Records Management:

The Anathema of Texting Public Records

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What is a public record?

. . . documents a
transaction or activity . . .

> *Regardless of physical form or
> characteristic . . .*

. . . is produced, collected,
received or retained in
pursuance of law or in
connection with the transaction
of public business.

COV § 42.1-77

It must be managed!!

The agency shall be responsible for ensuring that its *public records are preserved, maintained, and accessible throughout their lifecycle, including* converting and migrating *electronic records* as often as necessary *so that information is not lost* due to hardware, software, or media obsolescence or deterioration. Any public official who converts or migrates an electronic record shall *ensure that it is an accurate copy of the original record.*

COV § 42.1-85

After years of avoiding creating a public record when texting….
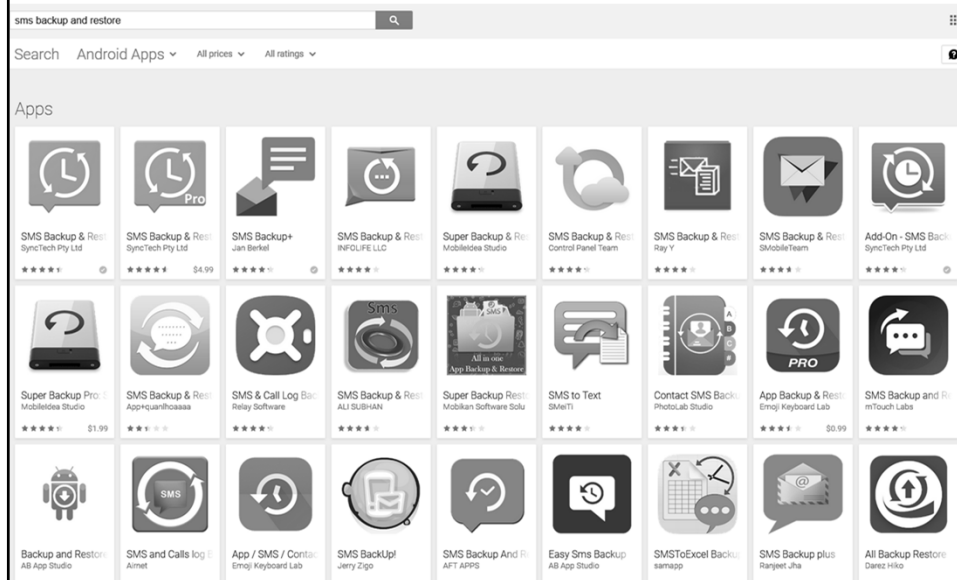
Me	Apr 9, 2018 10:56:34 AM	⋮
Just checking in... any word?		

J	Apr 9, 2018 11:00:18 AM	⋮
Nothing yet. I'll check with them		

Me	Apr 9, 2018 11:01:22 AM	⋮
Ok. Of course, you do know what we've done here?		

J	Apr 9, 2018 11:01:45 AM	⋮
Created a record?		

Me	Apr 9, 2018 11:02:05 AM	⋮
Created a record!		

So many backup/restore apps…
So little time to research them!

From the first one chosen:

A successful display of the text thread in the backup app on phone.

But, several attempts to access the thread via the xml file were unsuccessful.

On right, an unsuccessful conversion from backup to PDF...blank lines are missing texts.

