

# 2015 CORPORATE LEGAL SURVEY:

How Legal Operations, Analytics, and the Cloud are  
Reinventing the Corporate Law Department

## TECHNOLOGY, TRANSPARENCY, AND TRACKING PROGRESS

As corporate legal teams continue to expand and manage increasingly complex portfolios in house, they are incorporating the talent of high-caliber leaders who are prompting unprecedented changes to legal operations. That shift is transforming the way lawyers leverage technology, track metrics, allocate resources, and manage their data.

Higher levels of transparency and more effective tracking tools are giving in-house practitioners an unprecedented level of insight. They are making more informed decisions about taking advantage of cloud-based tools, ensuring more sophisticated security protocols, managing outside counsel processes, and governing data holistically.

In an effort to spotlight how legal operations leaders are redefining their roles to support a more dynamic law department, Recommind engaged Ari Kaplan Advisors to interview 25 of the most respected individuals serving in this role throughout the Fortune 1000. They offered guidance on budgeting and spending, applying metrics to gain more visibility into key performance indicators, measuring the success of e-discovery, the changing impressions of the cloud, relationships with vendors and outside counsel, and controlling more of the process.



## PARTICIPANTS

Ari Kaplan Advisors personally interviewed 25 legal operations leaders with predominantly Fortune 500 companies, as well as a few in the Fortune 1000, between July and August of 2015. 80 percent serve as their organization's director of legal operations (or in an equally senior role, e.g., law department chief of staff, vice president of operations, or chief operating officer). All had a diverse array of responsibilities that included managing budgets for compliance, government affairs, and litigation; coordinating e-billing, matter management, and document retention; supervising vendors and outside counsel; evaluating and implementing new technology; staffing; and strategic planning.

The median number of employees supporting legal operations was six, while the median number of lawyers in each law department was 75. In comparison, the median number of outside lawyers each company used in the past year was 100 and the median number of outside e-discovery vendors was two.

64 percent are from companies with revenues over \$10 billion and 88 percent are with organizations with revenues over \$5 billion. 76 percent are at companies with more than 10,000 employees and 96 percent are with organizations of over 5,000 employees. 32 percent are with life sciences companies and 40 percent are in technology. Of the remainder, eight percent are in financial services, eight percent are in manufacturing, four percent are equally in insurance, energy, and retail.

## BUDGETS ARE BIG, BUT VARY

The median legal budget is about \$60 million, though the average is about \$120 million. 20 percent of the respondents were unfamiliar with the total legal budget and 40 percent were unfamiliar with the percentage spent on discovery. Of the remaining 60 percent, the median percentage of the total litigation budget allocated to discovery costs was three. Interestingly, 92 percent of the respondents were familiar with their litigation budget (median of \$20 million) and of the 64 percent who were aware

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-Legal Ops Executive

of the total spent on discovery the median was 20 percent.

For those who were unfamiliar with the costs, it was an area of apprehension and anticipated change. “The inability to calculate this amount is a great concern to the company and one of the reasons driving the interest in committing to a specific vendor,” said one participant. “Discovery vendors are paid out of the legal IT budget, not the litigation budget, while contract reviewers are paid out of the litigation budget,” added another, who highlighted the confusion associated with the variations in cost allocation.

Ultimately, some companies are seeking more control of their processes to streamline operations and more effectively manage expenses. “The company is beginning to bring more of the processes in house; it is beginning to reevaluate its costs.”

Current budget practices also represent a sea change in how law departments manage these issues, particularly as they relate to outside counsel. “The whole litigation picture has been outside the view of the director of legal operations because a lot was managed by outside counsel; it is now an internally managed issue and a lesson learned,” said one participant. “We were not happy with the way it was working with outside counsel so we are now doing it internally.” In addition, one legal operations executive admitted: “Discovery costs have been difficult to capture because the law firms ineffectively group discovery costs under the company’s billing codes.”

## INTERNAL AND GOVERNMENT INVESTIGATIONS REMAIN STEADY

Handling internal investigations and regulatory responses is a key function for corporate legal teams. For 41 percent of respondents that were aware of the investigation rates for their corporations, the number of internal investigations had increased over the past year, with only a few respondents indicating a decrease. Some participants attributed their status to the growth of their respective companies.

