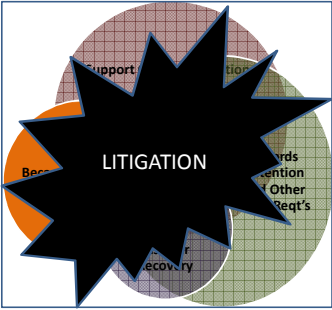
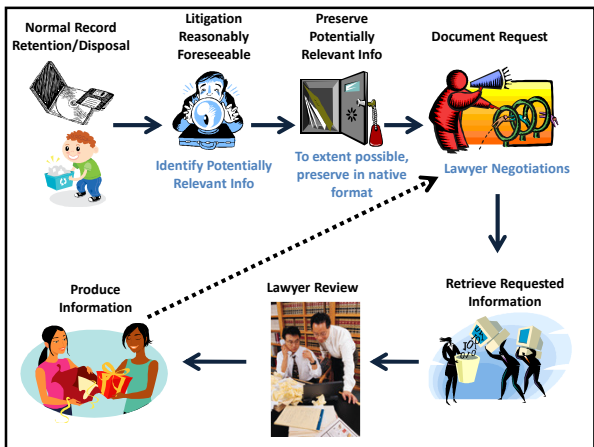


E-Discovery in the Public Sector

Kara A. Millonzi
millonzi@soq.unc.edu
June 2011

Why Retain Electronic Information?

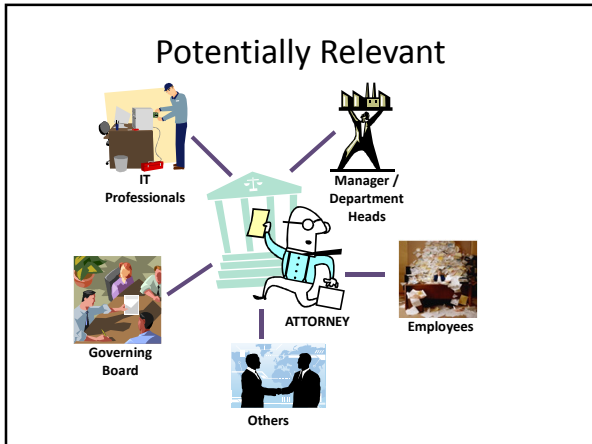




Identify
Locate
Preserve
Produce
Contain

Identify & Locate

- Any and all info that is potentially relevant to pending or anticipated litigation
- In any form/format
- Within possession, custody, or control of unit







Preserve

- Preserve in native format to extent possible until end of litigation

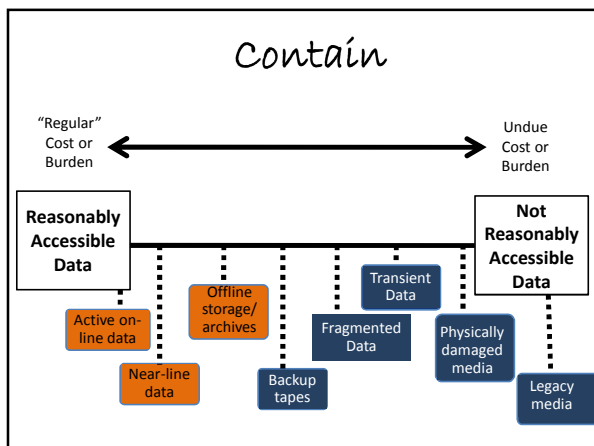
Produce

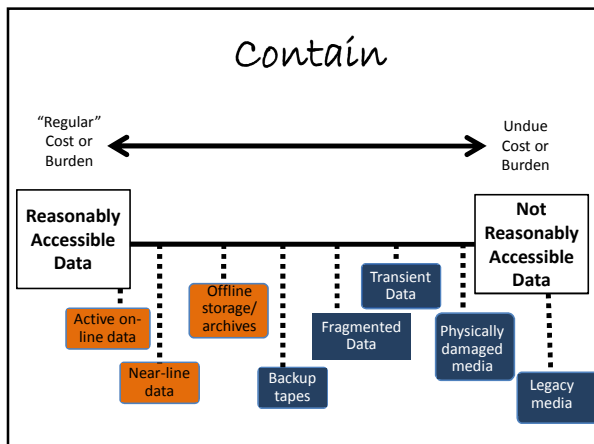
- Produce in form specified by requesting party
- If no form specified, produce in native form or reasonably usable form
 - Cannot significantly degrade search capability
 - May have to produce metadata
- Can object to requested form if creates undue burden

Contain

- Proper data management
- Use search terms and tautologies to find relevant information
- Identify costs and burdens to searching for, retrieving, and storing all potentially relevant information early in process

Contain





Contain: Data Management

<ul style="list-style-type: none"> • How many? • Who uses? • Procedures for data storage? • Backups? 	<ul style="list-style-type: none"> • How many? • Who uses? • Procedures for data capture? • Backups? 	<ul style="list-style-type: none"> • How many? • Who uses? • Policies for use? • Procedures for data capture? • Backups? • Contract with ISP Provider? 	<ul style="list-style-type: none"> • How many? • Who uses? • Procedures for data capture? • Backups? 	<ul style="list-style-type: none"> • Is all data backed up? • How long? • Is backed-up data accessible/searchable? • Who controls?

<p style="text-align: center;"><u>E-Discovery Rules</u></p> <ul style="list-style-type: none"> • Applies to electronic information that is potentially relevant to anticipated or pending litigation and within agency's possession, custody, or control • Location is irrelevant • Must be retained in native format (to extent possible) until the end of the litigation • Produced upon request, in requested form • Cost generally borne by producing party 	<p style="text-align: center;"><u>Public Records Laws</u></p> <ul style="list-style-type: none"> • Applies to electronic records made or received in connection with the transaction of official business • Location is irrelevant • Retention governed by underlying content • Broad right of public access <ul style="list-style-type: none"> – Produced upon request, in requested form • Cost generally borne by government
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