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Managing Workflow Tracking in Discovery Efforts

How a proactive solution can help you

Consider what typically happens when a major incident that could lead to lawsuits occurs. The legal team braces for eDiscovery for the expected complex litigation surrounding the incident. Stress is high and there is pressure to start the engagement right away. According to initial assessments, this is expected to be a small engagement with only a few custodians.

However, as time goes by, additional subpoenas are served and the team identifies more and more custodians with potentially responsive data who may be geographically dispersed. This expands the scope of the eDiscovery engagement by orders of magnitude. At the same time, multiple vendors may be involved at different stages in the discovery effort. Each vendor has its own way of tracking information, so there's no consistency.

These factors ratchet up the pressure as the stakes rise. Now the team is looking at possibly thousands of custodians amidst a multitude of different data tracking formats which are inconsistent in what they capture. Attempts to determine what has been collected from individual custodians now requires significant effort to reconcile between the different tracking systems. This often makes reporting intensely manual, slow, error prone and extremely expensive.

But what if the organization had a system in place before hand that helped to organize the information gathered and standardize recordkeeping? The one time setup and implementation costs associated with such a solution would likely be significantly lower than repeated, intensely manual efforts to generate collection activity reports on a frequent basis. A standardized workflow that encompasses all aspects of the Electronic Discovery Reference Model (EDRM) can also greatly reduce many of these challenges. Once the legal team outlines specific steps and procedures, each vendor can input its information in a consistent way. This facilitates real time, accurate responses to information requests.

A Better Approach

While processes should be developed based on the organization's needs and goals, several specific features should be considered:

- **A centralized repository**

Developing a centralized data repository for reporting purposes can allow legal and discovery teams to exercise more precise control of the overall discovery effort as teams are able to determine with greater accuracy what has been preserved and what has yet to be preserved for a given custodian, and to assess the completion level of the overall effort. Concomitant with this greater accuracy is a decrease in uncertainty of these same metrics, as the centralization of information provides for more precise, quantitative measurement. To achieve these objectives, the repository should adhere to good relational database design so information is recorded in the system consistently and without duplication or absence throughout the different stages of the EDRM represented as linked modules or tables.

- **Security**

The sensitivity and confidentiality of complex litigation suggest that the different parties involved in a discovery effort ought to be permitted to see only the information they need to see or alter.

- **Robust tracking features**

The integrity of the evidentiary process demands rigorous adherence to a workflow and consistent chain-of-custody and evidence tracking. Without this, evidence may be lost at some point during handling, introducing the risk that evidence may be contaminated or unaccounted for. To help mitigate this risk, the workflow tracking system should encompass integrated chain-of-custody and evidence tracking. This allows vendors to enter information related to their data handling activities in a unified way.

- **Web-enabled**

Modern large-scale discovery efforts are often geographically dispersed with possibly hundreds of individual discovery practitioners engaged in some aspect of the overall effort over a long period of time. To accommodate such geographic and temporal dispersion, a web application front end can allow users from different locations to interact with the system in a clearly defined manner. Moreover, as more practitioners are brought on to assist with the discovery effort, a web application would allow for easy and seamless integration and expansion of access to the repository.

Several Benefits of Effective Workflow Tracking

With the right systems and processes, legal teams can better ensure consistent practices throughout the life of the discovery project.

This includes the ability to run reports on custodians that can highlight gaps in data to be remediated with additional collections or disclosed. This provides peace of mind by reducing concerns that activities will be misrepresented to government agencies and opposing parties.

By designing the system to require certain rules around the relationships between modules and data entry, attorneys can increase data quality, consistency and integrity throughout the process, as well as reduce redundant information.

The ability to quickly report at the custodian level for all activity also facilitates process efficiency and risk mitigation.

A modular approach can allow for customization according to each matter's needs and budgets. So when a matter calls for an evidence management module, the organization can pay for that feature only when it needs it.

Cost-savings may be multiplied when separate teams are working on separate matters. Consider a scenario when weekly end-to-end custodian activity reports must be generated for 10 to 15 custodians for multiple requesting groups. The typical scenario is costly and time consuming, compared with a proactive solution that includes data management workflow tools.

