

Government IT – June 25, 2008

Putting IT at e's: Considerations for eDiscovery, ECM, & ERM

Julie Gable



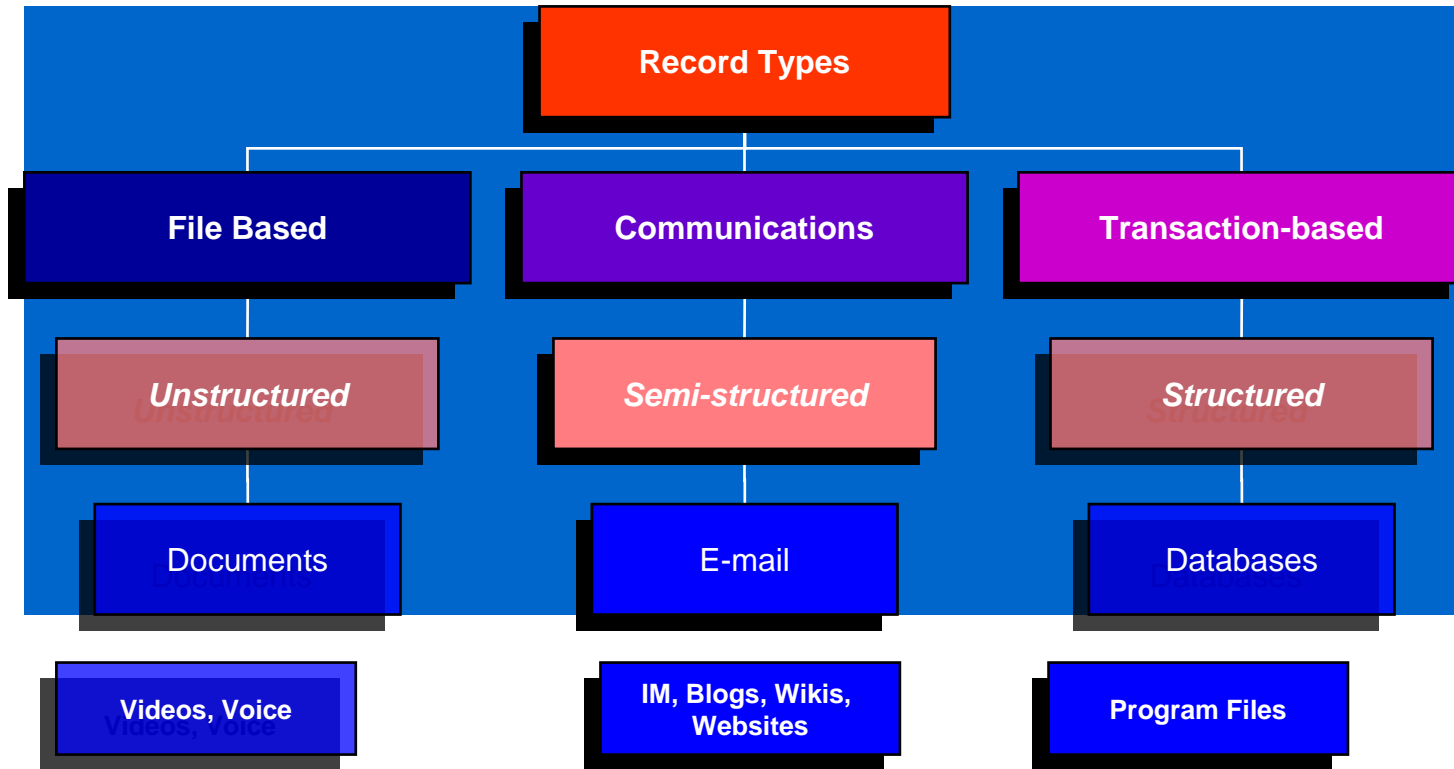
Baron Gemmer



ICS

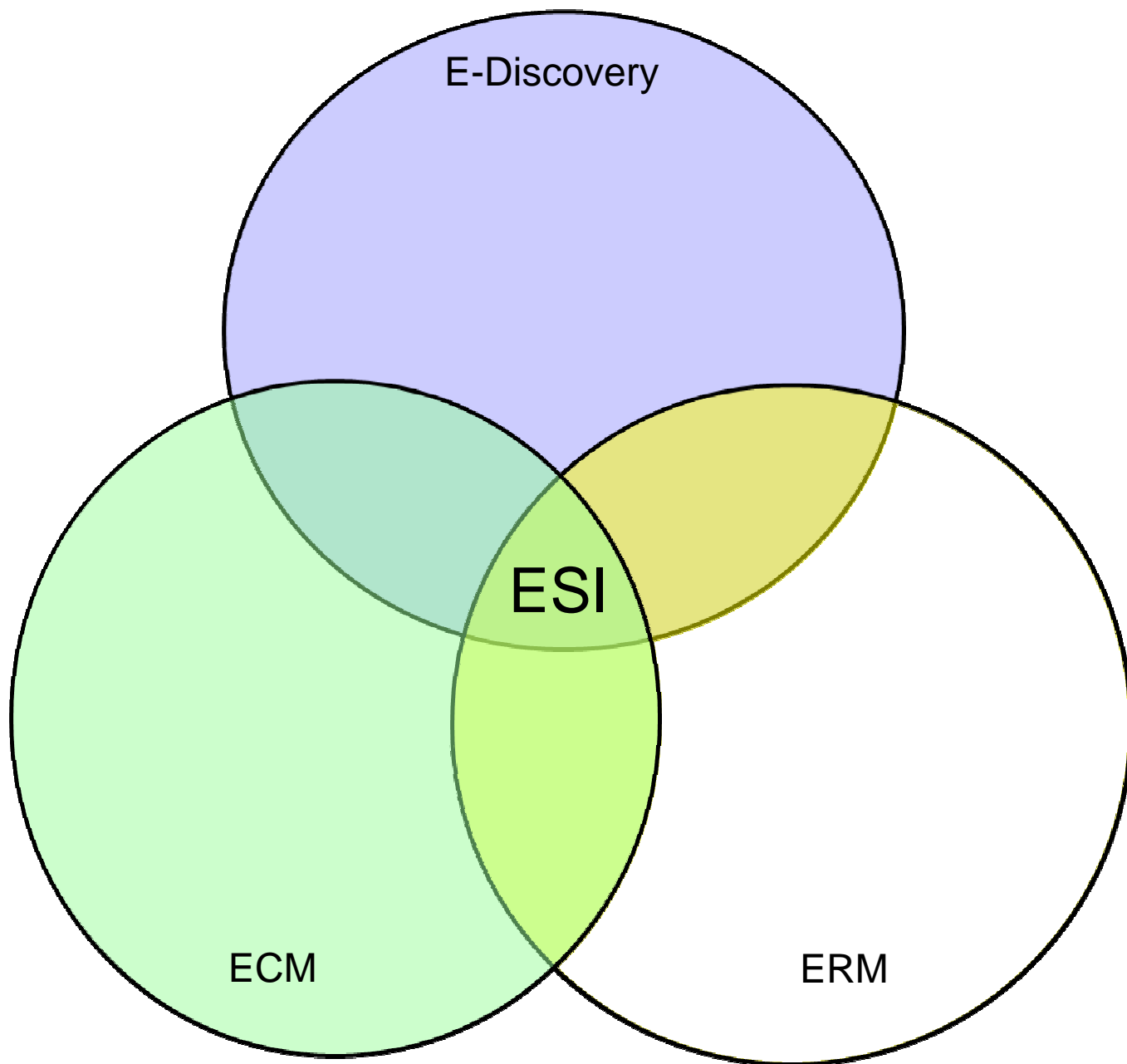
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ESI: Not just documents



