

A Whitepaper from PSS Systems and IBM
May 2010



IBM **Information Management** software



Drowning in Data? Disposing of Unneeded Content with Confidence



Drowning in Data and Legal Duties

Information Technology managers in large enterprises are faced with a rising tide of data and legal duties without the resources to stay above water:

1. Exponential data growth that increases the pressure on scarce Information Technology (IT) resources. The typical enterprise experiences 42 percent annual increase in data volume according to recent market intelligence, in large measure because few have reliable procedures or practices for disposing of data so new information accumulates on top of generations of stale data. In addition to the storage management impact, even more unnecessary expense results from the endless proliferation and generations of technology, storage and infrastructure to manage new information accumulating on top of stale data and older data sources.

2. Explosion of legal obligations for data from expanded eDiscovery requirements and global privacy requirements. In the past five years, the burden on corporate attorneys to impose legal holds and to monitor the collection of data has gone from infrequent to nearly constant, and the penalties for failure from non-existent to career ending. Judge Scheindlin, in the recent Pension case¹, raised the bar again by requiring corporate attorneys to supervise the collection of data and described the failure to do so as “careless and indifferent.” At the same time, enforcement of privacy and data protection laws has increased – often as a backlash to U.S. discovery duties – and is as diverse as the countries in which a company operates and poorly communicated to IT staff.

3. Antiquated and manual information governance practices between legal, records and IT stakeholders that have failed to keep pace with the dramatic change in the information environment and legal requirements. Retention schedules seldom provide enough information for IT to enforce or apply them to the data under management; an audit of retention schedule practices in most companies would result in failure. Legal holds may not even be communicated to IT, despite the fact that IT has data in its custody. It may be difficult to determine which departed employees data must be retained for legal preservation needs, leading to excess data or unnecessary risk. Legal data collection requests reflect the very limited understanding the legal staff has about the complexity of the IT environment, are burdensome to fulfill, and may set up IT staff for failure.

4. Zero budget growth despite the fact that IT is being asked to manage nearly twice as much data every year and comply with as much as 10 times as many legal obligations for that data. “While the IT industry will return to growth in 2010, the market will not recover to 2008 revenue levels before 2012,” said Peter Sondergaard, senior vice president at Gartner and global head of Research. “2010 is about balancing the focus on cost, risk, and growth. For more than 50 percent of CIOs the IT budget will be 0 percent or less in growth terms. It will only slowly improve in 2011.”²

The steady increase in data and legal duties without improvements in budget or information governance processes makes it difficult for IT to stay above water day to day and impossible to turn the tide on data volume.

Staying Afloat While Responding to Legal Holds and Data Collection

When legal holds are viewed as solely a legal department issue, companies have lost sight of the fact that the data on hold is everywhere except the legal department. Legal hold practices are typically designed to suit the legal department’s risks and record keeping – yet risk is highly concentrated in IT and its recordkeeping burden is often larger than legal’s for the hold and collection tasks. The IT department is a key stakeholder and legal is highly dependent on IT’s ability to manage data on hold and perform collections. As partners in the process and as the stewards of data actually subject to legal holds, IT managers must be at the table as processes are established and should insist that their requirements are given consideration in any legal hold and discovery workflow software purchase.

IT Managers on Legal Holds:

“We have been using a custodian list from legal with the people on hold but I just found out it is 5 months old. I don’t think they understand how many people transfer or leave every week!”

“We’ve been keeping an image of every departing employee’s machine since 2003; in 2008 we laid off 7,000 people and we must have 70-100 terabytes of data that is totally useless.”

To avoid destroying information subject to legal hold and to ensure that data can be safely disposed, IT managers are asking for legal hold solutions that span legal and IT to enable them to:

- Look up employees, systems and application by ID number to see if there are any current legal holds
- Federate legal holds directly from the legal department to capable systems so holds are automatically applied and manual hold flagging and accidental disposal are eliminated

- Have a reliable, single source of truth on all current holds, enabling IT to defensibly dispose of data not on hold

IT Managers on Collections:

“IT has to complete three or four different spreadsheets for every collection and repeat the same information for each employee’s data three or four times. We don’t have the resources.”

“Half the time the instructions from legal on what to collect are incomplete, unclear or just wrong. We waste a lot of time going back and forth.”

“I’m sure we’re doing the same custodian collection over and over, but I don’t have time to look up all the spreadsheets to figure it out.”