Meanwhile, 33 percent of those respondents indicated that the government had launched more inquiries into their companies compared to a year ago. While a small number of respondents indicated a decrease, one attributed the decrease to enhanced compliance programs and greater self-reporting. “They are a constant that comes and goes,” said one respondent about government investigations. Further, one legal operations executive remarked that government regulators are

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enhancing their inspections and that nature of their investigations is evolving: “Government investigations are changing. There is more scrutiny and the way regulators are approaching their investigations is changing—and not for the good of the company or its customers.”

# 92%

**WOULD USE  
ADVANCED ANALYTICS  
MORE OFTEN IF COST  
WERE NOT AN ISSUE.**

## DISCOVERY COSTS AND CONSOLIDATION IMPACT LITIGATION STRATEGY

44 percent of all participants noted that their legal team’s litigation strategy is challenged by the cost of discovery, including review. And 36 percent indicated that their investigation strategy is challenged by the cost of processing and hosting data. However, across the board respondents reported fewer challenges when their company employed a centralized approach for hosting and managing data. Looking at just the respondents who had consolidated their data, only 36 percent were challenged by discovery costs whereas

50 percent of those who had not consolidated experienced cost challenges. One executive, whose company had employed a consolidation strategy, “We’ve seen great results, including cost reductions, resource efficiency, streamlined management, and consolidation of data.”

While a slight majority of respondents (56 percent) had not consolidated e-discovery data, 71 percent of that group have considered or are considering consolidation. Cost and anxiety over the rapid changes in technology were key factors, among others, in making the decision. “The concern was that once we recouped the investment, the tool would be out-of-date, which is why ‘renting’ a preferred vendor’s technology makes more sense,” noted one director of legal operations. “I consider it every year and every year the technology changes so I thank my lucky stars I never invested in anything,” added another.

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Not surprisingly, 92 percent agreed that if the cost of data enrichment for analytics and predictive coding were not an issue, their companies would take advantage of these tools more often, especially given the increased comfort with the potential results. Only two respondents would not use more analytics, one explaining that the company already “uses them quite a bit. It would just save money.” The responses were otherwise completely in favor of analytics. “A couple of years ago, the company did not use them due to risk concerns, but now that they are more widely accepted, changes in cost would have an impact,” advised one participant. “Technology reduces manual effort and can reduce the volume of data into something more manageable; we are very pro technology so anything we could do to have a machine do the heavy lifting, we would do.”

And, if discovery costs were not an issue at all, 64 percent of the participants agreed that it would positively impact their law department and business. “Assuming there is not an increase in matters,

it would bring our overall budget numbers down, making the CLO and company leaders happy,” said one respondent. More specifically, “It would permit an increase in staffing, greater flexibility in the overall budget, and an increase in resources, including technology.”

A number of respondents highlighted the uncertainty associated with e-discovery as a key factor in their cost concerns. “It would make it easier on the business because when e-discovery hits, it changes the normal course of business operations and slows it down; if you can streamline that process, you will enable a more efficient business operation across the board.” One noted that companies are already beginning to lower their discovery costs by shifting responsibility away from their outside lawyers. “E-discovery is the new frontier and vendors are getting better in handling the work previously managed by outside counsel.”

## MANDATING TECHNOLOGICAL PROFICIENCY AND SECURITY AUDITS FOR OUTSIDE COUNSEL

Regardless of how widely available many tools are or how inexpensive they may become, it is essential for outside lawyers to be capable of leveraging them effectively. “The caveat to broader use of technology is that you can do so only to the extent that outside counsel is savvy enough to take advantage of these tools; some are not and I don’t see a lot of proactive efforts on their part to go out and learn how they can benefit the client,” said one individual.

This is a prominent concern since 48 percent of respondents never audit the technological competency and systems of their outside counsel, and 32 percent rarely do so. 20 percent are actually planning to focus on it in the near future. “This is a legal operations mandate that is beginning in 2016,” said one participant. For others it is not a priority or the team is too small to manage the process. Some do not provide their outside lawyers with internal network access so their technological competency is not a risk factor. “The company doesn’t store internal data with the law firm so it has never been a concern.”

