



The Notes/Domino Collection Compliance and E-discovery Best Practices

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TABLE OF CONTENTS

Learning From The Mistakes of Others.....	4
Are Archiving Drafts Necessary for Compliance?	5
Coordinating the Discovery Process	6
E-Discovery Best Practices	7
Search Syntax Tips.....	9
The What and Why of Archiving and Journaling	10
Storing Archives in the Cloud – Is It Right for You?	11





LEARNING FROM THE MISTAKES OF OTHERS.....BY GRANT LINDSAY

Missing emails from an account used by James Oblinger, North Carolina State University's former Chancellor, have landed the university in hot water including a federal grand jury investigation to find whether former North Carolina Gov. Mike Easley used his position to influence the hiring of his wife to a \$170,000 a year job at N.C. State.

In response to a subpoena, lawyers for the university have admitted they could not locate six months of Oblinger's email, from January to June 11, 2005. In actuality, the university's IT department has failed to produce these email messages. As a result, the judge could issue a default adverse judgment. In other words, those deciding the case could be instructed to assume the worst; that relevant email messages were destroyed deliberately, whether it was the case or not. Clearly, not a good situation for either the IT department or the university ^[1].

Hearing stories like this should make IT departments think "How would my IT department have fared if this happened at our organization?" The lesson is this: get a records retention policy in place and follow it up with the technology to support the policy.

Naturally, a follow up question would be, "isn't archiving email messages enough?"

However, it depends on what archiving means to you. If archiving means periodically harvesting messages from the users' mail files and storing those for later searches, then no, is not enough. This approach to archiving is too sensitive to user activity. Senders may not save their messages or the recipients may delete or even alter them. As a result, an archive produced in this way will be either incomplete, inaccurate or both. Organizations need a better approach.

The best solution would be to capture messages in real time, as they are in transit at the Domino server, and before they arrive at the recipients' in-boxes. Through intercepting messages, IT and management can be certain the message is preserved in its original form. Further, the repository of these messages, a.k.a. the journal, could be locked down so that its contents remain unaltered.

Compliance Attender provides this functionality combined with an easy to use interface for maintaining email rules and repositories. Please contact a Sherpa sales representative for a demonstration or download a [free trial version](#) to test Compliance Attender for your organization.



[¹] You can [read more about this story](#) at *The News & Observer*. In addition, [Ferris Research makes some observations](#) on this case.

ARE ARCHIVING DRAFTS NECESSARY FOR COMPLIANCE?...BY GRANT LINDSAY

A recent post on Ferris Research's blog claims that "archiving drafts is necessary for compliance." Is that true?

The idea that archiving the drafts view is important stems from a CNN article which reported suspected terrorists were using "the draft sections of a Yahoo! e-mail account" as a kind of bulletin board. Each person had access to the same e-mail account. One would compose a message and place it in "Drafts;" later, another person would sign in, read the draft, and delete it. By never sending mail from the account, they were able to pass messages to each other while remaining undetected.

Based on this, do all messages in the drafts view need to be captured in order to be compliant?

The answer is, it depends based on the way an organization views the definitions of compliance, archiving and drafts.

What does "compliance" mean?

According to Merriam-Webster's Dictionary of Law, one definition of "compliance" is "observance of official requirements¹". Therefore, when reading the terms "compliance" or "being compliant," organizations must have a grasp of the "official requirements" applicable to the situation. In most cases, the legal team will need to determine what regulations do and do not apply.

What does "archiving" mean?

Another loosely-defined term is "archiving." Sherpa Software makes a distinction between "archiving" and "journaling." In essence, archiving moves a message from one place to another, while journaling copies the message while it is being delivered. Both activities are valid and each helps to solve a different problem.

¹ compliance. Dictionary.com. Merriam-Webster's Dictionary of Law. Merriam-Webster, Inc. <http://dictionary.reference.com/browse/compliance> (accessed: December 28, 2009).



