

Privacy Impact Assessment

Exterro e-Discovery Software

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Privacy Impact Assessment (PIA) for the

Office of General Counsel

Exterro e-Discovery Software

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Abstract

- The Office of the General Counsel uses Exterro e-Discovery Software (“Exterro”) which is a user-friendly, searchable, and secure e-discovery document software management system.
- Exterro reduces the burden on the Office of General Counsel (OGC) staff in the collection, review and preparation of documents and materials as required by the Courts during the discovery phase of litigation. Additionally, this system reduces the burden of the staff in the Freedom of Information Act (FOIA) Request Service Center during the collection, review and preparation of documents and materials in response to FOIA requests.
- Exterro also greatly reduces the volume of paper document collection. This software system decreases the need/or use of paper records and eliminates the need for potentially less secure digital tools that have previously been used in the capture, review and production of materials during litigation and in response to FOIA requests.
- The new system does not collect any categories of PII that were not already maintained in OGC's system of records for purposes of litigation.

Overview

- Exterro is an end-to-end discovery solution that provides a user-friendly, searchable, and secure e-discovery document management system to facilitate effective data collection, data analysis, data sharing, electronic discovery, litigation support, project collaboration and document review for OGC. This system is jointly funded by GSA’s Office of Information Technology (GSAIT) and OGC. The system reduces the burden on OGC staff in the collection, review and preparation of documents and materials as required by the Courts during the Discovery phase of litigation. Additionally, this system reduces the burden of the staff in the FOIA Request Service Center during the collection, review and preparation of documents and materials in response to FOIA requests.
- Exterro is used to collect, search and analyze information related to Agency litigation. The system also allows for identification of personnel for litigation purposes and for the issuance of relevant litigation holds.
- The FOIA office will be using the system to further search, collect, and organize FOIA relevant documents.
- Exterro collects relevant information for matters involving GSA employees as related to Agency Administrative matters/disputes and litigation.
- All data contained in Exterro is information that is collected/ derived from OGC

records pertaining to claims and litigation matters for which OGC represents the agency. Some information included in Exterro may be that which was provided by opposing counsel during the discovery phase of litigation as well. Exterro allows role- and project-based access to OGC attorneys who litigate and staff who assist the attorneys. Role- and project-based access is also available to FOIA personnel, all via a secure structure for gaining access and searching data.

Section 1.0 Authorities and Other Requirements

1.1 What specific legal authorities and/or agreements permit and define the collection of information by the application in question?

41 CFR § 105-53.138 and 41 CFR § 105-60.

1.2 What Privacy Act System of Records Notice(s) (SORN(s)) applies to the information?

Office of General Counsel Case Tracking and eDiscovery System, [GSA/ OGC-1](#), which was published in the Federal Register on October 2, 2017 (82 FR 45850).

1.3 Has a System Security Plan (SSP) been completed for the information system(s) supporting the application?

Yes, an SSP was completed as part of the Authorization to Operate (ATO).

1.4 Does a records retention schedule approved by the National Archives and Records Administration (NARA) exist?

Yes, OGC retains records pursuant to the retention schedule promulgated by NARA.

1.5 If the information is covered by the Paperwork Reduction Act (PRA), provide the OMB Control number and the agency number for the collection. If there are multiple forms, include a list in an appendix.

The electronic records, emails and attachments which may contain correspondence from outside vendors and/or contractors associated with the pending administrative dispute/manner or litigation are not covered by the PRA.

Section 2.0 Characterization of the Information

The following questions are intended to define the scope of the information

requested and/or collected, as well as reasons for its collection.

2.1 Identify the information the application collects, uses, disseminates, or maintains.

The application collects OGC personnel electronic records, emails and attachments which may contain correspondence from outside vendors and/or contractors associated with the pending administrative dispute/manner or litigation.

This could include, but is not limited to: name, date of birth, mailing address, telephone number, social security number, e-mail address, zip code, facsimile number, mother's maiden name, medical record number, bank account number, health plan beneficiary number, any other account numbers, certificate/license number, vehicle identifier including license plate, marriage record, civil or criminal history information, medical records, device identifiers and serial numbers, education record, biometric identifiers, photographic facial image, or any other unique identifying number or characteristic.

2.2 What are the sources of the information and how is the information collected for the application?

All data in the system is derived from OGC records pertaining to claim and litigation matters for which OGC represents the agency. The users and/or the GSA Google Mail team collect the data and provide it to OGC for upload into the system for review. Additionally, any other type of information (e.g. handwritten notes) will be collected by OGC staff and uploaded into the system for review.

