The Chief Operating Officer and the Use of Data in Law Firm Management
By David S. Schaefer, managing director, Calibrate, Inc.

Maintaining Competitive Advantage in a Digital Market
In the business world today, it is axiomatic that data is essential to strategic planning and implementation, as well as making decisions on a whole host of operations. The legal industry is just starting to catch up. Lawyers and law firms have always used data in both the practice of and business of law, but until the last ten to 15 years, the use of data in the business of a law firm has largely been limited to billing and collection, realization of worked and billed time, and some very basic metrics and key performance indicators (KPIs) regarding revenue and profitability. In that sense, the legal industry has been very slow compared to most other industries in using data in support of strategic planning and business operations. However, a number of changes over the last decade and a half have resulted in the necessity of greater use of data to run a competitive and successful law firm.

Arguably, the most significant change during the past decade is the number of business professionals that have entered the legal industry. Relatively recently, law firms have hired chief operating officers (COOs) with experience and expertise gained from outside the legal industry who are, increasingly, receiving a mandate to manage all business operations, to be active participants in the development and implementation of strategy and, in some cases, to leverage best-in-class business concepts to the practice of law.

A lot has been written recently about the dichotomy in law firms between the practice of law and the business of law. In this scenario, the COO is primarily responsible for all the overall operations of the firm in support of the practice of law, as well as the firm. The COO also works with firm leadership in developing business planning and budgeting and, in many firms, a strategic plan. Obviously, the lawyers are responsible for the practice of law. However, to the extent the firm has embraced practice management, including strategic and business planning, for their legal practices, the COO generally has little direct involvement and oversight. There are several reasons for this, and change is likely to come slowly.

The COO is the person best positioned to create a data-driven environment in a law firm, but also to develop policies for the creation, use, and dissemination of KPIs and the related reports. The policies are important so that the COO's direct reports can propose to the COO the KPIs and reports that will be meaningful to their respective functions, as well as to the COO and firm leadership. This is not to suggest that the COO should be directly responsible for initially developing the KPIs and the reporting. Rather, the COO should ensure that the direct reports are sufficiently familiar with the firm's strategic plan, if applicable, any business goals of their respective departments, and have access to the relevant data. Ultimately, however, the COO is likely the person ultimately responsible for effective KPIs and reporting so that they can be rolled up and utilized in developing the firm's strategic plan, annual business plan, and budget.

The power of KPIs for law firms
First, KPIs are measuring specific outcomes, not aspirational goals. "Increasing revenue this year" is not a KPI. "Increasing revenue in our transactional practice by ten percent this year" is a specific outcome that is both measurable and manageable.

KPIs can and should cover financial and non-financial aspects of both the business of law and the practice of law. In developing policies for the creation, use, and dissemination of KPIs, the COO should also consider the culture of the firm, the strategy of the firm, the business plans for practice groups, and the type of billing structures used in the firm.

KPIs are useful and arguably essential to preparing the narratives necessary for the recipients to convey how the firm or a department is performing. KPIs are also useful in conveying the firm's vision and strategies. The audiences can be as varied as the partners, the firm as a whole, prospects for both the business of law and the practice of law, and possibly clients and prospective clients. The starting point for choosing which performance indicators are key depends on the audience.

- For the senior leadership of the law firm, the KPIs should be those that senior leadership uses to manage the firm, both strategically and tactically (such as its annual business plan or budget).
- For practice group leaders, the KPIs should be those that the leaders use to measure whether the practice group is meeting its annual business plan goals.
- For the heads of the business departments (e.g., HR and marketing), the KPIs should be those that the heads of the department use to achieve operational excellence or otherwise to support the strategic goals of the firm or the individual practice groups.

What makes KPIs effective for law firms that have already started or are just beginning down the path of using data to measure performance against objectives and goals, is adopting sound business practices around the use of data. The most effective KPIs follow the proven SMART formula: Specific, Measurable, Attainable, Realistic, and Time-Bound. This means that the goal and the KPIs are in sync.

Essentially there are two types of KPIs, namely lagging and leading. Generally, it is ideal to have a mix to establish proper relativity.

- Lagging indicators are easy to measure and provide quick answers about whether a goal is being met. C-level executives often use lagging indicators as a baseline for setting ambitious goals. For law firms, the most important lagging indicators are those that relate to revenue and profitability and get published by
- Leading indicators capture data that has an effect on an outcome, which makes them useful for predicting or anticipating an output. It is critical to the effective use of leading indicators that they be related to the lagging indicators. Lagging indicators tell you what has been done, but they do not tell you what you should change to do better. Leading indicators measure the things that affect your outcomes.

What are the right number of KPIs?

Law firms have mounds of data and an increasing variety of tools that enable them to measure almost anything and everything. The chief operating officer, through policy and procedure, needs to avoid analytical overload by focusing on only the most impactful measures. Providing multiple performance measures without explaining how they are key to managing operations will not result in the better decisions and improved performance for which these tools were designed. The KPIs you select are a function of your audience within the law firm ecosystem and the strategy or business objective sought to be achieved. It is therefore impossible to specify how many KPIs a firm or a business unit or practice group should have. Five or six KPIs are typical. It could be fewer, such as three or four, but generally there should not be more than ten or 12 at play.

