



EXECUTIVE SUMMARY

April 4-5, 2019 • Denver, Colorado

TABLE OF CONTENTS

INTRODUCTION: HOW ALIGNMENT AND COLLABORATION CAN CREATE LASTING VALUE FOR LAW DEPARTMENTS AND LAW FIRMS	2
KEY TAKEAWAYS INFOGRAPHIC	4
CONTRIBUTING EXECUTIVES	5
INDUSTRY TRENDS: MARKET DYNAMICS CREATE CHALLENGES AND OPPORTUNITIES	7
TALENT: AN AGILE, DIVERSE WORKFORCE STRENGTHENS LEGAL ORGANIZATIONS	9
SERVICE DELIVERY: ACHIEVING ALIGNMENT IN AN INCREASINGLY COMPETITIVE MARKET	12
LEGAL ANALYTICS: TRANSFORMING RAW DATA INTO ACTIONABLE INTELLIGENCE	15
WORKSHOP: LEVERAGING THE DRIVERS OF MOTIVATION, LEADERSHIP AND INNOVATION TO CREATE CHANGE	18
CONCLUSION	21

INTRODUCTION

How Alignment and Collaboration Can Create Lasting Value for Law Departments and Law Firms

Legal Lab 2019, HBR's fifth annual gathering of leaders from leading law departments and law firms, marked a turning point from prior years where we were poised on the brink of change in the legal industry. As one participant noted "We are now living through the transformation we have been talking about for the past few years." Indeed, many changes are taking place in the industry, and the pace of change continues to accelerate.

The changes in the current legal market can pose challenges: among them, the market for law firms is increasingly crowded and competitive; there is a push to use data to drive decision-making and enable greater accountability; and law departments and law firms alike must figure out how to hire and retain more diverse talent. Legal Lab participants, however, were noticeably optimistic about the opportunities arising out of these challenges and their progress in working together to address them. **They recognize that partnership and co-innovation — the joining of two historically independent paths — will help them support an agile, value-centric and tech-enabled model for legal service delivery.**

Indeed, alignment and collaboration between law departments and law firms were the themes of this year's Legal Lab. As the sessions unfolded, it became apparent that the alignment and collaboration run deeper and broader at leading legal organizations than just at the highest level, the client-law firm relationship. Alignment, both internal and external, is occurring on three planes: strategic, client-focused and operational. For example, law departments must align with their organizations' and business partners' strategy and goals. Law firms must find their own strategic alignment in the market — their specific niche and purpose, which can be guided by their clients' strategy, mission and values. Finally, both law departments and law firms must align their internal cultures as well as their operations with their strategic values.

Throughout the program, we heard examples of all levels of collaboration — certainly between law departments and their outside counsel, but also among law firms (a "community of counsel," as one participant law department called it) and with alternative legal service providers (ALSPs). The collaboration between departments and firms has expanded from lawyer-lawyer collaboration to the cross-entity involvement of operations, financial personnel and others. Participants spoke of internal collaboration across departments, between legal and a variety of specialists (technical, financial, etc.), among all levels of lawyers and allied professionals and among diverse teams — in both the traditional sense of "diversity" (gender, ethnicity, etc.) and in terms of background and expertise. Both law departments and law firms also emphasized the need to collaborate with law schools to ensure that new lawyers have not only traditional legal training but also skills in the other areas consistent with the evolving legal ecosystem.

This emerging collaborative culture underlies — and supports — the need for an agile, diverse talent pool of well-trained and engaged employees; for innovative, value-focused service delivery; and for the tools and technology to streamline work and measure progress. Legal Lab participants took a deeper dive into each of these areas, examining success stories in talent recruiting and retention, service delivery concepts that focus on value to clients, and the evolution of analytics to measure success and inform decision-making. In the closing workshop, participants discussed the human elements that can drive motivation, leadership and innovation.

This report summarizes those discussions in an effort to highlight potential hurdles and offer guidance to help you surmount them. We hope you find these concepts useful as you find your organization's path to enhanced alignment and collaboration in the coming year. As a trusted advisor and provider to both law departments and law firms, HBR is convinced that evolving to a higher state of alignment and collaboration is the key to success in the rapidly changing legal market.

KEY TAKEAWAYS INFOGRAPHIC

Alignment + Collaboration: Creating Lasting Value for Law Departments and Law Firms

1 Shifting market trends...

- **Increasingly competitive market for law firms**
 - ALSPs gaining market share; more work brought in house; outside counsel convergence
- **Data-driven decisions**
 - Investment in analytics and AI to capture, interpret and communicate data and measure accountability
- **Talent challenges**
 - Must move the needle faster on diversity and inclusion, key talent retention

“While there’s compression in the market, there’s also lots of opportunity.”

2 ...provide opportunities for law department and law firm alignment and collaboration...



ALIGNMENT WITH:

- **Organization’s purpose / strategy** within the market
- **Clients’ strategy, mission and value**
- **Culture** → organization, department and team
- **Resources and operations**



COLLABORATION AMONG:

- **Clients and outside counsel, other law firms, ALSPs**
- **Departments and specialists** → technical, financial, etc.
- **All levels of resources and allied professionals**
- **Diverse teams**
- **Law schools**

“The fact is, analytics have changed some practices and, in some firms, how they operate.”

