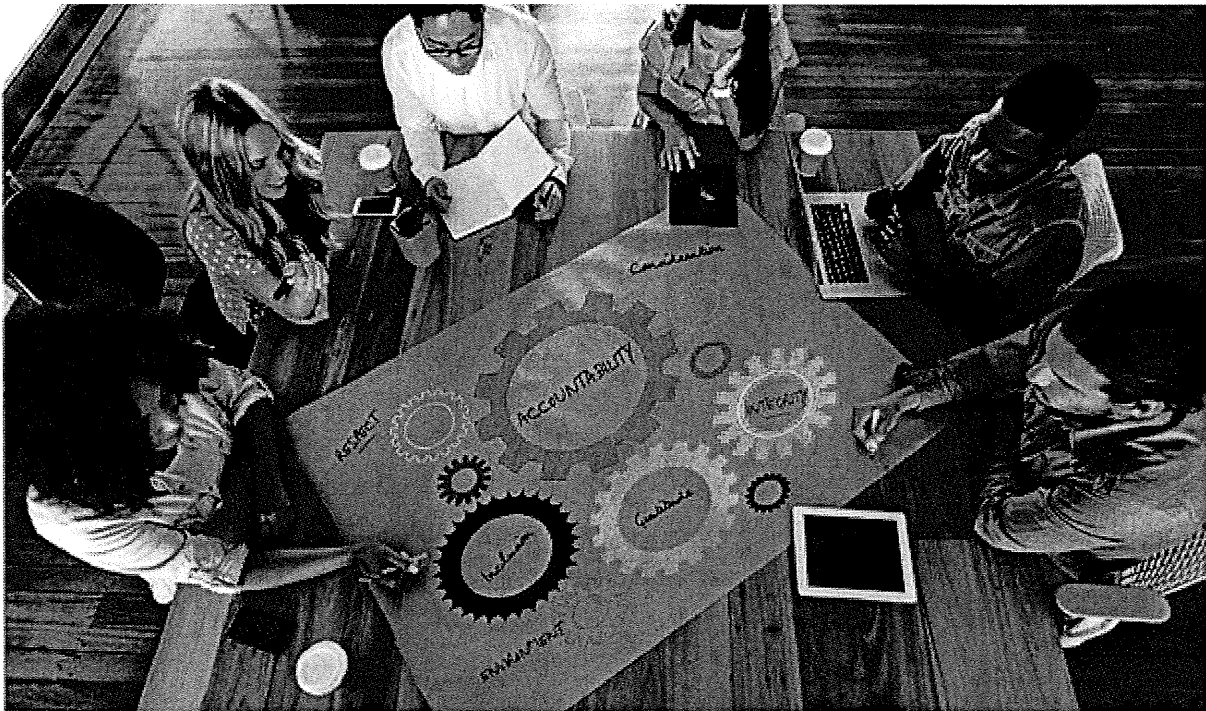


Improving Law Firm Culture: The beginning of the discussion

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Between them, the authors have worked for more than 75 years in male-dominated, hierarchical fields. (This is not a bad thing unto itself: Historically, most of the highest paying professions have been male-dominated and hierarchical.) As law firms, like other businesses, work to address the grievances of the #MeToo movement, the authors apply their hard-won insights to the question of how to bring needed change to the culture of organizations.



The “#MeToo” movement is giving voice to those who feel left behind or treated unfairly. Women, and men, feel empowered to proclaim the current paradigm unacceptable. Despite the plethora of hierarchical, power-brokered businesses—including law firms—and their growth in the past couple of decades, the last year tells us that a majority of society, individually and collectively, resoundingly agrees that abuse of power is intolerable and a subset thereof, sexual harassment, is verboten.

Law firms should focus beyond profitability (or at least think expansively about it)

As employment lawyers helping companies, we have had the good fortune of observing what works—positive cultural dynamics that increase longevity among employees. Representing individuals, we’ve learned what actions increase risk of lawsuits (and what mitigates risk)

against employers, including law firms.

Culture is learned: Training a new attorney

Training a lawyer is altruistic work, a bit like raising a child. It requires patience, diligence, finesse, open-minded interaction, and one of lawyers' scarcest commodities, *time*. In a law firm, time = profit. Potentially the most important result of enhanced culture, however, is reduced turnover. That means the time invested in new lawyers benefits those making that investment. Most lawyers reading this article can pause and reflect fondly on those wonderful associates molded into outstanding legal minds. Unfortunately, we know *many* of those brilliant mentees moved on to other ventures with more accolades, appreciation, benefits, or balance. We suggest that if law firms had been half as focused on culture as on profitability or legal knowledge, those mentees might still be around.¹ Sharing knowledge and credit for work well done, starting right from the early stages of practice, will improve firm culture and increase profitability in the long run. The time is now to reassess and recalibrate. Indeed, it is profitable to do so, because law firms focused on culture avoid claims and increase longevity.

