



BY HBR CONSULTING

EXECUTIVE SUMMARY

September-October 2021
Virtual Event Series

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INTRODUCTION

It has been said that the more things change, the more they stay the same. Certainly much has changed over the last year, but much has also stayed the same. Many apparent changes turned out to be instead a matter of one step forward and one step back. Coronavirus concerns settled as vaccines were rolled out, only to return in force as the delta and then omicron variants spread. Mirroring those changes, businesses returned to working in the office and then, in many cases, beat a quick retreat back to remote working. Schools opened in person and reverted to virtual-only, often more than once.

Through it all, many aspects of the legal industry remained steadfast: legal professionals have remained continuously overrun with work, and they have consistently found ways to rise to the challenge. Lawyers adapted to remote work and—with equal aplomb—returned to their offices as they reopened. Law departments and law firms stretched themselves to find new ways to leverage technology and questioned themselves about how to increase diversity, equity, and inclusion among their ranks.

Legal Lab 2021, HBR's seventh annual gathering of leaders from the nation's top law departments, law firms, and law schools also stayed the same in several regards. We were virtual-only for a second year, forgoing our in-person conference for a series of conversations over a period of weeks. More importantly, though, our participants again brought the level of creativity, energy, innovation, open-mindedness, and respect that we have come to expect from them. They reminded us that while the legal industry can be slow to embrace change, the individuals who make up the industry are often ready and willing to advance new ideas and embrace new solutions.

Our discussions this year repeatedly returned to two major themes that, at first blush, might appear to be in conflict: the pressure to create alternative approaches on the one hand, and the need for standardization on the other. As our participants turned these topics over, we realized that there is an inherently elastic relationship between them. The need for alternatives in legal career paths and in service delivery mechanisms drives the necessity of creating standards to define the core skills of legal professionals and measure the quality and value of legal services. At the same time, the development of a common vernacular and consistent metrics allows for the creation of alternative paths and paves the way for more efficient and effective service delivery.

Rather than implacably following one path from Point A to Point B and assuming that the tried-and-true path will lead to success, this year's Legal Lab participants sought clearer definitions of their desired outcomes so that they could chart multiple paths to success.

The following sections capture the highlights of Legal Lab 2021's virtual discussions, centered around each of the three pillars of Legal Lab: talent, service delivery, and technology. As ever, we hope that you find these insights helpful as you look for your own opportunities to create standards and foster alternatives.

KEY TAKEAWAYS INFOGRAPHIC

Strengthening Relationships and Accelerating Progress Through Alignment and a Common Vocabulary

HBR Consulting's Legal Lab is an annual gathering of select leaders across the legal industry who collaborate and share ideas on strategy, challenges, culture, and changes to support and advance the law firm and corporate client relationship.

Legal Lab 2021 participants identified several areas in which the legal industry can best accelerate its forward momentum:

1 Developing standards and a common vocabulary



TALENT

Developing standards for **core competencies**; standardizing the **distribution of assignments** and opportunities; capturing and acting on **diversity metrics**



SERVICE DELIVERY

Measuring the effectiveness of service delivery through a **common vocabulary** and **shared metrics** (e.g., billing, legal quality and value, DEI, cybersecurity)



TECHNOLOGY

Creating standards around **data security, privacy, outside counsel guidelines**



I like the idea of standardizing matter nomenclature, so long as it isn't used to entrench the billable hour.



2 Creating alternatives



TALENT

Developing and supporting **alternative career paths**



SERVICE DELIVERY

Finding ways to **define matter value**, leading to alternative billing structures



TECHNOLOGY

Promoting **digital fluency among lawyers** so they can adapt to changing technology



We need to consider a career 'lattice,' not just the traditional 'ladder.'



3 Thinking holistically across the profession and its development, from law school to law firm/law department



TALENT

Building a **robust pipeline** to train and channel diverse candidates to law and law-adjacent roles



SERVICE DELIVERY

Creating a common vernacular for **matter classification** beginning in law school



TECHNOLOGY

Finding **partners** (such as vendors) to help drive standardization



How can we drive more of a mindset change in the legal industry and get people to buy into a common vision?"



