Records Management Responsibilities of Law Librarians

Integrating library services into a legal organization’s RIM program

By Lee Nemchek

Directing the records and information management (RIM) function in a business organization is a little like herding cats. Even when the organization has an established program with published policies and procedures, it’s difficult to keep everyone on the same path, moving in the same direction, toward the same information governance and compliance goals.

The “cats” are the organization’s business units, or operating departments, each with its own culture, structure, and established processes (personality) and each functioning somewhat independently. The larger and more complex the organization (herd), the more challenging it is to exert influence over the various units and persuade them to act and react as a unified body.

Cat metaphors aside, even largely homogeneous organizations like law firms—in which the largest chunk of personnel (lawyers and legal assistants) comprises the core business unit—require a multitude of administrative services to support the legal work. Historically, however, records management in law firms has focused almost exclusively on one record type: the client/matter file. Only in the past 10 years—since September 11, the Enron/Arthur Andersen debacle, Hurricane Katrina, the Zubulake decisions, and other events focused media spotlight on records management and protection—have law firms begun to pay attention to records created, organized, used, and stored by support departments.

As RIM has evolved as a discipline and a profession, so too have RIM operations in legal organizations. Private firms are perhaps the most radical example of this evolution. Whereas in the recent past law firm records management was a fairly low status/low respect function that concentrated mainly on filing papers and packing boxes, today’s large law firm records manager may be a “C” level director of loss prevention, with access to the highest echelons of firm management and responsibility for multiple risk-related functions, including docket, conflicts, client/matter intake, data security and privacy, and e-discovery.

The Emergence of Information Governance

Despite these positive developments, RIM in all but the most forward-thinking law firms remains specialized and fairly limited in scope. In general, law firm personnel, including the lawyers, do not fully understand what is involved in developing and running a comprehensive, legally-defensible RIM program.

Recently, however, there have been signs that the legal industry is poised to turn a corner in this regard. The theme of LIT-CON 2011, a one-day conference sponsored by ARMA International and the International Legal Technology Association held last month in Washington, D.C., says it all: “Information Management: The Road from Operations to Strategic Information Governance.” Promotional materials for the conference confirm that “the evolution from operational recordkeeping to strategic information governance” in law firms and corporate law departments has been a long time coming and that much education is needed “to successfully navigate this changing legal landscape.”

“Information governance” is, in fact, the current buzzword of the RIM profession. ARMA International’s Maturity Model for Information Governance (www.arma.org/garp/metrics.cfm), based on eight Generally Accepted Recordkeeping Principles (GARP), has dominated RIM education and publications since its introduction in April 2009. This model will eventually make inroads into law firms and other legal organizations, and the time is ripe to prepare for this future state of affairs.

This brings the discussion back to the earlier cat metaphor. If law firms are to embrace information governance as a best practice, they’ll need to broaden the scope of their RIM programs to include types of records other than the client/matter file, i.e., records created and used by the firm’s support departments (cats).

Many business units are common across all industries. These include tax, accounting (payables, receivables, billing), human resources (personnel, recruiting, benefits), facilities (mail, messenger, supplies, equipment, physical plant), marketing, and information technology. Other units, such as professional development, operate in some, but not all, organizations.

Finally, some support departments are uniquely associated with the legal profession, e.g., client/matter intake, conflicts of interest, and docket/calendar. The remainder of this article looks at one cat—library services—and examines in depth the various activities and responsibilities associated with integrating this department into a legal organization’s RIM program.

RIM 101 for Law Librarians

This article is not meant to be a primer on organizational records management; however, certain RIM 101 concepts are central to understanding law librarian responsibilities. One of these is the concept of the records coordinator or liaison, which is defined in the Glossary of Records and Information Management Terms (ARMA Int’l, 2007) as “the individual responsible for coordinating records management activities within a department and acting as liaison between the department and the records manager/administrator.”

Business unit RIM liaisons enable organizations of all sizes—including huge, multinational companies employing 10,000 or more people—to hire one global records manager, with perhaps a few assistants. The RIM department develops enterprise policies, procedures, and training programs, and the
liaisons are responsible for implementing these within the business units.

