Agile and eDiscovery: Our Perspective

Let's face it. There are 3 crystal clear trends making it much more difficult for organizations to manage their information management and eDiscovery programs:

1. 50%+ annual growth in electronic information
2. An increasingly litigious corporate culture
3. The inability to contain the costs of eDiscovery.

There are many reasons for these trends: eDiscovery is a relatively new phenomenon, firms are still struggling to structure and optimize leading class teams to manage and produce information (legal, IT, outside counsel, information provides, business users, compliance, records management, etc.), and end users are **OUT OF CONTROL** with their reliance on unstructured data and reliance on email to enable many of their daily business processes.

In essence, many are trying to "control the uncontrollable". It is clear that the only way to move forward is to radically redesign an approach that combines the following:

1. A rigorous approach;
2. That is iterative and extremely flexible to change;
3. A continuous emphasis on process improvement and key learnings

Sounds impossible, right? Wrong. An approach combining the evolving eDiscovery standard and the AGILE methodology can enable a robust solution.

Reference Model and Shortcomings

Let's take a step back. Many eDiscovery Practitioners find that the EDRM (Electronic Discovery Reference model) provides a strong framework for a structured approach to both Information Management (*the left side of the model*) and Data Collection (*the right side of the model*).

However, the EDRM model tends to focus on "old school" methods to manage programs and projects e.g. a controlled environment where the information landscape and legal

Electronic Discovery Reference Model / © 2009 / v2.0 / edrm.net
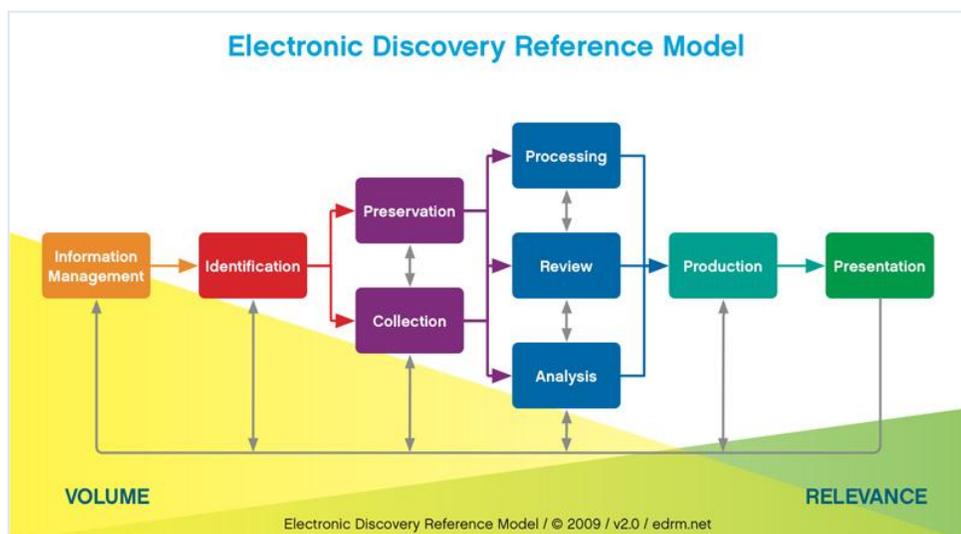
precedents are not changing on a daily basis.

Since we all need to embrace uncertainty, the addition of an AGILE approach to the equation will add great value.

An Agile Model

The chart below (part of the Mike 2.0 methodology developed by a former employer - BearingPoint) provides a more real time and proactive perspective to the existing rigor of the EDRM standard:

You'll quickly see that the AGILE methodology and mindset can bring an ITERATIVE, NIMBLE, ALWAYS EVOLVING, and CONTINUOUS IMPROVEMENT to your programs.

*So how do we link the AGILE approach to eDiscovery?*

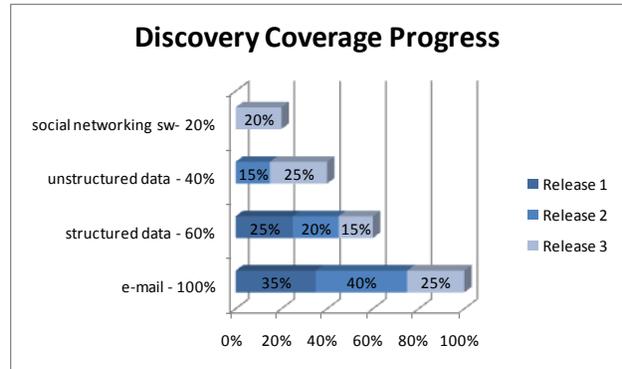*Adaptive Backlog* - Create a prioritized set of eDiscovery needs, tied to risk, cost, and time. Similar to story card development, assign a relative cost to each major requirement. (e.g., e-mail discovery is a 4 and relational database discovery is a 1.) The business can assign a risk number yielding actionable decision criteria. Have the appropriate eDiscovery governance body then prioritize the requirements based on the risk / cost / time (*level of effort*) evaluation across the organization.

Iterative Delivery - Start with the first priority and further decompose that into user stories using traditional Agile techniques. Set the time box for delivery, combining structured releases (at least one release per quarter) of internal **information management** ("the left side of the EDRM model") operations, with external **litigation management** ("the right side of the EDRM model") operations.

Enable Change - At each release milestone, determine the contents of the next release. It may either be additional stories from the first priority, another item from the larger backlog, or key learnings from recent internal or public litigation activities. In other words, if the business thinks you have done enough internally with e-mail it may be time to move on to network file shares, understanding that e-mail doesn't have 100% coverage but it is "good enough for now". Also, if litigation trends now place a much higher value on content such as "social networking software", then this new requirement must be incorporated into the overall "data discovery engine" and elevated in priority.
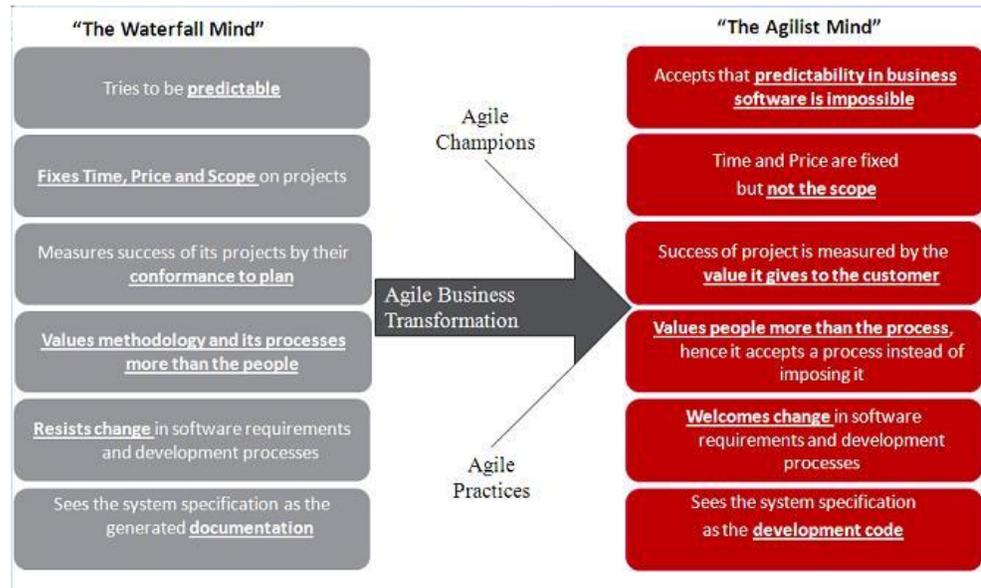
Measure Value – One of the strengths of Agile is the production of meaningful metrics. As shown in this sample chart, by producing coverage metrics, eDiscovery project teams can show actual progress against the top level priority framework driven by the business and marketplace. The use of burndown of story cards against each priority item enables business decisions about how deeply to drive eDiscovery coverage and when to reallocate resources to other critical areas.

Discovery Coverage Progress

social networking sw- 20%	20%
unstructured data - 40%	15% 25%
structured data - 60%	25% 20% 15%
e-mail - 100%	35% 40% 25%

Legend: Release 1, Release 2, Release 3

(0% 20% 40% 60% 80% 100%)

Finally, how will this result in improved efficiency and risk/cost reduction?

There are many resultant advantages organizations can achieve by combining an EDRM and AGILE approach. Your teams will have less data to sift and search, a reduction in manual processes, increased in-sourcing of the overall Information Management and eDiscovery processes, less slippage in terms of project time and scope, and improved policy adherence and enforcement. Most importantly, you will attain alignment with the most pressing business needs, demonstrate measured results and prevent drift or misalignment over time.