Importance: New Focus on ESI

- E-Discovery changes
- Public Right to Know Laws
- Privacy Requirements
- These drivers place new emphasis on
 - Knowledge aspect of content management systems
 - Control aspect of records management systems
 - Search and hold capabilities of e-discovery systems



E-Content Management

- Support business processes by enabling ESI to be
 - Captured
 - Managed
 - Stored
 - Preserved
 - Delivered

Electronic Content / ESI

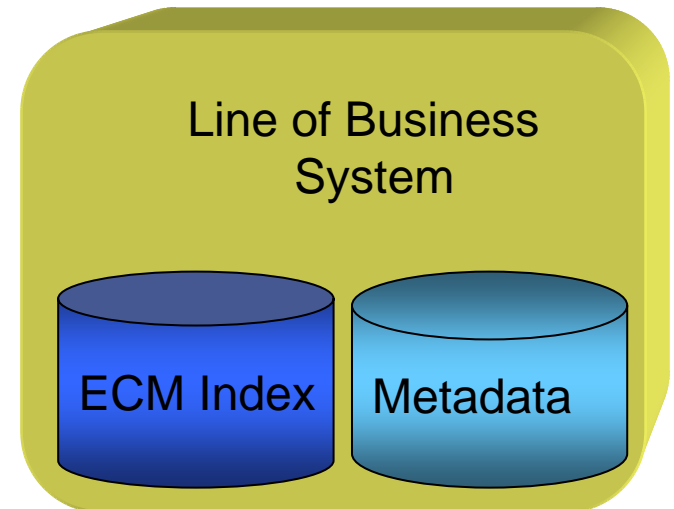
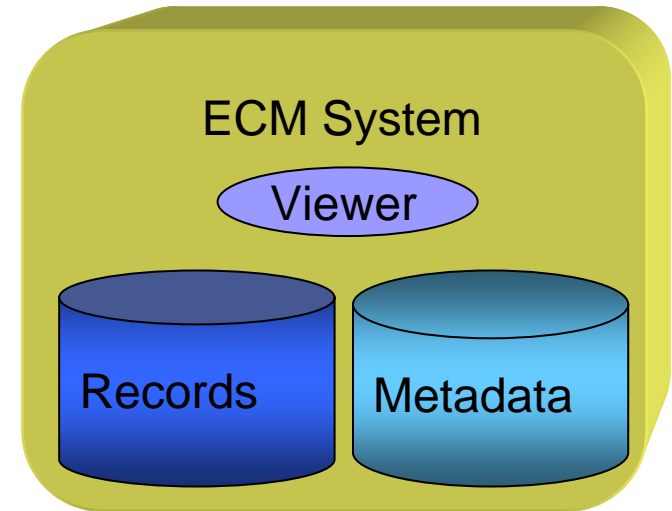
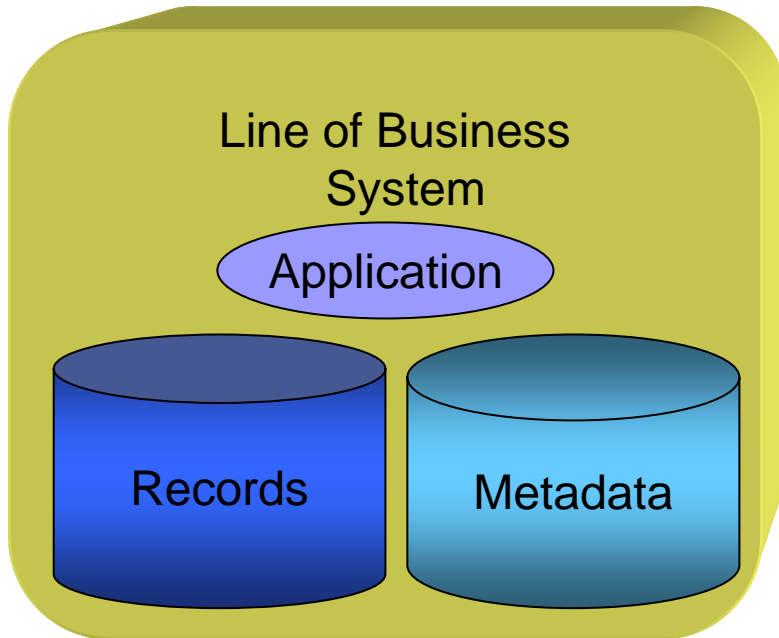
■ Old School:

- Images
- Documents

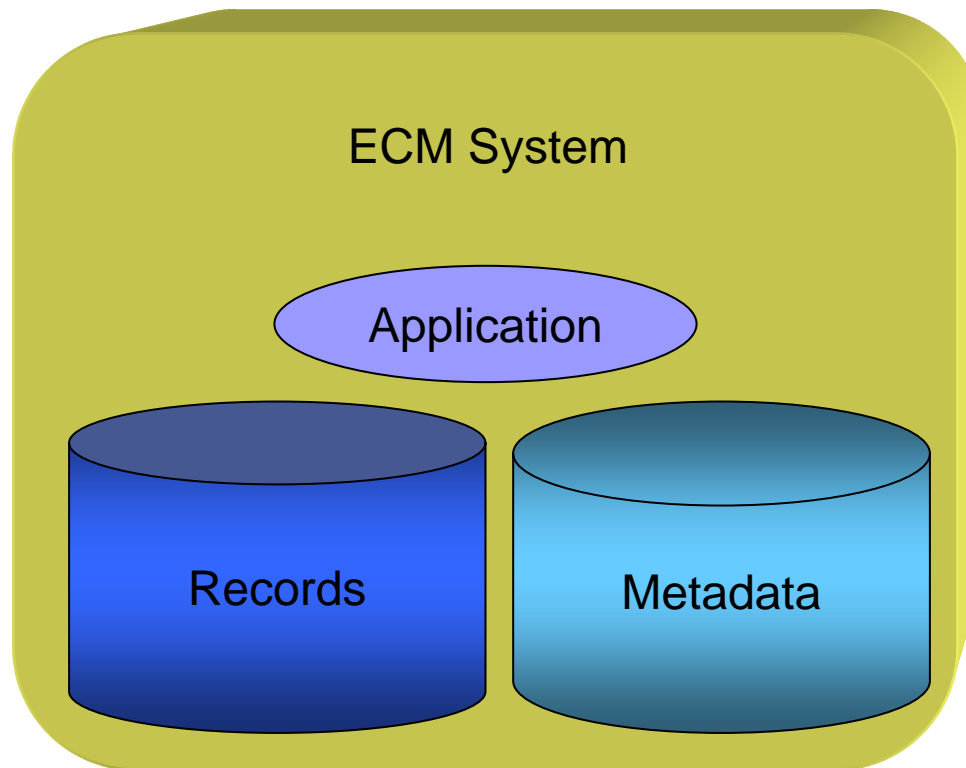
■ New School:

- Email, Instant Messages
- Blogs, Wikis (Web 2.0)
- Application Files
- Database Systems
- Websites
- Videos
- Voice

E-Content Management Systems



ECM Components





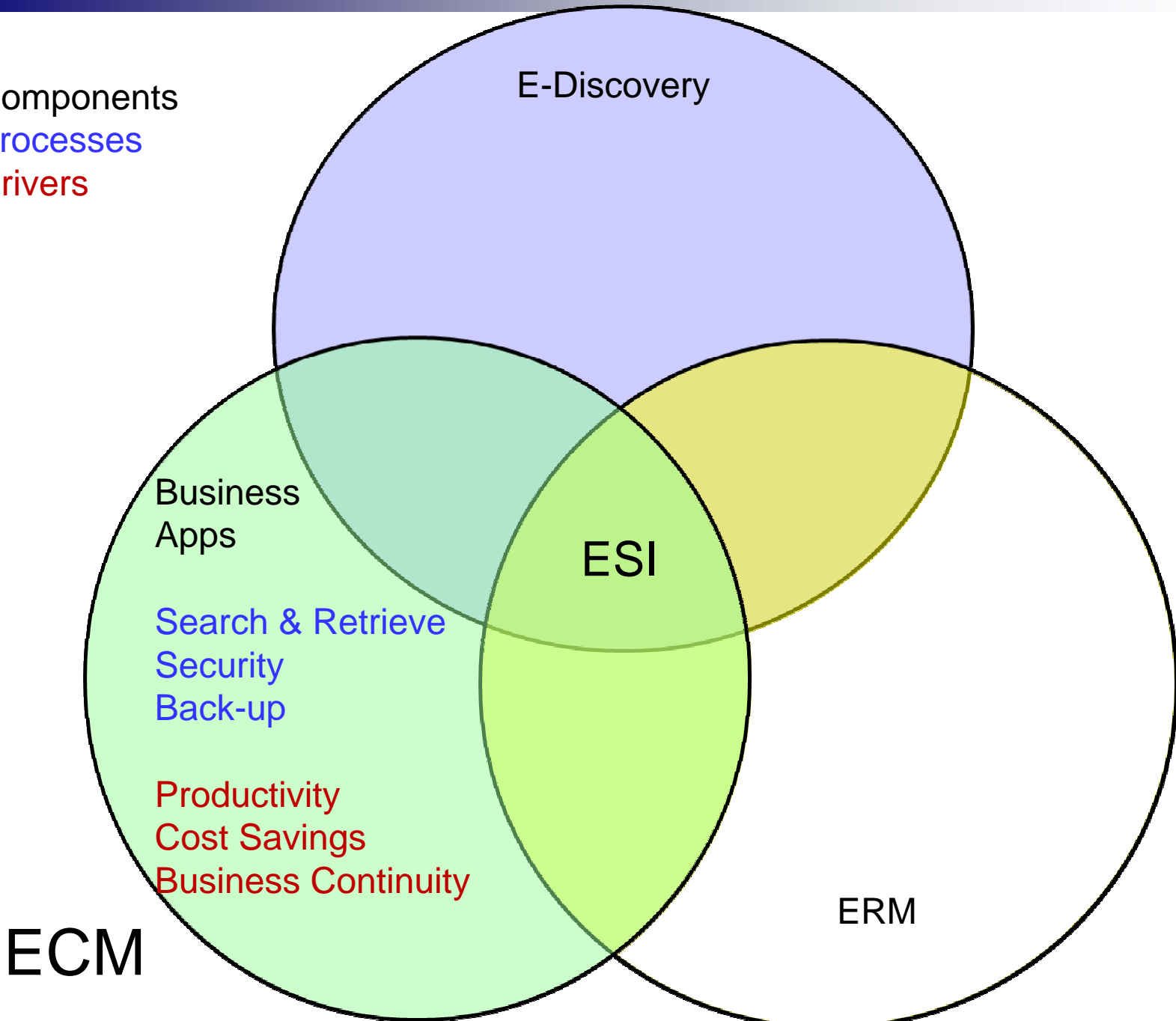
ECM Processes

- Search & retrieve
- Security
- Back-up

ECM Drivers

- Productivity improvement
- Cost savings
 - Storage space
 - Personnel
- Improving availability of public information
- Inter-entity ESI exchange
- Business continuity
- Security

Components
Processes
Drivers





Electronic Records Management

- Process that seeks to enforce order and control of electronic records through the application of technology.

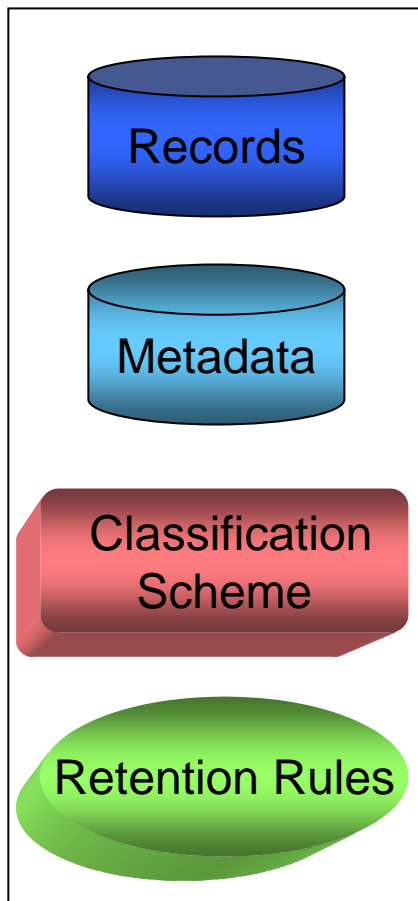
Contrast: ECM vs. ERM

| | Content Management | Records Management |
|-----------------|--|--|
| Content | Knowledge Container | Evidence |
| Value | Accessibility Re-usability Reference | Statutory, Regulatory, Fiscal, Operational, Historic |
| Attitude | All info created equal; Keep all we can | Assess info risk; Discard what we can |

