2009	Data location survey	PC in locations other than "My Documents" or on the Desktop?	Yes	I have a folder called My Stuff that I save things to.	
Inglis, Margaret	Jul 7, 2009	Data location survey	Do you store files on your PC in locations other than "My Documents" or on the Desktop?	Yes	I also store files in a project folder on my C: drive	Please search her entire hard drive.

Total Interview Results: 2 Page: 1

Make Compliance Easy for Custodians, Improve Compliance

Custodians can look up all of their holds at any time for convenient compliance and so legal can more confidently issue release notices.

Enable executives to confirm compliance from their PDAs with unified response tracking.

Consolidate reminders so custodians receive fewer notices with more complete information about their obligations.

My Holds

Individual Notices | **Current Global Reminder** Confirm

This [Global Reminder Notice](#) was sent on Jun 30, 2010. The following legal holds are included in this notice. Confirm your compliance with all of these obligations by clicking the "Confirm" button above.

Current Notices	Initial Receipt	Attorney	Legal Assistant
Accelrys IPO - Legal Hold Notice	Dec 28, 2006	Beth Abbott	Mary Jefferson
BJ_15472	May 20, 2010	Kim Baker	Rusty Beck
Content disposition work flow - Hold Notice	Jun 30, 2010	Carol Gentry	Jeff Marshall
Hold Notice	May 26, 2010	Carol Gentry	Jeff Marshall
Hold Notice	May 11, 2010	Beth Abbott	Mary Jefferson

Showing 1 - 5 of 20 Page: 1 2 3 4 5 Next

Hold Notice

Subject: LEGAL HOLD NOTICE for Accelrys: Please review and comply

NOTICE TO PRESERVE EVIDENCE

*Privileged and Confidential
Attorney-Client Communication
Attorney Work Product*

Notice of Obligation to Preserve Evidence Regarding Accelrys SEC Investigation

We are obligated to preserve all evidence regarding Accelrys SEC Investigation.

Please note that, in this context, the term "evidence" means any document or record in any form (paper, micrographic, or electronic), or other tangible object. This includes but is not limited to written materials, graphs, charts, and files, and also includes any relevant information held on computer database or disk, e-mail, voice or tape recordings, cassettes, CDs, DVDs, microfiche, video, and film, as well as notes, draft documents, calendars, card files, appointment books, and the like. It also includes all copies of the same document.

The destruction, deletion, alteration, or overwriting of documents, records, or other evidence, will have serious consequences for GFC and/or individual officers or employees who may be subjected to civil or criminal penalties.

- Do not destroy, delete, alter, or overwrite any documents, records, or other evidence relating to Accelrys SEC Investigation even if such documents or materials otherwise are not required to be kept, or are permitted to be discarded or destroyed, in the ordinary course of your business under applicable law or GFC's records retention policies. If you have any questions, please contact Carol Gentry or Mary Jefferson.

Automatically Capture the Custodian Response Record, Record Verbal Confirmations for Completeness

Set default reminder intervals for notices, use a single global reminder to custodians across matters or define reminders for a specific matter.

The response record is automatically captured for each.

Manage non-responders through email and dashboard alerts and automated escalations.

Capture and record verbal confirmations on behalf of executives to complete the custodian hold record.

Date	Reason	Recipients	Replied, Confirmed	No Reply
Jul 28, 2011	Original Notice	572	572	5
Aug 4, 2011	Confirmation Reminder	576		
Aug 11, 2011	Confirmation Reminder	576		
Aug 18, 2011	Confirmation Reminder	576		
Aug 25, 2011	Confirmation Reminder	576		

Page: 1

Name	E-mail Address	Status
<input type="checkbox"/> Brewer, Bob	bob.brewer@genfc.com	No Reply
<input type="checkbox"/> Brooks, Billy	billy.brooks@genfc.com	No Reply
<input type="checkbox"/> Flynn, Billie	billie.flynn@genfc.com	No Reply
<input type="checkbox"/> Haley, Bill	bill.haley@genfc.com	No Reply
<input type="checkbox"/> Beach, Beverly	beverly.beach@genfc.com	No Reply

