Guide to

ACC Value Challenge

Process Improvement

ACC Association of
Corporate Counsel

TABLE OF CONTENTS

THE BUSINESS CASE

In the wake of the Great Recession, corporate counsel across the globe may find themselves facing new demands and pressures. Amidst an environment of ever-increasing complexity and volatility, law departments strive to deliver higher quality and enhanced value at a lower price.

In "the new normal," every business function is under greater scrutiny and pressure to shed the traditional "cost center" mentality. CEOs and CFOs now expect the legal function to meet the same standards of operational excellence and focus on performance that have long governed the profit centers of the business.

From cost center to value center

The results of ACC's 2014 CLO survey[1] indicate that corporate counsel hear the message loud and clear. In 2014, 89 percent of respondents said they recognize the importance of non-legal skills in their legal departments, and 62 percent point to business management as the most critical non-legal skill.

While spend reduction remains a priority across the board, the fundamental challenge is broader: the law department must prove its value to the business. Tried-and-true cost management methods are still in vogue, with 73 percent of CLOs indicating the use of alternative fee arrangements to control outside spend. However, a significant number of law department leaders are thinking more broadly about their quest to reinvent the department: 63 percent of CLOs reported bringing work in-house. In essence, these law firm leaders are taking greater control over the challenge to "do more with less."

Developed first in manufacturing operations, **process improvement** is a systematic approach to elevate the efficiency and effectiveness of an organization by optimizing its underlying processes. Process improvement efforts apply structured methods, techniques, and tools to examine and modify processes with an eye toward continuous improvement, using data measurement and rigorous statistical analysis as critical keys. For law departments seeking to deliver on more aggressive service levels while keeping costs down, process improvement can be a powerful tool.

When most successful, process improvement initiatives can help organizations better articulate and focus on what matters to their clients. By assessing processes through the lens of client-defined value, organizations are able to achieve meaningful gains in efficiency and quality by eliminating activities that do not add value to the quality of the client's product or service experience.

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1   ACC 2014 Chief Legal Office Survey, http://www.acc.com/legalresources/resource.cfm?show=1358895

The earliest application of process improvement to legal work predates the economic downturn by a few years, but a familiar narrative underpins the efforts of Tom Sager, then general counsel of DuPont, who pioneered the use of Lean Six Sigma principles to litigation management.

"As a manufacturing company, [DuPont places] a premium on efficiency and productivity, and we are very sensitive to productivity among internal practices and our supply chain," Sager said. "This includes our legal services. They are not treated differently."[2]

Through a combination of panel convergence, alternative staffing, and process improvement, DuPont developed a new approach to early case assessment, document management, and discovery to achieve millions in cost savings. Since then, process improvement has helped many forward-thinking GCs elevate the efficiency and effectiveness of their departments.

CASE STUDY: Top of license practice through standardization

Embraer, a global aircraft manufacturer, launched a lean manufacturing initiative in **2008.** Keeping the legal team in sync with the organization's culture of continuous improvement was a motivating factor for executive vice president and general counsel Terena Rodrigues.

Recognizing the potential for economic impact, Rodrigues and her team set out to streamline and standardize processes in contract negotiations so that the in-house team could return to top-of-license practice: "We tried to stop doing standardized, mechanical things, and focus our attorneys' time on relevant legal work."

"We tried to stop doing standardized, mechanical things, and focus our attorneys' time on relevant legal work."

The team invested $400,000 into an initiative to create simplified forms, pre-defined workflows for each type of document, and a web-based system. The system provides guidance to business leaders through each step in the process, through legal revision, approval, execution, and storage.

The Embraer team achieved a 30 percent reduction in cycle time and increased the ratio of standard to non-standard agreements from 39:61 to 45:55. The increased use of standard forms eliminates the need for legal review, freeing up the legal team to focus on higher-value, strategic work.

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2   Rohrer, Lisa, and DeHoratius, Nicole, "SeyfarthLean: Transforming Legal Service Delivery at SeyfarthShaw," Harvard Law School, The Case Studies, May 19, 2015.

Getting to yes

Despite notable successes, process improvement and its benefits to in-house counsel have been slow to catch on. ACC data indicates that only 21 percent[3] of large corporate law departments currently use some form of process improvement, even though many of their internal clients rely on similar techniques to improve and streamline their own operations.

In-house lawyers –– like their law firm counterparts –– have resisted the idea that their work could be properly characterized as a project or process. Even large, successful consulting companies that have helped entire organizations transform themselves report a stalemate when it comes to applying process improvement techniques to those organizations' law departments. When it comes to process improvement, it's common for lawyers to ask, "How does this fit into the legal world?" Often, they imply that it doesn't.

Lawyers' own perceptions of themselves as "artisans" and highly skilled experts in the practice of law can also contribute to their resistance to exploring and adopting process improvement.

The practice of law, while varied in scope and complexity, has process interwoven throughout the delivery of services. Defining the practice of law as a collection of processes — or as an interconnected chain of value-creating activities — opens up opportunities to assess those activities to increase efficiencies, improve predictability, and reduce waste. The nuances, people, and fact patterns may vary — sometimes drastically — but generally there is a roadmap that seasoned lawyers follow each time they are presented with a new legal need.

A critical step is to help lawyers see their own time and attention as finite assets. Not all tasks included in that roadmap are of equal value: whether teams are litigating a case or negotiating a deal, they encounter many routine, repetitive processes. When the routine mechanics of practice overwhelm legal teams, lawyers and their internal clients pay a steep opportunity cost.

Encouraging practitioners to envision what they'd like to do instead with the time and attention they now allocate to low-value tasks can be an energizing exercise. Process improvement provides a disciplined approach to identifying, eliminating, automating, or delegating those steps. "Top-of-license" practice for highly skilled experts is just one benefit; effective processes can help the legal team achieve enhanced alignment with internal clients and measurably higher performance for the department as a whole.

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3   ACC 2015 Law Department Management Survey [publication pending].

The benefits of process improvement

Process improvement can be an extremely potent tool for law departments and law firms competing in "the new normal." The dialogue and collaboration across the legal team is in and of itself a valuable experience, one that can crystallize the department's strategic goals and priorities as well as constraints that are specific to the company and legal team.

The business case for process improvement is simple and straightforward. Process improvement techniques provide a varied, robust repertoire of tools to help law departments and firms enhance the overall value delivered to clients by:

- Streamlining workflow

- Managing and reducing cycle time

- Capturing and managing years of knowledge

- Eliminating hidden costs and barriers to quality

- Improving internal and external team communications

- Implementing process controls to ensure improvements are adopted

When done right, process improvement can result in best practices that help legal teams optimize staffing, sequence of work, duration of matters, efficiency, cost predictability, and ultimately, value to their internal clients. Further, law departments with robust process improvement capabilities are better positioned to set expectations and manage service delivery to elicit process excellence from their outside counsel.

THE FRAMEWORK

Legal teams seeking to trim waste from their operations have many formal process improvement disciplines at their disposal, each with varying degrees of rigidity and formality. For in-house departments seeking to improve the efficiency of their operations and effectiveness in serving internal clients, what is most important in choosing a process improvement is whether it will work in their specific environment. The rest of this guide is written with the in-house perspective in mind; however, all of the principles and tools apply in the law firm context as well.

Drawing from diverse sources, we identify the following core principles as critical keys to success for legal teams pursuing meaningful change:

- Client-defined value: Articulate a definition of value from the viewpoint of the client.

- Reliance on data: Use quantitative methods in process analysis to measure current state effectiveness as well as the performance impact of any improvements.

- Structural improvements: Analyze client problems to identify and address root causes.

- Waste elimination: Identify and eliminate systemic sources of waste, such as extraneous tasks, activities, and roadblocks in communication or knowledge sharing protocols.

- Quality through consistency: Establish standardized best practices that can be operationalized through default workflows.

- Change management through controls: Ensure adoption of the new process by all relevant teams and stakeholders through active engagement and control mechanisms.

While this guide draws heavily from classic principles and techniques in Lean, Six Sigma, and Lean Six Sigma, nearly all have been adapted significantly to the specific needs and constraints of legal practice. In addition, we have also integrated lessons from other disciplines in product and service design as well as foundational concepts in professional services management.