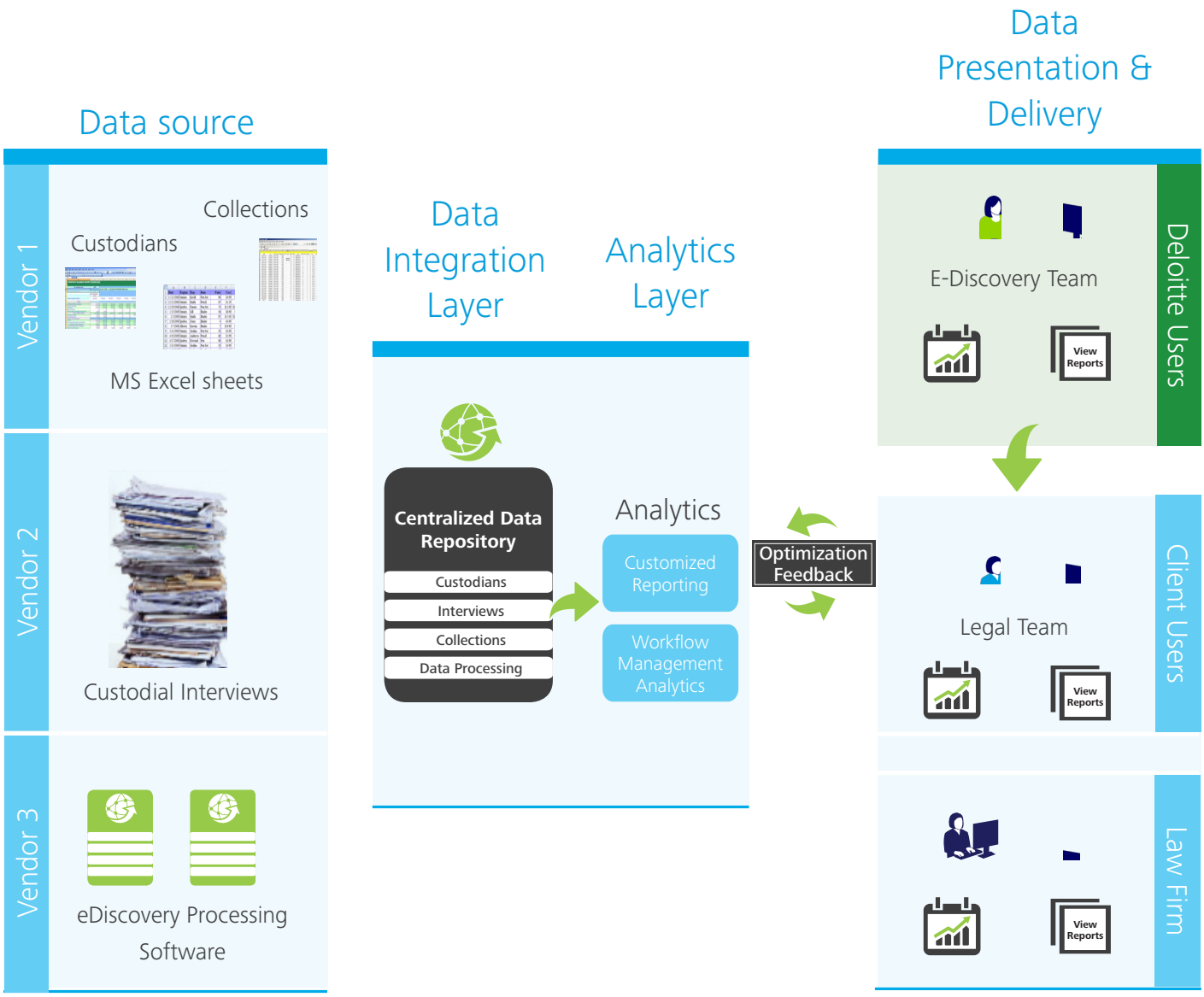
Typical Scenario in a Discovery Engagement			
One-time per-custodian basis		Activity	Hours
	1	Research and gather all relevant information	1
	2	Verify accuracy of data from disparate trackers	1
	3	Prepare and format report	0.5
	Total hours per custodian		2.5
One-time cost for the entire report	Number of custodians		15
	Total number of hours per week for 10 work streams = (2.5 x 15 x 10)		375

This one-time cost would be repeated every time the report must be regenerated. There is also a higher risk of inaccuracies based on inconsistent or manual reporting approaches. In contrast, the data standardization and more robust reporting of the workflow tracking approach typically results in almost negligible ongoing costs. The reports can also be adjusted with ease and consistency. In short, the investment in building this proactive management system pays for itself.

While the initial cost of creating the reports under the typical scenario is higher for the proactive solution, the proactive solution quickly becomes a more economic choice that may also reduce risk.

Deloitte's Solution to Data Management Workflow Tracking

Deloitte has developed a data management solution that incorporates a modular approach to workflow tracking. The application has a web front end connected to a backend database that is hosted at Deloitte's Electronic Discovery Solutions Center (EDSC). This solution can also be migrated behind a client's own network firewall.



While technology plays a significant role in this approach, Deloitte's broad approach allows multiple vendors to effectively utilize it, resulting in consistent, streamlined approaches.

- Core workflow
  - Custodian
  - Device
  - Pickups
  - Collections
  - Shipments
  - Processing
- Optional add-ons
  - Interviews
  - Evidence management
  - Dashboard and ticketing system

Deloitte's solution allows all vendors to track their activities in a unified location and effectively links this information together. This creates a holistic view, rather than requiring users to piece together data from disparate sources.

This approach is also scalable. It can easily be used for very large engagements with enormous amounts of data as well as for clients with numerous smaller engagements.

Taking the Next Step

Investing in data management workflow tracking can reap rewards on current projects and for future matters. Many lawsuits and investigations can appear deceptively simple at the beginning, only to quickly grow more complicated. With the proper foundation in place, organizations can apply analytics and leverage knowledge gathered through many eDiscovery engagements to identify commonalities and leading practices. The "right" solution can allow for consistent, efficient, effective and defensible processes, regardless of the size and scope of the matter.

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