Confirm

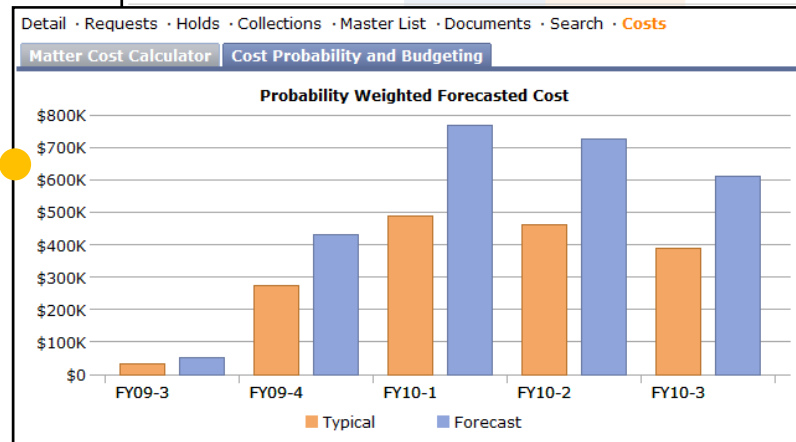
Costs Are Automatically & Continually Forecasted as Scope and Facts Change to Avoid Surprises, Improve Negotiating Power

Make better decisions with insight on both culpability and cost with automatic, continuous forecasts.

Run scenarios with outside counsel to control the scope of collection and production and substantiate burden claims.

Forecast when costs will be incurred and do better financial planning with internal clients.

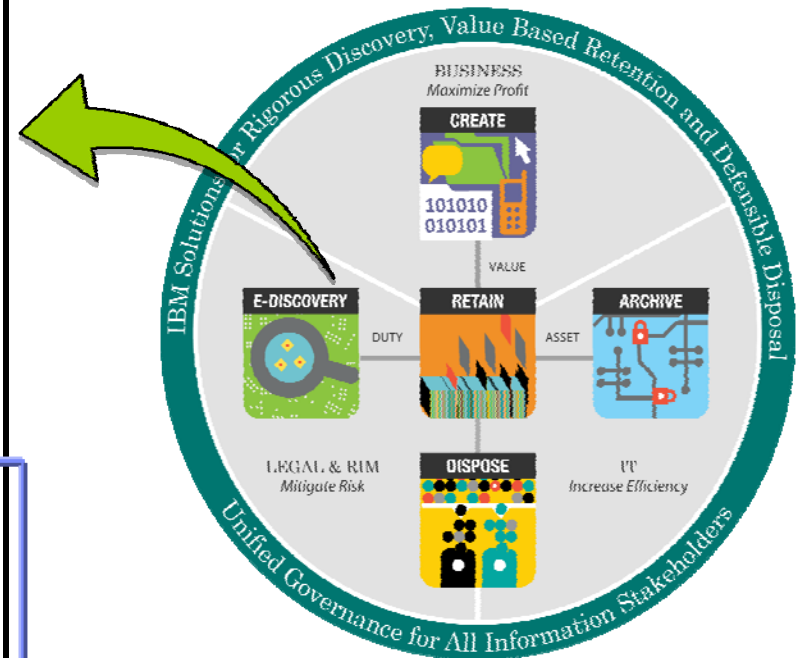
Detail · Requests · Holds · Collections · Master List · Documents · Search · Costs					
Matter Cost Calculator Cost Probability and Budgeting					
	Actual	Typical	Forecast		
	\$986	\$2,238,452	\$3,510,225		
Forecast Parameters		Actual	Typical	User	Forecast
▼ Custodians					
Custodians in Scope	19	24	24	24	24
Custodians in Collections	10	15	30	30	30
Volume per Custodian (GB)	11.32 GB	10.091 GB	10.091	10.091	10.091 GB
Pages per Custodian	571,069	485,355	485,355	485,355	485,355
Collection Cost per Custodian		\$10.00			\$10.00
▼ Data Sources					
Data Sources in Scope	6	9	9	9	9
Data Sources in Collections	2	5	5	5	5
Volume per Data Source (GB)	21.163 GB	17.827 GB	17.827	17.827	17.827 GB
Pages per Data Source	1,007,502	880,363	880,363	880,363	880,363
Collection Cost per Datasource		\$20.00			\$20.00
▼ Collections					
Portion of Data for Review (%)	NA	14.35%	14.35	14.35%	14.35%



IBM eDiscovery Management Solution Set

Build on your existing ECM investment

Process Needs	Capabilities Required	Products that can help
eDiscovery Process Management	<ul style="list-style-type: none"> ▪ Issuing Holds ▪ Custodian Interviews and tracking ▪ Scoping people, data sources & records ▪ Coordinating and conducting collections ▪ Enterprise map for rapid discovery ▪ Monitoring and reporting on the eDiscovery process ▪ Defensible disposition of collected data ▪ Enforcing and releasing holds ▪ Compliance coordination for IT, employees and records managers 	<ul style="list-style-type: none"> ▪ Atlas Discovery Management for Legal* ▪ Atlas Discovery Management for IT* ▪ Atlas Discovery Management for Employees*
Case Assessment & Analytics	<ul style="list-style-type: none"> ▪ Evidence assessment and analytics ▪ Case cost assessment ▪ Cross-portfolio cost forecasting ▪ First pass review ▪ Cross-portfolio custodian, case and evidence pattern analysis 	<ul style="list-style-type: none"> ▪ Atlas Discovery Cost Forecasting* ▪ eDiscovery Manager ▪ eDiscovery Analyzer ▪ IBM CM8 or FileNet P8 ▪ IBM Content Collector



* - New ILG portfolio elements

Quickly Understand Timeline & Essence of Custodian & Business Information

The visual and interactive timeline helps identify and then narrow the search and data set to key periods.

