

When is a Computer Forensic Investigation Needed?

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Electronic discovery and computer forensic investigations often go hand in hand. The challenge for many in the legal community is how to identify what ESI (Electronically Stored Information) requires more than typical electronic discovery processing.

First, computer investigations are technically electronic discovery, and the line between the two disciplines will continue to blur. Several key differences are:

1. The qualifications and skills required by the individual performing collections and computer investigations
2. Computer investigations typically recover and analyze areas of the suspect media unavailable through popular electronic discovery software
3. Electronic discovery processing often involves a significantly larger amount of data
4. Most computer forensic applications do not create load files or produce tiffs or electronic bates numbers
5. Computer forensic investigations often require extensive detailed reports of the processes and findings, as well as appropriate affidavits, before the work can begin and then must describe the findings

Next, I'd like to identify some general case categories and tasks that involve a computer forensic investigator.

Case Categories:

- Employment disputes
- Misuse of company computer involving pornography, gambling, blackmail and fraud
- Embezzlement
- Breach of contract
- Software licensing
- Intellectual property theft
- Insurance fraud
- Sexual harassment

Typical Tasks:

- Recovering deleted files and emails
- Internet activity analysis
- Cell phone and smart phone analysis
- Metadata analysis
- Providing results, recommendations, and action plan

Even if a civil or criminal investigation doesn't fall within these case categories, you may still need to involve a computer forensic investigator. Why? Because it is no secret that computers are used as a

primary source for communication, work product, and research. The listed tasks could apply to investigating almost any suspect involved in a civil or criminal law suit.