ALM Intelligence

Data & Analytics:
Transforming the Corporate Legal Department

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About the Author

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Steve is a Senior Analyst at ALM Intelligence where he writes and presents on matters related to the business of law. His areas of emphasis have previously included law department operations, lateral partner hiring, cybersecurity, and information and knowledge management. Prior to joining ALM Intelligence, he served as a Senior Analyst at Deltek and Thomson Reuters.

Steve holds a Juris Doctor from the West Virginia University College of Law and a Bachelor of Arts in history and political science from West Virginia University. Born and raised in West Virginia and a current resident of Northern Virginia, Steve is a member of the District of Columbia Bar.

Executive Summary

More than ever before, corporate law departments are a significant force in shaping the future of business, and with that comes a consistent stream of challenges. But, expert-driven, outward-looking law departments are not daunted. They are seizing the opportunity presented by data and analytics, and they are, as a result, transforming their legal departments.

An organization's business records tell its story. When handled and analyzed with intent, the data resulting from a business's daily operations and interactions can be revelatory. Similarly, the transactional nature of the business and practice of law creates a vast amount of data and presents a tremendous opportunity for legal departments. Legal matter management and e-billing software systems, for example, have facilitated the creation and capture of many valuable data points. These include the tracking of such items as timekeepers on a matter and the type of legal work being performed.

Legal analytics is grounded in any data relevant to decision-making within the legal services sector. Data relevant to legal analytics may arise from inside or outside the legal department and the business, and in some cases, may appear unremarkable or unconnected on its face. To understand its potential value, data should be evaluated in relation to the analytical purpose it might serve. For example, within the legal services domain, there are two broad sub-domains: business of law analytics and practice of law analytics. And within each category, there is an entire universe of applications including spend analytics, performance analytics, decision analytics, compliance analytics, and judicial analytics, to name a few.

The report, *Data & Analytics: Transforming Corporate Legal Departments*, provides an overview of the movement by some law departments to embrace a data-driven operational model. In doing so, it covers the following issues:

- Why data and analytics are essential to the modern legal department;

- How analytics can be practically applied to the business and practice of law;

- What steps do organizations need to take to implement a data-centered decision-making model;

- Where do outside counsel law firms and alternative legal service providers (ALSPs) fit into that model

Seizing the Opportunity

The role of general counsel has undeniably changed in recent years, both in terms of scope and importance within the corporate suite. The rise of the empowered general counsel — a department leader that is simultaneously legal advisor, risk and crisis manager, corporate conscience, and strategic business partner — has resulted in corporate legal departments becoming integral to enterprise decision-making.

With increased responsibility and greater visibility, however, has come more scrutiny. Law departments, long considered black boxes to outsiders, have found their budgets subject to the parameters traditionally applied to all other corporate business units. As a consequence, gone are the days where fees paid to outside counsel to mitigate risk and solve problems are largely unquestioned.
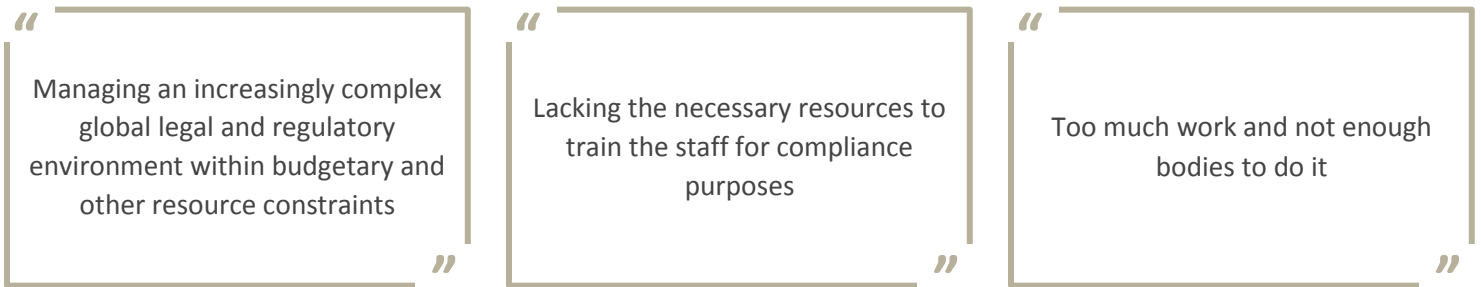
Figure 1: Roles & Responsibilities of the 21st Century GC