3 ...to support an agile, value-centric and tech-enabled model for legal service delivery.

“Transparency and collaboration are the most important things we’ve learned.”



AGILE TALENT

- The **right mix of resources** for the right work
- **Talent pipeline** for the business of law:
 - Law school curricula aligned with industry evolution
 - Lawyers partnered with allied professionals
- **Culture** that promotes employee engagement, fosters diversity and inclusion and drives higher performance expectations



VALUE-FOCUSED SERVICE DELIVERY

- Focus on **what clients value**
- **Holistic solutions** to clients' problems:
 - Specific recommendations vs. lengthy legal analysis
 - Information packaged for quick risk assessment and decision making
 - Self-service options where appropriate
- Environment for **change and innovation**; qualitative and quantitative **KPIs**



ENABLING TECHNOLOGY

- **Analytics value continuum**
 - historic reporting to future prediction
- Analytics models developed with **legal and tech expertise**
- Data leveraged to **support**, not replace, **legal judgment/decision making**
- Use of law firm data to **productize tools**

CONTRIBUTING EXECUTIVES¹

NAME	TITLE	ORGANIZATION
ANDREW BAKER	Senior Director	HBR Consulting
RONALDO BORGER	Chief Talent Officer	Faegre Baker Daniels LLP
CONNIE BRENTON	Chief of Staff and Senior Director of Legal Operations	NetApp Inc.
MARY BURRELLE	Senior Director – Head of Legal Operations and Chief of Staff	McDonald's
LAUREN CHUNG	Managing Director	HBR Consulting
KEVIN CLEM	Chief Commercial Officer	HBR Consulting
ALLY COLL	President & Cofounder	The Purple Campaign
BOB CRAIG ²	Chief Information Officer	Baker & Hostetler LLP
ADRIAN DAVIS ²	Chief Attorney Development and Knowledge Officer	Latham & Watkins LLP
DIANA DAY	Vice President and General Counsel	San Diego Gas & Electric
KATHRYN DEBORD ²	Chief Innovation Officer	Bryan Cave Leighton Paisner LLP
JIM DIXON	Chief Operating Officer	Crowell & Moring, LLP
ERIC FALKENBERRY	Partner	DLA Piper
SCOTT FIXTER	Vice President, Legal Department, Transformation, External Services & Insurance	TD Bank
ANDREW I. GLINCHER, P.C. ²	Chief Executive Officer and Managing Partner	Nixon Peabody LLP
MELANIE GREEN	Chief Client Development Officer	Faegre Baker Daniels LLP
SEAN HOWELL	Chief Financial Officer	Arnold & Porter LLP
MIKE KLASTAVA	Vice President, Legal Reporting & Analytics	AIG
JANE KOEHL	Chief Operating Officer	Drinker Biddle & Reath LLP
NOLAN KURTZ	Chief Operating Officer	Buchanan Ingersoll & Rooney PC
NICOLE MORRIS	Director of TI:GER and Professor in Practice	Emory Law

¹Titles and organization names held at the time of Legal Lab 2019.

²2019 Legal Lab Advisory Board member.

CONTRIBUTING EXECUTIVES¹

NAME	TITLE	ORGANIZATION
MAUREEN NAUGHTON	Managing Director, Program Management Office	Goodwin Procter LLP
JONATHAN O'BRIEN	Chief Operating Officer	Proskauer Rose LLP
LAWTON PENN	Senior Corporate Counsel – Labor and Employment	Amazon
DAVID PERLA	Managing Director	Burford Capital
MATTHEW PETERS ²	National Innovation Leader	McCarthy Tétrault LLP
NICK QUIL	Chief Executive Officer	HBR Consulting
MICHAEL SANDER	Founder and Managing Director Director of Analytics	Docket Alarm Fastcase
JEFF SCHWARZ	Chief Executive Officer	Concata
STEPHANIE SHINE	Vice President, Legal Strategy & Operations	Western Union
LISA SIMON	Chief Marketing and Business Development Officer	Lewis Roca Rothgerber Christie LLP
GREGORY SMITH ²	Chairman	Husch Blackwell LLP
ANDREW SPROGIS	Chief Innovation Officer	Katten Muchin Rosenman
BRIAN STERN	General Counsel	Cetera Financial Group
CAROLINE TSAI	Executive Vice President, General Counsel and Corporate Secretary	Western Union
JAMES TUROFF	Vice President & Deputy General Counsel – Governance, M&A and Commercial	The Hershey Company
SCOTT WESTFAHL	Professor of Practice, Director of Executive Education	Harvard Law School
MARK WHITE	Chief Administrative Officer	Baker Botts
LEE WILLIAMS	Chief Financial Officer	Troutman Sanders LLP
JENNIFER WINSLOW	Chief Operating Officer Managing Director	Diversity Lab OnRamp Fellowship
DAVID WOLFSON	Partner & Executive Director	Milbank LLP

¹Titles and organization names held at the time of Legal Lab 2019.

²2019 Legal Lab Advisory Board member.