Lean Six Sigma and DMAIC

Many companies have adopted Lean Six Sigma as their process improvement methodology because it combines the best elements of waste elimination and quality controls, respectively refined through Lean Six Sigma.
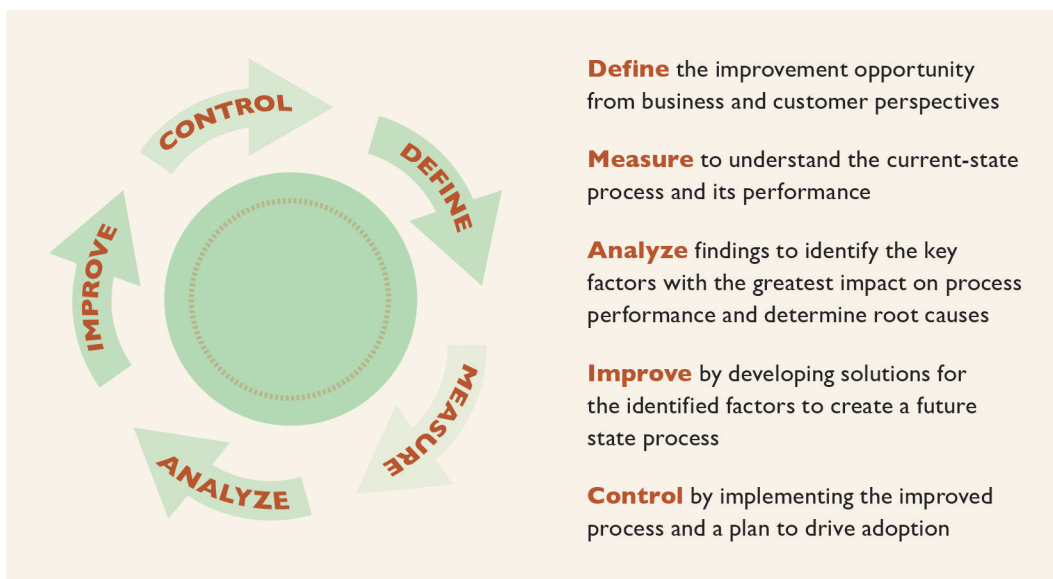
Guiding principles. Classic Lean thinking examines a set of processes on a "mile-wide" basis, with its practitioners looking to create value and eliminate waste across multiple steps. This

approach has proven especially helpful in improving legal work because it can effectively address cumbersome processes, overworked and limited resources, and bottlenecks within processes.

The guiding principles of Lean Six Sigma as applied to legal work can be summarized as follows:

- Specify **precisely the value of each task** in a process by drilling down to see if it improves the deliverable in a way that the client understands and values.

- Identify and **map out the "value stream"** to cut down on work time and remove steps that do not add value.

- Enable the **value to flow forward without interruptions** such as unnecessary documentation, multiple approvals, or inadequate resources.

- Look at **quality across the entire process** to meet client requirements, and in doing so, reducing the variation of outcomes to eliminate defects in the process.

- Allow clients to "pull" value from the process and team by **producing only what the client needs** through linked tasks and using timely information flow.

DMAIC. Lean Six Sigma offers a framework that is particularly effective for legal process improvement known as **DMAIC.** DMAIC is an acronym of the five phases that comprise it:

Define the improvement opportunity from business and customer perspectives

Measure to understand the current-state process and its performance

Analyze findings to identify the key factors with the greatest impact on process performance and determine root causes

Improve by developing solutions for the identified factors to create a future state process

Control by implementing the improved process and a plan to drive adoption

This approach typically works best in those practice areas where the volume of work lends itself to defined, repeatable phases and activities. However, with a few notable exceptions, the handling of most legal matters can be improved and made more efficient regardless of size and complexity. Even if in-house departments do not have data that can be easily tracked and analyzed, they can rely on the voice of the client to define what is valuable to them as only clients can — predictability, cycle time, aligning with business strategies, communication delivery, reporting, and personal values such as feeling well served and supported in the end.

Tools and techniques to put DMAIC to work

A multitude of tools, techniques, and frameworks are associated with each phase of DMAIC and can be applied with various degrees of rigor depending on the complexity of the problem(s) and potential difficulty in designing and deploying an improved future state process. This guide covers a number of the tools and frameworks that are accessible and effective for those law departments getting started with process improvement, but many more are available.

DEFINE

The objective of the **Define** phase is to clearly articulate the business problem through the lens of the client's needs and requirements. Using this information, the team will define the current state process and as well the goal of the process improvement project. Ideally, the team elicits from stakeholders a concrete sense of the pain points experienced in the current state as well as what an ideal future state would look like.

Define the problem

The initial **problem statement** should have a concise but complete description of the issue at hand, a specific problem aligned to high-level business objectives. Most importantly, a problem definition should seek to establish a quantified baseline for current performance, and it should not include any assumptions relating to causes or pre-determined solutions.

Where such assumptions exist, they should be noted as hypotheses to be tested and validated during the Measure and Analyze phases of the process improvement project. The problem definition should seek to identify gaps between the law department's current performance and internal client expectations, and seek to quantify the financial impact of any such gaps.

Examples of problem statements

1. The average cycle time to clear conflicts and open a new client/matter number is eight days resulting in potential risk to an internal client in the firm not being able to address the immediate needs of an existing external client until the matter is cleared and open. Additionally, time worked before a client/matter number is open is never recorded or recorded to an incorrect number, often resulting in lost revenue, rework, and inefficiencies in moving the time to the correct client/matter number.

2. Thirty percent of all e-bills are rejected upon first submission. This results in client budget cycles being missed as well as incorrect forecasting causing erroneous client reporting and budget management. Additionally, rejected invoices result in rework and inefficiencies that are costly in time and resources. Delayed invoices result in delayed payments which result in lost revenue estimated to be $x for the firm.

PRACTICAL TIP: Process Improvement requires iteration

In addition to the problem statement, the process improvement team should seek to define the goals, scope, and timeline for the process improvement project. To the extent possible, the resources and stakeholders required to deliver a solution on time also need to be defined.

Typically, the tangible deliverables of the Define phase include a project charter that summarizes this information as well as a preliminary analysis of findings from Voice of the Client interviews (VOC) and value-stream mapping. In organizations with mature process improvement and project management capabilities, the project charter forms the basis of a structured project plan to deliver and implement an improved process.

However, "right-scoping" the process improvement effort can present a significant challenge for legal teams, especially those just starting out with process improvement. These teams often benefit from a more flexible approach to goal-setting as well as less formal methods for project documentation.

Because deeper investigation, probing, and analysis of client feedback is often necessary to determine the root cause, legal teams must plan from the outset to revisit the initial problem statement to refine meaningful but feasible goals for the process improvement effort.

Project Charter

Project Title:			
Business Case		**Problem Statement**	
Goal		**Scope**	
Deliverable		**Measure of Success**	

Team Members		**Project Timeline**	
Key Stakeholders:	*Member Names*	*Key Milestone:*	*Target Date*
Project Leader:		*D Phase Exit:*	
Project Sponsor:		*M Phase Exit:*	
Team Members:		*A Phase Exit:*	
Subject Matter:		*I Phase Exit:*	
Process Owner:		*C Phase Exit:*	
Approval			

Project Sponsor:_____   Date:_____

Allow the client to define "value"

As noted above, client-defined value is a cornerstone of process improvement. This requires the legal team to listen to internal client feedback with the intent to understand the client experience –– to put themselves in the client's shoes by looking at the process from the client's perspective. VOCs are a powerful tool to instill this client perspective into the entirety of the process improvement project.

Value discussions with clients and stakeholders of the process are of critical importance to every improvement project. Particularly because many legal teams must contend with limited stores of data relating to practice mechanics or process performance, VOCs often serve as the most reliable and meaningful source in fact gathering.

The most successful VOCs establish context around the identified problem and create alignment for the law department and its clients on three critical issues:

- The company's strategic goals and how they shape the legal services needs of vital business units.

- The role of the law department in critical business processes and the impact that specific legal tasks create on the overall success of the business unit.

- Specific pain points as experienced by each stakeholder in the process and the impact of those process failures on the overall success of the business unit.

In short, the most successful VOCs seek to identify not only what internal clients consider important but also why these attributes matter to internal clients.

Voice of the Client (VOC)

Client	Voice of Client	Pain Points	Critical
Who is the client?	What does the client want from us?	Identify any issues the client is currently experiencing	Should be specific and measurable

Understanding of the "why" is especially important to service environments in general and to legal teams in particular.

Relative to manufacturing environments, the outputs of a legal team are subject to far greater complexity, subjectivity, and variance. In the absence of tangible data to measure the number of widgets manufactured to quantifiable product specifications, legal teams must rely on deeper dialogue with internal clients to articulate meaningful definitions of service quality.

It is this deeper understanding that helps legal teams to **identify unmet needs** that lead to gaps in service quality and to **establish prioritization of importance** across identified needs and wants. For this reason, VOCs are a critical tool throughout the entire DMAIC framework.

How to hear the voice of the client

Once a business problem is articulated, process improvement teams need to identify the relevant clients. Further, the team needs to define relevant **process inputs,** usually in the form of requests for legal services and relevant information required for the legal team to perform the services requested, that are generated by clients. Likewise, the team should define the **process outputs** that clients receive; typically, the outputs of the law department's work take the form of work-product, but all necessary communication to internal clients by law departments should be considered,

Finally, the VOCs need to elicit from clients a description of pain points and service quality gaps that they would like to see addressed. such as confirmation of completed review, go-ahead approvals, and status updates.

Step 1: Identify interviewees. A critical element of a successful VOC is the identification of all relevant "clients" of the law department. This group includes not only leaders of the business units served by the department, but the relevant members of those business teams who interact regularly with the law department or perform tasks related to the business problems at hand.
 Often, administrative or clerical support staff embedded in business teams are critical stakeholders because they are effective owners of key process inputs. For instance, a sales team of a B2B services or software provider might be supported by a sales operation assistant who is responsible for all lead tracking. This sales team may rely on the sales operation assistant to generate and e-mail non-disclosure agreements, draft term sheets, and draft contracts to prospective clients throughout the sales and negotiations process. Clearly, any process improvement effort aiming to improve the law department's service levels to the sales team must include this sales operation assistant.

Step 2: Design the VOC interview. When conducting a VOC with a client of the legal team, typical VOC questions should cover these basic topics:

- What is working well and what could be working better?

- Client satisfaction with the **quality** of law department's work-product.

- Client satisfaction with the **turnaround time** of law department's work-product.

