

# THE ELECTRONIC DISCOVERY HANDBOOK

Jonathan M. Jaffe, Esq., M.A.

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BY  
JONATHAN JAFFE, ESQ., M.A.

## CREDIT AND LICENSING

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Based on a work at <http://edrm.net>.

## ABOUT THE AUTHOR

Prior to becoming an attorney Jonathan spent over a decade designing and implementing large scale data security systems world-wide. He now practices complex litigation involving large amounts of electronic discovery.

This book is Jonathan's adaptation of the collaborative work known as the Electronic Discovery Reference Model. See <http://edrm.net>.

Please send feedback and questions to Jonathan at [jmj@jaffe-law.com](mailto:jmj@jaffe-law.com).

## Introduction

Electronic discovery is a process, a complex, time-consuming, mistake-prone, detail-oriented, high-risk, headache-inducing process. While law requires an attorney to look at each problem as if it were new, much of the e-discovery portion of a litigation matter can largely be standardized because much of it can be performed in the same manner each and every time. In fact, like records management processes, much of e-discovery should be standardized to increase the defensibility of the process itself.

This handbook articulates the e-discovery process for you. It removes most of the e-discovery guess work, and it does it when you need it most: when the stuff hits the fan and you have little time to make important decisions.

This handbook is your step-by-step guide to e-discovery. It walks you through each phase, telling you who needs to be involved, what they need to do, and when and how to do it.

This handbook is not your typical law book; It does not contain much law. Law books help attorneys stay up-to-date on legal developments, and yet, ironically those same books are generally out-of-date the day the manuscript is slapped down on the publisher's desk. In contrast to the ink on those pages, the law remains wet long after the ink has dried. This is particularly true in the developing area of electronic discovery. But this is not really a law book at all. This is a handbook of process, of how to get something done. As such, this handbook aims to stay relevant far longer than a law book.

Generally, this handbook will not tell you about recent developments in e-discovery; that is like

grasping at smoke and best left to the multitude of other dynamic sources out there. Great web sites, RSS feeds, tweets, CLE seminars, blawgs, podcasts and the such do a better job than a single book could ever hope to do. But a law book can be useful without explaining the law. This one will prove invaluable to the practicing attorney and the e-discovery project manager alike because it calmly walks you through the complex and hair-pulling process of electronic discovery, telling you when you need to do what, thereby making the overwhelming manageable. You will regularly use this in your weekly activities. This handbook defines an entire process, and it is this process which allows you to keep ahead of e-discovery developments, for while the law changes quickly, the process remains essentially the same. The step-by-step process detailed in this handbook, along with the templates, worksheets and other forms, will reduce your anxiety by greatly increasing the defensibility of your e-discovery activities.

### EDRM And This Handbook

**EDRM**  
Electronic Discovery  
Reference Model  
See [edrm.net](http://edrm.net)

This handbook comes from the experience of not just one practioner, but literally hundreds of experts in all aspects of e-discovery. In-house and outside counsel, project managers, consultants, software developers, and business people have all contributed to this book indirectly through the great work of the Electronic Discovery Reference Model, or EDRM. (See [edrm.net](http://edrm.net).) The knowledge of those experts developed the esteemed EDRM. That knowledge, along with my own experience as an attorney and a data security consultant, has been reworked to create a highly-organized, repeatable process that you will use to navigate the e-dicscovery landscape. By putting the complex steps of the EDRM into a concise, tangible, color-by-numbers process, I hope to help you control

your e-discovery project. It's a project plan in a book, guiding you to compliance and completion.

However, this handbook diverges from the EDRM in two ways; "Analysis", one of the EDRM super-processes, is woven into various steps throughout the handbook. "Presentation", another EDRM super process, is not (yet) covered at all.

The EDRM breaks analysis out into its own category because analysis is a critical part of the e-discovery process. However, analysis must actually occur during certain steps, not afterwards. Analysis should be iterative and ongoing within a step. For these reasons I include analysis within the chapters in which it should occur.

Presentation, on the other hand, should get its own chapter. Unfortunately, it must be covered in a later edition of this handbook.

## How To Use This Book

The handbook is organized in the following way:

### Chapters

A major process within the EDRM. A chapter will generally take weeks to complete.

### Steps

Within each chapter major steps must be taken. Each step is a mini-project unto itself and may require a few days to a few weeks. The purpose of the step is explained, the actors involved are identified, and finally, the actions are called out.

### Actions

Each step requires one or more actions. Actions tend to be discrete events that can be done in a

matter of minutes to days.

### Forms

Many actions require you to complete documents (prose) or worksheets (tables), collectively referred to as 'forms'. Nearly all forms can be started from the templates included in this handbook. Once a template has been modified, it is called either a document or a worksheet, and is frequently called out in the left-hand margin. For example, the first action requires you to create a worksheet called the e-D Team List. You will find the e-D Team List Template in the back of this handbook. Using that template, you will create the worksheet. This worksheet will thereafter be referred to as the e-D Team worksheet.

### Acknowledgments

This book owes everything to the Electronic Discovery Reference Model. See <http://edrm.net>.) Fundamentally, this book is a re-organization of the work organized by George Socha and Tom Gelbmann, founders of EDRM.net, and developed by hundreds of contributors over the last half-decade. Finally, because so much material is either derived from or directly quoted from edrm.net, it would be impractical to make citations throughout the handbook. Therefore, I've given attribution to EDRM.net at the beginning of the book rather than citations all over the place.

## You will

- Identify subject-matter experts, custodians, resources, and potential data sources
- Put custodians on notice to preserve ESI
- Determine the depth and breadth of potential liability
- Aggregate lists of potentially relevant information sources

ESI  
Electronically Stored  
Information

Identification is the act of locating the ESI targets of the e-discovery action, and resources you will need to collect and process that ESI. You will answer the questions, where is the ESI, and who is going to help process it?

## You need

- A 3-ringed binder
- Form [1:1] e-D Team List worksheet template
- Form [1:2] e-D Team Overview document template
- Form [1:4] e-D Team Meeting Agenda document template
- Form [1:5] ESI System Description document template
- Litigation Hold Letter document templates
- Form [1:6] Litigation Hold Log worksheet template
- Form [1:7] Data Map worksheet template
- The Custodian Interview worksheet template
- The e-D Project Plan worksheet template

## You get

- A binder that will hold all relevant material for the situation, hereafter referred to as the “<Situation> e-D Binder”
- A spreadsheet (“map”) of your data sources within your organization
- Sources and samples of potentially relevant ESI

## PURPOSE

To create a cohesive team to manage the e-discovery situation.

## ACTORS

Corporate Counsel, Outside Counsel Lead Attorney

## ACTIONS

### 1 Create the <Situation> e-D Binder

The e-D Binder is your key to defensibility. It is a 3-ringed binder created for this particular e-discovery situation. It will hold all completed forms, tables, logs, hold letters and other materials documenting this situation's e-discovery process. In addition to helping you organize your collection of materials, the e-D Binder will be your proof to the court of a defensible e-discovery process.

