The Labor Market for Attorneys in the State of California
Past, Present, and Future

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Preface

In response to the University of California, Office of the President’s Request for a Proposal for a study of the Need for a New Law School in California, RAND conducted an assessment of future workforce needs for lawyers in California through the year 2015. The study was carried out under a contract from the University of California, whose responsibilities under the California Master Plan for Higher Education include helping to meet California's workforce needs.

This research was conducted jointly by RAND’s Institute for Civil Justice (ICJ) and RAND Education. Each of these Units provides analysis and assessments for decision-makers and for the public domain. The ICJ’s mission is to help make the civil justice system more efficient and equitable by supplying government, private decision makers, and the public with the results of objective, empirically based, analytical research. RAND Education conducts analytical research and provides technical assistance to improve education policy and practice in all sectors that offer education and training, including higher education.

In this current research, both primary and secondary data were gathered to develop a profile of practicing lawyers in California, project future supply and demand for lawyers in California, and gain the expert opinion of individuals within the legal community on issues that may affect future supply and demand. The results of the study may now be cited. They are of interest to individuals within the legal community and administration in higher education, especially in California.
Executive Summary

The overall goal of the research reported here is to provide an objective and credible assessment of the future workforce needs for lawyers in the state of California through the year 2015. The study was carried out in 1999–2000 under a contract from the University of California, whose responsibilities under the California Master Plan for Higher Education include helping to meet California’s workforce needs.

Among publicly supported institutions, the University of California has the sole responsibility for providing certain types of professional education, including law. If the existing or expected supply of lawyers is likely to be unable to meet the state’s needs, then it would be appropriate for the University, along with other stakeholder institutions, to consider ways of addressing such imbalances. This project represents a first step toward understanding whether any supply-demand mismatches are emerging that might warrant new policy initiatives.

Research Objectives and Methods

Specifically, the project gathered both primary and secondary data to meet four main research objectives:

i. Develop a profile of practicing attorneys in California today at the state level and—insofar as possible—for specific regions within the state.

ii. Project future supply and demand for lawyers in California to the year 2015 at the state level and—insofar as possible—for its specific regions, and identify likely mismatches (if any) between supply and demand.

iii. Determine what representatives of California’s top ABA-approved law schools expect to happen in legal education and in the legal profession generally over the coming decade that might affect future supply of and demand for lawyers.

iv. Explore what representatives of varied employing organizations and other experts anticipate as upcoming trends that will affect future supply of and demand for lawyers.

The first two objectives cited above are realized by acquiring and analyzing secondary data available through a number of sources (e.g., the US Census, Current Population Supplements to the US Census, the Bureau of Labor Statistics, the California Bar Association, the National Association for Law Placement and Martindale Hubbell). The latter two objectives are achieved by means of semi-structured interviews carried out with members of law school faculties, law firms and other experts. In addition, a narrowly focused review of relevant literature provides background information that helped guide research toward all four objectives.
Major Findings and Conclusions

Below we summarize the major findings and conclusions from the research. For purposes of this study, we define the supply of lawyers at a particular point in time as the number of qualified lawyers willing to work under prevailing market wages. Demand, similarly, is construed as the number of lawyers that employers or clients are willing and able to hire at the prevailing market wage.

It is important to underscore the limitations of the quantitative supply and demand projects presented here. First it is impossible directly to observe supply and demand; rather, these are inferred from the number of lawyers qualified to practice in the state and the number of lawyers actually employed at any given time. These numbers may overestimate supply and underestimate demand, for reasons explained in the report. Second, it is difficult to obtain reliable forecasts of trends that will affect the numbers of qualified lawyers and employed lawyers in the future. The results that follow should be interpreted with these caveats in mind.

Aggregate supply and demand

The overall conclusion we draw from examining quantitative data from the profile and projections is that the number of Bar-certified lawyers is likely to keep pace with or exceed the expected growth in demand between now and 2015, for the state as a whole and for each region in the state as well.

After 10 decades over which the legal profession grew approximately as a function of population growth in the United States, the 1970s and 1980s witnessed an unprecedented expansion in the number of lawyers per capita, with California leading the nation on this measure. By 1990, there was an acknowledged oversupply of attorneys, and a declining economy led many of them to exit the profession. At present, data from the profile and projections suggest that in California the labor market may be in near equilibrium; that is, overall levels of supply and demand are reasonably well matched, as noted above. That the ratio of lawyers per thousand people in California is now approximating the national average after having been substantially higher earlier in the decade tends to substantiate this view.

Recent trends, together with interview data, suggest a number of reasons why the supply of lawyers is likely to be reasonably well matched to future demand.

- The labor market for lawyers appears to have adapted to changing demand conditions in the recent past through wage adjustments and adjustments in the number of hours worked. Additionally, lawyers are able to move in and out of the profession in response to differential demand (as evidenced, in part, by recent growth in the proportion of inactive Bar members). Such adjustments allow the market to avoid situations of surplus and shortage.
• Although the number of undergraduates from California schools is expected to increase as a function of the baby boom echo, law schools do not expect the number of applicants to increase proportionately. California’s expanding economy provides many attractive alternatives to graduate school in general and law school in particular. In any case, the top ABA-approved law schools in California do not plan any substantial increase in their enrollments in the coming decade. But if the ratio of applications to enrollments increases, law schools will likely exercise greater selectivity, which would be expected to increase the already high proportion of graduates who pass the Bar. Under these conditions, the number of Bar-certified lawyers would increase faster than expected on the basis of enrollments alone.

• Law firms are not expanding their hiring as rapidly as in the earlier 1980s boom period. Rather, like other businesses, law firms perceive a need to keep their hierarchies relatively flat and to keep billing costs down for their clients. Reliance on paralegals and substitution of capital for some types of labor are contributing to this trend.