- Client satisfaction with overall **service experience** provided by law department.

- Client satisfaction with **communication protocols** relating to progress or issues about pending requests.
  Impact of specific pain points and/or defects (e.g. labor, expense, or inconvenience costs to internal clients caused by specific deficiencies in the law department's work-product, services, and related processes).

- **Frequency** of specific pain points and/or defects.

Variations of these questions should be tailored and made more specifically relevant to the practice area and business problem in question.

> **PRACTICAL TIP:**
> **Design your VOC interview questions to extract quantifiable responses**
> Even if the questions seem somewhat subjective, there are several techniques that will return quantifiable answers. These simple methods will help attach quantitative values to various attributes.
>
> - **Frequency:** Ask respondents to estimate how frequently they request the service in question and how frequently they encounter each specific pain point.
>
> - **Rank in order of importance:** When dealing with multiple pain points clients would like to avoid or multiple service improvements clients would like to see, ask respondents to rank them in the order of importance.
>
> - **Estimates of time or money influenced:** Asking internal clients to provide context for pain points or gaps in law department services

can return subjective answers. In these cases, it can be helpful to dig deeper into the bottom-line impac that the law department's processes can have on the performance of the business.

For example, ask business units to estimate the amount of time their teams currently expend throughout their interactions with the law department under "best-case" and "most-frequent" scenarios. These answers can help the law department quantify and understand the total cost of defects in the law department's work and the total cost of unnecessary rework.

In another example, ask internal clients to estimate the amount of revenue influenced by specific legal processes. These answers can help the law department prioritize processes or service areas with the highest potential for bottom-line impact.

Throughout the process improvement effort, these measurements can help the legal team make critical decisions about prioritization. In the mid- to long-term, these values can provide baseline metrics that will enable benchmarking for future-state evaluations, allowing the legal team to demonstrate the performance impact of their process improvement efforts.

Step 3: Conduct a preliminary round of in-person interviews. To the extent possible, process improvement efforts should include at least one round of in-person interviews with the law department's clients. The in-person setting allows for follow-up questions to help the legal team probe the clients' answers and can lead to critical discoveries in unmet needs and/or improvement opportunities.

For instance, internal clients of the law department often identify communication as an area that needs improvement. In a VOC setting, it is critical to drill down further to define what "effective communication" or "responsiveness" looks like from the client's perspective. Responses to this question can vary widely across individuals and in the absence of meaningful dialogue, assumptions can be made about a number of factors such as reporting cadence, triggers for ad hoc updates, length of communication, and level of detail. Consider situational context to shape VOC questions about when, where, how, and why the internal clients need to hear from the law department.

In advance of any VOC, the project team should create a standard template to capture notes and responses. This is a critical step to ensure that VOC findings will inform later phases in the process improvement project.

Step 4: Analyze VOC findings. The insights gleaned from in-depth, in-person interviews are especially critical because they enable more cost-effective but meaningful fact-gathering methods later on in the process. For instance, open-ended discussions made possible by in-person VOCs can help the process improvement team generate a "short list" of critical pain points. This list can be used later on to design surveys that can be quickly administered among a broader group of stakeholders to help establish priorities for process improvement efforts. Once the problems are analyzed and potential solutions proposed, the VOC findings should drive the formulation of questions for focus groups, as well as business requirements and success factors that must be met during pilot testing.

See the **Analyze** and **Improve** sections (on page fifteen), tbd for details for techniques to distill the results of VOC interviews.
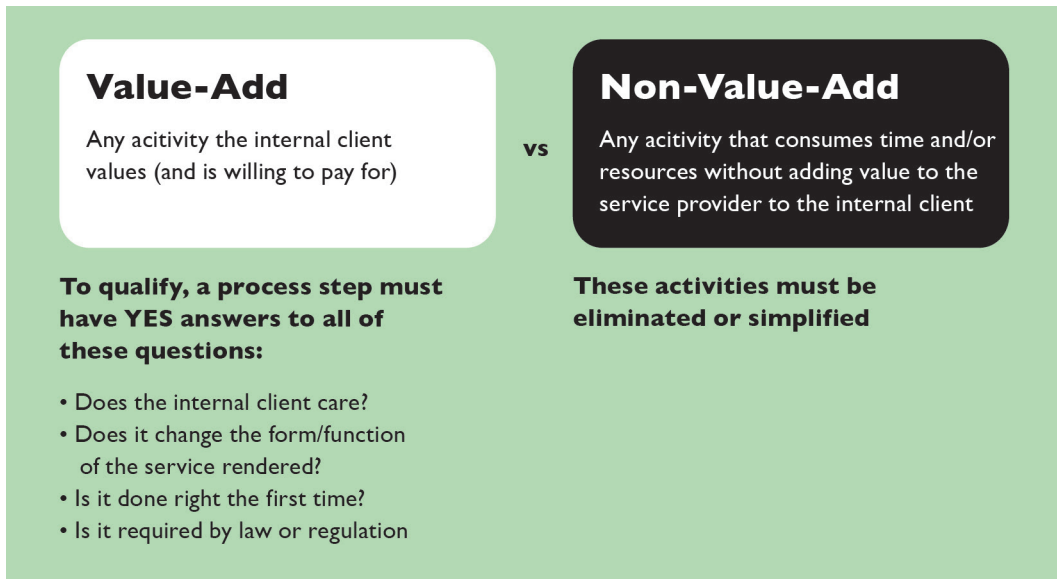
Examine processes to locate client-defined value

In keeping with the guiding principles of process improvement, law departments should seek to establish an understanding of the process as a "value stream," and to specify the value potential of each step in that process. For these reasons, **value-stream mapping** is a critical cornerstone of process improvement. The ultimate outcome of this process analysis should be a rationale to triage and prioritize the tasks, steps, and activities involved in the process being analyzed.

Value-stream mapping helps in-house lawyers determine how best to staff legal activities, estimate cycle times, appropriate sequencing of steps, and identifying areas for process improvement by eliminating waste. Further, value-stream maps help to track data and information flows in and out of various repositories. The maps also help show how the accessibility and reliability of the information flows affect the overall efficiency of the process.

> *Value-stream mapping provides a comprehensive framework for examining how services are provided to the client.*

Throughout value-stream analysis, the process improvement team should refer back to the definitions of value as provided by clients in the VOC to ensure that the process improvement effort reflects the team's understanding of what matters most to the law department's internal clients.
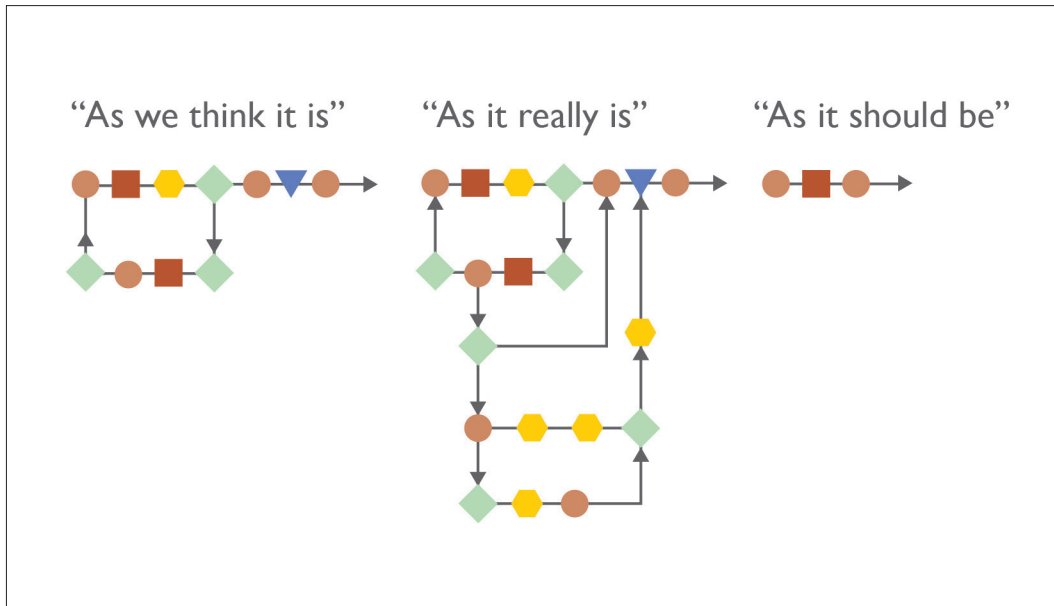
Value-Add

Any acitivity the internal client values (and is willing to pay for)

vs

Non-Value-Add

Any acitivity that consumes time and/or resources without adding value to the service provider to the internal client

To qualify, a process step must have YES answers to all of these questions:

- Does the internal client care?
- Does it change the form/function of the service rendered?
- Is it done right the first time?
- Is it required by law or regulation

These activities must be eliminated or simplified

A key distinction that must be made through value stream analysis is to separate steps that add value ("value add" steps) from those that do not ("non value add" or NVA steps). Parenthetically, a third category – business value add – encompasses those tasks that add no actual value but are necessary for business related reasons, such as meeting governmental regulations. These business value–add steps must get done as efficiently as possible.

In short, value-add steps are those that are meaningful to a company's top management team or to the businesses that the legal department serves. Other value-add steps are those that may not be visible to these stakeholders but still affect the legal team's services in a meaningful way.

In contrast, NVA steps consume resources without adding value. It is critical to note that value-add steps that must be redone as a result of quality issues or as a result of poor sequencing are considered NVA steps and must be addressed.

