

2017 In-House Legal Benchmarking Report

Optimizing Legal & E-Discovery Activities

Learn from other in-house legal professionals on how they are optimizing legal and e-discovery activities for 2018.

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INTRODUCTION

Control, in and of itself, isn't a positive thing. But knowing what needs to be controlled in precise ways is a key element to any solution. You can throw money, resources, and personnel at a problem and may effect some change, but when you know exactly what needs to be managed, you can get the same or better result with a fraction of the cost and effort.

This year's In-House Legal Benchmarking Report shows the areas of focus that corporate legal teams are homing in on in the hopes of gaining the kind of control that will bring efficiency: control over the process, both in-house and with 3rd-party vendors; control over project management through the use of technology; and control over data volumes and data types during preservation.

In Exterro, BDO and EDRM Duke Law's 2017 In-House Benchmarking Report, you'll find these major themes:

- 1. Continued Shift In-House:** Moving legal services in-house is no longer just a trend for organizations — it's becoming the norm. 51% of respondents reported that more than half their legal activities are now conducted internally.
- 2. Streamlining Legal Activities Starts with Legal Project Management:** In the next two years, there is expected to be an increase in the use of legal project management technology, while also a decrease in use of spreadsheets and email.
- 3. More In-House Legal Teams Preserving New Data Types:** Don't think preserving new data types is necessary? Our survey respondents say otherwise: 50% reported preserving instant and text messages, 34% preserve social media communications and 8% preserve wearable devices.

EXECUTIVE SUMMARY



By George Socha, Esq.,
Co-Founder – EDRM,
Managing Director – BDO

Litigation services have come in-house, with the majority of respondents reporting they do over half their litigation work themselves. Generally, corporations are satisfied with the quality of work done internally, more so than with the work done by outsiders. For now, they are doing a lot with a little. They tend to deploy fairly small, dedicated workforces, ranging from a single person to maybe half a dozen people or more, but those people (along with other employees) tackle a lot; in-house personnel and individual custodians do most of the data preservation work, for example. Then comes the kicker: when asked which litigation metrics corporations track, companies overwhelmingly focus on the cost of outside services.

What does this mean? As we peer into our murky crystal ball, we are seeing corporations making ever-growing investments in internal capabilities, especially those built around data analytics and artificial intelligence. We discern a dwindling reliance on outside resources — including law firms. And we suspect the likely outside winners will fit into two broad categories: those who can deliver standardized services efficiently, effectively, and at a very low cost, or at least lower than can be achieved internally; and those who deliver custom and specialized services — bespoke services — that only the rare corporation is likely to invest in developing itself.

Below are couple key points that stood out to me from this report.

The Move In House Continues

Any way you look at it, corporations now conduct a significant percentage of their litigation services internally. 51% percent of respondents reported they did over half of their own litigation work themselves, 85% said they did at least a quarter, and only 15% said a quarter or less had litigation services performed externally. Over the past year, more than a third of respondents increased the amount of litigation services they did themselves.

When asked why they brought more work in-house, they most frequently responded that it was because they could (they had built or expanded internal capacity and now were using it), to save money, or because better software had become available.

When asked why their use of outside service providers (including law firms) has changed over the last five years, companies gave responses in line with the answers above. 28% percent reported they have been outsourcing less work. Add to that the number who have held steady, and the total increased to 75% who are outsourcing less or at the same level as last year. Only 15 percent said they have increased outsourcing. Controlling or reducing costs, along with leveraging internal expertise, were the main reasons offered for outsourcing less.

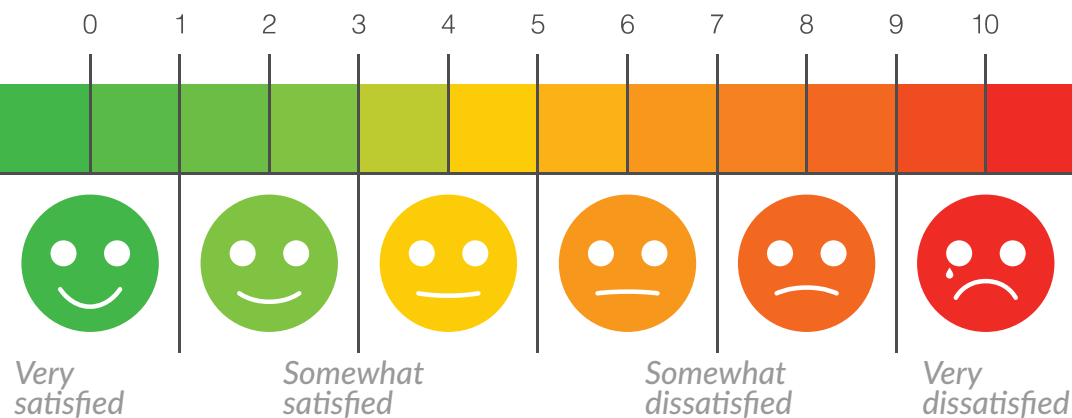
The work kept in-house vs. the work sent outside breaks down along predictable lines. The two types of services corporations kept in-house the most were legal holds (69%) and preservation and collection (56%). The work most likely to be sent outside was review (31%) and production (26%).

Looking to the future, corporations don't see much change. 21% said they expect their law department to use more outsourcing in the next two years, 33% thought they would stay the same, and 29% anticipated that they would outsource less.

How Happy Are They?

Even though corporations seem to be bringing more work inside, they report moderate to strong satisfaction with the quality of outsourced legal work done for them. Twenty-one percent of respondents replied that they were “very satisfied” and another 48% said they were “somewhat satisfied.” Only 7% reporting being “somewhat dissatisfied,” and a slim 1% answered that they were “very dissatisfied.” When asked how providers of outsourced legal services could improve, corporations’ most frequent comments were that they could be less expensive and more responsive.

Corporations may be pleased with the work done by outsiders, but they are happier with the work they do themselves. Forty-one percent rated themselves “very satisfied” with the in-house legal services they receive and another 41% remarked that they were “somewhat satisfied”. One percent answered “somewhat dissatisfied,” and no one said “very dissatisfied”.



How Do They Manage?

Corporate legal departments use a variety of tools to manage their legal projects and cases. Forty-six percent use matter management software, 40% spreadsheets and 40% email, 25% legal project management software, and 11% generic project management software. Of those who responded to this question, 52% used just one of these approaches. Thirty-one used 2, 12% used three, and just 5% used four sets of tools.

Corporations see that mix changing somewhat in the next year or two. Fifty-four percent anticipate they will be using matter management software; 38% expect to be using legal project management software, a boost for that category; spreadsheets will drop to 32% as will email; and generic project management software will hold on to last place with 12%.