### 2 Prepare for the e-D Team Meeting

Using the templates provided (see adjacent list), complete the worksheets and documents

- e-D Team List worksheet template
- e-D Team Overview document template
- e-D Team Meeting Agenda document template
- Data Map worksheet (if available)

- e-D Team List worksheet
- e-D Team Overview document
- e-D Team Meeting Agenda document

In addition, now would be a good time to jump to Step 3, Action 1 and create the Data Map worksheet. These forms will comprise the <Situation> Response Packet. Prepare one packet per team member.

### Custodian 3 Identify Custodians

A person responsible for providing information about a data collection or type.

Hold the initial <Situation> e-D Team meeting. In addition to briefing the team on the situation, be sure identify all custodians of the litigation hold,

particularly the non-direct custodians. (See the next page's margin for definitions of different custodial types.) Key to this effort will be the IT staff. They are the most likely to know the identity of the ESI system custodians.

In this meeting you will hand out the <Situation> Response Packet created in the prior action. You will also identify custodians, assign team members to interview custodians—performed in Step 3—and other such activities. The [e-D Meeting Agenda](#) document template provides more detail. As with all the templates, tailor it to fit your meeting.

## 2

## DISTRIBUTE LITIGATION HOLD NOTICES

## PURPOSE

To put all potential custodians on notice that they must preserve ESI.

## ACTORS

e-D Team

## ACTIONS

1 **Write Litigation Hold Letters**

The importance of writing a clear, yet comprehensive litigation hold letter is second only to getting a hold letter out *immediately*. Clear means it must be easily understood by non-legal folk. Comprehensive means it is better to be over-inclusive rather than under-inclusive. But neither clarity nor coverage trumps the immediate distribution of litigation hold letters. Do not let wordsmithing delay creation.

Copies, signed and dated as of the date of distribution, go into the binder.

• [Litigation Hold Letter](#)  
document templates

• Litigation Hold Log worksheet template

## 2 Distribute Letters

Log the distribution of the hold letters in the Litigation Hold Log worksheet.

## 3 Follow Up With In-person Communication

Every letter must be followed up with a personal visit or a phone call. Do not rely solely on an e-mail reminder to the custodian. Record all follow-up activities in the Litigation Hold Log worksheet.

# 3

## INTERVIEW CUSTODIANS

When assigning interviewers to custodians, keep in mind the four types of custodians:

### PURPOSE

To determine if the identified custodian controls the relevant data. The interview may lead to the elimination of the custodian from your list, or the identification of new custodians. The interview may also uncover new relevant ESI locations.

#### Direct Custodian

Persons with direct knowledge of the events of the matter; or who worked directly or created the information in question.

#### Stewardship Custodian

Persons with knowledge of the procedures used to create, manage, and preserve the information in question.

#### Associate Custodian

3rd parties to the litigation who serve a variety of functions associated with the information, such as service providers, off-site data storage

Do not assume ESI is limited to e-mail accounts, folders on hard-drives and PDAs. Be sure to ask what web-based applications the organization utilizes, what instant messaging programs are regularly used and what social networking sites may be involved. ESI may include corporate databases, instant messaging servers, or even third-party cloud services leading you to another custodian. These custodians usually work in IT but may also be found in Research and Development, Engineering, Finance, Human Resources, or other departments that own or manage their data systems.

(Direct) Custodians sometimes mail documents

organizations, or IT outsourcing firms.

#### Record and System Custodian

Persons who act in the Records and Information Archiving role may be custodians, though they usually act as a single face representing the three other types of custodians.

to their personal e-mail accounts and work on documents on home computers or personal laptops. Ask about these. Finally, be sure to ask how the custodian performs standard 'delete' operations on files, e-mail, instant messaging logs and the such, whether the custodian worked collaboratively and with whom, whether they stored documents in a cloud service, etc.

**Practice Tip:** Team members should have custodians *show* them how files, e-mail and other data are 'deleted'. Most people do not understand that emptying a trash folder does not actually delete data. This may be a hint that an immediate preservation action may save important data.

## ACTORS

e-D Team

## ACTIONS

### 1 Create Data Map and ESI System Descriptions

This may be the single-most time-consuming activity undertaken outside of review. For this reason it should be done prior to litigation. The result should be revisited regularly. Every six months is a reasonable frequency for most organizations.

If you are currently involved in litigation you are unlikely to perform a full data map right now. A full data map covers all ESI systems within your organization. More than likely, you will have to limit your data map creation to the ESI systems most likely to be relevant to the situation at hand.

Using the Data Map worksheet template and the ESI System Description document template, create the most comprehensive catalog of your ESI systems you can. Employ the right IT personnel to get the job done but don't overlook

#### Data Map

A highly-necessary tool in e-discovery which describes document and record types, and ESI systems broken down by function, department or record type.

• [Data Map](#) worksheet template

• [ESI System Description](#) document template

ESI systems running outside of IT. Engineering, Finance, Research and Development, and Human Resources frequently control their own systems. There may be others. Be wide in your inquiry.

Everything goes into the binder.

## 2 Gather the Relevant ESI Systems Descriptions

- [ESI System Description](#) documents

Ideally, the [ESI System Description](#) documents were created prior to litigation and include a superset of those systems relevant to the current situation. From among the [ESI System Description](#) documents, gather those most likely relevant to the current situation.

## 3 Conduct interviews and Get Samples

- [Custodian Interview](#) document template

Assign team members to interview custodians identified from the [Data Map](#). Each custodian should prepare sample e-mail, reports and documents for the interview. Furthermore, the interviewer should gather other samples during the interview based on what is uncovered. Interviewers should not wait until after the interview to receive samples.

Get these samples back to the e-discovery counsel immediately so counsel can better formulate the scope of the inquiry.

## 4 Review Results

As a team, meet and review the results. If the result of an interview is to identify a new custodian, ESI location or other field on the [Data Map](#) worksheet, reiterate Steps 2 and 3 in this chapter.

Update litigation hold letters whenever custodians, ESI locations, relevant time periods, or other relevant changes occur. Record updates in the [Litigation Hold Log](#).

## 5 Meet and Confer

If you haven't already, now is a good opportunity to schedule your meet and confer with opposing counsel. With a comprehensive data map in hand, you are prepared to create a discovery plan with opposing counsel, as required under Fed R. Civ. Proc. 26(f)(3) and many other jurisdictions.

## 6 Analysis

At this point, consider whether you will take an exclusionary or an inclusionary approach to Preservation and Collection. Depending on the situation, one approach will reduce the irrelevant and redundant data fed into information management and archiving systems over the other.

**Inclusionary Approach:** An inclusionary approach starts with a collection of exemplary documents from the highest-value custodians as measured in terms of relevancy to the matter. Those documents are fed into concept and clustering search engines. Various techniques are applied, such as social network analysis, to find additional custodians. With this list of custodians, Preservation and Collection can begin. The inclusionary approach is more successful when the custodians are clearly identifiable and ESI volume is large.