Clearly, then, the first order of business when integrating the library into an organization’s RIM program is to appoint one or more RIM liaison for the department. The liaison may be a library manager or senior librarian, but any library staff member possessing aptitude and desire can fill this role.

**RIM-Related Reference Work**

Whereas the liaison’s responsibilities are administrative in nature, a second category of library-related RIM activity falls squarely under the heading of reference work. The two professional activities detailed below are unique because they require a deeper understanding of RIM practice and procedure than is common among law librarians.

The first activity is reference work that supports client matters in the area of records and information management. Such reference work may be extensive, depending on a law firm’s practice areas. In addition, ongoing collection development in RIM to support the reference work is a necessity for firms that market RIM-related expertise, such as the Information Governance Group at Husch Blackwell (www.hushblackwell.com/information-governance) and the e-Discovery Analysis and Technology Group at K&L Gates (www.ediscoverylaw.com/promo/ediscovery-analysis-technology).

The other activity is legal research to support records retention. For hundreds of types of records that an organization creates and uses, there are statutes and regulations that dictate how long these records must be kept and, in some cases, where they must be kept and in what format. In the absence of such laws, every organization sets administrative or operational recordkeeping rules to ensure that business records are readily available when they are needed.

A **retention period** is “the length of time a record must be kept to meet administrative, fiscal, legal, or historical requirements,” and a **retention schedule** is a comprehensive inventory of record types, “indicating for each the length of time it is to be maintained and its disposition” (Glossary, 2007).

There are several different models used by organizations to obtain the legal and regulatory source material upon which a retention schedule is built:

- **Hire a law firm to research and deliver the legal sources**
- **Hire a RIM consultancy to research and deliver the legal sources**
- **Subscribe to a retention rules service, such as Fontis International’s Legal Data Service** (www.fontisinternational.com/products/legal-information) or Information Requirements Clearinghouse’s Retention Manager and Retention Wizard (www.irc.com/products)
- **Use in-house legal personnel**
- **Use in-house library personnel**

The options above are listed in order of cost (highest to lowest); consequently, it makes economic sense for a legal organization to use a combination of its lower-cost personnel resources—associates, summer associates, interns, paralegals, and law librarians—to research and document records retention sources for the enterprise. Again, organizations using this approach must also evaluate, select, and maintain primary and secondary source materials, print and/or electronic, to support the records retention research.

**Business Unit RIM Liaisons**

As stated earlier, RIM liaisons handle the lion’s share of department-level RIM work. For library department RIM liaisons, primary responsibilities are as follows:

- **Serve as liaison between the business unit (library department) and the RIM department.** The liaison is the main source of information about the records and recordkeeping practices of the library department.
- **Provide training on RIM policies and procedures to library personnel.**
- **Identify library-owned vital records that may be critical to the ability of the organization to continue its operations without delay in the event of a disaster or other business interruption; assist in the development and implementation of protection strategies for such vital records.** Library-owned records are those original or official record copies that are maintained by the library department throughout their lifetimes (creation to final disposition).
- **Serve as the business unit contact for RIM emergency management procedures as these pertain to library records.**
- **Identify and process library records that may be appropriate for long-term storage in an offsite location (boxing and indexing).**
- **Coordinate the logistics of departmental moves as these pertain to physical records that are maintained in onsite filing equipment (shelves, drawers, cabinets, etc.).**
- **Work with RIM and IT to develop and implement appropriate classification schemes and filing systems for paper and electronic library records.**
- **Conduct records inventories to identify, categorize, and analyze library-generated and/or library-owned categories of records.**
- **Identify the media format—e.g., paper, binders, microforms, maps, photographs, digital images, electronic data, etc.—of official record copies of business records and distinguish these from duplicates, extra copies, working copies, and other non-official record formats.**
- **Recommend retention rules for categories of library records not covered by statute or regulation.** Developing retention rules involves identifying both the event that triggers the beginning of a retention period—e.g., calendar year end—and the period itself.