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¹ Titles and organization names held at the time of Legal Lab 2021.

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¹ Titles and organization names held at the time of Legal Lab 2021.

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INDUSTRY TRENDS

SPEAKERS

BOBBI BASILE
Managing Director
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LAUREN CHUNG
Managing Director
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Industry Trends: Transforming Service Delivery

Legal Lab 2021 began with an industry trends briefing.

The pandemic has provided both the need and the opportunity for law both law departments and law firms to accelerate transformation of their service delivery. On a foundational level, the legal operations function's traction continues to increase, with over 73 percent of those responding to [HBR's 2020 Law Department Survey](#) having a dedicated legal operations function (an increase of 11 percent over the prior year). That increase is also reflected in the rapid growth of organizations like the [Corporate Legal Operations Consortium \(CLOC\)](#), which now numbers over 3,800 members across 56 countries. Law firms, too, are investing in legal operations, although the specific role and remit within law firms remains nascent.

REIMAGINING SUPPORT SERVICES

One of the ways both law departments and law firms are transforming service delivery is a reevaluation of support services functions. While some departments and firms had begun this change before the pandemic, the pandemic-triggered remote environment accelerated those efforts. Following are some of the areas legal organizations are examining:

TRANSFORMING SERVICE DELIVERY: SUPPORT SERVICES



ASSIGNMENTS/ STRUCTURE

Movement toward practice-centric, geographically agnostic resourcing models/ assignments



TASK DISAGGREGATION

Task disaggregation and realignment to redistribute work to most cost-effective resources in a consistent manner



CENTRALIZATION/ OUTSOURCING

Strengthening of centralized/ outsourced support areas to move heavy lifting away from legal admins



REIMAGINED ROLES

Reimagination and elevation of support services roles to coordinate work among teams on behalf of timekeepers



WORKFLOW TECH

Implementation of workflow technology to manage intake/ tracking of work, enable real-time monitoring, and improve utilization

For example, 40 percent of law departments responding to the 2020 Survey were using Centers of Excellence, as well as continuing to increase their use of alternative legal service providers.

TOP 3: PERCENT OF COMPANIES USING ALSP AS PRIMARY RESOURCE



TECHNOLOGY

Law departments and law firms have been investing in technology to support their service delivery transformation, from the perspective of improving workflow and processes, digital transformation, and data and analytics-related investments. For example, according to the 2020 Survey, law departments were considering implementing these technologies the next one to two years:

