Knowledge
Creation

Knowledge
Utilization

Knowledge
Storage

Knowledge
Sharing

Guide to
ACC Value Challenge
Knowledge Management

ACC Association of
Corporate Counsel

THE BUSINESS CASE

Why is Knowledge Management Necessary?

As corporate law departments continue to strive to become strategic business partners while experiencing cost-reduction pressures, it has never been more important for corporate law departments to have structured, systematic knowledge management programs. A number of factors drive this imperative.

The practice of law and the business of corporate law departments require many types of knowledge, and those types are constantly expanding. The increasingly complex regulatory environment, corporate expansion into diverse jurisdictions, technology developments, and other changes have increased the scope of the legal knowledge that today's law department requires. At the same time, in-house lawyers require a variety of types of knowledge—extending beyond legal expertise—in order to serve as both a business advisor to clients and a savvy business manager of the department.

Even as the necessary knowledge base expands, many law departments' resources are contracting. Some term this "doing more with less," but in reality, law departments must challenge themselves to do the right things with less, evaluating the right work to be done and how best to do it. Departments' knowledge, however, is dissipating or spreading in a variety of ways that may not be easily retrievable. Employee turnover is an expected business reality—whether through ordinary employee attrition, retirement or headcount reduction—and departing employees often take key department knowledge with them. As baby-boomers begin to retire and a new generation of leadership emerges, some law departments are experiencing a greater sense of urgency. Knowledge management helps improve efficiency by offering the ability to leverage work, while increasing reliance on automation and knowledge sharing. A structured knowledge management program also facilitates the transfer of information among key individuals.

Further complicating matters, there are abundant places and ways to store the data and information that contributes to knowledge. Gone are the days when memos and correspondence were stored as either the official file or the employee's reading file. Today, a typical law department employee likely uses corporate email, has access to a corporate shared drive, uses a personal folder/drive on the network to store files, and also has access to the corporation's team-sites. The employee also likely uses a corporate computer with its own hard drive, a corporate cellphone or smart phone, a personal device such as a tablet on which she does business, and portable storage drives to store information. And outside counsel, who also keep some of the department's documents and information knowledge, have the same range of storage options, with perhaps less certainty of availability when needed, as illustrated by some clients' struggles to retrieve their files and documents after the recent demise of some firms. Information is everywhere, making it more difficult for individuals to have easy access to the information they need to act most efficiently and effectively.

Globalization and corporate expansion have led to changes in many law departments through merger, acquisition or the opening of new offices in geographically dispersed areas. Because law department members may be spread all over the country or all over the world, there is a great need for internal consistency.

All of these factors underlie the need for corporate law departments to develop their own internal document and information storage strategy and knowledge management program.

Benefits of Knowledge Management

While a knowledge management program cannot halt employee turnover or slow the ever-expanding knowledge needs of today's law department, it can provide a number of benefits. The fundamental benefit of true knowledge management is that it captures and aggregates—in easily retrievable and reviewable form—actionable information to facilitate action or decision-making.

More specifically, through knowledge management practices and technology, a law department can eliminate re-work. The mandate to "do more with less" is only feasible if it isn't necessary to re-invent the wheel with each new matter or project. Access to the knowledge gained from similar work eliminates this issue.

Knowledge management practices can also provide continuity and consistency by increasing team members' exposure to past work, and to positions taken by the law department regarding legal issues, business practices, policies or other matters. Whether changes result from turnovers or expansion, it is crucial to bring new team members up to speed as quickly as possible, and give them the tools necessary to do their job consistently across the organization.

Knowledge management also fosters collaboration within and among department lawyers and practice groups, by providing disparate groups and individuals the shared information they need to effectively collaborate. Collaboration contributes both to effective performance and consistency. Knowledge management can also promote collaboration with outside counsel.

In addition to these primary benefits, knowledge management practices and technology can yield a variety of ancillary benefits, such as:

- increased quality of legal service at the same or reduced cost of delivery;
- reduced risk for the organization;
- enhanced employee development and succession management; and
- increased employee satisfaction and retention.

THE BASICS

Knowledge management has a cycle: the creation, storage, sharing and utilization of knowledge. When knowledge is used, new knowledge is created, and the cycle begins again.
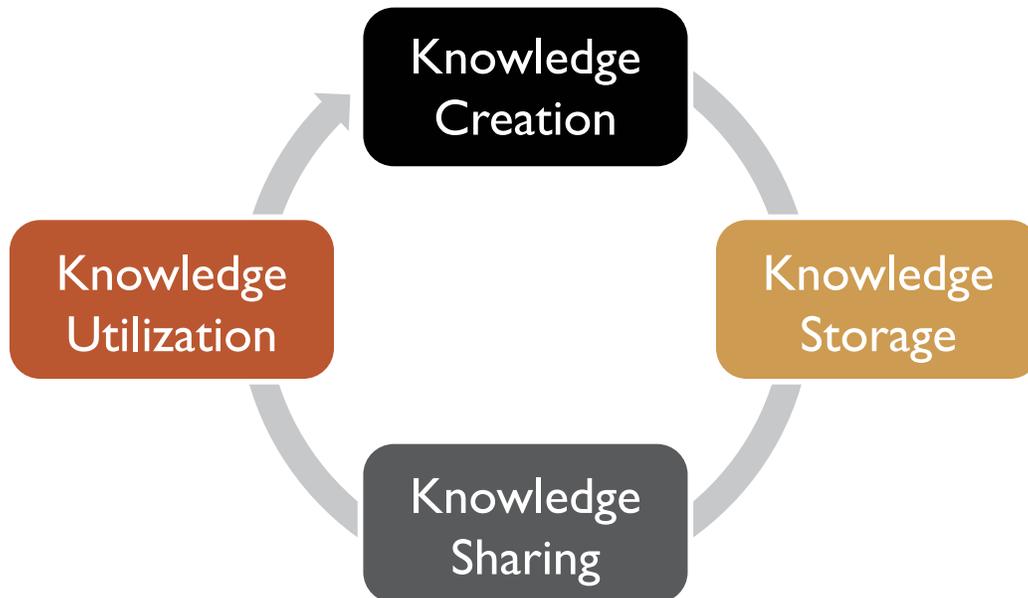
Knowledge management provides the link between people and information or processes, ensuring that the user has easy access to the information needed to take action. Ideally this information will come from a variety of sources. For example, knowledge management in a law department might bring together historic data useful to negotiate fees or alternative fee arrangements, or might aggregate information to assist in early case assessment or developing case strategy. In law firms, knowledge management has traditionally been focused on capturing lawyers' intellectual capital—their legal knowledge and expertise. While that knowledge is important in law departments as well, knowledge related to the business of law is equally important.

