Section VI

Survey of Law Firms

Introduction

In the preceding chapter, we report findings from interviews with representatives of California’s top ABA-approved law schools. They provide a well-informed perspective on California’s future lawyers from the supply side. To obtain insights into the future of the legal workforce in California from the demand side, we gathered interview data from representatives of a range of California law offices to satisfy the fourth major objective of the study.

The law firm interview was designed to incorporate a subset of the issues addressed in law school interviews (see the interview protocols, Appendix D). Questions focused on changes in overall level of demand for lawyers in the coming decade as well as narrower kinds of changes based on geographic location, ethnicity, and area of specialization. Firm interviews also inquired about expected changes in legal service delivery, work settings, office size, and patterns of practice. Finally, the interview asked firm representatives to speculate about the most important influences on the nature of legal education or the legal profession that would emerge in the next 10 years. Below we first outline the procedures used to survey a sample of firms and then discuss the findings.

Procedures

Generating the sample of law firms was more complicated than the corresponding process for the law schools. We aimed for a sample that would capture several aspects of the legal profession, including approximately 10 large firms that are in urban areas (mostly Los Angeles and San Francisco), plus another 20 firms that represented small and mid-sized practices throughout the state.

Selection criteria for drawing the sample of large firms differed from the others for two main reasons: most large firms are located in urban counties only, and in a very restricted set of cities within them; and many of these firms have multiple sites, not all within California. We chose them first by referring to American Law’s top 100 U.S. firms for 1999 (based on revenues) and identifying California offices. We then consulted a 1999 American Law survey of in-house counsel for high-technology firms that inquired about the law firms on which they have relied in recent years for work in various specialty areas. The initial sample included all the firms that were on both lists. In terms of total number of employees, all are well above the cutoff for large firms. Although we do not know the size of the average office or branch of these firms, they are all well suited to respond to questions about future demand—and changes in demand—for legal services in California.

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1 It is important to note that many of these firms, particularly the large ones, have multiple offices either within the state or nationwide, as explained in Section 3.

2 Large firms, as defined in Section 3 above, are those that employ 51 or more lawyers (see Figure 3.9).
Because we lacked comparable methods for identifying appropriate small and mid-sized firms and spokespersons to be surveyed, we relied instead on nomination techniques (snowball sampling). That is, at the end of the interviews, we asked all law school deans and all representatives of large firms to suggest firms in the small to medium-size range that would be able to address the issues of interest to this study; we also sought the names of specific contact persons within these firms.

Survey Strategies

In all cases, initial contacts were made by fax, which included a letter written by the director of RAND’s Institute for Civil Justice describing the study and urging participation. We then followed up with phone calls to request a short telephone interview (approximately 30 minutes) with someone in the firm qualified to address the issues raised in the survey. For large firms, it was helpful but not necessary to have the name of a contact person and a referral. The first 11 large firms we telephoned yielded the targeted sample of nine interviews.

We then turned our attention to smaller firms, where it proved very difficult to secure any participation at all without having a specific contact person and a known referral. While the snowball approach eventually enabled us to interview the targeted number of small to mid-sized firms within the time frame of the study, it did not produce the desired geographic distribution. That is, law school deans and large-firm representatives were overwhelmingly likely to be familiar with smaller firms and individuals practicing in urban rather than in rural areas.

<table>
<thead>
<tr>
<th>Number in Category</th>
<th>Mean Size</th>
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<tbody>
<tr>
<td>Urban</td>
<td></td>
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<tr>
<td>Large (51+)</td>
<td>9</td>
</tr>
<tr>
<td>Mid-Sized (10-50)</td>
<td>11</td>
</tr>
<tr>
<td>Small (1-9)</td>
<td>11</td>
</tr>
<tr>
<td>Other</td>
<td>All Firm Sizes</td>
</tr>
<tr>
<td>Total</td>
<td>38</td>
</tr>
</tbody>
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As shown in Table 6.1, the obtained sample includes a total of 38 firms; they comprise 9 large urban firms, 11 mid-sized urban firms, 11 small urban firms, and 7 nonurban firms of varying size (the majority were small or solo firms). Overall, while the findings should only be generalized to urban law offices, the high degree of consistency among responses from firms of varying sizes from the north to the south of the state lends confidence in the results.
Findings

Below we report what we learned from law firm interviews, organizing the findings along the lines of the interview protocol (see Appendix D). It should be noted that all subsequent material in this section comes from firm interviews; we did not gather independent data from firm records.

