



cutting through complexity

Digital Evidence Data Management Global Investigations

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Agenda

Topics Covered

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

Digital Evidence

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

MABonline.com
<http://www.mbaonline.com/a-day-in-the-internet/>

Digital Evidence

Common Sources of Digital Evidence

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

Rank	% growth in facility profile 2011-12		% growth in investment 2011-12		\$US (billion) value of investment 2012	
1st	Turkey	60%	South East Asia	118%	USA	9.3
2nd	Brazil	45%	Turkey	74%	UK	3.35
3rd	Colombia	40%	Russia	50%	China	3.1
4th	Argentina	36%	Australia	54%	Germany	2.6
5th	Russia	29%	Central USA	50%	Australia	2.45
6th	China	28%	Middle East	47%	Brazil	2.15
7th	Mexico	17%	China	44%	France	1.95
8th	DACH	16%	India	43%	Italy	1.95
9th	Benelux	14%	Brazil	43%	Canada	1.9
10th	Nordics	14%	Italy	35%	S.E. Asia	1.9
11th	Eastern USA	13%	Nordics	31%	Mexico	1.8
12th	Italy	13%	DACH	26%	Turkey	1.8
13th	India	12%	Argentina	26%	Russia	1.65
14th	Central USA	12%	United Kingdom	25%	Argentina	1.6
15th	S.E. Asia	11%	Western USA	23%	Benelux	1.55
16th	Australia	11%	Eastern USA	23%	India	1.5
17th	Canada	10%	Colombia	10%	Middle East	1.5
18th	Middle East	9%	Benelux	16%	Spain	1.35
19th	France	7%	Mexico	11%	Colombia	1.2
20th	Spain	6%	France	10%	Nordics	0.95
21th	UK	5%	Spain	9%		
22th	Western USA	3%	Canada	8%		

DatacenterDynamics Global Industry Census 2011
<http://www.datacenterdynamics.com/research/market-growth-2011-2012>

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

Structured

Market Exchanges

Accounting Databases

Human Resource Databases

Government Databases

Customer Databases

Search Indexes

Unstructured

Email

Documents

WebPages

Books

Chat

Pictures

Video

Audio

Financial Impact

How This Data Affects the Bottom Line

- Electronic Data Discovery

- 0.2%

Country	E-Discovery	Records Information Management	Fraud
Colombia	6 Billion	11 Billion	16 Billion
Brazil	45 Billion	88 Billion	126 Billion
Latin America and the Caribbean	101 Billion	197 Billion	282 Billion
United States	271 Billion	527 Billion	753 Billion

- Records

- 3.5%

- Data

- \$6

- Fraud

- 5% of Total Annual Revenue (Global)

Lawyers for Civil Justice, Civil Justice Reform Group, U.S. Chamber Institute for Legal Reform. "Litigation Cost Survey of Major Companies." May 2010 <http://www.uscourts.gov/uscourts/RulesAndPolicies/rules/Duke%20Materials/Library/Litigation%20Cost%20Survey%20of%20Major%20Companies.pdf>

PSS Press Release: Survey of Information Governance Practices in Global 1000 Companies Released by CGOC <http://www.pss-systems.com/news/100710.html>

Verizon: The Enterprise Data Management Tipping Point: Improvements CIOs Can Finally Embrace http://www.verizonbusiness.com/resources/cloudcomputing/wp_enterprise_data_management_tipping_point_en_xg.pdf

ACFE: Cost of Fraud 2011 <http://www.acfe.com/cost-of-fraud.aspx>

International Monetary Fund, World Economic Outlook Database, September 2011 <http://www.imf.org/external/pubs/ft/weo/2011/02/weodata/index.aspx>

Best Practices

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
<http://www.pss-systems.com/news/100710.html>

Yuri Milner – presenter to G8 in France & Yalta Annual Meeting 2011 via Chrystia Freeland on Thompson Reuters
<http://blogs.reuters.com/chrystia-freeland/2011/09/23/yuri-milner-on-the-future-of-the-internet>

The Enterprise Data Management Tipping Point: Improvements CIOs Can Finally Embrace
http://www.verizonbusiness.com/resources/cloudcomputing/wp_enterprise_data_management_tipping_point_en_xg.pdf

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



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

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

Fulbright's Litigation Trends Survey: A Little Less Litigation; More Regulation
http://www.fulbright.com/index.cfm?fuseaction=news.detail&site_id=286&article_id=9902



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 Global Anti-Money Laundering Survey 2011
<http://www.kpmg.com/US/en/IssuesAndInsights/ArticlesPublications/Pages/global-anti-bribery-corruption-survey-2011.aspx>

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



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

Country	Constitutional Reference	Personal Data Protection Laws
Chile	N/A	19628
Argentina	Section 43	25326
Mexico	Sections 6 and 16	Transparency and Access to Federal Public Information Federal Act
Peru	Section 2	Bill No. 4079/2009-PE
Colombia	Section 15	1266 of 2008 and draft Statutory Law 046 of 2010, Chamber of Deputies, and 184 of 2010, Senate 9507, The Consumer Protection Law of 1990, 8069, 9296, Telecommunications Act of 1997,
Brazil	Section 5 at XIV, LXXII	Financial Institution Secrecy Law, Civil Code of 2003

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

Privacy International: PHR2006 - Federative Republic of Brazil / TRT9 – 5ª T., RO 5568/2002, Rel. Juíza Janete do Amarante, j. 20.02.2003, DJ 04.04.2003
<https://www.privacyinternational.org/article/phr2006-federative-republic-brazil>

Solutions To Key Challenges

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

Solutions To Key Challenges

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

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Additional Reading

KPMG Reference Material

- KPMG Corporate Fraud in Latin America
<http://www.kpmg.com.ar/fraude/fraude.html>
- Global Anti-bribery and Corruption Survey 2011
<http://www.kpmg.com/US/en/IssuesAndInsights/ArticlesPublications/Pages/global-anti-bribery-corruption-survey-2011.aspx>
- KPMG Global Anti-Money Laundering Survey 2011
<http://www.kpmg.com/Global/en/IssuesAndInsights/ArticlesPublications/Pages/global-anti-money-laundering.aspx>
- Astrus - A Web-based Portal to Corporate Intelligence
<http://www.kpmg.com/US/en/IssuesAndInsights/ArticlesPublications/Pages/astrus-web-portal.aspx>
- Investigation and Protection from Data Breaches
<http://www.kpmg.com/US/en/IssuesAndInsights/ArticlesPublications/Documents/investigation-data-breaches.pdf>
- Embracing the Cloud
<http://www.kpmg.com/US/en/IssuesAndInsights/ArticlesPublications/Pages/embracing-the-cloud.aspx>
- Software-assisted document review: An ROI your GC can appreciate
<http://www.kpmg.com/us/en/issuesandinsights/articlespublications/pages/software-assisted-document-review-roi.aspx>

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Thank You

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