

The E-Discovery Sanction Trap

Why Legal Holds Alone Won't Protect You

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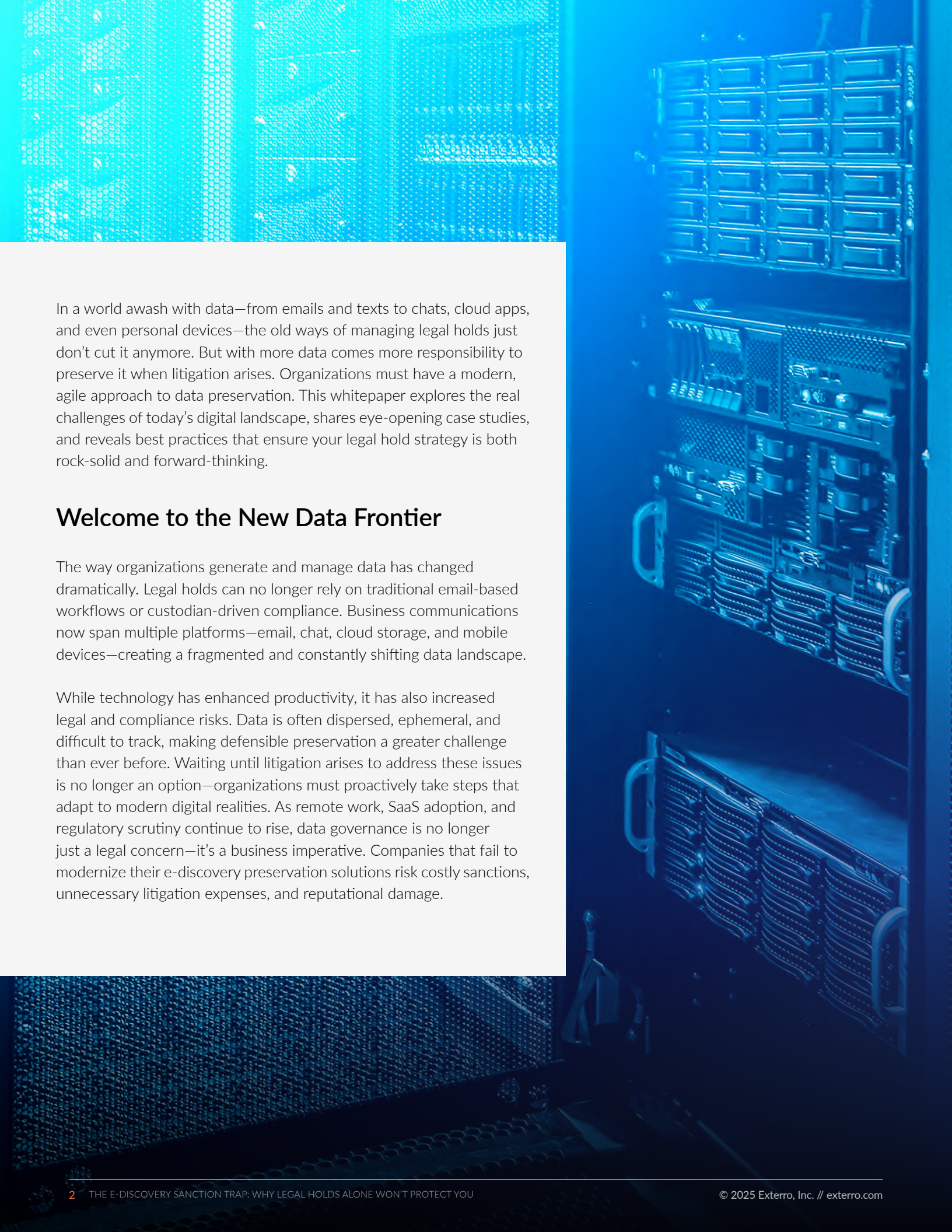
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The E-Discovery Sanction Trap
**WHY LEGAL HOLDS ALONE
WON'T PROTECT YOU**



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In a world awash with data—from emails and texts to chats, cloud apps, and even personal devices—the old ways of managing legal holds just don't cut it anymore. But with more data comes more responsibility to preserve it when litigation arises. Organizations must have a modern, agile approach to data preservation. This whitepaper explores the real challenges of today's digital landscape, shares eye-opening case studies, and reveals best practices that ensure your legal hold strategy is both rock-solid and forward-thinking.