What does it mean to "improve culture"?

For years, most organizations (including law firms) have professed their commitment to a positive culture. Perhaps it comes with the rubric of "inclusivity" or "increased diversity." Or because their efforts at culture may be rewarded with "Best Places to Work" designations or similar accolades. It is important, in this era of absolute need for a paradigm shift, to understand what phrases such as these really encompass on a day-to-day basis.

What about tradition?

"Most of us did not create our culture; it was inherited, but we have the power to change it," says former Minneapolis Police Chief Janee Harteau.² As we reflect on our experiences and encourage law firms to take the opportunity to improve culture, we are mindful that the legal workplace has long-standing traditions that need to be addressed to promote *genuine* respectful collaboration.³ Often, whatever it is that law firms are asking less experienced lawyers to endure, dozens of lawyers (and other professionals) before them have endured. "That is what I went through" is a tired, no-longer viable axiom. We need to be faster, better, and more valuable to clients. The same holds true for our colleagues. To optimize performance, we need to embrace each employee's value.

The practice of law, particularly in a firm setting, is not for the faint of heart. It is no surprise that many lawyers (especially women) move outside that setting—to corporate America, public service, solo/small practice, or outside the legal field entirely—in search of work that is more fulfilling, less adversarial, and provides more life balance. Turnover in law firms is horrendous. And if we are really honest with ourselves about why most people leave law firms, we conclude that those departures are caused by feeling undertrained, disrespected, undervalued, or left behind. It is a cop-out to chalk up numerous departures to a lack of "fit," too little intellectual horsepower, work ethic, or other failures of the departing lawyers or other legal professionals we hire.

Changing culture to get to where we want to be

Recognize that law firms are not immune

Organizations that believe “it does not happen here” are making a serious mistake. Although the environment may not be openly hostile, firms should acknowledge as a first step that sexual harassment and other harmful disrespect occurs in most workplaces. Firms need to understand what harassment and disrespect are, whether it’s obvious and open or subtle. Law firms with a firm hierarchical structure delineating senior partners, associate attorneys, law clerks, and staff create power positions that often inhibit respectful interactions, and may encourage an environment where harassment and other egregious disrespect (such as bullying) flourish.

Once your firm realizes that its culture needs to change to create a more respectful environment, change can occur. Change will require a significant introspective effort as well as behavior changes, including modeling good behavior, transparency, and more.

Assess your current culture and decide what the culture should be

Assessing culture is not an easy task, and there are experts to help you. Take a step back and objectively look at the environment. Are there concerns of harassment, discrimination, bullying, disrespect, or retaliation? If so, how are the situations handled, and by whom? Are there lawyers with whom staff do not want to work? Is there turnover among lawyers or staff?

The internally reflective discussion should go well beyond what rises to the level of illegal harassment. Are people engaged, excited, motivated, and upbeat? How do leaders interact with lower-level personnel? Do all personnel feel their input is valued? Consider conducting an audit by using anonymous culture surveys, assessments, small group discussions, and other tools to fully assess the current culture. Do employees know where to go to report concerns about disrespectful or illegal conduct, and do they report misconduct to the appropriate persons? Is there more than one avenue of relief, since we know that employees often approach persons with whom they feel comfortable, not always designated leaders? What actions are taken if concerns are reported?

In assessing the current culture, firms need to be open and listen to all people in the workforce. If there is distrust in the culture, hire an external firm to collect data. Coach and workplace consultant James Earley says, “I think firms should have some outside resource who can build credibility and who can better maintain confidences.” Encouraging input from staff through leadership will provide a truer insight into the work environment. Avoid negativity.⁴ If employees are fearful of retaliation or believe nothing will change, they are less likely to participate or to be forthright in sharing perspectives, concerns, and recommendations.

At the end of the day, culture is formulated by creating an environment that demonstrates how the participants matter in the environment. Culture must be based on trust. Once the firm has assessed its current culture, it can use information-gathering to strategically determine what it

wants to be, and develop a plan of how to get there. The goal is to define a set of desired values and behaviors for the firm and align the firm's culture internally with who it wants to be—within its organization, within the legal profession, and externally to clients.

Think of the big picture

Earley says Alan Deutschman's book *Change or Die*⁵ provides a simple model for what it takes to foster change: "Deutschman calls it the three R's: relationship, reframing and repetition." "Relationship" means making sure there is a compelling, respected person leading the change effort. "Reframing" points to a need to see something in our culture in a fundamentally different way. The third "R" is repetition. "That simply speaks to needing to develop new habits," Earley says. "When I started coaching in the early '90s, it was common at the end of a meeting to give a woman a hug. Although that is still fine with some women, I developed the habit of quickly putting my hand out for a handshake as a way of avoiding the awkward moment of do we or don't we hug."