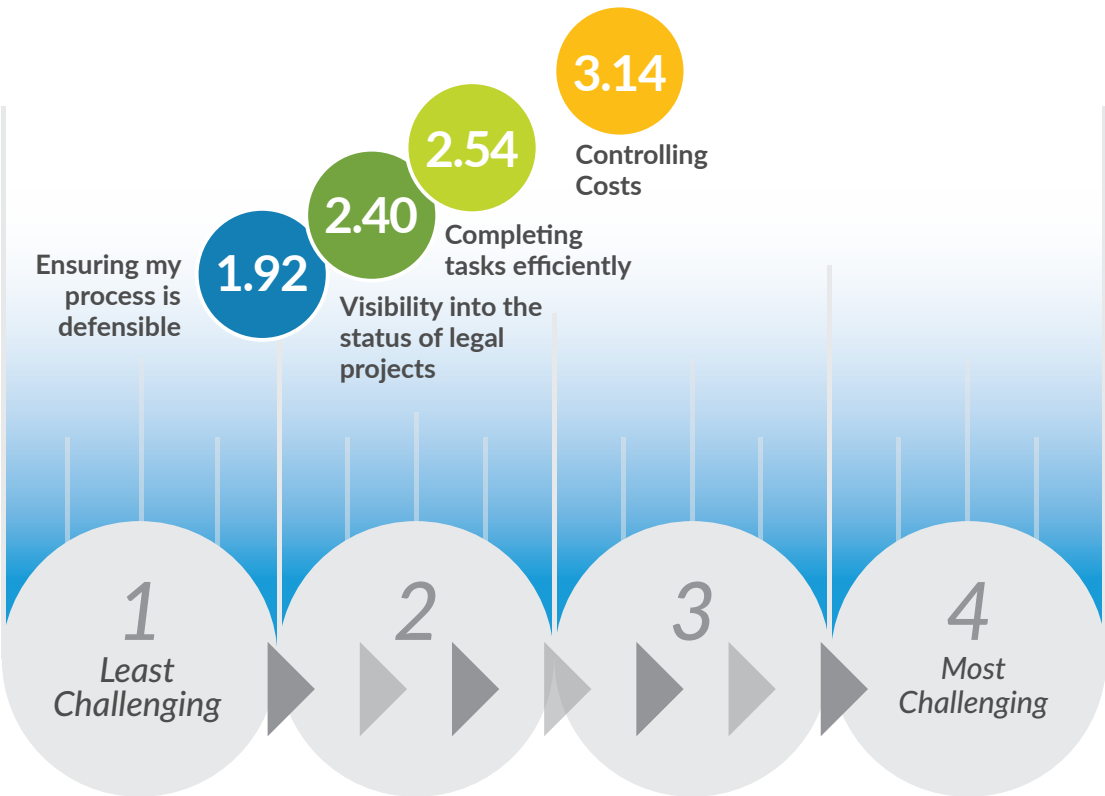
When asked where they fit in a legal project management maturity model, the felt they are, at best, maturing. Fifteen percent feel they are at the most basic level, “ad hoc.” Twenty-six percent think they are one rung higher, at the “defined” stage. Another 23% place themselves in the middle, at “structured,” and 31% say they have advanced to “managed.” Only 5% report they have matured to the top level, “optimized.”

The vast majority of respondents believe having consistent, formal processes for various stages of a matter gives them the foundation for completing legal tasks more efficiently (69% strongly agree and another 26% somewhat agree). Most also think their organizations focus on improving processes with legal project management principles/tools (48% say they do this and 28% more say they do this sometimes).

The Work Ahead

There still is much work to be done to manage well. When asked to rank challenges managing legal and e-discovery project on a scale from 1 (least challenging) to 4 (most challenging), they ranked “controlling costs” as the biggest challenge at an average of 3.14. “Completing tasks efficiently” was second at 2.54. “Visibility into the status of legal projects” was third, with 2.40. And “ensuring my process is defensible” brought up the end at 1.92.

Managing Legal and E-Discovery Projects Biggest Challenges:



Who is Doing All this In-House Work?

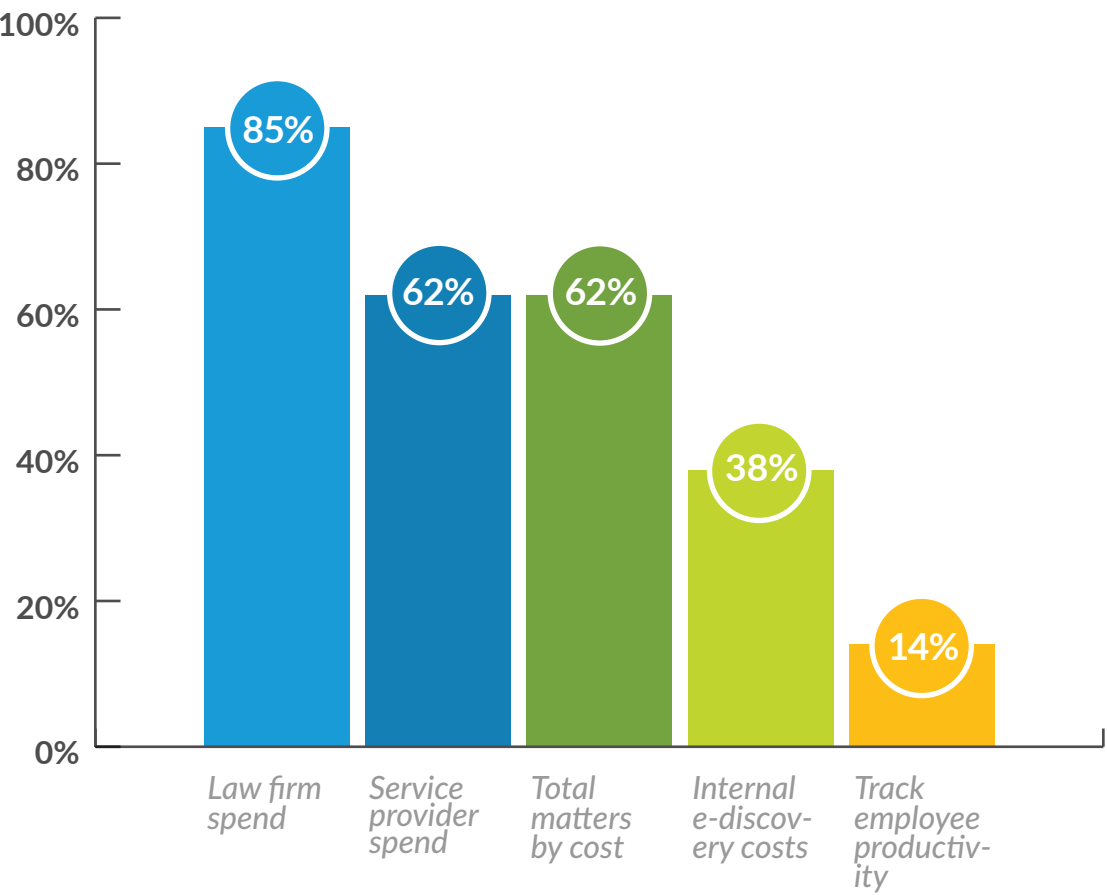
A few are doing a lot, judging from the answers. 11% percent of respondents said they had no IT or project management professionals supporting their legal department. Another 12% relied on just one person, and 23% are getting by with 2 to 3 people. Fifteen percent use 4 or 5 people, 20% have the relative luxury of 6 or more people available. And 18% don’t even know. Not surprisingly, two thirds of those who answered this question said they need more people. One third are content with current headcount. No one said they wanted to reduce this headcount.

Attorneys most frequently are the primary project managers for legal projects, at 42%. Far behind in second place are litigation support personnel and dedicated project managers, at 20%, followed by paralegals at 15% and legal directors at 11%. Forty-eight percent of those answered thought they had in place the most efficient person for managing legal projects, but 30% said they did not and another 17% percent said they only sometimes did.



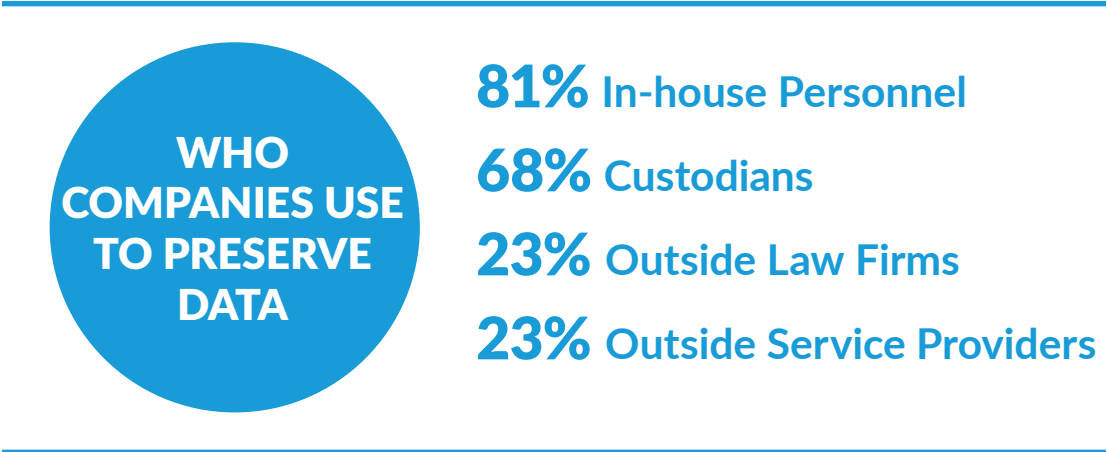
What Matters?