Who Uses ERM

| Function: | Uses ERM for: |
|---------------------------|--|
| Compliance | Documentation and reporting requirements |
| Legal | Preserving evidence; Legal Holds |
| Records Management | Authenticity, reliability, integrity of records |

ERM Components



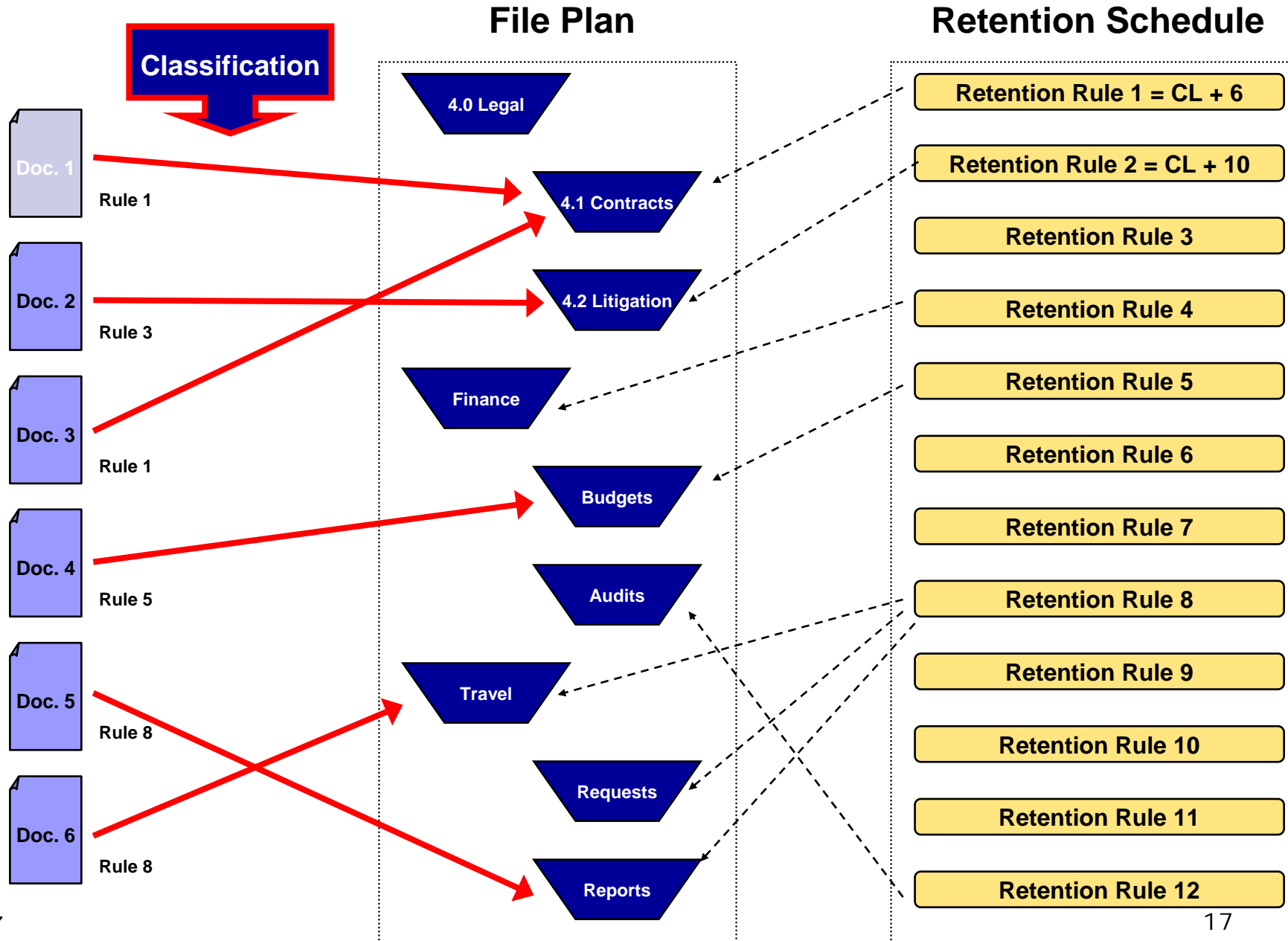
- Info created, received & maintained to conduct business
- Info about records needed for their control; attributes
- Categories for grouping similar records; a.k.a. file plan
- Organization's policy for how records are managed



ERM Processes

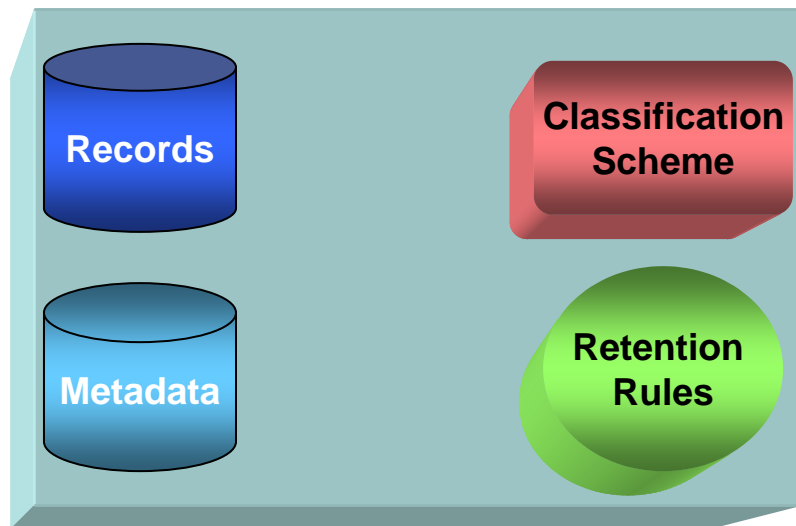
- Classify records and attach retention period
- Enforce retention and disposition
- Place and process tax, legal or other holds
 - Search and retrieve