In general, however, most participants are attentive to this issue, particularly since 72 percent have data security concerns around distributing electronically stored information to multiple discovery vendors

**72%**  
**HAVE SECURITY CONCERNS AROUND DISTRIBUTING DATA TO MULTIPLE LAW FIRMS AND VENDORS**

and law firms. “It is just a matter of time before a major law firm has a very public breach,” said one law department leader. Another cautioned that some outside lawyers are not using more advanced protocols to protect their data. “The law firms don’t use encrypted e-mails, strip metadata, or apply SFTP sites.”

Others, however, noted “To get a firm through the panel selection process, you have to be vetted by legal and the information security team, which is very difficult.” Or, “We have very detailed processes for data security; anyone handling highly confidential information must pass a security assessment.” One participant even highlighted “I don’t think

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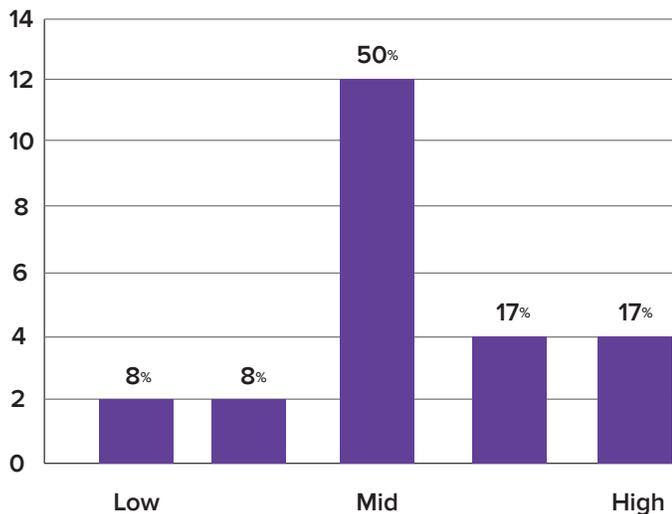
-Legal Ops Executive

we would engage with a firm that we didn't think had adequate security resources and systems."

67 percent typically deliver raw electronically stored information to their outside firms and vendors using SFTP. 46 percent do so via encrypted hard drive in addition to or in lieu of SFTP, while only eight percent use an unencrypted hard drive. SFTP is preferred because "This option eliminates putting a device in transit and provides greater control to the company," said one participant. "In a perfect world, the company would deliver raw electronically stored information in a SaaS solution to which outside counsel has access," added another.

## CULTIVATING CONFIDENCE IN THE CLOUD

How much does your organization use cloud tools?



That comment is not surprising given the widespread use of the cloud within corporate law departments, and the increasing interest in taking advantage of it. 68 percent use a cloud-based e-billing tool, 52 percent use a cloud-based matter management tool, and 36 percent use a cloud-based contract management tool.

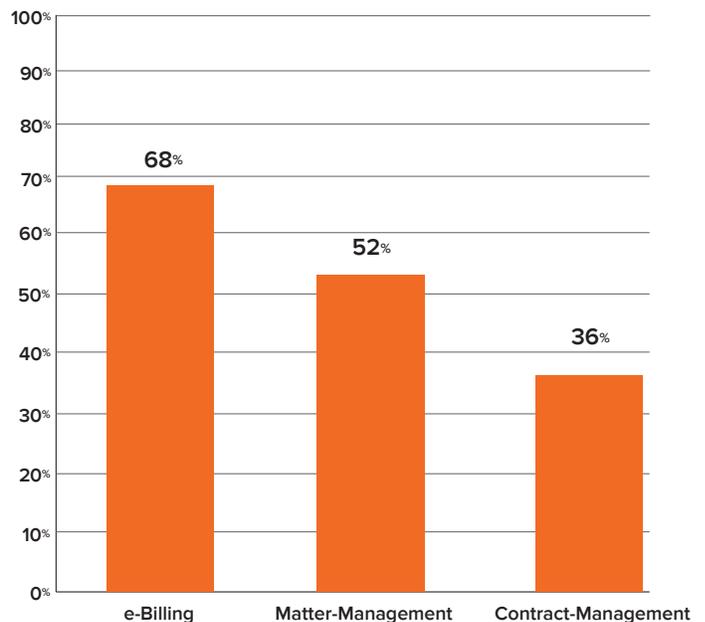
On a scale of 1-5, 80 percent of respondents rated their organization's use of cloud-based tools at a three or above, and 32 percent rated it a four or five. Using that same scale, 84 percent rated their company's openness to implementing cloud solutions in the coming year at three or above, with 72 percent assigning a four or five. "I think the company is very open to it," said one

