We asked several of Huron Legal’s managing directors and senior directors about law department management trends for 2014. “Increasingly, the legal services that law departments provide to their clients relate to assessing and managing risk in line with the organization’s risk tolerance. There are a lot of risks to address these days, from regulatory scrutiny and risks related to global operations, to cybersecurity threats and other data-related risks, to the costs and exposure related to litigation,” comments Bob Rowe, the practice leader for Huron Legal. “At the same time, law departments continue to strive to manage their operations in a more ‘businesslike’ manner, improving efficiency and controlling costs.” Joy Saphla adds, “the ability to strategically balance these competing priorities in order to ‘do the right work and do the work right’ is what differentiates leading law departments from their peers.”

Following are some of the challenges and solutions law departments will be looking at in 2014.

1. Continued emphasis on compliance
Managing regulatory compliance continues to be a challenge for organizations. FCPA, Sunshine Act, the UK Anti-Bribery Statute, Medicare, the Volcker Rule, and HIPAA and its recent amendments are just a few of the regulatory challenges that today’s organizations face, depending on their industry and the countries in which they operate. “To stay on top of these regulatory challenges companies need to have a strong compliance program in place: keeping abreast of applicable regulations, having appropriate corporate policies and controls, and regularly monitoring all those elements,” says Robin Snasdell, “regardless of whether the compliance function is part of the law department or a separate group that works closely with it.” Governance, risk management and compliance (GRC) technology can help organizations manage their compliance programs, bringing together all the elements from regulatory monitoring to policy management, to audit, to incident investigation and reporting. “Beyond that, organizations need to make sure that their contracts, policies, and procedures are all in compliance with applicable regulations,” Snasdell added.

2. Cybersecurity and data privacy issues
Privacy issues continue to be of concern to organizations, but increasingly related to cybersecurity concerns, as illustrated by recent news stories. Threats can come from both outside and inside the organization. Cybersecurity and data privacy risks have been complicated by the increasing prevalence of cloud storage and the use of personal devices for business purposes (“BYOD”), among other issues. According to Eric Mazur, organizations can reduce these risks by planning ahead. They should review their user policies as well as current access capabilities and administrative rights to privileged data, and take proactive steps to protect sensitive and private data. Organizations should also make sure they have in place the technology and processes necessary to protect corporate data. Having an external expert evaluate the threat risk may be helpful in some circumstances.

3. Information governance
While innovations such as the cloud, BYOD, and social media have helped organizations reduce costs and improve productivity, visibility, communications, and customer service, they can also create e-discovery difficulties in addition to cybersecurity issues, says Dan Coppola. “Successfully addressing these issues involves having in place clear policies, supporting technology, and above all, an awareness of the organization’s risk tolerance.”

Ten Law Department Management Trends for 2014
Many organizations are recognizing that a strong, enterprise-wide information governance strategy is the starting point for effectively managing the risks and controlling the costs associated with both records and information management and discovery. Information governance provides the overall strategic framework for managing information at an enterprise-wide level, including the foundational policies for how information is created, stored, valued, used, and ultimately destroyed. Yet with the need for improved information governance, there are related challenges. "The increased focus on compliance programs – privacy, RIM, FCPA, and others – means that there is an increased need for resources," says Laurie Fischer, "yet typically this has not been reflected in budget allocation for additional headcount." To support the efforts of RIM personnel, there is an evolving recognition of how technology can help with information governance. Beyond traditional records management software, technology-assisted review and predictive coding, technologies used with increasing frequency for e-discovery, can potentially assist with defensible deletion of records and the auto-categorization of information.

4. Effectively using data
Of course, in addition to challenges, the abundance of available data offers many opportunities for organizations, including their law departments. "Law departments have barely begun to tap the potential of their available data," says Jim Michalowicz. "Currently, some law departments are using data from their e-billing and matter management systems for basics like budgeting and financial management, but that’s just the tip of the iceberg. With the right focus, they can use big and small data to identify patterns and trends to make more informed decisions about even more," he continues. "We expect to see some law departments using data in a more sophisticated level to analyze not only legal spend, but also case strategy, counsel selection, risk assessment and remediation, and probable case outcomes."