When process owners imagine the process, it is most likely very different in their minds than reality. Even when legal teams feel the need for a streamlined process and acknowledge that the current-state includes extraneous steps, the reality is often much more complicated than they imagine:

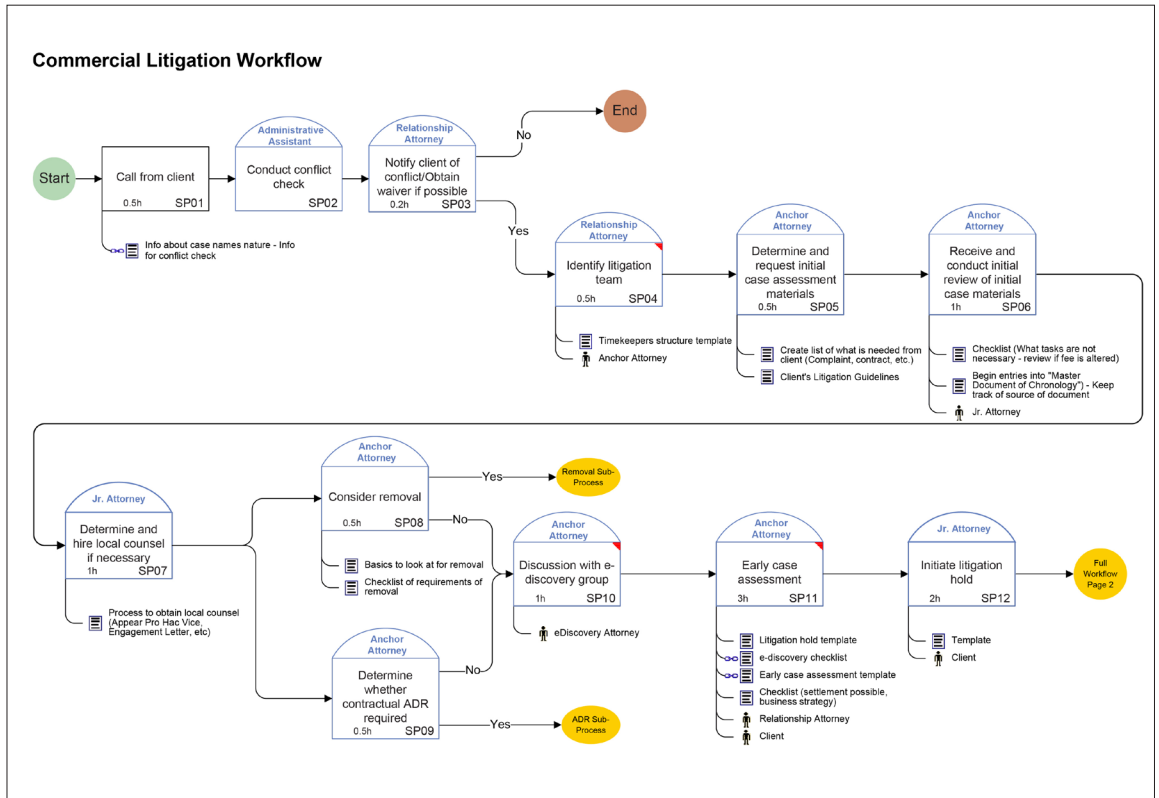"As we think it is"   "As it really is"   "As it should be"

The flow of value can face many obstacles, such as unnecessary documentation, multiple approvals, and inadequate resources. Law departments need to let their internal clients "pull" value by only producing what the client needs, allowing them to define the deliverables, linking tasks seamlessly and providing timely information flow.

How to get started with mapping

A value-stream map essentially amounts to a visualization of the steps comprising a business or legal process, and it is used to clarify and build a common understanding among the team. The map shows how activities are sequenced, step by step, to produce an output or an outcome.

There are various applications that can be used to create an electronic version of a process (e.g., Visio) but technology is not required. Pen and paper can be an effective substitute and, oftentimes, large sticky notes and markers provide an effective method for assembling a process allowing for ease of visual modification, removal, reordering of steps in the process, and elimination of unnecessary steps.

A sample process map:

Commercial Litigation Workflow

The map should make it easier to identify any bottlenecks, unnecessary steps, missing steps, redundant steps, and "re-work." A value-stream map can start by outlining the major steps at first, with more detailed steps built in as they are identified.

BEFORE the mapping session:

- **Define the start and end of the value-stream to be mapped.** In some cases, it may be necessary to further break down the value-stream into smaller sub-processes.

  For instance, mapping the management of even a routine litigation matter may be unwieldy, particularly as the process owners might include stakeholders from the relevant business unit and human resources, as well as outside counsel. In this case, an initial mapping session might only include team members within the law department who would sketch out the major steps and break down the litigation

into various workstreams such as intake, outside counsel assignment, early case assessment, fact investigation, informal settlement, formal discovery, mediation, pre-trial preparation, and trial. After the initial session, the law department may decide to focus the process improvement effort on pre-discovery workstreams (e.g. intake, outside counsel assignment, early case assessment, fact investigation, and informal settlement).

- **Include all necessary stakeholders.** Ideally, value-stream maps should be created in a workshop session with most, if not all, relevant team members present. Identifying all of the individuals who provide inputs or perform work on the process at hand is an important step to establish an accurate analysis of the current state. For touches or tasks in the process owned by stakeholders not present (such as outside counsel), be sure to include someone with sufficient knowledge of those relationships to speak authoritatively to the hand-offs, communications, and touchpoints relating to the non-present stakeholders.

DURING THE mapping session:

Again, keep in mind the primary mandate to distinguish value add steps from NVA steps. Start by articulating the start and end of the value-stream to be mapped to establish clarity and alignment for the assembled team.

For each identified step in the process, consider the following:

- Who is the current **owner** of this task? Who is **accountable and responsible** for the complete and accurate completion of the task and who are all of the team members whose touches are needed before the value can flow forward to the next step?

- What are the **information inputs** required to perform the step and how are these inputs gathered? In the current state, are they requested on a case-by-case basis? Are there documents or information that remain relatively stable that are repeatedly requested and forwarded?

- What **decisions, approvals,** and **communications** are necessary to effectuate hand-offs from one step to the next to keep the value flowing? For team members within the law department, is there a generally agreed-upon distribution of workload and specific tasks in place, or are decisions made on a case-by-case basis? Who owns work allocation decisions and do these create bottlenecks for the flow of value? Can this rationale be documented into a standard triage and assignment process?

- What are the **specific outputs** of each step and are those outputs necessary to the continuous flow of value? Are those outputs **necessary inputs** for later steps in the process?

- Pay attention to **sequencing** and keep an eye out for missing steps that trigger rework or extraneous communications and requests.

- Be sure to assess each step as a value-add, business value-add, or NVA.

- Additionally, each step in the process should be mapped with an assumption that task owners are domain experts, eliminating the need for the map to reflect steps that would be necessary for a layperson to execute the work.

As your team maps the value-stream, be sure to note the relationship of each step to pain points and quality gaps identified by internal clients in VOCs. However, **resist the urge to jump to conclusions or to design the future-state process before the current state process is fully mapped or understood.** This can lead to ineffective solutions that only address part of the problem, fail to account for root causes, or miss opportunities for a more holistic solution in favor of incremental improvements.

However, seek to identify potential points in the value-stream that might benefit from standardization and structured codification of know-how (e.g., templates, checklists, guidelines that capture the best practices and institutional knowledge about the most effective way to complete a specific task). Note these as hypotheses or potential ideas that should be considered and validated in later phases of the project.

MEASURE

Good data is at the heart of the DMAIC process. This phase is devoted to collecting current baseline metrics as the starting point for process improvement. For law departments, these could include cycle times, cost, steps in a process, touch points, and so on. Baseline metrics from this phase will be compared to the performance metric at the conclusion of the project to determine objectively whether significant improvement has been made.

A NOTE ON DATA

Relying on data-driven insights rather than intuition or "gut feelings," process improvement enables businesses to provide a high-quality product or service, produced at peak efficiency, with a high level of consistency and predictability.

Because data and statistical analysis are newer to legal practice, legal teams generally lack maturity in their management and consumption of data relative to their peers in industrial manufacturing, retail sales, management consulting, or other fields.

While legal matters provide significant potential for data analysis, most law departments and law firms are not necessarily set up to effectively capture and manage this data. Oftentimes, the integrity of the data collected is not necessarily very strong, because sample sizes are simply not large enough from which to draw valid, statistically supported conclusions. That said, process improvement can underscore the critical need to begin and continue building data competencies and infrastructure. Any serious process improvement effort should include mid-to long-term goals to move toward data-driven decision-making.

In the interim, legal teams should rely heavily on qualitative fact-finding methods and client-facing dialogue to help validate their analysis and findings, and put forth a concerted effort to inject quantitative approaches wherever possible.

Proper data collection provides valid and useful grist for analysis of the sources of variation and waste, the ability to quantify their magnitude, and later in the process, the ability to prove and monitor their elimination and reduction. Without reliable data, decisions can be made simply based on hunches and personal beliefs, with no way to provide significant improvements —— all of which means data is fundamental to Lean.

Each process should have a data collection plan that lays out what data will be collected, why it's needed, who is responsible for it, and how, when and where it will be collected. And, before moving to the Analyze phase of DMAIC, that data's reliability and accuracy needs to be thoroughly reviewed.