		4:34:05 PM	
Received	Apr 6, 2018 4:35:16 PM	Ok on travel. I'm not sure on the Hangouts issue. I'm leaning towards waiting until Monday or mention it	
Sent	Apr 6, 2018 4:45:15 PM	I'm up with that. You have a good weekend. Just let me know about Monday morning.	
Received	Apr 6, 2018 4:46:05 PM	Will do to both.	
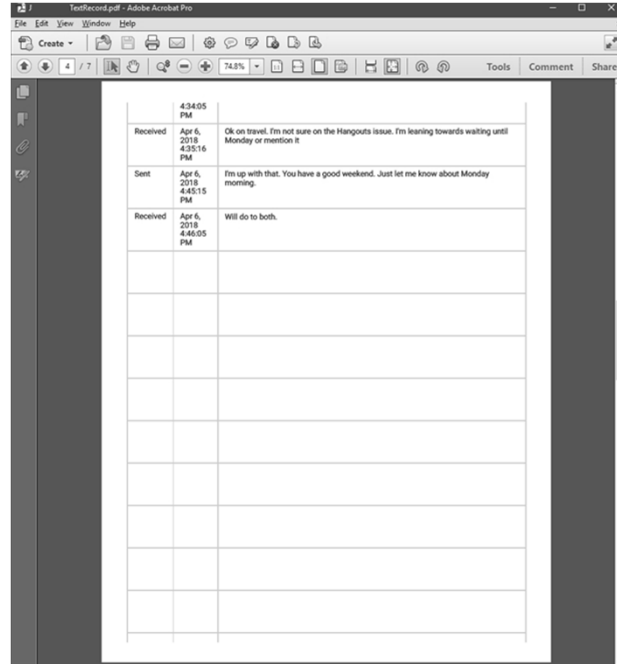
The apparent reason: Images/emojis didn't convert to the desktop pdf. The emoji and all of the text following it on the same pdf page were dropped.

Sent	Apr 6, 2018 4:45:15 PM	I'm up with that. You have a good weekend. Just let me know about Monday morning.
Received	Apr 6, 2018 4:46:05 PM	Will do to both. 🔘 Have a good weekend

Sent	Apr 6, 2018 4:45:15 PM	I'm up with that. You have a good weekend. Just let me know about Monday morning.
Received	Apr 6, 2018 4:46:05 PM	Will do to both.

Another app successfully backs up SMS/MMS texts to a label in a designated Gmail account, saving everything to an e-mail format. Everything is readable, but this app can restore to the device only the SMS messages.
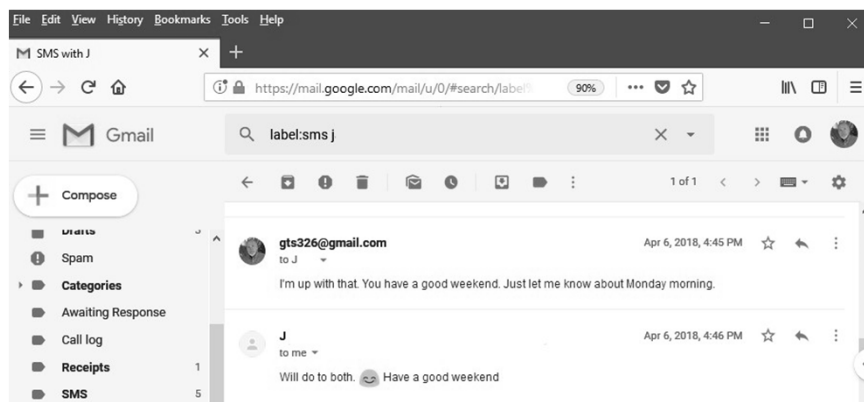
The Lessons…in a nutshell

For FOIA/discovery: Research the proposed software to confirm that all relevant records (including images) are captured, the non-records can be separated, and what is subject to a records request/discovery is deliverable in a readable format.

For Backup/Restore: If required, confirm that what is backed up to a remote service can be restored to the device in the same format.

Mobile Device Management

Sample requirements for SMS/MMS management via a service

The service provider:
• Acknowledges that public records created or collected through mobile devices and the administration of mobile devices are subject to the Virginia Public Records Act (VPRA) § 42.1-76 et. seq., and are the property of the Commonwealth.
• Must facilitate the ability of device users and administrators to comply with the VPRA and records retention schedules.
• Must provide capability for the user to identify, backup, and export records, including metadata, created or collected in the use of mobile devices.
• Must provide a method to retain, per appropriate retention schedules, records (e.g., text-messages, photographs), including metadata (e.g., to/from names, phone numbers, send date/time, content of message) created or collected in the use of mobile devices.

There's always the…
Library of Virginia's "Statement on the use of text messaging and private e-mail"

The use of personal e-mail accounts by state and local government personnel, whether elected, appointed, or employed, to conduct the people's business is not recommended. Whenever a government office does not have control of its records it does not have the ability to maintain or provide access to those records. *The Library of Virginia strongly encourages all public officials to* use official government e-mail accounts for public business and *refrain from conducting government business by text messaging.*