INDUSTRY TRENDS

SPEAKERS

LAUREN CHUNG

Managing Director
HBR Consulting

KEVIN CLEM

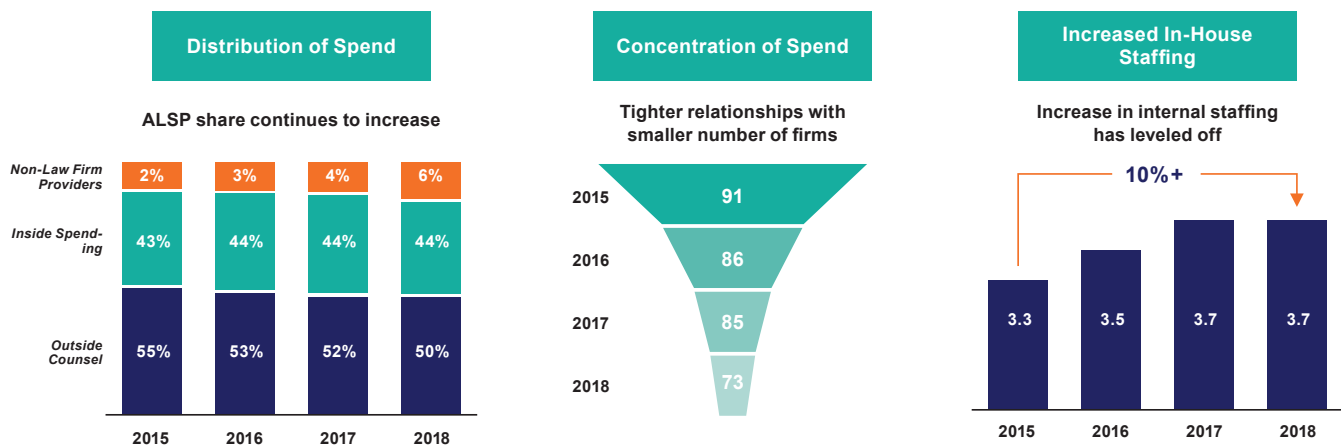
Chief Commercial Officer
HBR Consulting

Market Dynamics Create Challenges and Opportunities

Legal Lab opened with a discussion of trends in the legal market over the last year.

Law departments continue to see increased workloads, although their internal hiring is leveling off when compared to company revenue. Despite increasing demand for legal support, however, law firms are seeing a shrinking portion of total legal spending, as law departments keep more work in house, consolidate the number of firms they engage and expand their use of alternative legal service providers (ALSPs). The panelists and participants discussed how large a percentage of total legal spending may ultimately be directed to ALSPs. One in-house participant stated that about 20 percent of that company's legal budget is directed to non-law firm external providers. She speculated that their share might increase, as larger competitors like the "Big 4" accounting firms invest more heavily in technology infrastructure, helping them optimize their service delivery. Another participant suggested that ALSPs will continue to become the preferred provider for the types of work that do not require substantive legal expertise.

MARKET DYNAMICS



Source: 2018 HBR Law Department Survey

Several major trends — the rise of legal operations, the need for greater diversity and inclusion of legal talent and the growth in the use of data and analytics — are driving the desire to develop innovative approaches to cost effective service delivery.

Rise of Legal Operations

The field of legal operations continues to gain traction, particularly in law departments, which are striving to align with C-suite expectations regarding business management. One obvious indicator of this trend is the growth of the [Corporate Legal Operations Consortium](#) (CLOC). Founded in 2010, CLOC has rapidly expanded to over 2,450 members in 47 countries (as of printing). Law firms, too, are beginning to mirror the emphasis on operations, with an increasing number of firms establishing roles to align with their corporate legal operations counterparts and expand beyond traditional, internally focused law firm operations roles. The commonality of their challenges is illustrated by the increasing crossover of operations professionals from law departments to law firms. As the operations function continues to grow, meaningful conversations among law department and law firm operations teams will help connect the dots between data and service delivery.

Need for Diverse, Agile Talent

Both law departments and law firms are facing talent challenges, and both need to move the needle faster on issues like diversity and inclusion. Law departments are increasingly focused on hiring outside counsel with a diverse roster of attorneys and on creating an environment that is balanced and inclusive. Meanwhile, law firms need to create a talent pipeline to partnership that encourages the development of women and minority associates. Law departments and firms both need to find ways to cultivate an agile workforce that not only understands the law, but also comprehends business complexities and is capable of working with a range of supporting technologies.

Data, Accountability and Technology

Data is taking on increasing importance, both to support decision making and as a means to measure performance and promote accountability. Law departments and law firms alike are seeking greater visibility into the work being performed. Law departments have a growing desire to evaluate law firms and measure the value they deliver, while law firms are increasingly focused on responding to the voice of the client: seeking to understand the aspects of legal service delivery that are most important to their clients and then taking proactive steps to align with those priorities.

As law departments and law firms gather more data, they are actively working to better manage and leverage its related insights, with tools that use analytics and artificial intelligence (AI). Technology-enabled approaches can drive more efficient and cost-effective service delivery: for instance, some law departments have started to use chatbots to direct work to the right resource and to answer routine legal questions.

While some law firms might perceive these trends as competitive threats, Legal Lab attendees viewed them as presenting opportunity. Law departments and law firms have the opportunity to share data and insights, allowing them to align on common challenges and collaborate to achieve lasting value for both. Setting aside their historical independence and divergent incentives in this way, they can partner to forge a more agile, value-centric and tech-enabled model for legal service delivery.

