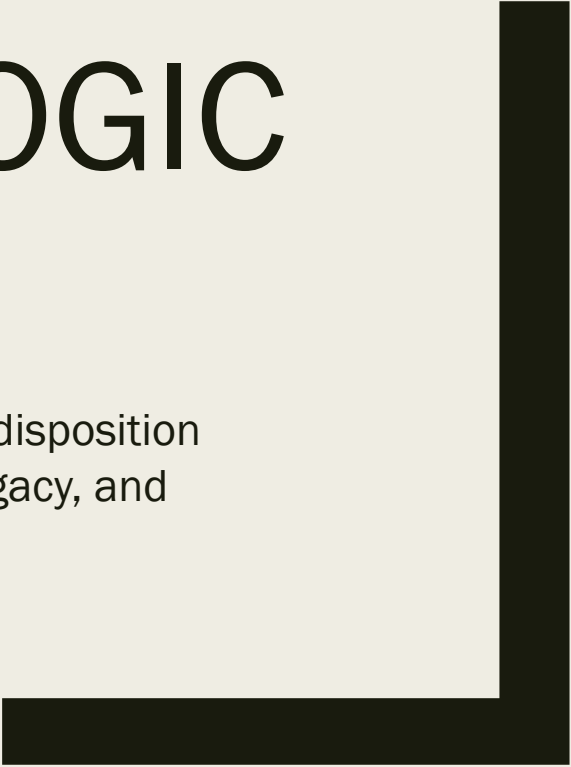




# PLAIN O.L.D. LOGIC

Applying Sedona Conference guidance in your disposition  
decision-making processes for **O**rphaned, **L**egacy, and  
**D**ormant Information



# How did we get here?

- Attended the October, 2018 Austin ARMA Shared Drive Cleanup presentation by Susan Cisco
- One of the References was: The Sedona Conference, *Principles and Commentary on Defensible Disposition*, (August 2018 Public Comment Version)
- A footnote caught my attention - The Sedona Conference, *Commentary on Inactive Information Sources: Guidance Principles for Identifying, Classifying, Retaining and Destroying Orphaned, Legacy and Dormant ESI*, (July 2009 Public Comment Version).

# The 1 Thing Challenge:



# Same old, same O.L.D.

- “Orphaned” (*i.e.*, no one within the organization has knowledge of or responsibility for it);
- “Legacy” (*i.e.*, it was created by or resides on systems or programs that the organization no longer uses); or
- “Dormant” (*i.e.*, it may technically have a custodian and it may be in a format used by the organization’s current IT environment, but the information is not used or accessed).

# Inactive Information Guidance Principles

**Inactive Information Guidance Principle 1:** *Subject to any preservation obligations related to pending or reasonably anticipated litigation or government investigation, an organization should take reasonable steps to determine whether an inactive information store contains information that the organization should retain based on legal retention requirements or business needs.*

**Know Legal requirements and Business needs**

# Inactive Information Guidance Principles

**Inactive Information Guidance Principle 2:** *Subject to any reservation obligations related to pending or reasonably anticipated litigation or government investigation, an organization should avoid excessive retention of inactive information by destroying it when it is no longer necessary to meet legal retention requirements or business needs.*

Stop hoarding

# Inactive Information Guidance Principles

**Inactive Information Guidance Principle 3:** *An organization should take reasonable steps to determine whether an inactive information store contains information that is potentially relevant in a pending or reasonably anticipated litigation or government investigation.*

**Be reasonable**

# Inactive Information Guidance Principles

**Inactive Information Guidance Principle 4:** *An organization should take reasonable measures, through IT practices and user-facing policies and procedures, to reduce the ongoing accumulation of inactive information.*

Accumulate less



# Inactive Information Guidance Principles

**Inactive Information Guidance Principle 5:** *An organization should consider establishing policies and procedures for the orderly migration of data required to be retained or preserved to supported formats, systems and media to reduce the need to retain/preserve inactive information.*

Migrate well

# Inactive Information Guidance Principles

**Inactive Information Guidance Principle 6:** *An organization should consider whether and how its policies/procedures regarding inactive information should apply to third parties in possession of the organization's inactive information.*

Know who has your info

# Inactive Information Guidance Principles

**Inactive Information Guidance Principle 7:** *An organization should consider periodically reviewing and updating any policies and procedures regarding inactive information to account for changes in laws, new forms of inactive information, and new technical capabilities or changes in business organization or requirements.*

**Keep policies current**

# Inactive Information Guidance Principles

**Inactive Information Guidance Principle 8:** *An organization should take reasonable steps to index/identify/organize/map corporate records (as reasonable, based on business needs) so as to minimize over-retention and disorganization.*

**Be reasonable!**

**Keep Calm and Map Your Data**

# Summary of the summary

1. Know Legal requirements and Business needs
2. Stop hoarding
3. Be reasonable
4. Accumulate less
5. Migrate well
6. Know who has your info
7. Keep policies current
8. Be reasonable! Keep Calm and Map Your Data

**Be Aware.**

**Be Reasonable!**

# What is “Reasonable”?

## Key Obligations

- Retention Obligation – determination that an inactive information store does not contain information that should be retained based on statutory, regulatory, and/or business retention requirements.
- Preservation Obligation – determination that an inactive information store does not contain information that is related to a pending or reasonably anticipated litigation, government investigation or audit.