**Exclusionary Approach:** An exclusionary approach begins with the entire body of documents, or at least a very large subset of them. Techniques such as de-duplication, near de-duplication, keyword searches, concept searches and the such are then applied to exclude documents from the data set, from which a list of custodians is derived. The exclusionary approach is best employed when ESI volume is small, or its unclear who the custodians may be.

You will choose an approach based on the volume of documents, number of custodians and accuracy

### Concept Search Engine

Search engine algorithms which attempt to determine the importance of ideas in unstructured ESI. For example, "fraudulent transactions" is an idea that could be determined by inputting documents that focus on the SEC, fraud and trading.

### Clustering

Clustering technologies show relationships between nodes, nodes generally being custodians, but also documents and systems.



## You will

- Ensure ESI is protected against inappropriate alteration and destruction

Preservation is the act of protecting ESI by halting destructive activities, then moving or copying the ESI to a safe location. Having sent out litigation hold letters, the e-D Team is now ready to preserve ESI.

## You need

- The e-D Team List worksheet
- The Data Map worksheet
- Form [2:1] Preservation Team List worksheet template
- Form [2:2] Preservation Activity Log worksheet template
- Form [2:3] Project Plan project template
- Form [2:4] Preservation Form document template

## You get

- Preserved ESI to be delivered to the Collection Team

**Practice Tip:** Plan to have your Meet and Confer with opposing counsel prior to Step 5, if possible, to determine what will be produced by whom, in what format, and by when.

## I

## BUILD PRESERVATION TEAM

## PURPOSE

To assign critical tasks to responsible people.

The Preservation Team will be charged with quickly ensuring preservation of the ESI. Team members must have the authority to halt current destruction procedures. They must also be proactive persons who get things done.

## ACTORS

e-D Team

## ACTIONS

**1 Identify and Contact Preservation Team Members**

- Data Map worksheet
- Preservation Team List worksheet template

Using the Data Map worksheet to locate the persons responsible for preservation, fill in the appropriate fields of the Preservation Team List worksheet template to create the Preservation Team List. Based on the needs of the particular situation, identify those persons best able to preserve the targeted ESI. This is often a few key e-D Team members from IT, but not always. It may include persons from Finance, Human Resources, Engineering, or others who control ESI systems outside of IT.

- Preservation Activity Log worksheet template

Do not wait until you can get everyone in the same room to initiate preservation. Hold a brief team conference call without delay. If an identified Preservation Team member is absent, assign e-D Team members to contact him or her immediately. Set deadlines, require confirmation, and log each activity on the Preservation Activity Log worksheet.

**2 Retain Vendors to Assist in Preservation**

If vendors are to be used for preservation, retain them now.

## PURPOSE

To stop destruction of relevant ESI.

## ACTORS

Preservation Team

## ACTIONS

- [Preservation Form](#) document template

**1 Order Custodians to Suspend Destruction Activities**

Requests must be in writing—e-mail is sufficient in most cases—but because e-mail can be overlooked, the request must be followed by a phone call. Arrange to get a written confirmation of the completed task by the custodian. The confirmation must state the result of the task, by whom it was completed and when. Print these confirmations out and include them in the [e-D Binder](#). Log activities on the [Preservation Form](#) and the [Preservation Activity Log](#).

Place all completed [Preservation Form](#) documents in the binder.

**2 Regularly Follow Up**

Suspension of destruction activities must be regularly validated as necessary for any given ESI system. Such checks ensure the custodian has not inadvertently resuscitated the suspended procedure. Custodians should be asked to verify the data by actually accessing it, and then providing samples to the Preservation Team. These samples should be signed and dated by the custodian, then placed in the binder.

## 3

## BUILD SITUATION PROJECT PLAN

## PURPOSE

To provide accurate time and resource estimates back to corporate and outside counsel about activities.

It is by this point in the e-discovery activity the project manager should develop a full grasp of the effort required to complete the project. The project manager should complete a project plan

of the remaining e-discovery activities. Creation of an actual project plan allows the project manager to see, control and report back on all relevant activities.

### ACTORS

Project Manager

### ACTIONS

#### 1 Create Project Plan

• [Project Plan](#) template

This template gives the project manager a great start. It's the plan that led to the creation of this handbook. The soft copy is in XML format readable by a variety of project plan software applications, and is in a format ready for the project manager to add your own time estimates and resource allocations.

### PURPOSE

To determine the most appropriate preservation method in regards to cost, effort and value of litigation.

### ACTORS

Lead Attorney, Preservation Team

### ACTIONS

#### 1 Determine Preservation Method

• [Preservation Form](#) documents

It's all about proportionality. "Electronic discovery burdens should be proportional to the amount in controversy and the nature of the case; [o]therwise transaction costs due to electronic discovery will overwhelm the ability to solve disputes fairly in litigation."<sup>1</sup>

For each ESI system, use the relevant [Preservation Form](#) to document the reasons for choosing

<sup>1</sup> FN9. *Pension Comm. of the Univ. of Montreal Pension Plan v. Banc of Am. Sec., LLC*, No. 05 Civ. 9016, 2010 WL 184312, at \*3 (S.D.N.Y. Jan. 15, 2010)

or rejecting available preservation methods. Note whether you are taking an inclusionary or exclusionary approach. (See Chapter 1, Step 3, Action 6.) Keep your audience in mind: the court. Your intent is to show the court your decisions were genuinely deliberated upon and that they were reasonable. The key here is proportionality. See Fed. R. Civ. P. 26(b)(2)(C). Critical factors may include the cost to preserve, the probability of successful preservation, the likelihood of relevance, the disruption to business activities, the number of person hours, etc. Real dollar and time values based on actual data are defensible. Statements that a method was too expensive are not.

## 5

## EXECUTE PRESERVATION

## PURPOSE

To preserve the relevant ESI.

## ACTORS

Preservation Team

## ACTIONS

**1 Execute the Preservation Methods**

• Preservation Form documents

Those executing the instructions on the Preservation Form documents must clearly log their activities to create a proper chain of custody within the logging section of the Preservation Form. Instruct them on the importance of accurately completing the log.

**2 Devise Procedures for Ongoing ESI Capture and Preservation**

Add any ongoing procedures to the Preservation Forms for each system.

**3 Confirm Preservation is Occurring**

Where appropriate, regularly validate preservation

is ongoing. Log to the Preservation Form. This should include testing of the data to ensure it is preserved without alteration.

**4 Deliver Media and Completed Documents to Collection Team**

As ESI is preserved, make it available to the Collection Team.

## You will

- Gather the preserved ESI in preparation for Processing, Review, etc.

## You need

- The Data Map worksheet
- The Preservation Team List worksheet
- Form [3:1] Collection Team List worksheet template
- Form [3:2] ESI Collection List worksheet template
- Form [3:3] ESI Collection Form document template

- Access to the preserved ESI gathered in the previous chapter

## You get

- The collected ESI to be handed to the Processing Team

## I

## BUILD COLLECTION TEAM

## PURPOSE

To quickly ensure ESI is collected from the preservation activities.

Team members generally come from the Preservation Team. Collection activities grow naturally from preservation activities. The two are artificially separated so each can be distinctly documented for increased defensibility.