Resource & Operations Manager

- Legal Advisor
- Compliance Counsel
- Business Partner
- Risk & Crisis Manager
- Corporate Conscience

Meanwhile, in-house organizations, in this era of tight budgets, are confronting unprecedented challenges. They are being forced to expand their already wide-ranging legal expertise in order to navigate volatile regulatory environments that now stretch across the globe. Those responsibilities have been made more difficult by rapid advances in technology. New technologies have given rise to new concerns and also resulted in additional regulatory uncertainty.

Figure 2: Significant Department Challenges – In-House Leaders in Their Own Words

> " Managing an increasingly complex global legal and regulatory environment within budgetary and other resource constraints "

> " Lacking the necessary resources to train the staff for compliance purposes "

> " Too much work and not enough bodies to do it "

In this atmosphere, "doing more with less" while continuing to demonstrate value is a difficult proposition, especially given that corporate legal departments are primarily viewed as a cost center. In response, forward-thinking in-house leaders, often with operations professionals by their side, have sought to change the way legal services are evaluated and delivered.

And so it is, at a time of substantial need — when resources are scarce and problems are many — data presents an opportunity for in-house organizations. Legal departments have always been awash in data, but now advances in technology have changed the game.

Data, whether big or small, is a raw material; it does not have intrinsic value. To extract its value, data must be refined through analysis. Driven forward by the creation of larger data sets and the widespread availability of the software necessary to conduct efficient analysis, businesses are frequently turning to data analytics to improve outcomes. In the wake of the global economic downturn, some in-house legal departments have sought to do the same.

Though the image of the tech-averse lawyer is pervasive, analytics is a natural extension of the work lawyers complete. For attorneys, evidence-based decision-making is paramount. Lawyers, as a matter of course, serve their clients by conducting research to gather facts in support of a conclusion. The detail-oriented work required to be an effective lawyer is also necessary to succeed as a data analyst.

More than ever before, the corporate law department is a significant force in shaping the future of the businesses they serve, and with that comes a consistent stream of challenges. But, expert-driven, outward-looking law departments are not daunted. They are seizing the opportunity presented by data and analytics, and they are, as a result, transforming their legal departments.
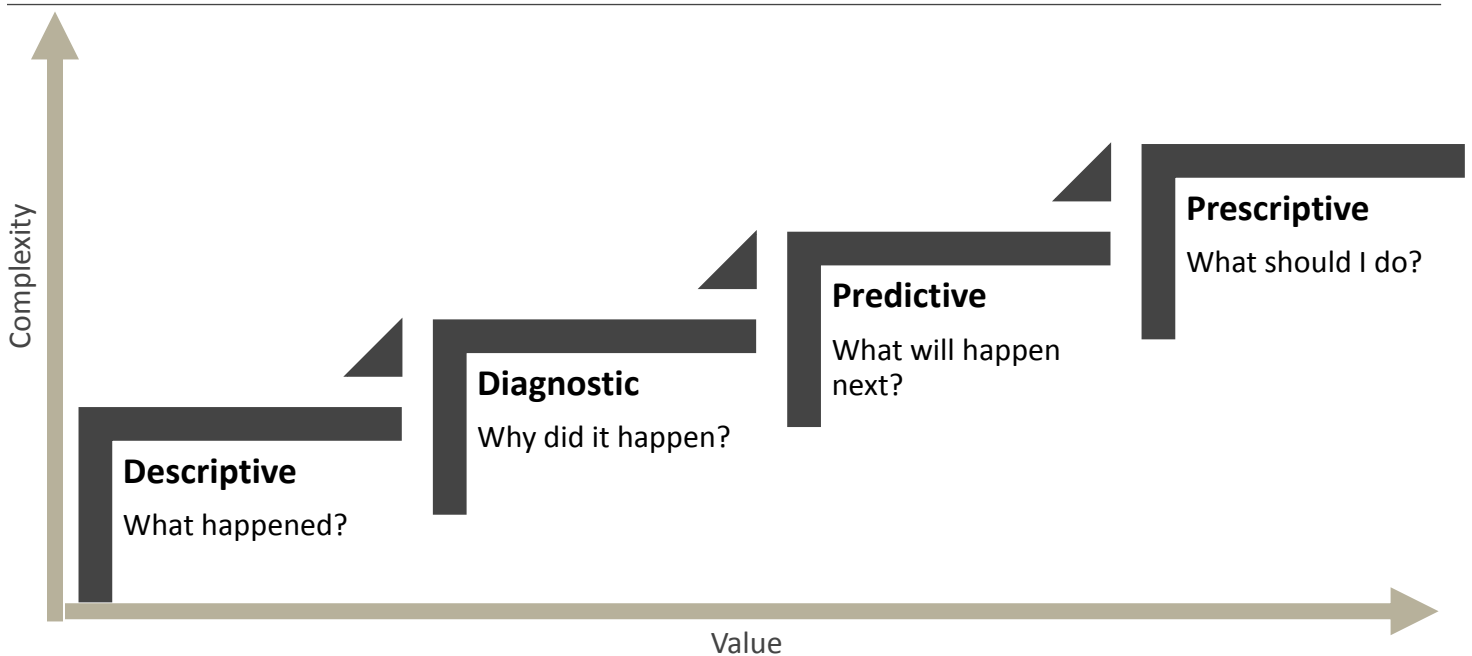
Understanding the Basics