How ERM Works

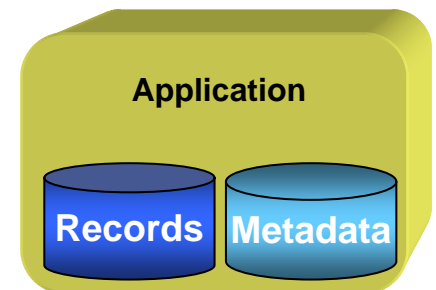
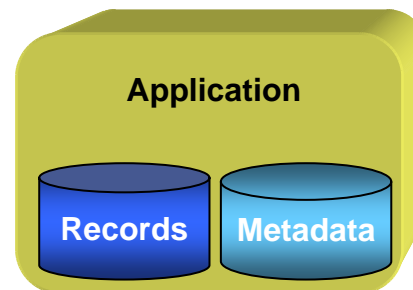
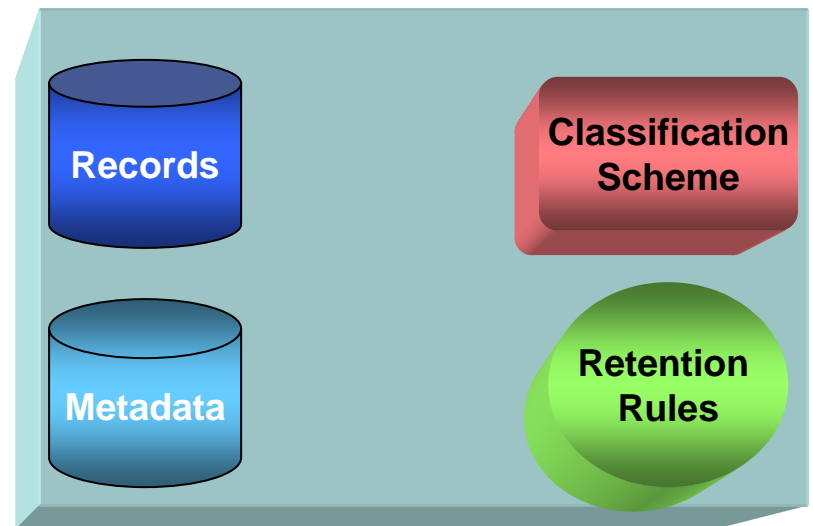


ERM Architecture Models

Single Repository Model

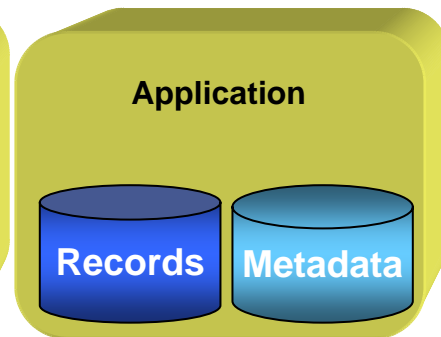
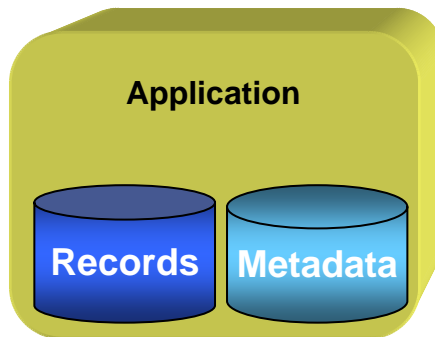
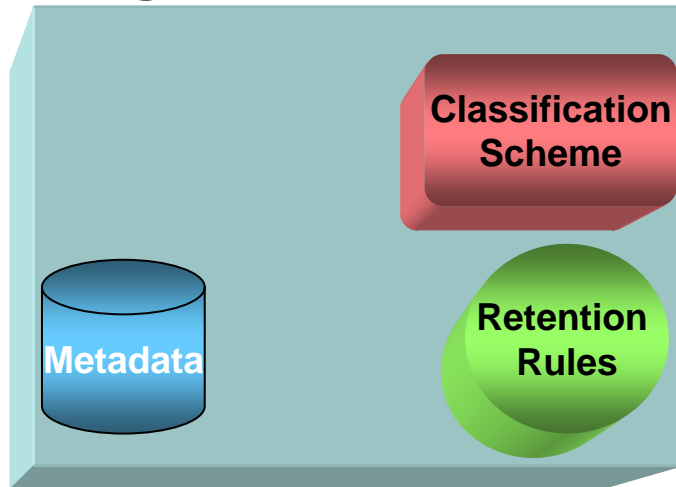


Replicated Model

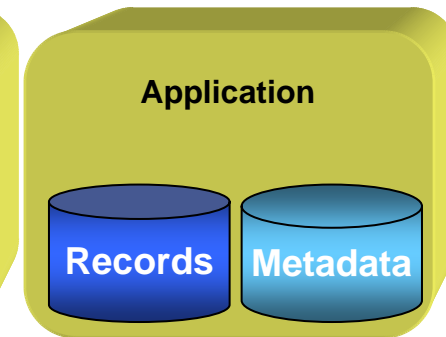
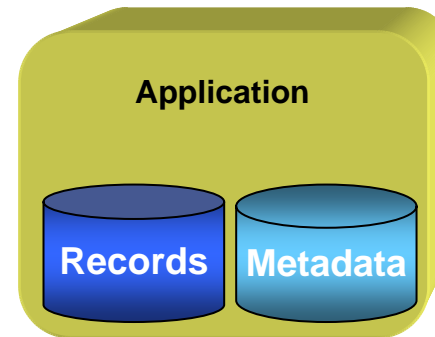
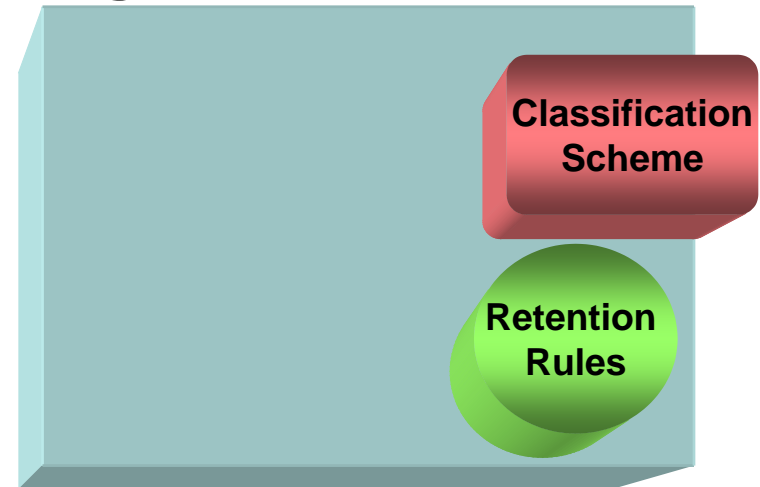


ERM Architecture Models

Catalog Model



Delegated Model



ERM Drivers

■ Risk to the organization

- Unable to find what is needed for examination, investigation, litigation
- Produce too much in response to request
- Reliability and integrity of records called into question