The first steps in changing the culture require a careful assessment of the firm's written and unwritten policies, practices, and training programs. Effective policies encouraging accountability, consideration, inclusion, integrity, and gratitude, are a must. On the issues of harassment and respect, policies need to provide not only legal definitions of harassment, but also expectations regarding respect and appropriate conduct. Training and educational workshops are essential to changing a culture. In our experience, the most successful training encompasses more than ensuring legally prohibited conduct does not occur and addressing the compliance obligations of employers. The most impactful workshops are interactive, participatory training sessions led by "live" facilitators focused on conduct that the firm finds inappropriate, and also conduct that is encouraged (using examples common to the workplace in question). Telling employees what is expected of them and holding people accountable is critical to changing culture. Having clear values is a good thing. Living the values is better yet.

Training alone is not enough. One-time events are unlikely to have lasting impact on a culture. Changing culture requires reinforcement over time. In addition, the workforce needs time to gain the assurance that leadership means what it says—by demonstrating prompt, appropriate action to hold accountable those who engage in inappropriate conduct and to reward those engaging in encouraged conduct. It is not enough to "talk the talk." The firm (especially leadership) needs to "walk the walk."

Training also should include coaching about appropriate tone, comments, and behavior toward colleagues and clients. Not everyone in the profession intuitively knows that. Lawyers and legal professionals are smart, for the most part, but not necessarily socially skilled at communicating. Training should include the employer's clear expectations for respectful conduct as well as information about reporting procedures and the consequences for those who engage in harassment or other inappropriate conduct. Participants should make a commitment to each other to raise concerns when they are subjected to, or observe, harassment or other inappropriate or disrespectful conduct.

Five tips for assessing and improving firm culture

1. Accountability

Accountability always starts with oneself. When called on an issue, the best response is always “fair point.” Better yet, “I apologize; I’ll work on that.” Lawyers should also let everyone in the firm know accountability (both positive and negative) is the norm and applies to all—including staff holding lawyers to account. If we’ve done something that negatively impacts success for the client or firm culture, we expect to be called on it and it is our plan to own the conduct and make improvements. As Janee Harteau has observed, “When change occurs, there will be pressure points. These pain points indicate you are having the necessary impact. Conduct team/colleague assessments at designated intervals to reenergize and refocus the team and leadership on why cultural change is necessary for everyone in the organization.” Similarly, if we’ve done a great job, we expect to be congratulated along with the others whose participation enhanced the success. “I have an alternative view to accountability. Rather than seeing it as a moral quality (like responsibility), I use it as an accounting process,” says Earley. “There are three elements in my view of accountability: an action we’ll count, a place where we’ll record those actions, and some means of reporting it. What are the key actions to building a culture that values respect? If there’s an issue in a firm of female associates not being informed of certain meetings, then one metric could be having all associates get the meeting notice at the same time.”

2. Consideration

As lawyers, we do not need to run our lives to avoid conflict with our work colleagues. Yet we are much better off if we *consider* how our requests of work colleagues affect them. Before tasking a colleague with a difficult project for the weekend, we should check in to ensure the colleague is willing and able to engage. And we need to be appropriately grateful when they are.

To ensure culture stays top of mind organizationally, it should be an agenda item on every board meeting and any other regular meetings to show that management is engaging, and to get regular feedback on how employees are impacted by events. We no longer live in a paradigm where a client’s needs or a court’s requests come first without exception. Our colleagues are thinking about their immediate families, their futures, and other outside-of-work obligations.

3. Gratitude

Many self-help books tell us that we are as happy as we are grateful. If a work colleague helps you with a client or a court-contested matter, celebrate that success. And, importantly, share credit generously. Another way to show gratitude is to embrace employee-directed job ideas. The employee is often in the best position to relay potential for change to management. Show your gratitude by listening and being open to implementing these ideas. This will show your employees, from all levels, that they are valued.

Are you thanking everyone on your team for their input and hard work? A little can go a long way when it comes to gratitude. A change of rhetoric, replacing sarcasm with compliments for example, is an effective way to positively change culture.