Types of Law Department Knowledge (the Vocabulary)

Knowledge created and used by law departments comes in a variety of forms. It ranges from being structured (explicit) to unstructured (tacit). The less structured the knowledge, typically, the more difficult it is to capture.

Fielded Data—Fielded data is structured data captured in a system to enable centralized access, reporting and trend analysis. Examples include names and addresses of counsel, vendors or experts; calendar or docket dates; and other similar information.

Financial Data—Financial data includes information such as budgets, historical spend information, trends, law firm usage and internal spend.

Documents—Documents may be created by in-house or outside counsel. They may include templates, policies, clauses, briefings, legal memos and more.

Unstructured Information—Unstructured information includes a range of knowledge, such as company positions, advice, and, perhaps the fastest growing repository for departmental knowledge, email content.

Tacit Knowledge—Tacit knowledge is perhaps the most amorphous and difficult to capture form of knowledge. It is essentially the knowledge found most commonly in the department employees' minds—lessons learned, the rationale behind decisions, the context of an action or decision, wisdom, judgment, expertise, skills, and basic know-how. Tacit knowledge provides context for people, places, ideas and experience. Tacit knowledge is typically only known to an individual and difficult to communicate to the rest of the organization. Often, people are not aware of the knowledge they possess or how it can be valuable to others.

ACC Resources: Knowledge Management

Effective Use of Knowledge Management to Increase Value. . . Reed Smith's Approach
www.acc.com/legalresources/resource.cfm?show=744278
Legal Service Management 3.0 Core Curriculum Knowledge Management
www.acc.com/legalresources/resource.cfm?show=1315856
Knowledge Management in the McKesson Law Department in Europe
www.acc.com/legalresources/resource.cfm?show=1310906
Knowledge Management (KM) in Intel's WW Legal Department
www.acc.com/legalresources/resource.cfm?show=1310902

Steps to Governing the Knowledge Management Life Cycle

To create a knowledge management program, the law department must develop a system of governance over the knowledge management life cycle. Knowledge governance involves:

- creating a knowledge management program to define what knowledge management means for the organization;
- searching for new ways to foster knowledge creation;
- identifying gaps in knowledge areas or subject matter;
- identifying people with critical skills and historic, institutional information;
- identifying opportunities for improving function and processes;
- having individuals in place to manage the knowledge management program; and
- having a maintenance plan in place to continually monitor the program and make adjustments as necessary.

This guide provides a roadmap through the following phases:

Defining Goals—Clearly and specifically outline goals that the law department wants to achieve.

Current State Assessment—Assess the department's current state of knowledge management, both in terms of strategy and its current systems for managing different types of information.

Implementation—Prioritize and implement the necessary processes and supporting technology to capture and manage information, including leveraging tacit knowledge.

Management/Measurement—Keep the program current and ongoing through regular, ongoing management, measurement and evaluation.

GOALS	ASSESSMENT	IMPLEMENTATION	MANAGEMENT/ MEASUREMENT

GOALS

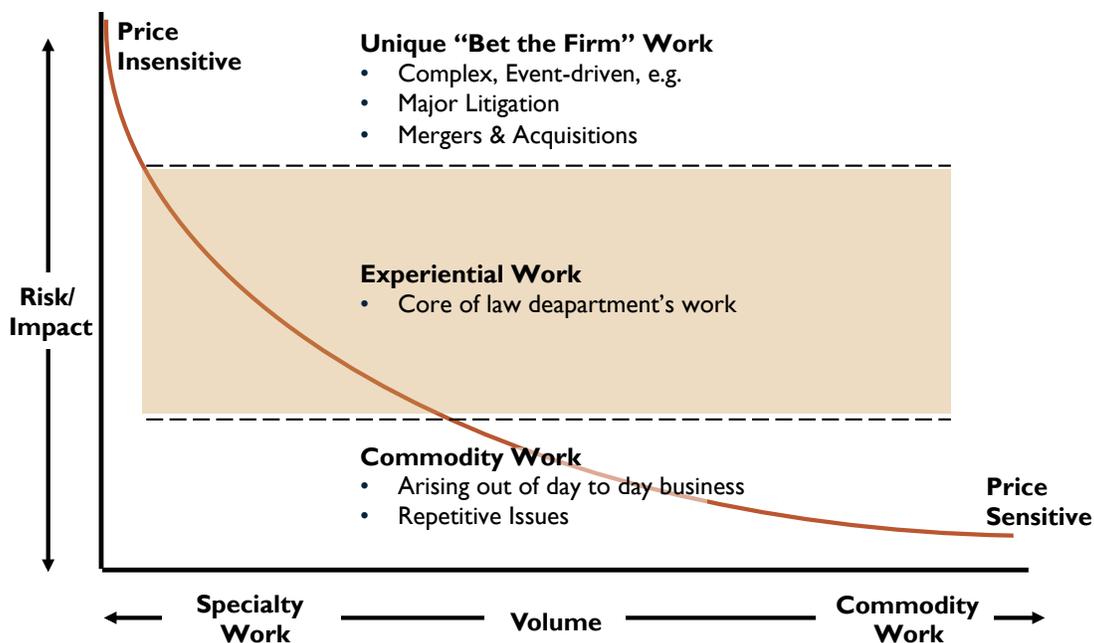| GOALS	>	ASSESSMENT	>	IMPLEMENTATION	>	MANAGEMENT/ MEASUREMENT
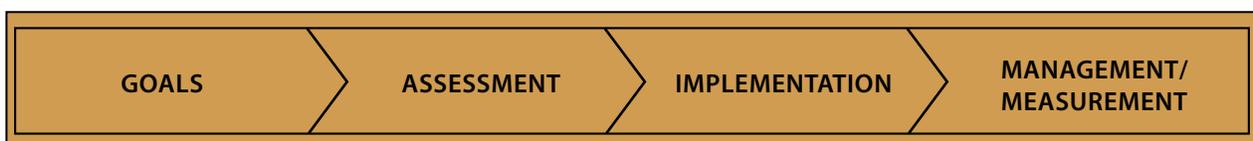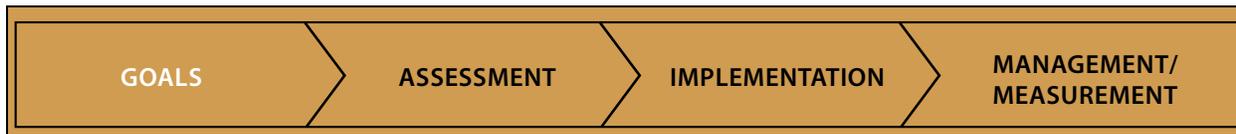
What does the law department hope to achieve from knowledge management? How does the department expect it to better the organization? Defining the department's knowledge management goals is the first step in developing an effective knowledge management program.