Collect and review system data

Typical data sources in the law department include e-billing systems (e.g. Serengeti) that process outside counsel bills as well as any matter management processes or systems that track the requests received from internal clients, dates when such requests are opened and closed, and any significant activity on these requests.

Depending on the operational infrastructure of your law department, such data may reside in disconnected pockets across your legal team's inboxes and static spreadsheets. Other law departments may have already adopted centralized repositories to collect such information or invested in enterprise solutions that provide matter-level tracking and management.

In any case, the process improvement team should make every effort to assess the overall health of relevant data stores by conducting a thorough review of the location, condition, and reliability of all relevant data repositories. Next, the quality of data flows should be noted to help build an assessment of whether the right data and knowledge are accessible to the right stakeholders at the right time, and what affirmative effort, if any, is required by the legal team to access that information.

Consider structured testing and validation of your system data

Typical data sources in the law department include e-billing systems (e.g. Serengeti) that process outside counsel bills as well as any matter management processes or systems that track the requests received from internal clients, dates when such requests are opened and closed, and any significant activity on these requests.

A MSA looks at potential components of error like whether measurement increments are correct (e.g., claims vs. cases filed), whether the data actually reflects the process (e.g., outside counsel all reporting the same case information consistently), and whether the data is precise enough to tell us the answers we need (e.g., portfolio cases all reporting the same definition of cycle time, from filing of claim to settlement).

CASE STUDY: Solving the mystery behind hidden cycle time

In an example of a law department's system capturing data that fails to reflect the actual process, consider a contract request process that combines email communication with a centralized web-based solution for contract lifecycle management.

The legal team at a national restaurant chain had invested in a web-based solution. Despite the investment, the internal client feedback on the legal team's responsiveness and time to closure contradicted the reports showing shortened cycle times.

Because the current state process directed business managers to forward contract requests to a designated paralegal, who then entered the contract requests into the web-based system, the cycle times reflected by the system were inaccurate, particularly during periods when the paralegal's workload created any backlog.

This is a common occurrence in enterprise environments where function-specific technology solutions can often serve as silos that create bottlenecks in information flow and workflow, and in turn, value flow.

This example illustrates the importance of combining qualitative fact-gathering methods like VOCs with rigorous collection and validation of data.

Collect and review additional stakeholder viewpoints

In addition to compiling and reviewing data from relevant systems, process improvement teams should consider following Voice of Client interviews with additional **surveys** of relevant client and/or process audits with stakeholder groups.

Especially in larger corporations, **client satisfaction surveys** of a broader group can help validate hypotheses surfaced during the VOC and ensure that the law department is considering all relevant perspectives. If surveys allow for anonymous feedback to encourage candor, they should include a demographics section to help the law department contextualize responses. Well-designed surveys can also provide additional depth of quantitative data on internal client satisfaction as well as the relative importance of specific factors to the client's overall service experience in interacting with the law department.

Often, the process improvement team discovers that its data stores are unreliable or the VOC and value-stream mapping reveal that unreliable data flows affect the overall efficiency of legal processes. In these cases, law departments should seriously consider an internal audit of data management protocols, including an inventory of how each team member stores, updates, and accesses shared or private stores of information.

CASE STUDY: Data-driven value assessments for outside counsel management

Don Walther, the general counsel at Heico, realized quickly after he started at the company in 2011 that he needed to improve the law department's operations. Heico, the parent company for a diversified portfolio of over 35 businesses involved in manufacturing, construction, and industrial services, had literally hundreds of law firms handling its cases.

After adding a Lean expert to his department's staff, Walther and his team pursued an intensive course of process improvement to reduce the company's legal costs, decrease the variation in case duration, and improve their legal outcomes. As part of their process improvement efforts, Walther and his team turned to data to help track the effectiveness and efficiency of Heico's outside counsel.

Using the Serengeti software platform, they generated data on outside firms that billed the most hours, as well as their rates. The team also defined "value-added" and "non-value-added" work and coded each firm's billing entries accordingly. As a result, Heico was able to calculate each firm's "Legal Cycle Efficiency," giving the legal team a standardized measurement of the value of work provided by each outside firm.

"Our understanding of 'value' was anecdotal until we had the data," Walther told the ACC. "It had previously been a very unfulfilling discussion. Now we could assess productivity."

Heico found that Shook, Hardy & Bacon had the highest efficiency rate among its outside counsel and was delivering the highest value in terms of its hourly rate. Heico and Shook then teamed up to further improve Shook's efficiency in several ways, including secondment of Shook associates and even more rigorous focus on value-added services as defined by Heico.

The result was an increase of more than 10 percent in Shook's efficiency rate in only a few months, with cycle times on pending cases dropping from 600 days to around 100 days. The total cost saving from elimination of non-value-added work is projected to be at least 10 percent.

ANALYZE & IMPROVE

Law departments should use a variety of tools to **analyze** the process and examine root causes of errors, seeking to understand why the errors happen and how they can be eliminated. This is the phase in which process waste is identified for elimination.

The legal team should start with an analysis of the qualitative information and quantitative data collected during fact-finding phases. The next step is a root cause analysis to distill any sources of variation down to their specific, identifiable causes.

Through structured brainstorming, the team considers a variety of ways to improve the process. Collectively, they weigh the feasibility of the potential improvements and select the solutions best suited to improve the process, whether through business process or technology solutions. The team then pilots the solution and once confirmed as a viable resolution, plan for the full implementation of the improvement.

> **PRACTICAL TIP:**
> **Revisit and refine the problem statement to stay on track**
> As process improvement teams make their way through the DMAIC structure, they often find it necessary to revisit the original problem statement and refine that statement as necessary. As new insights are surfaced during analysis, the initial pain points identified during VOCs should be reviewed to ensure that the process improvement team is seeing all relevant connections and relationships. As solutions are proposed for the future-state process, they need to be validated against the client insights generated through VOC analysis.

Understand the different forms waste and inefficiency can take

Long known as the enemy of Lean practitioners everywhere, waste can permeate processes and workflows in many forms. Lean Six Sigma provides a framework to categorize waste called **Eight Wastes,** also known by the acronym TIM WOODS. Turning a critical eye to the value stream map will uncover waste of various types, helping the law department identify opportunities for improvement.

- **Transportation:** This can refer to physical transportation of the people involved, such as expensive and needless travel to and from locations. However, transportation waste can also occur to work-product when it is transported and exposed to too many touches that are unnecessary. In turn, this can subject the process to further wastes like waiting time and over-processing.

- **Inventory:** Excess can be tricky to understand as it is closely related to other types of waste such as waiting and skills. Law departments experiencing unevenness or instability in staff utilization should probe work intake, triage, assignment, and case status tracking processes. Often, inventory waste is a result of inefficiency and backlog in intake processes. Given the unpredictability of some areas of law, such as litigation, inventory waste can also be caused by a lack of visibility and ineffective information flow about activity levels on open matters. Lastly, the law department may be overstaffed or staffed with a sub-optimal mix of talent (e.g. insufficient support staff can cause excess inventory of in-house lawyer time, even as the law department falls behind its service levels).

- **Motion:** In legal practice, excess motion is closely related to problems in information and knowledge management. Time spent searching for documents in multiple places represents motion waste. Duplication of data entry into multiple repositories and time spent moving information from one place to another can also create waste (e.g. multiple team members manually filing the same case-related emails into personal folders **within** their inboxes).

- **Waiting time:** Because legal practice depends so heavily on communication and collaboration, waiting time is a common source of waste. Inefficient hand-offs and time spent waiting for key inputs from internal clients, outside counsel, and relevant third-parties can add significant bloat to cycle times across different types of legal work. Waiting time is often sensitive to the presence of other types of waste, including transportation, motion, over-processing, and defects. Often, wait time is a result of delays in providing information in a timely fashion — such as outside counsel providing a draft motion for summary judgment to the law department for their review. This causes unevenness in the workflow, especially where a hard deadline exists, and this delay results in a shortened timeframe to finalize the work product in order to hit the filing deadline. This approach jeopardizes the quality of the work product. A more effective method is to provide information in an even, predictable timeline so that appropriate resources are ready and available to execute the next step in the process in an effective way.

- **Over-production:** Legal practice is especially susceptible to over-production, or "overlawyering." In a classic example, outside counsel often draft extensively researched and cited memos for legal issues of low complexity. Often, this is a result of poor communication and unclear scope definitions. For in-house teams attempting to keep pace with ever-increasing speeds of business, over-production can creep into many routine processes, creating friction with the business stakeholders who can see legal as "getting in the way." These pain points often present critical, high-impact opportunities for improvement, such as extensive legal review of routine documents that could be standardized to minimize risk.

- **Over-processing:** A close cousin of over-production, over-processing in legal work often pertains to service delivery mechanisms. Unnecessary sign-offs and unwieldy approval processes are rife with opportunities for other types of waste, such as time. Extraneous calls and meetings can also result in over-processing waste.

- **Defects:** Defects are quite literally errors or mistakes in the work-product that erode quality and require rework. Not all defects in legal work can be rectified by process excellence, but most can. Instituting quality control steps into critical processes and ensuring robust knowledge management systems to reduce error in data entry and management can cut down on defect waste. For example, investing in the effort to develop work product templates, checklists and guidelines designed to client specifications and then socialized with the authors of that work product, can establish quality guardrails and assurances.

