How Many Potential Forms Of ESI Can You Spot In The Penn State Scandal?

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For those of you thinking that ESI is just e-mail or that it is not involved in every case – think again! Everyone has been reading about the Penn State Scandal, but how many of us are thinking about all the forms of ESI that might be relevant in the lawsuits that are sure to arise. Let's think about it. In a way, this could be a law school exam question – let's frame it as such:

Identify all possible actions and parties arising out of thePennStateevents and all possible forms of ESI that might become relevant in the actions.

Possible parties to an action include: various alleged victims, the university, Paterno, Sandusky, any and all individuals involved in the alleged abuse and alleged cover-up and the Second Mile Foundation (the foundation founded bySandusky).

Now, as to the forms of ESI – this could be endless. Let's start withSanduskyhimself. We would look for personal e-mails, credit card records, personal computers to look at websites visited, personal video camera or cell phone camera, personal e-mail addresses and e-mails therefrom to victims, the university, the Foundation that might all be relevant. We would also look for cell phone records, GPS records, car computer records, text messages, travel records, flash drives, EZ Pass records, social media sites, telephone records, PDAs and bank records. These records would also be requested for any individual named.

Next, the university: We would look for emails, databases of student records, computer saved personnel files, all information regarding relevant employees or trainers, football medical staff, maintenance personnel who allegedly witnessed abuse, security cameras, financial records, credit card records if Paterno or Sandusky were given same; reimbursement forms, flight information, hotel receipts, medical records, student attendance records, phone logs, key codes or some sort of electronic records to gain access to the athletic facilities, and of course backup tapes of any computer used by the people involved.

Finally, the Second Mile Foundation: All electronic records of possible victims participating in any programs, donors, board of directors, staff, officers including credit card receipts, web histories, financials and attendance records.

One potential problem that may arise is accessibility. Some of this information is rather old by ESI standards at this point. Think about how often you change cell phones – likely every two years when your contract is

renewed. Computer systems and programs? Individuals rarely think about litigation when changing their home systems. This could lead to huge issues.

If you were able to come up with the above lists on your own you have something to be thankful for this Thanksgiving. If not, you can make it your New Year's resolution this year to follow this blog and get up to speed on e-discovery. Happy Holidays!