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Talent Analytics in Law Firms: It Pays to Be a Winner

Caren Stacy and Steve Gibson

While the beaches of Coronado, California where the Navy builds its elite SEAL¹ special operators couldn't be farther from the shining towers of Big Law, there are surprising and significant parallels. It's an extremely demanding regimen, and less than 20% make it through. Critical work is performed in small groups, and wins and losses are heavily dependent on group performance. The physical demands are substantial, but it's the mental side that routinely defines success or failure. The outcomes are often a matter of life and death. (And, although no one typically dies because of botched legal work, companies do fail and livelihoods are frequently crushed in the ruins.) Because the work is high stakes, the pressure on selection and training is extreme. And this is where the Navy SEAL and law firm parallels start to break down.

SEALs optimize on both timing and rigor in the selection process. They place the bulk of the selection pressure very early in the process of creating seasoned warriors, with the vast majority of both voluntary and involuntary de-selection occurring in a matter of weeks. Law firms, by contrast, push the bulk of their selection over the course of several expensive years of associate training and development that can stretch beyond a decade prior to partnership. The Navy's rigorous and

¹ SEALs, an acronym for Sea, Air, and Land, are members of a Navy Special Warfare unit trained in unconventional warfare .

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robust hiring techniques start with a clear understanding of what it takes to be successful. They then use tools such as personality assessments, structured interview processes, and assessment centers to predict high and low performance during the selection phase. These performance predictors weed out the unlikely candidates from the start so that the intensive training can be focused on those who have true potential. As the SEAL motto goes, *"It pays to be a winner."* Only an elite few make it in.

Although we clearly know that "winners" in law firms add substantial value to clients and the firm's bottom line, we continue with age-old selection traditions that have been only mildly effective. Law firms' funnel approach to hiring starts with a busload of entry-level associates and weeds through the group for over a decade until the elite few make it into the partnership ranks. From a historical perspective, the talent selection and management process at most law firms has changed little in the last forty-plus years. Paper has been replaced with electronic copies, but the same resume screening process generates the same on-campus interview lists. Hiring decisions are ultimately based on the same series of 30-minute one-on-one interviews. Associate

attrition remains high. And highly subjective criteria like being a "go-getter" mask both conscious and unconscious bias in hiring decisions.

In an era when AmLaw 200 revenues, in the aggregate, are flat to down, how can this be? With well-developed selection tools that are validated in other professional service firms and *applicable to the law firm environment*, why haven't firms – more firms – begun to utilize talent analytics and evidence-based hiring and selection processes? The answer is that an increasing number are, for good reason. Narrowing the traditionally large hiring funnel through more thorough and effective selection allows the firm to focus more intently on the integration, development, retention, and promotion of the elite few who make it in. So, what are talent analytics, and how are they being employed in professional service firms, corporations, and law firms?

Use of Talent Analytics in Hiring and Development

Talent analytics take the guesswork out of managing lawyers by leveraging data to improve the firm's ability to identify, select, develop, retain, and promote high performers. This evidence-based approach turns subjective talent management decisions into objective measures that link to business strategies and performance. The goal is to create a competitive advantage for the firm by boosting the level of talent – all for the benefit of the firm's clients and, ultimately, the firm's bottom line.

At the firm level, there are five critical – and integrated – questions that can be answered using talent analytics. Each question is critical because, absent an answer to any one of the five, the hiring process will have random or even potentially counter-productive outcomes. And, just as important, the questions are intrinsically linked and should be viewed as an integrated

toolset to diagnose and improve a firm's talent management efforts.

- 1) What are the behavioral and biographical attributes ("success factors") of successful lawyers at *our* firm?
- 2) How do we attract a large volume of candidates with these key success factors?
- 3) Whom do we interview and, ultimately, who should receive an offer?
- 4) How do we utilize what we learned in the recruitment/selection process to effectively integrate, engage, and manage lawyer performance?
- 5) How do we accurately measure our talent management outcomes and ROI?

Luckily, corporations and other professional services firms have been using and validating talent analytics to answer these questions for decades so we don't have to re-invent the wheel. The following is a real-world look at what most business-minded corporations already know about talent analytics and a handful of law firms have begun to realize.

Defining Organizational Success

Arguably the most important, and yet most frequently un-answered, of the five questions is "what are the unique success factors at our particular firm?" The harsh reality is that most firms recruit as if new associates are fungible from firm to firm, using similar, timeworn, and resume-based preferences for high GPAs at top-ranked schools. The resulting paper chase has contributed to higher associate salaries and a fierce war for talent.

Before we delve into the mechanics of determining a firm's unique success factors, allow us to return to the military analogy to illustrate a key concept: success is firm specific. In law, you simply must have both the analytical capacity and the drive and determination to do the hard work the profession requires no matter the law firm for which you work. In special operations,

likewise, a minimum level of physical capabilities and controlled aggression is required. Yet the personality profile of a Green Beret, tasked with working for extended periods of time "with, along, and through" local populations in remote areas, is sharply different from Navy SEALs, who are primarily tasked with quickly getting in and out of whatever situation they are assigned.

Law firms, too, are different and require different skill sets from their lawyers. In many law firms, for example, "teamwork" is as ubiquitous as it is undefined. Does it mean the ability to put together the appropriate team of experts for the case or client at hand, regardless of interpersonal skills? Or does it mean collaboration, the ability to play well in the firm's sandbox of partners, associates, and clients? Different answers should lead a firm to recruit lawyers who, while competent, have the right set of skills needed to complement their specific definition of success factors such as teamwork.

A firm's distinct profile of success, including both the biographical and behavioral attributes, can be studied objectively using talent analytics.

Biographical Attributes

Much like the movie and book of the same name, where statistical analyses were used to identify traits that were over or undervalued in the market, Moneyball analysis for law firms asks which pre-hire attributes are positive or negative predictors of performance at the firm. "Pre-hire" because the attributes are drawn from a list of over 40 biographical factors that can be found on the candidate's resume and transcript. And "positive or negative predictors" because finding out what is *negatively* correlated with success is how C-players are excluded. (Point of fact, the Moneyball analysis is actually two analyses combined, one for the probability of being an A-player and the other for the probability of being a C-player.)

The results of the Moneyball analyses performed to date have been surprising. There are firms where variations on the traditional notions of what predicts a good lawyer actually hold true. If a lawyer graduated at the top of his or her law school class, has pre-law work experience, and speaks a foreign language, he or she will probably do quite well (*at that particular firm*). There are other firms where particular myths are completely busted. Blue-collar work experience? A plus. What about law review and clerkships? Actually a minus. And so on. Each firm truly is unique.

Behavioral Attributes

Once at a firm, lawyers are judged by their technical expertise and behaviors. These behaviors (*e.g.*, interpersonal skills, communications, teamwork, initiative) often contribute to – or detract from – the firm’s defined culture. They are also the behaviors that often make or break client relationships. And they can be identified with a meaningful degree of analytic rigor.

(1) Survey

Using what is known in social sciences as mixed-methods research, a structured survey can be crafted and completed by the firm’s partners to rank the traits most critical to success at that firm. Starting with a general list of several dozen attributes that the firm’s partners identify as vital to success (*e.g.*, teamwork, analytical thinking, client focus), the survey helps to pinpoint the top dozen or so that float to the top, along with anecdotal descriptions of the behaviors that are in short supply.

(2) Codify

Through a series of focus groups and critical incident interviews with the firm’s high performers, the specific and identifiable behaviors associated with each attribute can be recognized. Observable behaviors, not conjecture or

aspiration (or even simple delusion), are the linchpin of defining success.

(3) Assess

By administering online personality assessments to a representative sampling of the firm’s high/low performers, the firm is able to explore and benchmark the most critical success factors by practice group, office, and experience level.

The result is a set of values, traits, and behaviors, such as the sample at the top of page 5, which articulates success in the firm’s own terms. Particularly within the flat law firm hierarchy, the partners must be allowed to weigh in before they will buy in. To an outsider, the specific words used to describe success may appear generic, but to an insider who sees his or own words included on the profile, it means the difference between something that expresses the firm’s reality and just another sheet of expensive paper from “those consultants.”

The success profiles generated from the biographical inventory and behavioral assessment can provide keen new insights into the firm’s selection and integration efforts, respectively. But the outcomes derived from the multi-step behavioral analysis do not end there. It also gives the firm the ability to understand, by level of experience, what it takes to be successful so that the firm can effectively develop and promote lawyers into higher ranks at the firm, specifically partnership.

Critical skills clearly change as a new associate becomes a senior associate, and as a senior associate approaches partnership. As research from Lawyer Metrics confirms below, in the second example on page 5, core competencies such as communication and initiative remain constant for success through a lawyer’s career, while other behaviors emerge and/or fade as seniority increases, and leadership demands grow.