If what we measure indicates what we care about, companies care a lot about the money they spend. When asked what litigation metrics their legal department tracks, 85% said “law firm spend,” 62% “service provider spend” and 62% “total matters by cost, and 38% “Internal e-discovery costs.” Only 14% said they track employee productivity.



Preservation

Corporations are preserving data from pretty much everywhere. Desktop/laptop computers and network drives top the list at 89% and 84%. Cloud-based platforms and loose storage media both are at 63%, followed by 60% for backup media. Even mobile drives are 50%. Bringing up the end are internet pages (32%), social media platforms (21%) and wearable devices (8%). They are preserving all the usual suspects: email messages and attachments (90%), office files (89%), and databases (77%), but they also are preserving audio files (55%), system data (55%), instant and text messages (50%), video (44%) and social media (34%).



Who corporations say they use to preserve data is consistent with the results reported in other recent surveys. Companies turn to in-house personnel (other than custodians) 81% of the time, custodians 68%, outside law firms 23%, and outside service providers 23%. Thirty-seven percent of respondents rely on only one of these four groups, but 42% use two, 11% three, and 10% all four.

REPORT DEMOGRAPHICS



** Note: Not all survey participants answered every question listed in this survey.*

Primary Area of Responsibility

Attorney	28
Litigation Support	14
General Counsel	13
Other (please specify)	12
Paralegal	12
Legal Director	7

REPORT DEMOGRAPHICS

Organization size

1 - 1,000	19%
1,000 - 25,000	43%
25,000 - 100,000	20%
100,000 - 250,000	12%
250,000+	7%

Department size

1 - 5	14%
5 - 10	7%
10 - 20	14%
20 - 50	24%
50+	41%



Annual litigation

1 - 25 matters	27%
25 - 50 matters	20%
50 - 100 matters	14%
100 - 250 matters	8%
250+	31%

2017 In-House Legal Benchmarking Report

Key Findings



* Survey results rounded to the nearest whole number.

N = # of survey respondents

HOW IN-HOUSE LEGAL DEPARTMENTS ALLOCATE RESOURCES

Summary of Results:

Moving legal services in-house is no longer just a trend for organizations, it's becoming the norm. **51%** of respondents reported that more than half their legal activities are now conducted internally. One respondent rattled off a list of reasons why the percentage of work in-house has increased: "Cost savings. Leveraging institutional knowledge. Consistent defensible practices. Reducing law firm spend. Increasing control over data."

The legal services that were reported as most commonly conducted in-house were legal hold and preservation/collection activities. While e-discovery activities conducted on the right side of the EDRM, like processing review and production, were the most outsourced.

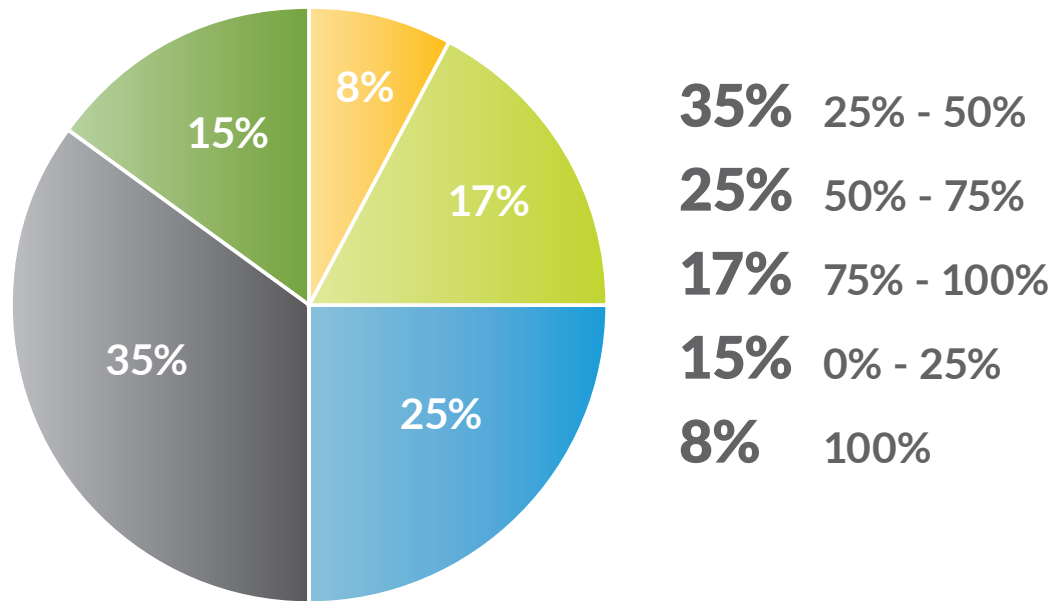
69% of in-house legal teams said they are generally satisfied with the outsourced legal services they use. When asked how these third parties could improve, their comments centered on responsiveness and cost. Showcasing this theme, one respondent stated, "Even with the same provider, sometimes it seems as if we are reinventing the wheel."

When this question was flipped and directed at their own team, **41%** of respondents were very satisfied with their own teams but did note that they felt they could be more efficient. "We would benefit significantly from better integration among practice areas and centralized operations support including e-discovery."

1.

Generally, how much of your organization's legal services (i.e. legal holds, document review, data collection/processing, depositions, matter intake, managing budgets, etc.) are conducted internally?

(n = 75)



Has this percentage increased over the past year?

No	56%
Yes	36%
Don't know	8%
(blank)	0%

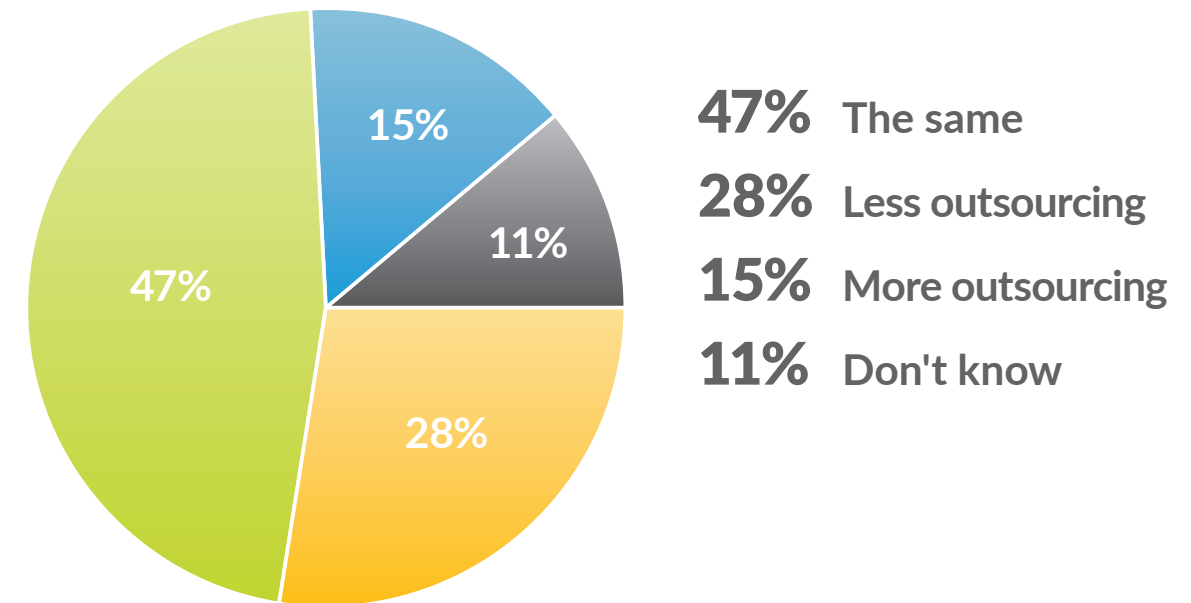
If Yes, Why?