Function

Data is more than a collection of facts, figures and observations. In the 21st century, it is a resource on par with oil and coal. Though, unlike those tangible commodities, data's value is not driven by scarcity. It is often quite the opposite. Large quantities of data, so-called big data, have been known to carry the most value. Nevertheless, data need not be big to drive more effective decision-making. Depending on the end goal, structured analysis of small data can produce results.

To reveal insight, data may be subjected to four levels of analysis. Each level, outlined in Figure 3 below, is more complex and sophisticated than the last. As a rule of thumb, as the analysis becomes more complex, the underlying data needs to also become larger and more sophisticated.

Figure 3: Analytics Functional Maturity Model

First, and most simple, is descriptive analytics, a process in which historical patterns are revealed. Understanding what came before can be informative when considering future events, but past is not always prologue. To dig deeper, some turn to diagnostic analytics which examines data in an effort to determine why an event occurred. Which then leads to predictive analytics, the third analytical type. Predictive analytics uses techniques like machine learning and modeling to make predictions about the future. Such predictions are not definitive, but rather they outline a range of results and provide the probability that those events may occur.
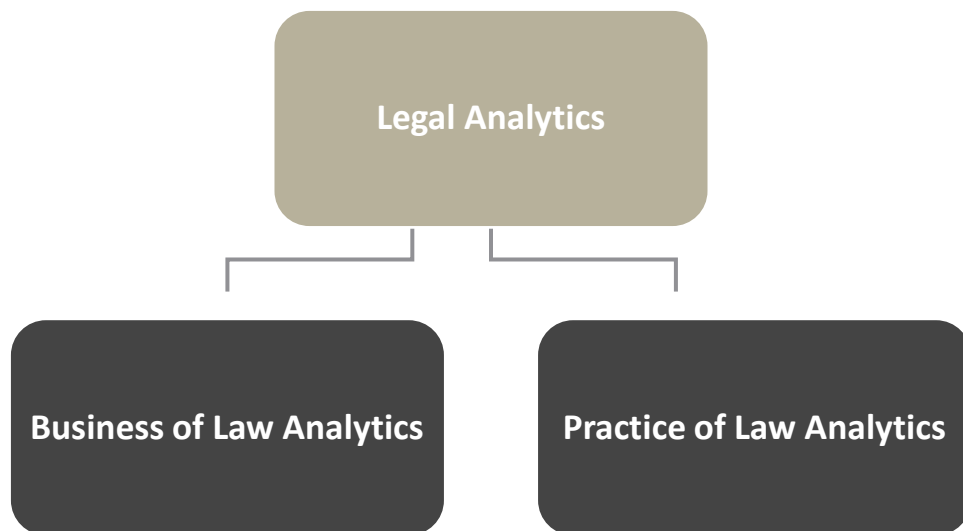
Predictive analytics is surpassed in complexity by prescriptive analytics, the fourth, and most sophisticated type of analytics. Prescriptive analytics goes one step further by recommending a course of action in conjunction with the various forecasted outcomes.