Archiving is helpful in reducing storage costs, while keeping business information in the hands of the end-users who need it. Journaling helps an organization reduce costs associated with litigation and e-discovery.

Do "drafts" need to be archived?

As stated before, the need to do so is debatable and depends on the regulations set out for a particular industry. In any event, Sherpa Software has flexible tools to help implement the policies and procedures—as you define them—to get any organization to compliance.

COORDINATING THE DISCOVERY PROCESS.....BY HARVEY COBLIN

Here is some advice collected from the Discovery Attender team and key customers to assist Information Technology departments in producing information for Legal Counsel.

1) Set up a process with the legal team for handling data requests.

Amend as needed, but stick to a clearly defined process. This is helpful not only for communication between departments, but also for providing a clear audit trail which can be presented, if needed, in court, affidavit or deposition.

2) Keep in touch during the process.

Open lines of communication are essential between the requestors and gatherers of data. Make sure there is a designated contact in each department who is able to collect and disperse required information to their teams.

3) From the very beginning, understand how the results need to be produced.

Find out if deduplication is required. Understand what formats the end-user will accept. Government agencies and some litigation management systems will only accept native format; some technology-challenged reviewers have been known to demand hard copy. Since Discovery Attender has many options, discussing the best result formats ahead of time can save time and effort!

4) Get a clear set of criteria.

When in doubt, ask! Don't be afraid to push back if criteria is too complex, illogical, invalid or confusing. It is far better to clear things up at the beginning, than to produce data that cannot be used and have to rerun the searches.

5) Run a sample search first.



This saves time and effort down the road. It acts as a test for the criteria, search expressions and irons out false positives or underperforming keywords. As part of this step, run a test to verify data that should be found is being found. It is far better to change criteria before running a huge search and exporting thousands of results.

6) Use the export function to filter privileged data.

Create a subset of the data by performing a "Selected Documents" export. Maintain your original set of Results, though, in case it is ever challenged in court.

7) Review the logs.

Reviewing the Logs will verify that the databases you intended to search were indeed searched and can help you identify any possible failures. For example, they can help you identify any documents that were not searched because of encryption or lack of access. Results logs will help reviewers understand the scope of the search. Logs are invaluable for chain of custody and keeping an audit trail.

8) Keep the initial search files after the searches are complete.

The legal process can be lengthy and you should be able to recreate your search, or locate specific details at any point along the way. You can compress the files or store them on external media. Just make sure the project, along with all related searches and result sets, are accessible if needed.

E-DISCOVERY BEST PRACTICES.....BY HARVEY COBLIN

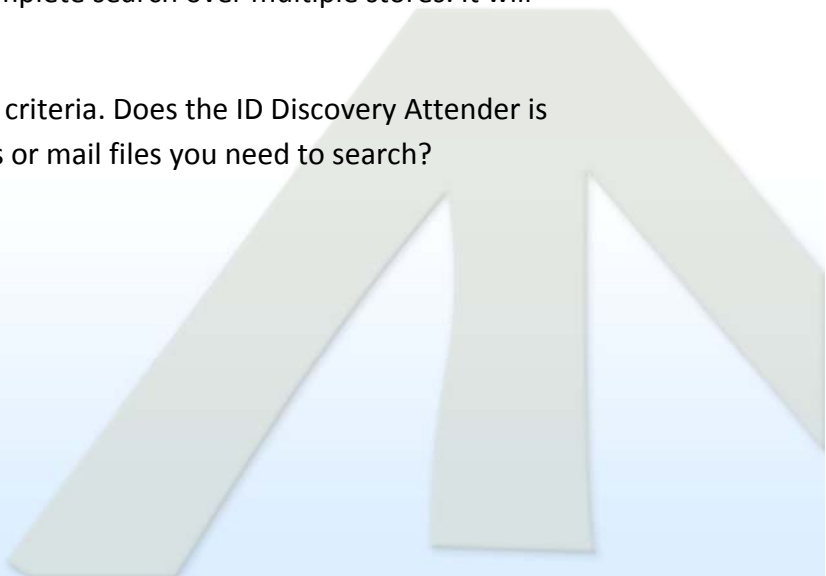
Sherpa Software is always looking to collect advice and tips from the Notes/Domino community for best practices in running searches and producing results. Following are some of those best practices we've uncovered:

1) Plan before searching:

Search a small data set before running a complete search over multiple stores. It will save time and hassle in the long run.