## ACTORS

ESI Expert, E-discovery Solution Vendor, Collection Team, Processing Team representative

Identify particular team members based on the collection needs of this situation's ESI locations. Consult the Data Map worksheet.

## ACTIONS

**1 Identify the Collection Team**

- [Data Map](#) worksheet
- [Collection Team List](#) worksheet template
  - [ESI Collection List](#) worksheet template

The Project Manager or Corporate Counsel completes the [Collection Team List](#) and the [ESI Collection List](#) worksheet templates, referring to the [Data Map](#) worksheet for help. From the [Data Map](#), identify the preserved items to be collected. Add those items to the [ESI Collection List](#) worksheet.

Identify people or departments responsible for collecting the targeted ESI. This may include an outside vendor, a team within IT, or most likely, a combination of both. This list makes up your Collection Team.

**2 Establish the Collection Protocols**

- [ESI Collection Form](#) document template

Call a Collection Team meeting. In that meeting establish the protocol for performing collection. This will include

- whether collection is exclusionary or inclusionary. (See Chapter 1, Step 3, Action 6)
- how collection is to take place
- to whom the data will be given
- in what form (work with the Processing Team representative), and by when.

Include protocols for ongoing (“rolling”) collection where appropriate. Your protocols will depend on cost, effort, value of litigation, and availability of time. Consequently, it’s important the Collection Team members are able to speak to the level of effort for each collection.

Use the [ESI Collection Form](#) document template to record the protocol for each collection. A document is not complete without clearly stating the rationale behind the collection protocol. If

challenged, you want to be able to justify why you didn't collect from archaic tape drives before the court. If more complete or effective methods are not employed, describe the reasoning behind those decisions. As always, empirical data goes further towards defensibility than do sweeping or vague statements.

Place the completed forms in the binder.

## 2

## COLLECT ESI

## PURPOSE

To gather the ESI for processing.

## ACTORS

Collection Team

## ACTIONS

**1 Collect ESI**

• [ESI Collection Form](#) documents

As you collect the ESI, log all significant collection activities. This includes all errors and exceptions to the particular collection's forms. Complete the [ESI Collection](#) worksheet.

**Practice Tip:** Be detailed where activities or results raise questions. Include how issues are resolved, or why they couldn't be.

**2 Deliver Collection to Processing Team**

The method for ESI delivery may be to present it all at once or as an ongoing delivery. This will have been determined in Step 1, Action 2, above. Either way, log all activities to the appropriate [ESI Collection Form](#) document to create a proper chain of custody.



## You will

- Convert, organize, and reduce the volume of collected ESI from the previous section to simplify review

Processing is the movement of ESI from the collected locations to another location, usually an e-discovery software system or service, such that data can be discretely categorized, made available for analysis, reviewed and finally, produced. The process is one of making raw ESI usable such that de-duplication can occur, searches can be performed, documents can be reviewed, and data can be produced pursuant to the discovery agreement.

Generally, processing occurs through the use of a software or service solution. This can be done by in-house IT, Outside Counsel, an independent consulting service or an outside software or service vendor's professional services organization.

Paramount to processing is the assurance that substantive data has not been altered at any time in the process.

## Processing requires

- Process auditing
- Quality control
  - Analysis
  - Validation
- Chain of custody assurances

**WARNING:** Undue haste in this stage, particularly during the Assess and Prepare stages, can result in re-processing. Re-processing will quickly and dramatically increase costs and time, particularly if your vendor charges a per gigabyte intake fee. Reprocessing can be avoided through methodical adherence to each of the steps in this handbook. Don't take shortcuts.

## You need

- The ESI Collection List worksheet
- The Collected ESI
- The Data Map worksheet
- The ESI System Description documents

- Form [4:1] Quality Assurance Strategy document template
- Form [4:2] Selection Method document template
- Form [4:3] Production Format Explanation document template
- Form [4:4] Processing Log worksheet template
- Form [4:5] Selection Log worksheet template

You get

- Samples of data included, and just as important, data not included in the data set to be reviewed
- ESI ready for document review

**Practice Tip:** If you haven't already, hold a Meet and Confer conference to agree upon ESI formats for production. Have the court issue an order memorializing the agreement *prior* to commencing the processing activities.

I

ASSESS

## PURPOSE

To determine what ESI will be processed, and to develop a quality assurance strategy to increase efficacy.

## ACTORS

Corporate Counsel, Outside Counsel, IT Staff Lead

## ACTIONS

### 1 Determine Which ESI Collections Get Processed

Determine what collections to process. In addition to relevance, take into consideration the effort required to prepare and process each data type within a collection. Additional considerations include

- What complexities and trouble-spots are typically associated with these data sets?

- ESI Collection List worksheet
- ESI System Description documents
- Representative samples of various data types

- Are the required processing methods likely to be successful?
- What risks exist? For example, unanticipated data types, source data or media errors, unexpected volumes, etc.?
- Can exceptions be reasonably handled?
- Do you understand how to process your file types?
- Can you deliver the data in the time allotted?
- How will you measure success?

Mark the candidates on the ESI Collection List worksheet. Be sure to detail the reasons for declining to process any rejected collection. Include figures, not just general statements. For example, “2 FTE weeks; Displacement of existing duties for the Blackbox project. Can’t start until August 21,” is more convincing than, “Too expensive.” Similarly, “Samples from this custodian show a near-zero probability of relevancy.” Include those samples with explanations as to why they show irrelevancy.

## 2 Determine Final Form of Processed ESI

All actors should meet to determine the form of the ESI about to be processed. Keep in mind, this is how the documents are to be delivered to the reviewers, not the propounding party.

Most ESI will remain native. You want your reviewers to review everything about the document. However, some documents are unwieldily as TIFFs. Large spreadsheets and archaic CAD drawings are two common examples. However, be sure to extract all text and meta-data where appropriate and possible if you choose to convert.

• [Quality Assurance Strategy document template](#)

## 3 Create the Quality Assurance Strategy

Create the Quality Assurance Strategy document. The QA strategy covers the goals, methods,

expectations, reporting and handling of exceptions that govern ESI collection processing. Using the Quality Assurance Strategy document template, clearly define the processing protocol.

## 2

## PREPARE

## PURPOSE

To facilitate the proper handling and reduction of the ESI to be processed.

This step involves accessing and handling the actual data. Form a solid chain of custody; Log all activities.

## ACTORS

IT Staff, ESI Expert, e-Discovery Vendor / Consultants

## ACTIONS

## Common Data Intake Tasks

- Conversion of legacy formats of e-mail and other file types
  - Expansion of compressed file sets
- Extraction of target files from containers, such as e-mail from mailboxes
  - Cataloging and itemization of all extracted files, e-mail, attachments and loose files
  - De-duplication, near de-duplication and similarity fingerprinting (hashing)
    - Concept identification and extraction
- Full text indexing
  - Exception identification and handling

## 1 Prepare Data For Processing

A variety of activities may need to occur including, but not limited to

- Backup and archival restoration
- Transfer of Collections from archaic media to usable, more modern media readily usable

Log each activity and all errant results that impact data such as a loss of the medium or a tape that cannot be restored.

