

“Modernizing the Practice of Law”

By Lucy Bassli

Agenda Description: Modernizing the practice of law requires that attorneys embrace the new skills that will be needed to deliver services in a different way. The key skills sets of the future will include project management, data analytics and basic business operational proficiency, among others. Attorneys do not need to become experts, but simply do need to gain an appreciation of these functions and learn when to seek the involvement of other professionals who can provide these critical capabilities, so that the service provided is holistic and most effective. Specifically, an appreciation for what technology can do to enhance the legal service, will be a staple for any practitioner.

I. Introduction into Basics on Innovating

i. What Does Innovation Mean to You?

1. Innovation Defined: “Innovation in its modern meaning is a ‘new idea, creative thoughts, new imaginations in form of device or method.’ Innovation is often also viewed as the application of better solutions that meet new requirements, unarticulated needs, or existing market needs.”

ii. What does a better solution look like?

1. Identify everyday frustrations you are facing in your firm.
2. Ask for each frustration, “Why do it this way?”
3. Consider changes you can implement and control

b. Innovation is...PEOPLE, PROCESS, or TOOLS

i. People

1. Innovation does not necessarily mean automation
2. Start with the people:
 - a. Who are the people doing the work?
 - b. What are their natural skill sets?
 - c. Are they being utilized to full potential?
3. Legal Ops Skillsets

ii. Process

1. Focus on how people are performing their jobs
2. Where time is being spent
3. Map the processes and track how the work moves across your organization

iii. Tools

1. Technology
2. Pick Something you are curious about
 - a. What excites you?
 - i. Working with clients?
 1. Reach out to them for ideas to collaborate on a new way of engaging them or supporting them
 - ii. Crunching numbers and reading graphs?

1. Consider how data can play a role in your innovation journey
 2. If you can track something, you can measure it
 3. Compile an initial report
 - iii. Creative writing?
 1. Put together FAQ's for circulating to clients and create self-help guidance
 2. Be creative – make it fun to read
 3. Explore what you already have access to and tinker with it
 4. Learn Something New
- II. DATA as a Tool to Innovate in Relationship Building
 - a. *See below:*
 - i. *Summary of Book Chapter*
 - ii. *Full Book Chapter*



Relationship Management Redefined Through Data

Law firm relationship management has been driven by personal connections and personal relationships. Very little has changed, but the future methods of relationship management will veer away from the personal and move towards more objective and empirical foundations. Data will become a staple in those relationships and will drive which relationships continue and which ones may end. ¹

Data allows law firms to answer corporate legal departments' most basic questions about legal work: How many? What kind? How much? When those questions are accurately and capably answered, relationship management is optimized.

The two-pronged mission is to look for ways in which data can make firms more effective while delighting their clients with insights they don't currently have. Think of it this way: as providers of a service, if there is some aspect of the work that is repeat business from a client, there are always valuable insights that the client might not have access to. Perhaps the client would enjoy a summary, with some visuals, that clearly outlines basic data points: how many matters, what types, total fees, applicable discounts, etc.

There are three steps through which data will enhance client relationship management. First, collect the data, which sounds easy but law firms for the most part are still largely lagging behind on that score. Next, have efficient methods to access and analyze the data across the firm. Finally, use the first two steps to come together with the corporate legal department/client in essentially new, transparent ways of working together, where everyone is on the same page, everyone is accessing credible data and where outcomes, both operationally and financially, are visible and understood.

¹ The concepts in this chapter is derived from my book, *The Simple Guide to Legal Innovation*, published March 2020.



Step 1

Every law firm sits on oceans of data. They probably know this in some intrinsic way because every legal department craves more and more of it *and* wants to use the existing data more efficiently.

But how do they collect the data trove efficiently and coordinate among practice groups throughout the firm? How do they access the data they have, especially in their time-keeping and billing systems? These are problems that need immediate attention because every attorney, whether in-house, law firm, legal aid, or other area can use data to improve the quality of the service or the relationship with the client.

Data should be used to optimize processes, to support additional resources, to increase efficiencies, for public relations and social outreach, and most importantly, to justify innovative changes.

Beyond the basic operational aspects, are there additional, more substantive data points that will give clients some perspective that they have obtained only anecdotally?

