



Finders, Keepers

eDiscovery and archiving are no longer just good ideas — they're essential.

In the digital age, discoverable data includes anything from e-mail to hard drives, tape backups and CD-ROMs.

ON DEC. 1, 2006, the United States Supreme Court amended the Federal Rules of Civil Procedure to reflect the impact electronic communications have had on organizations both public and private. The new rules state that any electronically stored data possessed by an organization is now considered discoverable and when required in court, the data must be presented in a timely manner.

E-mail and instant messaging are quickly overtaking the telephone as the preferred means of communicating, meaning it is increasingly vital that enterprises employ electronic discovery, or eDiscovery, applications as well as electronic archiving tools.

Traditionally, discoverable data meant various sorts of documents — records, memorandums, faxes, transcripts and so on. In the digital age, discoverable data

includes anything from e-mail to hard drives, tape backups and CD-ROMs. As these electronic means surpassed their paper-based predecessors, legal questions arose. The Supreme Court's decision to amend the Federal Rules of Civil Procedure was an attempt to clarify the rules on eDiscovery — specifically to set some standards for parties involved in litigation.

Public agencies now can be required to produce documents archived on hard drives, in e-mails and on backup tapes, among other things, in a timely manner for court cases. The new rules require that as part of any legal proceedings, the parties must meet before the trial begins to discuss a discovery plan that includes identifying sources of potentially discoverable information and settling upon the form in which the data is to be produced. This means the parties involved not only



backup tapes it had stored in a closet. Since this data was not presented prior to trial, the judge directed the jury to assume Morgan Stanley defrauded its client. The jury awarded the client \$1.45 billion. The case was overturned on appeal. In another case, *Thompson v. HUD*, the U.S. Department of Housing and Urban Development presented 80,000 e-mail records — again discovered after the case had gone to trial. The judge ruled that HUD could not use any of the e-mails in its defense, but allowed the plaintiff to use them in his cross-examination or case in chief.

Currently, three-quarters of all corporate litigation revolve around e-mail. The

Without eDiscovery and archiving, finding a single e-mail could be a nightmarish undertaking.

Enron case is perhaps the most high-profile example of courtroom drama wherein e-mail played a pivotal role.

The Symantec Information Risk Management solution is designed to protect an organization's electronic information by working with leading messaging systems, such as Outlook and Lotus. In some of the most used enterprise e-mail applications, a critical e-mail can be easily — and often accidentally — erased from existence. Given that when typical lawsuits are filed, data discovery costs start around \$300,000, preventing that one e-mail from getting away can save a lot of time, effort and money.

The public sector also faces another challenge that is not common to the private sector: freedom of information laws, which can cause agencies many of the same headaches associated with data discovery. Enterprise Vault, part of Symantec's enterprise messaging management suite, is a mail archiving application that can be vital when an agency responds to public information requests or is required to discover certain data. The intelligent archiving solution captures, stores and indexes information from e-mail and instant messaging systems, file server environments, content management and collaboration systems.

must be able to produce stored electronic data upon request, but also must be able to locate any applicable data prior to trial. Furthermore, the ability to quickly and efficiently respond to public information requests save public organizations time and money.

Although there are many “dumb” archiving and eDiscovery tools available, Symantec offers solutions that archive such data intelligently and allow users to discover data based on relevance — capabilities that are critical when the time and cost of litigation is considered. Regular backups aren't enough. For example, a file created and then deleted in a single workday would not be recorded during a nightly backup.

The amendments enacted by the Supreme Court now oblige parties to preserve all their data. By having an eDiscovery and archiving solution in place, data preservation becomes far more efficient and organized. In the past, storing

data itself was an expensive affair. But data storage prices have plummeted, and the rate of data creation has increased. Thanks to dramatically enhanced storage capacity, it's now practical to store tens of millions of e-mails each day — and each one may be relevant in court proceedings. Without eDiscovery and archiving, finding a single e-mail stored in a vast library of backup media could be a nightmarish undertaking.

For example, in *Coleman v. Morgan Stanley*, after the case went to trial, Morgan Stanley told the court it recovered 1,600

21 percent of employers have had employee e-mail and instant messages subpoenaed in the course of a lawsuit or regulatory investigation.

Source: The ePolicy Institute

Loss Leads to Discovery

Symantec eDiscovery tools help Fulton County, Ga., secure e-mail and save money.

In addition to archiving data in an organized, sensible fashion, Enterprise Vault also helps save on storage costs and improve efficiency by eliminating redundant copies of data. If an e-mail with a 10 megabyte attachment is sent out to 500 people, there's no reason to store 5 gigabytes worth of the same information. Enterprise Vault stores only a single instance and locks it in a secure location.