Automatically extracted phrases in the content show the essence of the information.

See how many documents and messages contain important phrases.

The screenshot displays a search application interface. On the left, there is a search panel with fields for Keywords, Sender, Recipient, and Subject. Below these are sections for Suggested Terms and Categories. The main area features a 'Time Line' chart showing the frequency of search results over time, with a yellow dot highlighting a specific period. Below the chart is a 'Phrases' window listing 1000 extracted phrases, sorted by relevance. The phrases are organized into three columns, each with a blue bar indicating the count of documents containing that phrase.

Phrase	Count	Phrase	Count	Phrase	Count
original message	1062	sale agreement	52	great time	33
enron building	153	copies of the message	51	houston tx	33
smith street	136	term sheet	51	capacity release	32
confidentiality agreement	101	enron compression services	50	vice president	32
email address	86	relevant affiliate	49	work-product	32
pacific gas	81	web site	49	express consent	32
national energy group	78	letter agreement	45	good news	31
customers of pacific gas	76	good time	44	delivery point	31
utilities commission	76	duke-energy	43	natural gas	31
customers of pacific gas	76	confidential information	42	bridgeline holdings	30
california public	76	free download of msn explorer	41	law school	30
agency agreement	66	final version	41	capacity allocation agreement	30
conference call	61	content-type	39	earliest convenience	29
ca data sheet	61	phone number	39	msn hotmail	29
property of enron corp.	60	precedent agreement	38	Include this term in the query. Same as Boolean AND.	
cell phone	59	additional information	38	special offers	29
voice mail	56	transaction agreement	37	latest version	29
legal specialist	54	message-id	35	hard copy	29
central time	54	mark knippa	35	original text	28
enforceable contract	53	cbi-houston	34	gas transportation	28

Understand the People & Companies Potentially Involved Very Early to Improve Strategy

Quickly get a view of the people involved as well as the sender and recipient domains and companies involved.

Combine facets and filters to quickly include and eliminate custodians and data – such as people from certain locations or other combination.

Select, view, and page through the information in the time or context slice.

The screenshot shows an email search interface with the following components:

- Search Panel (Left):** Includes fields for Keywords, Sender, Recipient, Subject, and Dates between. It also has a 'Suggested Terms' section and a 'Categories' section with expandable facets: Phrases, Senders or Authors, Recipients, Sender Domains, Recipient Domains, People, Companies, Locations, and Concept Groups.
- Time Line Graph (Top Center):** A bar chart showing the number of results over time from 1999-05 to 2000-05. The y-axis ranges from 0 to 675.
- Facets (Right):** A 'Categories' panel with expandable sections: Phrases, Senders or Authors, Recipients, Sender Domains, Recipient Domains, People, and Companies. The 'People' section is expanded, showing a list of names and counts: Gerald Nemeo (1845), Gerald (1303), Eric Gillaspie (239), Dan (194), Mark Whitt (180), Gray (152), Ken (150), Steve Hooser (149), Debra Perlingiere (137), and Eric (132). The 'Companies' section is also expanded, showing a list of company names and counts: Enron (2529), ECT (1510), Energy.Com (71), Enron Capital & Trade Resources (69), Texaco (62), Legal Department (61), Questar (42), Microsoft (38), Enron Compression (38), and Exxonmobil (32).
- Results Panel (Bottom):** Shows 5916 results (0 selected). It includes a table with columns for Flags, Date, File Types, and Senders or Authors. Two email results are visible: one from 'Ella <Ella@somecompa...' dated 1/2/02 5:36 PM, and another from 'Alyssa <Alyssa@dowbacked.org>' dated 1/2/02 4:30 PM.

Detect Unusual Patterns of Communication and Information Anomalies to Hone In On Issues

Find relevant activity quickly to better understand issues – without waiting to or spending on collecting, processing and reviewing the data.

Easily find and look at the information itself – for example, a spike in “confidential information” exchanged among custodians.

Page through the actual items quickly.

Flag as relevant, privileged, confidential, or irrelevant and add internal comments.