## 2 Data Intake

Traditionally, activities which make the data usable were performed by IT or handled by a black-boxed facility. The activities listed here were discrete tasks. Today, it is common for the following activities to be automagically handled by a software or service solution as part of the process of uploading collections into the target document

review system. That saves tremendous time, but depending on the solution, may cost more.

**Important:** maintain quality control. Prior to full data intake, run tests to ensure data is sucked in as expected. This is especially important where you are charged by the volume of data during intake.

If, for example, you are indexing all e-mail header information along with the body and any attachments, be sure to validate the system has been properly configured to do this by trying a few samples prior to full intake. Similarly, if you expect meta-data and content indexing for PDFs, ensure it happens with representative samples. If you have OCR-ed printed documents and expect the text to be indexed, test it. To discover after the fact that data intake did not match your Quality Assurance Strategy will rapidly increased your e-discovery costs.

#### OCR

Optical Character Recognition—scanning a document and turning it into computer-readable text.

### 3

### SELECTION

#### PURPOSE

To further reduce the review of irrelevant, redundant, or unusable data.

Selection is a critical, complex, and iterative step that should involve opposing counsel. It is here where search methods are determined. Outside counsel generally runs this section's activities.

**Practice Tip:** To avoid later motions to compel, get a court order on the selection method. Work closely with opposing counsel to define acceptable search terms. Do this over two-to-four iterative meetings where you agree on search terms, methods and collections after reviewing samples from test runs.

**Practice Tip:** Sample, sample, sample. Confirm that relevant ESI has not been excluded. Test to see what gets left out. It's as important as what what gets put in.

## ACTORS

Outside Counsel, Corporate Counsel, ESI Expert, e-Discovery Vendor / Consultants, Opposing Counsel

## ACTIONS

### 1 Draft the Selection Method

• [Selection Method](#)  
document template

Complete the [Selection Method](#) document template.

### 2 Test Selection Method

• [Selection Log](#)  
worksheet template  
• [Selection Method](#)  
document

Refine the selection method through use, analysis and re-use. Log the results. Each significant decision should be accompanied by samples of what was included and what was not. Keep the samples with the log in the binder.

**Practice Tip:** Review items designated for de-duplication and near de-duplication for potential flaws in the method used.

**Practice Tip:** Regularly review samples of non-selected data to ensure the comprehensiveness of the selection criteria.

### 3 Meet and Confer to Agree on Selection Method

• [Production](#)  
[Format Explanation](#)  
document template

Outside counsel meets and confers with opposing counsel to agree on the initial selection method. Be prepared. Have the following completed and in hand prior to the meeting.

- [Selection Method](#) document
- [ESI Collection](#) worksheet
- Samples of included and excluded materials from each ESI collection.
- [Data Map](#) worksheet

- Production Format Explanation document template

#### 4 **Iterate as Necessary**

Repeat the prior two steps as necessary until both sides can agree on the final selection method.

#### 5 **Get Court Order**

Request a court order on the agreed upon selection method.

#### 6 **Select the Data for Output**

The E-D Team members responsible for running the final selection process go to work. Depending on the solution used, this action may also result in the transformation of selected ESI into the final review formats. The transformation is covered in the next step, Output.

### PURPOSE

To deliver the ESI in the final format for the data review system.

This is your last opportunity to apply your quality assurance strategy to the data set before review. Be certain the final results match the expectations set out in the strategy. Identify and explain exceptions.

### ACTORS

Outside Counsel, Corporate Counsel, IT, e-Discovery Vendor / Consultants

### ACTIONS

#### 1 **Review Data Sets for Compliance With the QA Strategy**

Review a statistically significant number of samples to ensure you have neither over nor under-

produced per the Quality Assurance Strategy document or the agreements with opposing counsel. A vendor or ESI expert may be able to tell you what constitutes 'statistically significant' in this matter.

Be certain to audit reports produced during selection. Flag meaningful differences and consider re-running the selection process. All reports go into the binder.

## 2 Transform the ESI for Review

Here is where your team produces the selected ESI into the proper formats determined in Step 1, Assess. Most likely, there won't be much change in format. Modern Collection and Processing systems, as well as Review systems, keep documents in native format.

## 3 Deliver ESI for Review

The actual delivery method will depend on your solutions for processing and review.

**Practice Tip:** Group documents into batches for processing. This allows them to be moved on to the next step, Review, in blocks. It also makes better use of resources; fewer reviewers are necessary, and because the reviewers stay on the project longer, they become much better at reviewing through familiarity with the matter. You also have less risk of losing a reviewer who is moved on to a new project during idle time. Finally, batching keeps things moving, gives the team a much-needed sense of accomplishment on a regular basis, and allows you to deliver a rolling production to opposing counsel, thereby showing a greater spirit of co-operation, something judges love to see.

## You will

- Select an appropriate review vendor, platform and / or set of tools
- Identify responsive documents to produce, and privileged documents to withhold
- Imbue the legal team with a greater understanding of the facts of the case
- Coalesce the legal strategies

## You need

- Form [5:1] Scope of Review Statement document template
- Form [5:2] Review Guidelines document template
- Exemplar documents
- The Review Team document template
- The Review Protocol document template
- The EDRM Technology Selection worksheet

## You get

- An Attorney Review Manual
- Fully reviewed ESI
- An explicit list of documents ready for Production
- An explicit list of document formats (prior to Production)

## PURPOSE

To further limit the scope of review.

## ACTORS

Corporate Counsel, Outside Counsel, Lead Technology Support Person

## ACTIONS

1 **Create a Scope of Review Statement**

List the limitations placed upon the review. Provide a solid justification for each. This will be

• Scope of Review Statement document template

**Predictive Coding**

A method of sampling exemplar documents iteratively to predict the relevancy of other documents.

particularly important if you use predictive coding. The review may be limited, for example, by dates, file types, ESI format (i.e., native vs. TIFF), language, custodians, collections and other criteria based upon a better understanding of the case. Also identify software and vendors to be used, or other techniques if neither is employed.

**Practice Tip:** Present the Scope of Review Statement document to opposing counsel before commencing review to avoid later objections. Go one step further: get opposing counsel to formally agree to the Scope of Review Statement and then seek a court order memorializing it.

## 2 Create Review Guidelines

- [Review Guidelines](#) document template

A completed [Review Guidelines](#) document will be delivered to each member of the review team in the [Attorney Review Manual](#). (See Step 2, Plan, in this chapter.) A well-written [Review Guidelines](#) document gives reviewers what they need to be effective. It will include the situation background, distinctions between issues of fact and issues of law, the [Scope of Review Statement](#) document, and exemplar documents. Exemplar documents are the key to a successful review, particularly with large teams of contract reviewers.

In addition to the items listed above and on the left, include a Relationship Chart. A Relationship Chart is similar to an organizational chart but maps out the relationships between the key figures in the situation and how they relate to the issues at hand.

