Digital Evidence Data Management
Global Investigations

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Topics Covered

- Digital Evidence
- Structured vs. Unstructured Data Systems
- Financial Impact
- Best Practices
- Solutions to Key Challenges
- Questions
In One Day…

- 294 billion email messages are sent
- 2 million blog posts are written
- 172 million different people visit Facebook
- 250 million photos are uploaded to Facebook
- 22 million hours of old TV shows and movies are watched on Netflix
- 846,000 hours of video are uploaded to YouTube
- 18.7 million hours of music is streamed through Pandora
- 35 million applications are downloaded for mobile devices
Common Sources of Digital Evidence

- Laptop and Desktop Computer Hard Drives
- Removable Media
- Company Servers
- Smartphones/PDAs
- Data-Centers
- Cloud Computing Environments

DatacenterDynamics Global Industry Census 2011
Structured vs. Unstructured Data Systems

Why the Distinction is Important

- How the Data is Collected
  - Structured: AML Lookback, Completeness Testing, Database MD5
  - Unstructured: Targeted (File Level MD5), Complete (Image Level MD5)

- Types of Information Found in Each
  - Structured: Financial Impact, When and How
  - Unstructured: Who and Why

<table>
<thead>
<tr>
<th>Structured</th>
<th>Unstructured</th>
</tr>
</thead>
<tbody>
<tr>
<td>Market Exchanges</td>
<td>Email</td>
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<td>Accounting Databases</td>
<td>Documents</td>
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<td>Human Resource Databases</td>
<td>WebPages</td>
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<td>Government Databases</td>
<td>Books</td>
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<td>Customer Databases</td>
<td>Chat</td>
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<td>Search Indexes</td>
<td>Pictures</td>
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<td>Video</td>
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<td>Audio</td>
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Financial Impact

How This Data Affects the Bottom Line

- Electronic Data Discovery
  - 0.22% of Total Annual Revenue (U.S.)

- Records Information Management
  - 3.5% of Total Annual Revenue (Global)

- Data Breach
  - $6.65 million USD per Incident (U.S.)

- Fraud
  - 5% of Total Annual Revenue (Global)

<table>
<thead>
<tr>
<th>Country</th>
<th>E-Discovery</th>
<th>Records Information Management</th>
<th>Fraud</th>
</tr>
</thead>
<tbody>
<tr>
<td>Colombia</td>
<td>6 Billion</td>
<td>11 Billion</td>
<td>16 Billion</td>
</tr>
<tr>
<td>Brazil</td>
<td>45 Billion</td>
<td>88 Billion</td>
<td>126 Billion</td>
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<tr>
<td>Latin America and the Caribbean</td>
<td>101 Billion</td>
<td>197 Billion</td>
<td>282 Billion</td>
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<tr>
<td>United States</td>
<td>271 Billion</td>
<td>527 Billion</td>
<td>753 Billion</td>
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Sources:


Verizon: The Enterprise Data Management Tipping Point: Improvements CIOs Can Finally Embrace


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How to Prepare

- Build a Litigation Readiness and Investigations Plan
  - Choose a Team Beforehand
    - Country legal contacts
    - Country technical contacts
- Create a Data Map
  - Develop Business Level Understanding of Data Sources
  - Assign Key Contacts
    - Legal: Drives Process
    - IT: Creates and maintains list of company applications and file types
    - Business Unit / Department Head: Ties business purpose to company application
Best Practices

How to Prepare (continued)

- Invest in Records Information Management (Now)
  - Defines and Facilitates Retention Policy
  - Maintains Organizational Consistency
  - Improves Data Security Compliance

**Records Information Management**

Did you know...

“75% surveyed cited inability to defensibly dispose of data as the greatest challenge and many highlighted massive legacy data as a financial drag on the business and a compliance hazard”

“In 2010 as much data was created in 48 hours as was created by all mankind before 2003. In 2020 the same amount of data will be created in one hour.”

“The majority of data breaches still occur because basic controls were not in place or because those that were present were not consistently implemented across the organization.”