The screenshot displays a search interface for a case titled "Current Case: Some Company vs California Pipeline Company (Change Case)". The search criteria include the phrase "/phrase/'confidentiality agreement'". A bar chart shows the "Actual Count" of results over time, with a significant spike in 2000-10. Below the chart, a list of 92 results is shown, with the first result selected. The selected result is an email from Sophia <Sophia@somecompany.com> to Ella <Ella@somecompany.com> dated November 14, 2000, with the subject "Buccaneer Confidentiality Agreement". The email content discusses a confidentiality agreement between Williams and Duke. A "Flags" panel on the right allows for marking the email as "Confidential" and "Second Level Review Required".

Add or Remove Custodians & Their Data to Lower Risk, Contain Cost

Narrow your search to find the wheat in the chaff.

Track your exact query to easily describe and defend it.

Addresses and IDs are hyperlinked so you can easily identify, add or remove custodians.

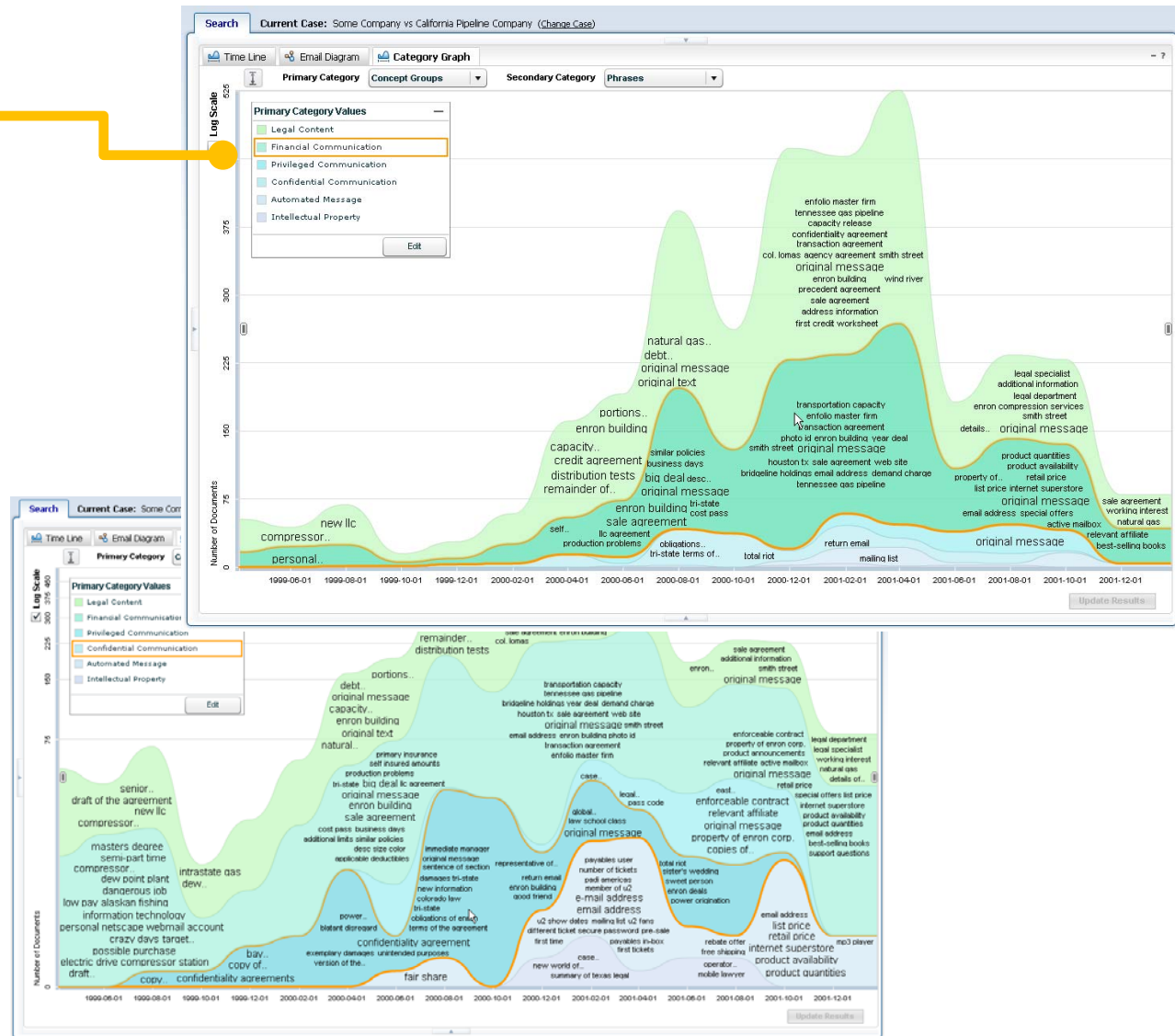
The screenshot displays an email search application interface. At the top, a 'Time Line' graph shows 'Actual Count', 'Expected Count', and 'Overlap' from 1999-05 to 2009-05. Below this is a search results window for 'Current Case: Some Company vs California Pipeline Company'. The search query is `(/person/"Gerald"/"Gerald" AND (/phrase/"confidentiality agreement"))`. The results list 20 items, with the first one selected. A detailed preview of an email is shown below, with a green box highlighting the query `/person/"Gerald"/"Gerald"` and options to 'Add to search' or 'New search'. The email content includes a subject line 'Confidentiality Agreement' and a body with a link to 'Ingenieria & Ehcoppek S.A.' and a list of documents to be provided.