- **Skills:** Skills-driven waste occurs in one of several ways. Time spent doing work that could be performed just as well by lower-cost resources creates waste. Failing to solicit the advice and input of a subject-matter expert on the team can lead to unnecessary work performed and to additional waste through defects. Inadequate training and direction of junior lawyers can also create skills waste by causing many rounds of review and feedback.

CASE STUDY: In-depth process analysis reveals opportunities for ambitious projects

In 2012, the legal team at British Telecommunications identified two broad strategic goals for the legal work supporting BT's corporate and commercial transactions across the globe: cost reduction and "a sharper operational focus."

Noting internal client demand for "more legal service for less money," the legal team aimed to optimize resource allocation on a global basis so they could better support the company's key growth markets. To make this ambitious goal a reality, the BT team turned their attention to the details: the tasks and processes performed by their legal teams.

The BT team commissioned an in-depth time-motion study to gain a better understanding of the current-state workload. This study analyzed the complexity and value potential by task type and probed whether the current triage and assignment processes matched each task to the best provider on a cost and skills basis.

As a result of this study, BT expanded the types of tasks handed by a lower-cost LPO (legal process outsourcer) from 38 to 76; these tasks include addenda, contract summaries, nondisclosure agreements, RFPs, procurement review, and contract generation, among others. Further, BT established best practices documentation and "sophisticated triage rules," which now guide its LPO partner to manage and route all requests through a centralized web-based system that also offers features for request and demand tracking as well as progress reporting.

These changes ultimately enabled the BT legal team to redesign itself for better alignment to corporate strategy. While decreasing total headcount from 78 to 40, the in-house team relocated senior lawyers to Asia and the United States to better advise transactions in these growth markets while lowering transaction expenses. Further, the slimmed down in-house team spent more of their time on high-value transactions — 21 percent of total in-house work in 2012 as opposed to 13 percent in 2012 went to deals exceeding £50 million.

Seek to understand why problems occur

Root cause analysis was developed in the 1940s by the US military to determine why complex systems and equipment failed, and uses deductive reasoning to the get to the root of a problem. This is based on the idea that system failures don't just happen randomly but can be traced to well-defined causes. In conducting root cause analysis, the project team needs to examine how root causes were determined, what techniques were used, and how confident they are that all root causes have been identified and validated. When causes of variation are not identified down to the root cause level, this results in less-focused improvements. In addition, some root causes of variation can be missed, resulting in improvements that fall short of expected results.

In conducting root cause analysis, the objective is to understand the actual causes of a problem and to determine which of those causes can be mitigated and which are outside the control of the law department. This exercise helps prevent process improvement teams from jumping to solutions, and instead fully leverage what they've learned through VOCs, value-stream mapping, and data collection to understand the cause-and-effect relationships across various factors that affect the business problem.

Several tools can be used in cause-and-effect analysis in legal environments.

Five Whys. A commonly used root cause analysis tool, the Five Whys is simple to use and is suited for almost any problem.

The project team starts with the problem to be overcome and then works backward, asking the question "why" no fewer than five times by formulating new "why" questions based on each answer.
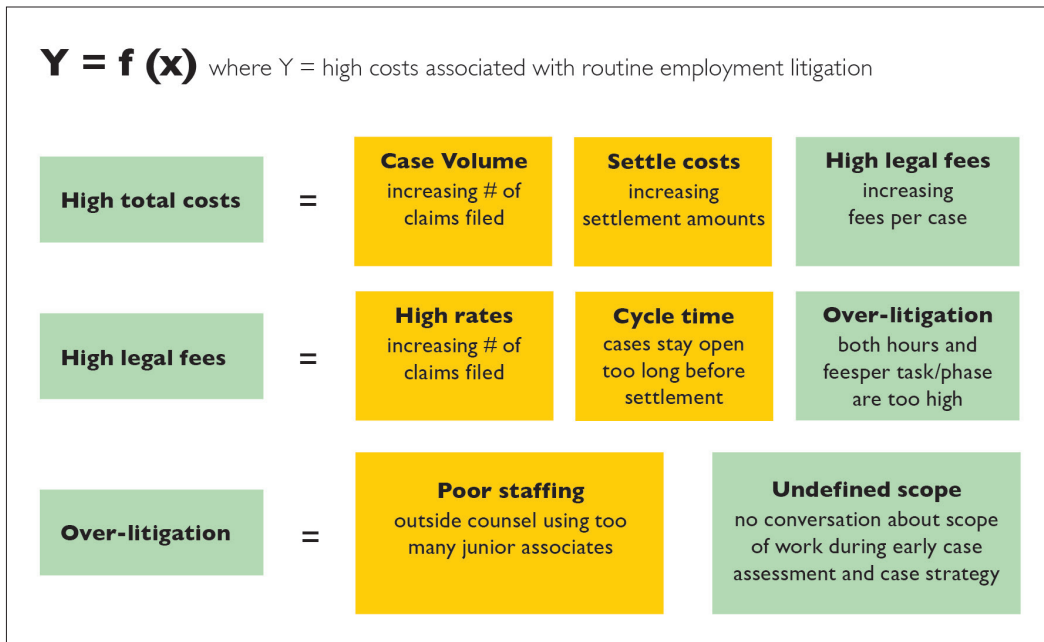
Take this example of a late motion for summary judgment.

- Why was the motion filed late? The in-house attorney did not receive the draft declarations until the day before the deadline.

- Why did the in-house attorney receive the draft late? The relevant witnesses were not available to provide the necessary verifications and signatures.

- Why wasn't the in-house attorney informed in advance about the need for verifications? Because the in-house attorney and the outside counsel did not have discussions in advance to create a list of required documents for a complete MSJ filing.

- Why wasn't there a plan in place? Because no communication protocols had been established at the outset of the matter concerning work product timelines, matter progress reporting cadence, and issue escalation protocols

Thus the root cause is found. **When the team identifies a cause that is likely to prevent the problem from happening in most situations; a likely root cause has been reached.** In this case, a proposed process improvement solution could include the creation of a filing checklist for common motion types and a schedule of internal deadlines for in-house review and the creation of or revisions to outside counsel guidelines

Y = f(x): This is a free-form tool that can help legal teams better scope their process improvement efforts that relate to broad and complex problems. Through a process of elimination, Y = f(x) analysis helps legal teams create focus and prioritization in paring complex problems down to a manageable size. Take this example, in which the "Y" represents high total costs in a specific area: routine employment litigation.

The first step is to list all identifiable reasons for excessive spend in this area: increasing case volume, increasing settlement costs, or high legal fees.

Y = f (x) where Y = high costs associated with routine employment litigation

High total costs	=	**Case Volume** increasing # of claims filed	**Settle costs** increasing settlement amounts	**High legal fees** increasing fees per case

High legal fees	=	**High rates** increasing # of claims filed	**Cycle time** cases stay open too long before settlement	**Over-litigation** both hours and feesper task/phase are too high

Over-litigation	=	**Poor staffing** outside counsel using too many junior associates	**Undefined scope** no conversation about scope of work during early case assessment and case strategy

In this case, in-house counsel could decide that remediation and training required to decrease the volume of cases filed are too costly and time-consuming for this process improvement project. Similarly, the process improvement team could also decide that decreasing settlement costs would require significant changes in outside counsel selection and case management strategy. For current intents and purposes, these two factors are considered outside the direct control of the law department. The team could decide to table these issues to explore the following year, through a broader panel selection program.

For the purposes of a short-term process improvement project, the law department has identified high legal fees as a factor they can control or influence. This process is repeated until a cause is identified that is fully under the law department's control and can lead to actionable improvement. In this specific example, undefined cause can be addressed through process improvement requiring outside counsel to submit for approved budget and scope-of-work statements based on their early case assessment within 45 days of assignment.

Harness the collective brainpower of your team to generate ideas

In the context of process improvement, brainstorming means using a structured technique for capturing ideas, learning from past experiences of the collective group and creating new perspectives, all by using cross-functional teams, process operators, and system and practice experts.

Not surprisingly, brainstorming is intended to be very open-ended, with no criticism or debate, and an emphasis on quantity of ideas over quality, with encouragement of freewheeling and even "wild" ideas. The process also usually requires mutual support for building on ideas as they are suggested.

To facilitate this process, project team leaders first confirm that everyone understands the issues. They then set the stage for the open-ended discussion, going around the room to gather ideas that are documented on an easel pad or whiteboard for all to see. Participants should be able to pass on a turn if they have nothing to share, and no one should be allowed to dominate the discussion. Given their nature, brainstorming sessions often require a skilled facilitator.