Iron out any difficulties with permissions or criteria. Does the ID Discovery Attender is running under have access to the databases or mail files you need to search?

Identify false positives and their causes.





Estimate the size of the result set. If more than 250,000 results are anticipated, break up the search into smaller, logical pieces. The results of a new Discovery Request can now be appended to an existing Results database.

Get feedback from the sample Result set and test again before committing to an entire data set.

2) Keyword Considerations:

Learn to use the Test Syntax function for long search expressions or confusing word lists.

For optimal performance, keep the keyword list less than 250 words or phrases per search. If the list is longer, break it up over multiple searches of less than 250 words. If necessary, Discovery Attender allows Results to be appended to an existing Results database.

When applicable, use the 'Refine by date' and/or 'Refine by user' options.

Decide if it makes sense to use the 'Fuzzy searching' or 'Stem searching' options to find keyword variants.

3) Dealing with Privileged Data

Don't try to eliminate data in the main responsive search, move the data as a further search of the results. This will clarify the responsive search while providing a separate 'privileged' data set for production.

Use proximity searching for names in the body of documents. If searching for Jane Doe, it may appear as 'Jane Doe', 'Doe, Jane', or 'Jane B. Doe'. A Custom search using 'Jane SENTENCE Doe' will capture all these instances.

4) Organize Results for Easier Review:

For large Results sets, custom folders can be created within the Results for specific review processes. For example, create a folder called "To be reviewed" and move all the documents into it. Create additional folders (Responsive, Non-responsive, Privileged, etc.) and move documents from the "To be reviewed" folder into them during the review process. The use of custom folders does not affect the placement of documents in the standard Results views.

For smaller Results sets, make comments using the Annotation feature. Annotation documents appear as "child" docs to the Results documents within the standard Results views.



5) For Questions or Concerns, Contact Tech Support!

Press F1 to engage the on-line Help database.

Use the Forums to post questions and get advice.

Included with all levels of maintenance is free web-based training tailored to your specific needs. Contact Sales or Tech Support to set up a session.

For more information or help with applying these best practices, please contact Sherpa Support.

SEARCH SYNTAX TIPS.....BY DENNY RUSSELL

As legal searches become more and more prevalent, we are seeing different results as customers are searching. We contacted IBM in order to get their official wording on how search syntax should be entered. The following applies to all of the Domino related products allowing searching of text, phrases, keywords, etc.

When entering your search syntax, please remember the following:

1. Use double quotes (") instead of single quotes (') around your phrases.
2. Spaces within quotes simply make it literal, so the exact word or phrase is returned.
For example:

" Sherpa Software " would only return the exact phrase Sherpa Software. (NOTE: There is a space after the first double quote and before the ending double quote.)

3. No spaces in quotes means it can use word variants, therefore you can get word combinations.

"Sherpa Software" would return the words Sherpa OR Software if they appeared individually in a document. To find exact phrases, see #2 above.

4. Words without quotes are considered literal. If the following is entered:

sherpa | software | email | products

Returned documents would only be those that contain the above individual words. There is no need for double quotes or spaces unless searching for an exact phrase.

5. Do NOT build your search syntax outside of Domino (in a program such as Notepad, Microsoft Word, etc.) and copy and paste it into the Attender products. We have seen



several issues where Domino does not translate correctly resulting in invalid syntax or inconsistent results.

Please contact Technical Support with any additional questions regarding entering search syntax.