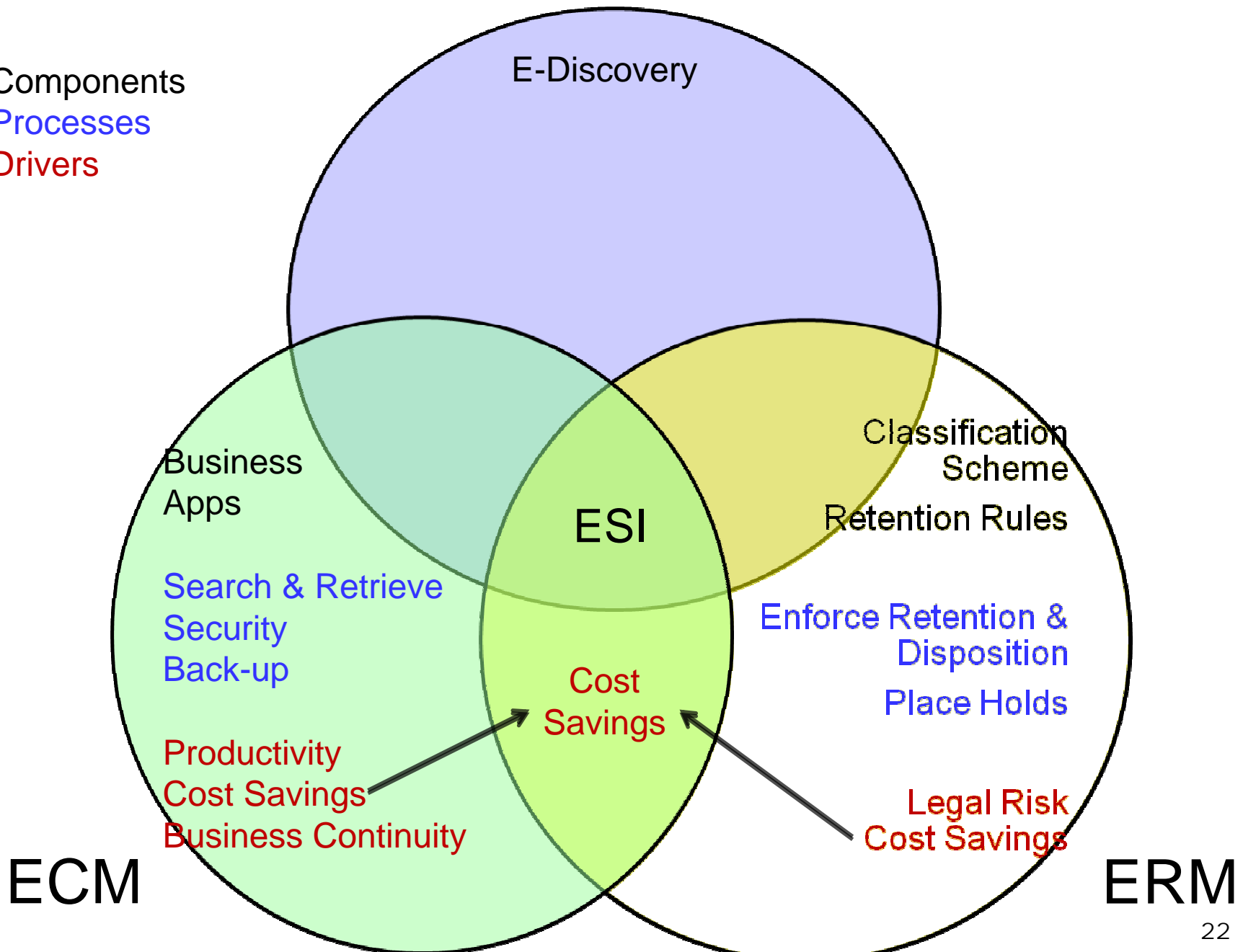
■ Cost Savings

- Records destruction

Trend: RM in ECM

| Acquirer | Acquired | Had Acquired |
|-----------------|-----------------------------|---------------------|
| EMC | Documentum | TrueArc |
| IBM | Tarian Software, FileNet | |
| OpenText | iRIMS, Legal Key | |
| Oracle | Stellent | Optika Extempore |
| Hewlett Packard | Tower Software | |
| CA | MDY | |

Components
Processes
Drivers



ECM

ERM



E-Discovery

- An adversary's request for your information to use against you
 - Your response involves finding, holding, reviewing, and producing electronic information relevant to legal proceedings.

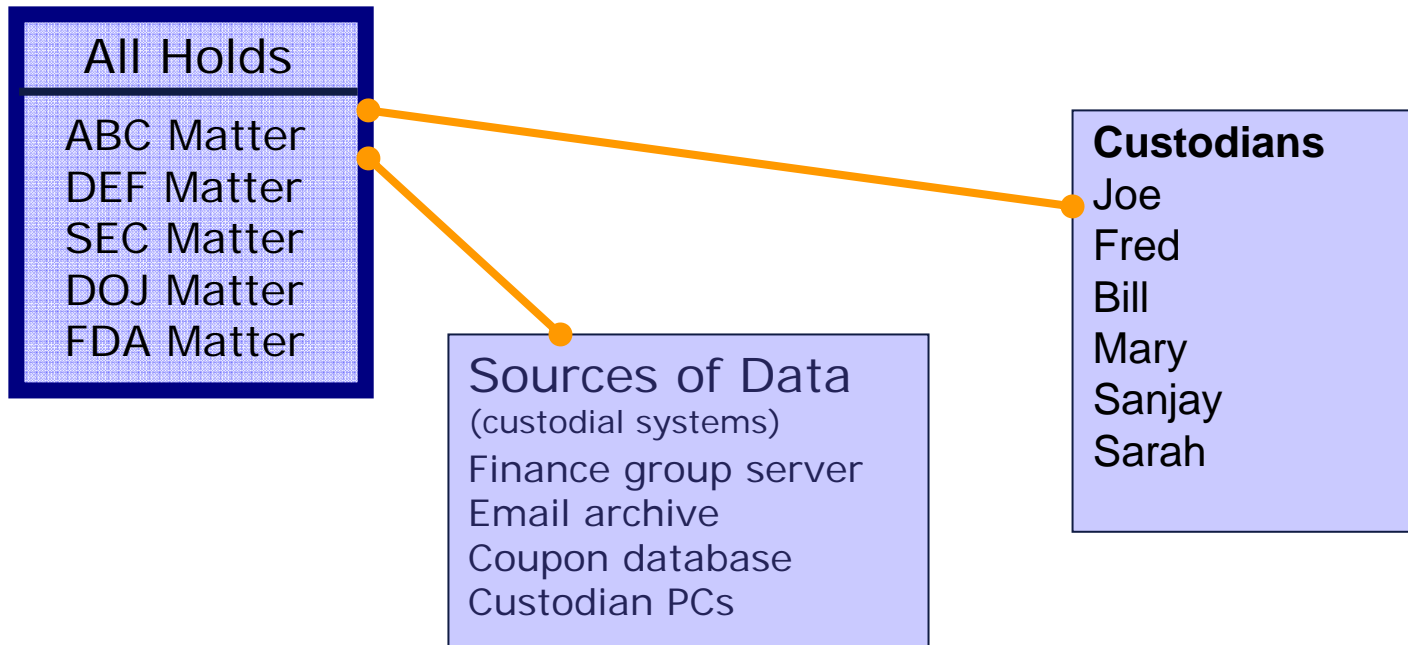
E-Discovery Rules

- If you have it, you must produce it
 - Even if you could have or should have destroyed it under a retention program years ago
- You must put a hold (“do not destroy”) on relevant material if litigation is pending or imminent