## 3 Determine the Parameters for Monitoring the Review Process

The review process must be monitored throughout. Counsel overseeing the review must regularly monitor for quality. Monitoring parameters may

### Exemplar Documents List

- Evidence needed to prosecute or defend the case
- Privileged documents
- Proper and improper privilege log entries

include evaluating reviewers' proper

- identification of relevancy and privilege
- use of database fields, marks or tags within the application to categorize documents and facilitate improved search and retrieval of the documents collected or produced
- determination to which requests for production the documents are responsive
- identification as "confidential"
- redaction
- association of key documents to alleged facts or legal issues, and to key figures who may testify about the documents
- identification of other subjective information
- review of foreign language documents

## 2

## PLAN

## PURPOSE

To define the review protocols and the flow of documents through the review process.

## ACTORS

Corporate Counsel, Outside Counsel, Lead Technology Support Person

## ACTIONS

**1 Identify Review Team**

• [Review Team](#)  
worksheet template

Create the [Review Team](#) worksheet. Consider creating an organization chart for reporting purposes.

**2 Create Review Protocol Document**

• [Review Protocols](#)  
document template

The [Review Protocols](#) document defines the protocols reviewers must follow. It includes rules to support quality control, among other things.

• [Review Team](#)  
worksheet

**3 Create Review Assignments**

Create the review assignments, adding them to the

Review Team worksheet. For suggestions on ways to divide up the work, see Section 2.2.2.2 of <http://edrm.net/resources/guidelines/edrm-framework-guides/review-guide> (EDRM edrm.net).

#### 4 **Create and Distribute the Attorney Review Manual**

This is a collection of the following materials

- The Scope of Review Statement
- The Review Guidelines (with exemplar documents)
- The Review Protocols document
- The Review Team worksheet

#### 5 **Select Technologies**

• EDRM Technology Selection worksheet

If not already done, select the software tools and / or service providers to be used for review. Vendors abound. There is no easy answer on how to select this as competition is fierce and the technology is rapidly developing. Ideally, this has already been done prior to the situation at hand.

Use the EDRM Technology Selection worksheet to assist in this task.

#### 6 **Train Reviewers**

• Review Team worksheet

Reviewers must be trained on both the situation and the technology.

On the Situation: The lead attorney must lead the training, and it must be thorough. Topics to be covered include

- Specifics of the document request
- Facts or issues at issue in the matter
- Codes being used to define issues in the matter
- Privilege
- Confidentiality
- Key or hot documents

On the Technology: The lead technology person

must show reviewers how to effectively use the technology employed.

Log each reviewer's training completion date in the Review Team worksheet.

## 3

## EXECUTE

**PURPOSE**

To commence the actual review.

**ACTORS**

Lead Attorney, Review Staff

**ACTIONS****1 Commence Review**

Using the materials generated in Step 2, Plan, begin the review.

**2 Quality Assurance**

Adhere to the parameters for monitoring the review process identified in Step 1, Scope. Regularly sample output from the review team. Log monitoring activities.

**Practice Tip:** Some reviewers will do better than others. They may work faster, make fewer mistakes or have better judgement. Get to know the capabilities of your reviewers early on to give them guidance as needed.

**3 Analysis**

Modern e-discovery applications or service solutions provide metrics on reviewer productivity and accuracy. These tools measure the quality of your reviewers throughout the review.

Employ the tools during review to work with a reviewer. Help your reviewers improve their work

product.

In addition, use the tools to allocate resources to where they're needed most; assign your less accurate reviewers to the less nuanced, less sophisticated documents and the ones less likely to be privileged, until their skills improve. The tools will allow you to see the improvement. Used properly, review metrics will decrease review time, increase quality and lower costs.

Finally, use the tools to help develop the reviewer's career as an attorney, something all senior attorneys have a moral obligation to do, particularly with contract attorneys who have far fewer mentoree opportunities.

## PURPOSE

To wrap-up the review process.

## ACTORS

Corporate Counsel, Lead Attorney, Review Staff

## ACTIONS

### 1 Archive the Data

Ensure the solution provider, be it IT, a vendor or a service provider, archives the entire data set in a safe manner. Review is expensive. Don't lose all of that work.

### 2 Review the Review Process

Hold a meeting with the reviewers to learn what worked, what didn't, and why.

### 3 Review the Reviewers

Where appropriate, offer meaningful feedback to the reviewers. Most of them will be new attorneys who have just undergone a painfully tedious task.

Help them see why reviewing documents is an important part of developing their lawyering skills.



## You will

- Prepare and deliver ESI in an agreed upon and usable format to opposing counsel

Production is the delivery of ESI to others in appropriate forms using appropriate delivery mechanisms. The volume of ESI has become so significant—even overwhelming—that the 2006 amendments to the FRCP deal directly with ESI production. Rule 26(f)(3)(C) specifically sets the expectation that the format of produced documents will be considered and negotiated early on during the discovery process to lower burdens associated with ever-increasing volumes of ESI.

## You need

- The [ESI Collection](#) worksheet
- The [Production History Log](#) worksheet template

## You get

- ESI delivered to the requesting party

I

CONFIRM

## PURPOSE

To confirm the format and delivery method of the ESI to opposing counsel.

## ACTORS

Corporate Counsel, Outside Counsel, Lead Technology Support Person

## ACTIONS

### 1 Confirm, Internally, the Capability to Deliver ESI in the Specific Formats and Delivery Method

Confirm your capability to produce each of the document format types for each collection with the

• ESI Collection worksheet

lead technology support person. Also confirm the method of delivery as well as the time frame. This may be the last chance to amend an agreement with opposing counsel.

## 2 Confirm With Opposing Counsel

Get final affirmation with Opposing Counsel on the formats and method of delivery.

**Practice Tip:** Give yourself extra time to deliver. IT Staff can be Pollyannaish regarding electronic materials delivery. Don't let their false optimism create friction with opposing counsel.

### PURPOSE

To produce the final data set.

### ACTORS

Lead Technology Support Person, Lead Attorney

### ACTIONS

#### 1 Identify Production Set

If production is being handled on a rolling basis, identify the documents to be produced for this set.

#### 2 Get and Validate Samples

Have the technology staff produce production run samples for each document type and format from each collection. Validate each sample to ensure it is produced as expected. Log each validation. Include each validated sample in the binder, signed and dated by the validator.

**Practice Tip:** Send a subset of samples to opposing counsel with an explicit request for sign-off on the form and delivery format. This is your best insurance against an expensive production re-run.

### 3 Run Production

Confident production will meet all technical and procedural requirements, you can now run it.

3

DELIVER

#### PURPOSE

To deliver the production set to opposing counsel.

#### ACTORS

Lead Technology Support Person, Lead Attorney

#### ACTIONS

##### 1 Copy or Upload Production Set to Medium

You will have already determined the medium for delivery. Execute the transfer of the production set to the medium. Note that if large amounts data ( > 50 GB ) are to be uploaded to a service, it could take a matter of days or even weeks. Test the throughput before confirming the delivery date with opposing counsel.

