



INTERNAL INVESTIGATIONS BENCHMARKING REPORT

*Enhancing Technology and
Embracing Best Practices*

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INTRODUCTION

Whether for human resources investigations of possible employee wrongdoing or legal department reviews to facilitate regulatory compliance, organizations increasingly need to conduct thorough internal investigations. Despite the challenges presented by decentralized infrastructure and remote-first workplaces, investigators and legal professionals must be able to initiate and conduct investigations discreetly, remotely, and securely. But given the private nature of internal investigations, many organizations aren't able to benchmark their practices and capabilities.

This survey report addresses this blind spot.

Exterro and **EDRM** partnered to develop a short questionnaire covering topics of interest to legal professionals, forensic investigators, and HR leaders. With over 70 respondents from more than 10 industries, representing organizations with revenues from under **\$1 million** to over **\$1 billion** a year, this report gives a glimpse behind the curtain at how organizations uncover the facts around potential employee wrongdoing, regulatory compliance, civil litigation, and more.

[Read on to benchmark your organization on:](#)

- › Number of internal investigations
- › Legal hold usage and technology in internal investigations
- › Forensic technology use in internal investigations

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NOTE: Survey responses have been rounded to the nearest whole percentage, which may result in some inconsistencies when grouping or adding data results.



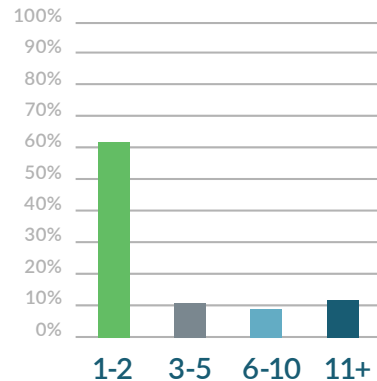
The Frequency of Investigations

SHOWCASING THE NEED FOR TECHNOLOGY

Looking at the overall figures, internal investigations seem rare, with over **60%** of respondents conducting one or two investigations per month. Digging down into the data, however, paints another picture.

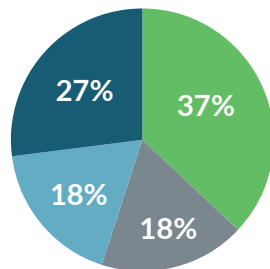


How many internal investigation matters do you have monthly?

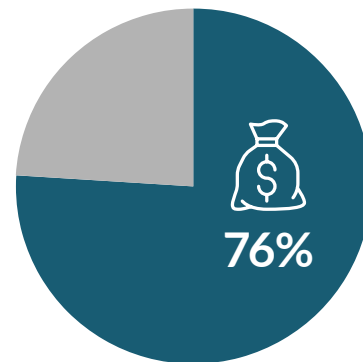


Organizations over **\$1 billion** in annual revenue conduct investigations much more frequently, with **45%** conducting six or more investigations per month.

1-2 per month	37%
3-5 per month	18%
6-10 per month	18%
11+ per month	27%



Of organizations conducting six or more investigations per month, **76%** earned over **\$500 million** in revenue per year.



Key Takeaway

Enterprises and aggressively growing mid-market companies should expect investigatory workloads to increase—and [invest in technology](#) accordingly.



Expert Analysis



Mary Mack,
CEO and Chief Legal Technologist
for EDM

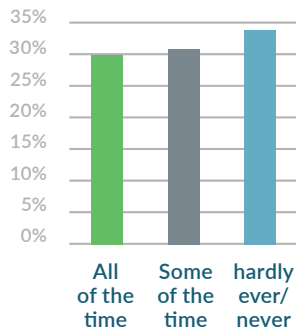
“It’s no surprise that larger organizations conduct more internal investigations than smaller ones, but even a steady flow of one or two investigations per month requires a defined investigatory process, dedicated technology, and trained personnel. Between HR issues, regulatory compliance, and cyber-incidents, organizations shouldn’t expect investigations to go down anytime soon.”

Legal Holds and Investigations

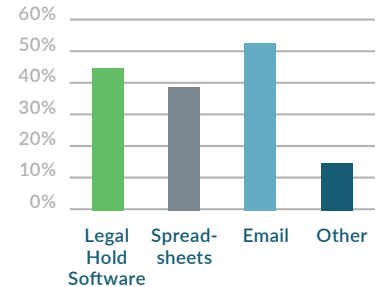
UNDERSTANDING BEST PRACTICES

There does not appear to be a consensus on processes, with an almost even division between those who always, often, or rarely use legal holds during internal investigations. Organizations conducting frequent investigations (six or more per month) do issue legal holds more than half the time (53%) and use dedicated [legal hold software](#) more often (65%), but those figures mean significant numbers of organizations are still using ad hoc processes and toolkits to maintain defensibility.

