

Improving the Efficiency of Office Operations

By Katherine Mikkelson

As government lawyers, we've all bemoaned the two hours lost for a departmental meeting that accomplished nothing, time spent stewing over an unreturned phone call and the frustration felt as a victim of a "reply all" bombardment. We recently asked Division members to weigh in on what detracts from the efficient operation of their office, and boy, did we get an earful, or should we say, an inboxful.

Ring and Ping

It's basic business etiquette, if not simple common sense, to return phone calls and respond to emails with reasonable promptness. Yet, the most common complaint against lawyers is lack of communication or neglect of matters. While state attorney disciplinary agencies do not collect data specifically relating to phone call and email communications, they frequently find issues of diligence, communication and neglect at the top of their lists of misconduct alleged. For example, in FY 2009-2010, lack of diligence and lack of communication made up 36.81 percent of total allegations against lawyers in Wisconsin, far more than any other allegation (the next closest allegation was improper advocacy at 13.9 percent).¹

Although few government law offices have written policies, informal policies and good business practice dictate that lawyers return calls or emails within 24 hours. Elisabeth Reynoldson, an assistant attorney general in Iowa, adheres to this practice. "I like to get back to my clients promptly, even if I have to say 'I don't have an answer yet; I'm still working on it,'" says Reynoldson. "A simple call like this takes very little time and can save you aggravation down the road."

To aid proactive communication, a lawyer in the enforcement office of a federal agency in Chicago recommends taking advantage of smart email features such as the calendaring system. She encourages her staff to use the meeting invitation feature rather than sending multiple emails asking when staff are available. "[Staff] should just check participants' availability on Outlook and send out an Outlook invitation. Using Outlook's meeting invitation feature avoids the back and forth of e-mails AND puts the appointment right onto everyone's calendar. What could be better?" she says.

Cynthia Rapp, deputy clerk at the U.S. Supreme Court, appreciates the inclusion of a staff contact on "out of office" email messages. Rapp also urges including a contact person on extended absence greetings on voice mail systems. "Identifying a contact person can really save valuable time if you have a time sensitive practice. Even if you don't, the ability to track down the correct person keeps routine matters from languishing in email and voice mail limbo when they could be taken care of quite easily."

However, some features, such as the ubiquitous "reply all" email are often abused. Chances are you have been the recipient of a string of email messages that clutter your inbox over the course of several days, because one or two senders insist on replying to all despite the subject's message having very little relevance to the group. Information overload is never a good thing. Experts like Jonathan B. Spira, CEO and chief analyst at Basex, a knowledge research and advisory firm, caution against using "reply all" more than sparingly because it often wastes time

and disorients workers. Spira has estimated that workers can spend 10 to 20 times the length of the original interruption trying to get back on task.

Preventing “Reply All” Gaffes

In October 2010, a University of Missouri graduate dean sent an email message to the entire graduate student population characterizing a student who was withdrawing from the grad program as suffering from “mental distress.” Dean George Justice intended the message to go only to the school’s chancellor but instead hit “reply all.” The student had previously sent an email to all graduate students but because she was not authorized to send a message to the entire list, no students received it. The dean was responding to this message which included the student’s name and email address.¹

A “reply all” gaffe can run the gamut from truly embarrassing to serious, where attorney client privilege is violated. Here’s an easy way to prevent you from hitting “reply all.” On many email systems, the “reply” and “reply all” buttons sit next to each other on the tool bar. Simply click and drag “reply all” to the opposite end of the toolbar where you are less likely to inadvertently hit it. You can also completely remove “reply all” from the toolbar. Simply open a message you received, and hold down the Alt button while you drag the “reply all” button off the toolbar.

Endnotes

1. Dennis Carter, University Dean Accidentally Hits the ‘Reply All’ Button, Oct. 19, 2010, available at <http://www.ecampusnews.com/technologies/university-dean-accidentally-hits-the-reply-all-button/>

Handhelds R Gr8

It seems that with each new iteration of technology, complaints about inefficiency counter-intuitively increase. Handheld devices seem to be the latest source of consternation. While smartphones and PDAs theoretically improve efficiency by conveniently allowing lawyers to receive email, review documents, browse the web and more, their overuse actually achieves the opposite result—no task is attended to with the attention it merits.

A Division member and senior level attorney with the Department of Defense (DOD) in Washington, D.C., recalls a government lawyer who played with her BlackBerry and giggled during a meeting with high level DOD, military and Department of Homeland Security officials. It was clear the attorney was not paying attention to the substance of the meeting. “Her behavior was just visibly rude and disrespectful,” says the member.

Jenny Hedderman, General Counsel for the Massachusetts Office of the Comptroller, thinks that handheld devices have their place, but that they encourage haste and brevity often leading to misunderstandings and misinterpretations. “One issue I find is the misperception that handhelds make users more efficient and that multitasking can actually be done effectively. What I find, in fact, is not more efficiency, but more speed and more mistakes. I also find with younger attorneys that the addiction to speed and responsiveness greatly sacrifices effectiveness and the necessity to get the right answer, versus any answer,” says Hedderman.