Is it under retention or is it on hold?

# What is “Reasonable”?

## Do a Risk Assessment

- If an organization can identify, with little to no effort, monetary cost, or other resource expenditures, that the inactive information store is unlikely to contain information that the organization should retain, the organization may destroy the inactive information store without further investigation.
- If a cursory review of the inactive information store cannot confirm an absence of information that should be retained, it may be necessary for the organization to take additional measures to attempt to learn more about the inactive information content before it can determine whether the inactive information store contains information that the organization is required to retain.
- If an organization determines that additional investigation of the inactive information contents is warranted, it only needs to take such specific information-gathering measures as are reasonable under the circumstances to determine if the information stored must be retained.

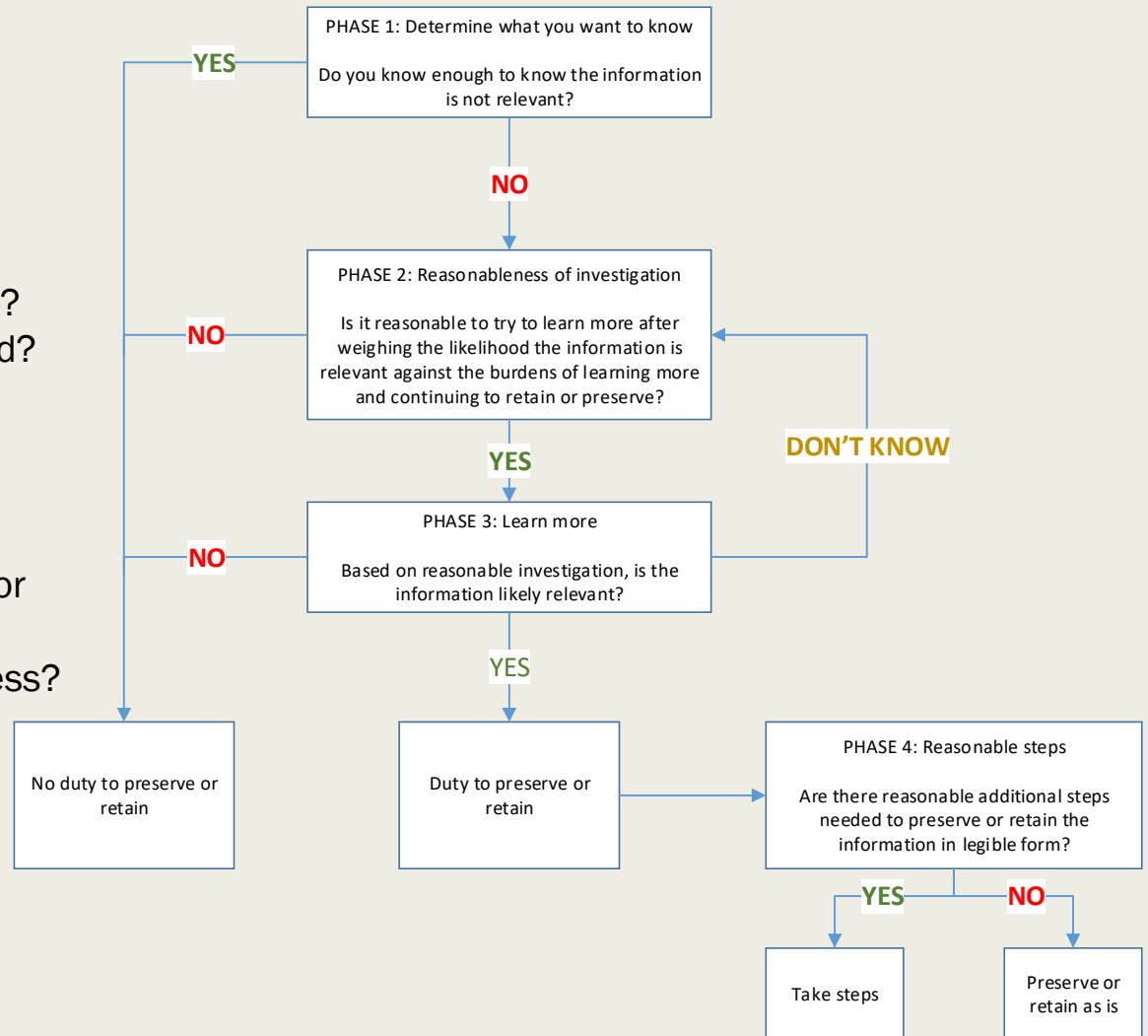
# O.L.D Flowchart

## Phase 1 - Likelihood of Relevancy

- Do the files relate to current business?
- Is the information less than x years old?
- Is the information unique?