TALENT

FACILITATOR

LAUREN CHUNG

Managing Director
HBR Consulting

SPEAKERS

ALLY COLL

President & Co-founder
The Purple Campaign

ANDREW I. GLINCHER, P.C.

**Chief Executive Officer and
Managing Partner**
Nixon Peabody LLP

BRIAN STERN

General Counsel
Cetera Financial Group

CAROLINE TSAI

**Executive Vice President, General
Counsel and Corporate Secretary**
Western Union

JENNIFER WINSLOW

Chief Operating Officer
Diversity Lab
Managing Director
OnRamp Fellowship

An Agile, Diverse Workforce Strengthens Legal Organizations

The dynamics of today's legal market require an increasingly agile workforce, able to adapt and evolve with the market. The discussion in the Legal Lab session on talent centered around recruiting agile, diverse talent and then retaining that talent by fostering inclusion and engagement.

Recruiting Diverse Talent With the Right Skills

Competition for legal talent remains intense, but not all available talent has the ideal mix of skills for today's legal environment. In addition to seeking talent with the right skill sets, both law departments and law firms are keenly aware that they still need to move the needle on diversity.

To do this, legal organizations are broadening their recruiting efforts from law schools, including engaging in cooperative relationships with historically minority law schools. They are also considering talent that has temporarily left the workplace. [The On-Ramp Fellowship](#), for example, matches lawyers (usually women) who have taken a career hiatus with law departments and law firms. The fellowship program helps the lawyers demonstrate their value in the marketplace and broaden their experience, while helping the employers replenish their talent pipelines with diverse, experienced lawyers.

To improve the mix of skills in tomorrow's lawyers, Legal Lab participants discussed how law departments and law firms, in their hiring roles, can influence the evolution of law schools' curricula to align more closely with the skills needed for today's legal market and the changing practice of law: namely, technology and business skills. Law students with this background better realize the broader business context of their work, and employers gain lawyers who start out with a better grasp of their clients' priorities and needs. Participants agreed that this year's dialog barely scratched the surface of the role of legal education in the changing landscape; the conversation will surely continue in future Legal Labs.

“

You can't fake diversity and inclusion.

You have to be intentional about it.

”

Retaining Talent Through a Culture of Inclusion and Engagement

Even though legal organizations have made advances in recruiting diverse talent, they are recognizing that retaining an agile, diverse workforce may be an even greater challenge than recruiting it. A culture of inclusion and employee engagement are important factors in retaining talent.

Inclusion

As one panelist put it, “You can’t fake diversity and inclusion. You have to be intentional about it.” Panelists discussed new ideas to foster diversity and inclusion; ways to measure the effectiveness of these strategies in the market; and the need for collaboration among law departments and law firms, as well as with other organizations that focus on addressing diversity and related issues.

One of these external organizations is [Diversity Lab](#), which works on initiatives designed to help organizations promote the inclusion of diverse employees. For example, the [Mansfield Rule](#), in whose promulgation Diversity Lab has played a major role, asks law firms to commit to considering at least 30 percent women, LGBTQ+ and minority lawyers for significant leadership roles. The Mansfield Rule was recently expanded to [corporate law departments](#), measuring whether they affirmatively considered female, LGBTQ+, disabled and racial/ethnic minority lawyers as at least 50 percent of the candidate pool for both the legal department’s top roles and for outside counsel representation.

Signing on to these commitments is just the first step, however. Law department and law firm panelists explained their efforts to support these commitments. For instance, both a law department and law firm panelist described their organizations’ implicit bias training. Another law firm leader reflected on his firm’s efforts to invest in talent early in their careers, through affinity groups and leadership training for less experienced partners.

Panelists also discussed the impact of current cultural dynamics, specifically, the #MeToo movement. Participants observed that concerns about addressing #MeToo-related issues seem to reflect more of a generational divide than a gender divide. It was suggested that cultural expectations have outpaced the law, and an organization’s typical “toolbox” — its traditional ways of dealing with sexual harassment issues — can either fall short or be tone deaf in the current environment. “To protect employees, organizations need to focus on creating a positive environment as opposed to avoiding risk.” [The Purple Campaign](#) works with organizations to help them create such a positive environment and respond to the #MeToo moment in terms of policy change and practices that address workplace harassment. That change might mean expanding training beyond basic harassment training to broader integrity issues and other topics that tie

“
**To protect employees,
 organizations need
 to focus on
 creating a positive
 environment
 as opposed to
 avoiding risk.**
 ”

into #MeToo-related matters. Other opportunities for legal organizations include shifting the organization's reporting mechanism from HR, adding more associate voices to law firm leadership and committees, appointing more women to a law firm's executive committee and providing pro bono opportunities with women's organizations.

Employee Engagement

Keeping team members engaged can be challenging, in part because the workforce is increasingly remote; different generations have different working styles; resources are limited; and lawyers are struggling to maintain a work/life balance. Panelists discussed a range of ideas to overcome these obstacles.

One foundation for engaged employees is the right organizational culture: one in which people have a better view of themselves and higher expectations. A law department leader described the culture his department was creating as its "brand" — how the department wanted its business partners to describe both the department and individual team members. That department's "pillars" for individual growth included being a strategic partner, trusted advisor and dynamic communicator, each with an associated list of strategic behaviors for the team to adopt.