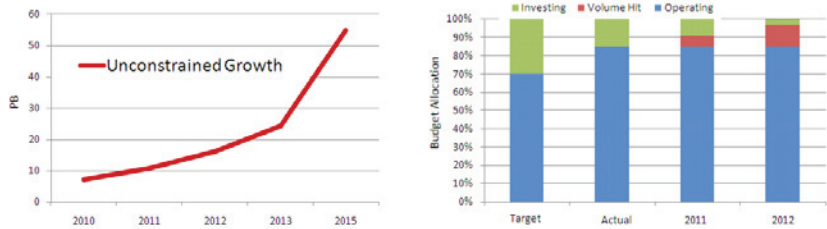
With reduced IT staff and tens of thousands of IT tickets, IT efficiency is paramount. Manual logging, double tracking, and duplicate and detailed record keeping are time consuming and easily automated. The status calls with multiple legal staff on multiple matters take resources away from performing the collection. While some IT teams have acquired specialized tools for collecting data, they have found that a great deal of work is involved in the tracking and record keeping in a delegated work environment – where risk and errors are most likely to occur. IT managers are asking for discovery workflow solutions that enable them to:

- Obtain complete, specific collection instructions applicable to each data source and custodian
- Automatically document the full collection and audit trails with no manual record keeping
- Obtain transparency to the collection status for all IT staff involved in completing the collection and the attorneys or paralegals that requested collection
- Distribute and then compile collection work efficiently without rekeying instructions, custodians or collection data
- Access an inventory of all collected data by custodian, data source and matter to avoid duplicate work and enable disposal

Turning the Tide on Data Volume

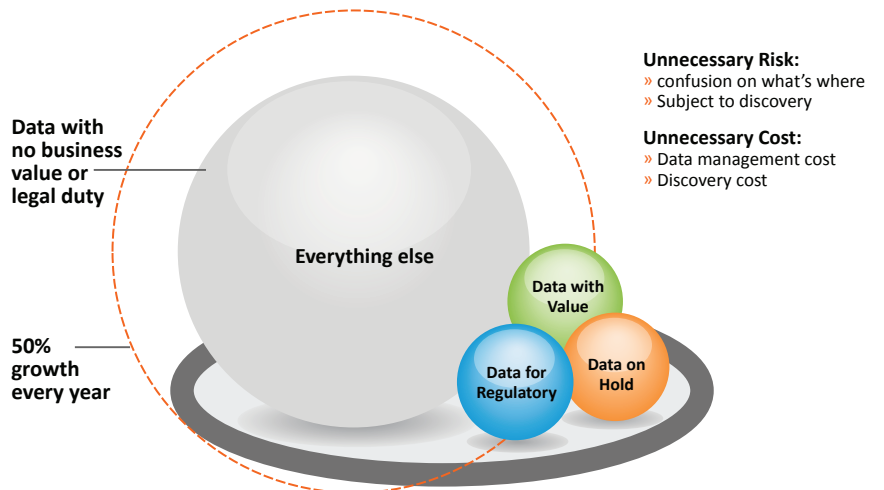
Turning the tide on data volume is a critical priority for the CIO and IT managers. The explosive quantity consumes greater portions of the IT operating budget each year and undermines IT’s ability to make strategic investments in technology.

50% YoY Data Growth Cannibalizes Strategic IT Investment Capacity in Flat Budget Environment