leader. By way of comparison, when asked to rate their company's previous openness to using the cloud, 68 percent rated it above a three, with 56 percent giving it a four or five.

Explaining the renewed interest in the cloud, one respondent highlighted: "The IT and legal team's acceptance of cloud-based solutions has changed the environment." "Many of the company's attorneys have evaluated the risks associated with cloud computing and there is an effort company wide to take more responsible risk," added another.

The adoption is also being driven by the practical impact on modern business. "Cloud is becoming more attractive due to cost and the reality that no matter where the data is, it is accessible by someone," said one participant. "The company does not have an in-house legal applications team so if they want something managed, it needs to be in the cloud," commented another.

Does your organization use cloud tools for e-billing, matter-management, and/or contract management?



**84%**

**OF RESPONDENTS' BUSINESSES ARE OPEN TO LEVERAGING ADDITIONAL CLOUD SOLUTIONS**

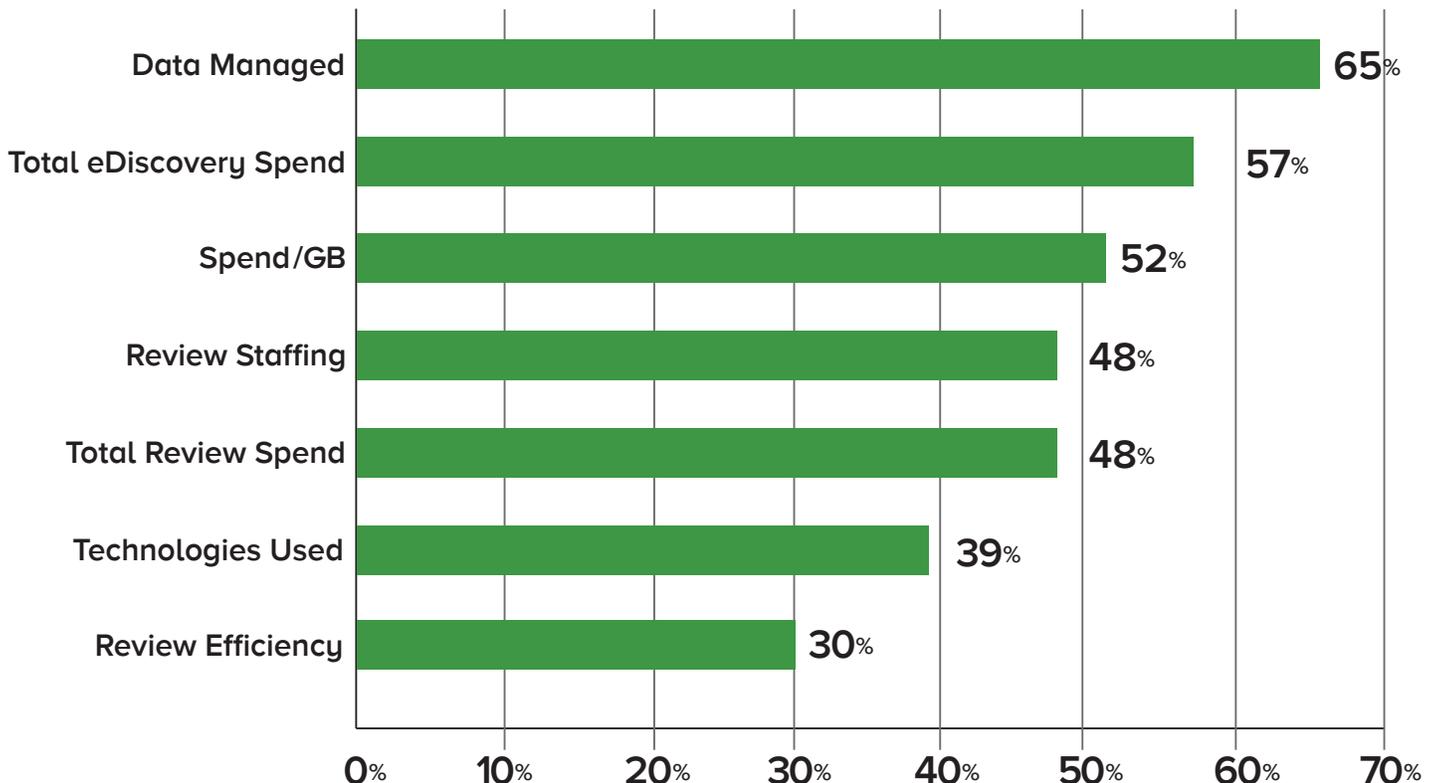
Finally, many are overcoming the fear of cloud usage. “The company is starting to understand the value of cloud-based solutions and is not skeptical about them,” noted one law department leader. “The company is becoming more open to cloud solutions; it is not as scared from a security standpoint.”

