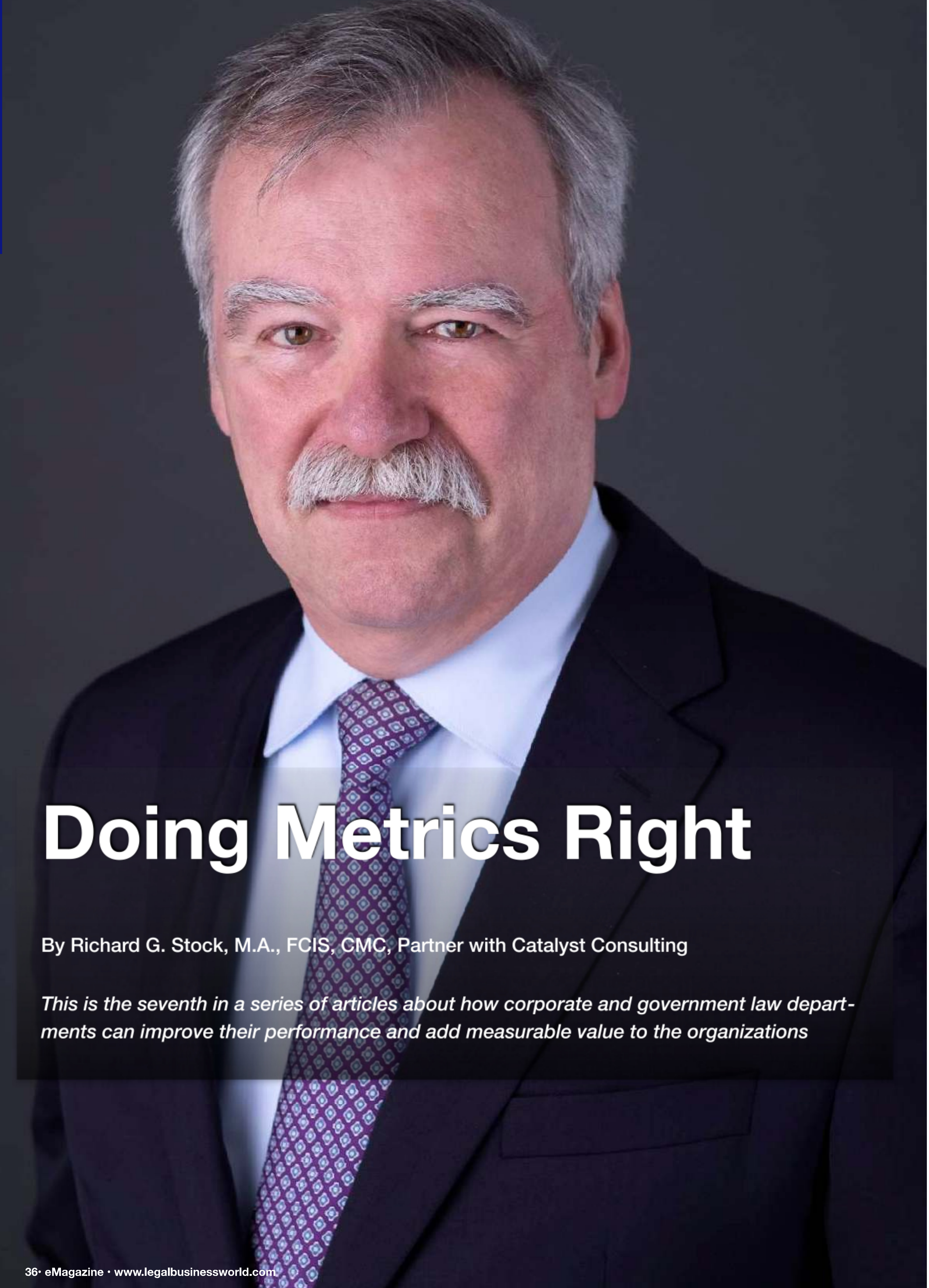
Series



Doing Metrics Right

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

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

Some of the trade literature has been featuring metrics and performance for law departments over the last 6 years -about as long as there have been awards for innovation in law department innovation. Nevertheless, fewer than 10% of departments have sufficient and solid data that can be analyzed in a useful way.

CounselLink, part of the Lexis Nexis software suite, offers cloud-based software for enterprise legal management. The product helps large and small corporate law departments manage operations by collecting data and by providing analytics and benchmarking tools. Last year, Kris Satkunas and Justin Silverman co-authored a CounselLink white paper on "Managing Metrics for Success". They set out 7 characteristics for effective metrics that are worth considering, mostly because they are experienced-based and full of common sense.

Assuming that metrics for law departments are inevitable and useful, we suggest that General Counsel should include them in a four-part package that also includes the department business plan, its budget, and objectives and development plans for individual lawyers.
The first characteristic of effective metrics is to ensure that they are be linked to the company's business goals. It is the only way for a law department to position itself as a strategic partner that adds value rather than as part of the overhead. Less than a quarter of law departments produce detailed business plans linked to corporate plans – plans that are more than the annual budget. And it is these plans which should anchor the metrics used to monitor and report the performance of the law department and of individual lawyers.

Second, the configuration of metrics must be balanced to make them palatable and relevant to lawyers. Financial metrics such as external spend and the cost of the law departments are a start but do not speak to the value provided by legal counsel. Objectives and targets to improve the operational efficiency of the internal and external legal supply chain are essential. Satkunas and Silverman go further by proposing metrics to better manage risk and legal outcomes that are several levels beyond basic activity tracking. General Counsel can then better answer the question "What difference do the lawyers make?"

The third feature of effective metrics are lagging and leading performance indicators. Collecting historical data will help to set some performance targets for the future. Yet, not all performance can be reduced to readily quantifiable elements such as the number of matters, legal spend and turnaround just because they are compatible with a matter management system. The white paper did not suggest metrics or performance indicators for value-added performance of the law department: special projects, strategic impact, knowledge transfer to clients, and the development of the law department's skills and knowledge to take on increasingly complex work. All except one indicator presented in the example relate to financial control or operational efficiency.

Next, the number of metrics for the law department should be limited – from 6 to 10 with no more than three or four being finance-related. Fifth, the white paper favours metrics that are "controllable" at the level being measured. We think that this is much too restrictive and understates the value-added contribution that counsel can and do make on a regular basis. Instead, formulation of objectives and targets that "can be influenced" by counsel makes sense because these are more suitable for an enabling department such as law in a company. The general counsel can set objectives and targets tied to the outcome of transactions and litigation. Stretch goals and targets for the department and for individuals can then make it to the scorecard.

It is hard to disagree with CounselLink's sixth characteristic for good metrics – comparability to a baseline – as long as the focus is on financial and efficiency indicators. This is difficult to apply to developmental objectives, to special projects, and to the strategic contributions that legal teams can make. "Production line" metrics are unavoidable but insufficient. Activities that call on the special skills of experienced counsel should be featured: analytical abilities, written and oral communications, negotiating skills, leading teams, and training clients to be more self-sufficient. Add to this the need for most inside counsel to beef up their technology skills and to master the economics of their company. It is then that the configuration of developmental objectives and targets comes into focus with strong potential to add measurable value.

Satkunas and Silverman conclude by suggesting that metrics should readily feed a scorecard or some form of reporting that makes it easy for the law department to capture and communicate its contribution to the company. Some General Counsel report progress with select achievements by the law department to the corporate executive team every quarter.

Metrics may give lawyers hives - shades of law firm timekeeping and of having the legal artist paint by numbers. Getting metrics right depends on striking the balance between resource allocation and success in getting business done.

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