

Measuring Up

In tough times, even corporate law departments play the numbers game.

By Nina Schuyler

"If you can't measure it, it's not worth doing."

For years CEOs and CFOs applied that maxim unsparingly, except in the law department. But the recession beached all cost centers, exposing them to a value-based analysis called metrics. "With the bad economy, general counsel are under a great deal of pressure to do more with less, and to show their value," says Fred Krebs, president of the American Corporate Counsel Association in Washington, D.C. Judging lawyers' efficiency by the numbers, however, is still controversial.

An array of metrics-generating software is available off the shelf. Matter management systems track the number of files opened and completed, in progress, resolved ahead of schedule, and submitted to ADR. The most popular programs are licensed by Elite Information Systems, MetraTech, and Corprasoft. Electronic billing programs, such as TyMetrix and DataCert, are used to track outside legal costs. In addition, specialized software is available for monitoring such things as patent applications, renewal dates, and license fees. Computer software will even analyze client-satisfaction surveys to assess the value of in-house lawyers.

Despite the availability of such software, Rees Morrison of Hildebrandt International says most general counsel don't use it enough. "I'd say we're at 30 percent of full potential," says Morrison, head of Hildebrandt's law department consulting group and author of *Law Department Benchmarks: Myths, Metrics, and Management* (Glasser LegalWorks, 2001). Morrison advocates practices such as better use of time-tracking software, compiling the percentage of staff taking continuing legal education courses, and tracking the percentage of staff showing an increase in competency-measured by turnaround time on projects. "Metrics also could be employed to

evaluate outside counsel, such as the percentage of bills that are under budget, and the cycle time of a matter," Morrison says.

At Cisco Systems in San Jose, General Counsel Mark Chandler tracks total legal spending as a percentage of corporate revenue. He divides legal spending into two categories: business development-such as patent applications and M&A costs-and transactions, litigation, and general corporate support. By comparing his numbers to those of similarly situated companies, he evaluates how he's doing. "How much you are spending in an area gives you clues to how to reduce and better manage that spending," he says.

A study released by General Counsel Roundtable in August 2002 suggests that law departments still fail to measure high-priority activities such as integrating with business operations and developing preventive legal strategies. "What's missing is measuring things that add strategic value," says Caren Gordon, managing director of the Washington, D.C.-based group. For instance, Gordon says, instead of just tracking the number of patent applications filed-which creates an incentive to file regardless of quality-law departments should estimate the business value of patents awarded divided by the cost of all patent applications. That metric would encourage attorneys to file only applications that enhance business goals.

Only a handful of law departments attempt to systematically quantify their value to the client. Last year Telstra Corp., an Australian-based telecommunications firm, hired Gen Group Consultants to measure the value of its law department, including the "intellectual capital" it possessed. To quantify this value, Gen Group began by subtracting salaries from the expected market value of key attorneys. How well the attorneys leveraged the department's intellectual capital was measured by developing categories for significant litigation initiatives, commercial initiatives, intermediate litigation, small claims, and regulatory outcomes. If a matter lasted several years, consultants used the average cost. Finally, they subtracted work billed by outside lawyers

and compared recent matters to previous cases with similar issues to determine time savings. "The number we got represented the overall savings of having the case well managed," says Christine Morgan, executive general manager of Telstra's business strategy and operations department. Still, many general counsel aren't convinced that metrics analysis leads to better service. Even the most fundamental measurements-total legal costs as a percentage of revenue-present problems, says Peter D. Bewley, general counsel of The Clorox Company in Oakland. "When you compare your numbers to industry numbers, it's hard to know if you are comparing apples to apples," Bewley says. Some law departments, he points out, include overhead and rent, settlements, and judgments in their costs, and others do not.

John H. McGuckin Jr., general counsel at Union Bank of California in San Francisco, says he measures some things, including the number of cases opened and closed on a quarterly and annual basis, and outside legal fees. But he says an accurate assessment requires a qualitative approach. Each year his managers conduct performance appraisals, interviewing internal clients about the quality of legal services provided. "If a client says he or she is not getting timely responses, that's all I need to know," McGuckin says.

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