Application

Analytics is best understood in terms of the subject matter or domain to which the resulting insight will be applied. As such, analytics used by organizations within the legal services sector is known as legal analytics.

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Figure 4: Legal Analytics Components

Legal analytics is grounded in any data relevant to decision-making within the legal services sector. Data relevant to legal analytics may arise from inside or outside the legal department and the business, and in some cases, may appear unremarkable or unconnected on its face. To understand its potential value, data should be evaluated in relation to the analytical purpose it might serve. For example, within the legal services domain, there are two broad sub-domains: business of law analytics and practice of law analytics. And within each category, there is an entire universe of applications including spend analytics, performance analytics, decision analytics, compliance analytics, and judicial analytics, to name a few.

Whether applied to the business or practice of law, data's omnipresence in the digital economy has set the stage for corporate legal departments to move beyond drawing conclusions in an ad-hoc manner on the basis of an individual's intuition.

Business of Law Analytics

The insights derived from business of law analytics are process oriented. They can be used to improve legal operations by promoting transparency, predictability and cost certainty. To reach those goals, sophisticated law departments track metrics related to budget and service delivery. Moreover, they establish key performance indicators (KPIs) while clearly defining "success." Figure 5 below provides a sample list of KPIs.

Figure 5: Sample KPIs for Law Departments

▪ Total Legal Spend	▪ Average Matter Spend by Law Firm
▪ Legal Spend by Law Firm	▪ Total Matters Opened and Closed
▪ Legal Spend by Matter Type	▪ Law Firm Staffing by Matter
▪ Legal Spend by Practice Area	▪ % of Matters Handled via Alternative Fee Arrangements (AFAs)
▪ Total Legal Spend as % of Corporate Revenue	▪ AFA Savings by Initiative
▪ Overall Utilization	▪ Savings from Invoice Review
▪ In-house Work Cost vs Outside Counsel Work Cost	▪ Top Law Firms by Evaluation

KPIs can provide important insight into the state of departmental operations when they are compared to, or benchmarked against, similar measures. The possible benchmarks are many, but may include comparisons to an organization's historical performance, comparisons to industry peers or comparisons to established best practices. By comparing performance, benchmarks are great ways to identify an organization's strengths and weaknesses.

The creation and capture of the data necessary to support the above KPIs are made possible by the explosion of new business intelligence tools and platforms that are increasingly becoming essential for modern legal departments. Examples and applications of analytics to law department finances and operations include:

Pricing and Fee Analytics

Pricing and fee analytics, with budgets under pressure, are an important tool for next-generation legal departments. It is widely understood that the majority of spending by legal departments is directed to their use of outside law firms, and invoicing under the traditional billable hour method can be opaque. Uniform Task-Based Management System (UTBMS) codes were intended to promote transparency, predictability and accuracy through the standardization of invoice data yet that goal has largely remained unfulfilled. Sloppy record keeping including practices like "block billing" – tying multiple costs to a single code – means many outside law firms still suffer from poor billing hygiene.

Enter legal technology. There are solutions on the market that automate the coding task by using natural language processing and machine learning to convert invoice narratives to properly coded line items. Then, the analysis-ready data can be exploited to support the enforcement of outside counsel guidelines. By revealing insight into law firm billing practices, pricing and fee analytics can combat improper billing as well as promote staffing and workflow efficiencies.

Performance Analytics

Given that the majority of in-house budgets are spent on outside law firms, ensuring that the lawyers and the firms selected meet, or even exceed, expectations is of utmost importance. In matters of litigation, a "Moneyball"-type approach has been introduced to lawyer performance evaluations. The widespread digitization and availability of court records has made possible tools that calculate overall case-level win-loss records as well as more granular accountings of motion success and failure rates.

Alternatively, companies like Groupon Inc. have created internal mechanisms for tracking and sharing details of outside attorney performance. In 2017, *Legaltech News* reported that Groupon deployed scorecards to evaluate law firms' performance on financial measures such as cost and to benchmark firms against others used by the company. And at General Electric Company (GE), an internal website titled "GE Select Connect," is now available to its legal department. The website allows the company's in-house attorneys to search profiles of preferred providers of legal services. The profiles include details like feedback from GE lawyers, diversity staffing and rates.