In fact, research confirms Hedderman's observations. A 2009 study at Stanford University showed that high multitaskers do not pay attention, control their memory or switch from one job to another as well as those who prefer to complete one task at a time.

In each of the Stanford University tests, the researchers split their subjects into two groups: those who regularly media multitask and those who do not. In one experiment, researchers flashed sets of red rectangles surrounded by different groupings of blue rectangles. Subjects had to determine if the red rectangles in the second frame were in a different position from the first frame. The subjects were told to ignore the blue rectangles. The high multitaskers' performance was very poor compared to the low multitaskers. In another experiment, designed to see if the multitaskers had better memories, the low multitaskers did a much better job at remembering when a letter was shown multiple times after being shown a sequence of letters. In a third experiment, designed to see if high multitaskers could switch tasks effectively, subjects were shown letters and numbers at the same time and were told what to focus on. Subjects had to determine if the numbers were even or odd or if the letters were consonants or vowels. Again, the high multitaskers did poorly compared to the low multitaskers.³

Jim McDevitt, the U.S. Attorney for the Eastern District of Washington, has taken a stand against rampant handheld device abuse, reclaiming the attention of his attorneys, at least in small amounts. "We have implemented the notion of a 10 minute [handheld device] break at regular intervals during extended meetings or seminars. We try to focus attendees on the substance of the meeting or seminar and only consult their handheld during breaks scheduled just for that purpose."

Recreating the Wheel

If lawyers in your agency are constantly researching similar legal issues, redrafting similar memos, and filing similar pleadings, with no centralized system to house such work product, perhaps a rethinking is in order. Public lawyers at local, state and federal levels lament this ineffective and unproductive system.

"What truly gets in the way of efficiency is the lack of a good system for maintaining forms, brief banks, research memoranda, and important decisions," says a U.S. Department of Labor attorney who asked not to be identified. "Instead, people email entire offices or departments and attach documents that may be useful one day and each one of us is tasked with being our own librarians. It's a huge waste of time to try and figure out how to save something (hardcopy, email, a document in a folder) and then recall I have something relevant if I am faced with the same question, find myself in the same posture in a case, etc..., and then remember where I filed it."

A centralized brief or form bank makes good business sense. Not only does it reduce the wasted hours of attorneys researching and writing similar documents, but it also ensures that the agency strategy and mission stays consistent. Lamented one former assistant city attorney, "[Attorneys in the office] didn't share anything and thus one lawyer might make an argument 180 degrees from the lawyer whose office was next door. Only by asking around would we even know whether anyone else had or was working on a similar or related issue."

Surprise!

Surprises are good when it comes to gifts and birthday cake. In the practice of law, not so much. Preparation is essential to effective performance and blindsiding a lawyer prevents that. A county attorney in Florida is irked when a department head allows a legal task to languish on her desk and then drops it off at the legal department right before a board meeting. She then reports to the board that her department is waiting on the county attorney. “For the most part, new department heads think that if they tell the county manager, ‘It’s in Legal,’ that I won’t hear of their laying off the delay on my staff. Inevitably I do. I call them into my office, offer them coffee, and get up and close the office door. Let’s just say this: It never happens again.”

Analogous to this is a department head or other official raising an issue in a board meeting without first briefing the county attorney. “Surprising me in a public meeting is the one unforgivable sin. No department head can pretend to be surprised about how I feel on this issue, because I talk to them about it the first day they come to work here,” the member says. “For me, aiding in the joint responsibility to appear cohesive in the public setting of a board meeting is the bare minimum expected of any leader.”

Conclusion

Although perfectly smooth operation is not an attainable or realistic goal, the key is to minimize inefficiencies as much as possible. Use the phone and email wisely, including handheld devices that can sap your ability to pay attention. Make sure you have systems in place for lawyers to access briefs, memoranda and other work product of their co-workers. And ensure that your government colleagues never operate on the assumption that surprising legal counsel is a good option.

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Endnotes

1. See Office of Lawyer Regulation, Wisconsin Court System, Fiscal Year 2009-2010, Report of the Lawyer Regulation System, *available at* www.wicourts.gov/about/organization/offices/docs/olr0910fiscal.pdf. Other states where neglect/diligence/communications ranks highest as a complaint include, but are not limited to, Arizona, District of Columbia, Illinois, Kansas, Maryland, Michigan, Missouri, New Hampshire, and Washington.
2. Associated Press, ‘Reply All’ Can Lower Worker Productivity, Dec 26, 2007, *available at* www.msnbc.msn.com/id/22398424/.
3. Adam Gorlick, Media Multitaskers Pay Mental Price, Stanford Study Shows, Aug. 24, 2009, *available at* <http://news.stanford.edu/news/2009/august24/multitask-research-study082409.html>.