The platform also has benefits for end-users. With e-mail attachments stored in a central archive, users no longer have to worry about mailbox size restrictions. And along with Enterprise Vault's automated classification engine and the software's ability to integrate with organizational records management systems, the software also lets users classify items in a manner that makes sense for their own purposes.



Symantec's Discovery Accelerator extends Enterprise Vault's basic search functionality in a manner specially geared toward the Federal Rules of Civil Procedure. The software not only enables governments to easily find data that is pertinent to a case, but also allows the organization to put a hold on certain data if required by court proceedings. This function lets the organization preserve data relevant to a proceeding that may

Fulton County, Ga., is home to nearly a million residents. Some 7,000 government employees serve the citizens of Fulton County — but just 145 of those employees work in IT. The county IT staff also works with a budget that has not increased in seven years. For CIO Robert Taylor, the situation called for the deployment of technology solutions that would not only boost efficiency but also work within his budget limitations.

In August 2003, Fulton County IT systems were infected by the Nimda virus and the county suffered a server failure, which led to the loss of nearly four months' worth of e-mail. That incident prompted the county to search for an eDiscovery and archiving suite that could provide robust business continuity, reduce cost and complexity, and promote open records retention and discovery. Furthermore, Taylor needed a solution that was easy to manage, since he had only one full-time IT administrator to maintain county e-mail systems.

Symantec Enterprise Vault, the archiving cornerstone of Symantec's enterprise messaging management suite, coupled with Discovery Accelerator, an extension specifically designed to help users comply with federal regulations, met Taylor's needs. An early adopter of Enterprise Vault, Taylor and his team developed an integrated archiving and e-Discovery solution for e-mail, fax and voicemail.

With Enterprise Vault software deployed, the county increased e-mail and storage capacity while eliminating the need for bulk e-mail distribution. In the past, the county had two full-time employees whose jobs included tasks such as recovering end-user e-mail and restoring data in the event of backup failures. With Enterprise

Vault and Discovery Accelerator, end-users accomplish these tasks on their own, freeing the two employees to concentrate on other tasks and saving the county thousands.

Enterprise Vault also allowed the county to enhance its mail storage capability. Since the software integrates seamlessly with Exchange, duplicate e-mail storage has become a thing of the past. For example, when an enterprisewide mailing is sent, the message file itself used to be sent to all recipients. With Enterprise Vault, all individuals who would have normally received that e-mail are instead informed of how to view the message, which is stored in a central location. In addition, archive-ready e-mail is moved to a file archiver for easy data management and zero data loss. This significantly reduced the county's storage requirements. In fact, after the implementation, 65 percent of the existing storage space was regained while allowing end-user message capacity to be increased by 20 megabytes.

Implementing eDiscovery and archiving helped the county save more than \$400,000 in IT productivity costs. The county also saved \$128,000 in annual labor that was previously associated with manual assistance provided to end-users in searching and retrieving e-mail. In addition, e-mail storage growth was reduced by 500 gigabytes via storage compression and single-instance archiving helped save the county \$270,000. Since the server failure of 2003 and the following deployment of Symantec enterprise tools, it is estimated the county avoided nearly \$3 million in costs. Altogether, Symantec is helping Fulton County realize \$4.5 million in business value over five years.

Key Benefits of Symantec eDiscovery

- Gives users a mailbox of virtually unlimited size while controlling message storage growth.
- Administrators can migrate all existing PST file data to the archive, effectively achieving PST eradication.
- Reduces online message storage by 50 percent to 75 percent through archiving, shortening backup and restore times for Exchange and file server environments.
- Retains a copy of all e-mail messages sent and received, ensuring they are kept for the appropriate period of time required to meet regulatory or legal requirements.
- Enables organizations to retrieve messaging content and documents to meet legal and regulatory compliance requirements.
- Centralizes management of e-mail content to help ensure faster backup of Exchange and a controlled recovery in a disaster.

Just 35 percent of employers have e-mail retention policies in place.

Source: The ePolicy Institute

have otherwise been due for deletion under the organization's retention policies while continuing to get rid of irrelevant data according to the organization's usual archiving policies. Because an organization could be required to retain certain data for the duration of a lengthy trial, Discovery Accelerator can eliminate storage costs that would be incurred if all data were held.

Having already been tested and proven in court, Symantec eDiscovery and archiving tools can help government adapt to a world where the telephone is being

supplanted by instant messaging and paper documents are becoming electronic files. Functioning safely and securely in a society that has grown increasingly litigious means having quick access to all data an organization owns is no longer a good idea, it is vital to survival.

eDiscovery is about more than being able keep everything. It's also about giving an organization the capability to cull through stored data and produce the information that is relevant. In court, giving any more information than is requested can lead to problems, so it is critical an organization be able to discover and produce that which is relevant — and only that.



For more information call 1-800-745-6054
or visit www.symantec.com/govtech