

Explaining the Technology Behind Matter Centricity

By Laura LiVecchi, InOutsource

Law firms are facing a multitude of risk management issues surrounding the handling of client information. Federal, state and local rules and decisions change the playing field almost daily, and firms are struggling to keep up with compliance. In addition to conforming to the jurisdictional directives, firm management must also be concerned with business initiatives. Some of these include productivity, growth, malpractice insurance, cost of compliance, and most importantly client interests. All of these issues directly affect the way a firm manages client information throughout its lifecycle, from inception through to final disposition.

Client information is no longer arriving strictly in paper form. E-mail, electronic documents and images, video and voice mail as well as the software and databases that house this information are replacing the need for the physical counterpart. This poses a problem for firms as they struggle to identify where the client matter information resides within firm repositories. The Federal Rules of Civil Procedure, Rule 34(a) states, in reference to producing documents, either physical or electronic, that a party may request "any designated documents or electronically stored information - including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations."

Many firms have found an effective way to begin managing all of this electronic information by advocating a matter-centric approach already familiar to attorneys and staff. Matter-centricity is an approach in which information in multiple repositories is either unified within centralized data stores or linked together with a common identifier such as the unique matter billing number. This concept benefits attorneys as the ease of storing and finding client information is more efficient. With the proper storing of client information under a unique matter number, the firm now has more control over the firm intellectual property.

Many firms have already ventured down this path. The catalyst typically is the need for an upgraded document or records management system (DMS or RMS). DMSs and RMSs allow for storing a multitude of new information types, and offer a variety of solutions for focusing on e-mail management. So why are firms still struggling to manage client information if these new systems can now accommodate various data sources? The answer is lack of policy, process and policing.

POLICY

While a firm's policy development usually begins with a document retention policy, for many organizations it also ends here. A retention policy may be the cornerstone for managing client information but it is rarely enforceable as it does not address how a firm can comply with its edicts. The process of drafting the retention policy will immediately identify the need for additional informational governance policies to support a document retention policy.

At the commencement of such a large-scale initiative, a variety of firm personnel must be assembled to form a committee; this will ensure its success. These members will vary by firm, but should include the firm's risk management partner, managing partner, information technology director, records director and practice area stakeholders. These members will ensure that the policies are in line with firm management goals and practice area and jurisdictional matters, and that they can be implemented within the firm's current infrastructure.

The team should begin by identifying all of the firm's data repositories: physical and electronic, large and small. Once the repositories are identified, an evaluation of the information should be completed to identify which types of information they contain as well as determine the custodians. Those repositories that manage information related to clients and can be attributed to specific matters should be labeled as approved repositories. Once these policies are drafted the next step is to document their implementation and ongoing support.

PROCESS

The ability to ensure that policies are followed is based solely on the processes and people that support them. Documenting these processes includes ensuring that the roles and responsibilities are clearly defined. The size of a firm will dictate the amount of staff required to carry out the work needed to successfully implement the processes.

Define which system will oversee the classification and storage of client information. Depending on the current or planned technology that you employ, the choice may be readily apparent. In other cases, it may be multiple systems, such as records management, document management, and a business process product or intranet technology. If the technology you have in place today does not fit a matter-centric model, write procedures and recommendations on how users are required to save this information to comply with matter-centric workspaces. If you are looking at implementing new technologies,

concentrate on the largest volume first. In most organizations this tends to be e-mail and document management.

The most important thing is to know where the information resides, even if it isn't automatically integrated into a centralized system. Success of these policies depends on oversight to ensure that you are not faced with missing or improperly destroyed/deleted information.

POLICING

The sheer volume of electronic data seems to overwhelm attorneys who are largely concerned with ensuring they are meeting billable hours. What this usually means is that attorneys are looking for the most efficient way to store and retrieve data and their process is probably not aligned with the firm policies. If you can recognize the attorneys' historical viewpoint and take this into account when developing your processes you can increase the level of compliance with managing client information.

Attorneys should understand the risk management issues that the firm as a whole is facing. Compliance is one of the largest risk management issues firms face, but many attorneys are not properly informed by firm management on these issues and their consequences. The firms' general counsel or risk management partner should develop an informational program that regularly addresses these concerns with attorneys. Each of the processes must have a mechanism to track compliance. Ensuring that there is a follow-up on action items is critical to compliance.

Firm management must recognize the importance of proper client information management. Without the support of firm executives, it is difficult to enforce the policies and change firm culture. Know there are no technologies available that will immediately simplify the management of client materials. Your goal should be to ensure that your firm has a strategy in place to manage client material consistently so you are ready to act when the need arises.

About the Author

Laura LiVecchi is a senior project manager at InOutsource, a leading provider of records retention and information management consulting to law firms. Laura works with clients to execute on their records management policies and implement their information management technologies. Laura is a member of the Project Management Institute (PMI) and served as the Philadelphia Volunteer City Representative for the International Legal Technology Association (ILTA) in 2007.

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