4. Inclusion

Ever hear the phrase “micro-inequities”? Ask yourself, with whom do you engage in a workday? Who do you work with? With whom do you speak? With whom do you make “small talk”? With whom do you eat lunch or otherwise socialize? Should that network be broader? What is the downside of inviting legal administrative assistants (LAAs) to lunch on days other than Administrative Professionals Day? Also: Do you invite *everyone*? Our favorite custom at our own law firm is the daily email saying, “I’m doing X for lunch, what about you? Do you want to join?” If you are in a big law firm, that can be challenging, but what if you put that invite out to a different set of 20 people each day? The upside is that folks you’ve forgotten about (and who, unbeknownst to you, feel left out) are included.

5. Integrity

Building blocks for good culture include *telling the truth*, even when it is not easy. What is one of the hardest things for a lawyer? When s/he cannot meet a client deadline. From a culture perspective, that challenge is exacerbated internally if not addressed head-on. The senior-most legal professional should reach out to the client and explain the situation; apologize for the delay; own the error and promise to do better. (Of course it’s also important to, in fact, do better.) How does an LAA or associate feel when asked to call a client and relay a fabricated excuse for a late project? Not good. Anything short of 100 percent honesty perpetuates insecurity about respect. That LAA/associate who exaggerates to a client about a challenge may also wonder what statements made to him/her by the legal professionals with whom s/he works are exaggerated.

A key corollary to telling the truth is *honoring one’s word*. If you say you are doing X on a particular date, make every reasonable effort to do X on that day. Occasionally we can’t meet those commitments, and in those instances, we may have been able to plan better or perhaps circumstances changed. Either way, we need to own it. As most of us know, we should under-promise and over-deliver (to clients, courts, colleagues, and opposing counsel). If you do not know what you can offer within a specified time period, be straight about that. Transparency = trust.

Now, there are some lawyers whose life’s work has involved being sneaky with opposing counsel. At times that can benefit clients. But if we are to build the trust among our colleagues that keeps us together, we must not be sneaky with our colleagues.

Conclusion: Walking the walk

Culture is not just having a meaningful mission or value statement backed by policies and training. Culture is the sum of everyday interactions between colleagues. We need to create core building blocks regarding how to engage with colleagues and clients each day. Little things can make a huge difference in the workplace culture. For example, going back to the law firm hierarchy, instead of referring to a staff member as an “assistant,” try using “colleague.” Have you ever walked past a colleague who did not look at you or say hello?

Indeed, colleagues are as important as clients to the organization's success and may last longer. Work on communications with colleagues at all levels. Have conversations with colleagues, instead of lengthy string emails.

As a manager, try asking colleagues about the best thing that happened that day or week at work. If something did not go well at work, make clear it matters to you; ask "how can I help?" Culture is the interaction between people, and how we deal with each other, when all is well in the workplace and when there are problems. It includes how we react to each situation.

Changing culture is not a "one-time" task, and not a once or twice a year discussion. Janee Harteau says, "Be realistic in the amount of time it takes to implement institutional changes. Transformational organizational change takes five to seven years. Celebrate small steps and keep moving forward. Culture change depends on clear expectations and behavior changes. It requires ongoing discussions at all levels of the organization, and consistent, effective communication so everyone clearly knows what is expected and how to make those behavior changes. Modeling optimal behavior is key and often not that easy." Similarly, mentoring at all levels of the firm supports behavior changes.

In sum, although the harassment today is often subtler than 30 years ago, it continues to exist. The #MeToo movement is a strong reminder to focus on—and if necessary, change—the prevailing culture. Like most workplaces, law firms should be reviewing and working to create an environment free of discrimination, bullying, and harassment. More importantly, changing the workplace culture means going well beyond the legalities and creating a culture where each person feels respected and valued as a substantial contributor to the organization's success.

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Notes

¹ This is not to say that a good culture, by itself, can cause a law firm to succeed. A nice mix of a good culture and economic reward will sustain a law firm. Conversely, many of us can think of bad cultures that doomed law firms despite economic success.

² Janee was named among Fortune's top 25 world leaders of 2017, along with the Pope!
<http://fortune.com/worlds-greatest-leaders/janee-harteau-22/>

³ Avoiding behavior that demonstrates disrespect for others is not enough. Talking the talk is not enough. If you are as old as Sue and I are, you know that everyone—from the receptionist to the CEO—is a mixed bag. We all have extraordinarily good qualities and less than optimal traits. If we invest time, we can find outstanding qualities in almost all of our colleagues. Acknowledgment of good work and qualities is empowering. It induces loyalty and extra effort. Those employees who feel they matter are more invested in the success of our client work. And, according to leadership coach/workplace consultant James Earley, "There can be no culture of respect without senior leadership actually appreciating the value of others in the organization."

⁴ This is a day-to-day game changer. As leaders, we must be positive not just during an audit, but also regularly as we navigate our work.

⁵ Alan Deutschman, *Change or Die: The Three Keys to Change at Work and in Life* (HarperBusiness, 2007).