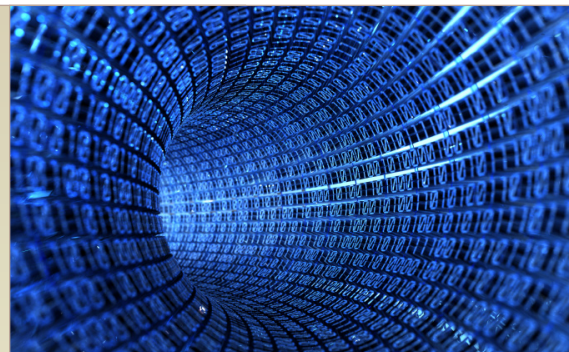


# E-Discovery Cycle Time Explained

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**E-discovery has evolved** over the last decade from a largely paper-based system to an increasingly complex digital one. The amount of information companies are managing has grown to epic proportions—routinely terabytes of data per matter. For corporate legal teams, managing their e-discovery has become a daunting prospect, particularly when it involves meeting deadlines.

Ask a dozen experts how long an electronic discovery project will take and you are likely to get the same answer from them all: “It depends.” We readily accept that when an expert says, “it depends” it must mean there are some complex issues. Electronic discovery can be very complex with multiple variables and stakeholders affecting cycle times. There are so many variables (How much data? What format? Who will review it?) that the only way to hope to achieve any type of reasonable estimate is by breaking down the project into five basic phases: Planning, Collection, Processing, Review, and Production.

## PLANNING

Who hasn’t heard, “measure twice; cut once?” Discovery planning is much the same and too few companies do enough of it. First and foremost, an organization should create an experienced EDD team. This team is usually comprised of legal, IT and records management professionals to focus on all types and stages of discovery for all ongoing legal matters. This team should meet early, often, and with the utmost clarity to maximize the organizations success.

During the Planning phase of a particular case, organizations should identify custodians and information sources accurately, engage IT early, determine the format in which data will ultimately be produced, set search terms and avoid making changes too readily.

## COLLECTION

While collections can vary from case to case, the two biggest dangers are collecting too much and collecting too little. Too often, vendors are not introduced to the project until after this phase has commenced and valuable expertise goes unused. Make sure your discovery team is involved early and defines the scope. Make sure the legal team is involved early because IT and Records Management professionals are not trained in legal requirements and can often give a false sense of security. Automate the process wherever possible. Sampling on culled data can yield valuable information, leading to the right sources. Look for holes in data or the collection, understand the complete picture, and check for spoliation.

## PROCESSING

Although the Planning and Collection stages are critical in scoping up the project, the lion share of work takes place in the Processing and the Review phases. Not all vendors are the same; many offer different levels of support and offer different methods for culling documents (such as de-duplication, filtering, and search filtering). In processing your data, it is imperative to consider your budget, timeframes and legal strategy in order to stay within the scope of the project. When making critical decisions, always validate them with your whole EDD team before moving forward

Using advanced algorithms and high tech computers, companies can take massive amounts of data and do amazing things with it. But like all things, changes in direction, rules, content, or anything that greatly changes the plan will cost time and money; be very cognizant of making changes after you begin the process. A change in mid-stream is hard to predict when planning, but it is probably the biggest driver of scope creep and schedule lag.

# E-Discovery Cycle Time Explained

Some of the best time-saving tactics involve reducing the amount of information. Lowering the file count to the pertinent documents is the best way to reduce processing time and review time. Filtering can be an effective way to reduce unwanted files such as system, .exe and .dll files. De-duplication deletes many of the duplicate files that invariably exist. A good vendor will also have a good word or contextual search engine to narrow the focus further.

Native file reviews can help reduce the time to process as well as production. This is an important distinction for companies who can process, handle, and execute native files for reviews and production. Companies that can do both provide the most flexibility.

Another method of controlling time is to choose a vendor who limits their outsourcing. Gains in pricing are quickly eroded or outweighed by lost time in the logistics of moving data to another company or worse yet, dealing with low quality from a “blow and go” outfit.

## REVIEW

Reviews remain the costliest portion of most discovery projects. This time consuming period is directly proportional to the final processed document counts. A successful reduction in cycle time will come from two factors: Reducing the documents processed in Processing and the number of reviewers you employ.

Conferring with opposing counsel up front and agreeing upon aspects of the review will greatly reduce rework. You must determine early on what constitutes a duplicate document, what metadata is required, how you will treat redactions, special markings, and provide privilege logs.

It is important to acknowledge that all review tools are not created equal. When choosing a vendor, understand the capabilities of the tool and how well it fits with your needs. Some tools have features and performance advantages over others. Superior tools will enable your review teams to execute to plan and stay ahead of desired metrics.

## PRODUCTION

Understanding how the documents will be produced, what format, and document level of information goes with them must be set early to ensure proper close-out in a production. Like processing, constant changes to markings, stamping, place-holders, adding and removing documents, and changing the production format will adversely affect the production quality and time. Rushed work will also lead to quality issues.

## CONCLUSION

Remember that when you ask someone how long it takes; understanding that “it depends” is meaningful. A successful client understands that. Companies that build competent teams of qualified legal and EDD professionals are best positioned to complete projects quickly and on time. Armed with a solid team, proper planning, solid execution, constant communications, and adherence to the EDD model, companies will come to understand EDD better and will be able to predict and limit the costs and the time frames.

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