

Data on in-house productivity may be buried

Managers can mine and analyze electronic traces and databases, which reveal a lot about a lawyer's activity.

BY REES W. MORRISON

This column describes opportunities for a general counsel to assemble a fuller picture of the in-house legal team's productivity. No, it's not lawyers tracking time. Let's accept that lawyers vehemently oppose reporting their time on matters, even periodically or in units of hours. Without timesheets, where might a general counsel turn for data on what the law department has done or accomplished?

The lack of quantitative data can be solved, I submit, and with little imposition on staff. Many troves of data are available, lying around, unexploited, yet revelatory.

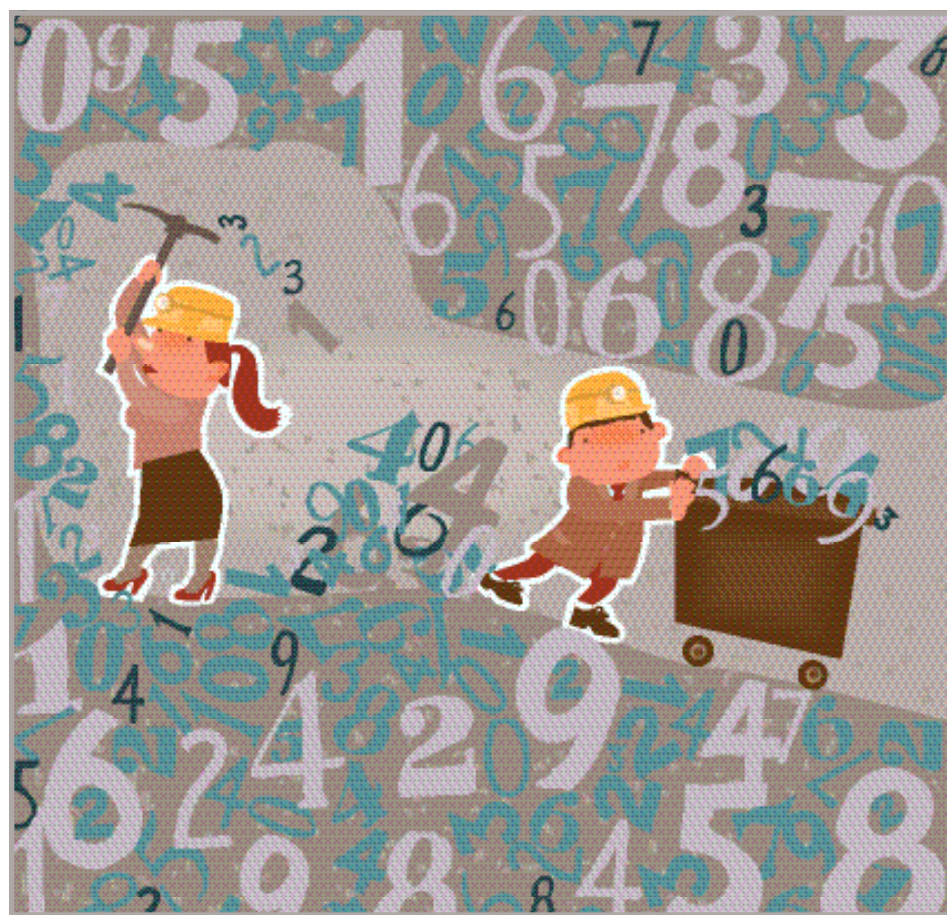
IN-HOUSE COUNSEL

I will briefly present several of them, outlining how they could feed into a composite description of activity and productivity, and tackling some of the objections to the arrival of this method in coming years.

Start with a familiar source that indicates what lawyers have worked on. Law departments install a matter-management package mostly to control outside-counsel spending. But it also can yield useful information about matters of individual lawyers, how long they are open, for which client groups and the types of matters—all of which tell broadly how they spent their time. Albeit crudely, matter-management software captures how each lawyer has allocated some of his or her time. Law departments that have not licensed such a package might use Excel or Access to track similar information.

Another indirect source of data on activity is outside-counsel invoices. The invoices reviewed by a lawyer mark a trail of what they worked on during the invoice month. Presumably, outside-counsel dollars were spent in rough proportion to the time that the inside responsible lawyer devoted to the matter (sure, lots of exceptions, but directionally one hopes this is true). More expensive matters consume more inside time. Law departments could even plumb the accounts-payable system and gather some payment-based information about the distribution of lawyers' activities.

