

Email Management

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Talk Description

- Emails are free form and the segment that are records are difficult to identify, categorize and index. There are so many that records managers can't be expected to handle them, but we know that relying on individuals to do it won't work. Can we use technology to help? Do the ARMA guidelines on email help us?

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Really it isn't just E-Mail, but all electronic messaging!

- E-Mail
- Instant Messaging
- Text Messaging
- Voice Mail
- Social Sites: blogs, wikis,
- Tweets

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Electronic Messages have many potential faults ...

- Impersonal
- Create a permanent record
- People often make stupid, flippant remarks
- They are seldom proof read
- They are often misdirected or forwarded
- They may be forged as to author or content

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More Faults ...

- Subject to regulation
- They are discoverable
- Email "tone" may be easily misconstrued
- Email, although touted as a time saver, often consumes 50 % of a workers daily output
- Email can be technologically challenging
- All the "junk" and pop ups and spam associated with email

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For Each Mode, Do You Have Organizational Policy?

- Which Have You Chosen?
 - Forbid Use (for business purposes)
 - Restrain Use
 - Constrain Behavior
 - Offer No Limits on Usage

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Representative Data

Internet Usage Policy

Does your organization have a policy that restricts or forbids employees to use any of the following?

- Restricts Personal E-Mail	16.36 %
- Forbids Personal E-Mail	5.91 %
- Restricts Instant Messaging	13.18 %
- Forbids Instant Messaging	12.73 %
- Restricts Social Networks	16.36 %
- Forbids Social Networks	15.00 %
- Restricts Overall Internet Usage	20.00 %
- Forbids Overall Internet Usage	0.45 %

ARMA Poll

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How Big is the Problem?

- AIIM survey showed that over 70% of information workers spend a fifth of their time or more on e-mail related tasks.
- ARMA survey showed that 43% of respondents have no plan for managing e-mail records.
- On average, over 3 million e-mail messages are sent internally within Microsoft every day.

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Electronic Messages are a target in litigation specifically because they are informal and can reveal intent and truth

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Perelman vs. Morgan Stanley

- In this case, Morgan Stanley was heavily punished by the judge for consistently failing to produce e-mail records during the discovery process.

On several occasions, employees at Morgan Stanley found tape backups of e-mail records related to the case even after the company signed statements stating that they had turned over all relevant records.

Morgan Stanley had no consistent process in place for managing the flow of information in e-mail, and this could end up costing the firm hundreds of millions of dollars.

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More Cases

- Zubulake vs. UBS Warburg LLC
Warburg was sanctioned for costs of approximately \$175,000 for deleting backup e-mail requested during litigation.

Zubulake was awarded \$20.1 Million in Punitive Damages and \$9.1 Million in Compensatory Damages

- In January 2008, U.S. District Court Judge hit Qualcomm with an \$8.5 million penalty for failing to produce e-mail relevant to a patent lawsuit against Broadcom.
- United States vs. Microsoft
- Recent National Security Archive case against White House.

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- A survey of more than 800 IT security, email security and compliance professionals revealed that 65 percent of respondents lack confidence that their organization's email records would be admitted as authenticated evidence in legal, regulatory or patent disputes. (*Surety, LLC*)

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Steps to Get Control

1. Policies
2. IT Controls
3. Archiving Tools
4. Procedures
5. Audit

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Policies

- Recordkeeping
- IT Policy
- Use of All Forms of Electronic Messaging
- Communicate to customers about appropriateness of e-msgs

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Policy Should Address

- Appropriate Use and Language
- Responsibilities
- Identification of records
- Security
- Privacy
- Confidential Information
- Penalties for non-compliance

- Refer you to ANSI/ARMA 9-2004

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Typical IT Controls

- SPAM and virus filtering
- Limit mailbox size
- Limit mail age
- Block websites
- Standard backups

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- Are any of your electronic messaging solutions housed outside the organization?
- Do you have more than one solution?

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Archiving Tools

- Electronic Repository
- Links from Messaging Systems to Repository
- Automatic processing

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What gets saved?

- Both Sent and Received Messages
- Address definitions
- Access information – when delivered, when read (and by whom), if deleted.
- Folder structure

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Electronic Message Repository

- Capture entire message, including:
 - embedded pictures
 - Links
- Content can be accessed without restoring to email system
 - Digital signatures
- Capture message metadata

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Metadata

- Most Basic: Message thread
- Aguilar v. Immigration and Customs Enforcement (ICE)
 - Three Kinds:
 - Substantive (modifications, edits, comments)
 - System-based (author, date & times)
 - Embedded (file but not visible – e.g. formulas)

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Repository – Take 2

- Needs to have:
 - Metadata search
 - Sophisticated full-text search and thesaurus
- Store attachments linked to email
- De-Duplication
- Able to produce messages in their native format
- Retention / disposition support and Holds
- Access controls
- Tamper proof

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What if messaging system is hosted?

- Who is archiving them (if at all)?
- Long enough to match your needs? Too long?
- Can we bring them into our record control?

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Manual Tools

- Local mailboxes (PST, OST) and saved emails
 - Do We Permit?
- Ability in messaging system to easily declare
- Bulk load and extraction

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Automatic Processing

- Integration with business process automation
- Integration with messaging server(s)
 - Needs to have rules for identifying and classifying
 - Rules should include sender, receivers, topic, content
- De-duplicating

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Procedures

- Using the Tools
- Managing Backups

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Audit

- E-Mail Usage Training
- Random reviews of usage
- Audit guidelines [TR-02-2007 Appendix A]

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In Case of a Discovery Request

- *“as kept or maintained in the regular course of business”*
- How Much Do We Have?
 - Quickly Evaluate How Many Archived Messages Apply
 - Hold all backup media
 - Look everywhere
- Prepare a statement of formats that can be provided.
- Participate in determining costs and time to deliver.

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References

- ANSI/ARMA 9-2004:
Requirements for Managing Electronic Messages as Records
- ANSI/ARMA TR-02-2007
Procedures and Issues for Managing Electronic Messages as Records

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Questions? Comments?

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