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Privacy Conference

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Privacy and Information Risk

Privacy Compliance,
Records Information Management
(RIM)
and
Electronic Document Management
(EDMS)

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Privacy Law Does Not State:

"Organizations must have RIM or EDMS to be privacy compliant"

The reality is…

RIM / EDMS can be leveraged as tools to support privacy compliance and mitigate risk of litigation, investigation, audits and embarrassment

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Privacy Legislation

- Right to be informed of existence, use and disclosure of a record
- Right to challenge accuracy and completeness of a record
- Right to request the correction and appended text to a record
- Right to request third party transmission of a record
- Right to know the third parties who have accessed a record

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Privacy Challenges

- Accountability
  - Control over personal information resources
- Identifying purposes
  - Ensuring personal information uses are not compromised
- Retention/destruction/security
  - Risk of destroying too soon or too late
  - Ensuring adequate security
  - Tracking and controlling access

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Challenges Continued

- Accuracy
  - Accountability, evidence,
- Consent and correction
  - Consistency
  - Tracking and recording annotations
- Compliance challenges
  - Fines, offences, public orders
  - Other Acts:
    - Patriot Act, Sarbanes-Oxley, Canadian Securities Administration internal controls requirements, Electronic Transactions Act, Criminal Code

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Access Issues

- Ease of retrieval
  - Time spent tracking and retrieving can be costly to a company
- Specificity of the information requested
  - Retrieving incorrect information can be time consuming and embarrassing
- Obligation to retain, destroy, dispose
  - Lost and unaccounted data has legal implications

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Destroy or Not to Destroy

- **obligations to track and keep**
- **silence on when to destroy**

RISKS

- Destroying what the law requires keeping
- Keeping what must be destroyed
- Destroying what litigation strategy dictates keeping
- Exposure to allegations of improper destruction

Some edocs believed to be destroyed can be revived by searching hard drives/back-up tapes = considerable costs

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Compliance Defined

- Only collect, record and keep information that is needed
- Only use it for purpose collected
- Only share it with those that need it
- Track collection, use, disclosure, format, storage, correction, access and security
- Always assume that someone else will eventually get to see it

Key to minimizing business liability is to have an effective RIM/EDMS and record retention program in place…
Not just for privacy compliance but as proactive business practice

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What EDMS Does

- Check-in/out
  - Understanding flow of information is an investment
- System logs and reporting
  - PIPA requests require documenting what has been searched
- Audit trails
  - A system that tracks location and users of information regardless of media
- Millions of records searched in seconds
  - Manual searches disrupt operations