Welcome to the New Data Frontier

The way organizations generate and manage data has changed dramatically. Legal holds can no longer rely on traditional email-based workflows or custodian-driven compliance. Business communications now span multiple platforms—email, chat, cloud storage, and mobile devices—creating a fragmented and constantly shifting data landscape.

While technology has enhanced productivity, it has also increased legal and compliance risks. Data is often dispersed, ephemeral, and difficult to track, making defensible preservation a greater challenge than ever before. Waiting until litigation arises to address these issues is no longer an option—organizations must proactively take steps that adapt to modern digital realities. As remote work, SaaS adoption, and regulatory scrutiny continue to rise, data governance is no longer just a legal concern—it's a business imperative. Companies that fail to modernize their e-discovery preservation solutions risk costly sanctions, unnecessary litigation expenses, and reputational damage.

TOO MUCH DATA, TOO LITTLE TIME

A Range of Data Channels

Organizations now juggle information from a dizzying array of sources

Emails & Messaging Apps

Not only traditional email but also platforms like Slack, Microsoft Teams, and video conferencing tools create a complex digital record.

Cloud and Collaboration Hubs

Data now resides in cloud storage and collaborative platforms like OneDrive and SharePoint.

Mobile & BYOD Realities

Both corporate and personal devices capture essential work data, often without centralized control.

The Shadow IT Factor

Unsanctioned apps used by employees add an extra layer of unpredictability to the data landscape.

Racing Against the Clock

In our fast-paced digital world, data is fleeting. For example, key text messages can vanish within 30 days if not captured immediately. Waiting too long to issue a legal hold isn't just risky—it can mean the difference between a winning case and a costly loss. Speed and precision are not optional; they're vital.

Navigating Global Regulatory Storms

In today's interconnected world, organizations must navigate a maze of competing legal requirements. For example, U.S. courts demand robust discovery practices, while international regulations like the GDPR impose strict privacy protections that can complicate data preservation. Balancing these conflicting obligations is a critical challenge—failing to harmonize domestic discovery requirements with overseas privacy laws can lead to costly sanctions or legal disputes. A modern legal hold strategy must account for these complexities, ensuring compliance across jurisdictions while preserving the integrity of critical data.

The Slack Data Dilemma

Slack serves as a centralized hub for business communication, blending high-tech chat capabilities with data repository functions. With over 12 million daily users and adoption by more than 65% of Fortune 100 companies, Slack has rapidly become integral to how organizations collaborate. In fact, companies report a 49% drop in email usage after switching to Slack, with over 1.5 billion messages exchanged monthly.

However, this dynamic environment creates significant challenges for legal discovery and data preservation. The platform's content is highly dynamic and editable, with communications spread across public channels, private channels, and direct messages. Additionally, thousands of third-party integrations further complicate data management, making it critical for organizations to implement robust policies and tools to effectively capture and safeguard Slack data during litigation and investigations.

[Learn how Exterro helps organizations manage Slack data in our partner brief.](#)

REAL-WORLD WAKE-UP CALLS

Two high-profile cases illustrate the perils of inadequate legal holds

DR Distributors v. 21st Century Smoking

Here, a failure to preserve messages from web-based email and chat applications led to harsh court sanctions. The lesson? Relying solely on traditional email-focused holds in a multi-channel world can leave you exposed to a complex digital record.

Safelite Group v. Lockridge, et al.

In this case, critical text messages vanished due to an auto-delete setting on a mobile device. The court's ruling underscored that ignoring the ephemeral nature of modern data can be a fatal flaw in your legal hold process.

These examples are a stark reminder: When your data is spread across diverse channels and vanishes in a flash, only a comprehensive, automated legal hold strategy can safeguard your interests.