Visualize the Business Concepts & Content Over Time to Accelerate Understanding & Review

Organize a topographical view by key category.

Information “peaks” show frequency and phrases to quickly identify relevant information.

Refine the hold and collection as early as possible to lower both cost and risk.



Eliminate Irrelevant Material Based on Concept, Conversation, Content and Context Analysis

Use the topo view in combination with other information facets such as sender domain, people or companies to quickly include or exclude information.

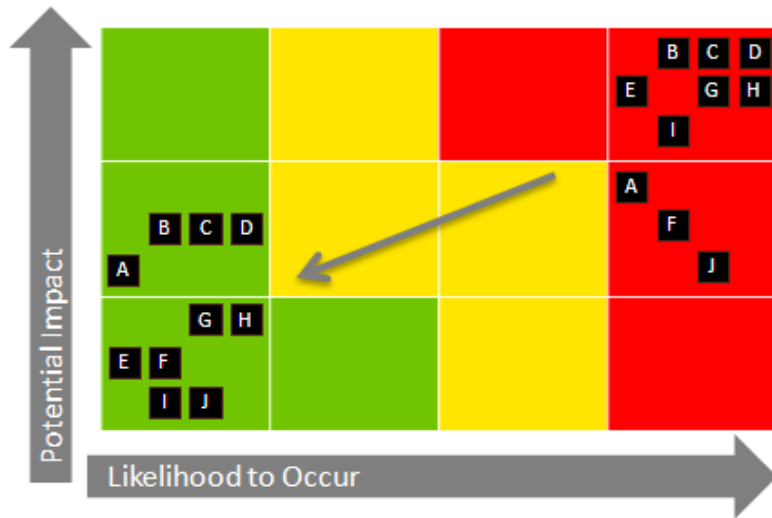
Avoid unnecessary processing and review fees.

The screenshot displays a search interface for a case titled "Current Case: Some Company vs California Pipeline Company (Change Case)". The search criteria include keywords, sender, recipient, subject, and dates. A filter is applied: "- Privileged, - Hot, - Second Level Review Required". The search results show 258 results, with 258 selected. A "Topo View" chart is visible, showing the number of documents over time (from 2000-05-01 to 2001-05-01) categorized by Primary Category Values: Legal Content, Financial Communication, Privileged Communication, Confidential Communication, Automated Message, and Intellectual Property. A "Flags" dialog box is open, allowing users to select, clear, or change flags for the selected emails. The flags include: Responsive, Non-Responsive (checked), Privileged, Hot, Never Produce, Confidential, Second Level Review Required, and Foreign Language. The dialog also has "Reset", "Save", and "Cancel" buttons.

IBM Solution Reduces Burden, Risk & Cost

	STAKEHOLDER	HOLDS ISSUES	COLLECTIONS CONCERNS	REQUIREMENTS
Process Owners	Attorneys: INTEGRITY	<ol style="list-style-type: none"> 1. Integrity of the holds process 2. Defensibility and audit trail 3. Scope of potential discovery 	<ol style="list-style-type: none"> 1. What does the evidence tell us? 2. Integrity and certainty of the collections process 3. Timeliness and cost 	<ul style="list-style-type: none"> ✓ Transparency of process ✓ Early assessment of evidence ✓ Predictable costs
	Paralegals: QUALITY	<ol style="list-style-type: none"> 1. Understanding what to hold and collect 2. Managing matter and custodian lifecycle 3. Keeping track of hold compliance over time 	<ol style="list-style-type: none"> 1. Level of effort to communicate collection instructions (custodian lists, requirements) 2. Visibility on collection status 3. Re-documenting other people's work and quality control 	<ul style="list-style-type: none"> ✓ Automatic documentation ✓ Ability to manage by exception ✓ Streamlined, structured communications with custodians and IT
Process Participants	Business Staff: CONVENIENCE	<ol style="list-style-type: none"> 1. Clarity of instructions 2. Ease of compliance 3. Not top of mind 	<ol style="list-style-type: none"> 1. Not disruptive or intrusive 2. Not repetitive 	<ul style="list-style-type: none"> ✓ Clear instructions ✓ Access to current holds
	IT Staff: EFFICIENCY	<ol style="list-style-type: none"> 1. What is really on hold? (And what isn't?) 2. Transparency by custodian and source rather than matter 3. Ease and precision of compliance 	<ol style="list-style-type: none"> 1. Eliminate tedious, detailed work which requires high accuracy and quality control 2. Time pressure conflict with time it takes to do properly 3. Visibility to delegated work without duplicate effort 	<ul style="list-style-type: none"> ✓ Hold look up by custodian and data source ✓ Precise instructions ✓ Hold and collection automation ✓ Automatic record keeping

