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eDiscovery at Government Agencies

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eDiscovery is a challenging process for even the most experienced law firms, corporations, or agencies. Government agencies face added challenges, including declining budgets, increased data volumes, changing data landscapes, collaboration within and across departments, and limited availability of resources, which can further complicate the eDiscovery process.

An effective eDiscovery framework is not just about the technology. You need the right people and processes to meet the eDiscovery needs for your organization.

People	Process	Tools

Selecting the right people to manage your eDiscovery

Select a person or a team in your agency to manage the eDiscovery process. This person or team will act as a liaison between your attorneys, the tool, and the eDiscovery vendor. Typically, this person is a litigation support specialist or an eDiscovery/IT specialist who has excellent communication and project management skills, has a strong familiarity with the litigation process, and is comfortable with technology.

Most importantly, unlike what you may assume, the burden of managing eDiscovery should not fall on attorneys. They need to focus their time and energy on building and presenting the case.

Following best litigation support processes in each area of eDiscovery

Following proven, repeatable eDiscovery processes can make eDiscovery smoother and easier and can save you valuable time and money. Below is a collection of the best practices for each phase of eDiscovery:

Collection	Processing
Review	Production

Collection

- Establish regular communication with the attorneys, the vendor, and anyone sending you data. Do they know who you / your team are? Do they know how to reach you?
- Take good care of every single piece of data that comes in the door. Log or index the data. Who and where did the data come from? What kind of data is it? Verify that what you asked for is actually what you received.
- Keep a pristine copy of the data. If you're sending data to a vendor, make sure you keep a copy or send it and get it back as soon as possible.

Processing

- Communicate with the vendor and leverage their expertise to help you analyze, sample, cull, and manage your data.
- Just because you collected it, doesn't mean you have to process it. In most cases, you will have a mass of data from a variety of sources, much of which will not be of interest. If you can target specific portions of the data you have collected or omit specific files prior to processing, you can save yourself some work. For example, it may not make sense to add audio/visual files to your eDiscovery tool because they can't be searched and take up a lot of space. If you have transcripts it may be better to add those instead.
- Cull, cull, and cull! Every step you take to reduce the size of your dataset saves you time and money. Employ processing techniques like de-NIST, de-duplication, filtering by various metadata fields, and keyword searching.
- Be prepared to adjust your dataset. Facts about the case change and litigation evolves as the involved parties learn more. Are you still using the appropriate dataset? Can you further limit custodians or dates? Do you need to broaden your terms? Minor changes to the facts of the case can drastically impact your dataset.

Review

- Prepare document review guidelines before the review begins. Include guidelines for tagging, determining privilege, family tagging, etc. Provide protocols to follow for questions and technical issues.
- Work with the lead attorney or investigator to determine:
    - how quickly the document review needs to be completed,
    - how many hours per week each review attorney will work (will there be any overtime hours) and
    - how many review attorneys the client is comfortable adding to the team.
- Most documents are reviewed in order by priority custodian, but there are exceptions to this workflow. Make a decision with the lead attorney/investigator about which documents are a priority to review.

- Encourage collaboration between reviewers. Sometimes one person will understand a topic better than another person.
- Communicate, communicate, communicate! Encourage open communication and check in with the review team often. Do they have everything they need for success? Have they had any issues with the software? Have they experienced problems in the coding process?
- Quality check reviewed documents early – preferably within the first 48 hours – to ensure the coding is accurate. If there are discrepancies or concerns, this gives you ample time reset guidelines and expectations.
- Plan for production. Work with the lead attorney or investigator to determine the first production date and the potential full production schedule. Perform a quality check on a pre-production dataset about a week prior to the production date.

Production

- Communicate with the vendor. Stay in touch with the vendor in the weeks leading up to the production date so they are prepared to provide the production error-free in a timely manner.
- Finalize the pre-production QC dataset 4-5 days prior to the production date and submit it to the vendor to prepare for production.
- Ensure the vendor plans to provide you with the final dataset 1-2 days prior to the production date. Once you have received the final dataset, perform a quality check and provide any feedback to the service provider

Selecting the right tool that meets your agency's needs

There are dozens of eDiscovery tools in the marketplace. All of these tools have been developed to help ease the burden of eDiscovery; but all tools are not created equally. The right tool will bring efficiencies that reduce the cost and burden of eDiscovery for your agency.

These 7 must-haves are a smart place to start in selecting the right eDiscovery tool. Make sure that your chosen platform is:

1. **Inherently cloud-based** — built from the ground-up with flexible cloud technology, able to handle remote access and to scale to support multi-terabyte data volumes. This is especially important when working with cases that require cross collaboration and access from parties outside of your organization. Beware of reverse-engineered cloud solutions and awkward bolt-ons. Will they cope in a complex, multi-agency environment?

2. **Customizable to the unique needs of each party** – so that elements like database setup, document sharing, access and permissions, and billing can be delivered in custom ways for a variety of parties across various locations.

3. **Expertly supported by a team of experienced technologists and eDiscovery pros** – specialists who can look after the diverse needs of all parties, across the lifecycle of a matter.

4. **Transparent and easy to pay for** – no nasty surprises, spiraling per-user fees, or added costs for data ingestion, processing, ECA, TAR, review, or production.

5. **Rich with cutting-edge shared space features** – so teams can easily upload and collaborate on documents, deposition transcripts, and court filings, underpinned

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by one single secure repository for case-related documents, regardless of where each team member is located.

6. **Able to scale and flex** – spinning up massive processing power on-demand during peak periods. Because downtime means lost efficiency and added cost.

7. **Highly secure** – freeing joint parties to work confidentially in a shared, private cloud environment. Beware of vendors that offer the scale and flexibility you need by outsourcing to public hosting providers at the cost of security. Is their technology SOC 1 Type II, SOC 2 Type II, ISO 27001, PCI DSS and HIPAA compliant? Do they use gold standard 256-bit TLS encryption? Anything less than 128-bit TLS is risky.

Laying the foundation for eDiscovery at the outset means your agency will be prepared to manage litigation, public record requests, and internal investigations as your eDiscovery needs grow. The right people, processes, and tools are the key to ensuring smooth eDiscovery.

Casepoint has been chosen again and again in tough vendor selection processes. It has been proven to effortlessly support all sorts of litigation, public records requests, and investigations. To learn more about Casepoint for the public sector, browse our case studies and other resources*.

* https://gov.casepoint.com