TACKLING MODERN DATA PRESERVATION CHALLENGES & STRATEGIES

Embracing the Complexity

Preserving digital evidence in today's environment is more than just a compliance requirement—it's a strategic necessity. Traditional legal holds, which once sufficed in an era of email-based communication, now fail to account for the evolving nature of business data. Data no longer sits in neatly defined locations. It moves dynamically across enterprise collaboration tools, personal devices, and cloud platforms—often without centralized oversight. This complexity makes it easy to over-preserve unnecessary data, under-preserve critical information, or miss entire sources altogether.

A modern legal hold strategy requires more than just issuing notices—it demands visibility into where data lives, automation to ensure preservation, and proactive workflows that account for how data moves across an organization.

Overcoming Operational Hurdles

Building a defensible preservation process isn't just about deploying technology—it's about aligning people, processes, and policies to keep pace with today's data realities. Some of the biggest hurdles organizations face include:

Managing Dispersed Data Sources

Without a centralized data inventory, legal and compliance teams struggle to identify and track all the places relevant data might reside.

Navigating Compliance & Legal Obligations

Organizations operating in multiple jurisdictions face conflicting regulatory requirements, where privacy laws (e.g., GDPR) restrict data access while legal obligations (e.g., U.S. discovery laws) demand it.

Balancing Risk & Cost in Data Retention

Holding onto too much data can be just as costly as failing to preserve key evidence. Legal and compliance teams must strike a balance between minimizing legal risk and avoiding unnecessary data storage and review costs.

Ensuring Collaboration Between Legal, IT & Business Teams:

Legal and IT teams often operate in silos, creating friction when trying to implement and enforce legal hold policies. Without cross-departmental alignment, preservation processes become fragmented and ineffective.

The Human Factor

Even with the best technology, human behavior remains one of the biggest risk factors in legal hold compliance. Employees often view legal holds as an IT or legal function, rather than a shared business responsibility.

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THE FUTURE OF LEGAL HOLDS

A PRACTICAL GUIDE TO COMPLIANCE, AUTOMATION & RISK REDUCTION

A defensible legal hold process isn't just about issuing notices—it's about ensuring complete compliance, optimizing workflows, and minimizing risks from the moment a hold is placed until the litigation or regulatory matter is resolved. With rising legal and compliance scrutiny, organizations must go beyond traditional legal holds and adopt an AI-powered, automated, and well-documented approach to data preservation.

Here's how to build a legal hold process that withstands regulatory audits and litigation challenges:



Communicate Clearly & Remove Complexity

The first step to legal hold compliance is ensuring every custodian understands their responsibilities—which starts with clear, actionable messaging.

Use Plain Language

Avoid legal jargon that might confuse custodians.

Make It Actionable

Legal hold notices should outline what data must be preserved, what actions custodians must take, and what they should avoid.

Ensure Direct Accountability

Hold communications should come from in-house legal teams or compliance officers to reinforce their importance.



Automate for Compliance & Scalability

With the explosion of digital data, manual legal hold management is no longer sustainable. Automated workflows reduce human error, ensure consistency, and allow legal teams to focus on higher-value tasks.

AI-Driven Custodian Identification

Integrate legal hold workflows with HR, IT, and enterprise data management systems to automatically identify and notify relevant custodians.

In-Place Preservation Across Platforms

Lock down data where it lives—whether in Microsoft 365, Slack, Zoom, Google Workspace, or cloud storage—before it can be deleted.

AI-Powered Compliance Tracking

Automatically send reminders, track custodian responses, and escalate non-compliance to ensure no one is overlooked.



Prioritize High-Risk Custodians & Data Sources

Not all custodians hold the same level of case-critical data. A defensible process must prioritize key custodians and apply different strategies based on data volatility and risk.

High-Risk Custodians (e.g., Executives, Key Decision-Makers)

Preserve and collect data immediately from these individuals to prevent loss.

Lower-Priority Custodians (e.g., Support Staff, Non-Key Employees)

Use in-place preservation rather than immediate collection to avoid over-preserving unnecessary data.