Practice of Law Analytics

Practice of law analytics support decision-making in matters related to giving legal advice, creating legal documents and representing parties in legal transactions. Technology, to date, has made attorneys better and more effective at their jobs. Similarly, despite some claims to the contrary, analytics — particularly AI-driven technologies — will not eliminate the need for experienced lawyers.

The application of analytics to the practice of law is a powerful tool that is already changing the profession, and those that embrace its potential will surely benefit from a competitive advantage over those who reject it. As mentioned earlier, lawyers and legal departments should not be intimidated by or hostile to this phenomenon. Collecting relevant data and using it to support evidence-based decisions and arguments is a natural extension of the research and analysis lawyers have performed for centuries.

Examples and applications of analytics relevant to legal departments and their practice of law include:

Drafting, Reviewing & Managing Contracts

Day-to-day drafting and reviewing contracts – especially nondisclosure agreements (NDAs) – is a tedious, yet necessary function performed by in-house law departments. Fortunately, natural language processing and machine learning may be the source of some much-needed relief. Some law departments are making use of artificial intelligence-enabled software that captures and learns from contracts supplied by its users. With each additional submission, the program learns more by analyzing and comparing the language with the terms in similar documents. The software solution then provides feedback on potential additions, deletions and revisions to the terms.

Meanwhile, advances in blockchain technology may hold some promise in ameliorating the intractable problem of contract management that currently plagues many legal departments. So-called "smart contracts" use blockchain technology to enable the creation of a secure ledger containing contract details. Smart contracts are self-executing, and if their use becomes widespread, they will significantly reduce the time in-house lawyers need to spend on drafting, reviewing and managing contracts. That will allow for greater focus to be spent on more complex problems like enterprise risk assessment and mitigation.

Early Case Assessment

Applying data and analytics to assess litigation in its earliest stages can benefit in-house departments in two significant ways. First, it can be used to support strategic planning. Techniques like predictive modelling can help general counsel consider multiple litigation strategies and gain an understanding of the potential risks and costs associated. Perhaps even more importantly, having that type of information can be instrumental when in-house leaders set the expectations of others within the c-suite. Furthermore, it facilitates a more nuanced definition of success, one that does not focus entirely on whether a case is won or lost.