Save money	3
Better software became available	2
Built/expanded in-house capacity	2
Implemented in-house program	1
Control data	1

2.

In terms of quantity, how has your law department's use of outside service providers (including law firms) changed over the last 5 years?

(n = 75)



If Less, Why?

Control/reduce costs	7
Leverage internal expertise	4
Hiring expertise internally	3

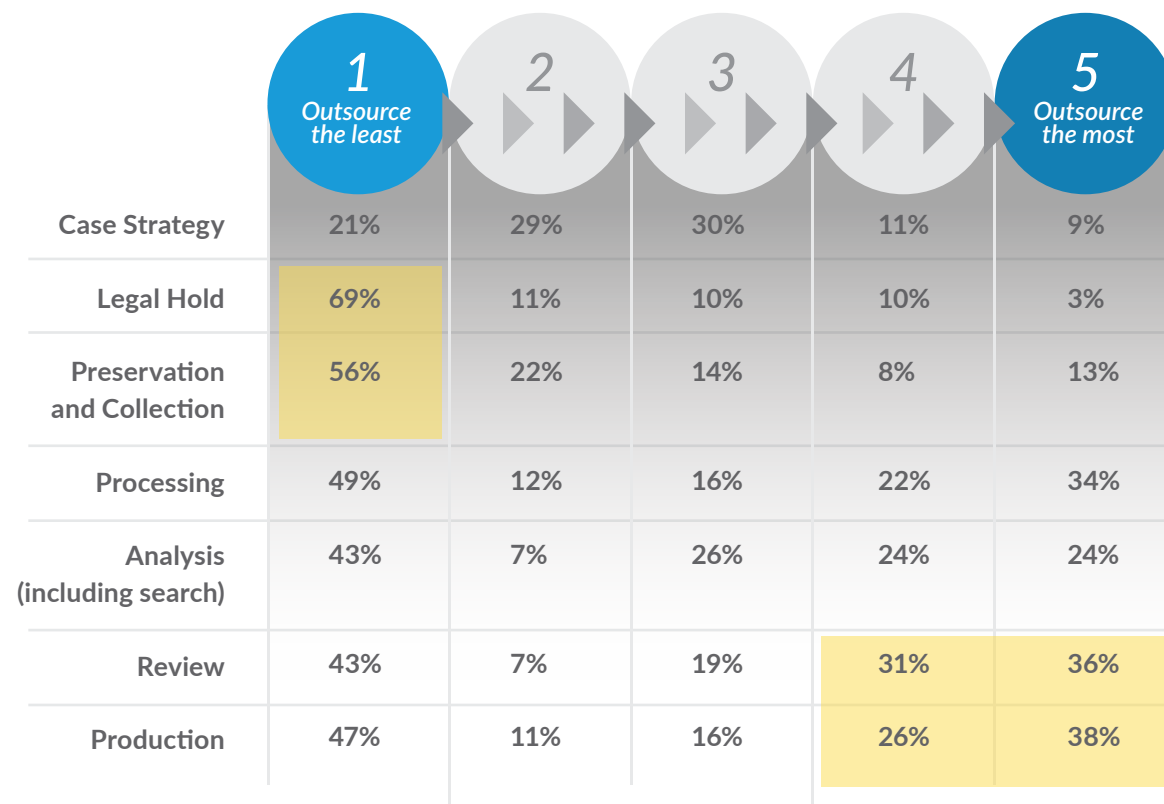
If More, Why?

Not enough internal expertise, people, resources, money	6
More litigation/data	3

3.

What types of services do you outsource the most (rank from least frequently (1) to most frequently (5))?

(n = 75)



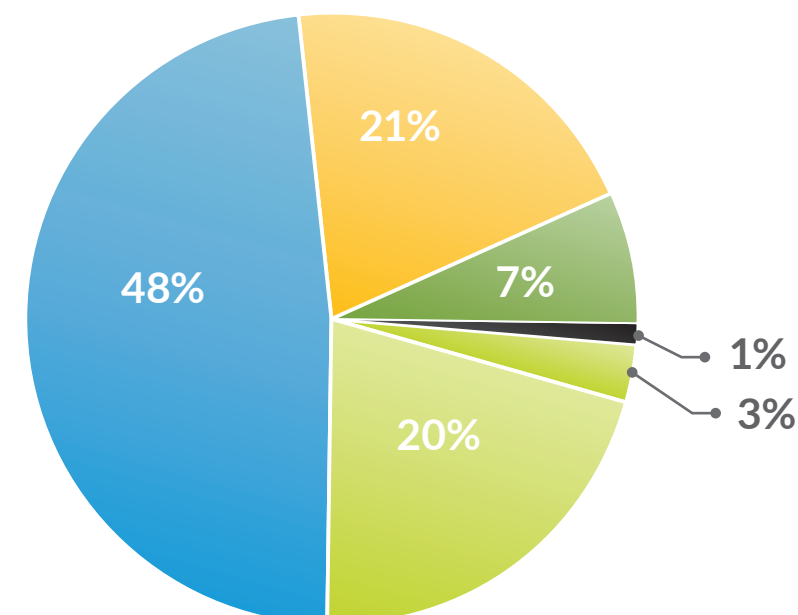
- **Least outsourced (1):** Legal Hold (69%), Preservation & Collection (56%)
- **Second least outsourced (2):** Preservation & Collection (22%), Processing (12%)
- **Middle (3):** Analysis (including search) (26%), Review (19%)
- **Second most outsourced (4):** Review (31%), Production (26%)
- **Most outsourced:** Review (36%), Production (38%)

4.

How would you rate your overall satisfaction with outsourced legal services?

(n = 75)

(respondents' comments)



- 21% Very satisfied
- 48% Somewhat satisfied
- 20% Neutral
- 7% Somewhat dissatisfied
- 1% Very dissatisfied
- 3% N/A
(we don't outsource services)

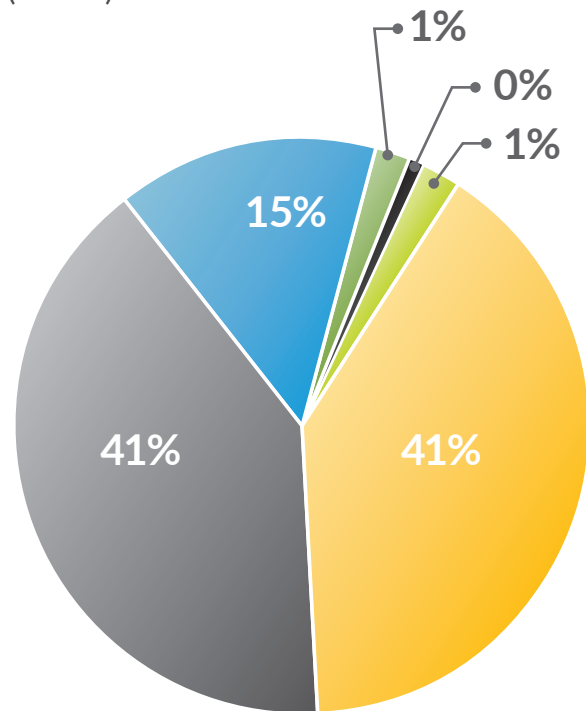
What Could They Improve?