Federal Rules of Civil Procedure (12/2006)

- Two tiered approach to discovery
 - Parties must meet to disclose “a description **by category and location** of ... electronically stored information (ESI).” *Federal Rule 26(a)*
 - Identify **sources of ESI that are “not reasonably accessible.”** *Federal Rule 26(b)(2)*
 - Readily accessible ESI is searched
 - Cost burden to search non-readily available ESI is shared with requestor

How E-Discovery Is Supposed to Work



- For each matter, identify
 - Source of relevant material
 - Custodians of relevant material

With thanks to M. Lagodinski, Ernst & Young

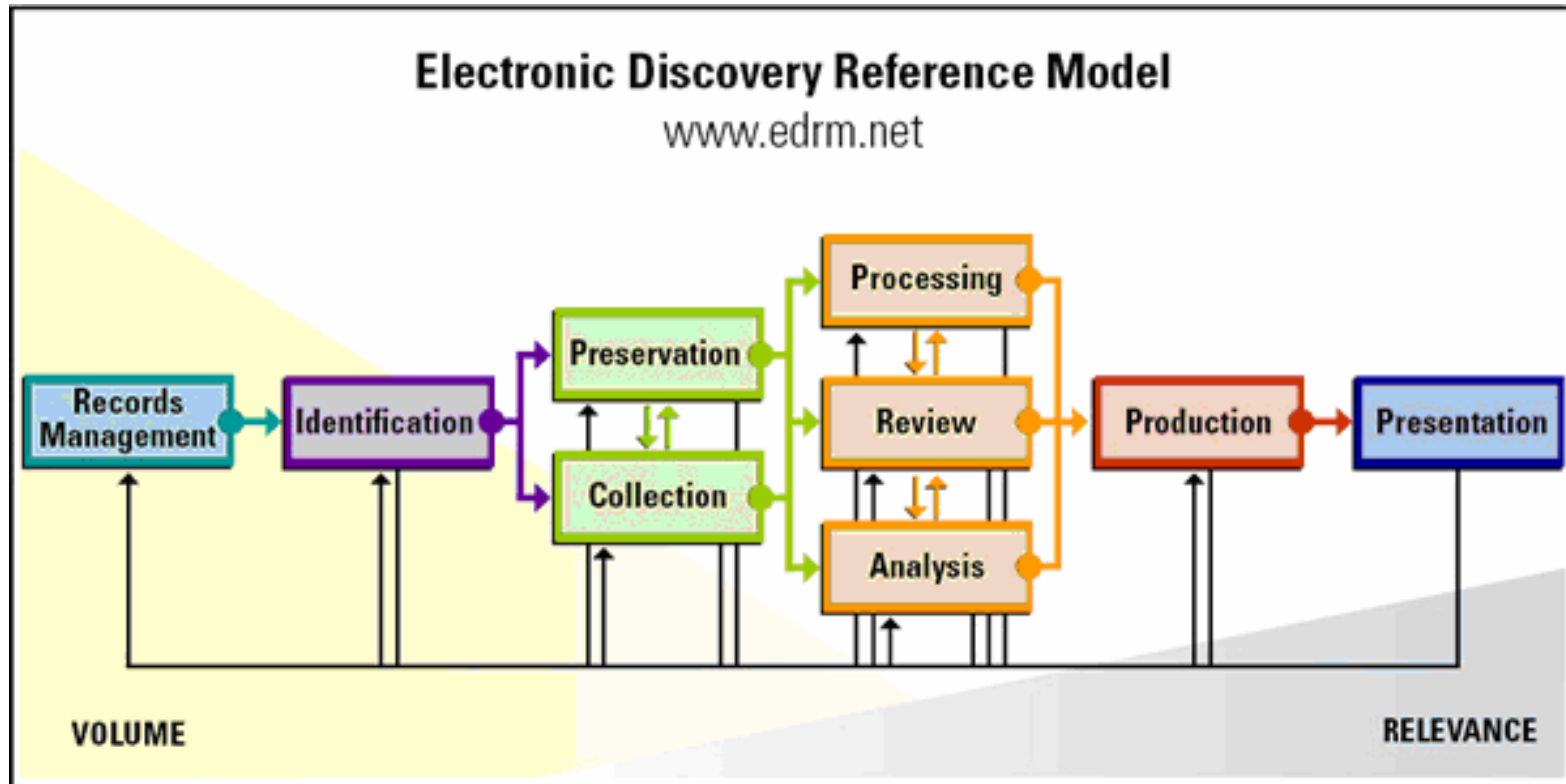
E-Discovery Components

Hold
Management
System

Review System

- De-duplicate
- Relevance
- Privilege

E-Discovery Reference Model



NewsWire, September 2007

E-Discovery Processes

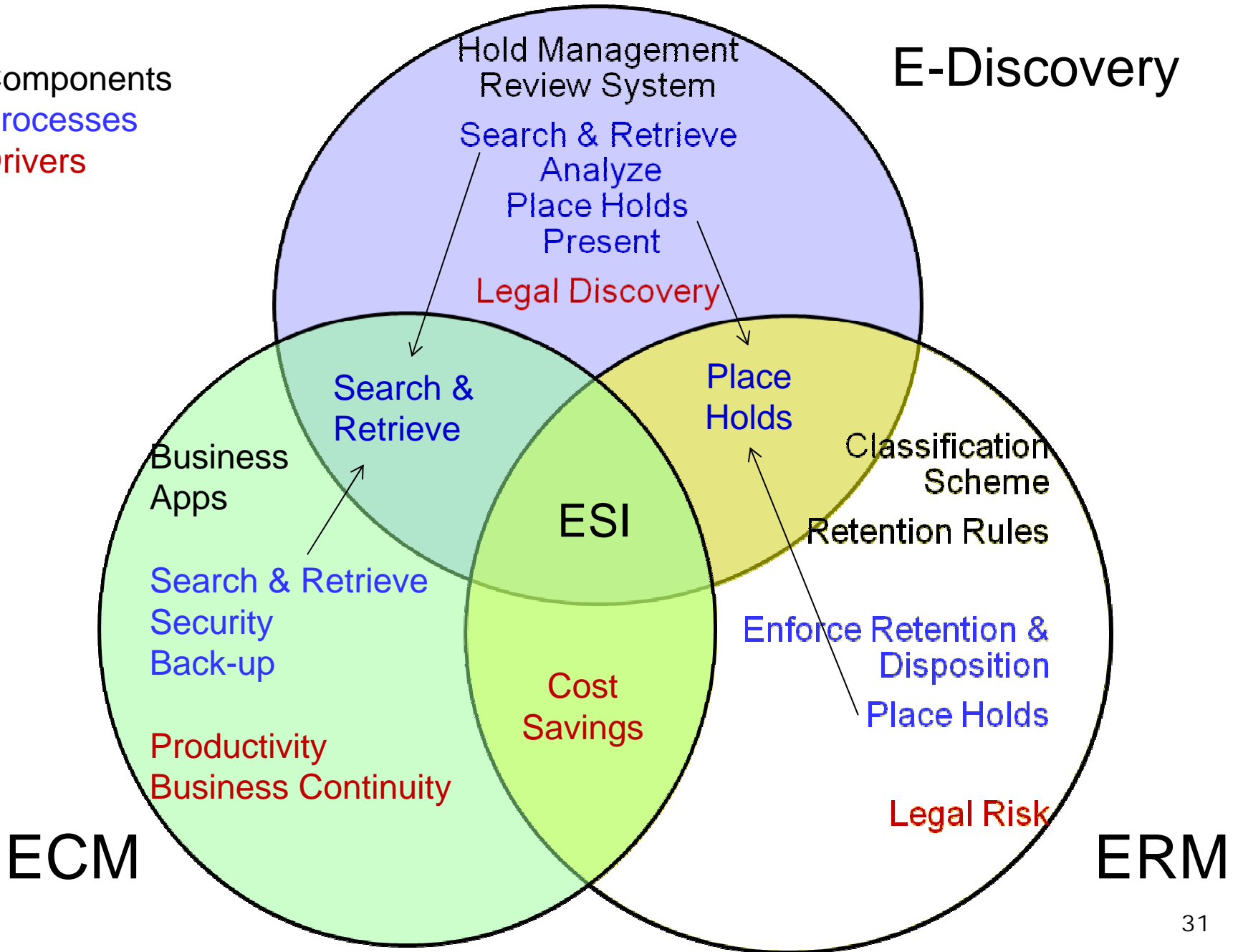
■ Emphasis on

- Finding requested material
 - Easy accessibility and cost shifting
- Analyzing responsive material
 - Omit attorney-client privileged info
- Holding relevant material against loss
- Presenting results

E-Discovery Drivers: Litigation & Discovery Costs