Chief Legal Officers want to limit costs, of course. That's where strategic planning comes in. But just as important, if not more so, is the second benefit from applying analytics to early case assessment. Litigation is often a huge unknown for many legal departments, and that inherent lack of certainty, makes budget planning a nightmare. Legal departments that use data and analytics to conduct early case assessment can remove some of the uncertainty and introduce a degree of predictability. Limiting the possibility of surprises, and understanding the probabilities that a certain scenario may occur is a tremendous benefit when planning the allocation of department and company-wide resources.
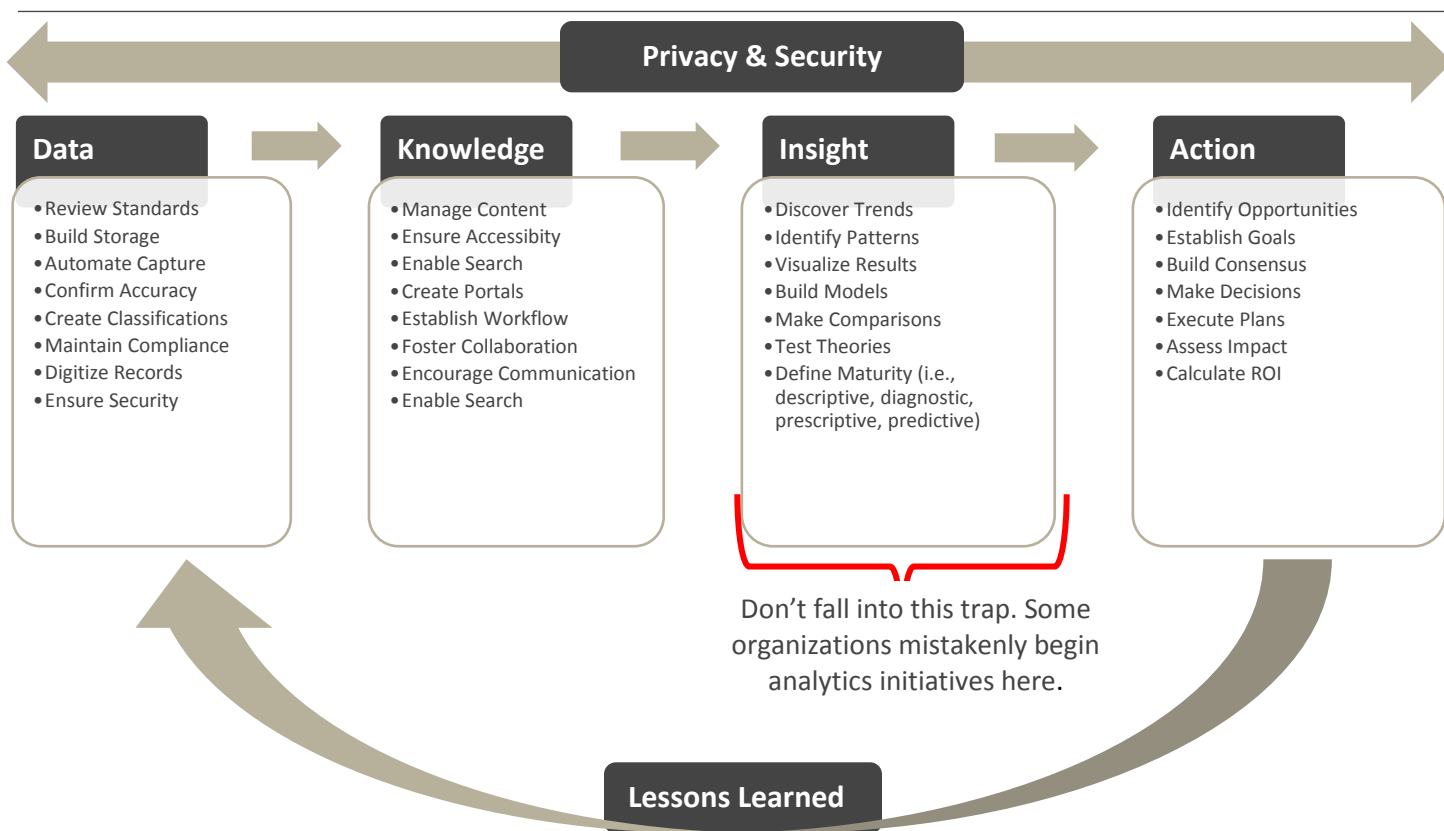
Strategic Risk & Business Strategy

In an environment where business decisions are largely based on a company's appetite for risk, the role of the corporate legal department, at its heart, is to assess, mitigate and manage enterprise risk. Those in-house organizations that are truly positioning themselves in the role of strategic business partner are exploring the use of data and analytics to identify risk and propose mitigation plans preemptively. Making evidenced-based decisions in that fashion requires a deep organizational commitment to the cause of data and analytics – one that takes analytics to its most mature and complex levels, but has the potential to deliver the most significant payoff.

The applications of legal analytics are numerous, but they are not as simple as just generating a spreadsheet. To get from data to action, a solid infrastructure with formal procedures must be in place. Otherwise, even the most well-intentioned attempts might fail. Creating the necessary infrastructure presents its own set of problems that will be discussed in the next section.

Creating the Framework

The organizational challenge, outlined in Figure 6 below, is to convert data, a raw material, into evidence-based action, a finished product. To reach that endpoint, corporate legal departments need to separate the wheat from the chaff, by installing a system that efficiently captures data, promotes knowledge sharing, supports insight, and drives action. Moreover, this must be done while balancing concerns over compliance, cost, return, and security.

Figure 6: Getting From Data to Action

Privacy & Security

Data
- Review Standards
- Build Storage
- Automate Capture
- Confirm Accuracy
- Create Classifications
- Maintain Compliance
- Digitize Records
- Ensure Security

Knowledge
- Manage Content
- Ensure Accessibity
- Enable Search
- Create Portals
- Establish Workflow
- Foster Collaboration
- Encourage Communication
- Enable Search

Insight
- Discover Trends
- Identify Patterns
- Visualize Results
- Build Models
- Make Comparisons
- Test Theories
- Define Maturity (i.e., descriptive, diagnostic, prescriptive, predictive)

Action
- Identify Opportunities
- Establish Goals
- Build Consensus
- Make Decisions
- Execute Plans
- Assess Impact
- Calculate ROI

Don't fall into this trap. Some organizations mistakenly begin analytics initiatives here.