Some of the general benefits of knowledge management have been defined above; however, the department's goals should go beyond these general benefits and be specific to the organization. It is important to gain consensus among key stakeholders regarding goals, and to state them with clarity and specificity.

Each practice group requires certain types of information that can make its work more effective and consistent. The practice groups' requirements are often unique. The illustration below shows the range of the value of work done by a typical law department—from "bet the company" work, which requires specialized knowledge and skills and has high risk and impact on the company, to "commodity" work, which has lower strategic risk or impact on the company and requires less specialized knowledge. Through effective use of knowledge management, including systems and processes, a law department can move either entire categories or specific components of legal work down the curve, because improved knowledge will reduce the effort required and the overall cost of the work. Consideration of the types or categories of work within the department that can be improved through knowledge management may help the department crystallize its knowledge management goals.

Examples of types of goals and information required are provided in the coming pages.

Price Insensitive

Unique "Bet the Firm" Work
- Complex, Event-driven, e.g.
- Major Litigation
- Mergers & Acquisitions

Risk/ Impact

Experiential Work
- Core of law deapartment's work

Commodity Work
- Arising out of day to day business
- Repetitive Issues

Price Sensitive

← **Specialty Work** — **Volume** — **Commodity Work** →

Gaining Consensus

Developing a knowledge management program is a team effort. There should be clear support from the management of the law department and participation from key stakeholders, as appropriate to the specific department. These stakeholders might include representatives from practice groups and department operations, and IT and/or records management. Consensus about the department's overall knowledge management goals is critical, although those goals need not equally impact all practice groups. One way to evaluate the goals of specific practice groups is to interview practice group representatives regarding their need for each category of knowledge (described in the Basics section above) and obtain examples for each. The practice group representatives can also assess the degree to which their groups rely on each type of knowledge. A sample grid for documenting this assessment is attached in the Appendix.

## Stating Goals with Clarity and Specificity

State the department's goals with clarity and specificity. When goals are clearly and specifically stated, the subsequent stages of the knowledge management cycle will also be clearer. Clear, specific goals allow the department to accurately assess its current state as compared to those goals, and identify the gaps that will need to be addressed.

Some broad types of goals common in many law departments include the following:

- capture legal know-how (knowledge capture);
- preserve best-of-breed work product independent of its creator (document management);
- find information more easily (federated searching);
- gather data maintained in multiple repositories (data aggregation);
- leverage work to more junior/less costly resources (cost control);
- better leverage what has already been paid for, avoiding "recreating the wheel" (cost control); and
- better share and/or publish legal content with others (knowledge sharing).

These broad categories, of course, are not sufficiently specific—each law department is different and will have specific goals that may be subsets of, or related to, some of these broad categories.

ASSESSMENT

GOALS	ASSESSMENT	IMPLEMENTATION	MANAGEMENT/ MEASUREMENT
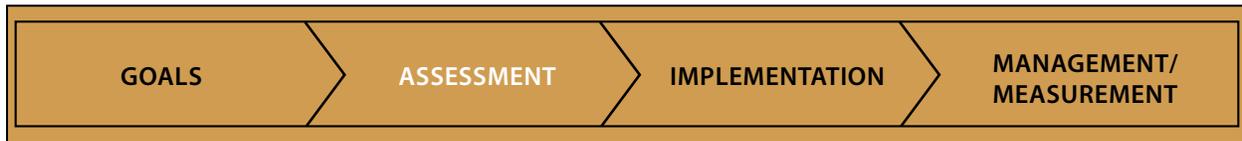
Once the goals are understood and articulated, the next stage in developing a knowledge management program is gaining an understanding of the department's current state as compared to its goals. To do this, start with identifying the quality of required information and where it is kept. This assessment should ultimately result in some form of knowledge inventory. A sample knowledge inventory is attached in the Appendix. Note that the knowledge inventory should be a living document, updated as the department's knowledge management plan matures.

What is the Needed Information?

In the process of setting its goals, the department should have identified the needed information.

Case Study

A hypothetical law department asks key representatives from each of its practice groups to assess their groups' needs for each knowledge category, and each category's value (the degree of need) to each group. The employment group's needs are summarized in the following table.

Employment Group Information Needs

Type of Information	Example Needs	Current State Comments
Fielded Data Value: ▲	• Matter • Outside counsel firms and lawyers • Employee information • Witnesses • Calendar information (e.g., disciplinary hearing) • Tasks and events • In-house team members • Internal client details	• Ad hoc recording of information in handwritten notes • Individuals determine extent information is preserved in physical files • Value of capturing information must be balanced with the perceived burden of data input
Documents Value: ●	• Standards, policy and guidance • Outside counsel work product • Legal advice / memos • Correspondence / communications (e.g., lawyer demand letter) • Templates (e.g., standard agreements, clauses) • Engagement letters	• No central repository for standards, policy or guidance • Minimal sharing of documents • No standards or process for submission or storage of outside counsel created documents
Financial Data Value: ■	• Budgets • Fees / costs from outside counsel and vendors with corresponding payments • Outside counsel staffing • Compliance with outside counsel billing protocols	• Only basic invoice information captured in matter management system • Supplemental information manually tracked in multiple spreadsheets • Budget information owned by finance group, not recorded in matter management or used for invoice review • Low spend relative to total legal spend
Unstructured Information Value: ●	• Legal advice • E-mail communication • Telephone communication	• Complete information typically not stored in central location, mostly in lawyer's handwritten notes and email communications
Tacit Information Value: ●	• Legal analysis, problem solving, negotiations • Experience • Decision-making and judgment • Logical reasoning • Understanding organizational culture and relationships • High volume of telephone advice	• Fast pace, high volume, and need for quick turnaround to client prevents complete capture of information

LEGEND: ● High ▲ Medium ■ Low

A results summary of the review for all departments is contained in the table below. As indicated, the needs of each practice group are not identical. All practice groups have a high need for documents, although the nature of those documents varies among the groups. For example, among numerous other types of documents, the litigation group needs outside counsel work product, such as briefs and pleadings, while the employment group needs policies, and the contract group needs templates. All the groups need unstructured information, such as legal advice and email communications. In this department, the litigation group, unlike other groups, has a high need for fielded data, such as calendar information (hearings, etc.), outside counsel and opposing counsel firms and lawyer names, vendor information (court reporters, experts, etc.), and financial information, such as budgets, fees and costs. This is not surprising, since litigation costs are typically the greatest share of most organizations' outside legal spend.