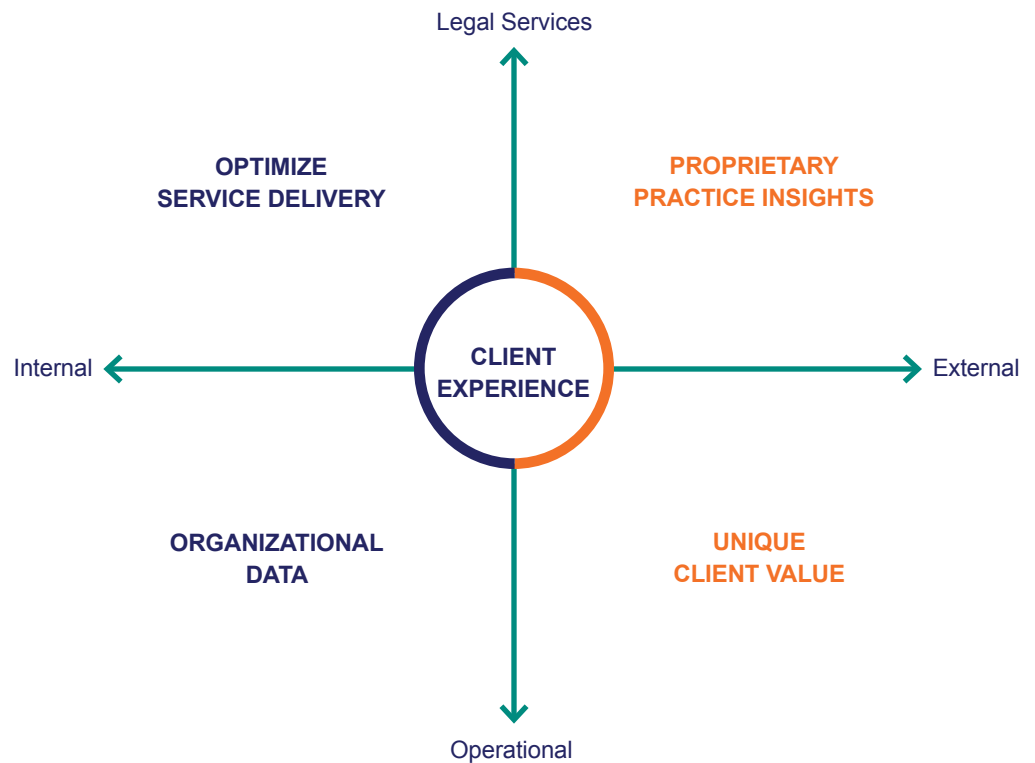
1. **Artificial Intelligence:** 35%
2. **Legal Service Request:** 23%
3. **Contract Management:** 19%
4. **Document Management:** 16%
5. **Workflow:** 16%
6. **Legal RFP Tools:** 15%

Other areas of law department innovation included legal data/spend analytics, collaboration tools such as Microsoft Teams, and records management.

DATA STRATEGY AND ANALYTICS

These trends reflect a growing focus on the use of data. Both law firms and law departments are investing in data strategy and analytics, but law firms probably have further to go in this area, as well as more to offer. A winning data strategy equips a law firm to make data-driven operational business decisions, as well as enables attorneys to demonstrate proprietary insights and capabilities that can positively impact clients.

TRANSFORMING SERVICE DELIVERY: DATA STRATEGY AND ANALYTICS



Over the 12 months preceding Legal Lab, law firms stepped up their level of data analytics sophistication, venturing into diagnostic, prescriptive, and even predictive analytics. (For more about legal analytics maturity, see HBR's whitepaper "[It's Time to Level Up: Building Analytics Maturity in Legal Organizations](#)."

THE CONNECTION BETWEEN TRANSFORMATION AND CONSISTENCY

In sum, the external changes of recent years have accelerated the transformation of service delivery at law departments and law firms. But to continue that trajectory, some level of consistency is needed within organizations and even across the industry. For example, only with consistent data can analytics be reliable and actionable.

Read on to learn how Legal Lab 2021 participants grappled with balancing the need for consistency with innovation.

TALENT

IDEAEXCHANGE SPEAKER

PATTI SCOTT

Director of Career Development
Lowenstein Sandler LLP

A Common Vocabulary Strengthens Relationships and Accelerates Progress

Legal Lab 2021 focused, as always, on the three pillars of legal services: talent, service delivery, and technology. We kicked off our substantive discussions with a conversation about talent, concentrating on how the legal industry can create a common vocabulary to strengthen relationships and further progress.

Over the last year, lawyers have expanded and improved the way we communicate and collaborate across the legal ecosystem. We have deepened our relationships as we have gained unprecedented insight into our colleagues as individuals. But the absence of a shared vocabulary between law firms, corporate law departments, and service providers continues to hinder our progress.

The Talent segment of Legal Lab 2021 focused on identifying common frameworks, metrics, and language that could align our efforts to drive the legal industry forward while also providing alternative career paths and equitable mentorship and training opportunities. As part of those efforts to expand and diversify the legal industry, we explored the ways that law schools, law firms, and corporate law departments can help lawyers gain a variety of competencies that would serve them regardless of their path, thus opening doors for traditionally underrepresented groups.