A document-management system yields more clues as to how lawyers spend time. Assuming the software links documents to clients and matters, it can supply a set of metrics related to activities. More or longer documents evidence more time and effort. If no such software has been installed, the shared drive of a department offers partial insights into the number and kind of documents produced. Related to document repositories are knowledge-management systems; they too harbor information about who has done what and for whom. Not common yet, they will become more so



in coming years because of advances in technical capabilities and will be available to fill in broad strokes of activity.

Software could organize information from calendars of lawyers. It could extract dates of meetings or calls, invited people, duration, topics or time blocked out for tasks. Given the amount of time in-house lawyers spend in meetings, calendars capture in broad strokes what they work on, plus additional information. This untapped resource can put numbers to how long they had spent with certain clients, those invited to attend the meeting and even what matters were discussed.

Email of lawyers to and from internal clients or outside counsel provides yet another unplowed field of data about what has gone on. Software could compile which clients wrote most commonly to the lawyer or whom the lawyer wrote to most commonly; voilà, another latent clue to what work was done. Text-mining software can parse the email messages themselves—not just the “to,” “from” and “subject” fields—to figure out what matters were prominent. The same can be done with chat messages exchanged through the communications system.

Similarly, a law department could integrate information regarding telephone calls to or from internal clients and their duration; here is another slice of data on how lawyers spent time. If the company pays for lawyers' cellphones, it can analyze those calls. Add in location data, and the picture is even richer.

Periodically in some departments lawyers prepare reports of significant matters they have worked on. Analyzed quantitatively over time, those reports point to how blocks of time were spent.

Note that no lawyer has to do anything differently than now. The available

information sketched above would substitute for and go far beyond traditional time tracking. Collected, combined and analyzed, disparate pieces of information would identify activities and allow some measure of quantification.

Thus from the data and infrastructure typically in place, it is possible to assemble a substantial and varied picture of lawyer activities—individually or in the aggregate—from matter databases, invoice review, calendars, documents created and email or telephone traffic. Many metrics flow from that composite. The starting points are the common elements of lawyers, matters and activities captured electronically in the normal course of business.

This column hasn't covered every potential indicator of activity. Online legal research leaves a residue of insights into how time was spent. Requests for legal services submitted by clients offer others. Moreover, lawyers will review the findings, and their feedback will improve collection, data consistency and analysis.

Objections to this methodology deserve to be addressed.

- 1. The activity record for a lawyer will be incomplete, in part because time spent thinking or reading in one's office where nothing is tracked electronically will remain terra incognita. True, but the electronic trail that a lawyer leaves while practicing law offers multiple signposts.

- 2. Some fear Big Brotherism. Lawyers don't want to feel spied on. Yet managers need data, and software tools leave tracks, so the methods described here simply extend the scope and analysis.

- 3. Aware of the oversight and measurement, lawyers might distort how they practice. Yes, whenever you measure something, people adjust their

behavior, but manipulations can be spotted and work has to be done.

- 4. It will cost money to invest in programming and data analytics. This holds for all management improvements: They require resources and attention.

- 5. Whoever pores over the resulting data could abuse that information or misinterpret it. That objection can be lodged against all data collection, so law departments will need safeguards and discretion.

- 6. General counsel say, “I know what my people are doing.” In fact, they rely on their lawyers to allocate their time efficiently and have only impressionistic and qualitative understanding of the specifics.

- 7. The game is not worth the candle; there isn't sufficient return on investment from this effort. But if managers of law departments consider the benefits, many of them will overcome their objections.

Substantial advantages will accrue to management-oriented general counsel who undertake some or all of this compilation and analysis. A composite and trustworthy description of lawyerly activity far better than is available today will emerge. General counsel will thereby be better able to do the following: Explain to executive management with persuasive metrics what the department does; understand much more precisely the demand for and supply of legal services; unearth opportunities to improve the department's systems and processes; coach lawyers and guide their professional development; stop time tracking or put to rest thoughts about it; and understand client alignment and support. That information could be fruitfully coupled with client satisfaction scores or organizational network analyses.

Since these untapped strata of data exist about activities, progressive managers will realize it is worthwhile to tap into them and draw conclusions buttressed by metrics. Since lawyers don't want to record what they do in intervals of six or 10 minutes each, the range of proxy indicators set out above will create a reasonably accurate picture. The data will help improve productivity, reach the right staffing levels, boost client satisfaction and show the value of the law department. The larger the department, the harder it is to tell how productive people are, and the more useful this will be. Graphical presentations of the data will become commonplace and more sophisticated.

In the near future, managers of legal departments will mine and analyze various electronic traces and databases that tell them about activity. Courtesy of the ways lawyers work and software tools they routinely use, the tracks of their time are scattered across many systems. The trick will be to collect and correlate and weight those electronic inputs. Doing so will weave a tapestry that chronicles time spent and value delivered.

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