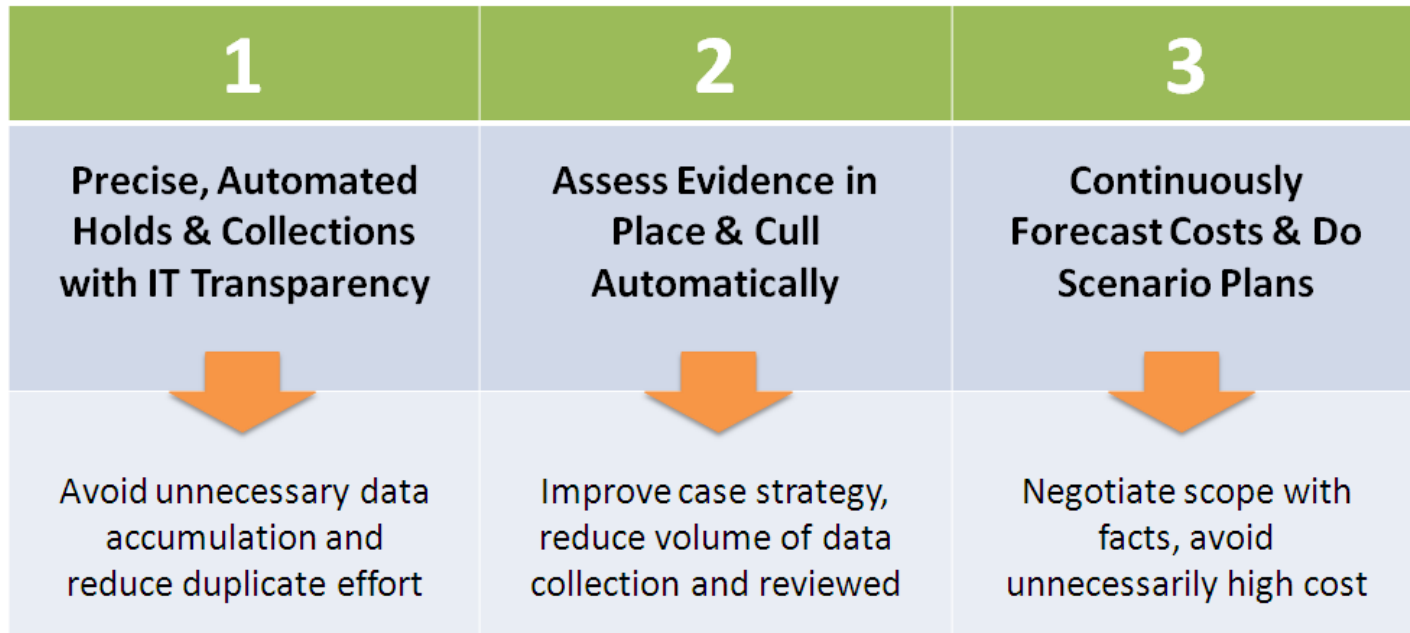
IBM's eDiscovery Solution Measurably Lowers Legal Risk



Typical Preservation Risk Scenarios

Sources of Failure Risk in Manual Process	Risk Mitigation Achieved with Software
A Legal scopes the wrong employees, those employees terminate or transfer mid-matter and data subject to hold is lost.	Legal can reliably scope custodians by current and historical organization hierarchy and automatically detect terms and transfers.
B Legal fails to identify sources of data managed by IT staff and data subject to hold is destroyed.	Legal can reliably and accurately scope data and information managed by IT and RIM staff source
C IT migrates, retires or modifies data subject to hold.	Legal holds can be automated on data in place and IT and RIM staff are systematically alerted; they have continuous visibility to holds on systems and records.
D Legal fails to identify or follow through on information gleaned in thousands of interviews.	Interviews are conducted online, results automatically compiled and follow up action items trigger alerts and exceptions
E Data isn't collected because of a missing data source, departing employee, incomplete prior collection inventory, and communication and tracking errors.	Information inventory workflow and tracking link legal with RIM, business and IT information owners for transparency, automated collections and tracking.
F Unable to assemble, understand or defend the audit trail of discovery activities.	Hold and collection audit trails are generated automatically to eliminate double record keeping, errors and risk.
G Retention schedules are not followed and/or the validity of the current schedule is hard to defend.	Business specific schedules can be easily and sustainably managed and automated.
H IT saves all data because they fear disposing of the wrong data, increasing discoverable mass and confusion.	IT saves only data of value or that which is subject to legal obligation, and performs routine, defensible disposal.
I IT disposes of data subject to legal obligation.	IT saves and manages data commensurate with its value
J Internal compliance audit failures on records and legal holds expose the company in discovery or unable to respond to regulators.	Predictable audit compliance and highly defensible legal holds and disposition.