Beyond organizational culture, talent development contributes to employee engagement. Panelists discussed the need to teach lawyers a range of skills. As a law department leader put it, legal skills are "table stakes." Legal organizations should teach not only the substance of law but also leadership, management and communication — skills that will also improve client communications and service. Panelists also emphasized the need to understand the business of law. Legal organizations can promote talent development by evaluating managers on their ability to develop those who report to them, not just on their legal skills.

Agile, diverse workforces strengthen legal organizations. This year's talent discussion explored ways to recruit and retain agile and diverse talent that will augment their organizations' ability to evolve with the changing legal market. As one panelist stated, "lawyers can be creators and innovators" when law departments and law firms align the right culture with the right training and tools.

“

Legal skills are *table stakes*.

”

SERVICE DELIVERY

FACILITATOR

KEVIN CLEM

Chief Commercial Officer
HBR Consulting

SPEAKERS

DIANA DAY

Vice President and General Counsel
San Diego Gas & Electric

KATHRYN DEBORD

Chief Innovation Officer
Bryan Cave Leighton Paisner LLP

MAUREEN NAUGHTON

Program Management Office
Goodwin Procter LLP

LAWTON PENN

Senior Corporate Counsel - Labor and Employment
Amazon

MATTHEW PETERS

National Innovation Leader
McCarthy Tétrault LLP

Achieving Alignment in an Increasingly Competitive Market

The changing legal market, described above, has created a need to rethink how work is being performed and service is being delivered. Many factors in the current market are incompatible with the traditional law firm model, including the increasing competition from many directions. Undaunted by these factors, panelists and participants explored the opportunities that the current market offers and approaches for changing their work and service delivery models in response. Epitomizing the tone of this session discussion, one panelist observed, “Where there’s compression, there’s opportunity.”

Providing Value Aligned With Client Needs

Regardless of whether they were speaking from the law department or law firm perspective or from their individual experience as a GC, operations leader or innovation officer, all the panelists emphasized the importance of providing value to their clients — law departments’ business partners and law firms’ law department clients — and the need for creative, collaborative initiatives revolving around that value delivery. Law firms’ fundamental purpose, of course, is serving clients, but with increased competition and focus on value, grasping current opportunities requires alignment with a firm’s position in the market — “knowing who you are as an organization in the context of what you are trying to achieve” in order to determine how the firm is going to adapt. Panelists highlighted the need to focus on what a firm does well for its clients and how that can be improved or scaled across other clients.

The panelists made the following specific suggestions for providing value:

- **Simplify advice.** A law department leader emphasized the need for outside counsel’s legal advice to offer specific recommendations, not lengthy assessments. As one panelist put it, “Business leaders are in the business of decisions, not legal analysis.” Therefore, law firms should package information to help their clients identify risks quickly and facilitate decision-making. Similarly, instead of hedging with edge-case alternatives, law firms should recommend a single path: a go/no-go calculus. As a panelist observed, “You can’t risk-proof everything.” In short, when a law firm understands an organization’s risk tolerance, it knows where to draw the line on how lawyers are spending their time and can therefore prioritize scenarios and deliver more cost-effective — and useful — service.
- **Respond quickly.** Speed is also critical for law departments in delivering internal legal services. One in-house participant mused, “As lawyers, how do we package legal knowledge in a way that allows you to go faster, use data to identify risk and point your legal efforts there, and then create more self-service on everything else?” Panelists discussed self-service options such as chatbots, contract templates, and more that can expedite their delivery of answers to business units.

- **Solve end-to-end problems.** Meanwhile, law firm panelists concentrated on devising ways to more efficiently solve their law department clients' problems end-to-end, although the firms cited slightly different approaches. One firm searches for ways to solve those problems entirely themselves. Another is transparent in identifying its strengths and weaknesses and fills those gaps with other partners who can help solve the client's problem.

Forward-thinking law firms have transcended working solely on substantive legal issues for their clients; they are also eager to resolve clients' legal operations challenges. For example, by providing information and relevant data on how law firms operate, firms can assist clients with issues related to billing and matter staffing. They can also use the information they gain in their representation to facilitate client operations.

Collaborating in New Ways

The suggestions all involved some form of collaboration. Of course, law departments and their outside counsel should collaborate. When done well, this symbiosis becomes ingrained in a law firm's thinking: outside counsel realize that they must understand not only the practice of law but also the client's business and the reasons underlying the client's actions. That collaboration now takes place not only among lawyers, but also among the entire team: for example, between a law department's and law firm's operations and financial personnel.

Beyond this traditional law department-law firm collaboration, panelists emphasized newer, emerging layers of collaboration. With increasing frequency, law departments are requiring their outside counsel to collaborate among themselves for the benefit of their mutual client: a "community of counsel." In fact, most of the law firms represented at Legal Lab have seen clients ask for this type of collaboration among counsel.

Law firms are also extending their collaborative efforts to external partners. They are beginning to realize the benefits of joining forces with other legal service providers to better serve their clients or to improve their own efficiencies, so they can focus on what they do best. As a law firm panelist put it, "Never look at ALSPs as the enemy."

And internally, both law departments and law firms are seeing new types of collaboration across functions, among affiliated legal professionals and across levels of experience.

