

How to Utilize Metrics

Increasingly, Legal Departments are being asked to join other Divisions within the company in assessing performance in an objectively measurable way. Often, this involves creating “scorecards” to translate goals into measurable units showing progress and improvement versus the way things have been done in the past. Whether you are required to do this or not, the approach below is helpful in assessing various aspects of Legal Division operations and success. As you review them, it may be helpful to keep in mind the old adage: “you can’t manage what you can’t measure.”

Overview

- Purpose of metrics
- Sources of data
- Categories and examples of legal metrics
- Frequency of analysis
- Sources for relative assessment

Purpose of Metrics

- The purpose of metrics is to measure performance in a quantified way and . . .
 - Compare against pre-defined expectations or goals (e.g. metric showing actual spending versus budget)
 - Compare corresponding data points to identify outliers, both “good” and “bad,” and seek to understand what causes the difference (e.g. comparative metric showing “all in” costs for summary judgment motions across 4 similar litigation matters)

(Practice tip: Proper use of metrics can be a very powerful way to manage performance. Legal Departments in companies that utilize “Six Sigma” and other quantifiable performance management tools will likely find a good cultural fit for legal metrics to track performance. For other companies, it may take more time and effort to engrain this approach into the Legal Department’s operating fabric. But the investment of time can yield great long-term results.)

Sources of Data

- The sources of data are varied, but often come from places like:
 - Matter management system
 - E-billing system
 - Monthly reports showing number of new matters open, existing matters closed
 - Spending reporting from Accounting or Finance showing the amount of external fees and expenses incurred for various matters
 - Detailed budget reports for various matters (showing how the money was spent, on which types of activities)
 - Internal evaluations and scorecards concerning outside counsel's performance
 - Information from outside counsel

Categories and Examples of Legal Metrics

Legal Department Metrics

- Legal department spending as a percentage of revenue
- Number of in-house attorneys per billion of revenue
- Ratio of inside legal spending to external
- Performance against budget
- Recoveries gained
- Liabilities averted
- Value delivered
- Winning percentage, charting wins and losses (measured against pre-defined success criteria from an Early Case Assessment exercise, for example)

- Extent of Knowledge Management utilization (showing re-use of existing work product to better manage demand)
- Number of initiatives successfully launched
- Measuring utilization of temps or contract attorneys
- Extent of off-shoring
- In-sourcing success – money saved by bringing work in
- Preventive efforts: number of training seminars delivered
- Number of training modules created and accessible via intranet

Matter trends:

- Number of matters active
- Number of matters open in the year
- Number of matters closed in the year
- Cycle time: average amount of time between opening and closing a matter
- Measuring milestone events reflecting activity levels (and cost per each):
 - Number of cases tried (or number of trial days)
 - Number of appeals brief / argued (and won)
 - Number of summary judgment motions filed (and won)
 - Number of deals closed
 - Number of custodians whose documents were harvested for discovery
 - Number of gigabytes of documents processed in e-discovery

Outside Counsel Performance Metrics:

- Percent of matters for which full year budget was submitted on time

- Percent of matters managed for which forecast updates were submitted on time
- Actual spending vs. budget, by matter
- Average blended rate for all law firm attorneys who billed to the client (by matter, and across all matters– divide total fees by number of hours billed)
- Success in predicting total cost resolution range for a matter (e.g. compare Early Case Assessment projection to actual results)
- Other process goals . . . timely completion / submission of:
 - Monthly reports
 - Early case assessment
 - Mock trials
 - After action reviews / lessons learned

External Spending . . . Portfolio Management Metrics:

- Percentage of external spending allocated among the top 10 billing firms
- Number for firms that bill 80% of the department's external spending
- Percentage of law firms that provide a discount (or that provide more than a nominal discount, e.g. in excess of 5%)
- Total value of discounts received as a percentage of overall external spending
- Percentage of external spending allocated to alternative fee arrangements
- Percentage of matters assigned via competitive bidding
- Percentage of dollars spent with women or minority owned firms
- Percentage of hours worked or dollars billed by women or attorneys of color
- Number of internal evaluations completed regarding outside counsel performance

Individual In-house Counsel Performance Metrics

- Amount of outside counsel spending (in dollars) managed per in-house attorney
- Number of full-time equivalent resources managed per in-house attorney (take total number of hours billed on all matters managed by that attorney, and divide by 2,000)
- Percentage of matters handled internally, without any outside counsel involvement (and value generated, i.e. what would outside counsel have cost?)
- Percent of matters managed for which next year's budget was submitted on time
- Percent of matters managed for which forecast updates were submitted on time
- Actual spending vs. budget, by matter
- Success in predicting total cost resolution range for a matter (e.g. compare Early Case Assessment projection to actual results)
- Other process goals . . . timely submission of:
 - Monthly reports
 - Early case assessment
 - Mock trials
 - After action reviews / lessons learned

Frequency of Analysis

- The frequency of analysis will vary depending upon what is being tracked, and how important is the need for sufficient time to “course correct”
- Examples:
 - Monthly: for items like progress vs. budget on key matters
 - Quarterly: for items like number of outside counsel performance evaluations completed
 - Yearly: for items like amount of outside counsel spending managed per in-house attorney

Sources for Relative Assessment

- Look at your historical data
 - Some will be in useable format (either electronic or paper)
 - Some may require a bit of “archeology”
 - If it is too hard to re-create the past, you can implement ways to effectively gather the data going forward
- Look within the portfolio
 - If you portfolio is large enough, look to make apples to apples comparisons (e.g. as to what you are paying “all in” for various summary judgment motions)
- Seek industry benchmarking from other companies