



## **IN THE ABSENCE OF GOOD DATA ONE CANNOT MAKE GOOD BUSINESS DECISIONS**

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Please indulge me for a minute: reread the title of this article. OK, now one more time please, and this time read it out loud. Chances are good that if you've attended one of my seminars you've heard me say what you've just repeated, and probably heard me say it at least as many times. It's a point I cannot stress often and strongly enough.

Perhaps you're thinking that there have been more than a fair number of times you have "shot from the hip" and it's turned out all right. So what's the big deal? Well, first, one cannot discount luck. That's for sure. Just being in the right place at the right time can make a huge difference in the path one's life or career takes. But let's not mistake luck for sound business judgment. Luck is fickle, and will be allusive as often as it is present.

You can't count on luck. It's not dependable. Whereas, sound business judgment will succeed far more often than it fails. Exercising sound judgment based on good data helps to create an environment of achievement. And while good luck is always welcome, it is not a necessary component of success when the path of action is well lit by quality data and sound judgment.

Second, sometimes one may think he or she is shooting from the hip, but the reality is that reasoning may be based in whole or part on information gathered passively. I like to call these the things we "know" but are not aware of consciously, or perhaps things we know consciously but can't remember "how" we came to know them. So although it may sometimes appear we are making sound decisions in the absence of good data, we may in fact have more data than we are aware of.

So the key issue is not whether you need good data. That's a given, because you are called upon all the time to make smart business decisions. And in today's competitive business environment, failure is not an option. The real issue is what type(s) of data you need. And of course, the answer is "it depends." What we do know to a certainty is that very often—too often—the need for data does not make itself known until it is too late to collect it in any meaningful or helpful way. Let me illustrate with some typical calls to the hot line.

An attorney had reached a point in his life, after 40 years of practice, when he wanted to slow down. He had three practice areas. He wanted to cut back to only two. His desire, as you can imagine, was to stop taking on matters in the least profitable practice area. The problem was that the attorney had never kept any record of his time investment in files. Because none of his matters were billed on an hourly basis, he never saw the need to do the additional administrative work of tracking time. Time tracking, to most attorneys, is a chore like filing is to secretaries: the least desirable. So I understand the choice. But as a result, he had no way of knowing which practice areas were most profitable. (Don't confuse volume with profit. It's possible to lose money on every hour invested in a matter, such that the more you work, the less profit you have.)

Another attorney decided he wanted to start billing certain transactional matters on a fixed or flat fee basis. He contacted me to determine how to do that. Many articles have been written specifically on this topic, so I will not try to repeat that information here for the sake of brevity. But suffice it to say that one must track and analyze a large number of similar transactions to determine at least the following:

- § What actions are required to complete the transactions?
- § Who is the appropriate person to perform each action?
- § What is the average amount of time involved for each action?
- § What is the usual rate which would apply?
- § Are there additional efficiencies which can create additional profit, such as the ability to more effectively push future work downward, or to utilize word processing or document assembly to produce documents faster and with less effort?

A law firm wanted to know whether they were at a point where they needed to hire an office manager or administrator. The math to determine this is simple. Look at the non-billable hours partners are spending on firm administration. Determine which of those hours can be delegated to the non-lawyer manager based on the desired job description. It's important to be realistic here, because intellect will always indicate a far greater number of hours to delegate than the emotions will actually permit. Compare the cost of those delegate-able hours against the cost of those hours being spent by partners on non-billable tasks. Unfortunately, none of the partners had reliably recorded non-billable hours.



Here's a very common example. A law firm called because they got a call from their Yellow Pages representative just as their ads were about to expire. They didn't know whether to renew or not, and the expense was considerable. They turned to me for help. My first and only question was to tell me the cost of each ad, and how much it created in revenues for the firm. The firm knew the approximate aggregate amount of business generated by their YP advertising, but it was all lumped together. It had not occurred to them to put a different code or telephone extension in each ad, so that they would be able to track business prospects by specific ads in order to measure efficacy.