THE WHAT AND WHY OF ARCHIVING AND JOURNALING.....BY GRANT LINDSAY

Managing an organization's e-mail can seem like a night time hike over rocky ground. There are frequently conflicting requirements and policies ready to trip you up (storage constraints, e-discovery demands, legal compliance, user access, etc.). Even the terminology can be confusing. For example, what would you say is meant by the term archiving? How is that related to journaling? Do you need either one or are they really just two terms for the same thing?

In this article, we'll consider these questions to help you navigate your organization over some rough terrain. First, some definitions.

Archiving is the process of moving a message from one data store to another. This is usually a user-centric function being done so a mail user has later access to a message not stored in their main mail file. Often, there is a 1:1 relationship between the primary mail file and the archive. Thus, each user has access their own archive.

Archiving is a kind of agreement between the e-mail administrator and the users being supported. On one hand, the administrator frees up space on expensive, primary server storage while, on the other hand, the user retains access to the moved messages.

Journaling is the process of copying a message from one data store to another. You may have heard the term 'compliance archive' in this context too, but this term clouds the distinction between 'compliance' and 'regular' archiving. Also, while archiving usually happens some time after the message has been sent and received, sometimes months later, journaling is most effective when it happens as early as possible in the message's life.

Journaling is a company-centric management technique and is done to demonstrate compliance and facilitate e-discovery. Unlike archives, typical users generally have little to do with the journaled messages.

Reasons

We can see from the above that archiving and journaling, though similar in some ways, are quite different in their intent and the needs they serve. Still, the question remains,



why do you need to worry about archiving and journaling? Here are some reasons:Archiving

Archiving

Server performance	Moving messages off the mail server will greatly increase its performance. Mail applications will open faster, providing a better user experience.
Efficient search and retrieval for users	Depending on the archive policy you implement, your users may find that they rarely need to access the archive, but when they do, they will usually be looking for a particular email. Therefore, the archive needs to be searchable.
End-user convenience	For good or bad, email tends to be a repository for business content. Being able to retain this content and have it within easy reach is important for your end users.
Email admin convenience	Budget freezes mean that email administrators need to get more out of less. Moving messages off to less expensive secondary storage allows them to do that.

Journaling

Efficient e-discovery response	During litigation, the email administrator may be asked to produce all relevant email for a certain period.
Compliance and security	Relying on end users to retain email messages for compliance is often not satisfactory. A journaling system will securely retain a copy of messages even after all other copies have been deleted.
Email admin convenience	The right journaling solution, once configured and tuned, should be low-touch and efficient, using secondary storage and reducing back up windows.

Conclusion

It is a challenge to balance all these needs successfully. However, with planning and the right tools, it is possible to smooth the rocky road of email management.

To see the benefits of archiving and journaling in action, be sure to check out Compliance Attender (just released), Mail Attender and Discovery Attender, or contact your Sherpa sales representative.

STORING ARCHIVES IN THE CLOUD – IS IT RIGHT FOR YOU? BY DENNY RUSSELL

Cloud technology stories have become all the rage in the latest tech blogs and publications. Even the major keynotes at Lotusphere 2010 unveiled new cloud strategies



for IBM Lotus/Domino. But you probably haven't seen much regarding what the cloud offers from an archiving perspective.

When considering any e-mail data storage plan, there are several questions to consider:

- What responsibilities are there to this data (i.e. government regulation, organizational policies)?
- How quickly would data need to be produced when the organization's compliance and e-mail policy is questioned?
- Who needs access to this data?
- Can data integrity be ensured?

These are important questions to work through to define an e-mail retention policy.

When considering cloud solutions, some additional questions need to be asked:

- Do the answers to the previous questions change when discussing a cloud solution?
- Can the cloud vendor be trusted to store such important data in the cloud?

There are many other questions still to answer about the cloud, but honestly, for all the buzz, there is still a great deal about the cloud we do not know. For example, there was lots of buzz about the cloud during Lotusphere 2010, however not once did the Sherpa team hear about e-mail administrators experimenting or looking to store e-mail archives in the cloud, so we would like to continue the discussion. Weigh in on this topic further on Sherpa's blog or contact Sherpa support for further questions.