Still, some have chosen to avoid it. “The company has been building its own data center so it has made a long-term decision to keep its data on premises, rather than in the cloud.”

**MEASURING SUCCESS AND MONITORING METRICS**

Metrics have become instrumental to reinventing the modern law department and leaders of legal operations are increasingly harnessing them. Beyond the obvious budgeting and financial allocation statistics, they are studying e-billing and outside counsel performance, contract management templates and turnaround time, individual productivity, win rates on cases, deals, and contracts, the ROI of new technology implementations, and similar details. “What gets measured gets improved,” said one participant, noting that the company has a metric for the percentage of discovery spending relative to its litigation budget. If the operations team sees an increase in that number, it reevaluates its suppliers and considers ways to reduce that amount. “Legal operations can demonstrate comparative values to make more informed decisions,” added another.

**What metrics are you tracking for eDiscovery?**



In terms of discovery-specific metrics, 65 percent of respondents track the amount of data they manage, 57 percent track their total e-discovery data spend, 52 percent track their per GB/TB data spend, 48 percent track their total review spend, 48 percent track review staffing, 39 percent track the technologies they are using, and 30 percent track review efficiency. “The company requests weekly status reports from its service providers or evaluates internal projects via a QC process,” explained one participant. “The company has started to track this data; it is more real-time whack-a-mole than a structured comparison,” admitted another.

Ultimately, declaring victory in e-discovery is mostly about cost reduction for 28 percent of legal operations teams. “Success is measured by coming in under budget; the company never thinks of e-discovery as successful,” said one individual. Others are more

specific, focusing on preservation efficiency and information governance, among other issues. “The operations team uses metrics to gauge whether it is meeting deadlines, turnaround time, speed of collection and delivery to e-discovery vendors, and ease of review by in-house attorneys.”

While discovery costs are important, “A large driver for success is how the operations team is managing outside counsel,” said one participant. Despite that focus, only 28 percent of respondents feel they have enough insight into the discovery processes of their outside counsel.

And, 40 percent of respondents rate the effectiveness of reports or metrics they receive from their outside counsel on discovery budgets and review efficiency as not particularly effective (the lowest rating). No one rated it as very effective.

**28%**

**FEEL THEY HAVE ENOUGH INSIGHT INTO THE DISCOVERY PROCESSES OF THEIR OUTSIDE COUNSEL**

“We struggle with outside counsel; they are very good about submitting invoices, but not on case status reports,” said one operations leader. “Outside counsel provides some direction and a ballpark, but it is rarely highly predictive; it tends to be inaccurate.”

Despite their concerns, many companies accepted some responsibility for not asking for these reports or not doing enough to follow up on them. “Some firms are very good and some are very bad,” acknowledged one participant. “I think it is an area where they can all use a lot of work,” added another echoing the consensus.