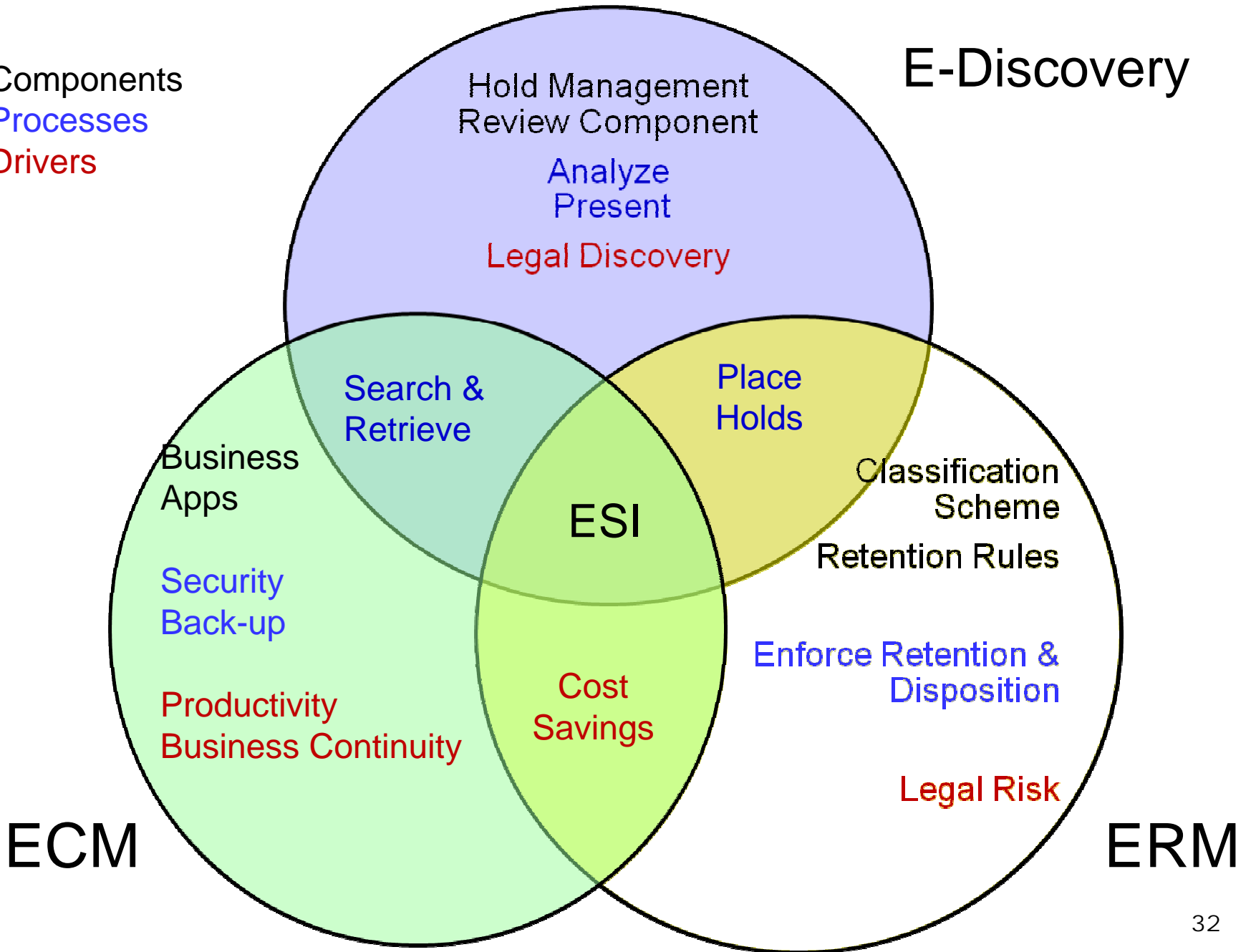
- Lawyers' charges average \$318/ hour (\$550 in NYC)
 - Source: 2007 Altman Weil survey in *Time* 4/14/2008
- Biggest cost in litigation discovery services is review for privilege, relevance, redaction
 - Done by attorneys who search through file stores, backup tapes, etc., then read resulting content
 - Greater the volume to search & review, the greater the cost
 - \$7-\$10 per page in U.S.; \$1 per page in India (*Time*, *ibid.*)

Components
Processes
Drivers



Components
Processes
Drivers

E-Discovery



E-Conflicts

■ ECM vs. ERM

- “Keep everything” vs. destruction
- Business continuity vs. retention rules

■ ECM vs. E-Discovery

- Search: Specific vs. broad key word/context
- Business continuity vs. discovery rules

■ ERM vs. E-Discovery

- Retention rules vs. holds
- Content vs. media/envelope

Implications

■ ERM systems

- Must enforce retention & destruction policies
- Place and enforce HOLDS

■ ECM systems

- Broader than before
- Must follow RM retention schedules
- Should not use business continuity backups as an archive

Thank You

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