Success Factors Profile Example

Shared Values

Integrity – commitment to professionalism and the ethical practice of law; a belief that clients are attracted to lawyers who live by strong principles and ideals

Drive for Excellence – a relentless drive and ambition for professional excellence, both individually and for the Firm

True Partnership Ethos – a belief that a satisfying and prosperous legal career is a by-product of serving our clients and advancing the best interests of the Firm

Behaviors / Service Delivery

Initiative – takes a proactive approach and goes above and beyond to serve clients, improve the workplace for colleagues, and raise the reputation and profile of the Firm.

Responsiveness – demonstrates a sense of urgency and quickly responds to internal and external client needs, and concerns to show clients they are highly valued

Interpersonal Skills – pays attention to peoples' emotions and non-verbal messages and reacts in a manner that builds rapport and inspires trust and confidence

Perseverance – demonstrates tenacious attitude in high pressure situations ; persists until work is complete

Teamwork – an eagerness to lead, follow, coach or collaborate with one another to deliver high quality, cost-effective service to our clients

Adaptability -- reads others' motives and perspectives in order to adjust work product and work style to the needs and expectations of clients, co-workers, and supervisors.

Professional /Technical Skills

Client Orientation – mental discipline to continuously focus on the best interests of our clients

Business Perspective – ability to grasp the business dimensions of our client's legal problems

Business Development – the ability and discipline to grow and develop business opportunities for the Firm

Technical/Analytical Skills – mental discipline to continuously hone one's expertise and apply it to concrete problems; lifetime learner

Problem Solving – objectivity to identify root causes of problems (internal and external to Firm); creativity to formulate cost-effective solutions

Communication – ability to organize and simplify complex ideas orally and in writing; capacity to select the most effective method of communication; ability to convey understanding through active listening

Self-Management – ability to effectively manage internal and external demands on one's time toward goal of long-term results

Lawyer Metrics, Better Lawyers Faster © 2012

High Performing Lawyer Profile*

Associates –

- Initiative
- Oral Communications
- Confidence

-
- Analytical Thinking
 - Learning Orientation
 - Quality Focus

Partners –

- Initiative
- Oral Communications
- Confidence

-
- Business Awareness
 - Decision Making
 - Innovation
 - Problem Solving
 - Customer Focus

-
- Achievement Orientation

*AmLaw 200 Firm Research, conducted by Lawyer Metrics © 2012

In sum, the completion of a rigorous and analytically based organizational success profile provides the firm with a 3-D picture of its most successful attorneys: what they value, how they behave, and what skills they exhibit in particular abundance.

For many firms, there's concrete value in that information alone, as it reinforces the aspects of the partnership that make it unique and provides a shared basis for making important personnel decisions. For most, though, the value comes from the concrete and consistent foundation on which to build the firm's talent management lifecycle, from recruiting and selection through development and advancement.

"What about my practice? My office? We're different from the rest of the firm."

In our experience with over two dozen clients across the country and from AmLaw 50 to AmLaw 200, the issue always arises that the "litigation team" or the "New York office" are somehow different from the "rest of the firm."

While not denying that intra-firm differences can and do exist, those differences tend to be at the margin – specific attributes ranking 5th instead of 1st, for example, even as the overall list of key attributes changes very little. Or, in tightly focused practices such as patent litigation or tax, the domain knowledge needs of clients overwhelm the typical dominance of firm culture for success.

The Role of "Core Competencies"

There are, of course, similarities between the organizational success profile, described above, and the Core Competencies many firms have defined. Their intent, in particular, is the same. Yet for many firms, the differences in how the factors were defined abnegate their effectiveness. We

evaluate competency models, in part, using the following three questions.

- 1) Was the model determined in a manner that does not incur EEO risk? Too often, a small committee of (white, 50-something, male) partners determines what defines success for the firm.
- 2) Does the partnership, and do the associates, buy in to the framework? If not reflective of a firm's existing culture, competencies can remain aspirational. Or worse, ignored.
- 3) Are the competencies identified correct? Unless grounded in data, a firm's competencies will be only as good as the presumed prescience of those who created them.

The Practical Application of Talent Analytics

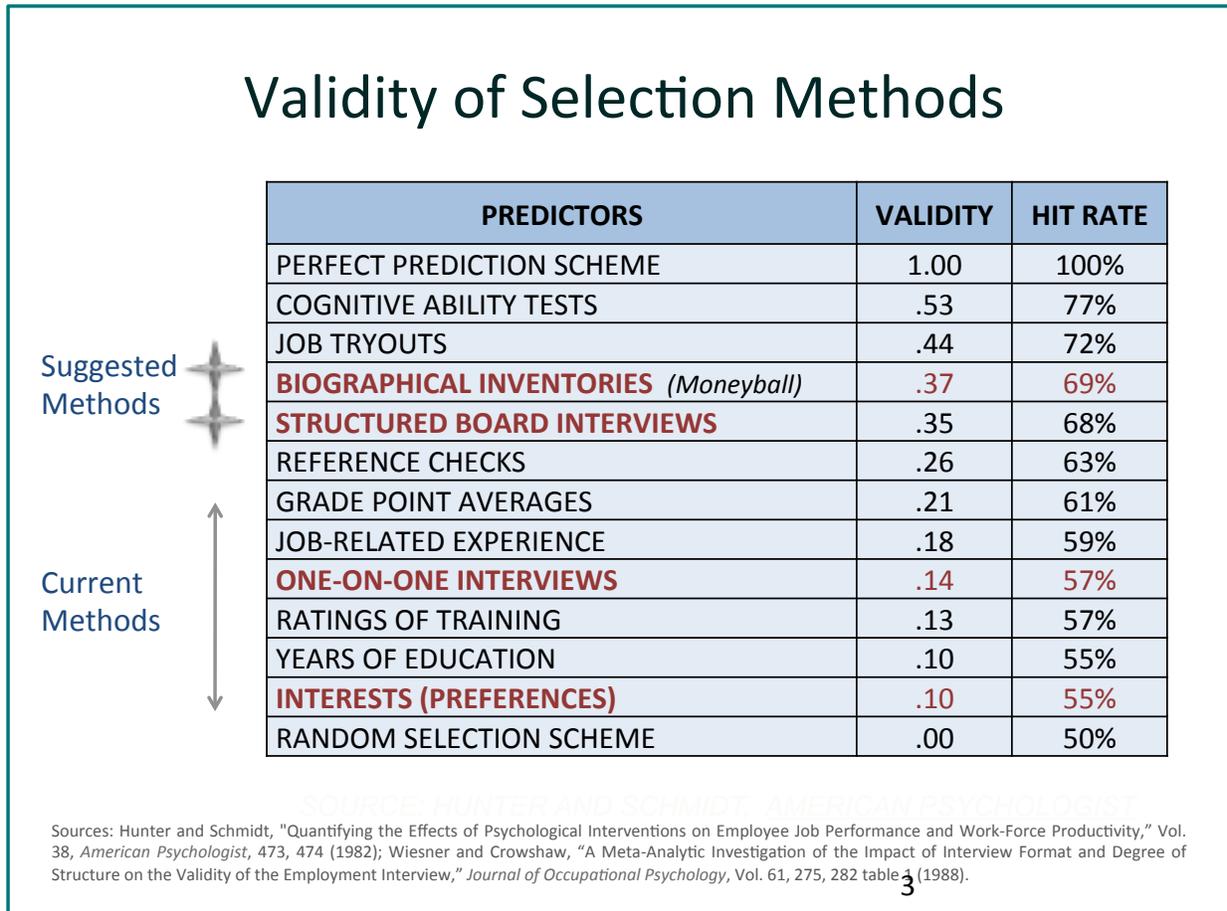
Simply put, the more information a firm has about the lawyers who are successful, the better it can hire more of them. In a world where client work is down and profits per partner are pushing seven figures, the imperative to find more A-players and hire fewer C-players is increasing. Retention only complicates the challenge. A-players who leave create massive holes in client and industry teams. C-players who don't can be harmful to the firm. Armed with a full-drawn profile of success, evidence-based hiring provides proven tools to improve a firm's A-to-C player ratio, cloning more of the successful ones, and avoiding those who should never have been hired.

The first two, Moneyball Analysis and Structured Panel Interviews (SPI), draw their strength from the relative weakness of traditional hiring methods. As illustrated in the table below, the traditional one-on-one interview is only slightly more valid than flipping a coin or using common interests like basketball as a predictor of success.

This is an extremely important point: The research shows that simply asking a candidate if he or she

likes <insert your own favorite sports team here> is comparable in its predictive power to the one-on-one interviews that law firms almost exclusively use to make multi-million dollar hiring decisions.