CREATING COMMON STANDARDS UNIFIED BY A COMMON LANGUAGE

“
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”

There are ample opportunities for commonality in how we discuss legal talent. There is little agreement in the legal industry about what core skills a lawyer needs, how firms label those competencies, or how firms assess those competencies in developing lawyers. For example, law schools still emphasize writing memos, but few clients have any interest in reading lengthy, academic tomes, making this an arguably antiquated and outmoded skill.

On the other hand, nonlegal skills such as problem-solving are not typically taught in law school but are invaluable in the day-to-day practice of law. Because law firms and law departments often have not clearly defined the core skills—both legal and otherwise—of a competent lawyer, they may be challenged to actively seek out those skills in new hires or purposefully develop those skills in their associates. Even when individuals manage to accumulate a wide range of core skills, firms do not always articulate the value of those skills well, particularly when it comes to nonlegal attributes, and thus offer little reward for their development.

Reaching alignment could be an uphill battle, though. As one Legal Lab participant noted, “It is unlikely that we could even come to an agreement about defining core

competencies within a single law firm, much less across firms.” Law firms are likely to resist external efforts to label their staff or dictate their skillsets. Another participant questioned whether law firms would be motivated to create or reward non-attorney roles or skillsets when they perceive that corporate law departments are paying them for legal advice. This concern may diminish as law firms move away from the billable hour and focus more on developing creative ways to add lasting value while addressing clients’ concerns. Innovation is another critical emerging skill—and one that could potentially be impeded by an overemphasis on the standardization of competencies.

The idea of common standards surpasses language. Metrics are another area ripe for standardization, from measures for evaluating the quality of legal work to measures for assessing diversity, equity, and inclusion within a firm or law department. Reaching a common understanding of what diversity means and how law firms should assess it—including intersectional diversity—could help the legal industry spend less time measuring diversity and more time making measurable progress toward its improvement.

REPLACING THE LADDER OF CAREER SUCCESS WITH A LATTICE OF ALTERNATIVE CAREER PATHS

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One source of anxiety about these alternative paths is the potential for them to become overly siloed. These roles could become heavily gendered or subject to other unconscious biases if we continue to treat these paths as less serious and less valuable to the firm.

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Related to the issue of competencies is the question of career paths. Traditionally, there has been a single measure of success for lawyers in a law firm: becoming a partner. But as the legal profession moves toward rewarding nonlegal competencies such as agility and flexibility, those traits are spilling over into how we view legal careers.

No longer is the partner track the only “correct” way to practice law. Rather, successful law firms are those that dismantle their career ladder in favor of a flexible and multifaceted career lattice. This shift not only provides opportunities for associates who are not interested in becoming partners but also allows space for employees to evaluate their lives holistically and advance at their own pace. It also facilitates the mapping of competencies to specific paths and roles.

Some firms have created additional classifications for employees:

- practicing lawyers, who may or may not be on the track to becoming partners;
- nonpracticing lawyers, who provide practice support but do not directly practice law; and
- allied professional roles, such as project managers and data analysts.

These different roles create opportunities for partner-track and non-partner-track associates and offer a way for employees with nontraditional skills to flourish at the firm. Offering alternate, interrelated paths may also help with retention, for example, providing options for women who might otherwise leave the practice of law to start families. Secondments are particularly well suited to these alternative paths, as a way for firms to provide valuable business training to their associates and avoid the loss of advanced associates to in-house roles.

But those advantages also suggest some potential dangers of alternative career paths if firms do not recognize and communicate their value. One participant pointed out, “One source of anxiety about these alternative paths is the potential for them to become overly siloed. These roles could become heavily gendered or subject to other unconscious biases if we continue to treat these paths as less serious and less valuable to the firm.” Even the labels we apply to these roles can undermine their value. As a Legal Lab participant observed, “What does it mean to be ‘alternative’? Why do we only apply that word to certain aspects of the business?” Calling non-partner tracks “alternative” implies that there is still one “accepted” or preferred path.