2.3 Does the application use information from commercial sources or publicly available data? If so, explain why and how this information is used.

No

2.4 Discuss how accuracy of the data is ensured.

Exterro is not a primary information collection system. Because information in Exterro is obtained from other GSA recordkeeping systems, the accuracy of information is ensured through protections in the source systems themselves.

2.5 Privacy Impact Analysis: Related to Characterization of the Information

Privacy Risk:

The damage to individuals from release of PII and engagement in protected activity (e.g., Civil Rights complaints) is statutorily presumed.

Mitigation:

OGC mitigates the risk of unauthorized access and access for an other than authorized purpose by granting role- and project-based based access only to the OGC staff who have a need to know the information. All OGC staff are required to take mandatory privacy and security training.

Section 3.0 Uses of the Information

The following questions require a clear description of the application's use of information.

3.1 Describe how and why the application uses the information.

The system provides for the collection of information to manage and process claims, protests, administrative actions, and litigation cases in the OGC and FOIA request information that may be potentially responsive to agency FOIA requests.

All data in the system is derived from OGC records pertaining to claims, disputes and litigation matters for which OGC represents the agency. No information comes electronically from another system.

3.2 Does the application use technology to conduct electronic searches, queries, or analyses in an electronic database to discover or locate a predictive pattern or an anomaly? If so, state how GSA plans to use such results.

The application uses software to conduct electronic searches, queries and analysis only within the system itself. It does not use any outside databases.

3.3 Are there other components with assigned roles and responsibilities within the system?

No. Only OGC attorneys, support staff and FOIA personnel are assigned roles and responsibilities within the system.

3.4 Privacy Impact Analysis: Related to the Uses of Information

Assigned authorizations for controlling access are enforced through setup profiles and permission sets. Training is provided to ensure that data is used in a consistent and reliable manner. This system also provides for a SSO (Single Sign On) in order to prevent those without proper credentials from gaining access to the system.

Privacy Risk:

If the information in the system is misused, it could cause harm or embarrassment to individuals.

Mitigation:

As discussed above, role-based training is to ensure that data is used in a consistent and reliable manner and to decrease the risk that an authorized user will use the information for an unauthorized purpose.

Section 4.0 Notice

The following questions seek information about the application's notice to the individual about the information collected, the right to consent to uses of said information, and the right to decline to provide information.

4.1 How does the application provide individuals notice prior to the collection of information? If notice is not provided, explain why not.

Yes, Office of General Counsel Case Tracking and eDiscovery System, [GSA/ OGC-1](#), was published in the Federal Register on October 2, 2017 (82 FR 45850).

4.2 What opportunities are available for individuals to consent to uses, decline to provide information, or opt out of the application?

Exterro is not a primary information collection system. Therefore, any opportunity to consent or decline to provide information occurs at the point of original collection from the individual and is described in the relevant PIA and SORN for that system, from which the data are gathered. Because the litigation discovery process is compulsory, OGC may have little or no discretion to control how records about individuals are disclosed, and may only request that the court limit public disclosure of information by placing the information under seal or obligating the other parties to not further disclose it without court permission.

4.3 Privacy Impact Analysis: Related to Notice

Office of General Counsel Case Tracking and eDiscovery System, [GSA/ OGC-1](#), was published in the Federal Register on October 2, 2017 (82 FR 45850) and explains what the purpose of Exterro is and how OGC will use the system to ensure effective data collection, data analysis, data sharing, electronic discovery, litigation support, project collaboration and document review for addressing administrative claim/ disputes and litigation that is being handled by OGC.

Section 5.0 Data Retention by the application:

5.1 Explain how long and for what reason the information is retained.

Information is retained indefinitely as is necessary for retaining the documentary records of OGC's continuous representation of the Agency. The system stores and organizes key data points regarding every claim and litigation matter handled by OGC. FOIA records are maintained for 6 years in accordance with the retention schedule promulgated by NARA.

5.2 Privacy Impact Analysis: Related to Retention

Privacy Risk:

Information in the system may become out-of-date or inaccurate if it is retained indefinitely.

Mitigation:

The potential risk to individuals is mitigated by the fact that the files are only retained in relation to open cases. Individuals involved in those cases are notified via court-ordered processes.

Section 6.0 Information Sharing

6.1 Is information shared outside of GSA as part of the normal agency operations? If so, identify the organization(s) and how the information is accessed and how it is to be used.