Moneyball analyses and structured interviews, by contrast, have nearly three times the validity of a one-on-one interview.



Pre-Screening: Moneyball Analysis

The result of a Moneyball Analysis is a success profile of the biographical attributes that positively, neutrally, and negatively predict success. Candidates' resumes and transcripts are then analyzed against the biographical success profile, and a score – also called a predictive index – is estimated for each candidate. The higher the index, the more likely they are to be an A-player and the less likely they are to be a C-player. The candidates' predictive indices can be used to (a) pre-populate OCI schedules, (b) make hard decisions about whom to call back after the OCI interview, and, ultimately, (c) determine who should receive a summer associate offer.

Selection: Structured Panel Interviews

Another tool that has been well validated in social science research, the structured panel interview (SPI), has three main aspects, including:

- A 60-minute interview with four trained interviewers per candidate;
- Competency-based behavioral questions and scorecards; and
- A consensus decision-making process.

SPI's effectiveness stems from the fact that past behavior is the best predictor of future performance. The questions, as a result, seek to tease out relevant behaviors from candidates, and follow the general form of

“tell me about a time when...” followed by “what did you do,” and “what were the

results.”

SPI Sample Questions

Initiative – Learning Capacity/Orientation

An assessment of the candidate’s (a) approach to learning new and more complex concepts, processes, and material matters; (b) ability and interest in teaching others; and the (c) preferred method of self-learning and teaching others.

Questions:

- 1) When you started a new project or activity, how did you learn it? Give us a specific example to show us how this worked.
- 2) When you’ve had the opportunity to train someone, what process did you use? Again, please give us a specific example.
- 3) What outside hobbies or interests do you have? How did you get involved in them? Tell us how you learned about the hobby or interest that is most complex.

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The questions are asked in a tightly controlled – but not scripted – conversation that flows sequentially from each panelist to the next. In essence, a panel interview is a series of one-on-one conversations, with an audience of three other panelists. The multiple interviewers offer two main benefits: (1) interviewers stay on task because of the discipline imposed by having others in the room; and (2) they simultaneously see and hear the candidates’ responses, thus allowing them to score the candidate using a reliable, evidence-based process. This approach removes the “we know it when we see it” subjective dimension and replaces it with a common standard by which all candidates are evaluated.

When the interview process has concluded, the interviewers score the candidate on each competency using a behaviorally anchored scale, such as the one below. The interviewers then *work together* to give the candidate an overall score. The consensus, rather than a simple average or vote, is key. It’s why there are optimally four panelists, not three, so there’s no tie-breaking vote. And the behavioral anchors force the panelists to discuss the evidence provided by the candidate, which serves to neutralize any power-based influence a particular panelist may have.

SPI Scorecard Example

| Initiative – Learning Capacity/Orientation | | | | | | | | |
|---|---|---|--|---|---|--|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| Skill and knowledge acquisition has been almost passive. May have responded reasonably well to training efforts upon demand, but has rarely gone out of his/her way to read, observe, or practice. Has little training experience. | | | Skill and knowledge acquisition has been neither active nor passive. Has shown ability to acquire necessary information when required, but has not demonstrated a great deal of personal initiative in doing so. Has some training experience. | | | Skill and knowledge acquisition has been active. When knowledge and skills are lacking, candidate has taken the initiative to learn prior to the move or upon being moved to areas of new responsibilities. Has extensive training experience. | | |
| What Factors Count: <ul style="list-style-type: none"> • Desire to learn • Proactive approach to learning • Interest in being trained • Interest in training others • Capacity for growth | | | <ul style="list-style-type: none"> • Attends training • Seeks out experienced, informal mentoring • Takes the opportunity to mentor and develop others • Values learning as a part of ongoing career growth • Learns new technical and lawyering skills • Reads legal-related materials and trade articles | | | | | |

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But don't mistake the structured panel interview for the currently fashionable "behavioral interview." As discussed above, competencies can vary greatly from firm to firm. It's the behaviors that highlight those competencies that matter. Absent precise, firm-specific behavioral anchors, such questions are no more than a slight improvement over traditional conversational interview techniques. The scorecard is the cornerstone of the process – not the questions. Without an objective standard by which the answers to the questions are judged, the interviewers are back to the same traditional subjective, opinion-based process. More significantly, only with the combination of a panel and a behaviorally anchored scorecard can the process reduce or eliminate both conscious and unconscious bias.

Finally, through the process of conducting panel interviews together around a shared set of values and competencies, many firms have found a strengthening of their culture that has benefits well beyond the interview season. The strong parallel to elite military units is seen here as well, as the training and selection cadres are drawn from active members of the teams. They take their job seriously, as they soon will be working "in the trenches" alongside the individuals they select.

Panel interviews, which require both more partners and more time from those partners than traditional methods – not to mention more training – is a commitment not to be taken lightly. But, for those firms with a true commitment to improving their hiring, panel interviews provide a tool for lasting and deep change.

Stepford Associates?

By using words like “clone” and “more of these people” we risk leaving the impression that firms should – and can more effectively – become more and more homogeneous using evidence-based methods. The truth is just the opposite.

Research shows that one-on-one interviewers tend to like people who are more like themselves. It’s not a mistake that sophisticated career services offices and legal recruiters coach their applicants to mirror their interviewer’s behaviors, tone, and gestures. It works.

Evidence-based tools, by contrast, focus not on what the person looks like, or how they act in an interview, but on their biographical history and what their professional behaviors *have been in real life*.

The result? Increased consistency in the work behaviors of the candidates, matched generally by increases in the opportunities for traditionally under-valued candidates to show their true fit and potential for success.

Selection, Integration & Development

The same online assessment tools used to determine the firm’s success factors are also sometimes used in the selection process.² Such tests, most anchored by the “Big Five” personality traits (openness, conscientiousness, extraversion, agreeableness, and emotional stability), assess an individual’s basic, and generally stable, tendencies.

The candidate’s results, which are focused on work-related traits and motivations, are compared to the firm’s current high performers and provide the hiring committee

² See, for example, Robert Hogan, *et al*, *Handbook of Personality Psychology*. 1997, Gulf Professional Publishing. See also Wikipedia at http://en.wikipedia.org/wiki/Big_Five_personality_traits.

an additional data point in the selection process. They are also the perfect start to the lawyer’s integration efforts. Catching a newly hired lawyer, suffused with motivation and a desire to succeed, is perhaps the most opportune time to encourage reflective practice. Coupled with a customized training program, the results can be profound for the firm and the lawyer alike.

Thank You, Teach for America

An understandable concern of many firms is the reaction of candidates to anything new or different. It’s the Above the Law effect.

While McKinsey and other consulting firms have long used more sophisticated assessment tools, it’s Teach for America that has truly brought them into the mainstream of Gen-XY consciousness. With an estimated 25% of elite undergrad seniors applying to TFA and gaining exposure to their process, the reactions of today’s law school graduates are rather ho-hum.

As a result, while *firms* may fear the reaction of applicants, the applicants themselves are, for the most part, unfazed. Indeed, in focus groups of recent law firm applicants conducted by Lawyer Metrics, there has been a fairly positive impression of firms that invest more heavily in hiring practices that seem more rigorous and robust.

What About Laterals?

As the trend towards increased lateral hiring continues, forward-thinking firms are increasing their own efforts to improve this frequently ad-hoc process. Conceptually (and logically), the reasons for using talent analytics for lateral hiring is the same as it is for summer associates.

In reality, the case is even stronger.

To begin, a more structured interview process, driven by a firm's unique needs, is a superior choice in validating key factual data regarding a candidate's mastery of the skills necessary for senior associate/partner-level work. Simply put, there's a vast difference between running a trial team and sitting 37th chair on a complex case. Traditional interview methods are consistently, even horrifyingly, ineffective at uncovering the difference.

Less tangibly, as a junior associate transitions to mid-level, and towards senior status and the partnership decision, the nuances of behavior and the need for a strategic view increase. Teamwork or team-building? Ambition or collegiality? Or both? And so on. Being a partner requires much more than the pleasing behaviors that define success for an early-career associate. Data-driven tools can provide insights at both the front end and back end of the selection process.