AI-Powered Custodian Mapping

Identify hidden relationships between custodians and flag additional individuals who may have relevant data but weren't originally included in the hold.



Document Every Action for Defensibility

A strong legal hold strategy must be audit-ready and capable of proving defensibility in court or during regulatory reviews.

Maintain a Real-Time Audit Trail

Track every legal hold notice, custodian acknowledgment, and preservation action to establish a clear record.

Log Escalations & Non-Compliance Actions

Ensure escalation records are automatically logged to demonstrate due diligence in case of compliance challenges.

Automate Reporting & Legal Hold Dashboards

Provide real-time visibility into which holds are active, who has acknowledged them, and what data has been preserved.



Foster Cross-Departmental Collaboration

Legal holds don't operate in isolation—they require strong alignment between legal, IT, compliance, and HR teams.

Legal & IT Collaboration

Ensure IT teams understand preservation priorities, collection requirements, and how to safeguard critical ESI.

HR & Compliance Alignment

Establish automated workflows that notify legal teams when employees change roles, leave the company, or gain access to new data sources.

Regular Training & Awareness

Train employees on their legal hold responsibilities and conduct periodic compliance audits to ensure adherence to policies.

FUTURE-PROOFING DATA PRESERVATION ADVANCED TECHNOLOGY AT WORK

The rapid evolution of digital data means that traditional legal hold methods are no longer enough. With the rise of ephemeral communications, dynamic collaboration tools, and evolving regulations, organizations must shift from reactive legal hold management to a proactive, AI-driven strategy.

Modern legal hold processes must go beyond basic preservation—they should automate compliance tracking, integrate with enterprise data sources, and leverage AI to identify and prioritize case-critical data. Organizations that fail to modernize risk data loss, compliance failures, and costly legal consequences.

By adopting an AI-powered, automated, and integrated approach to legal holds, legal and compliance teams can

- » Ensure real-time, defensible data preservation across all communication channels.
- » Eliminate manual inefficiencies with automated workflows, escalation tracking, and smart reminders.
- » Gain full visibility into custodian compliance, ensuring that no critical data is overlooked.
- » Adapt to evolving regulations with dynamic workflows that adjust based on jurisdictional requirements.

The Future of Legal Holds is Intelligent & Automated

A modern legal hold strategy doesn't just reduce risk—it transforms data governance into a competitive advantage. By integrating AI-driven automation, in-place preservation, and seamless enterprise-wide compliance tracking, organizations can confidently manage legal holds in an ever-evolving digital landscape.

Discover how [AI and automation can help your organization achieve true legal defensibility](#).

Legal Teams Using Collaboration Tools Face Data Overload

Modern workplaces now generate data at an unprecedented pace. In 2018, only 8% of knowledge workers used Slack and 9% used Zoom; by late 2022, Slack was deployed by 36% of Okta's customers and Zoom's daily users surged 2,900% between December 2019 and April 2020. Microsoft Teams has skyrocketed from 2 million users in 2017 to over 320 million globally in 2023, and the collaboration software market revenue has more than doubled—from \$7.05 billion in 2015 to nearly \$16 billion in 2020.

This explosive growth has created a dynamic, multi-channel data environment that traditional e-discovery methods can't handle. With 91% of businesses using at least two collaboration tools, legal teams now face billions of messages, files, and updates that are continuously changing. To keep up, organizations urgently need advanced ediscovery solutions that automate the capture, integration, and analysis of diverse digital communications—ensuring critical evidence is preserved in an ever-evolving digital landscape.

THE FUTURE OF LEGAL HOLDS AI-POWERED, AUTOMATED, AND PROACTIVE

The future of legal holds is not just about preservation—it's about precision, automation, and proactive risk management. As enterprise data landscapes become more fragmented and compliance pressures rise, organizations need intelligent, AI-powered solutions that do more than just store information—they must identify, analyze, and act on relevant data in real time.



Discover and Protect Every Data Source—Before It's Too Late

Modern legal hold technology doesn't just identify data sources—it proactively maps, monitors, and preserves critical information before it becomes a legal risk. **These tools now scan digital environments** to locate Teams sites, Slack conversations, cloud repositories, and emerging collaboration platforms, ensuring that no critical data source is overlooked.

