WHAT ARE THE SIGNS YOUR LAW FIRM NEEDS PROCESS IMPROVEMENT?

By George Dunn, President CRE8 Independent Consultants

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One clear message from General Legal Counsel is "law firms must lower fees and follow increasingly restrictive guidelines." Law firms, like corporate legal departments, are being asked to systematically manage and reduce costs.

What are the signs that your firm needs process improvement?

- **External Signs**
  - Are your clients consolidating the roster of firms they engage?
  - Are your clients asking for lower fees?
  - Are client guidelines becoming increasingly restrictive as to who and what can be billed?
  - Is your client's procurement office more actively engaged in fee, billing and payment discussions? Are clients are looking at your firm as a vendor versus a valued partner?
  - Are clients asking for holdbacks, discounts, write-offs, alternative fee arrangements, or fixed fees for the life of the matter?
  - Do existing and prospective clients ask what process improvement framework your firm is using?

- **Internal Signs**
  - Is the firm writing off fees or costs billed to clients?
  - Is realization not consistent?
  - Is your culture "star" (individual) centric, or "process" centric? Do the hours required and the result of the process depends on who is doing the work?
  - Are processes defined by how work was previously performed versus by today's client needs?
  - Are there process silos within and between departments, groups and practice areas?
  - Are processes not fully mapped out and measured?
  - Are processes not fully automated with up-to-date templates, digital workflows and databases?
  - Are computer systems installed not fully supporting processes and workers?

If any of the above is YES, your firm will benefit from process improvement!

What type of process improvement methodologies exists for law firms? Today there are many different methodologies law firms can utilize such as CPI, BPM, Re-engineering, LEAN, Six Sigma, and Friction>Less™.

- **CPI** (Continuous Process Improvement) concentrates on incremental improvements over time with firm processes constantly evaluated and improved, as opposed to seeking a big one-time improvement.
- **BPM Business Process Management** focuses on achieving firm innovation and flexibility through combining process and technology changes.
- **Re-engineering** encourages firms to reconsider why they do, what they do, and encourages leaps forward, not incremental change.
- **LEAN** emphasizes reducing firm process waste to improve value to the client. Waste can arise in transportation, inventory, motion, waiting, over-processing, overproduction and rework.
- **Six Sigma** looks to improve firm process quality by identifying (measuring) and removing anything that causes process defects (issues) and by reducing variability.
- **Friction>Less™** identifies ways to improve the flow or movement of information between clients and the firm, internally, and with vendors to improve firm revenue, reduce expenses, and increase compliance.

The above process improvement methods can be used individually or in combination, depending on the firm's process improvement goal. *What individual or combined method is best for your firm? That depends on what you would like to accomplish.* (See Appendix for a detailed explanation of methodologies.)

Where can process improvement be deployed in a Law Firm? Example areas include transactional, litigation and operations.

- **Transactional:** Banking, Bankruptcy, Benefit, Business, Capital Markets, Commercial, Communication, Compensation, Corporate, Entertainment, Environment, Finance, International, Investment, M&A, Media, Personal Representation, Private Equity, Real Estate, Securities, Tax and Technology.
- **Litigation:** Arbitration, Antitrust, Appellate, Bankruptcy, Benefits, Business Reorganizations, Compliance, Construction, Consumer, Copyright and Trademark, Dispute Resolution, Distribution, E-Discovery, Employment, Enforcement, ERISA, Financial, Franchise, Insurance and Reinsurance, Immigration, Labor and Employment, Litigation, M&A, Nationality & Consular Law, Patent, Pension, Privacy, Professional

Liability, Product Liability, Securities, Security and Information Management, and White Collar Defense.

- **Operation Departments:** Administration, Diversity, Finance, Human Resources, E-Discovery, Information Technology, Legal Personnel, Legal Recruitment, Practice Development, Professional Development, and Professional Responsibility.

Example Operations Processes: AA (Roles, Analysis, Matching, Utilization), **Accounts Receivable (**Matter Setup, Client Guidelines, Timekeepers, Time, Overtime, Exception Rates, Expenses (Internal/External), AA/Billing Clerk, Performa Review/Approval, Paper/PDF Billing, E-Billing, Collections), **Accounts Payable (**Vendor Setup, Invoice Processing), **Daily Bulletin (**Submission, Review, Publish), **Document Production** (AA, Help Desk, Support Services), **Hiring (**Staffing, Requisition, Recruiting, Offer, Hire, Orientation, Performance Management, Compensation, Changes, Departures, Compliance (New Hire), **Human Resources /Payroll (**Hire, Changes, Termination, Overtime, Payroll, Bonus, LOA), **Practice Development (**League Tables, Pitch, Proposals, Client Holiday Communication and Gifts, Events), **Records Department (**Analyst, Circulation, Compliance, Storage), **Recruiting** (Goals, Needs, Referrals, Application, Interview, Evaluation, Decision, Hire), and **Information Technology** (Closing, Document Review, Vendor Management, Intake, Support).