One final example involves an attorney whose practice was struggling. She turned to me to determine how many new contingent cases she needed to take in each month in order to ensure there was adequate cash flow and profitability. She felt that goals would motivate her marketing efforts, and enable her to gauge success. The only way to get a decent answer to this question is to track and analyze at least the following data over several years:

- § Based on type of matter, and potential reward, how many hours were required on average to bring a matter to conclusion, either by settlement or trial?
- § Based on type of matter, and potential reward, how many years on average were required to bring the matter to conclusion, either by settlement or trial?
- § Based on type of matter, and potential reward, what fees, on average were earned?

By utilizing a good budget, one can determine what fees are required. Once the above analysis is done, it will be possible to determine approximately how many new matters should be taken in each month in order to consume the greatest possible number of available remaining hours, and keep the pipeline full. Ok, you probably already figured out that this firm had not kept time records either.

What happens when the data you find you need is not available? Well, you can either "wing it" based on your gut feeling. And maybe, with some luck, your decisions will achieve desired results. Or, you can immediately begin to collect and analyze data, in order to have the answers you need in the future, sometimes as much as a year or two later.

Hopefully you have already determined that the correct methodology is to set



up your systems, procedures, and records to capture as much meaningful information as possible up front, so that when you start to ask important questions, you can begin to process and analyze the information. Collecting information doesn't mean you have to look at it. It just means that if and when you need it, it will be there.

What types of information should you be tracking? Here are examples:

- § No matter what type of law you practice, or the billing methodology, you should accurately track and record time. That is the only way you will be able to determine profitability of matters, clients, departments, attorneys and so forth.
- § The more detailed the time records, the better able your firm will be to analyze the actual process and relative efficiency of each step in the handling of a matter. This is required to make sound decisions regarding flat fee or alternate billing arrangements, volume discounts, and even mentoring programs.
- § If you open a branch office, you should do so on your accounting and time & billing software from day one. Trust me when I tell you that you will eventually want to measure the profitability of each office, the cross-marketing effect of the branch offices, and more. Even if you don't look at it for years, and only produce a consolidated financial statement, the day will come when you will want more information.
- § Non-billable time should be accurately tracked for partners, associates, and paralegals. This is the only information that will tell you if your firm is in need of more administrative support, if department heads are working efficiently, and if people are keeping their commitments to marketing, community activity and networking.
- § Matter intake information is critical. That includes multiple levels of information. What ads were seen? Were your seminars attended? Is there also a referral source? It usually takes anywhere from 10 – 20 quality “touches” to turn a stranger to a prospect, and eventually to a client. It does you no good if you only know the last item which influenced that ultimate decision. You need to know *all* the factors which contributed.
- § Sub-total all expense categories for marketing, CLE, benefits and such by attorney. That way if you want to look at and compare spending in



any particular category, or even by category by office, you can do so at the push of a button.

One thing that always astounded the law firms I managed in the past is that no matter how hard they tried to “stump” me in asking for an analysis of something unusual, it was never a problem to pull the numbers together to provide ample relevant data on which to draw conclusions and make decisions. Want an analysis of the capital required to bring aboard a mid-level lateral partner, and an anticipated return on investment? No problem. Just give me a few days to run the numbers and put them into a report which is understandable for all.

Ok, now go back and reread the title of this article for the last time, and then take a look at your available information to determine if you are sufficiently organized such that you will have more meaningful and/or specific data when you need it. Remember, you may have all the information you need for now. But that doesn't mean it will be adequate one, five or ten years from now. You have to think long-term when it comes to the collection and ability to analyze meaningful business data. Or as they say in the boy scouts: Be Prepared! It's a whole lot easier to collect and organize detailed information, even if you don't have a use for it now, as you go along, than to try to look at what you've never gathered later.

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