Accountability and Measurement

Key performance indicators, performance measurement and general accountability are areas of emphasis for law departments and law firms alike, according to the panelists. Law departments are using data in two senses: internally, to measure their initiatives' effectiveness, and externally, to measure their outside counsel's performance. One example is CLOC's [Law Firm Performance Evaluation Survey](#), a standardized form to

“
 You can't *risk-proof*
 everything.”

”

evaluate outside counsel across 10 performance criteria developed as part of CLOC's law firm evaluation initiative. Meanwhile, law firms are collaborating with each other to aggregate data for the benefit of their clients: one panelist described how eight of a client's law firms collected the same data, so they could learn from one another.

An Environment for Change and Innovation

All of these initiatives require an environment that fosters change and innovation, whether in law departments or law firms. One panelist suggested five elements required for an organizational environment to facilitate change:

- 1 a learning mindset;**
- 2 a change-maker who is passionate about meeting clients' needs and can inspire others to do things they are not comfortable with or to let go of what they cannot do;**
- 3 a real problem to solve;**
- 4 non-lawyer allied professionals to help drive efforts forward and solve problems; and**
- 5 space and time to fail (for example, compensation models that support innovation and are not purely billable hour- or success-based).**

Legal organizations also need to formulate an overarching strategy to support lasting change. As one participant observed, the current market opportunities create a situation where there are almost too many options, which can be crippling without establishing priorities. According to another panelist, law firms are gambling on their approach: whether to focus strategically on a few items or to try many new things. Regardless of the selected approach, one panelist concluded that we are light years beyond where we started. She suggested that in the "next stage of enlightenment," we will be able to manipulate and use data to identify common problems across the client base; solve those problems in a better, more data-driven way; and rapidly scale those solutions.

“

Never look at ALSPs as *the enemy*.

”

LEGAL ANALYTICS

FACILITATOR

ANDREW BAKER

Senior Director
HBR Consulting

SPEAKERS

ERIC FALKENBERRY

Partner
DLA Piper

MIKE KLASTAVA

Vice President, Legal Reporting
& Analytics
AIG

NICOLE MORRIS

Director of TI:GER and
Professor in Practice
Emory Law

MICHAEL SANDER

Founder and Managing Director
Docket Alarm
Director of Analytics
Fastcase

AI VS. ANALYTICS

The legal industry currently has a fascination with artificial intelligence (AI). For evidence, just look at the proliferation of tools on the market and the prevalence of the topic at industry conferences and publications. But in truth, AI is typically just the “clever application of analytics” — purposefully applying a range of analytics techniques, often chaining various methods together for a specific result. To simplify, AI is an advanced way of leveraging data for insight.

Transforming Raw Data Into Actionable Intelligence

Analytics in the legal field are advancing at an increasingly rapid pace, at least in forward-looking legal organizations. First typically used for spend and operational purposes, leading law departments and law firms now aim to use data and analytical techniques to answer legal questions, such as those regarding the settlement value of a matter, the timing of a deal closing and the market competitiveness of a contract provision. Historically, attorneys have relied on their individual experience and “gut” to answer these questions. While an attorney’s legal judgment is crucial, with the increasing availability of internal and external data, attorneys can now enhance their decision making by combining expert judgment and quantitative insights. These were some of the themes discussed in this year’s session on how technology is advancing the industry.

The Evolution of Legal Analytics

The direction of legal analytics’ eventual evolution is analogous, according to one panelist, to professional baseball, where complex analytics models now guide the strategy in many games. Law departments’ and law firms’ evolutionary paths have varied.

Law Departments

In law departments, the initial focus of analytics use was often on driving down legal spend, sometimes without equal consideration of quality and effectiveness, resulting in tensions between law departments and their outside counsel.

As the general counsel’s role has expanded to include risk assessment and the law department’s potential contributions to the company’s profitability, cutting-edge law departments have also expanded their analytics goals. They want to use analytics to determine how to achieve the best outcomes and value in support of the company’s strategic direction. This requires more, different data and new quantitative methods. Instead of gathering, analyzing and reporting data horizontally across the organization, teams must develop tailored, localized use cases that help predict likely outcomes and risks. The next frontier for these legal departments is to adopt predictive analytics, infusing the analytics process and results into the organization’s decision-making capabilities.

Law Firms

Law firms have been slower than law departments to embrace analytics but have similarly begun with spend, revenue and profitability analytics, progressing toward more practice-specific efforts. Some forward-looking firms are now using data in creative ways. One example involves litigation risk analytics, a field that began in

the insurance industry. These companies used big data and tools to mine and sift through large data sets in order to evaluate risk. These same tools are now bringing value to law firms: they support predictive analytics models designed to suggest the likely outcome of a matter or portfolio of matters. Today, a few law firms are using analytics like these to inform client pitches, budgets and even case strategy.

Law firms that are on the forefront of analytics use are already trying to productize and sell their tools, not only to clients but also to other law firms. For some firms, the next evolutionary stage is a bifurcated approach with more than one business unit or entity. For example, the parent firm may continue to handle complex, strategic matters where it is difficult to estimate the required time and cost, while its subsidiary recaptures commoditized work, using analytics to streamline its handling. Other firms are using their subsidiaries as venture capital vehicles to develop legal tools that can deliver new services and create new revenue streams.

The Right Data, Tools and Team

The panelists discussed ways to tame their raw data into metrics that yield useful insights, including capturing the right data, choosing the proper tools and forming an effective team.