At a minimum, the following data must be collected

- Information about how many items of work or matters have been done by the firm within any given period of time (month, quarter, year). In data speak this is *volume*.
- Information about the actual work is always interesting to the clients. Even having the ability to show the categories of work helps inform the client at a more macro level about the kind of legal work that the business is requesting.
- Patterns about the work is the next level of the categorization of the work.
- The ultimate value, as perceived by the business, is data about the timeliness of the legal support. How long things take in legal is always valuable data when a client or business (almost inevitably) complains about how long legal review takes.

Step 2

Leveraging and communicating in a concise way relevant data allows law firms to easily answer the client's most basic questions about the legal work, including how information is gathered, analyzed and what it means to new and ongoing relationships.



It is amazing how much value a client can and should derive from an analysis of basic data points. A good example of data-influenced decisions is found in tracking turn-around times. Gone should be the days when lawyers say "it depends" when asked how long a piece of work should take. An "operationally inclined lawyer" should be able to analyze the oceans of data related to past work experience and give a good estimate of when the work will be completed. As in other types of services, there can be caveats for unexpected scenarios or complications, but there must be an expectation set with the clients, because they deserve it. Law firm clients should be treated like customers of a service -- after all, we are used to it from Nordstrom and Amazon, why not from the most expensive law firms? Or any law firm?

There is nothing like data in order to create efficiencies. Gathering easily available information embodies two ideas: find and organize the information and make it readily accessible for effective, actionable analysis.

Data also helps inform substantive aspects of the legal practice. Collecting data about the terms in negotiated contracts will help to inform the position of the legal department and will increase speed of negotiations going forward. Sample terms and standard templates can only be improved upon once data shows that the existing terms are constantly negotiated, and resulting terms show a pattern. Litigation data is similar, when litigating similar issues. Tracking outcomes becomes critical, so that mistakes are not repeated. Surely this is not novel, but *how* the data is collected is key. It should be searchable and reportable in an easily consumable format. Other areas where there is recurring work (patent applications, employment law questions, acquisitions, and so on) there is always data that can be collected and analyzed for future similar work.

Relationships managed with data are transferable when partners retire or want to train upcoming junior partners. These relationships allow for continuity and the relationship then becomes broader than two people: it is between a law firm and a corporate legal department.



Step 3

While the first and second steps may seem daunting enough, it is actually the third step that requires the greatest change management and reconsiderations of culture. Judging the quality of a relationship based on empirical data is quite different from subjective sentiment and historical context of a personal relationship.

The real magic happens when the law firms and their corporate clients collaborate together on the data analysis. It is important to remember that there are three parties for whom the data is critical. Beside the firm and the corporate legal department they support, there is the actual corporate business. That is the ultimate customer of the legal service. The law firm and legal department have to align forces to deliver the best service. Only the combination of data from both entities will provide the full picture.

For example, to truly understand how long a piece of legal work takes, it is just as important to assess how long it was in the hands of the corporate legal team, as in the hands of the law firm. Those two data points are critical in order to understand the experience of the business owners who are seeking the legal support, and undoubtedly need it in a timely fashion. By coming together on these data points, the legal teams together will best serve the business.

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Relationship Management Redefined Through Data

Lucy Endel Bassli

Relationship management in law firms has always been driven by both personal connections and personal relationships. Very little has changed, but future methods of relationship management will veer away from the personal and move towards more objective and empirical foundations. Data will become a staple in these relationships and will drive which relationships continue and which ones may end.¹

Data allows law firms to answer corporate legal departments' most basic questions about legal work: How many? What kind? How much? When these questions are accurately and capably answered, relationship management is optimized.

The two-pronged mission is to look for ways in which data can make firms more effective while delighting their clients with insights they don't currently have. Think of it this way: as providers of a service, if there is some aspect of the work that is repeat business from a client, there are always valuable insights that the client might not have access to. Perhaps the client would enjoy a summary, with some visuals, clearly outlining basic data points: how many matters, what types, total fees, applicable discounts, etc.

