

PROMOTING DATA COMPETENCY IN LAW FIRMS

HOW LAW LIBRARIANS
CAN LEAD THE CHARGE
TO HELP FIRMS MASTER
DATA ANALYTICS AND NEW
LEGAL TECHNOLOGIES.

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When we consider just how central data and technology are to the legal profession, it becomes increasingly imperative to distinguish between data literacy and data competency. Data literate legal professionals understand that data analysis can help them make smarter decisions, are comfortable interacting with data, and occasionally use data-based insights to create a strategic advantage in a legal or business context. Law librarians and knowledge managers, for example, need data literacy given the nature of the work they do, and there is an increasing expectation that lawyers be data literate as well.



Data Literacy Is No Longer Enough

While most of us understand that data literacy is valuable and necessary, as legal work becomes increasingly data-driven, data competency will be the standard by which all legal professionals—not just information professionals—are measured. Legal professionals who are data competent have resolved to move beyond basic awareness and have placed data analytics at the center of their everyday activities. Data competence implies a high level of comfort with newer technologies and

real expertise in applying them to real-world problems.

Data competent professionals make frequent use of a variety of advanced tools for finding, analyzing, and manipulating data in order to be able to make the best possible tactical and strategic decisions in particular use cases. They can immediately match appropriate tools to specific legal or business problems, and they can use those tools confidently and efficiently because they use them regularly, every day.

Many librarians have already attained data competence and are actively investigating new capabilities and new tools as an integral part of their jobs. The legal profession urgently needs their help, both in getting lawyers to grasp the importance of data competence and in providing hands-on training so lawyers can integrate data-based tools into their existing workflows.

Lawyers are trained to understand the intricacies of the law, but few have had any training in legal technology. When they are trying to size up opposing counsel, attempting to understand the litigation history of opposing parties, setting motion strategy before a particular judge, or trying to anticipate how long it will take to litigate a particular case, they are accustomed to relying on their own experience, anecdotal information from colleagues, and, sometimes, nothing more than a hunch. That needs to change.

Law Librarians Can Lead the Charge in Data Competency

How can law librarians take the lead in promoting data competency among lawyers?

First, they can take responsibility for due diligence when it comes to adopting technology tools. Forward-thinking law librarians are already driving adoption of data analytics in both the practice of law and business of law. To be effective in this role, they

need to stay up to date on technology developments and marketplace trends. Data analytics in the legal industry is still in its infancy. Lawyers and legal executives need lots of help distinguishing between a bewildering array of products. Law librarians are perfectly positioned to compare and evaluate these resources. They can use their research expertise to develop sample search queries that will illuminate the strengths and weaknesses of specific solutions. They can also help the profession develop more objective criteria for evaluating factors such as ease of use.

A recent presentation at the American Association of Law Libraries (AALL) Annual Meeting described an example of the kind of leadership that law librarians can provide to a profession that is seriously in need of guidance. In the example discussed, a group of experienced information professionals from a variety of backgrounds and job roles collaborated on a project to provide law librarian colleagues with a deeper understanding of litigation analytics. They investigated the ways in which products are not comparable, established test parameters and developed sample questions, engaged in hands-on testing, published their results (with appropriate caveats), and provided honest feedback for vendors serious about improving their offerings. These are activities that very few lawyers have the time or interest in pursuing.

In any effort to evaluate legal analytics tools, it will be crucial to address the challenges presented by one of the primary sources of data for legal analytics solutions: Public Access to Court Electronic Records, or PACER, which is a massive dataset of federal litigation data that is growing by around two million cases per year. However, PACER has serious data gaps, its classification of cases and filtering rely heavily on its Nature of Suit (NOS) codes, and its raw data requires

extensive normalization to provide reliable results to analytics solutions users.

Data-Based Tools are Not Interchangeable

To make intelligent buying decisions and perform effective research, it's essential that consumers of analytics tools understand the tradeoffs that vendors make in addressing these issues, such as those presented by PACER, when they develop their solutions. What are their processes for tagging and coding, and to what extent are those measures tailored to the idiosyncrasies of individual practice areas and specific kinds of cases? Can a solution distinguish between ANDA (Abbreviated New Drug Application) and non-ANDA cases in searches of patent litigation, or file sharing and non-file sharing cases in copyright litigation? To what degree are individual vendors willing to invest in legal subject-matter experts, not only to help design their solutions but also to provide continual input that will "teach" machines to make better decisions and optimize algorithms? These are the kinds of questions that law librarians and other information professionals in the industry need to be prepared to ask. And then, after they've received their answers, share what they've learned with colleagues at their organizations.

Provide Training and Engage with Vendors

Law librarians can also take more responsibility for educating employees in their own organizations. Collaborating and sharing findings with other legal information professionals is an excellent first step, but the next step involves communicating those findings to the audience that needs them the most: lawyers and firm leadership. This may mean offering regular training sessions to which colleagues can bring their real-world legal and business challenges and learn the best way to address those challenges using tools that are already at their disposal. It may also mean organizing events for busy lawyers. While many experienced

lawyers are reluctant to take the time to attend tech-focused "boot camps" or an occasional "Tech Tuesday" presentation, holding events is a good way to grab their attention for a defined period of time and get them to listen and engage. Law librarians can also develop training programs for summer interns, who are more likely to be open to data-driven approaches to the practice of law and who, after all, represent the future of the profession.

Law librarians can also consider engaging more regularly with vendors. Law librarians can help vendors develop more user-friendly interfaces, urge them to be more transparent about their data-handling practices, demand they provide honest assessments of the content and functionality tradeoffs they make in developing solutions, and advocate for product features that focus more narrowly and effectively on everyday use cases. They can also insist that leadership in their own organizations gives them a seat at the table alongside lawyers when vendors seek help testing their products. Legal culture is a persistent barrier to data competency. Law librarians must recognize that they have an important opportunity, as well as a responsibility, to help change that culture.

Risks and Opportunities Ahead



Data competent legal information professionals needn't have advanced degrees in statistics or data science, nor must they have a detailed understanding of artificial intelligence, analytics, machine learning, natural language processing, and other data-parsing technologies. However, when specific questions arise during litigation, investigations, negotiations, client pitches, business development activities, or hiring talent, the use of advanced tools to answer such questions should be second nature.

As a group, lawyers still lack sufficient awareness of and hands-on experience with a bewildering assortment of technology tools that can help them answer such questions much more quickly and accurately. As tools get better and are more widely used, there

is a serious risk that legal teams who are better-informed and more technologically savvy adversaries in a dispute will have the distinct advantage of having access to a broader base of factual information and deeper insights. While that presents a serious problem for some firms and their clients, it also presents an opportunity for law librarians to provide value and, ultimately, to enable better representation for those clients. ■

EXTRA

Listen to the Legal Talk Network episode "AALL 2019: Legal Analytics—Products and Best Practices," recorded at the 2019 AALL Annual Meeting at bit.ly/ND19LegalAnalytics.

 Research + Analytics
 Information Management



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