Knowledge Management for Law Libraries and Law Librarians

Why you must come to grips with the new demands of knowledge management.

The future is not what it used to be.

The virtual library, once touted as the solution to the problem of too many books, costing too much money and occupying too much space, is, alas, no more than a virtual reality.

On the one hand, we have the myth—perpetuated by the media and many information providers—that it is possible to do in-depth, definitive, quality legal research on the web. On the other hand, we are drowning in information (or at least data), not all of it current, much of it irrelevant, and some of it of questionable accuracy and authority. Only a fraction of historical and new knowledge is available online, and search engines do not allow the precision searching that you can do on Westlaw and Lexis. You risk spending hours surfing, rather than searching. When you search the web, you find a large number of potential sources of information; few may actually yield valuable and relevant information, and no one filters for you.

When we look beyond the hyperbole to how lawyers obtain and use information, we discover that print is still a viable, indeed treasured, medium that no one is ready to give up. Have you ever tried to do legislative history or statutory research online? What about your revered treatises? Many of them are not online, and those that are may well be less current than the print. Books are the physical representation of knowledge, and a library is a permanent repository of that knowledge. Electronic media most assuredly are not permanent.

Insufficient funds.

Throw away your notions of significant cost savings or even flat budgets. Any money that you may save by removing books from your shelves you may well be spending on the digital equivalent and the electronic infrastructure needed to support it. Many vendors tie the price of their electronic publications to your commitment to maintain the print equivalent. Vendors raise prices with impunity. Lack of competition is a key factor, plus they are feeding on the perceived desire for more information in more formats.

Vendors engage in virtual publishing - magazines, newsletters, and articles from the scientific and scholarly to the suspect and superficial - creating new digital publications or add-ons to existing print publications. Technology breeds more iterations of the same or confusingly similar information, as publishers package and repackage information in print, CD-ROM, and on the Web. Each medium may suit a different audience, and each may be a slightly different product. Can you safely choose one and not worry that you are sacrificing currentness, historical depth, analysis, and features like forms, checklists, and news?

We rely on the kindness of strangers.

Once we give up our books and rely on CD-ROMs or the web, we give up our ownership of the information. No longer do we control our access. And there is no going back. What will stop a vendor from removing information from its service? What if third party relationships sour or other economic issues prevail? At what point will the data be archived in less accessible or more expensive formats?

When we eliminate a print set we have to look carefully at the historical scope of the electronic equivalent. Many books were printed in the pre-digital era, and are not available in any electronic format; thus, it is a very expensive proposition for the publisher to digitize it. What will be the impact on our customized flat rate contracts with vendors such as Westlaw and Lexis as we demonstrate our dependence on the information that they supply? What happens when our Internet connection is s-l-o-w, or wigs out entirely, or the material that you need is simply not available electronically due to age, specialized interest, or any one of a number of economic and technological factors? We may be able to rely on the collections of cooperating libraries but that presumes that they continue to maintain the print sets that we abandon.

Information does not want to be free.

It is very easy to assume that just because someone has posted information on a website, for all to read at no charge, that the information may be freely copied and distributed. In fact, copyright prevents all but a small number of books and other materials from being in the public domain. And public domain
publications are the only category of materials that you may safely copy without restriction.

Certainly many Websites offer information that may be re-used, with permission, but the commercial fee-based services rarely do. It is much harder to enforce responsible copying practices in the realm of electronic material, but every bit as important as with print. Maybe even more so, because the repercussions of a mistake will echo more widely if it is done digitally, rather than reprographically. Now that many Web-based products have a track record of usage, vendors feel that they can impose fees for previously free information, or tie the cost of an electronic subscription to the renewal of a print subscription.

And then there is the matter of free information that is hidden from all but the most sophisticated searchers. As much as 40% of web content is locked away in databases or in password-protected sites. Yes, it’s free, but without the right search engines and techniques, you’re not going to find it.

Old dogs… new tricks.

Librarians have been accused of being Luddites, fighting to maintain our gatekeeper function, whereas often it is the lawyers who don’t want to change the way they do research, and who are slow to adopt new methods. In fact, if it often the librarian who embraces the newest technologies and works to meld it with the traditional sources and approaches.

Certainly, a lawyer’s job is to analyze, analogize, and apply the law to a client’s set of circumstances. The more time spent grappling with new research systems, and new search protocols, especially before they have truly proven themselves, the less time you have to devote to your primary mission. Resistance is almost understandable. But get over it! How effective can you be as a researcher if you resist learning new systems, sources, products and methodologies, all of which require ongoing training, and an open mind? We may not always make it easy for you, as economic factors sometimes force us to demand that you “march left” “march right” as we encourage use of first one service and then another. But you should embrace the empowerment that comes with multiple access points to information, and the ability to manipulate and customize that information as needed.

We have to avoid even the perception of research malpractice by exhausting all possible resources before we draw our conclusions and make our legal recommendations. The trick is to keep what’s good about the old and combine it with the best of the new.

Trust no one

Anyone can develop a website and provide information— and many will. It is our job and yours to determine the authenticity, accuracy, objectivity, coverage, and currentness of the site. Is the information factually accurate and irrefutable, reliable and error-free? Are the sources stated and dependable? What are the qualifications and credentials of the authors and publisher? What is the purpose of the site - is it to inform, educate, persuade, sell, amuse? Can you determine how current the information is? What is the scope and depth of the site?