There are three steps through which data will enhance client relationship management. First, collecting the data, which sounds easy but law firms for the most part are still largely lagging behind on that score. Next, having efficient methods to access and analyze the data across the firm. Finally, using the first two steps to come together with the corporate legal department/client in essentially new, transparent ways of working together. This will ensure everyone is on the same page, everyone is accessing credible data, and outcomes, both operationally and financially, are visible and understood.

¹ This draft chapter will be included in a publication titled *Horizon Scanning: Modernizing Legal Service Delivery*. It is provided to the JOLT Symposium for educational purposes only.

Step 1 - Collecting the Data

Every law firm sits on oceans of data. They probably know this in some intrinsic way because every legal department craves more and more of it *and* wants to use the existing data more efficiently.

But how do they collect the data more efficiently and coordinate among practice groups throughout the firm? How do they keep a relatively placid ocean from becoming a wild morass? How do they access the data they have, especially in their time-keeping and billing systems? These are problems needing immediate attention because every attorney, whether in-house, law firm, legal aid, or other areas can use data to improve the quality of the service or the relationship with the client.

In order to benefit from automation and the potential artificial intelligence (AI) has to offer, data must be available and consumable. It already exists in largely unstructured forms, so investments must be made to extract the valuable insights hidden within.

Data should be the best friend of what I call the "operationally inclined lawyer." It will be used to support smart risk-taking and advice about which types of deals, contracts or cases may be worth the expense of legal advice. When lawyers start saying "no" to certain lower value work and push back various parts of their work to the client/business, they will be able to support these recommendations with hard data regarding how much time such pieces of work takes and the associated costs. With historical data providing a better lens on reality, the business will be more receptive to accept this work in order to gain speed.

Data also helps law firms and law departments understand what they can outsource, and what can be handled in-house. The trick is to balance workload in high-volume environments to create the most value for the buck.

If a defined set of data points is expected to be delivered promptly and regularly, it will slowly become the norm.

A good start begins with defining that set of data points. It is the easiest data to gather by the service provider because it is data that can be gathered at any time:

- Information about how many items of work or matters have been done by the firm within any given period of time (month, quarter, year). In data terms this is *volume*.
- Information about the actual work is always interesting to the clients. The ability to show the categories of work helps inform the client at a more macro level about the kind of legal work the business is requesting. Thinking through the types of work helps create the natural and logical buckets to align.
- The next level of work categorization is identifying patterns. For example, consider whether there are seasonal spikes that would be informative so that a business could appreciate why legal fluctuates at certain times.
- The ultimate value, as perceived by the business, is data regarding the timeliness of the legal support. How long things take in legal is always valuable data when a client or business (almost inevitably) complains about how long legal review takes.

For firms that are not use to tracking any data points, data collection and tracking can be a little scary So, firms shouldn't run before they can walk, and there are a couple of low-hanging fruits that can help them get accustomed to gathering, managing, and analyzing data. This will help them make more informed decisions, including data compiling the number of contracts, pleadings, memos, or other deliverables. Similarly, lawyers can assess how long those deliverables historically have taken, and how many memos/contracts/pleadings/etc. a firm created for the client in any given period. How many times did the same contract provision get negotiated in the contracts that the firm handled for the client?

When a firm can access and deliver this information in a consumable format, maybe with some easy-to-read visuals, clients will be delighted, and will ask for more.

For law firms this is much easier when they are, for better or worse, still tracking time because much of the data is already captured in their bills. In-house lawyers may have a tougher time accessing hard data because there is no natural collection of data already happening, but with forethought and planning, it can be done.

One major takeaway is that even this basic data will help in so many ways, including determining what work should be handled by lawyers, what work should stay in-house or go to firms, or if the work should be outsourced to legal service providers, and how long things should take.

Step 2 - Accessing and Analyzing the data

Leveraging and communicating in a concise way, relevant data allows law firms to easily answer the client's most basic questions about the legal work, including how information is gathered, analyzed, and what it means to new and ongoing relationships.

It is amazing how much value a client can and should derive from an analysis of basic data points. A good example of data-influenced decisions is found in tracking turn-around times. Gone should be the days when lawyers say "it depends" when asked how long a piece of work should take. An “operationally inclined lawyer” should be able to analyze the oceans of data related to past work experience and give a good estimate of when the work will be completed. As in other types of services, there can be caveats for unexpected scenarios or complications, but there must be an expectation set with the clients, because they deserve it. Law firm clients should be treated like customers of a service -- after all, we are used to it from Nordstrom and Amazon, why not from the most expensive law firms? Or any law firm?