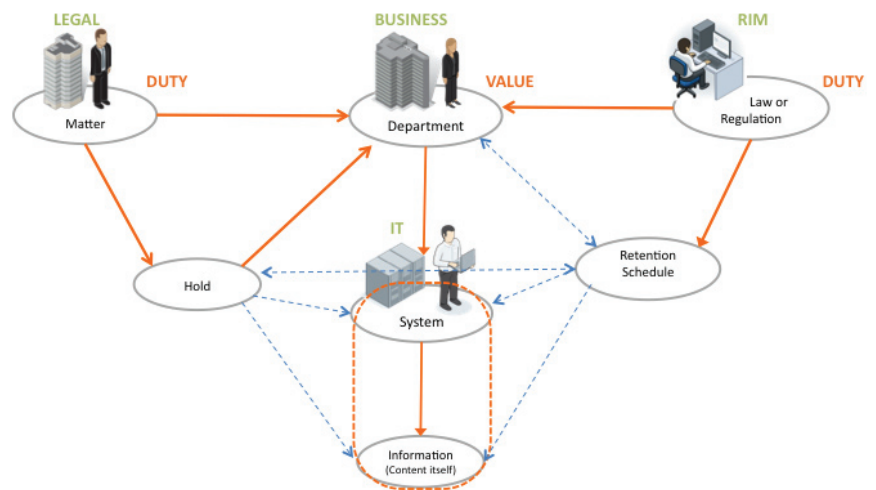


Despite popular myth, there is no reason or requirement to keep all information a company ever creates. The United States Supreme Court has validated that in 2005 stating: “Document retention policies, which are created in part to keep certain information from getting into the hands of others, including the Government, are common in business. It is, of course, not wrongful for a manager to instruct his employees to comply with a valid document retention policy under ordinary circumstances.”³

Some legal departments have portrayed a legal convenience as a legal requirement. Companies are legally required to preserve information specific to the lawsuits in which they are involved and to retain records subject to regulations in the various countries in which they operate. Generally, these comprise a very small percentage of the total data pool. Companies have an obvious interest in retaining information of business value; but data loses its value at about the pace of technology change.



The IT organization is dependent upon legal, records and information management (RIM) and the business to provide clear insight and information on what information is required in lawsuits, what is required for regulatory reasons, and what has business value. By linking business value and legal duties to information assets, IT can turn the tide on data volume. This requires modernization of the retention program and transparency in the legal holds process, both of which are typically managed as isolated processes without consideration of the IT implications; these structural changes can open the storm drain on data.



The legal department and RIM organizations can provide clarity on these legal duties and on what information has business value and for how long. IT managers should insist that the legal hold and retention schedule solutions these organizations use enable IT to succeed and to defensibly dispose of data.

Putting in a Storm Drain

Companies that have modernized their legal holds and retention management processes to include IT needs have been able to determine and effectively communicate what to hold and retain to the IT organization, enabling it to dispose of data, decommission systems, and reclaim storage and resources. These organizations have improved their information governance processes with these three essential steps:

- 1. Reshaping Retention Schedules for Reliable Execution.** Enhance your retention schedules to include not only how long, but where information is retained by department or business group and what the business value of specific information categories are for that department or group. By using

modern RIM tools for conducting departmental surveys and managing retention schedules for information, abstract schedules are transformed into information management procedures for departments and for data sources that can be applied and automated in IT.

2. Redefining How Legal Holds are Created. Enhance legal hold procedures to include not only the employees on hold, but the sources of their data subject to that hold. With a modern RIM program, legal as well as IT has transparency to what individual teams and people keep and where they keep it. Legal can then flag the specific information, records and repositories – not just the people – in their holds, which makes it far easier for IT and RIM to comply. Because adversarial requests for data are almost always expressed in business rather than IT terms, modern RIM programs provide that critical context for legal and provide the missing context for IT to execute legal requests.

3. Ensuring Information Governance Integrity. In large enterprises, there can be a new legal hold every day, dozens of employee departures and constant changes to systems. To ensure that data can be discovered properly and defensibly disposed, stakeholders across legal, RIM and IT must work from a common source of truth. Their processes must intersect and they need a common “map” of people, information, and obligations. Like the customer record in CRM systems and the general ledger in ERP systems, information governance requires a shared governance map so that as legal updates its holds, RIM updates its retention schedules and IT modifies its systems, the changes are reflected across related processes – after all, the holds and the schedules apply to data in the systems.

Governing information efficiently and effectively is an enterprise objective rather than a departmental goal. One of the things that prevent companies from making the three essential governance transitions is lack of awareness of the dependencies across legal, RIM and IT and distributed budgets. These organizations often do not have a history of collaboration and new relationships need to be formed. An information governance process maturity assessment can help identify the dependencies, bring together the stakeholders with greater context, quantify the risks for each organization, and quantify the savings from defensible disposal and more rigorous compliance procedures. Solutions from PSS Systems and IBM enable the three key information governance improvements and unify the processes across IT, legal and RIM.

Atlas Information Governance for IT – Staying Afloat and Turning the Tide

The Atlas Information Governance Suite for IBM – IT, built on the IBM Enterprise Content Management suite of products, enables companies to achieve rigorous discovery, value-based information retention and defensible disposal through a set of workflow applications for key stakeholders in legal, RIM and IT that share a common information governance map as a platform. With Atlas, IT can defensibly dispose of data, thus eliminating unnecessary data management and discovery costs and allowing organizations to comply with legal and business requirements.