Be less expensive	6
Be more responsive	3
Be more efficient	2

5.

How would you rate your overall satisfaction with in-house legal services?

(n = 75)



- 41%** Very satisfied
- 41%** Somewhat satisfied
- 15%** Neutral
- 1%** Somewhat dissatisfied
- 0%** Very dissatisfied
- 1%** N/A
(we outsource all legal services)

Do you feel your in-house legal services are efficient?

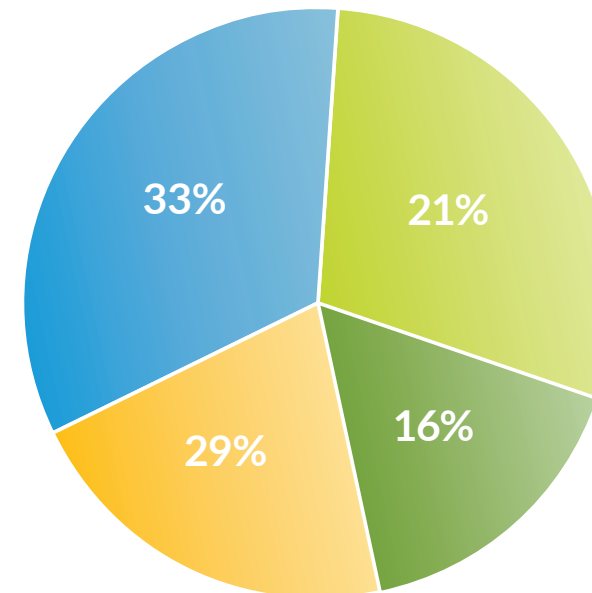
(respondents' comments)

- i. *Need better tools.*
- ii. *We would benefit significantly from better integration among practice areas and centralized operations support including e-discovery.*

6.

How do you expect your law department's use of outside service providers (including law firms) will change in the next two years?

(n = 75)



- 33%** Stay the same
- 29%** Less outsourcing
- 21%** More outsourcing
- 16%** Don't know

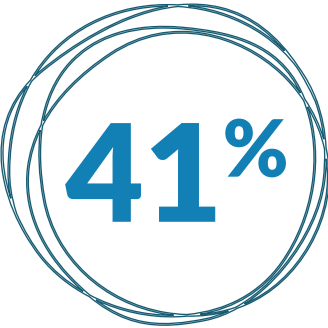
HOW IN-HOUSE LEGAL DEPARTMENTS ALLOCATE RESOURCES

Summary of Results:

Like last year, in-house legal teams use email and spreadsheets as their primary tools for managing legal projects. With basic tools like these, it is no surprise that **41%** of the survey respondents rate their legal departments as fairly immature when it comes to processes (“ad hoc” (**15%**) or “defined”

(**26%**)). One respondent sums up the problem accurately stating, “We end up emailing around spreadsheets, rather than inputting the data once into a database that is easily accessible and provides and ability to pull reports automatically.”

Here are a couple more reasons why **41%** of in-house legal teams categorized their departments as ad hoc or defined:



PROJECT
MANAGER

Attorneys are still considered the primary project manager (coordinating tasks, ensuring deadlines are met, creates reporting, etc.). Managing the case strategy – which attorneys often.

DISORGANIZED
PROCESSES

With disorganized processes, it comes as little surprise that one of the biggest challenges legal departments are facing is defensibility.

IMPROVEMENT

One area of improvement is that more legal departments are assigning IT and project management support to help navigate complex, e-discovery issues.

But that is only half the story. Other in-house legal teams are refining and automating legal processes using legal project management principles and tools. **36%** of respondents report having a “managed” or “optimized” legal process. But it takes persistence, explains one respondent: “I have been working on this process since 2002 when I worked for a company that had a ‘bet the company lawsuit’ and everything was put in place to move forward properly.”

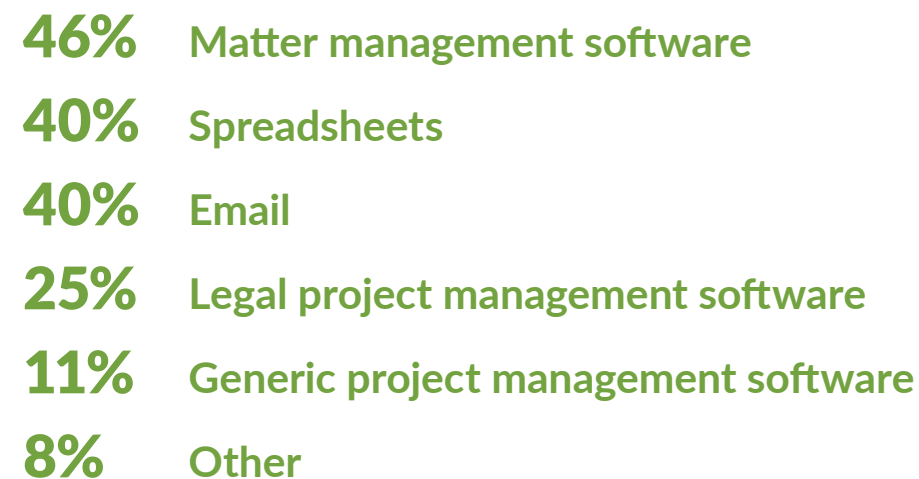
For those interested in becoming more efficient and ditching the use of emails and spreadsheets, mature legal departments have started leveraging legal project management software to help organize and coordinate activities. To compound this point, in the next two years there is expected to be a **13%** increase in the use of legal project management technology, while an 8% drop in use of spreadsheets and email. By incorporating legal project management technology, legal departments will be empowered to easily track important metrics like total matter cost for accurate budgeting and cost containment.



7.

Currently, how does your legal department manage legal projects/cases?

(n = 65)



What part of how legal projects are currently managed frustrates you the most?

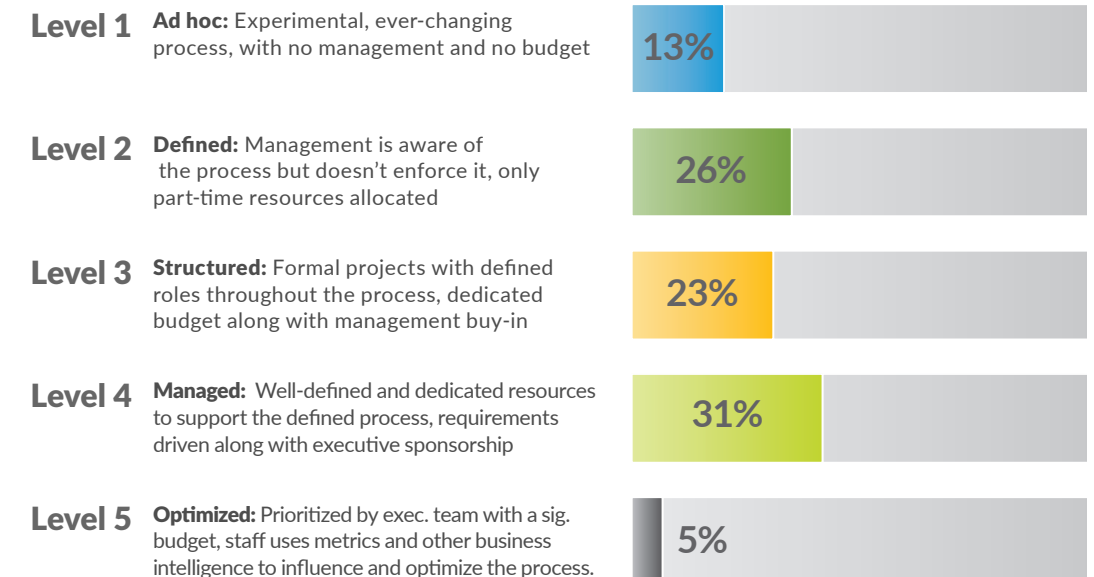
(respondents' comments)

- In-house counsel needs to become involved to drive efficiencies. Not happening.*
- We end up emailing around spreadsheets, rather than inputting the data once into a database that is easily accessible and provides and ability to pull reports automatically.*

8.