Applicability to Practice Groups				
	Litigation	**Employment**	**Corporate/ Commercial**	**Contracts**
Fielded Data	●	▲	▲	▲
Documents	●	●	●	●
Financial Data	●	■	■	▲
Unstructured Information	●	●	●	●
Tacit Knowledge	▲	●	▲	▲

LEGEND: ● High ▲ Medium ■ Low

Where is the Information Currently Stored?

Information can be kept in a variety of places, ranging from sophisticated technology systems and document repositories, to emails and people's minds. The knowledge inventory records where key categories of information are currently kept.

Identifying the storage location includes conducting a systems assessment to determine what technology systems currently house which information. To what degree does the department have in place any of these systems? How are they integrated, if at all?

There is a wide range of systems available to today's law department. Some are foundational while others are more or less necessary, depending on the size and sophistication of the law department and the nature of the business and the department's practice. The following are some of the systems that currently may be found in law departments.

Foundation Systems
- e-billing,
- matter management, and
- document management systems.

Tools Supporting Specific Legal Services and Company Functions
- discovery systems (legal holds, ESI mapping, case management),
- IP management systems,

- contract management systems,
- records management systems,
- corporate governance systems, and
- risk and compliance systems.

Enterprise-wide Tools
- email,
- accounts payable systems,
- other tools, such as SharePoint and other team sites, and
- web portals.

What is the Information's Quality?

Information quality has three components:

Completeness—whether all the required information is present (e.g., whether all briefs are included in a brief bank);

Accuracy—whether the information is properly coded, indexed or otherwise categorized (e.g., whether the briefs are appropriately categorized by subject matter); and

Timeliness—whether the information is current (e.g., whether briefs are added to bank on a timely and current basis).

The information's quality is a function of people, process and technology—whether people are doing what they need to do both in terms of contributing and using information; whether the necessary processes are in place to ensure the information's quality; and whether usable technology exists to support these processes.

How is the Information Shared and Used?

How the information is shared and used is also a function of people, process and technology.

People

How does the department use people to manage knowledge, and how is knowledge shared with the department's people? Who is responsible for knowledge management within the department or the organization? How do people within the organization use the available knowledge? For example, who reviews invoices, and how is that done? Do in-house counsel actively manage against the budget? Should they? The assessment should consider not only in-house counsel, but also support personnel, such as paralegals and executive assistants, and outside counsel.

- How do in-house counsel use and share corporate knowledge, matter-specific knowledge and substantive legal knowledge? Do they do this in a complete, accurate and timely way?
- What roles do paralegals and executive assistants play? Can they perform more responsible roles? Is their substantive legal knowledge up-to-date?
- Is there a protocol for what, when and how outside counsel will submit draft and final documents? How is counsel's email advice captured? Are there procedures or defined criteria for what, when and how documentation related to legal matters should be preserved?

Process

How is relevant information and knowledge captured, preserved and retrieved? Are there protocols and processes in place for capturing knowledge of the types described above: fielded data, documents, financial data, unstructured information and tacit knowledge? Are there processes to make sure the information is complete, accurate and timely? Are there processes for what knowledge should be used for what work, and how to access and use it?

Technology

Does the law department have a clear strategy for its use of technology, including the use of technology to support knowledge management? Is there adequate and appropriate technology in place? Are law department personnel aware of the available technology options, and are they trained on an ongoing and individualized basis? Are there adequate IT user support, system maintenance and strategic direction? Does the technology work for the knowledge management purposes it is intended to support?

PRACTICE TIP

Knowledge Management and Technology

Knowledge management is not a technology-based concept, but rather a thought and process-based concept. Technology should support knowledge management programs, not drive them. For that reason, it is especially important to identify the goals and assess the department's current state and priorities *before* investigating and investing in new technology or technology upgrades.

ACC Resources: Law Department Technology
Sample Document - Law Department Technology Deployment Self-Assessment Survey
www.acc.com/legalresources/resource.cfm?show=39351
How to Assess Your Law Department's Technology Deployment
www.acc.com/legalresources/resource.cfm?show=39532
How to Use Technology to Strengthen Partnering
www.acc.com/legalresources/resource.cfm?show=39833
Strategic Management of Technology and Resources to Increase Lawyer Productivity . . . Cisco's Approach
www.acc.com/legalresources/resource.cfm?show=744953
Taking Matter Management to the Next Level
www.acc.com/legalresources/resource.cfm?show=157346
Top Ten Tips for Turning Your ebilling Initiative into a Powerful Tool for Managing Legal Spending
www.acc.com/legalresources/publications/topten/managinglegalspending.cfm
In-house 3.0 - Technology Challenges and Opportunities
www.acc.com/legalresources/resource.cfm?show=1287069

IMPLEMENTATION

| GOALS | > | ASSESSMENT | > | IMPLEMENTATION | > | MANAGEMENT/ MEASUREMENT |

After setting goals and assessing its current state, the law department can turn to prioritizing its goals and implementing its knowledge management plan. This section of the guide focuses on setting priorities, and on methods for storing and sharing knowledge, and encouraging knowledge use.
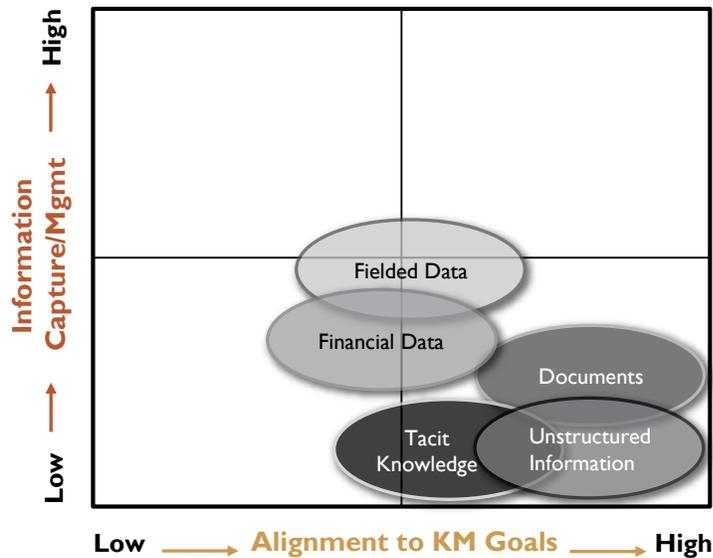
Knowledge Management Priorities

The assessment phase should have resulted in a portrait of the law department's current state of knowledge management. It should also have indicated the gaps between the law department's current knowledge management practices and its knowledge management goals. These areas of variance might indicate that technology systems are needed, processes need to be implemented, or people need to be added or given training and support. The relative weight of the department's goals and the degree of variance between the current state and those goals, when balanced against the overall strategic goals of the department and the company, should guide the department in prioritizing the necessary actions.