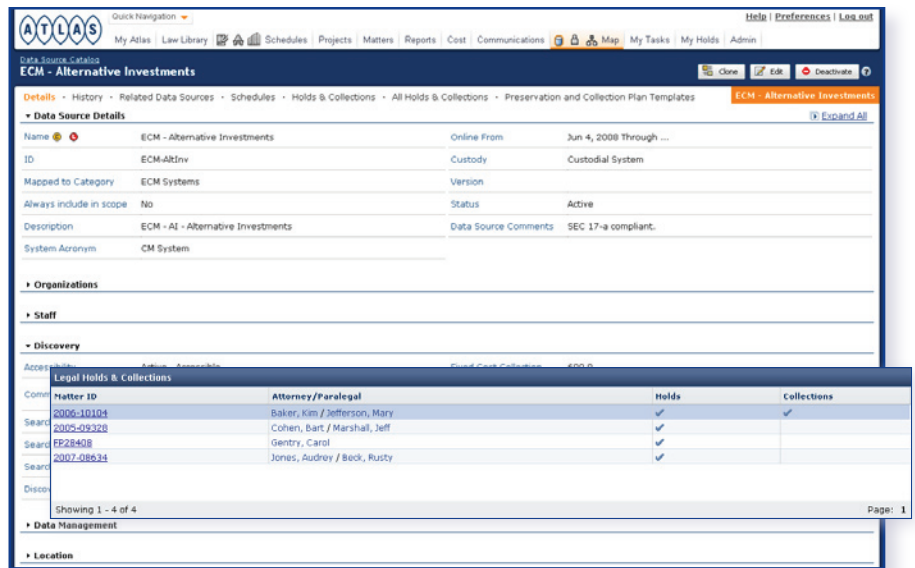
The Atlas IT analytics and governance console provides a portfolio view for IT of where risk and cost are concentrated in the information environment. Immediately identify all systems subject to high regulatory burdens and active discovery – and those that are not – by system type, organization, and information category. Information and application redundancies are easy to assess and over-riding legal constraints equally easy to determine.

The screenshot shows the 'Data Governance Metrics' dashboard in the Atlas application. It features a navigation bar with 'ATLAS' and 'Quick Navigation' options. Below the navigation bar, there are search filters for 'Category', 'Information Class', 'Organization', and 'Steward'. The main content area displays a table with the following data:

View:	Organization	Stewards	Element	Rating
ECM - Global Operations	GWM-NYC (US); Global Wealth Management (US); Private Bank - Global Operations (US)	Roland, Greg [greg.roland@genfc.com]	13 Holds 66 Record Types 5 Schedules	HIGH
Shared Server - GWM-NYC	GWM-NYC (US); Supressa (US)	Lister, Brent [blister@genfc.com]; Wilson, Donna [dwilson@genfc.com]	15 Holds 44 Record Types 5 Schedules	HIGH
Shared Server	Corporate (AA) [sub-orgs]; Marketing (Credit Cards) (US)	Mason, Judy [jmason@genfc.com]; McBride, Bill [bmcbride@genfc.com]	24 Holds 3 Schedules	HIGH
Desktops	Marketing (Credit Cards) (US)	Roland, Greg [greg.roland@genfc.com]	5 Holds 3 Schedules	HIGH
Sharepoint - Upstream	Upstream (US) [sub-orgs]	McBride, Bill [bmcbride@genfc.com]	4 Holds 4 Schedules	HIGH
Hard Drives - Navisart	Corporate (AA)	Boskins, Bob [bboskins@genfc.com]	11 Holds 1 Schedules	HIGH
Shared Server - Product Development	Exploration (US) [sub-orgs]; Marketing (Supressa) (US)	Ridout, Marc [mridout@genfc.com]	5 Holds 1 Schedules	MED
ECM - Imaging	Marketing (Credit Cards) (US)	Vai, Eric [evai@genfc.com]	1 Holds 25 Record Types 3 Schedules	MED
Shared Server - Gulf of Mexico	Gulf of Mexico (US)	Lister, Brent [blister@genfc.com]; Wilson, Donna [dwilson@genfc.com]	1 Holds 4 Schedules	LOW

