Can Data Solve BigLaw's Diversity Problems?

By **Jacqueline Bell**

Law360 (July 9, 2019, 6:26 PM EDT) -- When Sheppard Mullin Richter & Hampton LLP wanted to take another look at its efforts to improve the retention and promotion of women and attorneys of color, the firm pulled up a decade's worth of internal data, and started digging.

Committees the firm established to lead this work were given free rein to dive into all of the data the firm had available, and look for trends and patterns that could be revealing. They had a lot to work with, from head count data, to billable hours data, to nonbillable hours data and length of attorney tenure, among other data points.

"We sliced and diced it every which way we possibly could to try to figure out where our assumptions were wrong, and where they were wrong, we tried to figure out why they were wrong," said partner Rena Andoh, chair of the firm's diversity and inclusion committee.

The result?

"It completely changed a lot of our policies," she said.

In one example, the deep data dive included a look at how parental leave could impact an attorney's career trajectory at the firm.

At many firms, attorneys are full-time — and expected to bill at a full-time pace — until the moment they go on leave. When they come back, they immediately return to those same expectations of full-time work.

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RENA ANDOH
chair of the diversity and
inclusion committee,
Sheppard Mullin

But a closer look at the data revealed that attorneys who headed out on what the firm calls "primary caregiver" leave before the birth of a child typically went through a step-by-step process of handing work over to others as they transitioned themselves off of cases and projects. That meant their hours began to drop. They also couldn't supplement their hours by jumping into new projects.

When they returned, it also took time to transition back into the firm's ecosystem, and get back up to their previous levels of productivity as they took back work they had handed over to others, or got staffed on new matters.

After examining the data, the firm altered its parental leave policy so attorneys would have six weeks on either side of their leave to bill hours at 60% of full-time equivalent to give them time to transition. That adjustment allows for a more equitable evaluation of work produced, Andoh said, which can impact compensation, bonuses and promotion opportunities down the road.

For those tasked with overseeing the firm's commitment to promoting diversity and inclusion, data analytics has proved to be a gamechanger.

"It's an incredibly useful tool. And sometimes it's also incredibly useful in starting dialogues with people about changing policies, because it's easier to start the conversation by using data," Andoh said. "A lot of what we have to do is get everybody on board, and a lot of times data helps frame those conversations."

A Fresh Appetite for Data

Using data to drive decision-making is not new. But attorneys and data-driven consultants are reporting an increasing demand from law firm leaders for sophisticated data analysis that can help them advance diversity and make better decisions when it comes to managing their most important resource: talent.

"I think people are becoming more comfortable with the numbers and appreciating the value that they bring to the discussion," said Dan Cranshaw, shareholder at Polsinelli PC and chair of the diversity and inclusion committee. "People are gaining a greater appreciation of what this data brings to the table."

Law firms have a wealth of data to mine for insights: Who wins cases, who bills the most hours, who pulls the most administrative duty, who gets hired, who quits, who works with top clients, and who works with the most influential partners.

That's a tremendous amount of information to help firms take stock.

"We really felt like we needed to not be making decisions on anecdotal information. We needed to be making decisions based on real data," said Meg Sullivan, the chief business development and marketing officer at Paul Hastings LLP, a firm that recently created a position for a data analyst to tackle these questions.

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> chair of the diversity and
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Diving into the data pushes firms to get to the root of their concerns more quickly, find answers, and track progress.

"I really believe in it. I think it's going to change our business," Sullivan said.

Law firms also are growing increasingly accustomed to using data as part of their management process, and a new generation of law firm leaders is eager to take a data-driven approach to all sorts of management questions, including talent management and diversity.

"I think that the smart firms today get it. Because they essentially recognize they've been operating under an inefficient model and they haven't really had to manage themselves in the same way that a lot of businesses of their size and complexity do," said Evan Parker, founding partner of Parker Analytics, which works with law firms to create data-driven solutions and boost progress.

"They have a long-term view," he added.

The push for law firms to move the needle on diversity is also coming from clients. Those clients want to make sure they partner with firms that share their corporate values, and corporations are increasingly demanding that the law firms they work with turn over detailed diversity metrics.

"Every client worth having has that as part of their mission now," Cranshaw said.

At a recent meeting with a prospective client, Cranshaw says he received a very clear list of what the client was looking for.

"His number one priority is expertise, his number two is diversity and inclusion, and number three is fees," Cranshaw said. "In this tight market where everyone's competing for the same big clients, his money is at the bottom of the list. That matters."

Recognizing Potential Through Analytics

In early 2018, Shearman & Sterling LLP launched a firmwide "inclusion diagnostic" designed to collect quantitative and qualitative data on the firm's talent pool and make recommendations to improve diversity and inclusion.

"If you want progress, you have to be able to measure it," said Sandra Bang, chief diversity and talent strategy officer at Shearman. "What data does is it gives you real, tangible information. It's not anecdotal, it's not finger in the air. It is real information. That's the foundation upon which you can then build your recommendations for next steps."