The Value of Being a Winner

The fact is that each of these tools, whether undertaken by the firm independently or working with an outside expert, takes time and effort. But the rewards are huge. If firms spent more time on the front end of the talent management process hiring the lawyers best suited for the firm and its clients, it would significantly reduce the problems – including high attrition – firms face on the back end. Talent analytics allow a firm to leverage their own lawyers' data to make better hiring, development, and promotion decisions. A few of the results realized include:

- **Organizational Success Study** – Drives all aspects of talent management, including selection, development, evaluations, and promotions and provides a roadmap for the firm's lawyers. This focuses talent management efforts and reduces wasted resources and lawyer time.
- **Moneyball Analysis** – When results are used to screen resumes and select OCI and/or callback candidates, it can reduce the number of C-players during the resume screening process by 60-75% and increases A/B-players by 10-33%. It also helps reduce callback expenses and time spent conducting interviews.
- **Structured Panel Interviews** – Add rigor and structure to the traditional process to reduce mismatches, decrease bias, and identify A and B+ players. More tangibly, it can reduce C-players during callbacks by approximately 30%.
- **Personality Assessments** – Validate Structured Panel Interview results and assist in the integration and development of associates to accelerate learning related to the firm's competencies. While mostly used for integration and training, if used for selection, the personality assessment results³ can reduce C-players by 50-70% when paired with Structured Interviews.

Significantly, the use of an evidence-based approach itself can be measured. Best practice requires no less, as tools such as Moneyball analysis improve with each successive set of biographical and performance data. Even the time and mental energy that underperforming associates drain from a firm's partners can be quantified and reduced through evidence-based practices.

Pop Quiz

Ask a senior partner in a firm, any firm, if the 80/20 rule applies to the ratio of time they spend with problem-children versus star associates. In this instance, firms are universally, unequivocally, and unendingly similar.

³ While some personality assessments present legal and/or ethical objections, a wide variety of instruments has been validated for use in making personnel decisions. Some firms opt, for a variety of reasons, to focus the use of assessments solely on integration and development.

In this instance, our preliminary research suggests that, if anything, firms dramatically *underestimate* the true difference in bottom-line contributions made by A-players relative to their C-player resume-twins. It goes well beyond the \$135,000 to \$250,000 in direct and indirect hiring/replacement costs and to the potentially dramatic, year-after-year differences in the profitability of associates.

From an investment perspective, firms that make the cultural and financial commitment to evidence-based approaches should measure both the short-term (Are the

predictions holding true? How can the models be tweaked to improve their accuracy?) and long-term (Relative to historical benchmarks, is lawyer performance trending up over time?) results. The sophistication and effectiveness of the methods used to identify, recruit, select, and train Navy SEALs have changed dramatically since the first teams were formed during the Viet Nam War. The special operations command realizes that, as their tools improve, their results will improve as well. Law firms would benefit from the realization. After all, it pays to be a winner.



Caren Ulrich Stacy, President & Principal, Lawyer Metrics LLC. Caren has 20 years of experience in lawyer recruitment, development, and diversity with law firms across the country, including Arnold & Porter, Cooley, Weil Gotshal & Manges, McGuireWoods, and Jenkins & Gilchrist. As a noted expert in the field of lawyer selection and development, Caren was awarded the National Association of Legal Professionals (NALP) Mark of Distinction for Professional Development and Training in 2009 as a result of her vision, leadership and innovation. She was also elected as a Fellow of the College of Law Practice Management in 2010 – an honor awarded to fewer than 200 individuals in the country.

Caren has contributed to over 175 presentations and publications on legal talent management and authored two highly-regarded books, including *Loyalty by Design: Developing an Effective Attorney Integration Program* (2005) and her newest book, *The Talent Trifecta: Effectively Selecting, Developing, and Managing Your Lawyers for the Benefit of Your Clients* (published in late 2012).

In addition to her leadership roles as chair of NITA's Law Firm Advisory Committee and the Executive Council for the Virginia Bar Association Law Practice Management Division, Caren is an adjunct professor for the Denver University Sturm College of Law Masters of Science in Legal Administration Program. She has also served as chair and vice-chair of the NALP Attorney Development Committee, two terms on the board of directors for the Professional Development Consortium and as co-chair of The American Lawyer Chief Recruitment, Professional Development and Diversity Officers Conference.



Steve Gibson, Director of Operations, Lawyer Metrics LLC. After graduating from Princeton University with a degree in economics, Steve began his career as a research assistant for Alan Greenspan and as an Associate Economist at Bear, Stearns. He has over two decades of experience in the design, use, and communication of quantitative measures. After leaving Wall Street, he served as the Executive Director of a technology and policy-focused think tank and held senior operating roles at Maxager Technology and other start-up analytic technology firms. He was also the Chief Operating Officer for the National Institute for Trial Advocacy, the nation's oldest and largest provider of experiential education for lawyers.

Steve has been quoted in national publications including *The Wall Street Journal* and *Business Week*, and has spoken and written on topics including Managing Change in Continuing Legal Education, Making Tough Staff Decisions, and Measuring Results of CLE. He was editor and a contributing author of NITA's whitepaper, "The Future of Legal Education."

Summer in Seattle: Yet Another Reason to Attend the PDC Conference

Grover E. Cleveland

As if learning and networking were not enough reason to come to the next PDC conference in July, it is also the perfect time to be in Seattle. While the rest of the country is sweltering, the temperature in Seattle should be in the mid-seventies, with no humidity and a light breeze. The city is surrounded by water and mountains; and, when the clouds part for our two months of nice weather, Seattle is simply spectacular. In the evenings and on the water, it can be chilly, so bring a light jacket.

Having lived in Seattle for 20 years, here are my insights to help you make the most of your visit.

Food

Seattle is a foodie town, and you can have some incredibly memorable meals. For seafood, salmon and halibut are the best choices; and my favorite seafood restaurant is **Etta's** in the Pike Place Market. It's one of celebrity chef Tom Douglas' restaurants. **Serious Pie** (gourmet pizza) and **Palace Kitchen** (grilled meat) are two of my other favorites, but all of his restaurants are a good bet. (www.tomdouglas.com)

Flying Fish (www.flyingfishrestaurant.com) in South Lake Union is another great choice for seafood. The preparations are interesting, and it's reasonably priced. If you want to eat your seafood on the water, try **Anthony's** (www.anthonys.com) or **Aqua by El Gaucho** (www.elgaucho.com). Aqua is gorgeous, and the food is superb, but very pricey.

Il Terrazzo Carmine (www.ilterrazzocarmine.com) is a hidden gem in **Pioneer Square** with excellent Italian food. Although the King Street transit

station is four blocks away, the restaurant entrance is not obvious, so you may want to take a taxi.

If I could eat only one meal in Seattle, I would go to either **Wild Ginger** (Asian fusion) (www.wildginger.net) or **Sky City**, the revolving restaurant at the **Space Needle** at **Seattle Center** (www.spaceneedle.com). At Wild Ginger, at least one person at the table should try the duck.

The food and service at Sky City are top notch; and, considering that dinner includes a free ride to the top, entrée prices are comparable to what you would find on the ground. For dinner, make a reservation far in advance, and schedule your visit so that you are seated in time to watch the sun setting behind the mountains. On weekends, brunch is over the top. There is no separate bar at the Space Needle, so your choices are a meal or the observation deck. Take the monorail (built for the World's Fair in 1962) from Westlake Center, which is less than a block from the Westin.

Sights

If you ride the monorail (as distinguished from light rail which goes underground), you will pass through – yes, through – **Experience Music Project**, the multi-colored, uniquely-shaped rock and roll museum that was the brainchild of Microsoft co-founder Paul Allen. Particularly if you like music, EMP is worth a visit. There is nothing else like it. (www.empmuseum.org)

To get your bearings, you may want to take one of **Gray Line's** open-top double-decker bus tours. The **Duck Tours** are also popular, because they can go on the water, but for that privilege you have to put up with

singing, bad jokes, and noisemakers. The **Argosy Cruises** and the **Washington State Ferries** are better options for sightseeing on the water.

Take the ferry from the Seattle waterfront to **Bainbridge Island**. The Seattle skyline is spectacular from the ferry, particularly at dusk. Exploring the island itself is best done by car, and if you like gardens make the jaunt to the 150-acre **Bloedel Reserve** that began as the estate of a timber company executive. (www.bloedelreserve.org)

The **Pike Place Market** is charming and is home to the first **Starbucks** store. If you visit, you can see the original Starbucks logo, which has since been made more modest.

You will probably want to be outdoors for much of your visit, and the **Olympic Sculpture Park** on the water just north of the **Pike Place Market** is a must if you like sculpture. The most interesting “sculpture” is part of a huge tree from Washington’s rainforest.

The **Seattle Asian Art Museum** in **Volunteer Park** on **Capitol Hill** (about two miles from downtown) has an outstanding collection. There is a small conservatory near the Asian Art Museum that is worth a visit if you are already in Volunteer Park. Art buffs should also visit the recently expanded main **Seattle Art Museum** located downtown. Information on the main museum, the sculpture park, and the Asian art museum is available at www.seattleartmuseum.org.

Fremont (www.fremont.com) is a funky, quintessentially Seattle neighborhood with off-beat shops, a rocket that shoots smoke when you insert a quarter, and a huge sculpture of Lenin. Take a taxi.