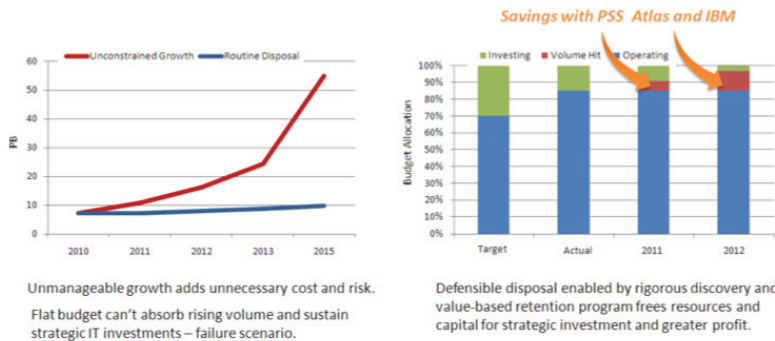
Atlas discovery workflow for IT simplifies the coordination, delegation, and completion of discovery work. Legal obligations are communicated to IT clearly and precisely through well-defined protocols; collaboration workflows with legal reduce confusion, tedious record keeping and IT burden. IT can look up active holds and collections by asset or employee to efficiently and effectively manage data. Workload dashboards provide visibility into the discovery burden on the IT organization and enable IT management to better plan staffing levels.

Value-based retention workflows in Atlas enable companies to revitalize their retention program for the modern information environment, going beyond records and abstract schedules to executable retention schedules for all information across diverse business and country operations. Business needs and regulatory requirements are balanced rather than compromised. Atlas can automatically associate schedules with data sources so they can be provisioned with retention schedules, data can be properly retained and disposed, and holds can be more efficiently done. Workflows for RIM and business users help IT identify and address rogue systems and data sources outside of IT management purview.



The eponymous Atlas map provides a shared governance platform for the legal department to define legal obligations for information, for business teams to describe the value of information in their department, for regulatory compliance staff to associate regulatory requirements with information categories and for IT to manage information in concert with those needs and requirements. The map enables users to ensure that their processes are synchronized and reliable.

Atlas enables the defensible and routine data disposal of information that is not subject to retention obligations and has no business value.



Atlas applications enable governance decision makers in legal and RIM to efficiently propagate legal holds, collection requests and retention schedules to IBM content management systems and to discover and analyze data in place using IBM eDiscovery software; together, PSS Atlas and IBM enable companies to achieve highly automated global information governance.

Start Today by Assessing Your Processes

Ensure that IT is at the table on legal hold and discovery workflow software selections to provide value to all of the information governance stakeholders as they pave the path to defensible disposal. Benchmark your company's eDiscovery and information governance processes to identify legal risks and IT opportunities for savings. An information governance process maturity assessment (see figure 1 below) will identify dependencies across stakeholders, forge new alliances and enable the company to make material improvements in discovery and data management costs.

Information Governance Process Maturity Assessment





To view the information governance process maturity model or to start your assessment, contact IBM or PSS Systems.

About PSS Systems

PSS Systems helps companies eliminate legal risk and discovery and data management costs with its Atlas information governance software suite, a single solution designed for Legal, IT and Records Managers. Atlas is used by 7 of the Fortune 10 and companies across all industries. Customer satisfaction with Atlas is recognized by leading industry analyst Gartner and IDC says, "The Atlas Suite, which enables corporations to implement and automate legally defensible retention and legal holds, has achieved significant uptake and enjoys real customer loyalty."

For more information, visit www.pss-systems.com



About IBM ECM

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05-10
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¹Zubulake Revisited: Six Years Later: Judge Shira Scheindlin Issues her Latest e-Discovery Opinion, article (January 27, 2010) <http://www.ediscoverylaw.com/2010/01/articles/case-summaries/zubulake-revisited-six-years-later-judge-shira-scheidlin-issues-her-latest-ediscovery-opinion/>

²Gartner Says IT Spending to Rebound in 2010 with 3.3 Percent Growth After Worst Year Ever in 2009, Gartner, Inc. (October 19, 2009) <http://www.gartner.com/it/page.jsp?id=1209913>

³Arthur Andersen LLP vs. United States, Chief Justice REHNQUIST delivered the opinion of the Court (May 31, 2005) <http://www.law.duke.edu/publiclaw/supremecourtonline/editedCases/artvuni.html>