

Innovation in the Legal Profession

A roundtable discussion from Bank of America and Harvard Law School

The legal community isn't known for being especially tech-forward, but a wave of interest in innovation promises to change that reputation in the near future. Innovation is poised to reshape the legal profession in 2020 and beyond. But what does that mean in practice? Who is driving this innovation, and what are they doing? How can we measure its impact? In a recent event produced by Bank of America and the Center on the Legal Profession at Harvard Law School, these questions took center stage.

Operationalizing innovation

David B. Wilkins, director of the Center on the Legal Profession and professor and vice dean at Harvard Law, pointed out during his keynote remarks that failure catalyzes innovation more often than success.

"If we're honest, we learn a lot more from things that don't go well than things that do," said Wilkins. "There's a lot of talk about disruption and with good reason." The legal profession isn't known for leading the tech innovation charge. "Law is a lagging, not a leading, indicator of change," he said. To promote innovation in a legal organization, "you have to have a strategy, and that strategy can't be innovation as just a pie-in-the-sky concept," Wilkins noted. **"That's where the rubber meets the road: where we start operationalizing innovation."**

And innovation doesn't start and end with tech upgrades. "We're focused on technology, but technology is a tool. What's the tool for, and how do we know it's the right tool?" noted Wilkins. **"Right now in the legal tech world, we have what I call too many hammers looking for nails."**

Wilkins described Harvard Professor and Consultant Clayton Christensen's concept of disruptive innovation, which creates a new market while disrupting an existing one, versus sustaining innovation that drives "cheaper and faster" outcomes via process improvements.

Wilkins highlighted a third path as most relevant to the legal profession: "Adaptive innovation starts with the client's needs and adapting to the client's needs. How do we work in a way that better fits our client's needs?"

Key takeaways

- A wave of innovation has the potential to reshape the legal profession
- Defining a strategy is the first step toward adopting new technology
- Trial and error, discipline and learning drive successful implementation

Moderator and keynote speaker

David B. Wilkins

Lester Kissel Professor of Law
Director of the Center on the Legal Profession
Vice Dean for Global Initiatives on the Legal Profession
Harvard Law School

Featured panelists

Mitchell Neider

Co-chair of the Legal Innovation Council
Managing Director and Associate General Counsel
Bank of America

Daniel Yi

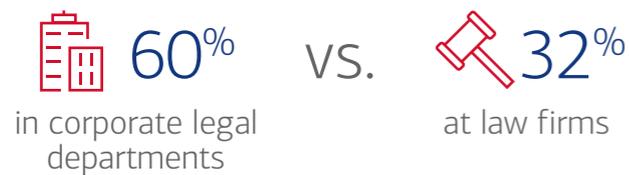
Lecturer on Law
Harvard Law School

Aaron J. Yowell

Partner and Chief Innovation Officer
Nixon Peabody

Law firms are creating positions like chief innovation officer to evaluate and implement these strategies. In its survey of more than 200 innovation professionals from both corporate legal departments and law firms, the Center on the Legal Profession noted some striking differences. Based on the survey’s preliminary results, approximately 60% of corporate/in-house legal department innovation respondents were women (40% men), with around one-quarter of them having law degrees. On the other hand, approximately 70% of respondents from law firms were male (30% women), with around 40% of them having law degrees.

Female innovation professionals



Another high-level takeaway from the survey: **Corporate legal innovation is driven by results, while law firms are more focused on innovating processes.** But both populations embraced collaborative innovation.

Law firms “are just at the beginning of this innovation journey,” noted Wilkins. “This is producing a mismatch between what the clients are doing and what the law firm is doing.”

Discipline and strategy

Following his data dive, Wilkins introduced the featured panelists to discuss why and how their organizations implemented innovation strategies:

Mitchell Neider, co-chair of the Legal Innovation Council and managing director and associate general counsel at Bank of America, said **tech innovation is largely about harnessing and directing existing energy at Bank of America.** “There’s tremendous activity going on across the bank involving technology,” he explained. “There’s also decentralized activity going on in the legal department that was really not connected to the larger institution.”

The bank’s new legal innovation council aims to help connect these sometimes disparate initiatives, he added. “We were operating in a very siloed, decentralized fashion, and we weren’t leveraging best practices.”

The council is comprised of 25 lawyers from a wide variety of divisions at Bank of America. Neider’s co-chair has a technology background and has worked as a transactional lawyer for the firm for 10 years.