Where would you place your legal department on this legal project management maturity model?

(n = 65)



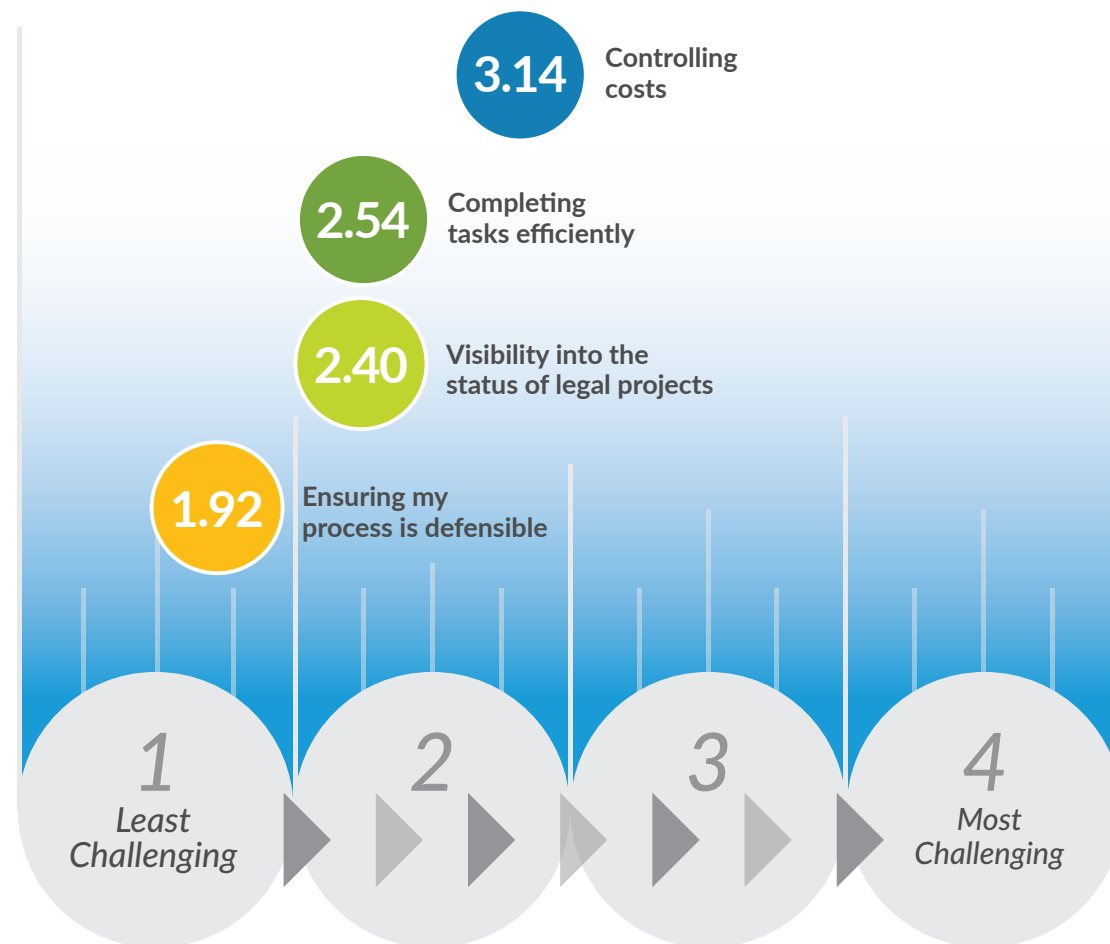
Please describe what makes your process the level you selected.



9.

As it relates to managing legal and e-discovery projects, what is the biggest challenge you want to solve? (please rank from 1 the least challenging to 4 the most challenging)

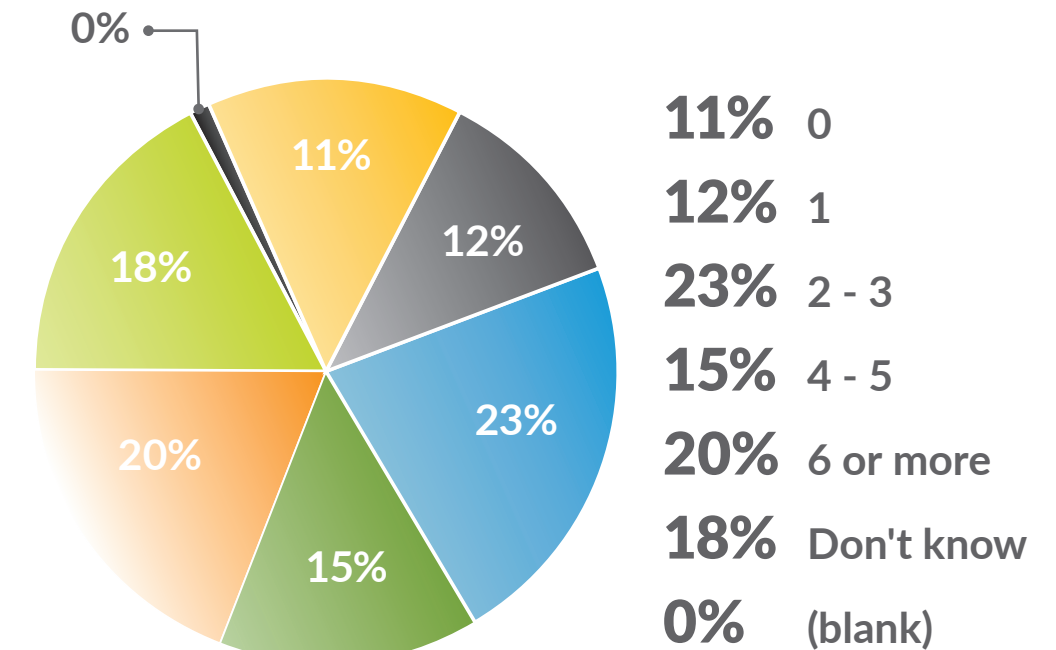
(n = 65)



10.

On average, how many IT and project management professionals' support your legal department?

(n = 65)



Are you content with this number of dedicated IT/project management professionals for support?

33% Content
67% More

(respondents' comments)

Content

Good right now - might need more IT support if we moved heavily into AI.

The number of professionals is sufficient but the skill level is lower than desired.

