



eDiscovery: Outsourcing vs. In-House

Presented by:

William J. Platt

Platinum Legal Group



eDiscovery

An approach to the identification, preservation, collection, processing, review, and production of electronically stored information (potentially relevant to existing or anticipated litigation matter)

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eDiscovery

For law firms and corporate clients, the reality of EDD is that it starts off as the responsibility of those who don't understand the technology and ends up as the responsibility of those who don't understand the law.

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eDiscovery

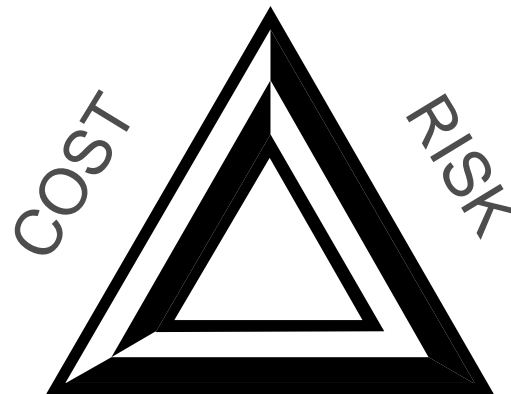
- Partnering with a litigation support provider that has the depth of knowledge and experience in eDiscovery maintains the integrity of the process and work product
- eDiscovery is a process, not a commodity

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In-house or Outsource?

A Balancing Act...



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In-house or Outsource: **COST**

- Specialized EDD Processing software
- Hardware: PCs, Storage space, Network resources
- Trained personnel
- Ongoing training / mentoring
- Average setup cost \$200K+
- Ongoing annual operating cost \$200K+
- How much EDD will be processed in a year?



In-house or Outsource: BENEFIT

- Increased control of priorities
- Accountability
- Revenue stream / potential profit centre



In-house or Outsource: RISK

- Liability
- Conflict of Interest
- Lack of Defensibility
- Lack of Expertise
- Bill of Costs Challenges

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In-house or Outsource: CHALLENGES

- Resource Requirements - human & tech
- Complexity of EDD processing
- Time requirements
- Volume of data

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Bringing EDD In-house

- Don't want IT staff at the firm that are not dedicated to Lit Support *"Jack of all trades and master of none"*
- Documented, well defined and proven methodologies for processing EDD
- Audit trails at each point, proper reporting of results
- Adequate hardware and software
- Adequate training and mentoring program
- Maintenance of hardware and software

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Bringing EDD In-house

- Projects over # GB
 - *Understand your threshold capacity*
- Projects with complex data
 - *Understand your limitations*
- Projects with tight deadlines
 - *Understand your capabilities*

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Key Outsource Provider Attributes

- High-quality service
- Impeccable reputation
- Fairly priced
- On-schedule delivery
- Flexibility
- Excellent technical and operational capabilities
- Insured
- Invests in technology
- Experienced staff

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Steps in the eDiscovery Process

- Strategize
- Collect Data
- Prepare Data
- Review Data
- Produce Data

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Steps in the eDiscovery Process

- Strategize
 - Understand the issues
 - Define scope - custodians, technology infrastructure, data sources, methodologies required
 - Preservation - ensure data is not destroyed/altered
 - Establish approach - teams, interviews, acquisition, chain of custody, processing



Understanding Technology Infrastructure

- Need to know...what exists
 - Document management
 - Emails
 - VOIP
 - Proprietary systems



Steps in the eDiscovery Process

- **Case Study:** 42 custodians, 2 million records
 - Retained by national law firm for cross-border litigation involving 6+ geographic sites
 - Provided guidance on EDD process, educated IT teams, developed preservation / acquisition strategy
 - Developed and conducted custodian interviews



Steps in the eDiscovery Process

- **Collect Data**

- Technology infrastructure - networks: document management, shared resources, archives
- Location - servers, desktops, laptops, home computers, PDAs, CDs/DVDs, USB keys, backup media
- Preservation of logical (metadata) and physical data (deleted data)



Understanding Technology Infrastructure

- Need to know...where it exists
 - LAN, WAN, external sites
 - Geographically offices / home / people
 - Backup media, servers, laptops, PDAs, external drives, CD/DVDs, USB keys, etc.



Understanding Technology Infrastructure

- Need to know...how to preserve it
 - Backup tapes - strategy on what to pull, rotation/retention policies, legacy issues
 - Hard drives - 'ghosting', forensic acquisition, swapping out
 - Metadata - avoid altering



Steps in the eDiscovery Process

- **Case Study:** 34 custodians, 1 million + records
 - Acquired hard drives, PDAs, backup tapes while maintaining chain of custody, forensic imaging
 - Data culling and filtering
 - EDD processing of electronic data to native files



Steps in the eDiscovery Process

- Prepare Data
 - Maintain integrity during data handling process
 - Electronic processing: extraction of metadata, organization of information, de-duplication, decryption



Steps in the eDiscovery Process

- **Case Study:** 42 custodians, 2 million records
 - Distributed and re-sealed evidence bags with control numbers, locked in fire proof cabinet
 - Utilized write-block protection during data access
 - Decrypted PGP hard drives containing data
 - Processed and de-duplicated across all custodians



Steps in the eDiscovery Process

- Review Data
 - Culling - use of timeframes
 - Filtering - applied search terminologies
 - Responsiveness - assessment and tagging of select documents



Steps in the eDiscovery Process

- **Case Study:** 42 custodians, 2 million records
 - Non-responsive documents were removed from databases based upon culling by timeframe
 - Developed global review strategies for further culling
 - Provided guidance to law firm on revising list of search terminologies to filter records
 - Reduction (85%): 2 million to 300,000 records
 - Provided web-hosted solution for review by 20+ lawyers



Steps in the eDiscovery Process

- Produce Data
 - Full or Sub-set collections: produce either native file and/or tiff images
 - Data Delivery - provide appropriate load files based upon client's technology



Steps in the eDiscovery Process

- **Case Study:** 12 custodians, 560,000 records
 - Converted and validated work product from FTK (Forensic Tool Kit)
 - Assisted client with preparation of mailstores from reviewed native files
 - Produced relevant PST and a privileged PST to an enforcement agency



The E-Team

- Technology-savy Lawyer(s)
- Litigation Support Staff
- Law Firm IT
- Client Staff
- Client IT
- External Consultant / Provider

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William J. Platt, Managing Partner
Platinum Legal Group
wplatt@platinumlegal.ca
403.695.1563

Vancouver - Calgary - Toronto - Ottawa - Montreal - Halifax
www.platinumlegal.ca

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