Joining the U.S. Department of Justice as a trial attorney in 2007, Daniel Yi essentially created his current job as senior counsel for innovation at the DOJ in 2015 when he saw an opportunity to leverage new technology. Innovation often gets put on the back burner at legal organizations, and he said there’s a reason for that: “We are tremendously busy. **We have a caseload. If you are an attorney, you understand: There is always something to do and it’s always pressing.**”

Yi contended that innovation is ultimately more about perspiration and perseverance than inspiration and invention. “It’s really not about the creative person, the idea person,” he said. “There’s actually a discipline and a strategy to it.”

It’s critical that organizational hierarchies don’t isolate innovation, Yi added. “I’m deeply worried about the idea in an organization that if you have an innovation office, then suddenly that’s the lane of that office: ‘New stuff is that office’s job.’”

To avoid this, he explained, he focuses on grafting on an innovation guild that runs across all of these siloes that we have.” Dubbed “Y Combinator for DOJ,” the guild is named for the prolific tech accelerator that has funded 2,000-plus startups. “The tagline is very specific, because if you know what Y Combinator is, we probably want you getting into this incubator program,” said Yi. The goal of the guild is **“partly to help the organization solve problems, but partly to teach methods and a way of thinking.”**

Aaron J. Yowell has served as Nixon Peabody’s chief innovation officer since 2017, while maintaining his Affordable Housing and Real Estate practice. He spent five years in the tech sector before law school.

At a law firm where he was employed previously, he saw the impact of lagging innovation firsthand. “I witnessed how few new ideas were floating around the place,” said Yowell. **“When I moved to Nixon Peabody about seven years ago, I found a firm that was a lot more open to new ideas.** It was immediately obvious to me it was a place you could raise your hand and say, ‘I want to try something new.’”

Yowell now leads a growing, cross-disciplinary innovation team of seven employees striving to bring structure to an amorphous area. “So much of what we’ve done is based on trying to build an innovation infrastructure,” he said. **“It isn’t that there isn’t a great deal of innovation happening throughout the firm, it’s stitching it together and finding ways to support that innovation, and also giving people some tools for evaluating whether or not it’s the right innovation.”**

Clear goals are foundational in this regard. During his first year as CIO, Yowell said his team identified productivity as the desired innovation outcome. **“It’s not just about ‘Can I automate these documents so I can deliver them faster?’”** he explained. “Efficiency’s part of the equation, but fundamentally it’s about identifying productivity.”

Learning from mistakes

As attendees broke into groups to discuss innovation in their own organizations, Wilkins elicited icebreakers from the panelists about learning from innovation failures at their organizations.

Yowell said that a smartphone app for billing time was deemed something of a failure because use rates were low, but there was no true benchmark to evaluate its success. **“We have to identify the metrics of what success looks like, or we can’t evaluate whether or not it succeeded,”** he noted.

Neider shared a story where he led a proof-of-concept initiative that explored Bank of America automating the review of non-disclosure agreements. “I don’t consider it a failure, but we didn’t implement it,” he said. While the effort concluded the technology was “not sufficiently mature,” he said, it also identified areas where the legal department could improve outcomes by changing review processes.

Yi said he was involved in a failed attempt to implement a document management system. The failure started with the framing of the problem: **“‘Everybody has a document management system. We don’t, and we want one.’ That’s not how you frame a problem.”**

Subsequent design by committee “was not pretty,” he said, then a pilot revealed catastrophic problems. “We found out there were fatal flaws two years in,” said Yi. While the implementation dodged the iceberg, the system’s failure to launch left a bad taste in everyone’s mouth, effectively killing the project. “It was impossible to implement it at that point,” said Yi.

Attendees explored the missed opportunities and key learnings they have uncovered at their organizations: limited partner buy-in, unclear goals, hurried implementation, inadequate budgets and “fuzzy” messaging.

It all starts with leadership, argued Wilkins. **Adoption of new technologies (or lack thereof) is a formidable barrier to innovation at law firms, and partners need to foster a culture that embraces improvement and change.**

“Now you’ve got to take that back to things that percolate in your organization,” said Wilkins. **“The whole purpose is to create and implement a defined strategy for the firm and the client, fail early and pivot as needed, to prototype, to constantly tweak and to take a good idea and make it better.”**



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