After the session, team leaders organize and document the results by topic, problem, or question, listing key issues and discussion points, and presenting all ideas. A follow-up meeting is usually conducted to review the results and build consensus.
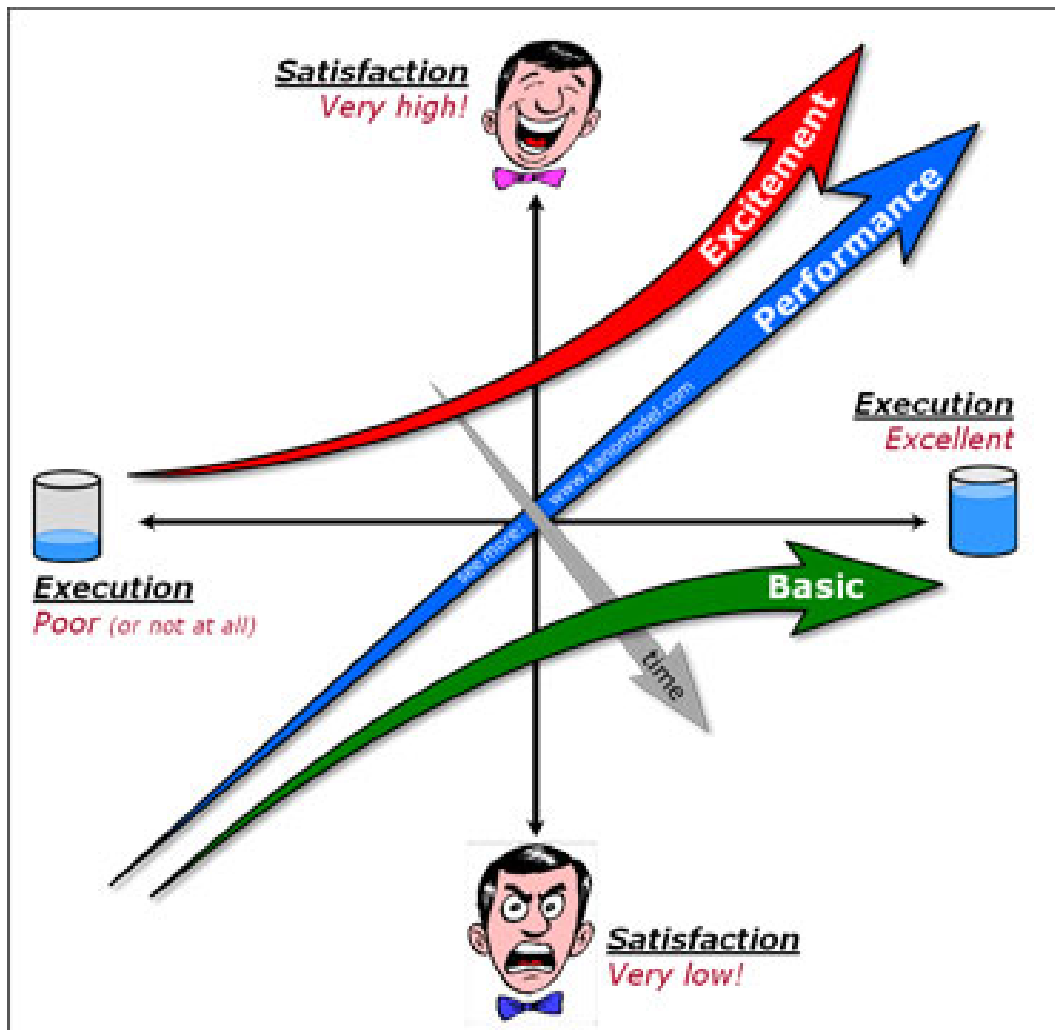
Make decisions about the future-state process by prioritizing what matters to clients

Designing a future-state process that provides real solutions to identified problems requires prioritization. Categorizing findings to enable quantifiable analysis of fit and importance to the client is a key step.

The **Kano analysis** is a tool designed to help process improvement teams analyze VOC data and establish a **hierarchy of importance** across identified client requirements. Invented in Japan by Noriaki Kano in 1980, this tool classifies client requirements as:

- **Must-be:** These requirements are taken for granted when fulfilled but result in client dissatisfaction when they are not fulfilled. Must-be requirements are the obvious requirements that clients often assume, but rarely state and often don't even notice when they're achieved. However, clients experience extreme dissatisfaction when those must-be requirements are not met.

- **Satisfier:** These requirements are openly stated by both the client and the service provider. Satisfiers often mark competitive performance.

- **Delighter:** These requirements are not openly articulated by the client, but result in surprise and delight. While not expected or requested, once provided the client will become dissatisfied if they stop.

- **Irrelevant:** Service features and process tasks that do not qualify as one of the three are considered irrelevant and NVA. These need to be actively avoided as they draw resources away from value-adding activities.

Given the near-constant need to adjust performance against client satisfaction, Kano analysis can help law departments better frame their thinking about client requirements and expectations. The same service attributes may fall into widely differing Kano categories when applied to different legal needs.

By helping the process improvement team better understand the composition of these requirements for each service rendered by the law department, the Kano model can prompt the law department to consider more sweeping changes in its service mix. Particularly, **Kano analysis can surface potential processes that the business units could and would prefer to self-manage through standardized forms and pre-approved templates.**

For instance, nondisclosure agreements preceding routine transactions provide a perfect example. Kano analysis is likely to reveal that a vast majority of requirements relating to routine NDAs are "must-be" requirements that are invisible to business teams. Typically, the only satisfiers that business users are likely to identify pertain to cycle time, to ensure that interactions with legal do not cause friction or reduce velocity of business negotiations. Many of the quality attributes that some lawyers may consider as delighters are likely to be considered irrelevant by internal clients.

This gap in perception is because the potential legal risks avoided by a superbly crafted NDA are not likely to affect the immediate service experience of business users. In fact, any time spent on research, analysis, and drafting completed by the law department to verify the maximum duration allowed by the relevant trade secret laws and the careful definition of "confidential information" could be considered bloated cycle time and a prime example of the legal function getting in the way rather than helping the business close deals.

On the flip side, these service attributes could result in a very different Kano analysis when applied to the NDA preceding a strategic joint venture, where all of these service features might be considered "must-be" requirements rather than irrelevant.

Also consider cost, feasibility, and user acceptance of potential solutions

Finding the "best-fit" solution should take into consideration the costs associated with and the feasibility of proposed options. A brilliant idea has no value unless the legal team can deliver a working solution that the relevant users will accept, at a cost that is considered reasonable by the CFO and CEO.

These variables can be visualized and analyzed through a **solution matrix.** The matrix is essentially a chart that allows the team to evaluate and prioritize multiple proposed solutions with regard to both their effectiveness in fixing the overall problem and their feasibility. Using a 10-point scale, a solution matrix should seek to quantify each of the following; each factor should be weighted according to their relative importance.

- **Solution effectiveness** can be quantified by the extent to which the proposed solution addresses the identified root cause. Alternatively, solution effectiveness can result in a numerical rating indicating the likelihood that the proposed solution will resolve pain points identified during VOCs or fulfill the "must-be," "satisfier," or "delighter" requirements identified during the Kano analysis. An aggregated effectiveness rating should be calculated for each proposed solution.

- **Feasibility** can be broken down into separate factors: time to completion, total costs associated with the solution, time and effort required from scarce resources, likelihood of user acceptance and approval. An aggregated feasibility rating should be calculated for each proposed solution.

- Alternatively, likelihood of user acceptance and approval can be quantified into a **risk** rating.

The exercise of creating the solution matrix can provide a structured framework for solution dialogue within the legal team or in a focus group with internal clients. The shared dialogue required to create alignment across the rating rationale can build powerful consensus and buy-in for the final solution.

Bringing teams together, bootcamp-style
Kaizen events enable real-time, collaborative problem solving. This part of the Analyze phase involves a rapid session that brings the process improvement team with key stakeholders and subject-matter experts together. Through a structured workshop, the Kaizen team breaks down a process into its component parts using mapping and flowchart methods. The Kaizen session is committed to developing improvement ideas and a 30-day action plan to implement the agreed-upon changes.

A key feature of Kaizen events is a shared commitment to drive change immediately and the built-in bias for follow-through action. **Two critical keys to successful Kaizen events are firstly to identify a business problem of manageable scope and to ensure that the Kaizen events include all stakeholders with decision-making authority over the process are present.** For that reason, the facilitators should guide the workshop to ensure that problem definitions are appropriately scoped at the outset of a Kaizen event.

Keep an eye out for quick
WIN (Work It Now) opportunities

WIN opportunities are both fast and easy to implement, where the risk is low (or at least easily mitigated) and, ideally, where significant positive impact can be had. Whether your process improvement initiative is a contained Kaizen session or a more extended effort, value-stream mapping and process analysis can surface WIN opportunities.

Once these are identified, law departments should develop WIN implementation plans that answer the who, what, when, and where questions, as well as document the improvements in the process and execute communication plans.
Some examples of WIN opportunities include:

- Instituting a regular and structured "stand-up" meeting for particularly active matters or large portfolios to batch status communications

- Adding a quality control ("QC") requirement to an earlier step in the process to avoid rework later
- Clearly defining criteria requiring approvals so that the process is not interrupted with unnecessary wait time

- Using electronic signatures when appropriate, etc.

Pilot the solution

Once the project team has zeroed in on the solution that seems to be the best fit, and before any full-scale implementation, they should validate it. The best tool for validation is a pilot project — basically a test run of the improved process — conducted under limited real-world conditions that produces data for analysis to measure effectiveness.

This often-used, small-scale test provides several benefits, including:

- Allowing an opportunity to refine the solution

- Avoiding wide-scale implementation of a less-than-optimal solution

- Protecting the credibility of both the solution and the team

- Demonstrating the benefits of a new process in order to win over any naysayers

- Inviting participation and feedback by those who run the process

After the pilot, the project team can validate the solution by comparing the before and after results, as well as comparing the new performance to desired goals.

Create a plan to roll out the full-scale, improved process

If the pilot is validated as successful, the team should then create a project plan that lays out what will be done, by whom, and when. This plan should help manage activities, report progress, communicate results, motivate team members, and establish accountability for future results.