More

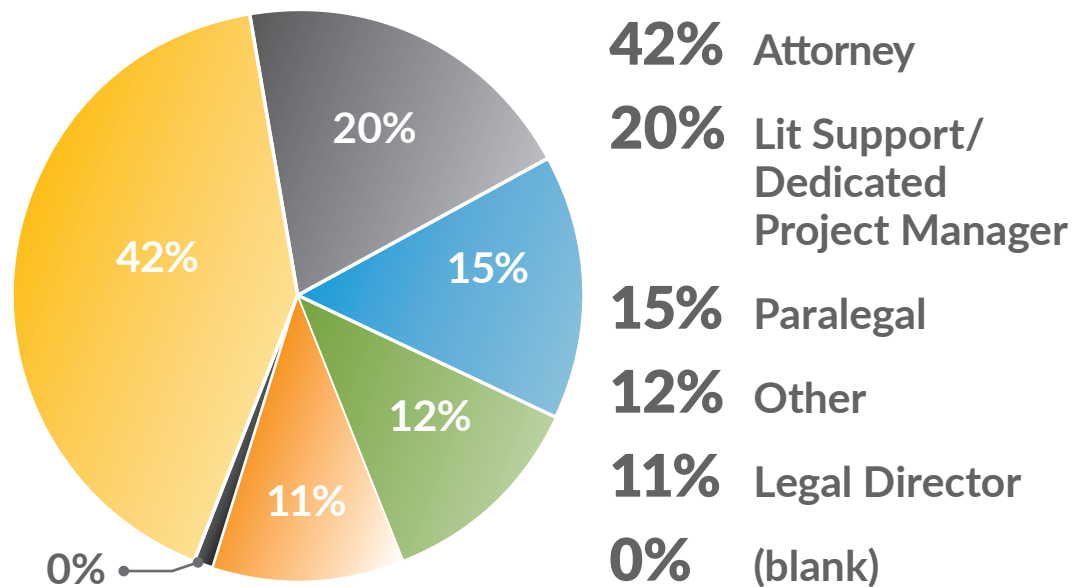
I think a closer partnership with IT and more dedicated PMs w/tech knowledge specific to legal would help move us to a more mature and formal legal operations structure.

We need more project management assistance.

11.

Who is the primary project manager (coordinating tasks, ensuring deadlines are met, creating reporting, etc.) when it comes to managing legal projects?

(n = 65)



Does your organization have the right person managing these projects?

(respondents' comments)

No

Generally, our attorneys don't have great project management skills and this is not their only job responsibility.

We don't really have a project manager. That role is not defined, and in-house won't go out on a limb to designate one.

Sometimes

It depends on what group has the matter. Sometimes managing the project is in my group and other times it's driven by outside counsel.

Sometimes. Often, they get too focused on their role as a project manager and forget the legal work that we have to do.

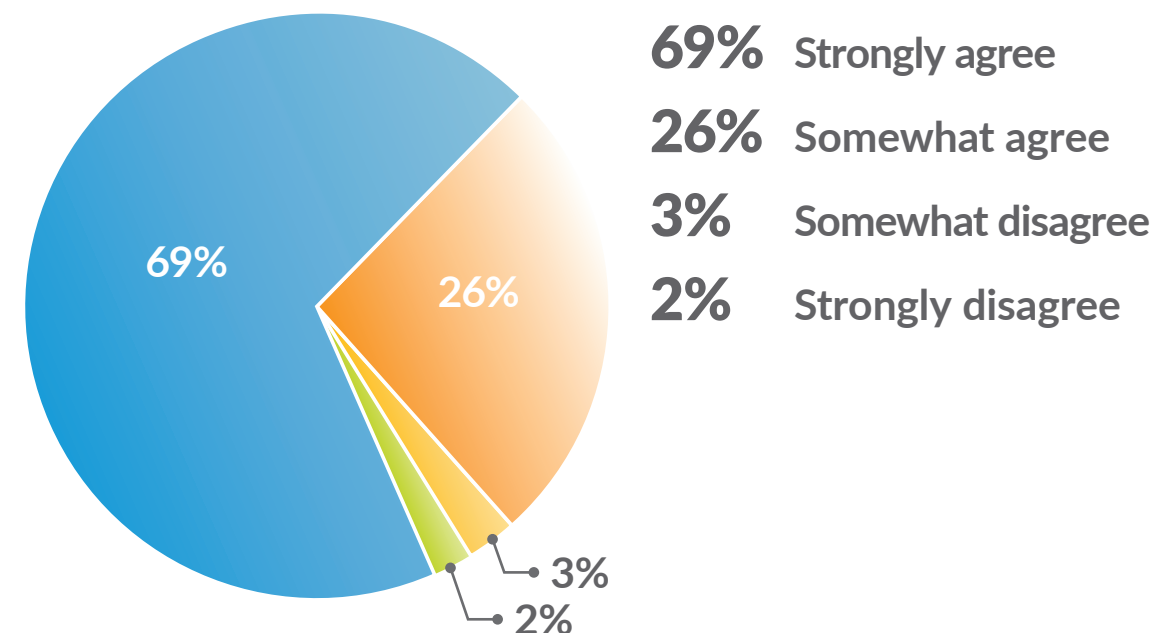
Yes

We don't really have a primary point person. The team is small enough right now that we are able to share this responsibility, though the process should be refined and more formalized.

12.

Do you believe having consistent, formal processes for various stages of a matter (e.g. matter initiation, e-discovery, depositions, witness preparation, etc.) gives you the foundation for completing legal tasks more efficiently?

(n = 65)



Does your organization focus on improving processes with legal project management principles/tools?

48% Yes

28% Sometimes

24% No

13.

How will your legal department manage legal projects/cases in the next 1-2 years? (check all that apply)

(n = 65)

- 54%** Matter management software
- 38%** Legal project management software
- 32%** Spreadsheets
- 32%** Email
- 12%** Generic project management software
- 8%** Don't know
- 8%** Other



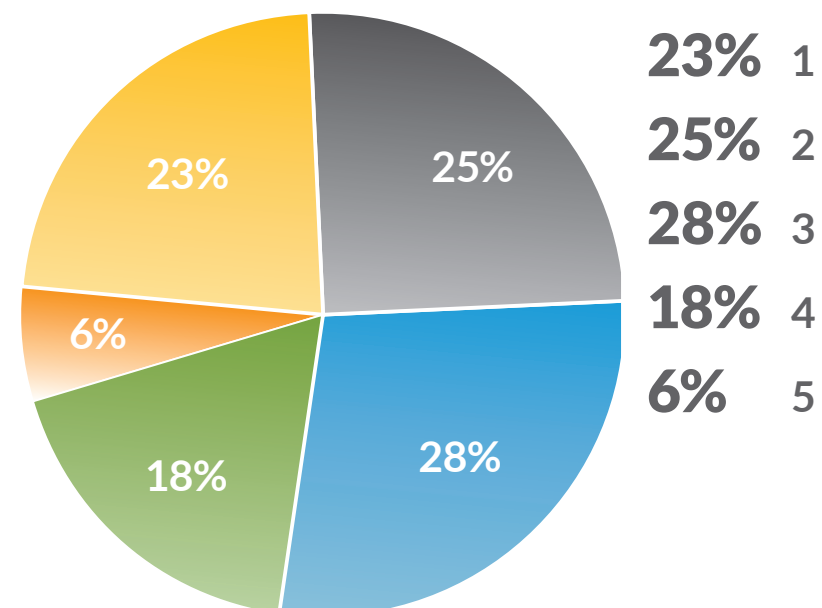
14.

What metrics does your legal department currently track when it comes to managing litigation matters? (select all that apply)

(n = 65)

- 85%** Law firm spend
- 62%** Service provider spend
- 62%** Total matters costs by case
- 38%** Internal e-discovery costs (managing legal holds, collecting/processing data, data storage costs, etc.)
- 14%** Employee productivity

Number of Metrics Tracked (Those Who Answered 1+)



WHAT IN-HOUSE LEGAL IS PRESERVING/ COLLECTING FOR E-DISCOVERY PURPOSES

Summary of Results:

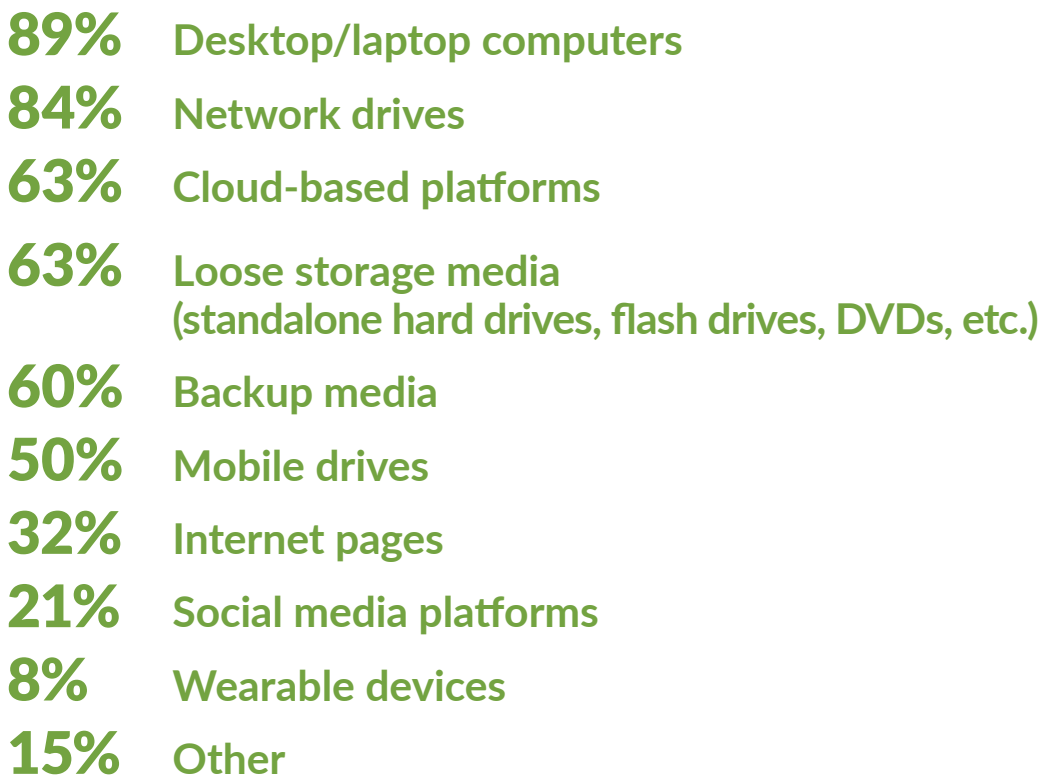
One of the most commonly asked questions among in-house legal professionals: “how and what do you preserve in regard to pending litigation?” The reason for this: it’s subjective. There is no right answer as long as your process is reasonable, and a good way to determine whether your process is reasonable is to understand what others are preserving/collecting.

For preservation purposes the most common preserved data sources were 1) desktop/laptop computers, 2) network drives, 3) cloud-based platforms. Interestingly, 8% reported preserving wearable devices and 21% preserve social media platforms.

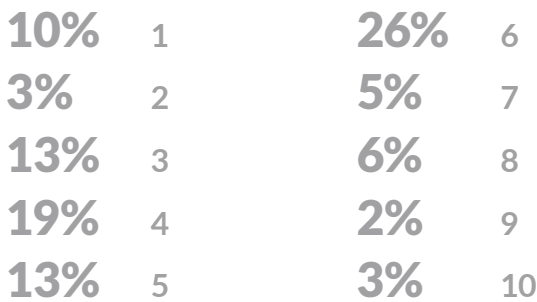
As expected when it comes to data types, email, office files and database files were the most commonly preserved. Two key stats to keep an eye on: 50% preserve instant messages, text messages and 34% preserve social media communications.

From what types of data sources do you preserve ESI for litigation and investigations? (select all that apply)

(n = 62)



Number of Data Sources Preserved
(Those Who Answered 1+)



What types of ESI do you preserve for litigation and investigations? (select all that apply)

(n = 62)

- 90%** Email messages and attachments to email msg.
- 89%** Office files
(word processing, spreadsheets, PowerPoints)
- 77%** Database files
- 55%** Audio files
- 55%** System data
- 50%** Instant messages, text messages
- 45%** Deleted data
- 44%** Video files
- 34%** Social media communications
- 15%** Other

Number of Types of ESI Preserved (Those Who Answered 1+)

8%	1	18%	6
6%	2	16%	7
8%	3	8%	8
10%	4	8%	9
13%	5	5%	10

Whom do you have preserve ESI? (select all that apply)

(n = 62)

- 81%** In-house personnel (other than custodians)
- 68%** Custodians
- 23%** Outside law firm personnel
- 23%** Outside service provider personnel

Number of Roles Preserved (Those Who Answered 1+)

37%	1
42%	2
11%	3
10%	4



CONCLUSION

Don't be haphazard when looking for efficiencies, but exert precise control over the areas discussed in the 2017 In-House Legal Benchmarking Report!

TAKEAWAY POINTS

- 1. Continued Shift In-House:**
Moving legal services in-house is no longer just a trend for organizations, it's becoming the norm. 51% of respondents reported that more than half their legal activities are now conducted internally.
- 2. Streamlining Legal Activities Starts with Legal Project Management:**
In the next two years there is expected to be an increase in the use of legal project management technology, while also a drop in use of spreadsheets and email.
- 3. More In-House Legal Teams Preserving IOT:**
Don't think preserving new data types is necessary? Take a look at these stats, which will showcase how some legal departments have already started: 8% reported preserving wearable devices, 50% preserve instant and text messages and 34% preserve social media communications.



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ABOUT E·D·R·M DUKE LAW



EDRM is a community of e-discovery and legal professionals who create practical resources to improve e-discovery and information governance. As technology radically transforms litigation and the legal profession, EDRM members collaboratively develop vital frameworks, standards, educational tools, and other resources to guide the adoption and use of e-discovery technologies.

Founded by attorney George Socha and technologist Tom Gelbmann, EDRM was launched in May 2005 to address the lack of standards and guidelines in the e-discovery industry. Since its launch, the EDRM community has steadily grown with participation from hundreds of domestic and international organizations, including representatives from service and software providers, law firms, industry groups, law schools, city governments, state attorneys general, state and federal agencies, and corporations involved with e-discovery, working together to develop and publish frameworks, standards, and resources that address practical issues relating to e-discovery and information governance.

Among EDRM's first projects was the creation of the [EDRM diagram](#), which mapped the stages of e-discovery and has since become an industry-wide standard for managing the e-discovery process. Later projects created similar frameworks for managing information governance (the IGRM), metrics, privacy and security risk reduction, technology-assisted review, and more. The iconic EDRM model has been downloaded in various forms tens of thousands of times since its first iteration was posted in 2005.

EDRM was acquired by [Duke Law School](#) in 2016. Now housed in the [Duke Law Center for Judicial Studies](#), EDRM is part of a broad community of lawyers, technology providers, judges, scholars, students, business leaders, and others who are dedicated to improving the administration of justice. As e-discovery shapes the future of the legal profession, EDRM is working to shape the evolution of e-discovery. By bringing together leaders from all corners of the profession, EDRM and the Center for Judicial Studies are working to ensure that technology advances the administration of justice and that all within the legal profession have access to technological tools and educational resources.

Please visit our websites, [edrm.net](#) and [judicialstudies.duke.edu](#), for educational resources, news and events, and information on how you can get involved in our programs.

*“They all claim ‘speed and accuracy.’
Who has the most credibility?”*

People who know, know BDO.SM



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In high-stakes matters, experience is essential – both for the caliber of the work and for the credibility with all parties. As one of the world's leading accounting and advisory networks, BDO brings wide-ranging experience in multinational, multi-jurisdictional, and multi-language matters, and a deep understanding of the intricacies of both structured and unstructured Big Data discovery. Our approach is highly collaborative, working hand-in-hand with clients to make sure matters are resolved expeditiously, efficiently, and optimally.

Accountants and Advisors

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Additional Resources for Legal Project Management

Exterro, EDRM / Duke Law and BDO Consulting all take pride in offering numerous valuable, educational resources relating to improving productivity and efficiency at your organization. Additional resources on legal project management are provided below:

Project Management Guide

www.exterro.com/resources/project-management-guide/

Legal Project Management Checklist

www.exterro.com/resources/legal-project-management-checklist/

