

**THE HUMAN SIDE OF LAW**  
**New Solutions to People Problems in Canadian Corporate Law Departments**  
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As companies maneuver to embrace the millennium, their structures, processes, and very existence has never been as unpredictable. Globalization, deregulation, and technological innovation have caused tremendous upheaval in the marketplace, in the form of reduced barriers to entry into many industries and enhanced competition. Some companies have undergone remarkable growth, whereas others have downsized dramatically. As the race for profit and market share continues with a vengeance from industry to industry, the impact on corporate staff, including lawyers is far-reaching.

It is our experience at Advocate Placement Ltd. (APL), a lawyer recruitment company, that irrespective of whether in a corporate growth or downsizing context, Canadian law departments to a large extent are severely undersized. Multimillion dollar operations, publicly or privately owned, with hundreds of employees at a given site, will attempt to function with only one or two in-house lawyers. The average size of Canadian law departments with which APL has worked has been around two lawyers.

Human resources (people) are the means of implementing an organization's strategic objectives. People flow and work represent key focus areas for human resource (HR) specialists in conjunction with departmental managers. People flow issues include recruiting, selecting, training, and developing workers; supporting their career goals within the company; and dealing with corporate exit issues. With regard to the work dimension, HR specialists, in conjunction with management, perform job analyses to generate descriptions, specifications, and standards. They design and redesign jobs, balancing corporate productivity goals with individual needs, including sequencing of jobs (work flow), job enrichment, performance evaluation, work conditions, reporting relationships, and scheduling work.

In larger organizations, human resource planning is commonplace. However, law departments in such larger organizations have been relatively insulated from the above-noted planning initiatives, possibly due to the fiercely independent, professional values of lawyers, or the confidential nature of their work. Rational and timely planning of lawyers' work and evaluation thereof have not been the norm. We often encounter highly competent but harried general counsel and associate counsel continually straining to meet interminable deadlines and emergencies.

With regard to career pathing, there is typically little room for advancement in small law departments, and mobility opportunities for lawyers outside the legal department have been traditionally limited. Often the only feasible path of mobility has been to voluntarily leave the company. HR-supported career planning and development opportunities have generally not applied to lawyers. Thus, in the very common event of job termination, in-house counsel have few accumulated career strategies upon which to rely, and confront the task of suddenly having to learn about and implement, crucial career decisions during outplacement.

When general counsel recruit lawyers to their departments it has been our experience that they tend to hire more junior lawyers. Only 8% of all APL revenues in the past year have been derived from placing lawyers with more than 10 years experience in either law firms or companies. However, many of the lawyers being downsized from law departments tend to be the more senior, more costly lawyers. These lawyers pose a challenge to the corporate counsel bar: having worked their way up in terms of responsibility and compensation, when they are terminated - rarely for documented performance reasons - it may take them years, to find legal work.

The process of lawyer sourcing in law departments remains a largely reactive one rather than a planned one, generally triggered by urgent work overload. The general reaction is to turn to the traditional solutions of either making a permanent hire or else outsourcing.

Most of the lawyers that we have sent in-house to law departments, on a contract or permanent basis, have come from law firms. There is a strong attraction on the part of law firm lawyers to work in-house and get involved in the full business-legal context and not just in the 'narrow' legal aspect. Reciprocally,

law firm lawyers, especially the junior ones from credible downtown firms, are highly appealing to general counsel for their solid legal experience. Often these highly capable junior lawyers have left large downtown firms because of the firms' abysmal lack of planning in all areas of human resource management, and especially in the area of work structuring and scheduling.

Though initially the attraction to in-house work is a powerful one, there is the danger that in-house positions will lose their appeal - and hence a supply shortage will ensue similar to the one currently experienced by law firms - if the work conditions cease to be distinguishable from those of law firms. In addition, demographic studies are pointing to a labour market shortage in the near future as the baby boom generation gradually withdraws from the labour force. In effect, demand will exceed supply. Thus, in the face of the new demographic reality, companies will have to strive to retain their legal staff by means of sound human resource planning in the areas of people flow and work structuring. General counsel are gradually working to break down the isolation of the law department in order to participate more fully in mainstream corporate culture and strategic business management. They are seeking training in legal department practice management, which should be invaluable in terms of people flow and work management.

Working to create a permeable organization or law department, where the sharing of ideas from one operating division to another is the norm, is another way for legal to integrate into the whole and hence share in some of the human resource systems in place in other parts of the company. Law department management should be encouraged to see an advantage to the breaking down of barriers among divisions and to the replacing of legal's narrow, technical, functional turf with participation in interdisciplinary teams.

Another means for the law department to break its isolation and source new workers is by the perception of itself less as a unitary physical entity locked into a unitary corporation and more as a network of alliances (within the corporate network of alliances) partnered in diverse time and task configurations for mutual gain. The stress here would be less on the physical size or wealth of the alliance partners and more on their speed of response time, creativity, flexibility, and knowledge bank. Above all, the premium would be on the provision of task solutions to the law department. So here the thorny issue of recruitment is detached from its traditional dependency on individual employees and is positioned within the larger selection offered by partners or allies, whereby full operational responsibility and control for certain matters are outsourced to trusted allies. Naturally, some outsourcing will occur to traditional law firms allies. However, with possible labour shortages in law firms, the law department may be encouraged to seek alternative, less traditional and more flexible legal service-provider allies in the form of independent contractors, recruitment agencies, consultants, and individuals hooked into a reliable information technology delivery system.

Thus, the problems that are surfacing in law departments today, and which could multiply and augment well into the future, can be avoided with the implementation of proper human resource management strategies, and a new co-operative approach from law departments, as they strive to integrate more fully in the mainstream corporate culture.

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## **REFERENCES AND SOURCES**

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