##### 2 Test

Before releasing the media to opposing counsel, test it to make sure it works. If an online service is used, check the count of the actual number of uploaded documents or total data size with the expected number. Make copies of the production set and keep it safe.

**Practice Tip:** If using an online service for production, work closely with the vendor to ensure opposing counsel will not get inadvertant access to unintended meta-data, or non-responsive or privileged documents, either directly or through an unintended disclosure found through search. It is possible for opposing counsel to run a search on a particular term which produces a hit even though

an actual document won't be shown. This could plant a seed for further searching that could lead to a discovery fight.

### 3 Deliver the Production Set

Complete the production log for the set.

- [Production Log History](#) worksheet template

The following forms are organized by chapter in which they first appear. They are numbered by chapter:form. For example, form 2:3 first appears in Chapter 2. It is the third form.

All forms can be found online at [jaffe-law.com](http://jaffe-law.com). Forms there may contain version numbers, indicating they have been updated since the printing on this handbook. Additionally, more forms will appear over time as the practice of e-discovery develops. Check back regularly or just sign up to be notified of updates.

## e-D Team List

Role	Contact Information						Teams		
	Name	Title	e-Mail	Mobile	Other		Preservation Team	Collection Team	Review Team
Corporate Counsel							<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Project Manager							<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Records & Information Management Lead							<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Information Technology Lead							<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Outside Counsel							<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Forensic Evidence Expert							<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Third-party ESI Consultant / Expert							<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Corporate Executive Sponsor							<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## <<Organization>> e-Discovery Team Overview

<<Situation>> Matter  
<<Date>>

### INSTRUCTIONS

Instructions are in red. Delete them as you make this document you own.

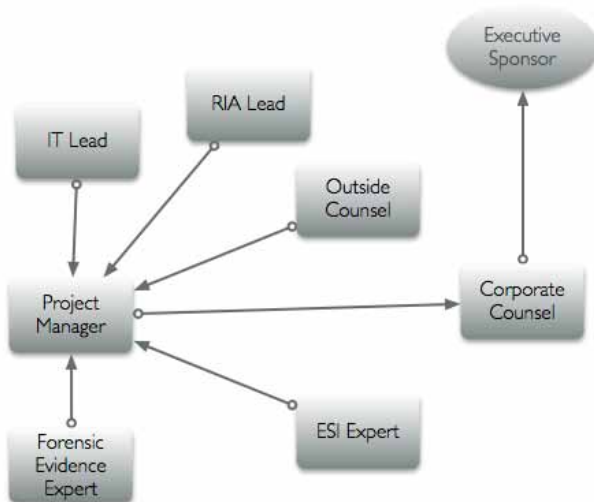
This template can be used to create two different types of documents,

- the organization's general e-Discovery Team document, and
- the <<Situation>> Matter document, a document for a given matter.

See Chapter 1, Step 1 for instructions.

## e-D Team Roles, Duties and Reporting Protocol

### I. Roles and Reporting Protocol



The example diagram above shows the e-D Team roles and the reporting relationships between them. Replace this diagram with your own.

## 2. Roles and Duties

### Corporate Counsel: <<Name>>

Responsibilities: Ultimately responsible for all team activities.

1. Communication protocol: Reports to CFO, CEO
2. Duties:
  - Oversees e-Discovery Team and all Situation Matter Response Teams.
  - Assembles the e-D Team and organizes the initial <<Situation>> Matter Response meeting.
  - Co-ordinates, builds and instructs individual Situation teams.

### Project Manager: <<Name>>

Responsibilities: Manage the <<Situation>> matter

1. Communication protocol: Reports to Corporate Counsel
2. Duties: Creates and manages <<Situation>> Litigation Response Plan activities

### Records and Information Management Lead: <<Name>>

Responsibilities: Creating, enforcing, and most importantly, ensuring appropriate suspension of information management policies.

1. Communication protocol: Day to day communications are to the Project manager.
2. Duties:
  - Prior to a Situation, regularly validates the enforcement of information management policies.
  - Upon the commencement of a Situation, ensures suspension of the relevant information management policy and preservation of the relevant ESI.
  - Throughout the Situation, validates preservation.

### Information Technology Lead: <<Name>>

Responsibilities: All IT activities including holds, preservation, and data mapping.

1. Communication protocol: Day to day communications are to the Project manager.
2. Duties:
  - Locates and communicates with all custodians and other responsible IT staff.
  - Ensures ESI custodians and IT Staff carry out assigned tasks.
  - Understands and explains the ESI systems to the e-D Team members.
  - Directly engages with Corporate and Outside Counsel.
  - Often acts as the Organization's Person Most Knowledgeable (PMK) for ESI.

### Outside Counsel: <<Name>>

Responsibilities: Legal strategy for the Situation.

1. Communication protocol: Day to day communications are to Corporate Counsel and the Project Manager.
2. Duties:
  - Identifies key persons whose ESI is subject to e-Discovery.
  - Ultimately responsible and liable for all actions taken by others in the

Situation.

**Forensic Evidence Expert: <<Name>>**

Responsibilities: Identifying and extracting ESI, and creating a valid chain of custody.

1. Communication protocol: Reports to the Project Manager.
2. Duties:
  - When needed, ensures difficult-to-locate ESI is appropriately preserved and extracted.
  - Advises IT staff on how to preserve the ESI—and all possibly relevant data around it—to avoid spoliation.
  - Testifies as an expert regarding the ESI. In particular, testifies to the chain of custody.

**3rd-party ESI Consultant / Expert: <<Name>>**

Responsibilities: Advise the organization on executing a defensible e-D Situation.

1. Communication protocol: Reports to Corporate Counsel and the Project Manager.
2. Duties:
  - Manages the Data Mapping process.
  - Ensures all steps within the entire process are adequately documented so as to be defensible.

**Corporate Executive Sponsor: <<Name>>**

Responsibilities: Ultimately responsible for the successful implementation of a defensible litigation response process.

1. Communication protocol: To the executive team.
2. Duties:
  - Secures the budget, time and other resources necessary for the project to succeed.

LITGATION HOLD TEMPLATE LETTER TO GO  
HERE.

1:3



## <<Situation>> Matter e-D Team Meeting Agenda

<<DATE>>

### Situation Overview

*Provide a concise description of the situation.*

### Agenda

1. Hand out packet.
2. Brief team on the situation.
3. Identify targets for litigation hold notification and initiate the hold letters.
4. Determine the severity of the situation and the risk of spoliation.
5. Assign tasks to team members.
6. Set the reporting protocol on how to report results of each member's actions.

## &lt;&lt;ESI System&gt;&gt; Description

**INSTRUCTIONS**

Instructions are in red. Delete them as you make this document your own. See Chapter 1, Step 3 for instructions.

**System**

Insert a basic description of the system here.

**Name:** Include official and common names by which the system is known within the organization.

**Location(s):**

**Custodian:** <<Department>>, <<role>>, <<person>>. **Include contact info**

**Operations:** Commencement <<date>>; Cessation <date>. **Include planned termination if known.**

**Backups:** <<ESI Location>> **Include** , type, effort of access in terms of cost, person-hours or other meaningful measurements.