Future Demand for Practicing Lawyers

One of the major foci of the survey of currently practicing lawyers was the future level of demand for lawyers in California. Somewhat surprisingly, respondents were quite mixed on the question of whether and in what ways the overall demand for lawyers would increase in the next decade or so. While the majority of small and mid-sized firms predicted no major changes in demand, a vast majority of large firms felt strongly that demand would increase. Not a single respondent expected demand to decrease. Several respondents believed there would be increases in demand due solely to increases in the California population, while others expected both increases and decreases within specializations without reference to overall changes.

The responses of large firm respondents conflict somewhat with the general expectations of law school deans; as noted in the previous section, the consensus among the deans was that the level of demand would remain relatively constant or possibly increase, but not to a dramatic extent. One possible explanation for this finding relates to the hiring practices of large, prestigious urban firms. Many of the respondents in this group were managing partners who are directly involved in recruiting and hiring activities. They explained that they only consider graduates of two or three California law schools and otherwise recruit nationally. They claimed that while demand for lawyers in general may not be increasing substantially, their firms are experiencing a tremendous need for the most highly qualified new graduates, especially in the most popular areas of specialization.

Consistent with the results of the law school surveys, a substantial majority of the firm respondents indicated that graduates of California law schools would remain within the state to practice. As with the deans, few firm respondents were able to indicate which regions of the state are most likely to attract large numbers of new graduates. Rather, a few large firm respondents pointed to Silicon Valley, the San Francisco Bay Area and San Diego as hot spots, with demand moderating in Los Angeles.

When asked about future demand for lawyers of color, the lawyers’ responses were mixed. While many of the small and mid-sized firm respondents expect increasing demand for lawyers of color, the majority of large firm respondents emphasized the present-day importance of diversity and the difficulties of attaining a demographically balanced firm. Further, while only one large firm respondent asserted that color was not relevant, one-half of the small firm respondents claimed it was not an important factor in their hiring.

In contrast, virtually all respondents felt that a gender balance had been achieved in the legal profession and that it was no longer a significant factor in supply and demand. However, several individuals expressed concerns over the difficulties women encounter in trying to balance a legal career and family life, given that they are still often the primary caretakers of children.
Areas of Specialization

Expected changes in demand are tightly linked to the rise and fall of particular specialties within the profession. Aside from assessments of demand for specific specialties, many respondents also described a strong but general trend towards specialization, as clients are increasingly demanding substantive expertise on the part of law firms. One respondent explained that clients feel that if they are going to spend the money in the first place, they would rather spend a little more and get an expert in the substantive domain. This is consistent with results from the Hensler and Reddy report (1994), which reported that most California lawyers expected legal practice to become more specialized in the future. The issue of specialization tends to take center stage in many of the questions we asked, as seen in the results presented in the rest of this section.

Regardless of firm size, respondents overwhelmingly pointed to intellectual property, cyber-law, and anything related to technology as areas in which demand for lawyers is booming. Many representatives of large firms claimed that they cannot hire enough qualified individuals to do the work they already have, forcing current employees to work even harder and longer hours. Further, they do not predict an impending solution to this problem. This continuing trend of great demand for lawyers with expertise in high technology areas was also indicated by the results of both the literature review and the law school surveys.