The information is not shared outside of GSA except in cases where redacted records are required via a Court Order to be provided to opposing counsel during the discovery phase of litigation. Information may also be included in response to a proper FOIA request.

6.2 Describe how the external sharing noted in 6.1 is compatible with the SORN noted in 1.2.

The SORN notice states that this system will track and store electronic information, including imaged and paper documents, to allow GSA to represent itself and its components in court cases and administrative proceedings and respond to FOIA requests. This is the same type of external sharing that is noted in section 1.2.

6.3 Does the application place limitations on re-dissemination?

No. Because the litigation discovery process is compulsory, OGC may have little or no discretion to control how records about individuals are disclosed, and may only request

that the court limit public disclosure of information by placing the information under seal or obligating the other parties to not further disclose it without court permission.

6.4 Describe how the application maintains a record of any disclosures outside of the Agency.

Under the Privacy Act, OGC keeps an accurate accounting of any records that are disclosed from this system to a third party. OGC's accounting includes: the date, nature, and purpose of each disclosure of record and the name and address of the person or agency to whom the disclosure is made.

6.5 Privacy Impact Analysis: Related to Information Sharing

Privacy Risk:

Information must be shared with opposing counsel.

Mitigation:

To decrease the potential risk to individuals, OGC may request *in camera* reviews, protective orders, and similar protections to prevent others from disclosing sensitive info.

Section 7.0 Redress

The following questions seek information about processes in place for individuals to seek redress which may include access to records about themselves, ensuring the accuracy of the information collected about them, and/or filing complaints.

7.1 What are the procedures that allow individuals to access their information?

Individuals may request access to records about them in Exterro. All or some of the requested information may be exempt from access pursuant to the Privacy Act if the information is compiled in reasonable anticipation of litigation.

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the GSA's FOIA Officer or Privacy Officer: <https://www.gsa.gov/reference/gsa-privacy-program/privacy-act-of-1974>.

7.2 What procedures are in place to allow the subject individual to correct inaccurate or erroneous information?

Because of the nature of Exterro as a repository for records gathered from other GSA recordkeeping systems pursuant to discovery obligations or open records laws,

opportunities for the individual to correct inaccurate or erroneous information about themselves in Exterro are non-existent. Federal discovery rules and the FOIA require the preservation and production of records in GSA recordkeeping systems, notwithstanding the accuracy of those records. OGC is not permitted to modify those records even if they contain inaccurate or outdated information.

7.3 How does the application notify individuals about the procedures for correcting their information?

Because information in Exterro is obtained from other GSA recordkeeping systems, individuals are able to request correction of any inaccurate or erroneous information in the source systems themselves. Individuals seeking notification of and access to any record contained in Exterro or the source system, or seeking to contest its content, may submit a request in writing to the GSA's FOIA or Privacy Officer:

<https://www.gsa.gov/reference/gsa-privacy-program/privacy-act-of-1974>

7.4 Privacy Impact Analysis: Related to Redress

Privacy Risk:

The application does not allow users to directly access and correct/update their information online, which could lead to out-of-date information.

Mitigation:

OGC requests that those wishing to amend their records contact GSA's FOIA or Privacy Officer, in accordance with GSA's Privacy Act Rules at: https://www.ecfr.gov/cgi-bin/text-idx?SID=6154365ba5a35a9e40ac8912ebff0e88&mc=true&node=pt41.3.105_664&rgn=div5. Depending on the nature of records about them in Exterro, individuals may have the ability to access and correct information about them in the original agency recordkeeping system from which the Exterro records were retrieved.

Section 8.0 Auditing and Accountability

8.1 How does the application ensure that the information is used in accordance with stated practices in this PIA?

See system abstract above.

8.2 Describe what privacy training is provided to users either generally or specifically relevant to the application.

GSA offers annual privacy and security training. Additional training is provided on the

use of the system and the security protocols put in place.

8.3 What procedures are in place to determine which users may access the information and how does the application determines who has access?

See system abstract above

8.4 How does the application review and approve information sharing agreements, MOUs, new uses of the information, new access to the system by organizations within GSA and outside?

Currently, the system owner (OGC) does not have any information sharing agreements concerning this information, nor does it envision the expansion of the users of Exterro or the intended uses of the information collected and maintained in the system in such a way that an information sharing agreement would be required. In the event that such changes were considered, OGC would engage the GSA Privacy Office to discuss the intended expanded users and/or uses of this information and update the relevant privacy compliance documentation (including this PIA) as appropriate.