Shopping

If you are planning to go to Portland during your visit to the Northwest, save your

shopping for that part of the trip. There is no sales tax in Oregon.

Seattle-based **Nordstrom** has its flagship store downtown, but stop first at its outlet, **The Nordstrom Rack**, located in brand-new digs at **Westlake Center**, less than a block from the Westin. Nordstrom started as a shoe store in 1901, and the array of footwear at both stores is vast.

Although based in Portland, **Nike** has a huge store in downtown Seattle; and there is lots of other shopping downtown, including all of the stores that also exist everywhere else.

Seattle-based **REI** has its flagship store just outside downtown in South Lake Union. In addition to everything imaginable for recreating outdoors, the store is complete with an outdoor waterfall and an indoor climbing wall.

The Elliott Bay Book Company (www.elliottbaybook.com) is a huge independent bookstore on Capitol Hill that competes valiantly with Seattle’s other large bookseller, Amazon.com.

Farther Afield

On a clear day, renting a convertible and driving around **Mt. Rainier** is magical. Plan on a whole day for the trip.

If you decide to stay in the Northwest more than a few days, consider taking the **Amtrak Cascades** (www.amtrakcascades.com) train south to **Portland, Oregon** or north to **Vancouver, B.C.** (If you go to B.C., you need your passport; both trips are approximately three hours.) The Amtrak Cascades trains are comfortable and new and have amenities such as Wi-Fi and food and beverages. To Vancouver, sit on the left side of the train. Vancouver is more urbane and is in a spectacular setting on the water with the mountains close in; Portland is more granola and has great food and tax-free shopping. In Portland, do whatever you can to eat at the **Simpatica Dining Hall**

(www.simpaticacatering.com). Stay at **The Heathman Hotel** (www.heathmanhotel.com), which also has a great restaurant.

I hope these suggestions are useful. Have a wonderful time in the Northwest!



Grover E. Cleveland is a Seattle lawyer, speaker, and the author of *Swimming Lessons for Baby Sharks: The Essential Guide to Thriving as a New Lawyer* (West, 2010). He has spoken on career success for new lawyers at national conferences, law firms, and Harvard Law School. Readers are welcome to contact him at

www.swimminglessonsforbabysharks.com or on Twitter @babysharklaw.

Quote of the Quarter:

“In firms where [diversity] training is mandatory or emphasizes the threat of lawsuits, training actually has negative effects on management diversity. Psychological studies showing backlash in response to diversity training suggest a reason: managers respond negatively when they feel that someone is pointing a finger at them. Most managers are still white and male, so forced training focusing on the law may backfire.

“Unfortunately, among firms with training, about three-quarters make it mandatory and about three-quarters cover the dangers posed by lawsuits.”

-- Frank Dobbin et al., “Diversity Management in Corporate America.” (See pp. 23-24 for a summary of the report’s findings.)

In Memoriam: William Simon (1912-2011)

Gaye Mara

[Author's Note: William Simon, antitrust trial lawyer and founding partner of Howrey & Simon (later Howrey LLP), passed away on December 27, 2011, at the age of 99. In February 2012 I attended a memorial luncheon arranged by his family so that his grandchildren could hear about his professional life from those who had worked most closely with him. The following is adapted from remarks made by me and others at the luncheon.]

In a leadership class I took once, I was asked to name the three people in my life whom I most admired and to explain why I admired them. Bill Simon was one of the three; the other two were family. More than anyone else I have worked with, he taught me what it means to be a true professional.

I started work as Bill Simon's secretary in 1969 in Washington, DC, at what was then Howrey, Simon, Baker & Murchison (and I was then Gaye Walsh, newly-divorced mother of two toddlers). Of all my first days in a new job over my career, that is the one I most clearly remember because it so impressed me.

Teacher

My first impression of Bill Simon was as a teacher. He had thoroughly prepared for my arrival, just as he thoroughly prepared for everything. That first day he spent several hours teaching me everything I needed to know about how to work for him.

First he gave me a legal-sized sheet with key information on all his active cases. It was quite a lengthy list; there were perhaps two dozen cases on it. Next he went over the cases and his "rules" – how he wanted things done, in general and for individual cases.

He left on a trip that first week, but I never had any doubt about what I was supposed to do.

He taught everyone who worked for him. Later on, in the 1980s after I had moved into recruiting for the firm, a young associate

named Jim Gilliland was very highly thought of. (Last I heard, he was the managing partner of a West Coast firm.) A small case came in on which Simon needed the help of just one associate, and Jim was assigned to him. Together they wrapped up the case and a short trial in a few weeks. Jim told me afterward that he had learned more in that few weeks with Bill Simon than he learned in the rest of his three years at the firm.

Friend

My second experience of Bill Simon was as a friend. And I think that the secret of his strong and trusting relationships, and of the loyalty he engendered in all his clients and coworkers, was his great personal generosity, modesty, and integrity.

Speaking for myself, I found him extraordinarily considerate of my personal situation with two small children at home. Over the time I worked for him, he never called me at home and I only remember him once asking me to come in on a weekend. For much of that time he was in trial or otherwise under tremendous pressure, and it would have been easy to justify offloading some of that pressure to me. But he never did.

In 1970 he suffered the loss of a friend and protégé, the associate Paul d'Hedouville. Simon liked to devise unconventional legal arguments, and he said Paul would argue with him passionately about the best approach to take in a case. But once the approach was decided, Paul would pursue it

with total commitment whether he had agreed with it or not.

In December that year he and Paul were in Tucson together in a lengthy trial, and their hotel, the Pioneer, caught fire after they had turned in for the night. Paul died in the fire. Simon, who even then was not a young man, was able to escape through the window of his room by tying his bed sheets together and dropping onto the roof of an adjoining annex. He was very fortunate to survive, but he grieved for Paul. It was one of the few times I saw him truly distressed.

I left H&S in 1971 to marry Andy Mara, and Simon drove up from Washington for our wedding, which Andy and I put on ourselves at our new home north of Philadelphia. (I can see so many other busy lawyers doing the calculation: “X hours for the trip times Y dollars per hour lost; no beneficial contacts to meet. Nope, send my regrets and a nice gift.”) That day, I was rushing back with the food from the caterer – I had gotten lost and was late for my own wedding! – and saw him pulled off on the side of the road studying a map (remember, no GPS or MapQuest in those days). I honked and waved, and he followed me home. In our crowded living room he was perfectly gracious to our friends and family, including our two little girls.

A few years later we moved back to DC, and I went back to work for Bill Simon. H&S then offered me its first recruiting position, and Simon encouraged me to accept it as a good career opportunity. The initial setup was that I would continue working for him and recruiting would be my “second lawyer” – a combination that quickly proved impossible. I still remember him patiently standing at my desk that first fall, papers in hand, waiting for me to get off the phone so he could talk to me – the great Bill Simon waiting in line behind a law student! After that I moved into recruiting full time, and he got a new secretary.

He never participated in recruiting interviews, but he was interested in the

process. When I showed him our new on-campus schedule and literature, he commented, “This firm would never hire me. I graduated at the bottom of my class from a night law school.” I was disconcerted to think that the hiring standards we were so proud of would screen out future Bill Simons.

As you might guess from that remark, he was thoroughly unpretentious. But he could slyly prick the pretensions of others. One day he invited Andy and me for a drink after work. One of the junior partners at H&S who was especially full of himself spotted us and joined our table. At one point in the conversation Simon, eyes twinkling, mentioned this partner lived “somewhere out past the Beltway.” The partner, looking hurt, pleaded, “But, Bill, I live in *Kenwood*” (a posh, close-in suburban enclave). Andy had just taken a sip of his drink, and I thought he would strangle on it.

Consummate advocate

At the February luncheon, Simon’s former “junior” partners (most of them retired now) said that he never lost a jury trial. That is extraordinary considering that he was usually defending a mega-corporation accused of antitrust violations – hardly an object of sympathy.

From the experiences his partners shared and my own observations, I believe his success in court stemmed from a combination of exceptional skills and human qualities. Among them were:

Teaching and communication skills

He could boil any subject down to its essentials and communicate them clearly and memorably in plain English. If you can teach a jury of everyday people the essentials of a piece of complex antitrust litigation without boring or confusing them, you could probably teach anything to anyone.

His seemingly effortless delivery masked meticulous preparation. He parsed every word of his arguments and would spend hours refining and rehearsing them aloud, pacing back and forth behind the closed door of his office. (His final notes would be typed down the left half of a piece of letter-sized paper, which he would fold in half lengthwise, and then in half again horizontally so he could turn it over to read the lower half while keeping his notes as inconspicuous as possible.)