A "knowledge management implementation worksheet," attached in the Appendix, can provide a framework for clarifying the necessary actions as related to the department's goals.

Case Study

Our hypothetical law department's assessment indicates that some types of knowledge are not being routinely and centrally captured. For example, substantive email regarding specific opinions or actions is preserved by individuals rather than in a central or matter-centric location; there is minimal document sharing capability; and some information is recorded on an ad hoc basis. The law department balances its knowledge management goals against its current state of capturing and managing information. An illustration of its conclusions is below. Management of documents and unstructured information are high in the department's goals, but low in terms of actual capture and management of information. Easier access to these documents and unstructured information will help the department to become more efficient, eliminate re-work, promote consistency through exposure to prior positions taken by the department, and promote collaboration. Tacit knowledge is also not captured well. The department communicates that capturing documents and unstructured information, and sharing tacit knowledge, are priorities for its emerging knowledge management program.

- **Information Capture and Management:** Current state of system utilization, data accuracy

- **Alignment with KM Goals:** Degree to which the Type of Information will enable the law department to be more efficient and achieve its Knowledge Management goals.

Knowledge Capture and Storage

A key component of the knowledge management strategy is ensuring that the needed information is being captured and stored in a manner that makes it usable in the future. Knowledge storage involves categorizing data and information to enable easy access, using such classification tools as:

Taxonomies—standard classes and sub-classes for different types of documents or information, and

Naming Conventions—standard naming conventions for categories and types of information.

PRACTICE TIP

Records and Information Management

Records and information management (RIM) is not the same thing as knowledge management. There are different business drivers for the two disciplines. RIM is driven largely by legal and regulatory requirements combined with business needs for enhanced productivity and efficiency, and reduced costs related to recordkeeping. RIM focuses on the life-cycle management of an organization's records and information, from the time received or created until final disposition. These management practices are determined by policies, procedures and retention schedules. Together, these practices make up a records and information management program.

On the other hand, different business needs drive knowledge management. Whereas RIM is important to compliance and operational effectiveness, it does not serve the function of knowledge management. However, knowledge management can capitalize on an organization's records and information management program, since it defines the records and information that may serve as a subset of the organization's knowledge base. In addition, RIM programs' retention schedules define retention periods for records and information, which, in turn, can help "clean up" the knowledge base, ridding it of dated references and information.

Fortunately, technology systems exist to capture, store and retrieve many types of information used by law departments. If a law department lacks any of the fundamental technology systems (e.g., ebilling, matter management, document management), or if those systems are not current or usable, or cannot be integrated with other systems, those systems will likely have a high priority in the department's knowledge management strategy.

Knowledge Capture

There are various mechanisms to capture the various types of knowledge. Fielded data of the type used by law departments is frequently contained in matter management systems, expert databases, contract management systems, IP management systems and the like. Financial data is captured in ebilling systems and the company's financial data systems, such as accounts payable systems. Documents may be captured in document management systems.

Unstructured information may also be captured in a variety of ways. For example, many organizations are using web-based collaboration tools, including team sites such as Microsoft SharePoint, for capturing information related to specific matters or topics. Some law departments are using Wikis and blogs as a means of capturing information—sometimes for project management, sometimes for gathering input from a wide variety of sources (e.g., responding to complex interrogatories that involve many players). The curator can update responses in real time based on the input received.

Tacit knowledge is more difficult to capture. Some aspects can be captured similarly to unstructured information, but because much tacit knowledge resides in people's heads, it is important to develop a structure for capturing and sharing that knowledge, as described in more detail beginning on page 20.

PRACTICE TIP

Leveraging Knowledge from Outside Counsel and Other Legal Service Providers
Outside counsel have considerable knowledge that can be of benefit to the law department, and the law department may be able to leverage that knowledge in various ways. The following are some possibilities:

- Develop standards for when and what documents outside counsel should submit to the law department.
- Consider whether there are opportunities to negotiate pricing around re-purposed work product.
- Encourage outside counsel to use their internal knowledge management capabilities to assist in developing alternative fee structures that are beneficial to both parties.
- Take advantage of the extranets provided by some law firms, which can include not only case-specific documents and information, but also other learning tools.
- Consider the use of web portals for sharing of knowledge and information in both directions.

Some law departments have taken this leveraging opportunity a step further, even asking outside counsel to work directly within the law department's systems, such as matter management. Not only is knowledge shared in real time, but because this avoids work duplication, there can also be direct impact on the law department's costs.

Knowledge Storage

There are no silver bullets or one-size-fits-all technology solutions or other knowledge storage options. Different systems have different strengths and weaknesses, and each law department's needs are unique. The ultimate purpose of the technology, of course, is to provide law departments with the information that will assist in most effectively performing services.

Foundational Systems and Specialty Systems are prerequisites for implementation of a Knowledge Management System.

Types of Information	Foundational Systems				Specialty Systems		
	Document Mgmt	Matter Mgmt	e-Billing	Legal Hold Mgmt	IP Mgmt	Contract Mgmt	Entity Mgmt
Fielded Data	✓	✓		✓	✓	✓	✓
Documents	✓	✓		✓	✓	✓	✓
Financial Data		✓	✓		✓	✓	
Unstructured Information		✓			✓	✓	
Tacit Knowledge	✓	✓					

Data Feeds Into

Knowledge Management System

Consoildates information from disparate systems into a search based tool to enable ease of access and to stimulate collaboration

PRACTICE TIP

Tools to Support a Knowledge Management Initiative

A law department, or the company it serves, may already have in place a number of the technology tools that can support a knowledge management initiative, and may merely need to rethink their use and the connections among them.

The following are some of the types of tools that can be used:

- authoritative source data repositories, such as matter management/e-billing systems and document management systems;
- collaborative tools, such as deal rooms or workspaces;
- workflow tools, such as contract management systems or business process management (bpm) systems;
- search engines, such as those using universal or federated queries; and
- information deli systems, such as intranets or portals.