Lessons Learned

Data Governance

Across all industries, businesses are coming around to the idea that data is a business asset regardless of the enterprise's core mission. To capitalize on that asset, and to harness it as a competitive weapon, businesses must have the proper framework in place. And that framework has to begin with a focus on data governance.

Data governance is an enterprise-wide, cross-functional undertaking. Some organizations mistakenly fall into the trap of skipping ahead a couple of steps by immediately focusing their efforts on data analysis. Sophisticated, data-driven legal departments know that, at the outset, a solid foundation in governance must be established. Without that foundation, the entire framework is doomed to fail.
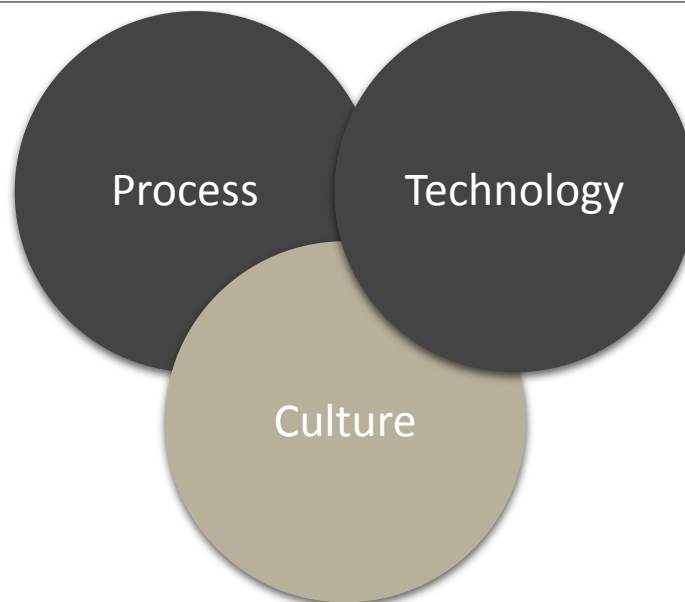
A proper data governance regime will establish a process that is multi-faceted and will include provisions for administering, capturing, cleaning, storing, securing, and disposing of data. Not all data is created equal. And more data is not always better data. Consequently, governance is an ongoing process that continually requires resources and attention. Bad data is the foundation of bad results. Remember, even good decisions based on bad data often result in mistakes. Moreover, relying on faulty data will likely negatively impact the ability to bring analytics back into organizations. As such, there is very little margin for error.

The cornerstone of the data governance process is data mapping. It will require a comprehensive review of all methods and processes in place around which data is created, stored, moved, and eliminated. It will also have to be undertaken with an eye toward maintaining compliance and ensuring adequate security is in place.

Knowledge Management

With a solid foundation in information governance, organizations are then able to turn their attention toward issues of knowledge management. Knowledge management consists of a variety of practices and is often described as requiring the convergence of process, culture and technology.

Figure 7: Knowledge Management Components

Effective knowledge sharing, regardless of whether it is formal or informal, requires that a process is in place. The presence of a process will ensure that the sharing activities are less "ad-hoc" and more consistent and repeatable. What's more, the existence of a process, supported by education and training, will go a long way toward establishing an institutional culture that promotes the exchange of knowledge. As the sharing of knowledge leads to more positive outcomes, the collaborative culture will become even more entrenched.

For legal departments operating in the age of the lateral move, having active channels by which knowledge is exchanged is an important mechanism promoting institutional stability. When an individual departs an in-house team, knowledge not shared and expertise not captured is knowledge lost and expertise forfeited.

Finally, legal departments must have the proper technology and tools in place to facilitate knowledge management and the free flow of ideas. Matter management systems, wikis, intranets, newsletters and other portals can provide excellent collaboration platforms that integrate both internal and external stakeholders.