There is nothing like data in order to create efficiencies. Gathering easily available information embodies two ideas: find and organize the information and make it readily accessible for effective, actionable analysis.

In fact, gathering information is its own operational efficiency when done intelligently. Decisions must be made regarding which data is useful to analyze. It is a trap to think every metric is worthy of analysis, even if you or your colleagues can retrieve it.

If it takes too long to find a piece of information, there is no way the firm is efficient. Searching for information is not a good use of time and it penalizes the client. Looking in three different file cabinets to find a document is not as efficient as knowing exactly where it is when you need to retrieve it. The same principle applies in an automated environment. You should be able to search and find information quickly and effectively using keywords and tags that immediately take you where you need to go.

Access to data is crucial for lawyers at firms, specifically partners who manage relationships with clients, who generally don't know how to access it. That's where the other professionals or techno-savvy attorneys, (and they do exist!) can play a huge role. Currently, data is being extracted more effectively and efficiently from various legal services providers on which law firms rely, enabling communication with clients in a way that helps optimize the delivery of services.

Accessing and Analyzing data regarding the amount clients are billed is the first and easiest place to start.

There's been much progress made in data collection around spend and vendor management, and law firm spend, as you might imagine, is very important for in-house teams. Thankfully, improvements have been made over the last several years.

When corporate legal departments have a handle on spend and spend patterns, they can make data driven decisions, have meaningful law firm engagements and can manage vendors and service providers in new ways for a basic reason: the measures are now objective. They're agreed upon. They are clearly accessible and have value if the service is assessable.

In 2017, Thomson Reuters [Legal Tracker](#) published its first Legal Department Operations Index Benchmarking and Trends Report.² This report provided the metrics that were most utilized by customers of its e-billing system.

The spend metrics cited by Thomson Reuters included:

- Total spend by law firm
- Total spend by matter type
- Total spend by practice group
- Number of legal matters opened/closed
- Savings from invoice review/reduction
- Total spend by business unit

With these as a starting point, corporate legal teams can begin to gain control of their spending. More importantly, they can dive deeper into the spending with a particular law firm. Instead of receiving one paper invoice, with no connection to past invoices, a client can now see trends month over month.

The ability to dig into the change in time keepers on law firms invoices, for example, may cause for a deeper conversation about the law firm's staffing approach and why some attorneys are assigned repeatedly, while others may fluctuate in and out. Aren't there greater efficiencies when someone is involved repeatedly on an ongoing basis? One could question if a change in staffing is truly in the best interest of the client, once such data points are identified. Are the right level lawyers being assigned to the right level of work (i.e., partner - associate ratio on matters)? The data should answer that question. Data access and analysis is necessary for what is called *deep learning*. The analogy is: if deep learning is a rocket, the fuel is the data.

While data is a key ingredient to optimizing processes, there is no easy way to get to the best and most efficient process. It's a facet of continuous improvement to always be tweaking and assessing, learning from what's been done in order to make it better going forward. Creating a

² "More Effective Market Analysis for Legal Departments With Visualized Benchmarking Data From Thomson Reuters Legal Tracker," March 21, 2017.

data-driven culture and making decisions based on data is another core aspect of the DNA of having an operational business or an operationally efficient program.

The ability to make a decision based on an objective or an empirical set of information as opposed to a very subjective or maybe anecdotal set of information, is critical in that not only does it create a baseline or a common set of information that people can attach themselves to, but it instantly creates credibility. Data-driven decision making creates a credibility that is truly necessary in operations, especially as firms try to push the envelope and create new efficiencies, new processes, and try to manage change and innovation.

The legal industry simply has to do a better job of collecting and assessing the data. There has to be a baseline so that firms and corporate legal teams know where to go with it. The power of having data or empirical information or objective standards by which to be judged, to be assessed, will increase the value of the proposition any law firm has for its clients.

Practicing attorneys may not realize just how much access to data they already have. They simply haven't learned how to harness it, retrieve it, and capitalize on it. But data is going to become, if it hasn't already, one of the most critical elements of an optimized and efficient practice of law.