IBM's eDiscovery Solution Helps Significantly Reduce Cost



Only IBM Addresses eDiscovery Risks and Costs + Their Root Cause


Smart Archive for IT

- Archive Office and Collaboration Content
- Archive SAP and Structured Data




eDiscovery Management for Legal

- eDiscovery Process Management
- Case Assessment & Analytics




Records & Retention Management for RIM

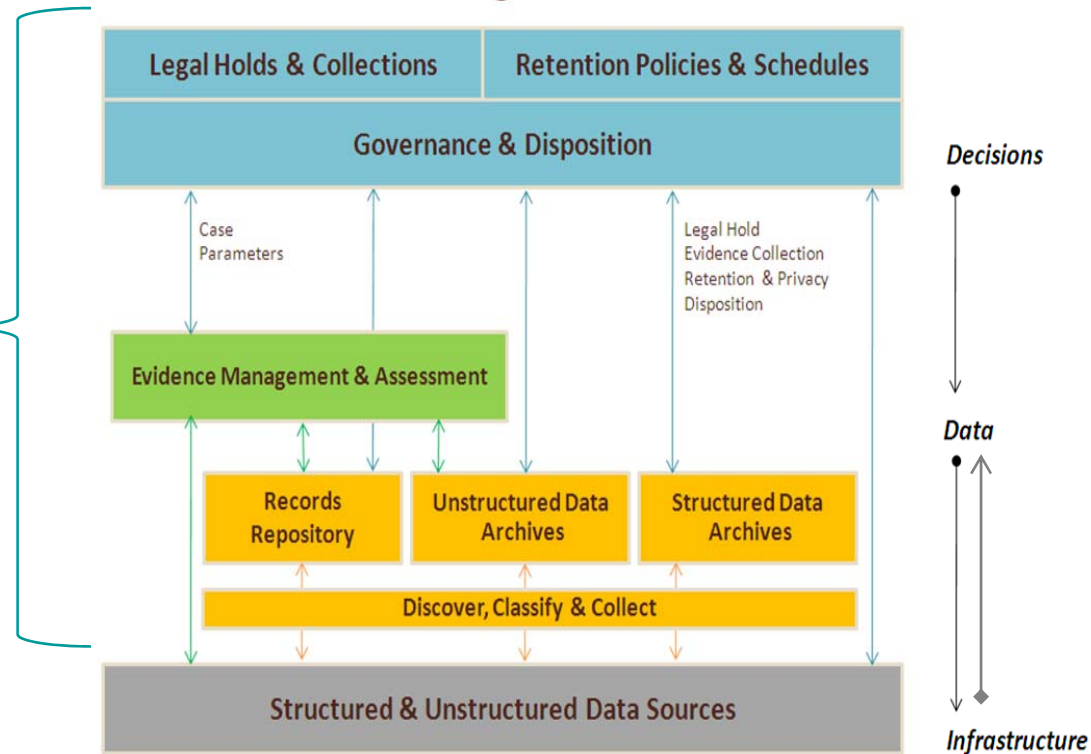
- Retention Policy & Schedule Management
- Enterprise Records Management



Disposal & Governance Management for the CIO

- Disposal Enablement
- Governance & Risk Management





IBM Capabilities Unify Processes, Stakeholders and Governance

Lower Cost and Risk, Higher Value

PROCESS TRANSPARENCY

Source: EDRM.net

Unified Governance

- ✓ Natively integrated workflows
- ✓ Common data model, enterprise map and governance hub
- ✓ Automatic linkage of duties, value to information assets and business processes

HOLD, DISCOVER

Rigorous Discovery

- ✓ Robust, automated legal holds for people + data
- ✓ Efficient discovery process, including data collection
- ✓ Early case assessment
- ✓ Legal cost and risk analytics

RETAIN, ARCHIVE

Value-Based Retention

- ✓ Regulatory requirements master
- ✓ Index of information's business utility
- ✓ Reliable retention schedules with automated classification and execution

hiving across data types
t and risk analytics



CREATE, USE

Optimal accessibility

- ✓ Determine what is of value
- ✓ Ensure trusted content availability
- ✓ Search smaller corpus faster for better business productivity
- ✓ Meet SLAs for structured and unstructured information access