Beyond these tools the department or company may have, there are some systems specifically designed for knowledge management. Please see the appendix for some examples.

Case Study

Our hypothetical law department is not effectively capturing its documents or its unstructured information, such as email or legal advice. Incorporating technology systems to capture this knowledge should therefore be one of that organization's first priorities. The department investigates document management systems—both the enterprise system used by other divisions of the company, and systems targeted for legal documents. The department determines it can adapt the web-based enterprise system for its use. The department also decides to use a web-based system to provide a framework for managing its emails and other information related to specific matters and topics. Using web-based systems will give the department options in the future as it continues to develop its knowledge management program, if, for example, it determines that web portals, enterprise search tools or knowledge management software would help it continue to expand its effective use of knowledge.

Knowledge Sharing

Capturing and storing information is only part of knowledge management. The law department must have the ability to share that knowledge. Knowledge can be shared via the capacity to search or navigate to information items, or can be shared directly between individuals. Ideally, relevant information will be aggregated and available in one place so that team members can make informed decisions. The best method of accomplishing this will vary with each department. There are a variety of technologies that can assist with this process, but because of their cost and complexity, and because, as a prerequisite, they require that foundational technologies be in place, these technologies are not for all departments.

All law departments should, as part of their knowledge management strategy, develop best practices and policies on informing lawyers and other users regarding how to capture information (how to use the relevant technology systems), identifying where different types of information are housed, and

providing guidelines on how to use this information for various purposes. The knowledge inventory is one tool used to identify where information is housed. A potential tool to document the use and sharing of information is a knowledge-sharing plan—a communication plan that specifically addresses how information is to be shared. It can set forth the specific types of information, identify the author and who should have access, determine whether the information is to be "pushed" (disseminated) or "pulled" (collected), and indicate the purpose, frequency and method of dissemination. A sample "knowledge sharing plan" is included in the Appendix.

For smaller law departments, the information available from strategy best practices and policies may be sufficient basis for the knowledge management program. The knowledge inventory (again, a living document) provides an understanding of what information is available where, and the knowledge-sharing plan provides a process for routinely sharing certain categories of information.

PRACTICE TIP

Systems Integration

Because an important aspect of knowledge management is the ability to aggregate information from a variety of sources, when investing in new technology or upgrading existing technology systems, especially for core systems such as matter management/ebilling or document management, it is a best practice for the law department to carefully think through at the front end how the department will want that technology to relate to other systems. Considerations include whether and how to integrate the new system with other existing or future systems, how data will be migrated from other sources, and how information from the new system will be reported. Because of the complex technical considerations involved, the law department should work closely with the IT department or other experts to make clear its ultimate goals, and to understand the capabilities or limitations of any systems under consideration, as these capabilities or limitations may affect the choice of system(s) and the order/method by which the system(s) is/are implemented.

Larger or more sophisticated law departments may want to consider additional technology solutions. A 2010 survey by the International Legal Technology Association regarding knowledge management at law firms and law departments indicated that portal implementations and enterprise search topped the list of new knowledge management projects, both of which are designed to organize the variety of existing information repositories.[1] Web portals are single points of access for information from various sources. They are central points from which users can contribute to, find and share a range of information, from work product to specific activities or matters to news and more. Web portals aggregate data from a variety of systems to provide information in the appropriate, usable form. A current trend is to evolve portals from simply information access areas to "self-service" areas for the law department's clients (e.g., using portals for lawyer expertise directories, templates, etc.). Federated search systems go beyond the organization's legal systems to find results not only from internal systems but also external sources, such as LexisNexis, *acc.com* or other services. There are various search tools available that use intuitive search logic or data mining to find information from a number of sources.

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[1] Catherine Monte, "Top Ten KM Projects," *Knowledge Management: Bridging People, Information and Processes* at 18 (ILTA, June 2010).

Knowledge management software is a category of enterprise content management software that focuses on collecting, storing and accessing data. The software is theoretically designed to build knowledge out of stored information. This information is usually accessed through specialized searching tools or aggregation tools so that the right information is easier and faster to find. Knowledge management software packages vary from those intended for individual use to highly specialized packages capable of serving hundreds of individuals.

There is no software that does everything needed for knowledge management—knowledge management is an institutional program, not a software system. There are a few vendors who identify their programs as "knowledge management" and others that provide various pieces of the knowledge management lifecycle (e.g., storage, aggregation, and presentation). The Appendix contains a list of examples of some common technology tools that can help develop a law department's knowledge management infrastructure. This list is not exhaustive and not an endorsement of any of these systems, since all systems have their advantages and disadvantages, and e law department's needs differ. The list is provided for informational and illustrative purposes only.

> **PRACTICE TIP**
> *Cloud-based Systems*
> A number of the current tools available to law departments are based in the cloud. Many law departments are adopting cloud-based technology because of its cost efficiency and other advantages. Others have identified concerns regarding issues such as who owns and has access to the data, where it is located, data security and privacy provisions, backup and archiving controls, and how the system will work with the company's records management program, among other things. The law department may want to negotiate terms appropriately or select a vendor whose terms are acceptable, and consider an exit strategy to protect its data. As the trend toward cloud-based systems grows, so does the opportunity to discuss with one's peers their experience with these systems. Professional organizations such as ACC may provide a good forum for such discussions.

Knowledge Use

A knowledge management program will have no value if the knowledge isn't being used. The collected information should be used to aid in the department's productivity, efficiency and quality of its work. Knowledge management should facilitate team members' ability to combine the stored information with their own expertise and experience in order to make informed decisions. If the prior steps have been thoughtfully carried out, and team members are educated regarding the systems and tools provided, the department can develop a culture that encourages and rewards effective use of the knowledge management program.

Tacit Knowledge Leverage

Because tacit knowledge is unique, it is discussed in a separate section of this guide. It is perhaps the most difficult form of knowledge to capture and store because of its fluid nature. There may also be resistance either to the concept of sharing tacit knowledge, or to the time and effort involved in capturing and sharing it in a systematic manner.

Overcoming Resistance to Structured Leveraging of Tacit Knowledge

Those who resist programs to capture and share tacit knowledge need to be reminded that tacit knowledge can be among the most important categories of knowledge to share, given the change-filled environment of most law departments. Law departments grow; employees leave, retire or relocate; companies and law departments expand globally; reorganizations occur; and companies merge. Because of all of these changes, continuity and consistency are imperative. Law departments that have historically relied on employee longevity and relationships to informally share knowledge suffer in this environment. Tacit knowledge provides important context in a variety of situations (e.g., how various strategic partners work best together based on history, culture and experience; how decisions are actually made; how things really get done; what was tried in the past and how that influences current decisions; whom to go to for what; and accumulated knowledge about the organization's culture).