These are problems we generally do not face when using a book. We know who our traditional authorities are, those publishers and authors whose information we trust. Remember, on the web, you do not have even the benefit of Lexis and Westlaw and their ilk who gather information from reputable publishers and provide it to you. So little on the web is peer-reviewed or in any other way substantiated. The web supposedly eliminates the information professional as the intermediary between you and the information that you need—disintermediation. This is just a fancy way of saying you are on your own now, with no safety net between you and potentially dubious, incomplete, inaccurate, irrelevant or just plain bad information.

Dumb and dumber.

We are seeing a dumbing down of some of our traditional research tools, with the researcher playing a smaller role in what should be an interactive process. As systems are created - templates, and prompts and fill-in-the-blanks - to make searching easier for the end user, more of the critical decision making is going on behind the scenes, rather than being done by the researcher. If you do not know what decisions are being made, or what filtering is being done, you will not be able to critically evaluate the validity of the results. Each decision that is made by the system takes control away from the researcher.

Legal research as traditionally practiced is disappearing. When you research using books in a library you move from primary to secondary authority, including analysis and commentary, and you recognize the boundaries between each. When you leave the library you know that you have used all the logical sources.
When you research on the web, it is hard to know when to stop; there are always more hyperlinks. Hyperlinks erase the difference between primary and secondary material, and between documents of different authority and persuasiveness. Researchers are faced with an undifferentiated mass of information, without the proper preparation and critical evaluative skills needed to weigh the value and standing of each piece of information. The primacy of the editorial staff is diminishing, as electronic publishers capture, collect and upload massive amounts of information without the benefit of experts to analyze and categorize.

Caveat Emptor.

When you purchase a book you know exactly what you were getting. You know what it covers (assuming that you read the preface and introduction), when it was published, the credentials of the author, and the reputation of the publisher. When a book is on the shelf, it is available to anyone who needs it; no publisher will try to tell you that you need one copy per potential user. And when you use a book, you understand instinctively that it does not contain up-to-the-minute information. A good researcher will recognize the obligation to update the information contained therein.

But an electronic book has the possibility of being kept current, so it is easy to assume that it is. Today we are being asked to purchase electronic products, many of which don’t contain any of the assurances of quality and value noted above. Further, the product that you confront on your desktop often is not the product you thought that you bought. You click on a link only to discover that a portion of the site is under construction. Or the full text articles that you want to read are abstracts only. Or the site has no search engine. Or you are limited to one user per password. Or the site is down again. Often it is an issue of getting less than you paid for, and much less than you were led to expect.

And then there are the print products that are suddenly discontinued and you are offered an electronic equivalent to finish out your subscription instead. This is not what you had in mind when you bought that publication.

Workers unite.

Hiring and retaining information specialists with the needed skill set, the right mix of research, technical, communication and interpersonal skills, is becoming increasingly difficult. These highly skilled professionals are very marketable in this information-driven economy. Law firms traditionally have not placed a premium on training, cross training, and staff professional development, but we must do so if we want to retain our valuable employees. Appropriate compensation helps as well. High turnover means that we lose employees who possess valuable skills, as well as an intimate knowledge of our clients, projects, personalities, and the history, values and culture of the firm.

Contrary to the predications of the pundits, rather than this information age ushering in the era of fewer information employees, we are seeing the opposite trend -- an increase in the need for highly-trained information workers, as well as a shift in the ratio of professional librarian to library support staff. We may need fewer clerks to file and shelve, but we need more professional librarians who are marketers, technologists, Webpage designers, Intranet content providers, contract and site license negotiators, and trainers. The irony is that the more information that becomes available electronically, the more the researcher needs the services of information professionals to guide, filter and train. Outsourcing is certainly not the ultimate answer, and has in fact proven to be another bad idea. We already outsource certain repetitive clerical and technical tasks, but a contract information professional has knowledge that we can ill-afford to lose when the assignment or project ends. There is an incalculable benefit to having employees who demonstrate loyalty, understand the need for confidentiality, and inspire trust.

The times they are a changin’.

We are experiencing an information evolution, and most libraries will be digitally enhanced rather than virtual. Although at the moment it appears as if all manner of information products, both fit and otherwise, are competing for our attention, some of these will fall victim to the evolutionary process, and only the strongest and most adaptable will survive. In the meantime, however, we are faced with a plethora of choices. The reliance on electronic resources—software, hardware, and data—will expand, and soon we will all be wirelessly connected to the vast unstructured library of information known as the Web, as well as to each other.

The critical skills needed to evaluate the information that you retrieve will increase as well, but the intellectual process by which you analyze and draw conclusions based on the information will remain the same. This new era is not for the faint of heart.
The challenge to information professionals is to insure that we identify, evaluate, provide, and package the most relevant information in the most cost-effective manner, while insuring that the medium does not erect barriers between the researcher and the information, but rather facilitates the meeting of the two.

The challenge to our lawyers is to be prepared, indeed eager, to adapt traditional analytical and evaluative skills to these new electronic tools. The library as a place will not disappear, whether it contains Egyptian manuscripts, legal treatises, or computers and data feeds. The function remains the same—to provide an environment in which the researcher discovers knowledge.

See the following articles for more information:
- Essential Requirements to be a Successful Law Librarian
- A Career as a Law Librarian