Firms must also design salary and compensation packages that make non-partner-track paths both palatable for the firm and attractive to associates. These positions are unlikely to carry the salary of a partner-track position, nor do they require the same heavy investment of grueling hours to meet ambitious billing targets. The danger here is that traditional legal billing is based on an hours-driven incentive system that rewards production instead of value or contributions. This tension could lead to a class structure where attorneys’ efforts are valued differently.

BROADER SKILLSETS AND OPPORTUNITIES PROVIDE A WAY TO ATTRACT MORE DIVERSITY

As the legal ecosystem embraces a wider set of roles and competencies, it will also allow greater opportunities for diversity. For that diversity to come to fruition, though, two conditions must be met: more diverse students must decide to enter the legal profession, and law firms must create equitable structures for advancement.

The pipeline to a more diverse legal system begins not in law school but in college. One participant commented, “We won’t have diverse law firms until we have diverse incoming classes at law schools. We should move our focus down to the college level and encourage more diverse students to choose law school as a building-block credential that can open the door to a wide range of rewarding careers.” Additionally, law schools need to begin to prepare students with extralegal competencies—from data science to technological proficiency—though they are unlikely to do so until law firms stop focusing solely on credentials like law review and start demanding both greater technical and soft skills.

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After law school, legal education follows an apprenticeship model that continues to favor some associates disproportionately. It is therefore incumbent on firms who have hired these new diverse graduates to ensure that they are trained in a way that levels out the playing field and makes success uniformly available. A Legal Lab participant remarked, “The number one factor that decides whether someone succeeds in a law firm is the assignments they are given within the first year of employment.” This builds on last year’s Legal Lab theme of implicit bias, recognizing the possibility of favoritism and implicit bias in the distribution of work and advancement opportunities. Introducing a common training path that builds a core set of skills while dispersing assignments is one way to provide inclusive and equitable opportunities, as is leveraging work assignment technology platforms that both accommodate the remote environment and provide transparency and measurability toward macro goals like diversity, equity, and inclusion.

Standardizing the mentorship process and creating a clear terminology about what good mentorship looks like could provide more consistency in legal training. Ideally, new hires would also have more confidence and proficiency in asking for assignments and soliciting constructive feedback. These are skills that all lawyers need, starting on day one, and they are learnable skills that could be practiced and inculcated in law school. At the same time, law firms need to create a culture of mentorship and training that requires partners to give useful feedback for every assignment.

One participant observed that in his law department, “We assemble teams that include not only lawyers but also business analysts, user experience designers, project managers, and more. Those allied professionals are often the drivers of strategy and change; they are not there to serve as a support team for the lawyers. To solve tomorrow’s problems will take a whole range of differently trained people with diverse skills, abilities, and intellects.”

Aligning our understanding of those various competencies through a common language, providing a lattice of varied opportunities, and promoting a pipeline that begins in law school or even before—all while being mindful of the need for greater diversity—would give the legal industry a clear path to accelerating our progress.

SERVICE DELIVERY

IDEAEXCHANGE SPEAKER

JAMES (JIM) HANNIGAN

Director of Legal Project Management
Coblentz Patch Duffy & Bass LLP

Aligning on Common Measures to Enhance Efficiency and Promote Value

In the second Legal Lab 2021 conversation, we turned to the next pillar of legal services: service delivery. Again, we focused on identifying common frameworks, metrics, and language that we could use to align our efforts. The status quo in service delivery is a remarkable dearth of standards, something that the [Standards Advancement for the Legal Industry \(SALI\) Alliance](#) is working to correct. In our service delivery discussion, we considered the problems that this lack of standardization causes, the areas that are most in need of standardizing, and the inhibitors preventing the industry from creating standards. Finally, we pondered who would lead the charge to produce a standard vernacular for the legal ecosystem.

SERVICE DELIVERY CHALLENGES THAT STANDARDIZATION COULD HELP

To say that there are no standards around how we discuss legal work is a bit of an understatement. Not only is there no common language between law firms and law departments, but there is no shared language across law firms or even within organizations. One law firm leader confessed that each practice area in the firm uses its own terminology. An in-house attorney chimed in that their organization also has an issue with taxonomy, with each team or department using its own language. These inconsistencies impede communications, efficiency, and alignment around value, among other things.

