



# WHAT IS RECORDS MANAGEMENT..... AND WHY SHOULD I CARE?

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1

## TODAY'S AGENDA

- The ROI of Records Management
- Accountability
  - The establishment of standards to minimize risk
- Compliance responsibility
  - There must be some rules we have to follow

2

# WHAT IS RECORDS MANAGEMENT?

COMPLIANCE  
RISK MITIGATION

3

## COMPLIANT ORGANIZATIONS

- Create only the records they need
- Retain records according to legally approved records retention schedules
- Maintain active and inactive records in appropriate, accessible formats and locations
- Can track, find, open and read electronic records for their full retention period
- Discard records when no longer required (at the end of their retention period)

4

## WHY CARE...WHAT IS THE BUSINESS CASE?

- Reduce Costs--Save time, save space, save money
- Reduce Risk--Poor audit findings
- Minimize Legal Exposure
  - Storage may be cheap, but litigation is expensive
- Continuity of Business Operations in Case of a Disaster
  - Vital Records Identification and Protection
- Protect the Rights and Interests of Patients and Employees
- Eliminates the need to produce/responsibility for records which have reached the end of their retention period...and have been destroyed

5

## ESTABLISHING STANDARDS TO MINIMIZE RISK: CHOOSE TO ACTIVELY MANAGE RECORDS

- **KNOW** where your records are
- **KNOW** how long to keep them
- **UNDERSTAND** there is no difference in responsibility between paper and electronic records

6

## Definition of a Record

Recorded information, regardless of form or characteristics, made, received or used by a governmental agency in connection with the transaction of public business.

**(2)RECORDED INFORMATION DEFINED.**—For purposes of paragraph (1), the term “[recorded information](#)” includes all traditional forms of [records](#), regardless of physical form or characteristics, including information created, manipulated, communicated, or stored in digital or electronic form.

Requires electronic records remain in “digital or electronic form to the greatest extent possible”

44 U.S.C § 3301 Definition of records

7

## ELIMINATING RISK

Manage information so that you can **find it, open it and read it** for the full retention period

Shred/Purge information at the end of the retention period to prevent ROT

- Information grows quickly
  - Legacy of unmanaged information
  - Information is being generated in overwhelming volumes
- Structured and unstructured data is stored in many locations
  - Significant number of pockets of information which are difficult to identify, access and search
  - Difficulty in gaining a clear picture of information value and content
  - And there is a lot of duplication

8

## RISK COMES FROM: **ROT**

Redundant      Out-of-Date      Transitory

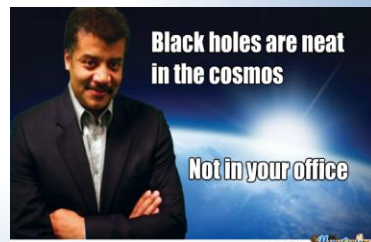
- 80% of records
- Think about electronic records
- 1 gig is equal to 167 bankers boxes
- How many gigabytes do you have in your email account?

9

## RISK COMES FROM: **Dark Data**

Information assets organizations collect, process and store during regular business activities, but generally fail to use.

- No administrative, legal, fiscal or archival requirements for their retention
- May be disposed of as soon as they have served their reference purpose
- **Includes:**
  - **Orphan documents and drafts**
  - **Electronic records that do not have to be printed or saved**



10

## RISK APPLIES TO ALL FORMATS AND DEVICES EXAMPLE: TEXT MESSAGES

### Washington State Supreme Court

- Unanimous ruling
  - 21 August 2015
- Public Records act extends to work related text messages
- “Public business, whatever its cyber form, is still the people’s business”
- Doesn’t matter if its on a private device
- “Text message log” or “call log” **not enough**
  - Must have content of the text available

11

## WHERE IS IT LOCATED?

- Network and E-mail Servers
- Desktop and laptop computers
- Home-based computer devices
- Cell phones regardless of ownership of device
- Tablets
- Storage devices: Backup tapes, ‘local’ Hard Drive, flash drives, network storage, the Cloud

12

## WHY THE EXTRA CONCERN?

- **Freedom of Information**
  - FOIA
  - Washington Public Records Act
  - Oregon Public Records Law
- **“E Discovery”**
  - Court decisions and rules place substantial obligations on public and private organizations to:
    - Preserve all electronic materials that could be relevant to pending or anticipated lawsuit
    - Retrieve and produce these materials in litigation

13

## RISKS, PENALTIES, FINES AND VIOLATIONS

### Under Washington PRA Fines + Legal Fees

- *Storti v. UW*: \$83,000 for silently withholding records (*failure to provide to OPR*)
- *Bichindaritz v. UW*: \$726,000+ attorneys fees for *timeliness violation* (overturned on appeal)
- Labor & Industries: \$502,000 for *timeliness violation*; \$53,000 in legal fees
- DOT: \$500,000 settlement for *timeliness violation*
- City of Shoreline: \$538,555 for *not providing records electronically*

14

## CAUTIONARY TALES

- Corporation is sued for fraud. It fails to preserve emails and fails to fully search and produce emails from back-up tapes. As a penalty, the judge shifts the burden to the defendants to disprove key allegations. Plaintiff awarded \$1.6 billion.

Coleman Holdings v. Morgan Stanley

- Employee sues corporation. Defendant deletes some emails and loses back-up tapes. Judge tells jury to assume the missing emails would have hurt the corporation. Plaintiff wins \$29.3 million.

Zubulake v. USB Warburg

15

## MORGAN STANLEY LEARNS A LESSON

In 2012 Morgan Stanley was investigated by the SEC and the DOJ

- Violation of the Foreign Corrupt Practices Act which prohibits bribery and corruption of foreign government officials
- This time Morgan Stanley ***preserved all records in all formats***
- Proved existence and maintenance of a ***strong system of internal controls***
- No action brought against Morgan Stanley

16



## SOLUTIONS: DATA MAP

Where do your records actually live—in which system and on what media

- Inventory
  - **What** you have
  - **Where** it is
  - **Who** is responsible for managing it
  - **Keep** it up to date

17

## SOLUTIONS: RECORDS RETENTION SCHEDULES

- Can take the place of a Data Map or enhance a Data Map
- Includes all information regardless of physical form or characteristics
- Standardizes how information is managed across the enterprise
- Once approved becomes a legal document
- **Identify and defensibly dispose of expired, duplicative and low value data and documents**
- Eliminates ROT
- Eliminates Dark Data

18

## GOOD RECORDS MANAGEMENT

- Reduces Risk
  - Audits
  - Public Records Requests
  - Litigation
- You can *find, open* and *read* all records for the full retention period
- Records are destroyed/deleted at the end of the retention period
- Records retentions are applied to both paper and electronic information
  - Regardless of location or device used—or ownership of device
- Records retentions are applied consistently across and within groups

19

## QUESTIONS?

THANK YOU FOR YOUR PARTICIPATION....  
AND COMPLIANCE

20