Naysayers might also be surprised to realize that law departments are already sharing tacit knowledge in some circumstances. For example, conducting law firm evaluations, early case assessments, and risk assessments rely, in part, on history combined with the perspective provided by people's experience and expertise.

Methods for Transferring Tacit Knowledge

The management and leverage of tacit knowledge requires greater investment in people and process than in systems. Some tacit knowledge can be transferred to more explicit types of knowledge. For example, to the extent that employees record their tacit knowledge in emails, memos or other documents, that information can be captured in the same way as other forms of unstructured data. Unfortunately, however, people are often not even aware of the knowledge they possess and its value to others and to the organization. One individual's tacit knowledge must therefore become others' tacit knowledge. Transferal of tacit knowledge to tacit knowledge happens through socialization—creation of common tacit knowledge through shared experiences; while transferring tacit knowledge to explicit knowledge requires externalization—the use of dialogs to create process maps or diagrams, for example.[2] To best leverage tacit knowledge, a combination of transferring information from one individual to another and identifying ways to make that information reusable by others is ideal, particularly for standard operating procedures, case studies, training materials and staffing models. Truly and effectively transferring tacit knowledge requires a concerted effort involving extensive personal contact and trust.

Best practices for the transfer of tacit knowledge include retrospective learning programs, immediate application strategies and proactive learning programs.

Retrospective Learning

Retrospective learning—learning from the past—can be accomplished in a variety of structured ways, including:

- expert interviews,
- lessons learned debriefing sessions,

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2 Filemon A. Uriarte, Jr., *Introduction to Knowledge Management* (ASEAN Foundation 2008), *available at* www.aseanfoundation.org/documents/knowledge_management_book.pdf (last viewed September 28, 2012).

- storytelling and narratives,
- small group discussions,
- case studies, and
- project team learning.

The department can determine which of these fits best with its culture. Because making time for these initiatives can be difficult, it is important to commit to the selected strategy wholeheartedly, by designating a facilitator, planning the sessions in advance and recording the results as appropriate. The sessions themselves facilitate transfer of tacit knowledge to tacit knowledge, from one individual to others; recording of the sessions or any conclusions creates a more explicit form of knowledge that can be stored and retrieved.

Immediate Application

In addition to learning from the past through structured encounters, such as interviews and lessons learned from debriefings, the law department can ensure the transfer of tacit knowledge through instituting ongoing programs with immediate application, such as:

- job shadowing,
- mentoring programs,
- Q&A sessions,
- re-hiring retirees solely to mine knowledge and expertise,
- departmental meetings,
- job rotation,
- documenting processes,
- document repositories, and
- documenting/disseminating best practices.

The first bullets are examples of transferring tacit knowledge among individuals; the last three bullets illustrate ways to make this knowledge more explicit.

Proactive Learning

Law departments can also ensure the ongoing sharing of tacit knowledge by providing their team members with opportunities for proactive learning, such as:

- blended learning, such as classes, online education and discussion;
- increasing competencies, skills and technical learning;
- presenting the contextual or historical rationale behind selected issues, events or other topics; and
- providing hands-on experiential learning through special assignments and action learning programs.

Again, these reflect a mix of socialization and externalization, transferring the tacit knowledge as tacit knowledge and in more explicit form.

Case Study

Our hypothetical law department realizes that it had been relying on the knowledge of several long-term employees to provide insights about historical interactions with certain client groups, organizational culture and the rationale for various practices. At the same time, the department has grown tremendously in recent years due to a merger with a similar-sized company and the decision to bring some types of work in-house that had previously been done by outside counsel. To ensure the transfer of tacit knowledge not only of the senior employees but also among current department staff on an ongoing basis, the department decides to engage in a three-prong approach. First, to capture the knowledge of select senior department members, it decides to conduct "expert interviews" —sessions in which one or more "experts" meet with others to share their knowledge of particular programs and subjects. The department chooses this method of knowledge transfer because interviews are often easier for the experts than trying to write down all the details and nuances, and learners can ask questions to ensure their understanding. The department elects to videotape the interviews in order to preserve the content. Second, for immediate application, the law department implements a formal mentoring program where more senior lawyers can give the benefit of their experience to those who have more recently joined the department, and also engages in a project to document best practices. Finally, to promote proactive learning, the department decides to beef up its in-house lawyer training to increase competencies, skills and technical learning, making a concerted effort to include discussion sessions focusing on context in in-house training.

MANAGEMENT/MEASUREMENT

GOALS	ASSESSMENT	IMPLEMENTATION	MANAGEMENT/ MEASUREMENT
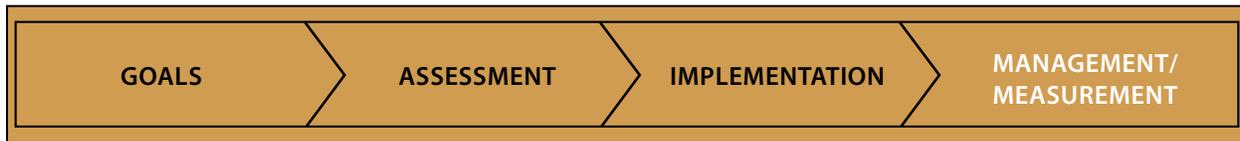
Merely implementing new systems and processes does not mean that a new knowledge management program will be successful. To ensure ongoing success, the program must be managed, reviewed and tweaked on an ongoing basis. Components of a strong knowledge management program include:

- obtaining/demonstrating management buy-in, including responsibility for the knowledge management culture and enforcing the knowledge management program;
- attending to and investing in infrastructure, including technology to facilitate knowledge capture and delivery;
- reinforcing the program through the people and culture, the source of knowledge; and
- implementing the process (i.e., methods of translating knowledge from people to reusable formats).

Responsibility

Give consideration to who will be responsible for the ongoing management of the knowledge management program. There should be clear responsibility and accountability. Some organizations have a dedicated knowledge management director, or even a separate knowledge management department. The background of the primary person managing knowledge-management efforts on a day-to-day basis also varies by organization: Some are non-practicing lawyers; some are IT specialists; some are librarians, to name just a few.[3] There is a growing specialty field of knowledge management professionals.

In addition to a clear knowledge management "point person," make sure that law department personnel have the training and support they need in order to correctly capture information and best use the information.