The only other area in which a subset of respondents indicated increasing demand was environmental law, although this was only mentioned by small and mid-sized offices. While both law school representatives (see Section 6) and firm representatives generally believe that demand for environmental law has stabilized, there are specific subtopics in this domain that some firms expect to raise new and potentially growing challenges. These include the move from clean-up cases to prevention, issues associated with deregulation of utilities, and many questions about legal responsibilities for environmental issues that arise from the devolution of federal powers to the states on the one hand and the internationalization of environmental problems on the other.

Changing Approaches to the Delivery of Legal Services

The law school deans’ expectations for the nature of legal service delivery in the coming decade for the most part parallel the current operating procedures of law firms, especially large firms. For example, many respondents from large firms said that they are already heavily reliant on paralegals because they are capable of doing many legal tasks with the aid of online information technology while being more economical for the firm. Paralegals are expected to become even more important in the future, as technology has increased expectations for speed and efficiency and firms attempt to compete. Therefore, demand for paralegals is expected to be particularly strong in large, high-tech firms. Finally, even small and mid-sized firms expect an increasing demand for paralegals, even though many of them are too small to employ them. These findings are consistent with results from our literature review, and with the Hensler and Reddy report (1994) in particular. In their survey of California Bar members, most respondents expected that non-lawyers would increasingly provide many legal services and that technology would improve productivity as well as the quality of the legal product.
Virtually all respondents agreed that ADR will play an increasingly prominent role in the profession. Many explained that the courts are increasingly mandating ADR, while many clients prefer it because it is faster and more cost effective. In addition, several lawyers commented that clients also prefer ADR because they are either fed up with the courts or “they are scared to death of lawyers.” Not surprisingly, all but one of the small firms reported increasing reliance on ADR, and a majority of mid-sized and large firms agreed. It is important to note that ADR is practiced by both lawyers and non-lawyers, therefore it is not immediately clear what effect this increasing reliance on ADR will have on the demand for lawyers in the future.

Overall, most respondents’ views on the role of the Internet in legal practice were more complex. While most acknowledged that it would be unwise not to take full advantage of the capabilities for efficiency that the Internet provides, they are skeptical about the scope of its use. For example, while nearly all use e-mail to keep in contact with clients, rely on the Internet for legal research, and do advertisement through their own Web sites, few feel that virtual delivery of legal services will take hold in the future. Many, especially those in small firms, voice concerns over confidentiality and the need for personal contact and relationships with their clients. Several respondents noted the existence of web sites such as Nolo Press’s which have extensive online legal resources; these are expected to be popular and useful providers of information. But these virtual services will not replace existing legal services to any significant degree, so respondents do not expect the use of these resources to decrease the demand for lawyers at all. Overall, the Internet is expected to be a vital delivery vehicle, not a substitute for legal services. Again, these views are remarkably consistent with those of the law school deans.

Changes in the Professional Environment for Lawyers

Respondents also predicted substantial shifts in the structure of the legal profession, both in the settings in which lawyers work and in the types of firms that will prosper in the coming decade. Likely the most dramatic impact on the profession will be caused by the emergence of multidisciplinary practices, which are bound to result in a major change in the work settings of lawyers. Many believe that clients desire the type of one-stop shopping that MDPs will be able to offer, combining general business consulting with legal advice and service all in one firm. The most likely participants in the MDP movement are those commonly referred to as “The Big Five” accounting or business consulting firms. Given the already incredible size of these firms (e.g., Arthur Andersen alone employs more than 30,000 people in the United States.) and the sheer number of clients they serve, they will have to hire large numbers of lawyers to develop into full legal service firms. The other, more likely alternative is that already large law firms will merge with one of these consulting firms. Regardless, there will be a major change in the professional environment for lawyers. Interestingly, in 1994 California lawyers were much more divided about the likelihood of MDPs revolutionizing their profession. Only 29% agreed that lawyers would “increasingly form practices with members of other professions, such as accounting or consulting firms, in the form of multidisciplinary practices” (Hensler and Reddy, 1994).