What is the next step? How should your Law Firm Proceed?

- **Identify your firm's process goals**; examples include improving processes to meet:
  - client: guidelines, requests to reduce fees, alternative fee agreements or requests to articulate the firm's process improvement method, and
  - internal: need to improve the quality, efficiency, and timeliness of processes within and across departments and groups. Need to develop a flexible operating module to support increases or decreases in firm revenue.
- **Identify if the process improvement approach** is to be:
  - firm-wide,
  - departmental,
  - practice area, or
  - specific project.
- **Develop a process improvement framework**, decide:
  - will one methodology (CPI, Re-engineering, BPM, LEAN, Six Sigma, Friction>Less^TM) work, or is a mixture of methods best to solve identified problem or reach goals, and
  - can the improvement method and approach used be articulated in a way it increases the firm's unique branding, client perception, responsiveness, quality and service.

- **Besides use of traditional technologies, assess new technologies,** such as:
    - digital workflow,
    - AI,
    - analytics, and
    - predictive solutions.
- **Develop a roadmap targeting the highest value areas**,
    - establish a firm-wide plan that is clear, measurable and beneficial, and
    - identify those areas that can benefit most from improvement (client expectation, communication, efficiency, quality, service).
- **Identify where you would like to start**, including:
    - enterprise,
    - cross-department/practice, or
    - specific process.
- **Identify an objective, knowledgeable, and skilled process improvement consultant/facilitator.** It's best if this person is:
    - external to the firm and outside of the politics,
    - knowledgeable of law firm culture, processes, and clients,
    - expert in process improvement, consulting and training, and
    - can lead and motivate teams to accomplish stated goals.

About George Dunn, Author

George Dunn is a worldwide recognized independent consultant, speaker, instructor, and author on process improvement (Total Quality Improvement, Continuous Process Improvement, Business Process Management, Re-engineering, LEAN, Six Sigma, Friction>Less™); Advanced technology planning (electronic forms, electronic content management, digital signatures, AI, workflow, analytics, predictive, and electronic records management), and Complex computer system planning. George *has extensive experience assisting law firms, legal departments, and courts*. *He is published in Law Technology News, Corporate Counsel, and Document Strategy Forum*.

Mr. Dunn has over 25 years of experience and served in executive and leading roles for CRE8 Incorporated, GTE Corporation, Wang Labs, ASA International, and KPMG Peat Marwick. He has redesigned organizations ranging in size from 25 to 250,000 employees and designed systems from 25 to over 25,000 users.

About CRE8 Independent Consultants

Since 1995, CRE8 www.cre8inc.com has assisted hundreds of organizations with process improvement and technology planning. CRE8 success and client results have been outstanding.

CRE8 has also hosted and sponsored nationally recognized conferences and workshops, including **co-sponsorship of major Law Firm and General Legal Counsel Conferences.**

It is important to note that as independent consultants, CRE8 does not represent or resell technologies, but instead works directly for its clients (end-user organizations). This approach allows CRE8 to provide an independent voice regarding process improvement, applicability and ROI of technologies, development of a strategic plan and standards, vendor/integrator evaluation, and governance plans.

Contact CRE8
Phone: (206) 556-5958
Email   consulting@cre8inc.com
Web: www.cre8inc.com
Web: www.cre8inc.com/consulting/lawfirm
Twitter   @CRE8consultants

APPENDIX
FIVE STEPS TO PROCESS IMPROVEMENT FOR LAW FIRMS
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1. **Previous to starting the project, select a process improvement facilitator.** The facilitator should be independent of the process; understand law firm culture, practice areas, client needs, and internal operations; be skilled in working with cross-functional teams; experienced in different process improvement methods; be able to apply best practices within and from other industries, provide objectivity in the evaluation of process and technology options, and provide change management facilitation.

2. **Define process improvement goals and areas.** Goals should be specific, achievable, and identify what is to be accomplished within a precise timeline.

3. **Before starting process mapping, select a process improvement methodology.** Example methodologies include Continuous Process Improvement (CPI), Business Process Management (BPM), Re-engineering, LEAN, Six Sigma, and Friction>Less™. Example descriptions include the following (Note: It is important to match the methodology with the type of problem to be resolved, not to try to fix all process issues with one singular method):

   - **Continuous Process Improvement (CPI)** is an ongoing "never-ending" effort to improve people, processes, and systems. CPI is focused on incremental improvements over time where processes are constantly evaluated and improved versus a single large improvement event. CPI focuses on everyone working together from senior management to workers to identify how to improve the process instead of placing blame. According to Wikipedia, W. Edwards Deming, a pioneer of the field, saw CPI as part of the "system" whereby feedback from the process and customer were evaluated against organizational goals.