Insight & Action

The first step in revealing insight is to define the maturity level of the analytical function to be performed. Specifically, it must be determined whether the goal is descriptive, diagnostic, predictive, or prescriptive (see Figure 3). Once the benchmarks have been completed and the models have been tested, organizations, including data-focused legal departments, should turn to communicating the results. Failure to effectively communicate the insights uncovered is a complete waste of the resources and efforts expended.

Data dashboards are one great way to communicate insights and results. Dashboards are tools that monitor, analyze and display KPIs – often on a real-time basis. They can also be tailored to meet the needs of a specific audience and are effective means of introducing transparency and accountability.

Finally, the entire effort from data governance to the action taken must be evaluated to determine the return on investment (ROI) and any lessons learned. Exploiting data comes at a cost, and while there are many potential benefits to exploiting it, the ROI should always be taken into account and capturing lessons learned should always be incorporated into the process.

Privacy & Security

Cybersecurity surged in importance in recent years and did not leave the legal services sector unscathed. Because of the sensitive nature of the confidential information that legal service providers often have under their control, some are reluctant to digitize their data assets because of the privacy and security issues that might arise. However, this is a missed opportunity.

While no system is completely secure or without risk, from the previously discussed exercise in data mapping, legal departments should pay close attention to the following points of concern:

- Procedures to follow in the event of an incident;

- Permissions governing access to data;

- Origin of data collected;

- Notice and consent practices;

- Frequency of employee training;

- Complaints process for handling of personal data;

- Rules governing capture and deletion of data

Changing the Expectations

In-house departments are not driven by profit or revenue growth. Most companies do not want to be in the law firm business, and most legal departments do not want to be in the technology business. Success for in-house legal practitioners is something different. Law departments exist as a tool to serve the strategic goals of, and to mitigate the risk of, the enterprise. Moreover, as a result of the data and analytics revolution, law departments' expectations of their outside vendors – whether that vendor is a law firm or an alternative legal services providers (ALSPs) – are evolving.

Armed with insight derived from data, smart in-house law departments are changing the expectations for legal service delivery by becoming increasingly proactive. Under this paradigm, outside counsels' legal expertise is assumed and the ability to convey ''value'' – in the form of greater efficiency, predictability and cost effectiveness – is the key differentiator for those vendors seeking to win new business.

Leading outside counsel law firms recognize the evolving needs of their clients and match their clients' proactive style. They continually, and in a transparent fashion, engage their clients in conversations about pricing and efficient project management. What's more, leading firms adapt by overcoming institutional barriers to:

- Incentivize successful project cost management

- Develop cost management dashboards that monitor costs in real time;

- Build databases of cost information to facilitate budgeting;

- Proactively propose alternative fee arrangements;

- Develop and implement project management training;

- Proactively Identify segments of work that are appropriate to be kept in-house;

- Proactively identify risk and propose mitigation plans;

Transforming the Department

The ascension of the general counsel into the role of corporate power player has brought with it new responsibilities, increased prestige, and, of course, a variety of new challenges. To overcome those obstacles, sophisticated legal departments are seizing the opportunity to exploit data in pursuit of better decision-making. To achieve their objectives, those law departments develop organizational infrastructures that effectively capture data and convert it to actionable insights. After reporting on metrics for a period of time, in-house teams have experienced a substantial change in their organizational culture. The value analytics provides serves to perpetuate a virtuous circle that leads from data creation to evidence-based action and back again. As a result of their efforts to support that process, data-driven law departments are being transformed.

Report Methodology

The methodology used for this report consisted of a combination of research tactics, including interviews, analysis of ALM Intelligence's proprietary data sources, the author's practical knowledge, and a review of the body of research conducted by others on the topic.

About ALM Intelligence

ALM Intelligence, a division of ALM Media LLC, supports legal, consulting, and benefits decision-makers seeking guidance on critical business challenges. Our proprietary market reports and analysis, rating guides, prospecting tools, surveys, and rankings, inform and empower business leaders to meet business challenges with confidence.

Legal Compass, by ALM Intelligence, puts the power of ALM's 30 years of proprietary data and research firmly in your hands. Its comprehensive, web-based platform connects subscribers to decades of penetrating ALM analysis and exclusive law firm data, making it the perfect tool for addressing the challenges you face on a daily basis. Whether you're conducting your own analysis or leveraging one of our carefully prepared reports, Legal Compass gives you the clarity you need to make the decisions that matter.

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