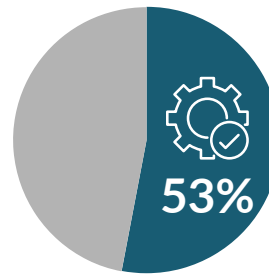
How often do you use legal holds for internal investigations?



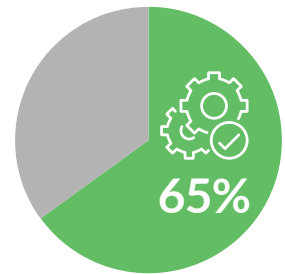
How do you manage the legal hold process for the internal investigation process?



Organizations Conducting 6+ Investigations per Month



always issue legal holds



use dedicated legal hold software

Key Takeaway

An internal investigation can justifiably be seen as an indicator of the “[reasonable anticipation of litigation](#),” and therefore the need to issue legal holds to preserve ESI.



Expert Analysis



David Cohen,
Partner and Chair of Records and E-Discovery Group, ReedSmith

“ There could hardly be more disparity in whether respondents use legal holds for internal investigations: about 1/3 use holds all the time, 1/3 use them some of the time, and 1/3 never or almost never use holds for internal investigations. Considering that internal investigations are often a precursor to external investigations, legal claims, or other significant company actions, these results suggest that many companies could benefit from having better established and defined processes for their internal investigations, including appropriate use of legal hold processes to secure information that could be or become important evidence in legal proceedings.”

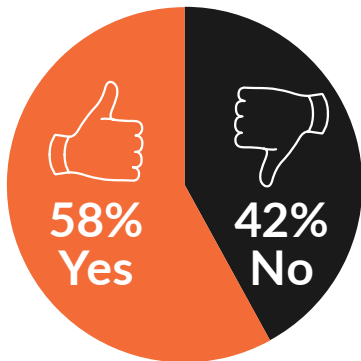
Silent Legal Holds

PREVENTING POTENTIAL SPOILIATION

Do you have a way of sending out a “**silent**” or “**discreet**” legal hold notice to preserve data without custodians knowing about the legal hold?

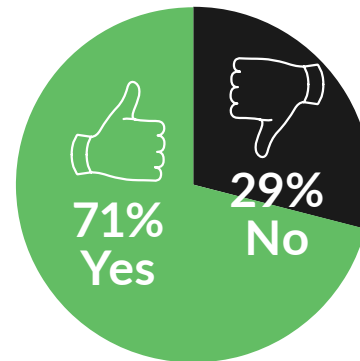
All respondents:

58% Yes, 42% No



Organizations Conducting 6+ Investigations per Month:

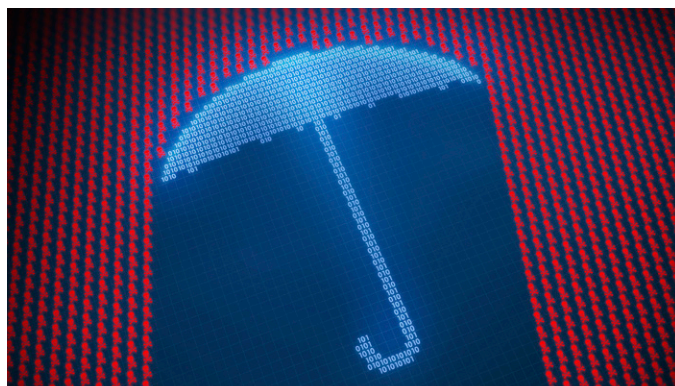
71% Yes, 29% No



Eliminating the respondents answering “don’t know” demonstrates solid majorities of organizations, especially those conducting more frequent investigations, using silent legal hold technology. **58%** of respondents using advanced technology capable of silent legal holds (or in-place preservation) compared to **42%** of respondents not having that capability. The proportion of teams using silent holds rises to **71%** among organizations with six or more investigations per month.

Key Takeaway

Most organizations take an extra step to protect relevant data against accidental or intentional tampering or deletion with silent legal hold technology or [in-place preservation](#).