This is something so new that educating both sides of the table is imperative. Often, the in-house team can be wowed or delighted by a law firm having the foresight to present data providing some tracking, some history, or some success measures. It's a change in the conversation that needs to happen. But, it can be happening with the law firm leading it, or it can be happening with the in-house teams requesting it.

In troubling economic and politically-charged times, most in-house teams know they need to do more with less, or they want more information around their practice that they've been sending to law firms, for example, but they don't know exactly what to ask for. So there needs to be open dialogues about what that extra value could look like and what kind of data would be most valuable and beneficial.

For the most part, law firm relationship management has been driven by personal connections and personal relationships. Obviously, this is not a bad thing and should continue, but it must be coupled with some supporting empirical information. With the adoption of modern data collection, management and technology will be needed so that analysis is accurate and available.

Very little has changed to date, but future methods of relationship management will veer away from the personal and move towards objective and empirical foundations. Data will become a staple in old and new relationships and will drive which relationships will continue to exist and which ones may terminate.

Some points in sum:

Operational data is harder to capture but it exists. Define the key metrics to measure.

Tracking data is one thing. Measure the data and then really understand the kinds of successes that can occur.

Providing data insight is valuable and clients will get hooked on it.

Insight is kind of an enabler to everything; it is a critical part of any good project management, any great technology solution, or business strategy.

Every part of the company is expected to provide data, and the law department is no longer an exception. It remains true that law firms are notoriously lacking in their ability to access data or create data processes. This means firms can't really measure their quality and performance, or at least customer satisfaction, and that is a huge miss. Corporate legal departments need information from their firms.

When firms are considering how to become more operational and data-driven, they should:

Measure the cost of servicing a client. As mentioned, this is the very first thing to do. It sounds logical and simple, and something every experienced lawyer should have the basic skills to do—

particularly with the advent of matter management and e-billing software—but the reality is different. In the Big Law setting, where numbers of clients and touch points are high, it's very easy for cost tracking to get out of control. Losing control might not mean a catastrophic collapse in operational capability, but the volume and complexity of this effort can take so many hours that the team doesn't have time to analyze properly, meaning that planning goes out the window, and the legal team becomes reactive. Basic costs per client or matter is black and white and should be easy to measure. Once that basic data is gathered, then they can start to add more metrics: historical trends, payment cycles, and so on—these will unearth helpful insights. For example, if payment cycles are fast, can better rates be offered for prompt payments? To help prepare for resource allocation, is there a particular event or season that typically generates additional work from the client? These are questions that firms can begin to ask to help themselves *and* their clients.

Determine how business clients engage with their internal legal department. The only question the business client really cares about, more often than not, is *how long a matter will take*. The quality of the recommendations, and virtually any other aspect of the advice, is almost irrelevant to them. They assume the quality is high and legal issues are covered by the legal professionals. So, all that matters to them is timeliness. They want predictability and certainty so they can plan for a matter, engage legal on it, resolve it satisfactorily, and then move on. This means that tracking the time from a matter being requested to its outputs being provided is the very least that business partners should expect, but far too few firms provide this insight.

This type of data has a profound impact on customer satisfaction, and it helps legal to resource properly.

Use cost data for quality improvement. Firms are already crunching the numbers on profitability, but they can learn a lot more by paying closer attention at different levels. Data used to improve the quality of the legal service is a bit more advanced, and can be a goal for future innovation, once basic data about the relationship is collected. Ask the sales team how many deals they have, and they'll know immediately how many sales they've made. Similarly,

HR will know straight away how many people they've hired. But ask legal how many contracts they've produced in a given quarter and there might be no solid answer. This must be rectified first to avoid embarrassment and make sure nobody knows more about contracts than legal does. In-house teams should move to capture turnaround time, type of contract, involvement of outside counsel, monetary cost, most and least negotiated clauses, and so on. These might seem like softer metrics but the lessons they bring will allow delivery of actionable insight to the business. Helping them close, procure, or onboard faster has a direct impact on the bottom line, and works wonders to boost the reputation of legal internally. Armed with that data, leadership can make sure the right people see it and use it to make strategic decisions.