Integrity

His partners used to say that, “If it was the right thing to do, he did it.” He did not lie and did not allow a client to lie, but would make the best possible case for the client out of the facts and the law as they stood. As a result, both judges and juries, and even opposing counsel, learned to respect him and to trust his word.

Respectful treatment of others

He treated opponents and allies alike with impeccable courtesy. He did not bully witnesses, even though he might eviscerate a witness’s version of the facts. So juries never had reason to feel sorry for the witness, only reason to conclude that he or she was dishonest or ill informed.

Examination skills

An H&S paralegal told me that she digested Simon’s depositions differently from those of the other lawyers. She said that when he questioned a witness, he would get as many as 5 different topical threads going at the same time and switch back and forth among them. The witness would lose track, but Simon didn’t and would trip him up with something he had said earlier on the particular topic. So when she digested Simon’s depositions, she separated out the individual threads and followed each one to the end so the reader could see clearly what was happening.

A key skill that Simon taught his protégés was listening to the witness. He told them that many lawyers are so busy thinking of what they are going to say next, they don’t really listen to what the witness is saying and thereby lose golden opportunities.

Mastery of the facts, knowledge of the law, and skill at integrating the two

Bill Simon could absorb and make sense of a huge amount of information and do so very efficiently.

Because of the demands of his other cases, he often would not arrive at an H&S trial site until the eve of trial, after the rest of the team had set up the files and work areas. He would meet with the team over dinner, then retire to his hotel room with a glass of Jack Daniels and binders bulging with case files. In the morning, the team would meet for breakfast and find Simon asking a few pointed questions but otherwise fully prepared on the facts, the arguments, and the trial strategy.

Client Manager and Team Leader

As evidenced by that long list of his active cases on my first day, Simon kept a huge number of balls in the air all the time and seemed to thrive on it. There were clients both large and small on that list, and they all received his undivided attention whenever they needed him. The ones with which I remember regular contact are Shell Oil (which to me seemed to be a favorite; he also said that Shell made the best gasoline), Exxon, Heinz, Selection Trust, and Simplicity Pattern.

One of his rules was that a client was never to call him at the offices of another client. If the client’s issue couldn’t be referred to a junior H&S lawyer on the case, I was to get word to Simon wherever he was. Understand, there were no cell phones or email in those days, not even voice mail until the late 70’s; so to reach him during the day at a

client's office meant calling him through the client's phone system. Failing that I could leave a message at his hotel to call me the next day. Because we had to connect directly in real time in order to communicate anything complicated, whenever he was traveling or in trial he always found a way to maintain regular phone contact. Thinking back now, I can't see how he did that so seamlessly.

Another of his rules was never to bill the client for more than 8 hours in a day, no matter how many hours he actually worked (easily 16 during a trial). His partners said that in their billing conferences he always worried about overcharging and would cut out any charges he couldn't completely justify. I can imagine today's CFOs rolling their eyes about that one. But his clients had no question about the reasonableness of his bills or about his total commitment to their best interests.

He managed his own time and work extremely well and according to very strict standards, and he expected everyone who worked for him to do the same. (If you didn't, you only worked for him once.) He was glad to teach you what you needed to know, but once you were taught, he had no interest in being a micro-manager. That made it very satisfying to work for him: the level of trust he put in you and the sense that you were part of a select and superb team.

At the same time, you were never left to fumble around on your own. Just as with my first day, he always made sure we were all kept informed and were clear on what needed to be done.

There was one respect in which he was a bit of a dinosaur. After we started recruiting women associates, he told me once that he could never try a case with a woman. That surprised me, and I asked him why. He said that there was just too much pressure in a trial situation for him to observe all the necessary courtesies – carrying bags,

opening doors, pulling out chairs, and so forth.

Thinking back, I can see that he treated women differently from men. I certainly never felt that he lacked respect for my intelligence or opinion, but I realize now that I was pretty privileged in never being asked to work the kind of hours that the lawyers did and never hearing any blue language from him, which I think they used with each other all the time behind closed doors.

He was at the end of his career then, and young women were just starting to arrive at the firm, so working with them never became an issue. I think had it come up earlier he would have adapted, most likely at the behest of some able and proactive female associate who asked him for the opportunity to work for him and insisted that he treat her just as he would a man. I believe he would have responded to that. After all, "if it was the right thing to do, he did it."

Finally, no one who worked for him ever toiled in obscurity. He was very generous about integrating into his client relationships everyone who worked with him and about recognizing their contributions in front of clients. And because of the way he brought junior partners into those relationships and enlarged their roles over time, there wasn't a ripple in the firm's practice when he retired.

I thought of Bill Simon often last year, when the firm he founded and built into a litigation powerhouse was dissolving, almost 30 years after his retirement. I was glad to hear at the luncheon that he wasn't told about it. His health was failing at the time, and his family felt it would be better that he didn't know.

William Simon loved his work, and he loved people. He built a successful firm and helped others to build satisfying careers. All of us whose lives he touched remain extremely grateful to him.

Rest in peace, Bill Simon.



Editor's Note: This column highlights best practices and new approaches to common challenges of in-house training managers. We invite your comments and your suggestions for future articles. You can reach us at (302) 249-6229 or marag@profdev.com.

Competency-Based Reference Checks

Following last quarter's article about competency-based interviewing skills, let's talk this time about reference checks, a key next step in the selection process and another productive (though much less common) subject for training.

Reference checks are the best way to verify a candidate's account of his/her past performance, by talking with the people who actually witnessed it. They will protect your firm against being conned by lousy performers whose only major competence is giving a terrific interview. They should be conducted on every candidate who is under serious consideration for an offer.

Unfortunately, reference checks have gotten a bad name as a result of employers' efforts to protect themselves from liability for sharing damaging information about past employees. The common policy today is to direct all reference inquiries to an HR officer, who will confirm only such basic and useless information as dates of employment.

Identifying good references

How do we get around institutional roadblocks and get a reliable account of a candidate's past performance from someone who is directly familiar with it?

We do it by asking the candidate during the in-office interviews (1) to name the references

(preferably at least three) who are best able to comment on his/her job performance, and (2) to let the references know that we will be contacting them. (If a candidate's job search is confidential from the current employer, we can postpone any checks with that employer until after the employment offer is accepted – with the offer being contingent on a satisfactory reference.)

Just the type of references a candidate identifies can indicate something about past performance. If, for example, John Doe has done substantial work for three different employers and has represented that he was a stellar performer at all three, his direct supervisors at all three should be on the list. If not, we might inquire if there had been a problem and give John a chance to explain.

Planning the reference check

A reference check should be conducted like an interview – beginning with scheduling it in advance and letting the reference know what we will be calling about and approximately how long the call will take. (The time needed might range from 10 to 30 minutes, depending on the level of the position we are filling and the relevance of the previous job to it.)¹ That gives the reference a chance to prepare and to collect

¹ If the position is so important that even more time is needed, if possible a face-to-face visit should be scheduled instead of a phone call.

his/her thoughts and recollections. We should also assure the reference of complete confidentiality.

In case the candidate has not had a chance to alert the reference, it's best to open the scheduling request by saying something like,

"We are considering John Doe for [position] at our firm, and he has recommended you as someone who is familiar with his performance at [previous employer]. We would appreciate the chance to talk with you about his work."

We should prepare as well. First, based on the resume and the in-office interview, we should identify the important competencies that are common to the earlier position and the position we are filling. Then structure a set of STAR^{®2} interview questions around those competencies, substituting the third person ("he" or "she") for the second ("you"). If the candidate highlighted a specific assignment for the previous employer that is of particular relevance to our position, asking about it will give us a useful comparison between the candidate's account and the reference's.

Two additional questions should be asked at the outset, to confirm the reference's relationship to the candidate and familiarity with the candidate's performance (and thus how much confidence we can have in the evaluation). For example:

1. How long have you known John Doe? In what capacity?
2. Based on your personal knowledge of John, how well qualified do you feel to evaluate his work at your firm?

² Situation, Task, Action, Result, as explained and illustrated in our February 2012 column.

Interviewing the reference

Having laid out our interview plan, we make the call at the appointed time and follow the plan. But as with a face-to-face interview, it's useful to begin with some friendly, relaxed conversation to establish a comfort level.

Then as we move to the substantive questions, the telephone interview format makes it easy to follow our notes and take additional notes without breaking our friendly connection with the reference.

In addition to following the plan, we should be ready to ask follow-up questions about any new information of interest, or to pin down specifics when we get a vague answer.

A third task is to assess the reference's reliability: maturity and intelligence, attitude to the candidate and to our conversation, and level of candor and specificity in providing the information we are requesting. I would be concerned by any reference who gives vague and perfunctory answers about a candidate, and especially concerned if all the candidate's references do.