Sometimes counsel are resistant to knowledge management programs, especially those related to unstructured information and tacit knowledge. They assert that every case is different, that they have unique knowledge and that simply repeating verbatim past efforts is risky and inappropriate. Department leaders need to help members understand that the purpose of knowledge management is not to parrot prior actions, but to identify trend information that can guide better, more efficient decisions. When implementing knowledge management programs (or any new program), law departments may want to bear in mind the principles of change management to make sure the new practices "stick."

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[3] "KM Survey Results," *Knowledge Management: Bridging People, Information and Processes* at 11 (ILTA, June 2010).

PRACTICE TIP
Change Management

A new knowledge management program may face resistance or pushback from the department. Consider using change management best practices as you roll out the new program to ensure it is accepted and integrated into your team's practices. A suggested change management framework and some tips for success follow.

CHANGE MANAGEMENT FRAMEWORK	TIPS FOR SUCCESS
Setting the Stage Establish a sense of urgency Form a powerful guiding coalition	1. Clearly define why the change is needed 2. Establish clear success metrics for the project and incorporate them into individual's performance goals 3. Establish a project steering committee with leadership from affected areas 4. Identify an internal project leader 5. Supplement with an empowered core team 6. Raise awareness of who is part of the project team 7. Make the vision for change clear, desirable, and feasible -- have an "elevator speech"
Deciding What to Do Develop the change vision and strategy	1. Identify an important business driver and keep that message consistent throughout the project 2. Evaluate your organization's readiness for change and organizational culture 3. Acknowledge that there will be change and there will be resistance
Making it Happen Communicate the vision for understanding and buy-in Empower others to act on the vision Plan for and create short-term wins Consolidate improvements and keep the momentum	1. Communicate early and often using multiple methods 2. When working with consultants and vendors, make them enablers of your project, not the owners 3. Encourage consistency in senior leadership behaviors to support the vision 4. Provide a mechanism for feedback/suggestions and the freedom to challenge the status quo 5. Plan checkpoints to stop and recognize progress 6. Make the celebrations public and reward contributors 7. Don't declare victory too soon
Making it Stick Institutionalize the new approach	1. Make sure that senior management continues to "walk the talk" 2. Conduct a structured "lessons learned' session and be willing to discuss the good, bad, and the ugly of the change effort 3. Recalibrate success metrics once improvements have been made

Managing and Measuring

The knowledge management program will not be effective if it is static. To maintain its viability, there must be processes, procedures and metrics in place to make sure it remains current. In addition to having individuals with clear responsibility for managing the program, there must be a maintenance plan to continually monitor the program and make adjustments if necessary. These adjustments might include identifying gaps in knowledge areas, identifying opportunities for improving function and process, and ensuring that policies and technology remain current.

Measuring the effectiveness of the program is crucial. Metrics should be established and tied to the original program goals to ensure that the program is effective—that the right knowledge is being captured, that it is accessible, that it is being used, and that its use has a positive impact on the department's productivity and the quality of its work. Of course, the appropriate metrics will vary depending on the individual law department's knowledge management program. In general, the metrics should address knowledge depth, growth and use. Metrics can be both qualitative and quantitative.

Qualitative metrics, for example, might address department members' degree of trust in the knowledge management program, satisfaction with the program and whether they believe their training has been adequate, or their perception of the accuracy and completeness of the available information.

Quantitative metrics will be more focused on the department's knowledge management methods and technology systems. Examples of metrics related to methods might include quantification of how many contracts are generated using standard templates and after-action reviews, such as how many law-firm evaluations were done and whether the results were used and resulted in any improvement. System metrics might address knowledge growth, ability to find needed information, how many systems were accessed to get to the needed knowledge, etc.

Case Study

Our hypothetical law department's knowledge management team develops a variety of metrics to evaluate the effectiveness of the knowledge management program. For example, the knowledge management team decides to use periodic surveys to assess department members' satisfaction with the program overall, and perceptions about the quality and usability of the knowledge made available. The team also begins measuring compliance with its policies and new systems regarding email storage and the document management system, and establishes a variety of other metrics as well, such as the completeness and currency of the brief bank. These measurements help the department understand how the program is working and where it needs tweaking, whether the goals are being met, and when it will be time to take the program to the next level.

APPENDIX

Practice Group Information Needs

Type of Information	Example Needs	Current State Comments
Fielded Data Value:		
Documents Value:		
Financial Data Value:		
Unstructured Information Value:		
Tacit Information Value:		

LEGEND: ● High ▲ Medium ■ Low

For more information on the ACC Value Challenge, please visit: www.acc.com/valuechallenge.
ACC thanks Nancy Jessen and Danish Butt, Huron Legal for their work on this ACC Value Challenge Resource.

Knowledge Inventory

System Name	Description	Data Type	Owner	Audience/Users	Processes

Knowledge Management Implementation Worksheet

Priority Ranking	Desired Objective	Value / Benefit	Proposed Method to Achieve Objective	KM Program Development – Required Operational Improvements			Timetable for Completion
				Process	Policy / People	Technology	
1							
2							

For more information on the ACC Value Challenge, please visit: www.acc.com/valuechallenge.

Knowledge Sharing Plan

Type of Information	Prepared By	Permission to Access	Distribution Method (Push or Pull)	Purpose of Communication	Frequency	Communication Channel

EXAMPLES OF KNOWLEDGE MANAGEMENT TOOLS

General KM technology:

- Autonomy iManage Universal Search (IUS)
  protect.autonomy.com/products/legal/universal-search/index.htm
- Recommind Decisiv
  www.recommind.com/products/decisiv-access-governance
- SydneyPLUS Lawport (used in Law Firms)
  www.lawport-sydneyplus.com/products/Pages/Lawport5.aspx

Technology that can contribute to KM program:

Matter Management/Ebilling:

- Bridgeway eCounsel
- Datacert Passport
- LexisNexis CounselLink
- Mitratech TeamConnect
- Serengeti Tracker
- TyMetrix T360

Document Management:

- Autonomy iManage
- EMC Documentum
- IBM FileNet
- Microsoft Sharepoint
- OpenText eDocs
- Worlddox GX3

Business Intelligence:

- SAP Business Objects
- SAS Business Intelligence

Legal Research

- LexisNexis Legal Research
- Westlaw West KM

Aggregation/Federated Searching

- IBM Content Analytics with Enterprise Search
- Google Search Appliance
- OpenText Enterprise Connect

Some other types of tools that are available pertain to help-desk applications, web portals, intranets, document authoring applications, etc.