

A portrait of a middle-aged man with grey hair and a mustache, wearing a dark suit, white shirt, and patterned tie. He is looking directly at the camera. The background is dark with some blurred horizontal lines on the left side.

# Priorities and Backlogs

By Richard G. Stock, M.A., FCIS, CMC, Partner with Catalyst Consulting

This is the twenty fifth in a series of articles about how corporate and government law departments can improve their performance and add measurable value to their organizations.

Inside counsel always have more than enough work to do. In contrast to how law firms arrange the distribution of work to associates and paralegals, corporate counsel usually do more than 90 % of the work on a given matter, regardless of its complexity and regardless of the experience level of the lawyer doing the work. There are rarely any “juniors” to whom matters and tasks can be assigned. In addition, law departments underuse their legal assistants and do not have enough experienced paralegals.

One can characterize this type of law department as a collection of “solo practitioners”. There is invariably a poor alignment of lawyer knowledge and skill levels with the relative complexity of the legal work. Otherwise put, lawyers with 10 years of experience will too often find themselves more than half of the time doing work that could be done by a third-year lawyer or a paralegal. There is no one to delegate to, a problem made worse in recent years as the average experience level of the law department increases.

While the cost of doing legal work by a law department is less than 45 % of what it would be if referred to a law firm, this is still no justification for a law department practice profile that would never be viable in a law firm. Moreover, once the novelty of diverse work wears off – think five years - boredom sets in and inside counsel never reach their full potential. All of this happens while clients say that their work is “stuck in legal”. What can and should be done?

Most law departments do not keep time. So, trying to find out how many individual clients

there are, what type and how many matters are worked on in a year, and how many hours are required for each type of work requires a two-step approach. It is essential to develop an accurate picture of how and where legal resources are deployed by the law department. Some basic data needs to be assembled. Without it, changing work intake and allocation practices, dealing with backlogs, and improving the cost-effectiveness of the legal department in a measurable fashion is no better than “moving the deck chairs around”.

The first step is to uncover how the legal department’s legal resources are really deployed. Each lawyer and paralegal is asked to complete a spreadsheet showing each major client group on the horizontal axis and the areas of law or type of legal work on the vertical axis. The allocation of time for the last 12 months is expressed as a percentage rather than in hours so that the total, including administration and practice management time, adds up to 100 %. By compiling all the responses, the General Counsel can see, for example, how much commercial work is required by the sales department.

The second step is to determine the number and relative complexity of matters handled by the department. Again, department members are asked to look back over 12 months and allocate their client time in two ways. First, they estimate the number of matters that they worked on, based on a common definition of “legal matter” - similar to what is used in a law firm

A large project lasting for months may be only one matter, while a series of one-off inquiries

from clients may reflect a just-in-time advisory practice. Examining e-mail traffic for a one-month period helps to paint the picture.

The next part of this step is to classify matters according to the amount of time spent on them. Three choices are typically offered: '0 – 5 hours' per matter, '6 – 25 hours', and 'over 25 hours'. Once that is done, the total time worked in each category is calculated for the 12-month reference period. One result for a lawyer might show that 65 % of the year is spent on 100 matters in the 6 – 25-hour category. With 1 900 hours available for legal work in a year, matters in this range would require an average of 12.3 hours to complete.

Some surveys have shown a 5-member department spending 30 % of its time on 2 000 matters per year averaging less than 1.5 hours each. This type of practice profile, while useful as a form of operational support for clients, is not a cost-effective use of experienced counsel.

The third step in data-gathering is to understand the amount of interaction with client representatives in the company. Lawyers and paralegals are asked to provide the number of occasional and regular clients according to the amount of legal support needed: 0 – 25 hours per year, 26 – 50 hours, 51 – 150 hours, 151 – 500 hours and more than 500 hours. Keeping in mind that a client using 3 hours per week is using 150 hours per year or 6 % of a lawyer's available time, one understands why many legal departments will have 75 – 100 clients using 20 % of the resources, an average of 1 to 1.5 hours per client per month, while the remaining 80 % of practice time is spent with a handful of clients. Occasional users of the law

department are the majority. They are not really experienced on how to properly use a limited resource. Inside counsel are reluctant to limit access, saying it is the cost of doing business. Again, this is not a cost-effective allocation of legal resources. Open-door policies disguised as a risk management practices are gradually being replaced by explicit protocols for work intake and allocation.

With data in hand, General Counsel can shift resources away from one client department to another, limit the number and types of routine matters worked on by each lawyer and paralegal, and eliminate access for most occasional users of the law department. Priorities become much clearer at the individual lawyer and department levels while backlogs are held to an acceptable service standard.

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### About the Author

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