Attorneys were asked questions about professional and career advancement, and about performance feedback and mentorship. They were asked to discuss their individual ambitions for growth, and whether they felt the could reach their full potential at the firm.

One of the most powerful outcomes of the diagnostic, according to Bang, was to be able to point to the amount of ambition that women have — ambition that is often underestimated in the workplace. Being able to measure that in a real, demonstrable way made a strong impression.

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chief diversity & talent strategy officer, Shearman

"It wasn't something that I would have obviously thought of being revealed through something like a diagnostic," Bang said. "If you can figure out how to tap into that, that's tremendous."

Leveraging Data for Diversity

Many law firms searching for new answers to longstanding diversity challenges are dealing with a similar problem, according to diversity professionals. These firms have launched initiatives, created

committees, done trainings, tried new programs, any number of things to try to address the fact that year after year, their attorney workforce — particularly at the highest levels — remains overwhelmingly white and male.

Such programs, while well-intentioned, are typically not data-driven. Law firms have sometimes put something in place that cannot be tracked or measured, Parker said.

"Some of this is just taking these great ideas, but making them ideas that you can test empirically. That's, I think, the challenge that everybody's facing," he said.

To answer questions about whether women and people of color really do have the same opportunities for advancement as their white male counterparts, law firms have to dig into the existing data and think creatively. How can an opportunity be measured? What does it look like at their firm?

Data can help firms understand more about the experiences of every attorney at the firm, and reveal where the barriers are for historically underrepresented groups.

Missed Connections

Here's a problem common to many law firms. When attorneys do not have equal access to high-quality work assignments, it limits the growth, development and advancement opportunities of the same attorneys the firm spent time and effort hiring in the first place.

If those attorneys who typically don't get those plum assignments are from historically underrepresented groups, then a firm's longstanding diversity problems will persist.

How visible are you to people at your law firm who can give you the opportunities and stretch assignments you need to boost your career? How strong are your connections to those networks? How prominent are your colleagues in those networks?

That's a question data analytics can answer.

"What we often find is that actually tends to be the biggest pain point for most organizations," said Laura McGee, founder and CEO of Diversio, a firm that helps companies tackle their diversity challenges.

"The dominant group typically says, yes, I am sponsored, I am mentored, I get stretch opportunities, and the nondominant group says, I don't have someone in my organization that helps me step up. I'm scrambling for those big opportunities. I am being relegated to administrative work," McGee said.

So how might a firm start to figure out what its work assignment networks look like, and where the networks might have structural barriers for women and attorneys of color?

Firms might ask themselves, for example, at this particular firm, what ties would make an associate prominent in the network? What matters would they have to work on to be highly visible to the people who can offer a wide range of work options?

By examining existing data on work assignments, and mapping out the firm's internal networks, firms can get a sense of which people are prominent in the network, and which are not, and assess the patterns they see.

Turning Data Points Into Action Points

Gathering and analyzing the data is just the start. What happens next will determine how useful the data is, and how well it will be used to drive decision-making.

Diversity professionals say presenting the data in a way that's easy to grasp is critical, and prevents busy decisionmakers from getting mired in details and unable to move forward.

Making sure all the relevant stakeholders have access to the data, including top leaders, practice group chairs and influential partners, and are part of the discussions about next steps, are also key factors in determining whether the data becomes useful and meaningful, diversity professionals say.

"Who knows about it? Because who knows about it makes a difference. You don't generally do anything about anything unless you know something about it," said Robert Grey, president of the Leadership Council on Legal Diversity, and a past president of the American Bar Association.

When presented with data that is clear, compelling and relevant, leaders can quickly gauge where they are and how far they have to go. Are they doing fine? Or are they in the middle of the pack compared to other practice groups or other firms?

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president, Leadership
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"Then the firm can react to that. How do we take this information and go forward?" Parker said. "You don't need a million new decisions to have a big impact. You just have to be looking in the right places."

Nimesh Patel, the chief diversity and inclusion officer at Akin Gump Strauss Hauer & Feld LLP, says many of the data-presentation strategies he used as executive director of the Office of Diversity and Inclusion at the U.S. Department of Homeland Security are relevant in a law firm environment.

At DHS, Patel and his team came up with a way to encourage veteran hiring across the department: They developed a scorecard.

The scorecard clearly showed how each component agency within DHS was faring in terms of hiring veterans for each quarter, providing a clear and concise way to catch the attention of leaders who naturally want to deliver results, and come out on top.

"That was something that really seemed to work well there, because it got to the kind of competitive nature of each of the agency leads," Patel said.

If the data is clear, and leaders are engaged, analytics can provide a pathway for change. But diversity professionals warn it's possible only if firms take steps to review the data, understand what it reveals, make sure a wide range of stakeholders have access to it and make changes that have results that can be evaluated and tracked over time.

"Data is a tool, not an end," Grey said. "And if you think about it as an end, then you don't get anywhere."

--Editing by Jocelyn Allison, Pamela Wilkinson and John Campbell.