Presentation of KPIs – dashboards and scorecards

Having KPIs and getting the most out of them requires that the KPIs and any other performance metrics are presented in a way that can be quickly and universally understood. In part, this will be a function of the number of KPIs and metrics, but it also requires the use of an effective presentation style, which includes concise description and graphics. The COO should ensure that the appropriate analytics or business intelligence (BI) tools are available to the intended audience(s) so they can review real-time interactive visualizations, dashboards, and/or scorecards based on the KPIs, allowing those with access to explore and analyze the data behind the KPIs directly within the dashboard itself. Some firms that have developed a data-driven culture have invested in creating their own proprietary BI tools, but this is not necessary as there are a variety of BI tools on the market, many of which are customizable.

Changes in KPIs

In formulating a KPI policy, the COO should bear in mind Helmuth von Moltke's famous quote about planning, "No battle plan ever survives contact with the enemy". Your initial (or existing) set of KPIs may not be able to meet a changing market, shifting client demands, or intense competition. The good news is your choice of key performance indicators is not set in stone for all time. KPIs, like everything else in business, are subject to change. Over time, client demands will change. Strategies and business goals will evolve in response to market volatility. The audience(s) for the KPIs may discover that a KPI is not effective in measuring progress or assisting in making good decisions or may result in counterproductive decisions. Therefore, it is best practice to develop a policy and procedure that requires periodic review of the KPIs and their effectiveness.

Follow these steps to keep your KPIs on track as your market, legal and industry practice groups, client mix, and strategy evolve:

- Schedule periodic reviews.
- Ask the right questions:
  - Are there fundamental changes happening?
  - Are there clear lines of accountability for every single KPI?
  - Have any of the strategic or business goals underlying the KPIs changed?
  - Are the KPIs proving to be valuable tools to measure progress?
- Update your KPIs and publicize all revisions:
  - With the information gathered above, revise or reinvent KPIs as appropriate.
  - Establish clear next steps to link KPI insights to action.
  - Inform all stakeholders of all updates.

The need for accurate and clean data

In order to have reliable KPIs and effective BI tools, the data has to be complete and accurate. This is one of the threshold challenges for many law firms. They may have accounting and other software that is not compatible with the latest technologies and BI tools. The fields used to collect data are incomplete or insufficient for purposes of the KPIs being proposed. Alternatively, the data was not historically collected or it was collected with other data that is difficult to parse. Accurately tracking KPIs requires accurate data. A COO will have to use internal or external resources to get the firm's data harmonized from multiple sources across the firm to achieve complete, accurate, and up-to-date information. This can be a time consuming and expensive process. Careful attention should be paid to make the business case so that an adequate budget can be obtained and timing expectations realistically set and managed.

Create a data-driven culture

Before a COO embarks on introducing the use of KPIs or undertaking a material increase in the use of new KPIs, it is important to do a reality check about how they will be received. Every COO should ask: Will the stakeholders understand what the KPIs mean? How they are to be used? Is the BI software effectively presenting the information? Chances are that the answer is no – and that's normal. Boosting data literacy has risen to the top of the priority list for so many COOs as a result. The clearer people are on what the numbers mean, the more empowered – and inspired – they will be to focus on work that makes the biggest impact.

For some chief operating officers there may be cultural issues that may impede the development of a data-driven culture. One common issue surrounds how transparent the firm is with certain information. Another cultural issue is compensation and the basis for setting compensation, including bonuses. The use of KPIs may provide insights into profitability and operations that are not consistent with the metrics then being used to determine compensation, both for attorneys, especially the partners, and the business professionals. KPIs can be used to compare the profitability of practice groups, as well as the books of business of rainmaking partners, by considering the costs incurred to obtain that revenue. A firm may not want to alter its compensation policy to take into account those KPIs for a variety of reasons, and limit the use of the insights derived from those KPIs for strategic planning purposes. Nonetheless, the availability of such KPIs, if widely known, could create some discomfort.

How can you boost data literacy to support your KPI strategy?

There are two essential elements to boosting data literacy. The first is to have a program that is used to get commitment and not just buy-in. The second is to have the technology.

The program supporting data literacy has to be comprehensive. Of course, there has to be presentations and policies, but a program involves having a continuous process that explains and reinforces the purpose of collecting the data in the prescribed manner, how and why the KPIs have been created, and how the data, KPIs, and other metrics can positively impact the business. Also, as noted above, the program should include the process whereby KPIs are evaluated.

Finally, the program should include training and encourage input at the outset and beyond. When people are involved in the how and why, they are more likely to take pride and ownership and feel valued, as well as adding value by being closest to the data. Unless the KPIs are properly presented in dashboards and scorecards, their usefulness will be severely limited. That is the reason to have good BI technology. BI platforms have become much more robust and economical in recent years. It is recommended that a firm invest in a platform that is flexible and expandable as it increases its usage of BI and data analytics to include augmented analytics, statistical analysis and machine learning. A good BI platform should be useful to beginners as well as to advanced users so as to increase data literacy for everyone in the firm.