5. Legal project management
"Law departments need to embrace legal project management, if they haven’t already done so," states Nancy Jessen. LPM is not just a buzz word, but rather a defined process for providing direction, continuity, and coordination for legal matters, within a project’s defined cost and budget. "Today’s matters involve a number of players – at a minimum, in-house and outside counsel as well as outside vendors. The law department needs to serve as a ‘general contractor’ for all these parties. Project management provides the structure for more effective planning, better resource allocation, cost control, and risk management during the life of a project," she noted.

6. Legal process outsourcing – still growing
Beyond managing risk, law departments continue to look for ways to more efficiently and cost-effectively perform services. "The trend toward unbundling processes and outsourcing various aspects of legal work is likely to continue," according to Mark Williams. "The most commonly outsourced legal function these days is discovery, but even that is continuing to evolve," he says.

Jim Mitchell agrees. "For several years, we saw some large law departments internalizing aspects of their discovery functions," commented Mitchell, “internal resources can have a better understanding of the corporate data structure and history, and there is an impression of greater control. However, we’re now seeing some of those organizations reevaluate that model. They are outsourcing all or parts of the process, sometimes through dedicated project management, recognizing that external vendors often have greater expertise, access to more current technology, defensible processes, and scalable resources at a better price point." Beyond discovery, law departments are continuing to look at other services that can be outsourced, including contract management and review, and more, according to Williams.

7. Contract management
Many more organizations are seeking to take better control of their contracts, says Jeff Catanzaro. “There are a lot of reasons for this: concerns about regulatory compliance, concerns about managing obligations or collecting revenue, and simply the time and effort involved in drafting and managing contracts. Now is a good time for companies to evaluate their contract management function because there are a number of new technologies available.”

Taking control of the organization’s contracting function can involve several steps: reviewing legacy contracts for consistency or compliance issues; developing better controls and procedures for drafting new contracts; and implementing contract management systems for the ongoing control of the contracting process. “Organizations are beginning to connect the dots between the sales or procurement processes and the contract itself, with the assistance of new technology that is integrated with other systems. With these innovations the law department can add value to the enterprise and be more effective in the delivery of legal services.” Integrated contract management and customer relationship management systems allow the law department to see the full relationships between parties. Streamlined drafting through the use of technology and templates can reduce the time law
They can often be used in a rapid development lifecycle to address a variety of needs and how they integrate with the organization as a whole can help avoid costly technology investment mistakes on the front end,” he said.

9. Back to the basics
Outside counsel costs continue to comprise the lion’s share of spend for most law departments, and smaller law departments are increasingly focusing on managing outside counsel spend. While e-billing has been common in larger law departments for some time, there is increased focus on it in smaller law departments because of the immediate return on investment, according to Clem. With that, smaller departments are tightening the reins on outside counsel guidelines, for example, taking the position that previously billed items such as telephone charges are a cost of doing business and should not be billed. E-billing technology helps enforce these guidelines.

10. Departmental development
Of course, law department management is not only about process and technology and resource allocation. The most successful law departments are comprised of cohesive teams of talented individuals who communicate and work well together and flexibly adapt to change, with strong current leadership and equally strong benches of future leaders. They understand their clients’ business priorities and proactively partner with them rather than operating in a reactive manner. Leading law departments recognize that developing and maintaining this culture requires planning and effort, as well as cultivation of soft skills not traditionally part of legal training. “We are seeing more law departments invest in programs for developing their people, whether through teambuilding programs, individual coaching, change management training, or whatever suits their needs. Some of these are ongoing programs, some are short term workshops, but they all reflect an awareness of the need for business and managerial skills beyond traditional legal training,” said Jonathan Middleburgh.

Conclusion
These trends reflect the increasing sophistication of law departments and their growing focus on business management through the better deployment of people, process, and technology. Those who make strategic decisions about their priorities, balancing risk management against efficiency and cost effectiveness, are seeing results, according to Saphla. “The most important thing for law departments to remember is to be strategic about their choices, whether those choices relate to technology investments, outsourcing processes, or other decisions about managing their departments, always keeping in mind the priorities of the business they serve.”