The billable hour will die. Someday, someone somewhere will fulfill the prophecies and liberate the legal profession from the tyranny of perverse incentives. Or not. Regardless, today is not that day. This column will treat the billable hour as predominant because the billable hour is predominant, for now. There are advantages to taking the world as it is, especially if your objective is to change it.

Real-time bill monitoring will change your world with respect to the billing behavior of outside counsel. Real-time monitoring works by integrating with the firms’ existing time-capture system (e.g., DTE, Carpe Diem) and pushing out activity as soon as it is recorded. Rather than waiting months for your first look at an invoice, real-time monitoring provides immediate access to all your open matters and lets you ask questions while course correction is still an option. The concept is simple. The impact is profound.

For most of us, disputing counsels’ bills is an excruciating exercise. Months after the fact, you debate minutia (i.e., the necessity of who did what when for how long). Simply broaching the subject suggests an erosion of trust and introduces emotion. Discontent is assured. You pay a bill you judge excessive; counsel cuts a bill they consider righteous; or you both accept some level of dissatisfaction. Real-time monitoring does not eliminate uncomfortable conversations. But it does allow those conversations to occur at a much earlier, more flexible stage in the matter lifecycle.

Of course, real-time monitoring only facilitates synchronous conversations when your lawyers are actually recording their time in proximity to the task being billed. I predict that most in-house readers will be shocked at the lag between the time billed and the recording of that time. It certainly shocked me, despite what I considered to be my over-the-top cynicism about BigLaw billing practices.

I vividly recall how quiet my former firm would get near month end. Lawyers busy reconstructing an entire month of activity. Some had notes. Many refreshed their recollections with emails. Most were guided by the accurate impression that they had spent a substantial percentage of their waking lives working diligently on client matters. And everyone knew precisely how many hours they needed to stay on pace for their annual quota. It was a sub-optimal situation to determine whether three weeks prior you had spent 2.6 hours, 2.8 hours or 3.2 hours on a particular project.

Human memory is also fallible, malleable and self-serving. Humans have proven to be terrible at time estimates, both of the past and future. There is ample empirical evidence that we have a pronounced tendency to overestimate the time we spent working. This tendency slopes upward (i.e., the greater the estimate, the greater the overestimate).

Thus, I was dismayed to discover so many of my lawyers entering over 90 percent of their time on the final day of the month. I was subsequently heartened to observe this percentage drop precipitously after I introduced real-time monitoring. My experience was commensurate with the data. Before real-time monitoring, timekeepers average an astounding 17.7 days between work and the recording thereof. After real-time monitoring, the delay drops by over 80 percent to a more reasonable 3.5 days. Unsurprisingly, the average time entry also falls by 28 percent, from 1.43 hours to 1.03 hours. For an isolated entry, .4 is immaterial. But at the scale of modern legal work, the aggregate impact of a 28 percent reduction is dumbfounding.

As always, there are human judgments to be made. For example, I do not monitor the time of certain relationship partners whom I know to be serial under-billers. Likewise, I do not ask the firms to pass on the entry details in real-time. I don’t have the capacity to dig into the detailed entries and don’t begrudge anyone the opportunity to do a little cleanup. Finally, there are valid reasons why some entries might be long delayed. Periods of punctuated equilibrium (e.g., trial) really are that crazy, and my lawyers have more than earned the benefit of the doubt. Finally, like any technology, real-time monitoring is not magic. Transparency should be coupled with accountability. Unless you actually review and use the data, the impact will be diminished.

For the remainder of the billable hour’s reign, I suspect real-time matter tracking will be a fixture of the “New Normal.” As far as I am concerned, the burden of proof is on outside counsel. The question is: Now that technology like real-time monitoring is feasible, why shouldn’t you have immediate access to your accumulating bills? I have yet to encounter a satisfactory answer.