Automate Compliance & Stay Ahead of Risk with Integrated Solutions

Compliance isn't just about tracking custodians—it's about proactively preventing data loss. **By integrating with HR systems**, IT asset management tools, and enterprise data catalogs, organizations can automatically detect employee departures, role changes, or data access modifications—triggering preservation actions before data is lost.

Enhance Custodian Engagement with AI-Driven Workflows

Legal holds are only effective if custodians comply. Real-time engagement tools, **automated custodian interviews, and dynamic questionnaires** ensure that legal teams can pinpoint exactly where the most critical data resides—eliminating delays and reducing the risk of non-compliance.

Optimize Storage & Reduce Costs with Smart Data Strategies

Preserving every piece of data isn't just unnecessary—it's expensive. **Single-instance storage** ensures that organizations retain only what's needed, eliminating redundancy and lowering storage and e-discovery review costs.

Adapting to New Technologies

As organizations face increasing data complexity, AI-powered solutions are transforming how legal teams manage preservation, compliance, and e-discovery workflows. Instead of relying on reactive processes, modern AI-driven tools enable:

Real-Time Data Insights

AI-powered assistants like Exterro Assist allow legal teams to query data instantly, generate reports, and gain visibility into legal hold status—ensuring defensibility and efficiency.

Smarter Workflow Optimization

AI streamlines legal hold tracking, custodian engagement, and escalation workflows, ensuring compliance with automated reminders and role-based access control.

Enhanced Data Discovery & Reporting

By leveraging natural language search and predictive analytics, AI helps teams quickly identify relevant custodians, data sources, and preservation gaps—reducing time spent on manual data review.

AI is no longer a future concept—it is a critical enabler of proactive risk management, compliance tracking, and workflow efficiency. Organizations that embrace AI-powered legal hold and e-discovery technologies will be best positioned to stay ahead of regulatory demands while optimizing time and costs.

The Pitfalls of Manual Legal Holds

Recent surveys conducted by the Association of Corporate Counsel and Everlaw highlight a troubling trend:

51% of corporate law departments still rely on email to manage litigation holds, while 35% use spreadsheets to track them.

This reliance on manual methods leaves room for significant risks—miscommunication, duplication of effort, missed custodians, and, most importantly, the potential loss of critical data. As organizations face an explosion of digital data, these risks only increase, exposing businesses to adverse legal outcomes, penalties, and a weakened defence in litigation. The need for modern, automated legal hold processes has never been more urgent.

LEGAL HOLDS ALONE WON'T PROTECT YOU

Legal holds are no longer enough. With data scattered across Slack, Zoom, cloud storage, and mobile devices, traditional methods fail to ensure compliance. Without automation, AI-driven intelligence, and seamless integration across legal hold, data collection, and document review, organizations face data loss, compliance failures, and skyrocketing costs.

Exterro transforms legal holds into an automated, AI-powered workflow that strengthens compliance, reduces risks, and eliminates manual inefficiencies.

- » **In-Place Preservation** secures critical data at the source—before it can be deleted
- » **Employee Change Monitoring** proactively detects personnel changes and applies preservation measures to prevent data loss.
- » **AI-driven legal hold** tracking automates reminders, escalations, and custodian acknowledgments to ensure airtight defensibility.

But preservation is just the beginning. Exterro seamlessly connects legal holds to targeted collection,

- » **AI-driven Early Case Assessment (ECA)** surfaces key evidence faster, pulls relevant data from **over 50 on-premises and cloud-based data sources** including Microsoft, Google, Slack, Zoom, and more, eliminating the need to request collection support from multiple stakeholders eliminating IT bottlenecks,
- » **Machine learning-powered document review** prioritizes and categorizes documents, cutting review costs and increasing accuracy.

*As legal and regulatory scrutiny intensifies, outdated legal hold strategies leave organizations vulnerable. Take the guesswork out of legal holds. See how Exterro's **e-Discovery Suite** ensures compliance, efficiency, and defensibility—without manual overhead.*

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