---

**Selected Records Retention and Disposition Resources for Public-Facing Law Library Organizations**

- **Cleveland State University, College of Law and Law Library, General Records Retention Schedule** www.clevelandstate.edu/offices/recordretention/schedules/collegelaw.pdf
- **New York State Archives, Government Records Services** www.archives.nysed.gov/a/records/mr_pub6_accessible.html
- **New York State Division of Court Operations, Office of Records Management** www.courts.state.ny.us/admin/recordinmanagement/OCA/OCA_LawLibraries.pdf
Because retention of most library records is governed by administrative/operational value as opposed to legal or fiscal requirements, library personnel must act as the arbiters of operational value.

• Subsequent to approval by corporate counsel and official adoption by the organization, implement the retention rules by applying them to print and electronic record stores, both retroactively (if applicable) and proactively. This activity includes ensuring that final disposition of records—destruction, transfer, or permanent preservation—is carried out securely and confidentially.

• Maintain the library department’s RIM program components and audit its compliance with RIM policies and procedures. These activities entail:
  — Informing the RIM department about new library record series that are not represented in the organization’s retention schedule.
  — Reviewing new and revised laws and regulations that may affect the retention of library records.
  — Updating library policy and procedure manuals with current RIM language.
  — Notifying RIM of new/revised library policies and procedures that affect recordkeeping.
  — Periodically monitoring the department’s record stores (paper and electronic) to ensure that library personnel are following classification, naming, labeling, and filing standards.

In an information governance environment, it is a best practice to include liaison duties in the library staff member’s job description. Doing so ensures that RIM is a valued, primary responsibility of the position and not lumped under “additional tasks as may be assigned by supervisor.”

Library Department Records Series
As noted above, the library department must inventory its records in order to categorize and analyze them for retention purposes, and conducting the inventory is an important liaison responsibility. It’s easier to inventory and schedule records when a list of departmental record types—referred to as record series—is available to use as a starting point.

Many law libraries associated with public-facing institutions or government agencies have a governing retention schedule, including universities, associations, courts, district attorneys’ offices, and law enforcement. Such schedules are generally required by the parent institution or agency, and many are available online (see the reference list on page 10). However, these schedules are not especially specific or comprehensive, and reviewing them does not provide much help in cataloging the wide range of record series that law libraries create and use. The annotated list of library department record series provided starting on this page includes records found across various types of law libraries, although it focuses less on records commonly found in the public and academic sectors that are not unique to the legal environment. Examples of generic library records not included on the list are fund-raising records (grant proposals, gift, donor, and volunteer records, etc.), library board records (member rosters, committee meeting agendas and minutes, election records, etc.), and records documenting cooperative interlibrary network relationships.

In addition, for some official records series that are owned by other business units, the list does not include duplicates that may be kept by the library. One example of duplicate records commonly maintained by the library is accounts payable records (invoices, purchase orders, and payment vouchers). The list below is loosely ordered by library functional area.

• Materials inventory; list or report produced via catalog records or other means; important for insurance valuation, emergency preparedness/business continuity planning (BCP), and tax documentation; may be considered a vital record for the library department (although not vital for the enterprise).

• Offsite storage inventories of inactive library materials stored apart from the organization’s primary library space, e.g., a commercial vendor warehouse or garage-level storage; specifically for organizations that do not have a centralized records management database—either company-owned or vendor provided—that captures offsite storage documentation.

• Purchase and sale records of used library inventory (both reference materials and equipment).

• Tax/insurance valuation records; documentation of formal collection valuation activity conducted pursuant to an internal firm or external agency audit.

• Office sets distribution lists.

• Periodical/current awareness distribution lists.

• Automation documentation, sometimes referred to as a systems map; inventory of hardware and software purchased or licensed for the benefit of the library department, including current and superseded user manuals.

• Web development records for library portals and internet pages, both internally and externally facing.

• User login ID and password lists for systems and databases managed centrally by the library department; may be considered a vital record for the enterprise.

• Reference request work papers and final deliverables.

• Budget work papers and final deliverables.

• Reports and proposals to senior management.

• Library policy and procedures manuals.

• BCP plans and implementation procedures; records of BCP testing performed by the library department and/or emergency preparedness protocols that are unique to the library department.

• Space planning records; documentation of original construction and build-outs of library space, including sketches, blueprints, space planning and architectural meeting notes, etc.