A substantial number of respondents expect the proportion of lawyers taking in-house counsel positions to increase, based on both the desirability of these positions and the increasing role that business is playing in the legal profession. Many respondents also expect the numbers in private
firms to increase, which may be linked to several other trends expected in the future. The first is the MDP movement described above, which would require larger numbers of lawyers in private firms, be they consulting or large law firms trying to compete with the new MDPs. Further, a large majority of respondents expect already large law firms to grow even larger, expanding into multisite or multinational megafirms. All of these trends would contribute to an increasing proportion of lawyers employed in some sort of private firm.

Despite this trend towards large firms, just as many respondents expect small specialty or boutique firms either to remain popular or become even more so, based on increasing client demand for expertise. These results mirror almost identically the expectations of the law school deans, who anticipate a bifurcated growth trend including small specialty firms at one end and the large megafirms previously described on the other. Further, the firm respondents also expect increasing mobility across work settings, as mid-sized and general-practice firms get squeezed out, forcing lawyers to one or other of the extremes described above. An additional influence on mobility patterns, mostly from large prestigious firms to smaller specialty firms, is the poor quality of life in large firms as described by many respondents. Mobility also results from what firm respondents refer to as declining loyalty on the part of employees; these days, new hires do not take a job expecting to make partner after a few years and then stay until retirement. In the first place, is has become increasingly difficult to make partner, and secondly, given the strength of the economy, there are many other opportunities available for lawyers. Again, these are trends well described by the law school deans in the prior section.

Inactive Lawyers

Based on our analysis of data from the state Bar, it appears as if an increasingly large proportion of Bar members are becoming inactive over time. We explained the issue to the firm respondents and asked if they could offer any reasons why this might be the case. Overall, there was quite a bit of agreement among respondents, with their answers focusing primarily on two points: disillusionment with the profession and attractive employment opportunities outside of the legal profession. Nearly all of the respondents pointed to disillusionment with the profession, including long hours, lack of family time, poor quality of life and burnout as a primary reason for the increasing proportion of inactive lawyers in California. Many noted that for the most part, law students have no idea what they are getting themselves into when they enter the profession. It is not uncommon for individuals to complete law school, pass the Bar, get a job, and then realize they hate being lawyers. Secondly, the existence of many other job opportunities for lawyers, based in part on the strength of the economy, has allowed many lawyers to become very successful in other fields. Respondents also explained that because lawyers have been trained to be good thinkers and problem-solvers, there are in great demand in other industries, especially business.

Large Enough Future Supply?

We asked firm respondents whether they believed that there would be a large enough supply of graduates from ABA-approved law schools in California to meet the future needs of the profession. Only one said no. The vast majority claimed that the future supply would be more than adequate, with many arguing that there are already too many lawyers in California. One respondent additionally explained that historically when there is increasing demand for lawyers,
students begin flooding into law schools. The one firm respondent who believed there would probably not be enough lawyers cited increasing globalization and economic restructuring abroad as the major factors increasing demand. Specifically, he expects that as countries like Japan restructure economically, there will be great demand for American lawyers, who are often considered some of the best-trained worldwide; and California lawyers would be well-positioned to meet the emerging needs of Pacific Rim businesses for legal services. However, aside from these points there was little disagreement about future adequacy of supply. In the opinions of currently practicing lawyers, it seems that there will be a more than adequate supply of lawyers to meet California’s needs over the next decade.

**Most Important Influences**

As with the law school deans, we closed the interviews by asking firm representatives what they thought would be the strongest influences on the future of either legal education or the legal profession. By far the most common answer was technology in general and the Internet in particular. Respondents explain that technology has revolutionized the way things are done, and heightened expectations for the efficiency as well as the complexity of service work products. In addition, many also pointed to the increasing competition within the legal profession as well as from outside businesses, which have increased pressure to reduce costs and still do quality work. In general, many feel that the legal profession is becoming much more like a business than it was in the past.