So, from an in-house and law firm perspective, data analysis is a fantastic resource that helps legal teams make consistent quality improvements as time goes on:

- Collecting data about the terms in negotiated contracts will help to inform the position of the legal department and will increase speed of negotiations going forward. Sample terms and standard templates can only be improved upon once data shows that the existing terms are constantly negotiated, and resulting terms show a pattern.
- Litigation data is similar, when litigating similar issues. Tracking outcomes becomes critical, so that mistakes are not repeated. Surely this is not novel, but *how* the data is collected is key. It should be searchable and reportable in an easily consumable format.
- Other areas where there is recurring work (patent applications, employment law questions, acquisitions, and so on) there is always data that can be collected and analyzed for future similar work.

Relationships managed with data are transferable when partners retire or want to train upcoming junior partners. These relationships allow for continuity and the relationship then becomes broader than two people: it is between a law firm and a corporate legal department.

Step 3 -- Come Together

While the first and second steps may seem daunting enough, it is actually the third step requiring the greatest change management and reconsiderations of culture. Judging the quality of a

relationship based on empirical data is quite different from subjective sentiment and historical context of a personal relationship.

There is no need to reiterate the benefits that data capture and analysis brings to both corporate legal teams and to law firms. The real magic happens when the law firms and their corporate clients collaborate together on the data analysis. It is important to remember there are three parties for whom the data is critical. Beside the firm and the corporate legal department they support, there is the actual corporate business. That is the ultimate customer of the legal service. The law firm and legal department have to align forces to deliver the best service. The combination of data from both entities will provide the full picture.

A few examples will help bring home the point that when the relationship between the firm and client relies on data, the quality of the service will be improved and a foundation will be available to continuously improve that relationship. This is especially true for traditional hourly work. For the most effective resource model on any given work, law firms provide data regarding which level of professional they assign on matters, the hourly rate of that professional, and hours billed. They also provide information about the amount of time that is written off and in addition to other adjustments. In the meantime, the legal department can gather data about the quality of the engagement with those different law firm professionals: which ones take longer to answer questions, how many times they need internal escalations to the legal department, how many rounds of iterations are made on a piece of work product, and other data points which provides information on how well that professional is handling the work. Ultimately, the customer should be interviewed as to their experience as well. The corporate legal teams should survey the business about their impressions with the legal services and incorporate that feedback in the discussion with the law firm. No one data point is indicative of anything conclusive, but taken together, in an open conversation between the law firm and the client, this data can shed light on critical staffing decisions for law firm matters and should drive better results.

Another example of how collaborative data analytics can improve the relationship between the law firm and client is the ability to track the overall cycle time of legal support. Again, the ultimate customer of the legal service is the business owner inside the corporation. There is a

business goal, for which legal support is a necessary hurdle. ANY time spent on legal review is time delaying the business goal. A typical engagement for legal help starts with the business reaching out to their internal counterpart in the corporate legal department. Then, it is up to the in-house lawyer to decide how to proceed. Sometimes the decision is quick and the work is handled in-house. Other times, it may sit a while before being worked on internally. And when external lawyers are engaged at law firms it could be because the internal lawyer just can't get to it (usually after some time has passed already) or it requires some expertise unavailable in-house. Regardless of why the work is sent to outside counsel, the time it takes from the initial request by the business owner to the owner receiving the final deliverable, is the overall cycle time which matters most. Without the law department and the law firm working together to review where the request sat and how long the actual work took, there is no holistic view of how long the overall legal support took. Creating an operational approach to tracking cycle time and working together to reduce that overall time will deliver to the business the best possible timeliness and will enable the two legal teams (law firm and corporate) to identify potential blockers, delays or challenges to efficiency and speed.

Conclusion

Collecting and analyzing data is hard enough, but it is now an expectation. Gone are the days of "it depends" answers from lawyers when asked how long some legal work will take. Some work should be predictable and business owners are entitled to have clear expectations. Efficiency is also influenced by how law firms staff matters. Without insights into who does work and how long it takes, there cannot be improvements. Analyzing data of the law firm or analyzing the data of the corporate legal team alone is only half the story. Data must be collected with common goals and analyzed together in order to truly benefit the business owner. And the business owners are the ultimate customer and consumer of our legal services.