• Vendor contracts.

(continued on page 19)
records management  continued from page 11

- Vendor correspondence, e.g., account reconciliation records, complaints, returns, etc.
- Project files.
- Request for proposals (RFPs) and RFP responses from both accepted and rejected vendors.
- Third-party consultant deliverables.
- Incoming and outgoing personnel checklists documenting onboarding and separation processes as they pertain to the library department.
- Library manager's HR files; unofficial employee-related working files kept by the library manager outside of the HR department.
- Library manager's recruiting files; records and notes created by the library manager (not the HR department) for library personnel recruiting purposes; may be official or unofficial.
- Activity metrics, e.g., number of reference requests received and completed; number of interlibrary loan requests received and processed, new titles purchased, etc.
- Training records; documentation of training provided to both library staff and the library's user population.
- Library personnel professional development records.
- Continuing legal education (CLE) records; depending on the level of involvement of the library department, may include attendance tracking records, authorized provider documentation, and presentation materials.
- Historical/archival records and artifacts; anything safeguarded by the library that documents the history of the organization or that has specific historical significance/value to the organization or any of its personnel, to the legal profession, or to a specific locale (city, county, state), including an item inventory/index.
- Archive of published work by the organization's personnel (books, articles, and presentations) and an item inventory/index.
- Library publications (internally-produced): newsletters, bulletins, pamphlets, brochures, pathfinders, reference guides, bibliographies, etc.
- Professional literature: law library journals, magazines, newsletters, association publications, conference binders/disks, etc.
- Public relations records documenting promotions, contests, exhibits, and similar library marketing initiatives.
- Awards, press coverage, and documentation of other special recognition won/earned by the library department or individual staff members.
- Feedback and survey records: user satisfaction surveys and records from other polling and information gathering activities; complaints; unsolicited feedback (positive and negative).
- Department administration records: staff meeting agendas and notes, committee meeting notes, calendars and call logs, shift coverage records, general correspondence and internal memos, social events, holiday cards, and courtesy gifts, etc.
- Copyright permission request records.
- User account records.*
- Circulation records.*
- Interlibrary loan records.*
- Computer-Assisted Legal Research (CALR) usage reports and historical metrics.*
* For certain types of law libraries, these records may contain non-public, personally-identifiable information and, consequently, may be subject to privacy laws.

Conclusion

As law firms of all sizes continue to adopt corporate management models, it is advantageous for law librarians to position the library as a business unit with a role and responsibilities that go beyond the traditional provision of legal information services.

However, the responsibilities discussed in this article are in some ways only the tip of the RIM iceberg. Adding an information governance component to a law librarian’s already-packed full-time job should not be undertaken lightly, but one benefit of doing so is getting the library’s recordkeeping house in order.

Librarians interested in increasing their knowledge of RIM and information governance in the legal environment will find assistance readily available through professional association education, publications, and networking.

Lee Nemchek (lnemchek@oaktreecapital.com) is vice president of global records management at Oaktree Capital Management, LP, in Los Angeles and previously was a law firm librarian/records manager for 25 years.

memorials

AALL Spectrum has been advised of the deaths of Scott L. Fisher and Sandy Lamar.

Mr. Fisher received his bachelor’s degree from Kean University in 1980 and his master’s from Rutgers University in 1983. He joined AALL that year and began his career working in law firm libraries; he most recently was director of library services at McCarter & English, LLP, in Newark, New Jersey. Mr. Fisher was a long-time member of the Private Law Libraries and Social Responsibilities Special Interest Sections.

Ms. Lamar graduated magna cum laude from New England Law in 1994 and, after working several years in private practice, became part of the library’s full-time staff in 1989, the same year she joined AALL. Lamar served as the New England Law/Boston Law Library’s computer services reference librarian.

AALL Spectrum carries brief announcements of members’ deaths in the “Memorials” column. Traditional memorials should be submitted to Janet Sinder, Law Library Journal, University of Maryland At Baltimore, Thurgood Marshall Law Library, 501 W. Fayette Street, Baltimore, MD 21201-1768; jsinder@law.umaryland.edu.

AALL Spectrum  November 2011 19