**Data Retention Policy:**

**Overview**

Summarize what the system is. Include statements regarding

**Purpose:**

- **System clients:** Sub-organizations which utilize the system
- **Effort required:** Effort required to preserve, monitor, and / or restore data in terms of cost, person-hours or other meaningful measurements. **Be as specific as possible.**
  - Preservation:**
  - Monitoring:**
  - Restoration:** Even if the system has been retired you should describe, in measurable units, the level of effort to restore data in a useful format.
- **Data retention policy:**

**Litigation Hold Process**

The steps for placing a litigation hold are:

1. **First step**
2. **Second step**
3. **Third step**

## ESI Preservation Process

The general steps for preserving ESI within this system are:

1. **First step**
2. **Second step**
3. **Third step**

For detailed preservation steps see the Preservation Form document for this system.

### Estimated Costs of Preservation

In as much detail as possible, identify the costs involved with preserving the ESI. This may include

- number of person hours per unit of data
- average cost per person hour
- fixed costs associated with preserving ESI each time preservation is required

## Litigation Hold Log

Recipient	Delivered on	Confirmed Delivery	By	Notes
Siri Kannappan	Mar 5, 2011	by phone on 3/7/2011		

## Data Map worksheet

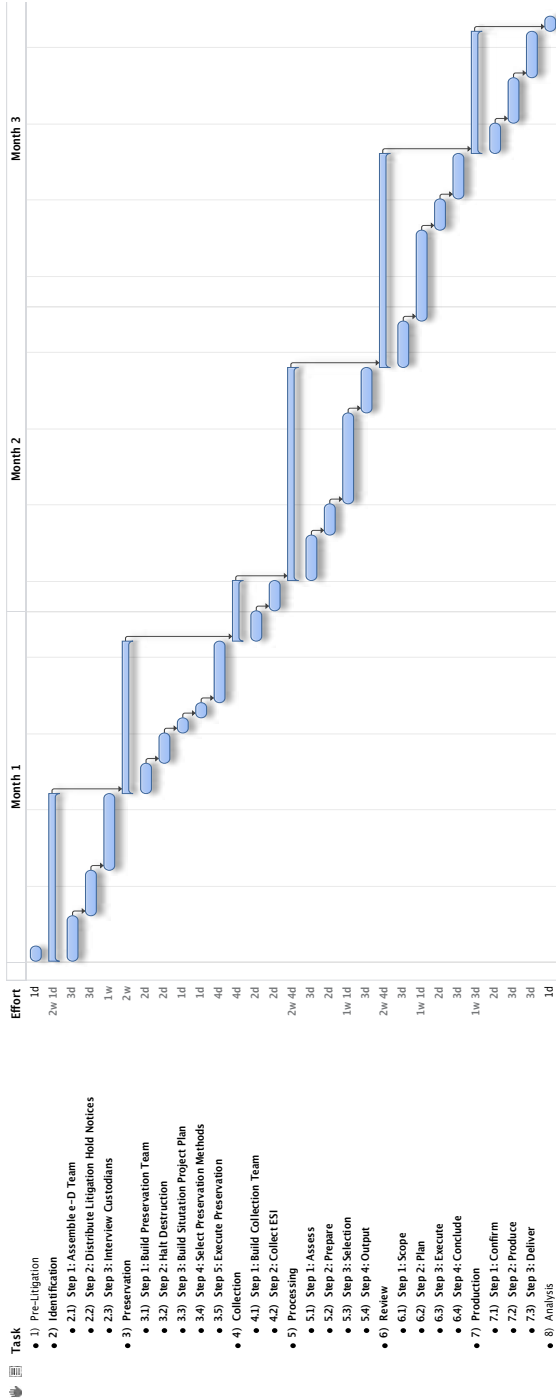
System	System Information									
	Custodian	Location	Relevancy (0-5)	Accessibility (0-5)	Function	System Begin Operations On	System Stopped Operations On	Data Removal Date	Notes	
Function	System Name (common name)	Department	Physical location			date	date	date		
E-mail	Exchange									
	Groupwise									
	Sendmail									
	gMail									
ERP	SAP									
	Oracle e-Business Suite									

### Preservation Team List

Member	Responsible for	Activity to Perform	Contacted on	Notes
Siri Kannappan	Exchange	Archive Exchange mailboxes	Mar 5, 2011	

### Preservation Activity Log

Member	Action	Date	Notes	initials
Siri Kannappan	Archive jee's mailbox		Copied to backup server. /jollyRoger	





## Collection Team List

Member	Responsible for	Activity to Perform	Contacted on	Notes
Siri Kannappan	Exchange	Archive Exchange mailboxes	Mar 5, 2011	

## ESI Collection List

Collection Name	General		Collection		Processing		Production			
	Contents	Data Formats	Collection date	Notes	To Be Processed	If not processed, why? Be detailed.	Production Format	Sample reference	Sample production date	Full production date
MS Exchange Mail	e-mail, document attachments	.pst, .doc, .xls, other	3/5/11		<input type="checkbox"/>	See attached explanation.				
					<input type="checkbox"/>					
					<input type="checkbox"/>					
					<input type="checkbox"/>					
					<input type="checkbox"/>					
					<input type="checkbox"/>					

## &lt;&lt;ESI System&gt;&gt; Collection Form

**INSTRUCTIONS**

Instructions are in red. Delete them as you make this document you own. See Chapter 2, Step 2 for instructions.

**Collection Overview**

Insert a basic description of the system here. It can come from the ESI System Description document.

**Collection Protocol**

Collection will be performed by Vendor X between August 12 and 15th. Vendor will bring in it's own hardware and attach it to the corporate network. Vendor will be given appropriate permissions by J. Smith of IT. Vendor will perform forensically sound methods, logging all steps to prove a chain of custody. Vendor will make two backups to two independant, clean external hard drives, take image hashes of each drive, deliver one drive to Corporate Legal and one drive to J. Smith of IT. Vendor will maintain the hash value on its premises and in at least one offsite location. Vendor will complete all work by August 24th, and report back to Corporate Legal on that date.

Collection Method Performed: From the list of available collection methods below. Identify the major steps and how they are performed.

**Collection Methods Available**

Method	Description	Employed	By	Date
Full Forensic Capture				
Forensically Sound Methods				
Hybrid				
Custodian Self-selection				

Detail the collection process below. Describe the methods available and why it was, or they were not, used.

## Full Forensic Capture

Description:

Reason Employed / Not Employed:

- Likelihood of relevancy:
- Labor:
- Costs:
- Time:

## Forensically Sound Methods

Description:

Reason Employed / Not Employed:

- Likelihood of relevancy:
- Labor:
- Costs:
- Time:

## Hybrid

Description:

Reason Employed / Not Employed:

- Likelihood of relevancy:
- Labor:
- Costs:
- Time:

## Custodian Self-selection

Description:

Reason Employed / Not Employed:

- Likelihood of relevancy:
- Labor:
- Costs:
- Time:





