

## **Ask the CRM**

*This article is based on an article published in the "The News Tribune", Tacoma, Washington*

I read with interest the article on "You've got mail – for 6 years" written by David Wickert, on November 28, 2009 in the "The News Tribune", Tacoma, Washington. It stated correctly in the paper the Pierce County Executive Pat McCarthy indicated "Under the new policy, the county will electronically store most e-mail messages and attachments for at least six years. After that they're purged". If quoted correctly, then Pierce County may be in violation of the law.

E-mail is a media, but retention is based on the content contained in the e-mail and must be retained for the period of time required by an approved records retention schedule as required by the State of Washington. While Pierce County, as local government agency in State of Washington, has opted to maintain a unique schedule, which is perfectly legal, it still must meet the strict guidelines and approval of the records management division of the State Archives. I seriously doubt that the state approved the retention of 6 years.

The following was extracted from the FAQ's recently published on the Washington State Archives website.

### **Q: Are emails records?**

A: Yes, emails are records. RCW 40.14.010 states that any record made or received in the course of business is a public record. That definition extends to email. Some phone systems convert phone messages to email; these messages need to be maintained in accordance with the appropriate retention schedule. Furthermore, emails meet the definition of writing as listed in the Public Records Act RCW 42.56.010: "Writing means handwriting, typewriting... and every other means of recording any form of communication or representation, including, but not limited to, letters, words ...magnetic or paper tapes ... magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated."

The website address for a full explanation is:

<http://www.sos.wa.gov/archives/PreservationofElectronicPublicRecords.aspx>

While I applaud the Pierce County Executive's efforts to create an open and transparent government, I do not believe the intent was to burden the taxpayers of the County and enrich the pockets of the lawyers who will be lining up to sue the county for not keeping e-mail records they are required to maintain.

I would be interested to know who was involved in development of this policy. It is my understanding they did not involve the records management staff who are currently employed at Pierce County who may have been able to point out the errors and future problems associated with the policy. A few other questions that could affect the new policy are:

Does Pierce County have a Records Management Policy and Procedures in place?

Does Pierce County have an email policy? If not, they may also have employee personal privacy issues.

Could the employee unions have an issue with the policy?

Did the county get approval from the Washington State Archives for their retention policy for the email system?

With all the newspaper articles, seminars, and classes on the Federal Rules of Civil Procedures and the subject of document management I find it difficult to believe the County could have approved the policy without someone in their Legal Department or Information Technology department raising a "red flag".

Although this article was written based on an article in the local paper I am sure this is happening in other locations and I encourage my records management colleagues to question your local and state authorities when you believe they are in error.

Bob Dalton, CRM of Dalton Consulting

### **Pierce County's E-mail: Setting the Record Straight**

This letter is in response to an article published in the January 2010 issue of Soundings. In that issue, Bob Dalton's "Ask the CRM" column contains surprisingly incorrect information and assumptions about Pierce County's e-mail retention policy.

The News Tribune accurately quoted Pierce County Executive Pat McCarthy in an article entitled "You've Got Mail – for Six Years." Indeed, all county e-mail will be stored

electronically for at least six years – longer than the retention required for most e-mail. Exceptions are outlined in the Pierce County E-mail Retention Policy. Had Mr. Dalton asked to see the policy instead of speculating about a summary he read in the newspaper, he would have learned that e-mail messages with a retention period in excess of six years or having archival or potential archival value are retained accordingly and not deleted after six years. Additionally, the policy provides measures to classify appropriate e-mail for indefinite holds in matters of litigation, investigation, and public disclosure requests.

In contrast to Mr. Dalton's understanding, the development of the county's E-mail Retention Policy was a collaborative effort. It involved staff from a range of county divisions and departments, including Records Management, Information Technology, the Prosecuting Attorney's Office and the Communications Department.

Pierce County employees were given a five-page FAQ guide to help them understand more about e-mail archiving and retention. In addition, Pierce County has adopted an E-mail/Electronic Records Policy. All of this information is readily available to the public upon request.

The ink from Executive McCarthy's signature was barely dry when the Washington Coalition for Open Government awarded her its Key Award for signing such a progressive e-mail policy.

Other jurisdictions in this region delete e-mail after as little as 45 days. The Pierce County policies now in place allow for better public access and improved search capabilities, while promoting an overall philosophy of open government. We believe our policy is a model for other local governments, and we encourage Mr. Dalton and others to check it out.

Hunter George  
Director  
Pierce County Communications Department

**Comments from Bob Dalton:**

I have reviewed the contents of the letter from Mr. Hunter and sincerely submit an apology for the article as follows:

I should not have used the Newspaper as one of my sources as he is absolutely correct that they didn't print the complete story.

I also must sincerely apologize to the dedicated members of the Pierce County task force in developing an award winning email policy. I am well aware of the time and effort it involves to prepare such a policy.

In separate email to Mr. Hunter I further identified my other sources used in the article.

In retrospect, the article should not have been written without contacting sources within the Pierce County agency.

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