Survey of Information Governance Practices in Global 1000 Companies Released by CGOC

Yuri Milner – presenter to G8 in France & Yalta Annual Meeting 2011 via Chrystia Freeland on Thompson Reuters

The Enterprise Data Management Tipping Point: Improvements CIOs Can Finally Embrace

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Solutions To Key Challenges

Key Challenges Resulting in Electronic Discovery

- Challenge: Performing Effective Due Diligence on 3rd Parties and Foreign Agents
- Solution:
  - Prevention: Reduce the risk of occurrence of fraud and improper behavior
    - Corporate Intelligence (vendor due diligence)
  - Detection: Identify fraud and improper behavior when they occur
    - Continuous Monitoring
  - Response: Taking corrective actions and repairing the damages caused by the fraud or improper behavior
    - Revisit Internal Controls

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Solutions To Key Challenges

Key Challenges Resulting in Electronic Discovery

- Challenge: Understanding Compliance Risks

- Solution:
  - Consider Local Market Risks
    - Latin America: Only 35% of companies have a fraud prevention program
    - Colombia: Almost 55% of companies take more than a year to detect fraud
  - Follow Industry Risks
    - Anticipate Regulatory Enforcement
      - U.K. Focus: FSA and the U.K. Competition Commission
        - Engineering, financial services, and manufacturing
      - U.S. Focus: DOJ, Attorneys General, OSHA, and the EPA
        - Engineering, health care, and technology
Solutions To Key Challenges

Key Challenges Resulting in Electronic Discovery

- Challenge: Understanding Compliance Risks (continued)

- Solution:
  - Follow Geographical Trends
    - AML – Anticipate heightened scrutiny and enforcement in:
      - Antigua and Barbuda
      - Ecuador
      - Honduras
      - Paraguay
      - Venezuela
      - Bolivia
      - Trinidad and Tobago

KPMG Corporate Fraud in Latin America
http://www.kpmg.com.ar/fraude

KPMG Global Anti-Money Laundering Survey 2011
Solutions To Key Challenges

Key Challenges to Electronic Discovery

- Challenge: Varying Data Privacy & Data Protection Requirements
- Solution:
  - Seek Advice
    - Legal Advice as part of Merger & Acquisition Due Diligence
    - Professional Advice for Data Management and Litigation Readiness

<table>
<thead>
<tr>
<th>Country</th>
<th>Constitudational Reference</th>
<th>Personal Data Protection Laws</th>
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<tbody>
<tr>
<td>Chile</td>
<td>N/A</td>
<td>19628</td>
</tr>
<tr>
<td>Argentina</td>
<td>Section 43</td>
<td>25326</td>
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<tr>
<td>Mexico</td>
<td>Sections 6 and 16</td>
<td>Transparency and Access to Federal Public Information Federal Act</td>
</tr>
<tr>
<td>Peru</td>
<td>Section 2</td>
<td>Bill No. 4079/2009-PE</td>
</tr>
<tr>
<td>Brazil</td>
<td>Section 5 at XIV, LXXII</td>
<td>Financial Institution Secrecy Law, Civil Code of 2003</td>
</tr>
</tbody>
</table>

Lorenzo Villegas Carrasquilla: Lorenzo Villegas Carrasquilla: Personal data protection in Latin America
http://www.palermo.edu/cele/pdf/English/Internet-Free-of-Censorship/05-Personal_data_protection_Latin_America_Villegas_Carrasquilla.pdf

https://www.privacyinternational.org/article/phr2006-federative-republic-brazil

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Key Challenges to Electronic Discovery

- Challenge: Varying Data Privacy & Data Protection Requirements (continued)
- Solution:
  - Consider explicitly defining employees’ right to privacy in the Employment Contract
    - Digital Devices are Company Property
    - Expectation of Privacy on Digital Devices
    - Collection / Discovery Compliance Requirement
    - Data may be Transferred to Foreign Countries at Company’s Discretion
Solutions To Key Challenges

Key Challenges to Electronic Discovery

- Challenge: Keeping Up with Big Data

- Solution:
  - Create a Data Map
    - Know Where and How Data is Stored
    - Understand How Stored Data Relates to the Business
  - Take Action Now
    - Outsourced/Cross-Border Email and File Servers
      - Restrict Access to those that need it
    - Cloud Computing
      - Include Legal and Compliance in Planning Discussion
Key Challenges to Electronic Discovery

- Challenge: Keeping Up with Big Data (continued)
- Solution:
  - Take Action Now (continued)
    - Mobile Devices
      - Update IT and Data Privacy Policies
      - Increase awareness that mobile data is discoverable
    - Establish an Incident Response Plan
  - Invest in Records Information Management
    - Flexibility responding to increasing regulation
    - Reduces discoverable data holding no business Purpose
Questions
**KPMG Reference Material**

- KPMG Corporate Fraud in Latin America  

- Global Anti-bribery and Corruption Survey 2011  

- KPMG Global Anti-Money Laundering Survey 2011  

- Astrus - A Web-based Portal to Corporate Intelligence  

- Investigation and Protection from Data Breaches  

- Embracing the Cloud  

- Software-assisted document review: An ROI your GC can appreciate  

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**Sign up and find more intelligence and insights:**

Thank You

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