STORE, SECURE

Efficient Storage

- ✓ Standardization and consolidation
- ✓ Virtualization and deduplication
- ✓ Rationalization
- ✓ Policy and governance

DISPOSE

Defensible Disposal

- ✓ Catalog of obligations and duty by asset
- ✓ Legacy data clean up, application retirement
- ✓ Procedures for disposal by source
- ✓ Risk and cost dashboard for information portfolio

Topics

1. The GC's pain points
2. Addressing the problem
3. Developing the business case for change
4. Building on your expertise and ECM investments
5. Resources to learn more



IBM is deeply committed to the Information Governance domain

1,300 corporate practitioners forum focused on the intersection of legal holds, discovery, retention and information management founded in 2004 by Deidre Paknad

2011 MEETING TOPICS

- Designing your Information Governance Program
- Defensible Disposal Workshop Series
- How Changes in U.S. Privacy Law Are Accelerated By Social Media
- Compliance, Discovery and Disposition of Structured Data
- What You Need to Know about SoLoMo
- A Future Look into the Legal Landscape
- Ediscovery Beyond Email: Structured Data, International Discovery, and Social and Mobile Media
- Prevailing Practices — Peer Benchmarking & Common Breakdowns in Preservation and eDiscovery
- Rigorous Discovery, Value-Based Retention and Defensible Disposal
- Discovery and Disposition — From Strategy to Execution
- Right Steps, Wrong Outcome — What Harkabi Teaches
- CGOC Summit 2011

CGOC Research, Micro Surveys and Working Groups

Benchmark Reports are surveys and analysis of legal, RIM, and IT corporate CGOC members from the Global 1000.

Cited in Amicus Briefs and Commentary to the Federal Rules Committee, CGOC research and data are an important voice on the preservation and discovery challenges facing its members.

RESEARCH IN PROGRESS

- Benchmark on Prevailing Practices for Legal Holds 2nd Edition
- Benchmark Report on Governance of Social & Mobile Media
- Benchmark Report on Information Governance, November

MEMBER-INITIATED MICRO SURVEYS

- Fast-turnaround surveys initiated by members on narrow topics

WORKING GROUPS

Focus on defining optimal practices and processes, publish work product with guidance and considerations

Preservation and eDiscovery

Co-chairs: Tom Lahiff (former Citigroup AGC), Robert Levy (current managing counsel for ediscovery, Exxon Mobil)

Records and Information Management

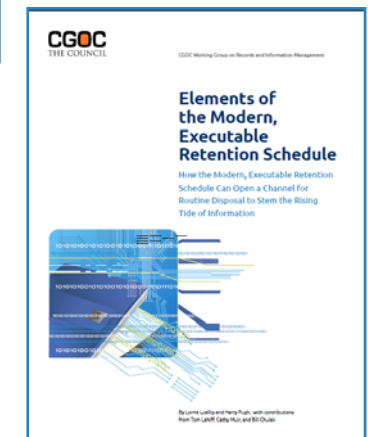
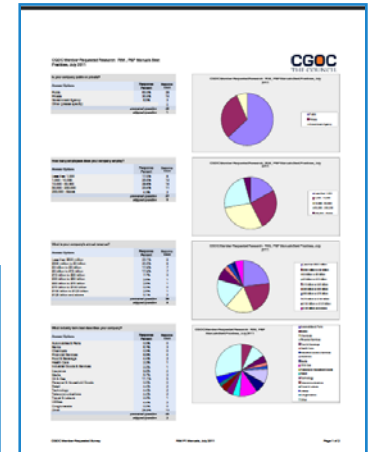
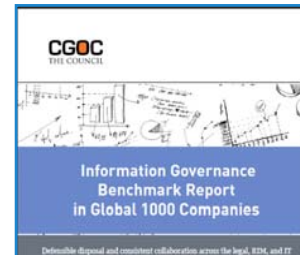
Co-chairs Lorrie Luellig (attorney at Ryley Carlock), Harry Pugh (former SVP policy at Citigroup)

Information Governance & Defensible Disposal

Co-chairs: Bill Chulak (Amgen), Eckhard Herych (Novartis), Jonathan Redgrave (Sedona)

Governance of Social Networking & Mobile Media

Co-chairs: Jake Frazier (Huron), David Stanton (Pillsbury)



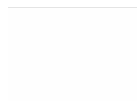
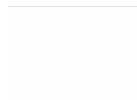
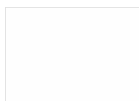
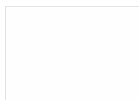
Thank You!



Helping Your Legal Department Meet Information Obligations and Reduce Risks

Michele Kersey

michelekersey@us.ibm.com



Putting Content to Work
ECM UserNet 2011