“You lose time just explaining what you mean by something because everyone uses different terms to say the same thing,” one participant observed. “More clearly defined terms and metrics would greatly enhance our efficiency in exchanging information.” The lack of standards also causes inefficiency in compiling reports and inaccuracy of reporting.

Without a clear understanding of value—or an alignment around what value means—law firms are unable to reliably price work. When all matters are coded as “corporate general” or “corporate other,” firms have no usable knowledge to use for budgeting or forecasting. This impedes the creation of alternative fee structures, further tying firms to the inefficiencies of the billable hour. This opacity disadvantages law departments as well, who cannot compare apples to apples in the absence of a common language.

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AREAS THAT ARE RIPE FOR THE CREATION OF UNIFORM STANDARDS

Our participants agreed that there were four primary areas where a common nomenclature would align the industry and streamline forward progress:

- eBilling, including matter classification and use of billing codes;
- outside counsel guidelines;
- assessing the quality of legal work, including outside counsel performance; and
- defining and measuring diversity, equity, and inclusion.

EBILLING/MATTER CLASSIFICATION/BILLING CODES

One law firm lawyer noted, “I bump into this problem all the time with billing codes, where none of the codes seem applicable to the work I am doing. I always pick ‘analysis and strategy,’ but I have to wonder who created these codes.” Other participants pointed out uncertainty around how they should bill and what descriptions and forms they should use. “Every client has a different expectation, so we continually have to translate our bills from one ‘language’ to another, which is terribly inefficient.” The consensus view is that attorneys want to get to work quickly and may not know what code will apply at the outset, leading to the majority of matters being coded under general headings.

Then there is the bigger question of matter definition. What even qualifies as a discrete matter? When does an engagement begin and end? This was a particular concern for “advice” categories. “We have these ‘advice’ buckets, but we have no idea what happens within them. Some groups seem to interpret ‘advice’ as a blank check. We need to define a trigger point or threshold for when a particular inquiry exceeds general advice and becomes its own matter.”

OUTSIDE COUNSEL GUIDELINES

Law firms in particular also struggle with their clients’ outside counsel guidelines. One law firm participant observed that outside counsel guidelines are cumbersome and—despite their extensive differences—rarely distinctive. While corporate counsel agreed that some core guidelines could be standardized, they emphasized that counsel guidelines are not one-size-fits-all. The [CLOC](#) has already created an excellent starting point for [standard billing guidelines](#) that cover, by one participant’s estimate, 80 percent of what clients need from their guidelines, although, to date, most law departments haven’t tied their guidelines to CLOC’s.

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”

QUALITY OF LEGAL WORK

Turning to legal quality, our participants agreed that there is no standard for what “good” legal work looks like. “If we had some alignment or common vocabulary around metrics to measure the effectiveness of service delivery, we could do better benchmarking,” one participant observed. Instead, law departments are left with inconsistent criteria to assess their law firms’ performance, which prevents clients from optimizing value and prevents law firms from improving.

DIVERSITY, EQUITY, AND INCLUSION

Diversity is also overdue for the creation of a common terminology. One law department leader noted that their organization asks law firms for diversity statistics, but every firm defines and counts diversity differently. A law firm leader countered that their firm cannot standardize its metrics as every client asks about different diversity statistics.

INHIBITORS TO THE CREATION OF STANDARDS

That exchange presaged the difficulty with creating standardized language or metrics in the legal industry. To begin with, many of the law leaders in our Legal Lab group were not aware of SALI or its effort to create standards. Nor was there any clear and sufficiently strong motivation driving individuals or organizations to spearhead a change. While our participants were in agreement about the costs of not having standards, the value of standardization had not been articulated with adequate force to overcome the inertia of change resistance. As a result, organizations lack the institutional will to dedicate the time and resources it will take to reinvent the daily vernacular around billing, legal work, and the value of that work.