## Phase 2 – Burden of Investigation

- Is this information disorganized?
- Does the organization have software or resources to access the information?
- Is the metadata missing or meaningless?







# The Pickle Corporation – Backup Tape Scenario

- A collection of backup tapes were found in a closet stored in offsite storage vendor boxes.
- Pickle Corp stopped doing business with this storage vendor in 2000, but these boxes are still security-sealed.
- No one has opened them since they were brought back from the vendor.
- The boxes are labeled with the vendor storage barcode.
- The tapes are labeled with an 8-digit number.

# Likelihood of Relevancy – Pickle Corp Backup Tape Scenario

- 1) Do the files relate to current or ongoing business?  
No – these tapes are not in the active backup system rotation.
- 2) Is the information less than x years old?  
No – the sealed boxes indicates these tapes existed pre-2000.
- 3) Is this information unique?  
No – the purpose of a backup tape is to create a duplicate of a system and its data.

Yes = 1 point      No = 0 points

**FINAL SCORE = 0**

# Burden of Investigation – Pickle Corp Backup Tape Scenario

1. Is the information disorganized or best described as an “electronic landfill”?  
Yes – a tape backup system uses available space across all tapes, often breaking up data.
2. Does the organization lack the software or resources needed to access the inactive information?  
Yes – IT has replaced the system 3 times. These tapes are 3 generations outdated.
3. Is the metadata associated with the information missing or meaningless?  
Yes – neither the vendor storage barcode nor the 8-digit number on the tape provide any useful information about the content.

Yes = 1 point

No = 0 points

**FINAL SCORE = 3**

Likelihood of Relevancy	3	I	I	I	I
	2	I	I	I	D
	1	I	D	D	D
	0	D	D	D	D
		0	1	2	3
		Burden of Investigation			

The table illustrates the relationship between the Likelihood of Relevancy (rows) and the Burden of Investigation (columns). The grid is color-coded: red for 'I' (Insufficient) and green for 'D' (Sufficient). A yellow arrow points to the '0' row, and another yellow arrow points to the '3' column. The cell at the intersection of row 0 and column 3 is circled in yellow.

# The Pickle Corporation – Backup Tape Scenario, v.2

- A collection of backup tapes were found in a closet stored in offsite storage vendor boxes.
- Pickle Corp stopped doing business with this storage vendor in **2018**, but these boxes are still security-sealed.
- No one has opened them since they were brought back from the vendor.
- The boxes are labeled with the vendor storage barcode.
- The tapes are labeled with an 8-digit number and the words “2017 Tape Rotation”.

# Likelihood of Relevancy – Pickle Corp Backup Tape Scenario, v.2

- 1) Do the files relate to current or ongoing business?  
No – these tapes are not in the active backup system rotation.
- 2) Is the information less than x years old?  
Yes – the tapes are labeled with “2017 Tape Rotation”.
- 3) Is this information unique?  
No – the purpose of a backup tape is to create a duplicate of a system and its data.

Yes = 1 point      No = 0 points

**FINAL SCORE = 1**

Likelihood of Relevancy →	3	I	I	I	I
	2	I	I	I	D
	1	I	D	D	D
	0	D	D	D	D
		0	1	2	3
Burden of Investigation					



# Burden of Investigation – Pickle Corp Backup Tape Scenario, v.2

1. Is the information disorganized or best described as an “electronic landfill”?  
**Yes – a tape backup system uses available space across all tapes, often breaking up data.**
2. Does the organization lack the software or resources needed to access the inactive information?  
**No – IT still has the same backup system that it was using in 2017.**
3. Is the metadata associated with the information missing or meaningless?  
**Yes – neither the vendor storage barcode nor the 8-digit number on the tape provide any useful information about the content. We only know the year the tapes were in rotation.**

Yes = 1 point

No = 0 points

**FINAL SCORE = 2**

Likelihood of Relevancy	3	I	I	I	I
	2	I	I	I	D
	1	I	D	D	D
	0	D	D	D	D
		0	1	2	3
		Burden of Investigation			

The table illustrates the relationship between the Likelihood of Relevancy (rows) and the Burden of Investigation (columns). The cells are colored red for 'I' (Investigation) and green for 'D' (Dismissal). A yellow arrow points to the '1' row, and another yellow arrow points to the '2' column. The cell at (1, 2) is circled in yellow.

# Where Do I Find This Guideline? and Can I Email You To Share My “1 Thing”?

- [https://thesedonaconference.org/publication/Commentary\\_on\\_Inactive\\_Information\\_Sources](https://thesedonaconference.org/publication/Commentary_on_Inactive_Information_Sources)
- Wendy McLain      [wendy.mclain@valero.com](mailto:wendy.mclain@valero.com)
- Ashley McKay      [ashley.mckay@valero.com](mailto:ashley.mckay@valero.com)