Expert Analysis



Jenny Hamilton,
General Counsel, Exterro

“*Silent legal holds offer advantages in contentious legal matters, preventing bad actors from spoliating relevant data, as well as inadvertent data loss. It’s encouraging to see that the majority of legal teams using legal holds in investigations recognize the benefits of taking proactive steps to preserve data against possible spoliation.*”

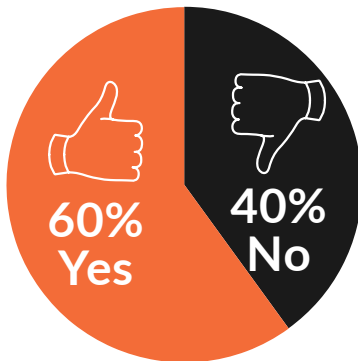
Forensic Collections in Internal Investigations

DEMONSTRATING THE BENEFITS OF DEFENSIBILITY

Do you use forensic software like FTK® to collect and analyze evidence in investigations?

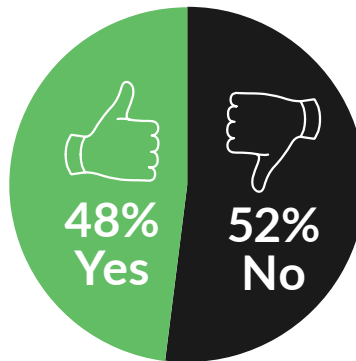
All respondents:

60% Yes, 40% No



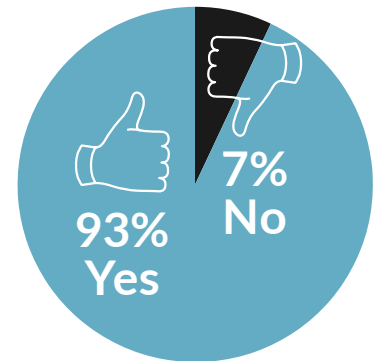
Organizations conducting 5 or fewer investigations per month:

48% Yes, 52% No



Organizations conducting 6 or more investigations per month:

93% Yes, 7% No



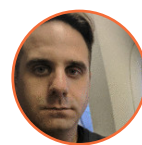
Eliminating respondents who answered “don’t know” reveals a stark divide in best practices for internal investigations. Even more than legal hold software, organizations conducting frequent investigations see the benefit of using forensic software like [Exterro FTK](#) at least some of the time.

Key Takeaway

The rapid proliferation of new technologies is making [forensic technology mandatory](#) for organizations conducting internal investigations.



Expert Analysis



Justin Tolman,
Forensic Evangelist, Exterro

“ *The private sector is becoming more aware of the benefits of forensic collections in internal investigations. Many investigations of this sort can have criminal, in addition to civil, implications. While internal investigators aren’t prosecutors, there’s a benefit to collecting ESI knowing that it can meet the higher evidentiary standard required in such cases. It is better to have forensically collected the data and not need it than to need it and not have it.* ”

KEY TAKEAWAYS

In today's environment, internal investigations are frequent occurrences—even more so at larger organizations. Bringing together departments including IT, human resources, and legal, investigations have variable purposes, requirements, and procedures, but in all cases, technology is a must. From preserving evidence, to collecting it, to analyzing it, organizations can choose a wide range of software solutions, from point tools to integrated product platforms.

When you're evaluating what technology you need to meet your organization's needs, make sure to consider the following:

- › Organizations that conduct frequent investigations can achieve benefits by adopting circumspect policies and advanced technologies.
- › [Legal hold software](#) preserves evidence and reduces the likelihood of spoliation, while using silent holds allows investigators to operate discreetly.
- › [Digital forensic technology](#) empowers investigators to complete investigations more discreetly and more thoroughly, reducing the likelihood of reaching an incorrect or indefensible outcome.
- › Holistic [legal governance, risk, and compliance software](#) unites all of these capabilities in a single software suite, making it easier to complete thorough investigations quickly and accurately.

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NOTE: This survey report is based on data collected from 76 respondents between April 18 - May 3, 2022. Organizational revenue broke down with 38% under \$100 million, 26% between \$100 million and \$1 billion, 29% over \$1 billion, and 7% not responding. Respondents represented industry groups including but not limited to business and financial services (24%), technology (20%), manufacturing (8%), energy (4%), and several others. In return for their responses, participants received early access to the survey results and a \$20 donation to a charity of their choice.