Some are evaluating how they are allocating key tasks to assign the work according to perceived competencies. “The company measures what it sends to a service provider and calculates its savings on the various components of e-discovery; it looks at every element that it is unbundling from the law firm and transferring to service providers,” said one participant. “The operations team measures some of its success by minimizing the involvement of outside counsel and its ability to reduce the data sets,” another individual added.

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## KEY FINDINGS AND TAKEAWAYS

Corporations are increasingly taking control of their internal tools and process. While they are enlisting the support of outside law firms and service providers, they are scrutinizing how effectively those organizations are supporting the law department's mission with greater frequency.

### MOVING TO THE CLOUD

There is clearly a rising interest in leveraging the cloud given the reduction in concern about its security and an almost universal acceptance of its efficiency. In the next year or two, legal operations teams will continue to consider tools that provide greater control, improved analytics, and budgetary advantages. While e-discovery is a key factor for some organizations, most are interested in implementing holistic technology platforms that can adapt to a variety of compliance and information management challenges. They are likely to seek out best-of-breed tools, which offer routine upgrades at a price-point that is lower than what they are paying outside counsel and even service providers.

### TRACKING MEANINGFUL METRICS

There is also a widespread and growing reliance on metrics to make decisions and justify strategic initiatives. While law department leaders have historically accepted less visibility in favor of performance, they are now expecting both, particularly given the rising influence of legal operations authorities. Tools and teams that can offer this combination of transparency and talent will gain broader acceptance. In addition, as more law departments set key performance indicators for themselves, they will require the same figures from their outside counsel and service providers.

### CENTRALIZING FOR SECURITY

And, of course, security remains a top priority for every legal team, both internal and external. Given those concerns, fewer legal operations leaders are likely to permit broad distribution of their critical data unless absolutely necessary, particularly if they are not auditing the technological protocols of their outside counsel. Instead, they will provide secure access to a centralized repository where they maintain control of their information.

### GROWING INFLUENCE OF LEGAL OPERATIONS

The inherent diversity in the role of a legal operations executive and the growing influence of the metrics they track is likely to yield continued improvements in corporate law departments. Chief legal officers will be able to make more reasoned decisions that streamline the division and offer the entire corporation benefits from these changes. While there will be greater accountability for outside counsel and service providers, they will have the opportunity to showcase their talent and ability at a much higher level.

## ABOUT RECOMMIND

Recommind provides the legal industry's most powerful and intuitive data analytics for fact finding, compliance, and sophisticated analysis. A Gartner Magic Quadrant Leader year after year, Recommind offers complete, end-to-end investigation and discovery software and services powered by a world class, worldwide team.

In addition to on-premise and on-demand hosting options, Axcelerate features a subscription-based SaaS deployment model that includes maintenance, updates, and optional services directly from the developer. Axcelerate SaaS transforms the legal and compliance model by offering the world's best eDiscovery and investigations platform with unlimited access to analytics (including Recommind's patented predictive coding), unlimited user seats, unlimited productions, and the freedom to move data in and out as cases and matters open and close without additional processing fees.

Headquartered in San Francisco, with offices across the U.S. and E.U., Recommind has been serving the needs of the legal industry since 2001, with a client base that includes many of the world's most prominent law firms, companies, financial institutions, and government agencies.

## ABOUT ARI KAPLAN

Ari Kaplan, a leading legal industry analyst, is an inaugural Fastcase 50 honoree and a finalist for ILTA's 2015 Thought Leader of the Year award. His most recent book, *Reinventing Professional Services: Building Your Business in the Digital Marketplace*, was released in Japanese, and Thomson Reuters is publishing the second edition of *The Opportunity Maker: Strategies for Inspiring Your Legal Career Through Creative Networking and Business Development* in 2016.

He is the principal researcher for a variety of widely distributed benchmarking reports and has also been the keynote speaker for events in Australia, Canada, the United Kingdom, and throughout the U.S. Kaplan is also the founder of the Lawcountability® business development platform, a finalist for ILTA's 2015 Innovative Solution Provider of the Year award, and a two-time Ironman triathlon finisher.