The Right Data

As one panelist stated, analytics are “only as good as the data you have in your model.” Legal organizations must collect the data that is required for the task at hand. For some analytics projects (e.g., spend analytics), that may entail broad and general data, while practice-specific analytics projects may require more tailored and targeted data. In either case, data governance is crucial. Essential considerations include:

- **Consistency:** Across multiple data sources (e.g., standard nomenclature, taxonomy and process)
- **Metadata:** Collected to conform to the desired parameters, i.e., how people will want to cut the data (practice, business unit or other relevant dimensions)
- **Context:** To the extent internal data needs to be paired with external data.

The Right Tools: Commercially Available and Custom

Commercially available solutions take various forms, but many extract and analyze information from public sources. For example, litigation analytics tools primarily take information from court dockets, and then organize and analyze it in a way that provides deeper legal intelligence regarding judges’ decisions, law firm and party trends, likely outcomes and more. The challenge with commercially available products is that users have no control over the data they contain. As law firms continue to gain experience in analytics and amass more data, they will begin to turn toward user-defined analytics: tools that allow them to do their own analytics by marrying public data with private, proprietary data.

“
**Analytics are
 only as good
 as the data
 you have in your
 model.**”

”

A myriad of analytics tools and techniques — many more than can be listed in this report — are now readily available to legal organizations that want to design their own analytics programs. While the technical details can be complex, advanced techniques are more accessible today than in years past.

The Right Team: Multidisciplinary Collaboration

Especially as the use of legal analytics becomes more sophisticated, the expertise of those designing the analysis becomes increasingly critical. The most effective legal analytics teams have diverse backgrounds, combining computer science, math and statistics, substantive legal knowledge and an understanding of the business of law. Command of these areas helps teams identify opportunities and determine which of the many analytics techniques are best applied.

Law school coverage of these multidisciplinary techniques is scarce, and the dearth affects both lawyers' perspectives and the speed at which the market evolves. The challenges in legal education include the difficulty of introducing quantitative concepts to law students who often are math averse, overcoming the traditional mindset of many tenure-track faculty members and garnering law school leadership support for new curricula.

Fortunately, legal education is beginning to evolve and offer more of the multidisciplinary knowledge that lawyers will need in the future. Some law schools now conduct experiential learning programs in innovation, legal technology and similar areas. For example, a collaboration between Emory Law and Georgia Institute of Technology brings together graduate students in law, business, science and engineering to productize an idea and address the related legal and business issues. The program transforms thinking, helping students recognize the range of perspectives needed in a business environment.

Legal analytics are advancing, but we are still in the early stages of their use and adoption. Even at this early stage, though, analytics are already changing some legal practices and slowly influencing how a few firms operate. We must remember, however, that data and analytics merely enable or amplify decision making; they cannot replace it. Business leaders and lawyers still make decisions, but now have more data upon which to base them. As our panelists affirmed, the aim of data science and analytics should be to make good decision-makers even better.

“

**The aim of data science and analytics should be
to make good decision-makers even better.**

”

WORKSHOP

FACILITATOR

SCOTT WESTFAHL

Professor of Practice,
Director of Executive Education
Harvard Law School

Leveraging the Drivers of Motivation, Leadership and Innovation to Create Change

Success in the areas discussed during Legal Lab 2019 — alignment, collaboration, diversity and innovation — depends on strong leadership and teamwork. In the final half-day workshop, Harvard Professor of Practice and Director of Executive Education Scott Westfahl shared some of his research and led participants' exploration of the psychological drivers of motivation common among lawyers, the leadership behaviors that can build or undermine motivation and key innovation drivers as applied to legal organizations.

Increasing Motivation

The current market for legal talent is quite competitive. To recruit and retain the best talent in that market, legal organizations must understand the factors that motivate people and how they can differentiate themselves by motivating and engaging talent better than their competitors.

[The American Lawyer's mid-level associate survey](#) suggests that attorney engagement is linked to how interesting the work is, how flexible the firm is and how partners or supervisors behave. Psychology holds that there are three main sources of motivation in the workplace:

- 1 extrinsic, or motivation from “outside” factors;
- 2 internal, or motivation from within the individual; and
- 3 intrinsic, or motivation from the work itself.

According to Prof. Westfahl, monetary rewards, the biggest source of extrinsic motivation, are not always a differentiator, so legal organizations must differentiate themselves in other ways such as status, recognition and “perks” — unexpected rewards.

Internal motivation is among the most powerful forms of motivation, but it is also more challenging for employers to influence and manage. Prof. Westfahl cited Dr. David McClelland, a noted psychologist and scholar on motivation theory, for the three primary internal motivation needs: the need for achievement, the need for affiliation and the need for power. Prof. Westfahl reports that lawyers are extremely high in the need for achievement: they are very task-driven and strive for autonomy and control. Lawyers are also relatively high in the need for affiliation, driven by relationships, but vary in their need for power. Those high in that motivating factor are influence-driven, interested in things like “leaving a legacy.”

“Mastery,” working on something an individual does well, is an important intrinsic motivator but, too often, training focuses on weaknesses rather than strengths. There can be geometric improvement with strength-based training, as compared to arithmetical improvement with weakness-based training, according to Prof. Westfahl. “Meaning,” the belief that one’s work is important, is another intrinsic motivator. To support the need for meaning, it is important to show the context of work and why it matters, and to celebrate small wins. “Autonomy” is the intrinsic motivation factor where lawyers are strongest; they need to feel ownership of their work.