The nature of the legal industry itself poses a considerable barrier. First, as a decentralized ecosystem, multiple players—from clients to law firms to vendors and service providers—must all align to speak with a single unified voice about agreed standards and terminology. Second, the legal industry is plagued by lawyer’s general perception of their own exceptionalism. “It will be challenging to define matters according to one standard, because lawyers will always say that not every matter looks the same. Lawyers have a mentality that they do their work differently and they do not have to conform to standards,” one participant remarked. Data availability could also be a stumbling block, as law firms fiercely guard their data as quasi-proprietary knowledge.

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Finally, the legal industry’s enduring reliance on the billable hour could stifle any progress toward standardization around the value of legal work. “The billable hour remains the most objective measure for law firms,” one participant noted. “As a result, we still compensate people based on the number of hours they put in rather than the value they contribute—and we cannot even assess value beyond billable hours.”

WHO LEADS THE CHARGE?

To produce any measurable progress toward standardization, the industry needs to align around a common champion. That is unlikely to be found among law firms, according to our participants. One law firm leader bluntly commented, “Law firms will not do anything together of their own volition. It will take in-house counsel and clients driving a change for standards to be developed.”

There may, however, be a role for law schools to play. One participant noted that law students are not typically taught the basics of timekeeping and billing but that law school could serve as an avenue for the introduction of a common vernacular. Clinical classes in particular could instill in students the need for standard approaches and defined terminology.

Overall, the industry must identify a coalition of the willing, led perhaps by the SALI Alliance, CLOC, or other industry group. One law firm leader said, “Having a standard language and set of metrics seems so basic—but at the same time, the challenge of creating that is so daunting that I, for one, have no idea where we would even begin.”

Perhaps the first step is simply understanding the difficulties that our current lack of standards and common vocabulary cause. From there, we must narrow our scope to focus on those areas that are most crucial to standardize, confront the inhibitors to that effort, and identify a clear leader around whom the industry can rally. The potential gains in our understanding of legal value could revolutionize the way we characterize legal work.

TECHNOLOGY

IDEAEXCHANGE SPEAKERS

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ANDY BANQUER

Vice President, Corporate Solutions
QuisLex

Finding Alignment Around Standards for Technology and Security

In the last installment of Legal Lab 2021, we turned to the third pillar of legal services: technology. This last conversation took a hard look at areas where the legal industry could create uniform standards for the selection and use of technology. We also spent considerable time reflecting on the inhibitors to standardization, including lawyers' perfectionist mindset and the conflict between efficiency and the billable hour. Finally, we touched on whether there should be an ethical requirement for digital fluency.

WHERE CAN WE CREATE UNIFORM STANDARDS AROUND TECHNOLOGY?

Several participants identified the evaluation of new technology as an area ripe for standardization. The processes by which law firms and law departments assess potential tools vary greatly, but the minimum standards that those tools must meet are similar. Creating a consistent process for measuring the basic suitability of technology, whether from a legal or client or other perspective, as well as a "need" versus "would be nice" perspective, would save time and frustration.

In addition to evaluating technology, participants were interested in reaching alignment on what is required to satisfy data privacy laws and what suffices to conform with baseline security requirements. One law firm leader who works extensively with the financial industry remarked, "Our clients all have massively detailed security requirements, but no two have the same requirements. Why? The differences are not materially advantageous. Creating a single security standard would ease transaction costs tremendously." Adding standardized data privacy and security addenda to CLOC's outside counsel guidelines would be, in one participant's words, "a vast improvement over the status quo."

Standardization around technology could extend well beyond guidelines and processes, however. One in-house executive noted that "the industry is stuck on email as a communication method" while better collaboration tools like Teams and Slack exist. Others pushed back that it can be a challenge to stay agile and current when each client chooses a different communication platform. A participant explained, "I don't want to have to bounce between 18 different tools to see that someone has communicated with me. At least for now, email is the best consolidator of those different tools." Further, as one law firm executive pointed out, "General counsel often wants to see communications in email because we have systems to file and retain those communications."