The references who inspire the most confidence in making an employment offer are those who

- come across as mature and capable themselves,
- clearly like and admire the candidate,
- can speak knowledgeably and specifically about the candidate's accomplishments, and
- willingly confide their view of the candidate's shortcomings while maintaining a strongly positive overall assessment.

Because reference checks are in effect interviews, the most effective interviewers are also the most effective reference checkers. And reference-check training is a good, compact follow-on to interview training.

Particularly for higher-level positions, it is useful to have higher-level people who interviewed the candidate be the ones to interview that candidate's references (who are usually at a high level themselves). They will be more likely to get candid information from

someone who regards them as a peer, and also better able to compare and evaluate the reference's account with what the candidate said in the interview.

– Gaye Mara

Book Review:
My PD Bibles
Gaye Mara

Dana Gaines Robinson and James C. Robinson,

Training for Impact: How to link training to business needs and measure the results.
San Francisco: Jossey-Bass, 1989

Performance Consulting: Moving beyond training.
San Francisco: Berrett-Koehler, 1995 (out of print; revised and updated Second Edition published in 2008)

Preparing for our move to Delaware last fall, I resolved to trim my overstuffed library down to the few books I refer to regularly. The Robinsons' classic guides on training and performance consulting were the first two I set aside for packing.

Whether you are an in-house professional or an outside consultant, these step-by-step road maps will walk you through (1) creating training that actually makes a difference in the organization (*Training for Impact*) and (2) analyzing the causes of performance deficits and devising the right solutions for them, including but not limited to training solutions (*Performance Consulting*). And their process steps incorporate helpful advice for building a collaborative relationship with the (internal or external) client, diffusing resistance, and reframing an issue to get past wrong assumptions.

Training for Impact lays out a twelve-step process to

- Identify the knowledge and skill gaps that really matter to the organization's success and profitability,
- Design and conduct training to fill those gaps, and
- Evaluate the effectiveness of the training and the difference it has made for both the affected employees and the organization.

Performance Consulting steps back to take a broader view of performance generally, both individual and organizational, and the inputs that go into producing it. Then it explains and illustrates a process for identifying performance gaps, analyzing their causes, and choosing from among the variety of solutions that might be implemented, often in combination, to bring what 'IS' up to what 'SHOULD' be. The chapter on "Developing Models of Performance" – including best practices and competency models – alone is worth the price of the book.

The updated Second Edition of *Performance Consulting* contains most of the same material as the first, but adds two new chapters (one on “identifying performance consulting opportunities in a proactive manner” and the other a collection of FAQs) and also provides a web address for downloading and purchasing electronic versions of the Robinsons’ templates. I found annoying the stylistic changes in this edition that came out of a collaboration with Ken Blanchard (author of the best-seller *The One Minute Manager*) a few years before. Blanchard persuaded the Robinsons to develop some catchy acronyms for their models (e.g., the “GAPS! Map”) and also apparently to liberally sprinkle the book with exclamation points. I hope future readers have a greater tolerance for them than I do, since the Second Edition is now the only one available.

Even if your current arsenal does not extend beyond training solutions, *Performance Consulting* is a helpful book for learning to recognize when training is *not* the answer to a problem – and for getting to a position with greater influence and a broader scope.

Both books emphasize the importance of solid data gathering to ensure accurate understanding of the problems and accurate evaluation of the effectiveness of the solutions. And both are liberally illustrated with examples from the Robinsons’ consulting practice with major corporations, many of them manufacturing companies. Even so, I found their examples enlightening and their templates and general principles readily translatable to other settings – including law firms, law departments, government agencies, and nonprofits – in my own consulting.

Professional Developments

News

In-house social media. *Law Technology News* features an interesting April 1 article on using social media tools to support in-house communications, collaboration, and knowledge exchange, both among your own personnel and with clients. It cites software applications with Twitter- and Facebook-like functionality that are designed to be used internally (and thus securely) and outlines on-going experiments by three firms to organize and display firm-wide information, develop internal wikis and Facebook-like pages for employees, and provide separate sites for individual practice groups, industry teams, and clients to maintain their own central repositories. Social media monitoring tools can also filter what’s tweeted and blogged about the firm and its clients.

Robyn Weisman, “Tap Social Media to Give Your Law Firm an Inside Voice.”

www.law.com/jsp/lawtechnologynews/



“Diversity training doesn’t work”! A recent article in *Forbes* (Peter Bregman, “Diversity Training Doesn’t Work,” 3/12/2012) put us onto a well done and eminently readable article reporting on a massive 2007 study of EEOC diversity statistics. The study analyzed 16,000 data points on 829 companies over a span of 31 years, to see what effect six different types of diversity programs produced on the subsequent percentages of women and minorities in management positions at the companies.

In general, the effectiveness of the programs was found to be inverse to their popularity in the firms. In rank order of positive impact, the researchers found that the *most* effective programs, the ones that most helped women and minorities get ahead in the organization, were:

1. Mentor programs that “put aspiring managers in contact with people who can help them move up.” This was the least popular of the six programs.
2. The creation of a multi-department diversity task force (in the top 4 in popularity)
3. The creation of the position of diversity manager or chief diversity officer, whose “sole job was to make sure the firm hired, and kept, women and minorities” (ranked 5th out of the 6 programs in popularity)

By contrast, the *least* effective diversity programs, all of which even showed negative impacts on particular minority groups, were:

4. Diversity training to reduce bias and stereotyping – “the most popular program and, by most accounts, the most costly” of the six programs. In particular, training that “is mandatory or that emphasizes the threat of lawsuits ... actually has negative effects on management diversity.”
5. Social Network programs (*i.e.*, affinity groups), which “give people a place to share their experiences” but “may not put people in touch with what they need to know, or whom they need to know, to move up.”
6. Diversity evaluations (evaluations that reward managers’ progress on diversity goals), perhaps because of “the complexity of rating systems” and the small percentage of the total score this item typically represents.

Frank Dobbin et al., “Diversity Management in Corporate America.” *Contexts*, Fall 2007, 21-27. Harvard Professor Dobbin has posted the article at http://scholar.harvard.edu/dobbin/files/2007_contexts_dobbin_kalev_kelly.pdf (last accessed 4/23/12)

Conferences

Legal Profession:

- 5/3-5/12, Napa, CA. *2012 Spring Meeting*. ABA Law Practice Management Section, www.americanbar.org.
- 5/7/12, Denver, CO. *2012 Legal Inclusiveness & Diversity Summit*. Center for Legal Inclusiveness, www.centerforlegalinclusiveness.org.
- 5/8/12, Denver, CO. *CLI Inclusiveness Institute*. Center for Legal Inclusiveness, www.centerforlegalinclusiveness.org.

- 6/8/12, Atlanta, GA. *2012 Diversity & Inclusion Summit*. NALP, www.nalp.org.
- 7/12-14/12, Seattle, WA. *PDC Annual Conference*. Professional Development Consortium, www.pdclegal.org.
- 7/28-31/12, Denver, CO. *ACLEA’s 48th Annual Meeting*. Association for Continuing Legal Education, www.aclea.org.

General Audience:

- 5/6-9/12, Denver, CO. *ASTD 2012 International Conference & Exposition*. American Society for Training & Development, www.astdconference.org.
- 5/31/12, Dallas, TX. *LeadershipDEV Design Studio*. The Masie Center, www.leadershipdev.com.
- 6/5-6/12, Las Vegas, NV. *Learning Directions*. The Masie Center, www.masie.com.
- 6/19-20/12, Chicago, IL. *Learning Transfer Conference: The Six Disciplines of Learning Transfer*. American Society for Training & Development, www.astd.org/LTC.
- 6/26-28/12, Chicago, IL. *The 2012 Corporate Diversity & Inclusion Conference*. The Conference Board, www.conferenceboard.org/diversity.
- 7/10/12, New York, NY. *Learning Directions*. The Masie Center, www.masie.com.
- 7/16-17/12, Chicago, IL. *Telling Ain’t Training Conference*. American Society for Training & Development, www.tat.astd.org.
- 7/16-18/12, Saratoga Springs, NY. *Video4Learning Lab & Seminar*. The Masie Center, www.masie.com.
- 7/25-26/12, Cambridge, MA. *LearnNOW: Integrating Informal, Social, and Mobile into Your Learning Strategy*. American Society for Training & Development, www.astd.org/learnnow.
- 9/20-21/12, Atlanta, GA. *Telling Ain’t Training Conference*. American Society for Training & Development, www.tat.astd.org.
- 10/2-3/12, Denver, CO. *Learning Transfer Conference: The Six Disciplines of Learning Transfer*. American Society for Training & Development, www.astd.org/LTC.
- 10/15-16/12, Dallas, TX. *Telling Ain’t Training Conference*. American Society for Training & Development, www.tat.astd.org.

