Differences Between Information Governance and Records Management

Stephanie "Tess" Blair and Tara Lawler, The Legal Intelligencer

March 26, 2014  |  1 Comments

Given the exploding volume of data that organizations in the United States create and store, and the steady diet of compliance, data security, privacy and discovery obligations they face, information governance is garnering a lot of attention these days. As in-house counsel, you know that your company relies on a vast array of electronic information to conduct its daily business activities and to satisfy its legal obligations. But where is this data? Who owns it? What type of data is it? What does it say? How long is it retained? Who has access to it? And when can we dispose of it? Unimaginably huge amounts of data make these questions very hard to answer and make managing all of this information in any meaningful way even harder. Information governance has recently emerged as a new discipline to offer sanity and solutions to this vexing, and constantly growing, problem.

Move Over, Records Retention

Information governance may sound very similar to records retention, but the two are in fact very different. Records retention policies govern the "business records" of an organization. These policies define the retention and expiration of specific business records, as determined by business, legal or compliance requirements. A retention policy typically documents the process for identifying, classifying, storing and destroying these records. While business records can be either tangible objects, such as paper documents, or electronic information, such as email, few retention policies today account for electronically stored business records and how to retain and—equally important—dispose of them. Moreover, designated business records generally account for less than 5 percent of the information and data that organizations create and store. So even with an impeccably crafted and vigilantly followed record retention program, a tremendous achievement in itself, greater
than 95 percent of an organization's information would remain unmanaged, taking up space and creating liability. Simply put, record retention covers only a small piece of a very large information governance puzzle.

**Think Big Picture: Information Governance**

Information governance, on the other hand, is not a program per se, but rather a framework of processes, standards and roles that allow an organization and its employees to organize, maintain, use and dispose of information across the entire enterprise and in a manner that meets the organization's goals and obligations. Think of information governance as information life-cycle management, a holistic discipline that addresses creation, use, storage, search and retrieval, security, retention and disposition of a company's information assets. In an information governance framework, information is treated as a valuable business asset. These assets are made available to those who need them and protected from those who don’t. Information assets are stored and retained while valuable and purged when they no longer are. Simply put, information governance is a comprehensive, integrated approach to information management. Where records management addresses retention and disposal of records, information governance enhances information value by retaining only the information that is needed while ensuring that such information is secure and readily available to those who use it.

**Limit Unmanaged Data, Limit Risk**

Information governance reduces risk by providing an overall structure and organization to data. This allows a business to turn that data into information and information into knowledge. Indeed, a well-organized information governance structure enhances productivity and eliminates waste (wasted effort, wasted time, wasted resources) and supports, rather than hinders, a business’s ability to be nimble, productive and efficient. Equally important, information governance reduces legal risk in the face of litigation or government inquiry by reducing the amount of unmanaged data on hand and allowing an organization to quickly identify relevant information. For example, when you receive a request for production from an opposing party or a subpoena from the government, where do you start? There may be hundreds of sources, systems, applications and databases containing potentially relevant information. There may be hundreds more that do not. Can you tell the difference? An effective information governance framework will allow you to identify where the potentially relevant information is stored, the length of time the information is retained, and who controls or has access to the information. A solid information governance process unites records management, compliance, privacy, legal and security into a unified framework that allows an organization to limit the risk of unmanaged data and maximize the value of information.

**Putting IT Together**

An information governance program should be designed to manage your organization's IT and legal practices, policies, procedures, infrastructure and resources throughout the information life-cycle—from creation to disposition. As discussed above, the benefits of such an information governance program include ensuring that your company is managing information securely and effectively, reducing the volume of information retained in the normal course of business while meeting its regulatory, legal and business obligations, and developing awareness of both the location and nature (sensitive, proprietary, privacy) of its information assets.
The framework should address all aspects of the information governance life-cycle. A useful reference, the Information Governance Reference Model, www.edrm.net/projects/igrm, provides a great visual of the life cycle from creation and use of data, to retention and storage through disposal. Part of the framework should include a record retention policy and a litigation response plan, to be sure, but unlike a records retention plan that only involves records managers, information governance must pull in a range of stakeholders to order to address broader issues. The stakeholders should comprise a multidisciplinary team representing business leaders, legal, IT and compliance. Indeed, it may be wise to create an information governance committee to ensure that all necessary constituents are represented and that all relevant issues are addressed.

An information governance development project should follow the information life-cycle. Current practices should be examined and new policies and practices adopted for each phase of that life cycle: create and use, store and secure, retain and archive, search and retrieve, and, finally, dispose. Any new policies and practices should be coupled with training and support. Big decisions, such as whether and how to apply the new structure to existing data stores, especially email, should be addressed. Ultimately, investing in information governance and endeavoring to manage an organization's information assets responsibly and efficiently is a win-win. It enhances productivity by turning information into knowledge and reduces risk by limiting unmanaged data and maximizing compliance with legal and business obligations.

*Stephanie "Tess" Blair* is a partner in and leader of Morgan, Lewis & Bockius' e-data practice. *Tara Lawler* is a senior attorney in the firm's e-data practice. Both are resident in the firm's Philadelphia office.