Taken together, then, quantitative analyses supplemented by qualitative information present a future in which the aggregate supply of lawyers either meets or moderately surpasses demand. They also indicate that business cycles are major drivers of the labor market. Thus it is important to underscore the dependence of the projections on the state of California’s economy. The kinds of labor market adjustments discussed above are consistent with modest expansions and contractions; if the economy undergoes dramatic upward or downward shifts, major shortages or surpluses could result.

**Dimensions of supply and demand**

The preceding account looks at overall labor market conditions for lawyers; here we summarize what we have learned about more specific dimensions of supply and demand. At disaggregated levels of analysis, there is evidence of mismatch between some supply and demand characteristics related to geography, ethnicity, work settings and specialization. However, these mismatches do not necessarily constitute supply-demand imbalances as these terms are defined above.

• Regional markets exhibit considerable variation in supply and demand characteristics. For most California regions, there appear to be slight to major surpluses of attorneys now and in the future. In two regions—the Inland Empire and the San Joaquin Valley—and in rural northern counties the projections indicate that the number of attorneys available to practice will be about equal to projected employment. Additionally, the profile suggests that these regions today have low lawyer-to-population ratios relative to the rest of the state.

• These data suggest that the geographic regions singled out above are having difficulty attracting lawyers, especially for work in government, public law or general practice law. This problem, however, is not unique to the legal profession; it parallels in many respects the difficulty of attracting medical doctors to rural regions for general or
family practice. On the other hand, according to many academic and professional interviewees, location of residence or firm appears to be increasingly independent of location of practice. Networked information and communication technologies are presently supporting such trends; improvements to these media in the future, along with the nationalization of firms, should boost geographic independence in the coming decade. As a consequence, it is difficult to tell how well the legal service needs of particular regions are being met by examining local lawyer-to-population ratios.

- Significant disparities are evident at both the state level and within particular regions among California’s ethnic groups with respect to their representation in the legal profession. Specifically, there are disproportionately many white lawyers compared with lawyers of color. This imbalance is uniformly regarded as undesirable. While the problem is not unique to California, it will become increasingly noteworthy here over the next five years, when the state is expected to attain a nonwhite majority.

- The state’s public law schools are not well positioned at present to address the ethnic mismatch between the lawyer labor force and the population, given the passage of Proposition 209 and the related UC Board of Regents’ decision. Private California law schools, in contrast, are actively recruiting minority students. While private schools are increasing in diversity, this trend does little to provide greater representation for low-income and minority group members in need of legal services. Historically lawyers of color have entered public law in greater than average proportions. Now they are increasingly entering large law firms, in part because their debt burden makes the choice of very low-paying career entry options much less viable.

- Lawyers are not distributed evenly over work settings; in particular, public law is loosing ground to law firms and other businesses. Independent of ethnicity, many law school graduates feel they cannot afford to enter public law. Interviewees believe that those who choose this course are either highly committed personally to the field or see it as a path they can afford to take en route to other government career goals for which public law is a strong beginning. Market forces are not expected to ameliorate the imbalance between public and private sector law in the foreseeable future; public sector salaries are not expected to approximate those in law firms or other businesses, and public sector workloads are not likely to decrease.

- Another distributional shift is evident in the transition of lawyers away from solo practice. Firms, whether legal service firms or other private sector businesses, now employ more attorneys than are in self-employed practice. Larger firms, in turn, are likely to be urban in location, cater to business clients, and pursue a number of specialized lines of administrative law at high cost. This trend is seen as contributing to declines in general practice legal services offered by affordable solo practitioners or small firms.
Greater specialization, both within large firms and on the part of small “boutique” firms is also changing the face of the legal profession. Although the trend is sometimes associated with a likely decline in affordable general practice services (see above), many interviewees believe that more routine general legal services may increasingly be made available on a do-it-yourself basis, leaving the more specialized, complex and costly work to be handled by professionals.

Specializations are not evenly distributed over regions of California; rather they respond to local market demands. For instance there is a noticeable concentration of intellectual property lawyers in the Bay Area. Moreover, the very high salaries now being offered to attorneys with mediocre qualifications but experience in intellectual property law in that region can be viewed as evidence of a current shortage in the specialty. However, market forces are expected to correct that mismatch by attracting more better-qualified lawyers into that field in the near future.

The preceding paragraphs present a research-based picture of present and expected supply and demand trends for lawyers. It is important, however, to call attention to two considerations that underlie much of the discussion.

First, recognized needs do not constitute “demand” in the economic sense. In the sense defined above, for instance, the needs of underserved groups and communities typically do not constitute demand since these constituencies are often unable to pay the going rate for lawyers. Thus many of the types of disparities outlined above, while of concern to policymakers, do not represent supply shortages or supply-demand mismatches. Consequently, answers to questions about market forces do not address policy concerns about how the diverse legal needs of the California public will be best served in the future.

Second, not all the demand for attorneys is reflected in employment within the practice of law, as reflected in the growing number of inactive Bar members. Organizations that provide other kinds of services are increasingly hiring lawyers. While the diversification of the profession probably began as a function of the oversupply of lawyers, many experts believe it now reflects the greater attractiveness of wages, working conditions and other rewards afforded by alternative lines of work. So “demand,” in the sense defined in this report, is broader at any point in time than the number of practicing lawyers. Consequently, in a healthy economy, professional diversification may mean that an “oversupply” of lawyers would not pose a problem. These kinds of considerations should be taken into account in interpreting supply and demand trends in the legal profession. For such reasons, several expert interviewees underscored the importance of looking beyond supply and demand projections when considering the future of the profession and how it might best be served by the legal education system.
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