- 10/21-24/12, Orlando, FL. *Learning 2012*. The Masie Center, www.masie.com.
- 11/5-6/12, Washington, DC. *Telling Ain't Training Conference*. American Society for Training & Development, www.tat.astd.org.

Courses and certificate programs

American Management Association,

www.amacourses.com. AMA offers an extensive selection of online, on-site, and in-house courses in 23 subject areas, including:

- Business Analysis
- Communication Skills
- Human Resource Management
- Interpersonal Skills
- Leadership
- Management and Supervisory Skills
- Myers-Briggs Type Indicator® (MBTI®) Certification
- Presentation Skills
- Project Management
- Strategic Planning
- Thinking and Innovation
- Time Management
- Training and Development.

American Society for Training & Development, Certificate Programs, www.astd.org (see the website for online and/or on-site dates and locations for each topic):

CPLP Certification: Certified Professional in Learning & Performance

This is a comprehensive program consisting of approximately 10 weeks of coursework, a knowledge-based examination, and submission of a qualifying work product. It addresses the nine areas of expertise identified in the ASTD Competency Model for workplace learning & performance professionals:

- Designing learning
- Delivering training
- Improving human performance

- Measuring and evaluating learning
- Facilitating organizational change
- Coaching
- Career planning and talent management
- Managing the learning function
- Managing organizational knowledge

www.astd.org/content/ASTDcertification/.

Other ASTD courses and certificate programs:

- Action Learning Certificate (2 days)
- Advanced Designing Learning Certificate (2 days)
- Advanced E-Learning Instructional Design Certificate (2 days)
- Analyzing Human Performance Certificate (3 days)
- Blended Learning Certificate (2 days)
- Business Essentials Certificate: Strategy, Finance, Marketing (3 days)
- Career Planning and Talent Management Certificate (2 days)
- Coaching Certificate (2 days)
- Consulting Skills for Trainers Certificate (2 days)
- Creating Leadership Development Programs Certificate (2 days)
- Creating New Supervisor Training Programs Certificate (2 days)
- Designing Learning Certificate (3 days)
- E-Learning Instructional Design Certificate (2 days)
- Essentials of Adobe Captivate 5: An Introduction (1 day live online workshop)
- Essentials of Adult Learning (2 weeks, online only)
- Essentials of Articulate Studio (2 weeks, online only)
- Essentials of Camtasia Studio 7: An Introduction (1 day live online workshop)
- Essentials of Coaching SMEs (Subject Matter Experts) to Facilitate Learning (2 weeks, online only)
- Essentials of Designing Synchronous Games and Activities (2 weeks, online only)
- Essentials of E-learning Authoring Tools (2 weeks, online only)
- Essentials of Evaluating Leadership Development Programs (2 weeks, online only)
- Essentials of Evidence-Based Training (5 days, online only)
- Essentials of Experiential Learning and

- Simulations (2 weeks, online only)
- Essentials of Flash for E-learning Designers (2 weeks, online only)
- Essentials of Game Design (2 weeks, online only)
- Essentials of Graphics for Learning (9 days, online only)
- Essentials of Learning Transfer (6 weeks, online only)
- Essentials of Performance-Based Job Aids (2 weeks, online only)
- Essentials of Podcasts, Video, and Writing for the Web (2 weeks, online only)
- Essentials of Scenario-Based E-learning (5 days, online only)
- Essentials of Social Media for Learning (2 weeks, online only)
- Facilitating for Excellence Certificate (1 day)
- Facilitating Organizational Change Certificate (2 days)
- HPI (Human Performance Improvement) in the Workplace Certificate (3 days)
- Managing Organizational Knowledge Certificate (2 days)
- Managing the Learning Function Certificate (3 days)
- Measuring and Evaluating Learning Certificate (3 days)
- Multimedia for Learning Professionals Certificate (2 days)
- Presentation Skills Certificate (2 days)
- Project Management for Learning Professionals Certificate (2 days)
- Rapid Learning Techniques Certificate (2 days)
- ROI Basics Certificate (3 weeks, online only)
- ROI Skill Building Certificate (2 days)
- Selecting HPI Solutions Certificate (3 days)
- Test Design and Delivery Certificate (2 days)
- Training Certificate (3 days)
- Transforming Traditional L&D: Doing More with Less – for Government (1 day)

www.astd.org/Education.aspx

George Mason University Leadership Coaching for Organizational Performance Certificate Program, Fairfax, VA. A one-semester program consisting of 5 in-person course modules of 2-3 days each approximately once a month, supplemented by distance learning and

independent work between modules. It includes:

- Course Module I, Leadership Coaching Foundation
- Course Module II, Creating Awareness
- Course Module III, Coaching Skills
- Course Module IV, Coaching Skills in Action
- Course Module V, The Process and Business of Coaching

www.ocpe.gmu.edu/programs/org_dev/leadership_coaching.php.

Harvard Law School Program on Negotiation, Cambridge, MA. All courses held in Cambridge.
www.pon.harvard.edu.

- 3-day seminar on multiple dates: *Negotiation and Leadership: Dealing with Difficult People and Problems*
- 6/4-8/12, *Mediating Disputes*
- 6/4-8/12, *Negotiating to Create Value in Deals and Disputes*
- 6/11-15/12, *Dealing with Difficult Conversations*
- 6/11-15/12, *Improving Negotiation Effectiveness*
- 6/14-15/12, *Intensive Negotiations for Lawyers and Executives*
- 6/21/12, *Bargaining with the Devil: When to Negotiate and When to Walk Away* (author session)
- 10/18/12, *Beyond Reason*

Ithaca College Online Professional Certificate Programs, www.ithaca.edu/gps/professional_programs. Two-week online sessions in:

- Performance Improvement Management
- Strategic Communication Management
- Sustainability Leadership

NALP/ALI-ABA Online Programs for PD Professionals (archived video webcasts, available at www.ali-aba.org):

- Coaching Attorneys in Business Development
- Leadership in Practice: How Firms Can Help

Partners Develop Leadership Skills

- Leaving Lockstep: Moving Toward Competency-Based Compensation
- LPM Update: Lessons Learned in Implementing Legal Project Management
- Meeting the Challenges of Lateral Integration
- Partners in Transition: Best Practices for Recruiting, Integrating, and Retaining Lateral Partners
- Professional Development 101-102
- Strategic Outplacement for Associates and Partners

Training Live+Online Certificate Programs.

www.TrainingLiveAndOnline.com. Upcoming online courses:

- 5/10/12ff. *Project Management for Learning Professionals: Reduce the Rework Certificate*. (4 sessions)
- 5/15/12ff. *Social Media for Trainers Certificate*. (3 sessions)
- 5/17/12ff. *Scenario-Based E-Learning Certificate*. (4 sessions)
- 6/4/12ff. *Performance Consulting Certificate: Smart Tools and Techniques for Making the Transition*. (4 sessions)
- 6/4/12ff. *Leading Effective Live Online Events Certificate*. (4 sessions)
- 6/5/12ff. *Training Coordinator Certificate: A Consulting Approach to Coordinating the Training Function*. (4 sessions)

Degree programs

George Washington University/Hildebrandt Institute Master of Professional Studies and Graduate Certificate in Law Firm Management.

The Master's curriculum is a two-year, 30-credit, blended learning program consisting of two 12-credit segments (Law Firm Management and Law Firm Leadership), and a 6-credit Independent Research Project. Each 12-credit segment begins and ends with an on-campus residency period in Alexandria, VA, with 4 months of online

distance learning in between. The 12-credit segment in Law Firm Management may stand alone as a Graduate Certificate. nearyou.gwu.edu/sfm/index1.html. (See *article describing this program in our February 2011 issue*.)

University of Pennsylvania Executive Education for Chief Learning Officers. Penn's Wharton School and Graduate School of Education, in consultation with the training industry, teamed in 2006 to create an executive education program for Chief Learning Officers. In December 2010 the program was retitled *PennCLO* and draws faculty from across the University. The program "meets for two separate weeks each semester, allowing students to continue working while they study" and offers "a blend of on-site classes, distance learning, and 'field'-based projects" in six course blocks:

1. Strategic leadership
2. Workplace learning
3. Business acumen
4. Evidence-based decision making
5. Technology for work-based learning
6. Dissertation (for EdD candidates)

Students in the program may pursue a master's or doctoral degree from Penn's Graduate School of Education. <http://pennclo.com>

Villanova University Master of Science in Human Resource Development. A two-year online master's program, offering courses in:

- Organizational change
- Human resource planning
- Compensation
- International human resources
- Organizational training
- Project management

www.VillanovaU.com/MHRD.