These motivation drivers are consistent across generations, including millennials. What motivates people does not change, even if social factors do. Therefore, organizations should focus on commonalities rather than differences.

Motivation is as important for teams as it is for individuals. For team motivation, the process matters as much as the results. Prof. Westfahl suggested several tactics that can contribute to team motivation: holding team kickoff meetings; measuring the team process (how effectively it works together); leveraging research on effective teams; and obtaining team feedback during and after the project. Top teams communicate face-to-face, if possible, with team members equally contributing and team leaders having regular one-to-one conversations. These team processes can be particularly helpful with diverse teams, which typically solve difficult problems more effectively than homogenous teams if they work well together.

During a brainstorming breakout, participants identified several motivational ideas on organizational and individual levels. On an organizational level, these included senior leadership providing personal recognition; systems to provide recognition or awards for achievements (spot awards, “smiles program”); dissipating the “fog of war” mentality by affirmatively connecting with team members; recognizing business partners; including employees at lower levels in governance bodies (“do not infantilize associates”); and being transparent about the business (e.g., all-company meetings). On an individual level, additional ideas included scheduled one-on-one time with team members (especially those working remotely) to make sure people feel included as part of the team, informed and safe; manager-once-removed checkpoints (checking in with your direct reports’ direct reports), which can help promote a culture of bottom-up innovation; and providing more instant feedback when there is room for improvement rather than waiting for scheduled review times.

“

Motivation drivers are consistent across generations, *including millennials.*

”

Learning to Lead

Participants evaluated leadership behaviors that can build or undermine motivation by viewing and discussing two day-in-the-life videos of an actual organization's COO and CEO (created as part of a Harvard case study). Some of the factors that participants commented on were the leaders' demeanor (calm and organized versus overwhelmed, chaotic and disorganized); approachability (appearance of caring, walking around and being in touch versus distance and lack of eye contact); messaging (positive framing and specificity versus negative framing and reinforcement); subordinate interaction (thanking in public and criticizing in private versus micromanagement and hallway whispers); and communication of goals and strategy (focus and content versus operational tactics).

Professor Westfahl emphasized the importance of celebrating success, including leadership's individual reactions. Following are four styles of reactions that can either reinforce or undermine success:

	CONSTRUCTIVE	DESTRUCTIVE
ACTIVE	Positive enthusiasm	Crush the news, find a negative (a common lawyer tendency)
PASSIVE	Acknowledge in a "blah" way	Hijack mode (top the story)

Leaders need to be self-aware of their own leadership habits and remain open to feedback, recognizing how others in their presence feel about them.

Building a Culture to Support Innovation

The rate of adoption of an innovation depends on the perceived attributes of the innovation matter: its relative advantage ("this is better than the old way"); its compatibility ("this fits with our current experiences and needs"); its complexity ("this is easy to use and understand"); its trialability ("limited experimentation with this is possible"); and its observability ("results from this are visible to others"), according to Prof. Westfahl. He identified six elements of a culture of innovation (based on [IDEO's Creative Difference](#) vectors): purpose, looking out, experimentation, collaboration, empowerment and refinement.

In today's evolving legal market, it is particularly important for legal organizations to foster motivated, innovative talent. By applying the motivational psychology techniques explored in this workshop, law departments and law firms can better engage and motivate their lawyers, understand how day-to-day leadership behaviors can heighten motivation and build a culture that embraces and encourages innovation.

“
**Leaders need to be
 self-aware of
 their own
 leadership habits
 and remain open to
 feedback.**
 ”

CONCLUSION

The 2018 Legal Lab started conversations on transformation and innovation that we continued to focus on in this year's iteration, with a greater emphasis on alignment and collaboration to help law departments and law firms create lasting value. This year, more than in years past, the stories attendees told felt more personal — each told life stories that were relatable and that translated across industries — as they are now actually navigating change-driven challenges rather than just forecasting them as in prior years.

The stories were more intersectional too, crossing and blending thematic lines. We extracted four key themes from our conversations:

- **First:** Organizations need to expand their diversity and inclusion initiatives, but they must realize that diversity and inclusion are inherently grounded in collaboration between not just different types of people but also between different disciplines and skill sets.
- **Second:** It is critical for lawyers to develop an understanding and become competent in areas aside from just law, including technology, business and finance.
- **Third:** Both qualitative and quantitative data matters for measuring performance, driving accountability and making decisions at both law departments and law firms.
- **Finally:** A culture built on trust, passion and entrepreneurship can power innovation and empower individual lawyers and the organizations they support to achieve lasting change.

As we begin a new decade, Legal Lab 2020 will provide a forum to assess our progress toward stronger alignment and collaboration and to consider the next chapter in the legal industry's continuing evolution. We look forward to our continued collaboration with leaders across the legal ecosystem as we build on the understanding gained from each year's Legal Lab.



HBR Consulting (www.hbrconsulting.com) delivers advisory, managed services and software solutions that increase productivity and profitability, while mitigating risk for law firms, law departments and corporations. As trusted advisors with deep industry experience, clients partner with HBR to achieve significant, sustainable results.