   - **Business process management (BPM)** focuses on innovation and flexibility through an examination of procedural change, technology changes and process optimization. BPM steps include:
     o Vision – Strategize,
     o Define – Baseline "step/task level" current process,
     o Model – Identify redesign options using process and technology,
     o Analyze – Select best redesign,
     o Improve – Identify/implement,
     o Control – Dashboard/measure, and
     o Application - Design (changes/new system).

According to Wikipedia, Business process management (BPM) has been referred to as a "holistic management" approach to aligning an organization's business processes with the wants and needs of clients. BPM uses a systematic approach in an attempt to continuously improve business effectiveness and efficiency while striving for innovation, flexibility, and integration with technology.

- **Re-engineering,** according to experts Michael Hammer and James Champy, is the "fundamental rethinking and radical redesign of business processes to achieve dramatic improvements in critical, contemporary measures of performance, such as cost, quality, service, and speed." Re-engineering asks the question, "why are we doing this at all," and encourages leaps forward, not incremental change. Re-engineering assumes the majority of process steps and structures are non-value added and encourages an organization to toss out everything and start over with a brand new picture.

  According to Wikipedia, Re-engineering starts with a high-level assessment of the organization's mission, strategic goals, and customer needs. Basic questions are asked, such as:
  - Does our mission need to be redefined?
  - Are our strategic goals aligned with our mission?
  - Who are our customers?

  An organization may find that it is operating on questionable assumptions, particularly in terms of the wants and needs of its customers. Only after the organization rethinks what it should be doing, should it go on to decide how best to do it.

- **LEAN,** made popular by Toyota, focuses primarily on the reduction of waste to improve value to the customer. Muda waste is a Japanese term meaning "an effort that is unproductive." The seven wastes include transportation, inventory, motion, waiting, over-processing, overproduction and defect-rework or rescheduling. LEAN is founded on the belief that waste can be eliminated and asks the question, "does the process step provide value from the client perspective?"

  One important LEAN tool is the development of a value stream map. A value stream focuses on identifying value from the client standpoint (pull production) versus the organization's point of view (push production) and identifies ways to seek perfection. Value is defined by what the client is willing to pay.

- **SIX SIGMA** is based upon work by Shewhart and Deming (post WWII Japan), further developed by Motorola in 1980's and made popular by Jack Welsh at GE in 1995. Six Sigma focuses on improving the quality of processes by identification and removal of the cause of defects and reduction of variability. Six Sigma goals towards 99.99966% of the products manufactured to be statistically free of defects (3.4 defects per million).

  Six Sigma follows Demming's Plan-Do-Check-Act Cycle. Or DMAIC ("duh-may-ick"), which has the following phases:
  - Define problem, voice of customer, and project goals,
  - Measure key aspects of current process. Collect data,
  - Analyze data to understand and verify cause – effect relationships. Seek out root causes of defect,
  - Improve/optimize current process. Set up pilots, and
  - Control future state. Make sure future state deviations are corrected before they result in defects. Monitor.

- **Friction>Less**^{TM} identifies ways to improve the flow or movement of information between clients and the firm, internally, and with vendors to improve firm revenue, reduce expenses, and increase compliance. Signs of friction include lost sales, complaints on social media, wasted customer and organization time, lack of coordination between departments, problems created that shouldn't have happened in the first place, lower profitability, and regulatory/legal penalties. Steps to reduce friction include:
  - Find where friction exists, beginning with an inventory of processes and current automation,
  - Rank friction in terms of how it impacts client revenue, loyalty, service, feedback; and internal quality and efficiency,
  - Identify frictionless goals, timelines, and roadmap,
  - Change the way people work within the firm by identifying procedural changes to reduce friction,
  - Technology identification and vendor assessment, including required changes to currently owned systems, to reduce friction,
  - Implementation oversight to help ensure procedural and technology changes will meet frictionless goals, and timelines,
  - Ongoing review of measurements, and
  - Needed follow-up, as requested.

The process improvement methodology selected should be based on process improvement goals. For example, if:

    a. ongoing incremental change is needed consider CPI,

    b. the process is complicated with numerous process and computer interdependencies, examine BPM,

    c. a dramatic level of change is required, look at a Re-engineering,

    d. process waste is troubling, evaluate LEAN,

    e. process defects are the issue, Six Sigma may be the choice, or

    f. client service needs to be improved, Friction>Less may be the answer.

As mentioned, it is not uncommon to use one or a mixture of different process improvement methodologies to resolve a problem. Sometimes a specific method is an answer, and other times a combination of tools from different methodologies works best.

4. **To contain the cost of process improvement and maximize results** during the improvement effort, it is important to focus:

    a. first on procedural changes to realign, clean up, and improve the process;

    b. next on better utilization of currently owned technologies to increase automation of the process; and

    c. then as required, selection/deployment of new technologies to further improve the process. Note: Although sometimes the only way to achieve required results will be new innovative technologies, it is important to combine this with step a. so as to not automate errors or issues in the current process.

5. **Ensure results by establishing accountability and measure results.**