



DATA – The Culprits of Discovery

By Carol Barber Troskosky



Where is your data?

The rules about discovery of records in federal litigation were amended recently, clarifying that electronic records are subject to discovery in such litigation. While not a completely new concept, these amendments brought focus to electronic information. The entire Library of Congress could be held on 10 terabytes. I would wager that many schools have almost that much data. Where are the culprits that house that data in your school or business? Have you thought about the data on thumb drives, instant messages, e-mail, voice mails (if you have unified messaging with wave files), digital copiers, cookies, CDs/DVDs, tape backups, temporary history files, cell phone text, employees' home PCs, fax machines and files created by logs and databases kept throughout the organization. Basically any device that has storage capability of some sort is a culprit to hold data that could be requested in discovery. If asked for this data, would you know where to search? Could you recover the data if required? Do you know what constitutes an electronic record?

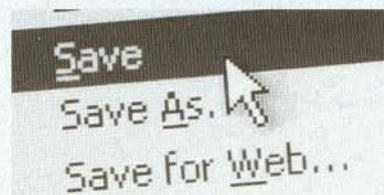
All of these questions and more have prompted many changes and inquiries on the part of the WNYRIC. Over the past year we instituted increased security and accountability measures. Your inventories were reviewed. Your district

AUPs were recertified. Your critical servers were moved behind firewalls. By working closely with each district, the WNYRIC is in the

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process of improving firewall performance and reviewing security rules. This will mean security fashioned to an individual district's needs.

Two years ago the WNYRIC, along with other entities, were awarded a grant to create a document archival service. We now offer the service, and it is growing quickly. The WNYRIC applied for a grant to bring in an expert to assist us in determining the retention period of records and creating processes to effectively archive those records that must be



saved and safely get rid of those records that should not be saved. Storage is inexpensive, which causes many businesses to save everything. As our information grows, so should our plan to methodically store only what is needed.

At the WNYRIC we have begun a systematic inquiry of the following:

- Where is data stored?
- How long will data be kept?
- What are the current procedures and retention period of that data?
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- Is the retention period too long or too short? Is the retention period adhered to?
- Is the backup procedure for this information documented?
- If requested to recover the data, could we do that?
- What will we do with data that we must keep but we will not be able to restore on the upgraded versions of hardware/software?
- How do we identify which records should be stored? Where will the official storage of these records be?
- Are the procedures for document retention and removal documented and adhered to?
- What constitutes a record that should be saved and for how long?

We are sure that we will learn a great deal in our own "discovery," which will in turn assist us in guiding your district.

I suggest that you begin your own in-house investigation of where your data resides. Schools might want to do technology inventories to understand what types of storage and data backup systems they have in place.

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