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Nor was email the only communication platform called into question. With the boom in videoconferencing necessitated by the coronavirus pandemic, participants commented that they had used upward of a dozen video platforms, each of which requires a period of familiarization, to communicate with clients. A law firm leader asked whether it would be possible to standardize the tools we use for videoconferencing. “Regardless of our device, we can all make a phone call. Why do we not have a videoconferencing system that is independent of a user’s platform, so that we could all access the same video call from our platform of choice?”

INHIBITORS TO UNIFORMITY

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When it comes to implementation, however, several barriers became clear. For one, too much standardization could become constrictive, limiting firms and vendors from differentiating themselves from their competitors. One law firm leader added, “If you standardize too much, you risk giving up some of your ability to be flexible.”

The typical lawyers’ mindset of risk aversion and perfectionism stood out as a major impediment to progress. Because lawyers are trained to find problems, they are disinclined to trust technology or accept that its results are “good enough.” As one participant said, “Lawyers are perfectionists. We are not okay with something being ‘okay.’” To counteract this, we should emphasize that the goal is not, and never has been, zero risk.

More damaging than lawyers’ mindset, though, is the traditional legal billing structure and a compensation system based on billable hours. When the legal industry regards the billable hour as the holy grail, technology that produces efficiency is in direct conflict with lawyers’ accepted standard of success. One participant stated, “People are afraid to adopt solutions that they perceive will affect their billable time. They hear that this technology will make them more efficient, but all that means is that they will have less work to do—and that means they could miss their billable-hours target.” To counteract this common concern, law firms must create a culture where higher efficiency translates to greater capacity and the opportunity to do higher value work, rather than a reduction in credit toward a bonus.

SHOULD THERE BE AN ETHICAL REQUIREMENT FOR DIGITAL FLUENCY?

Thirty-nine states require that lawyers meet a basic standard of technological competence as part of their ethical recertification. Because of the constant proliferation and changes in legal technology tools, one participant suggested that that standard be expanded to encompass digital fluency as a core skill of legal professionals. “With the way that

technology and business are intertwined today, you can't be a good—let alone efficient—lawyer if you aren't steeped in the tools that your business partners use. A standard for digital fluency would benefit the legal community by encouraging lawyers to stay current with technology.”

It will take an industry-wide coalition of law department leaders, stakeholders, law firm partners, vendors, and IT professionals to create meaningful standards for legal technology. As one participant cautioned, “The biggest question we must answer is simply, ‘Why do we want to do this?’ Establishing that benefit will help everyone buy in to a common vision.” To do so, we must also overcome the barriers to standardization, with the traditional billing structure chief among them.

CONCLUSION

Over the last two years, even as the physical distance between us has grown wider, our understanding of one another has grown closer. As we have seen into one another's personal lives—with interruptions from children and pets becoming almost commonplace—we have gained a deeper appreciation for our shared humanity and our shared struggles.

We were struck this year by the energy and passion that the participants in Legal Lab 2021 brought to the event. Their enthusiasm for the development of a common language and a standard set of metrics—encompassing legal talent development, service delivery, and the security and privacy of legal technology—was remarkable. At the same time, there was a clear desire for a champion to unite the industry and drive these initiatives forward to effect lasting change instead of yet another temporary shift promptly followed by a return to the status quo.

We acknowledged at the end of 2020 that we could not predict what would unfold in 2021, and as we look to 2022, we feel the same sense of uncertainty. But we have learned that, however unmoored the world becomes, the legal industry—led by the organizations and individuals represented at Legal Lab 2021—will find ways to meet those challenges through the development of outstanding talent, an unrelenting focus on service delivery, and an openness to evolving technology. We also can promise again that Legal Lab will be back in 2022 to reflect on how far we have come and what we should set our sights on next. We also can promise again that Legal Lab will be back in 2022 to exchange perspectives and ideas on advancing our industry today and in the future.



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