

WHITE PAPER

Best Practices for Managing eDiscovery at a Government Agency

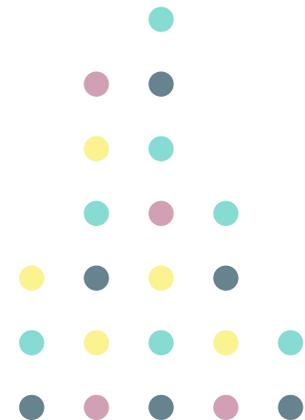


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Best Practices for Establishing and Managing eDiscovery at a Government Agency

eDiscovery is a challenging process for even the most experienced law firms, corporations, or agencies. Government agencies face additional 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.

Technology alone is not the answer. An effective eDiscovery framework requires the right people, the right processes, and the right tools.



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. Ideally, 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.

In addition to selecting the right person or team to manage the eDiscovery process, there are several roles that are critical to a successful eDiscovery team. Keep in mind that while the job titles may vary and the functions may be combined, these roles and their associated responsibilities remain consistent between organizations.

“The burden of managing eDiscovery should not fall on attorneys. They need to focus their time and energy on building and presenting the case.”

- **Attorney / Lead Investigator**
 - Defines strategy, provides oversight for reviews, reviews collected data, and negotiates with opposing counsel
- **Administrator**
 - Performs administrative tasks, implements processes, reports to Attorney / Lead Investigator
- **Reviewer**
 - Performs document reviews, collaborates with other reviewers, works with Attorney / Lead Investigator for guidance regarding review strategy
 - May require an attorney's license; check state laws for credential requirements
- **IT/Compliance/Security**
 - Implements data preservation and collection, maintains chain of custody

Following Best Litigation Support Processes in Each Area of eDiscovery

Following proven, repeatable eDiscovery processes 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

- Devise a collection strategy. Answer the “why” rather than the “how”. Why are you collecting certain data? Why are you using a particular method? This will help you determine the best collection strategy for your needs and also prevent you from unnecessary and costly over-collection.
- Establish regular and open communication with the attorneys, the IT department, the vendor, and any stakeholder sending you data. Do they understand the collection requirements? Are they comfortable with the collection strategy, including documentation, chain-of-custody, and data transfer and protection?
- Maintain the integrity of every piece of data you receive. Log or index the data, track who and where the data came from, categorize what kind of data it is, and verify that the data you requested is actually what you received.
- Keep a pristine copy of the data. If you’re sending data to a vendor, make sure to keep a copy and put in place a deadline for its return.



Smarter, Faster eDiscovery

At one government agency, the IT team coordinated with Casepoint’s collection vendor to quickly gather data from over 25 custodians. Planning and communication resulted in a successful collection of data in just a few days – allowing the agency to quickly access their data and complete the review within the deadline.



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 some work and cost. 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 reviewer or paralegal will work and
 - how many reviewers will be on 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.
- 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 to 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



Smarter, Faster eDiscovery

By using Casepoint, a City's Attorney's Office reduced the level of effort required to process a large FOIA request from 10 weeks with 5-6 legal counsel to just 3 weeks with a single City attorney!

Selecting the Right Tool That Meets Your Agency's Needs

There are numerous eDiscovery tools in the marketplace. Selecting 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 to ensure you are selecting the right eDiscovery tool for your agency.

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 agency. Beware of reverse-engineered cloud solutions and awkward bolt-ons which may struggle to cope in a complex, multiagency environment.

2. Customizable to the unique needs of each case

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 users, across the lifecycle of a matter.

“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 needs grow.”

4. Transparent and easy to pay for

No surprises, such as spiraling per-user fees or added costs for data ingestion, processing, ECA, TAR, review, or production. Government contracting constraints necessitate predictable costs so you don't have the burden of contract modifications as data volumes grow and users increase.

5. Rich with cutting-edge shared space features

So teams can easily upload and collaborate on documents, deposition transcripts, and court filings, underpinned by one single secure repository for case-related documents, regardless of where each team member is located

6. Able to scale and flex

To spin up substantial processing power on-demand during peak periods. Because downtime means lost efficiency and added cost. This is difficult to do in an on-premise environment where you are required to go through a lengthy procurement process to add servers, making Software as a Service (SaaS) the best solution for scaling at a government agency.

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 2 Type II, ISO 27001, and NIST-compliant? Do they use gold standard 256-bit TLS encryption?

Laying the foundation for eDiscovery at the outset means your agency will be prepared to manage litigation, public record requests, and 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*](#).