Effective implementation plans account for the following and should flow directly into the Control phase of the DMAIC approach:

- Who owns the newly improved process? Who will ensure that process improvements are tracked and sustained?

- What communication is necessary to ensure that all affected task and process owners as well as all relevant client groups are informed about and accept the new process?

- What training and enablement steps are necessary to ensure that all affected task and process owners are fully equipped and supported to follow the new process?

- How can we build buy-in, support, and excitement for the change? What voices would be most effective in establishing necessary organizational support for the newly improved process?

- What controls will maintain adoption and adherence to process improvements and who owns the control plan? Who will notice the process going out of control, and how?

- Consider an event, meeting, call, or communication to formally announce the "kick-off" of the new process. Also consider an ongoing communication plan for the first 60 or 90 days to disseminate regular status updates, positive internal client feedback, or performance gains resulting from the change to motivate continued adherence and full adoption of the new process.

Bottom line: the project plan must be communicated to all responsible parties and be kept current to reflect changes in tasks and timing. Lastly, the team "works the plan" by implementing the "best fit" solution, gathering updates, taking corrective action as needed, and obtaining results.

CONTROL

The objective of the Control phase is to sustain the gains achieved by process improvement. In this phase, the team develops documentation, training, ongoing protocols, and mechanisms to ensure that new procedures are being followed and measured to warrant optimal performance of the process.

Mistake-proof the solution

One of the main aspects of the Control phase is mistake-proofing, or Poka-Yoke, a Japanese phrase literally translated as "to avoid errors."

To be effective, mistake-proofing the future-state process means instituting control mechanisms for preventable lapses in process adherence. In other words, if the new process is not followed, the lapse should be detected 100 percent of the time, and the incorrect deliverable will not be passed along to the client.

Several human factors stand in the way of process excellence. Understanding and accounting for these human factors is a critical key to effective change management and implementation of improved processes.

- Factors requiring enablement and talent management: misunderstanding, misidentification, gaps in training and necessary skills, lack of documented standards or guidance, willful disregard of established rules

- Factors requiring control mechanisms for immediate detection and resolution: forgetfulness, distractions, malfunctions in necessary technology or tools

For legal teams undertaking process improvement, control mechanisms can benefit greatly from right-sized selection and deployment of technology, e.g. matter management or portfolio tracking systems. Many solutions are available that can operationalize pre-defined "best practice" workflows, facilitate hand-offs and eliminate waiting time through automated tracking and notifications.

Sustain process improvements
through the Control Plan

The project team should develop a control plan that encompasses all activities and documentation necessary to sustain process improvements. The plan must contain provisions to monitor performance and thus verify that project improvements are maintained. This in turn allows for a successful long-term "hand-off" of a completed process improvement project to a willing and prepared "process owner" to carry it forward. At their best, control plans should:

- Keep the improved process running as designed

- Empower "local control" (on-the-ground and immediate, as opposed to offsite and managerial) by providing timely information and instructions on what to do if the process jumps the track

- Serve as a guidebook for the process owner

- Prevent any additional unnecessary or minimally valuable work

The best controls are easy to implement, valued by users, and generate robust measurements of process effectiveness.

PRACTICAL TIP:

Recruit trusted and respected voices to build lasting buy-in. The critical role of leadership in driving meaningful, lasting change cannot be overstated. Identifying the most effective voices to spur excitement and motivation for enhanced process discipline and operational excellence is a necessary weapon in the CLO's change management toolkit.

- **Activate the voice of the client.** Make a habit of sharing positive feedback from internal clients with the entire law department team, and be sure to disseminate any measurable improvements in client satisfaction. Wherever possible, connect these to specific behavior changes that are requested of law department team members.

- **Speak directly and regularly to the law department team.** Consider instituting an internal department update on a monthly or quarterly basis from the viewpoint of the GC or the CLO. Recap ongoing process improvement initiatives and reaffirm their significance by connecting them to strategic objectives for the team and for the company as a whole.

- **Ask corporate leadership to lend their weight.** Hearing from the C-suite, even for five to ten minutes once a year, can make a big difference to the department in understanding how critical their work is to the company's success.

Connecting these dots can help keep important changes top of mind for the law department and can sustain commitment and motivation to sustain a culture of continuous improvement.

Track and monitor on an ongoing basis

Before the control plan moves forward, the project team needs to ask and answer several important tactical questions about its implementation:

- Who owns the control plan?

- Who will monitor the process for lapses in adherence? What are the specific actions that should be taken to document and resolve failures to follow the new process?

- What specific steps should be taken to trigger a holistic review to inform necessary decisions to provide further communication, training, or documentation to stakeholders?

- What automated control mechanisms prevent the process from reverting back to the "before" picture? What data is captured and collected by these mechanisms and who will monitor and review these outputs to measure ongoing adherence?

Build a culture of continuous improvement

As the team winds down the application of DMAIC, members need to consider what part of the process should be reexamined, and when, to ensure continuous improvement.

However, a number of factors might indicate the need for the process owner to test whether the newly designed process might require some adjustments or additional enablement and training support to expand control mechanisms to drive ongoing adherence and acceptance. One example is the integration of new staff or new outside service providers; if the law department is seeing active turnover in either area, the process owner should consider a related project to improve onboarding protocols for new team members and new outside service providers.

The creation of a new business unit or some other change in the business environment may also call for a new round of VOCs to capture any new requirements or to help initiate necessary dialogue and enablement for new internal clients.
Creating a continuous feedback loop with clients by asking what you're doing well and what you could be doing better helps to trigger ongoing discussions. Even a quarterly process creates a backdrop where internal clients and stakeholders know you're measuring and watching, and that tends to improve performance. When you stop asking and measuring, people may slide back into old, bad habits.

After Action Reviews (AAR)/Lessons Learned. One of the most valuable actions a legal team can take after a process improvement project is to take time to analyze what is working well, what could be done better, and how to introduce course corrections and preventative measures for future projects. Ideally, this should be planned ahead and integrated into the improved process.

Drilling down to determine lessons learned should not merely take place at the end of the project. Instead, this step should be baked in and delivered along the way. The team can meet at the point of any major deliverable and survey the group about what worked and what should be done differently going forward.

The client should be part of this process as well. That approach ensures that you continue to focus on the client experience and design improvements to meet their needs.

A simple template for AAR/Lessons Learned sessions:

What Went Well	Special Recognition

What Could Have Been Done Better	What Should Have Been Done Differently

Next Steps / Action Item	Suggested Timeframe	Responsible Person/Team	Action Taken

As shown above, AAR/Lessons Learned sessions can be kept informal and simple. Especially in this case, perfect can be the enemy of good. The most critical aspect of

AARs is to ensure that they happen. In the best-case scenario, AAR sessions help to surface actions and behaviors that should be recognized and encouraged so they are repeated. Sharing these behaviors with the broader team can help "model" desired behaviors and further reinforce best practice adoption.

In the worst-case scenario, even a simple AAR session will surface issues that need further attention and resolution. In these cases, a more robust round of VOCs and process analysis should follow, so the AAR can be kept accessible and easy.

A critical impact of regular AAR sessions is to ensure that the core legal team develops a habit of soliciting and receiving direct client feedback. Over time, this can help mitigate fear of negative feedback, which erodes the desired culture of focus on client defined value and continuous improvement.

In the end, of course, perfection isn't the goal. Consistently upgrading the quality and value of client service is.

SECRET TO SUCCESS:
KEEP IT SIMPLE, MAKE IT EASY

Don't force it: Some law departments find certain aspects of Lean, whether process mapping or voice of the client, to be more valuable than others — and their use can vary significantly from client to client and situation to situation. There isn't much point to forcing an inflexible process onto an organization or a department simply to reach a better process. The principles of Lean can be adjusted to meet your needs.

Solve the right problem: Process improvement methodologies can be trickier to impose on legal issues than those in other disciplines in part because of the difficulty in defining the actual problem lawyers are trying to solve — unless it's simply the generic problem of delivering legal work that meets the needs of the client with greater predictability and transparency. Process improvement teams might need to look at problems holistically with a sense of flexibility.

Find your facilitator first: In building the team, there is tremendous value in identifying a skilled facilitator or leader who is able to take the rest of the group through the various components of process improvement, particularly process mapping. This person does not need to be a subject-matter expert, necessarily.

It's a team, not a committee: The team then needs no more than about four to six key people who touch the process, who are the subject-matter experts, and who will work collaboratively regardless of their department, title, or position in the organization. This should include the voices of people such as administrative staff members who do much of the basic work and who can help provide a reality check and make sure false assumptions are not being made about steps in the process.

IN CLOSING…

The success of your process improvement project does not require you to use all of the process improvement techniques and approaches contained in the toolkit. Find those that are applicable for your challenges and culture whether it's the institutionalizing of Voice of Client interviews, value-stream mapping, collaborative dialogue within your team, root cause analysis, or After Action Reviews — all of these separately can add value to your efforts.

Start by experimenting with what works for you and then build on that. Develop and mold a process improvement program that fits your environment and don't be discouraged: most of the existing process improvement disciplines out there have been proven to work over and over again across a wide spectrum of business environments — even those involving legal work! Track your results and celebrate your successes. To fast-track your adoption, seek assistance from experts who have applied process improvement in legal services environments and take part in active dialogue with your peers and fellow change agents through forums like the ACC. They have many valuable insights and lessons to share.

And remember — the main thing is to just get started.