Section VIII

Conclusions and Recommendations

Previous sections of this report present findings related to each of the four objectives of the research as set out in the Introduction (Section 1). Here we draw the findings together to address the study’s overall goal—to produce an objective and credible assessment of the future workforce needs for lawyers, gauging whether any supply-demand mismatches are emerging or likely to emerge in the coming decade.

In what follows, we first provide aggregate labor force conclusions. Then, we discuss disaggregated dimensions of the supply and demand for lawyers. Last, we examine other considerations that might affect the future of legal education and the legal profession, identifying uncertainties that merit further exploration.

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. This general conclusion is consistent with what we learned from the background literature review. Moreover, it reflects the judgment of an overwhelming majority of those we interviewed in both academic and professional settings.

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. First, 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); further, there is considerable lateral mobility within the profession. Such adjustments allow the market to avoid situations of surplus and shortage.
Second, although the number of undergraduates from California’s universities and colleges 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; most are operating at or near capacity and could not contemplate major increases without capital investments or other major changes that they are not prepared to make. On the other hand, if the ratio of applications to enrollments increases, law schools will likely exercise greater selectivity. Greater selectivity, in turn, would be expected to increase the already high proportion of graduates who pass the Bar (historically, Bar passage rates have remained quite stable over time). Under these conditions, the number of Bar-certified lawyers would increase faster than expected on the basis of enrollments.

Third, law firms are not expanding their hiring as rapidly as in the earlier 1980s boom period. Like other organizations, according to interviewees, 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 exceeds 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 discussion looks at the overall labor market conditions for lawyers; here, we review 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. Although these dimensions of the labor market are sometimes interdependent, we discuss them separately in order below.

**Regional Differences**

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 the Residual 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.

In part, the relatively low number of lawyers per capita in these regions reflects the absence of large law firms from rural areas and smaller cities; in California, such firms are concentrated in the Bay Area and in Los Angeles and, to a lesser extent, in San Diego. However, for the Inland Empire and the San Joaquin Valley, the lawyer-to-population ratios are low even in the specialty areas of family law, criminal law, and other domains which would be expected to have ratios reflecting population size (rather than, for instance, concentration of firms). These data suggest that the two regions 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. Quite simply, people who have invested substantial amounts of time and money in graduate education often prefer to live in communities that offer a wealth of cultural, social, and intellectual resources; the labor market would presumably have to offer significant salary advantages to compensate for the lack of such amenities.

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. Sacramento, as explained in Section 4 above, is the most notable example—many attorneys have business with the state government and its agencies there although they and their firms are located elsewhere. Presumably, such geographic independence also characterizes other regions. For instance, it is likely that lawyers based in Los Angeles or San Diego have clients in Orange County, San Bernardino, and Riverside. Likewise, San Francisco–based lawyers may well serve clients based in more rural northern counties. Networked information and communication technologies are presently supporting these 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. We also sought to determine the extent to which the location of an ABA-approved law school within a region is likely to lead to average or higher lawyer-to-population ratio. Profile data indicate that a sizable majority of graduates from California’s ABA-approved law schools obtain their first job within the state, while an even greater majority eventually practice within the state. On the other hand, disaggregating these data by regions produces less clear results. On the whole, about half the graduates from an ABA-approved law school remain within the region to practice; but the variation across regions on this dimension is substantial, ranging from just over 20 percent local retention (UC-Davis) to just under 70 percent (University of San Francisco). Interviews with law school representatives suggested that lawyers are becoming more mobile professionally, both in terms of location and type of work setting; however, interviewees think it likely that smaller schools may continue to aim to serve more local markets. It thus remains uncertain whether presence of an ABA-approved law school will increase the lawyer-to-population ratio of a given region.
Ethnicity

There are significant overall disparities at the state level among California’s ethnic groups with respect to their representation in the legal profession. Specifically, there are disproportionately more white lawyers than 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.

We believe there are substantial ethnic mismatches within regions as well, based on 1990 census data. Given differential projected population growth rates for different regions and ethnic groups, moreover, the 1990 data may well underestimate local disparities. For instance, the Inland Empire is expected to have a higher rate of growth than the state average over the next 10 years, with a large and growing Hispanic population, but it is doubtful that the proportion of Hispanic lawyers will keep pace with the Hispanic population growth there.

Paradoxically, 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, but in most instances, private law school attendance results in higher debt burdens than would be the case for public schools. Minority graduates from California’s ABA-approved law schools, according to interviewees, are, in turn, highly sought by large law firms whose robust affirmative action recruiting policies match those of their business clients.

Consequently, while private schools are increasing in diversity, this trend does little to provide greater representation for low-income 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.

Work Setting

As suggested above, lawyers are not distributed evenly over work settings; in particular, public law is losing 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. But given the small number of positions, there is nonetheless fierce competition to obtain them. Once obtained, the work overload in public law results in a burnout rate comparable to that in highly paid but intensely stressful positions in the for-profit sector. 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 rise and approximate those in law firms or other businesses; nor are public sector workloads expected to decrease.
Another distributional shift is evident in the transition of lawyers away from solo practice. Taken together, firms, whether legal service firms or other private sector businesses, now collectively employ more attorneys than are in self-employed practice (see Figure 3.8). According to law school representatives, graduates of California’s best law schools are particularly likely to take their first job in a large law firm. These 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. Not surprisingly, this trend is seen as contributing to declines in general-practice legal services offered by affordable solo practitioners or small firms.

**Specialization**

As we have noted, there is a tendency toward greater specialization of the profession, both within large firms and on the part of small “boutique” firms. 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 an especially high concentration of entertainment lawyers in the Los Angeles region and intellectual property lawyers in the Bay Area. The very high salaries now being offered to attorneys with mediocre qualifications but experience in intellectual property law is taken as evidence of a current shortage in that domain; however, market forces are expected to correct that mismatch by attracting more entering lawyers with higher qualifications into that field in the near future.

In the meantime, some firm interviewees suggested that the current supply of law school graduates lacks the specialized domain knowledge, technical expertise and practice skills needed to be effective. Law schools are responding to these demands by offering a variety of interdisciplinary programs, joint degrees, and clinical courses. Continuing legal education is also expected to address such needs, which are expected to become more pronounced as specialties become more complex and increasingly dependent on new technologies.

**Other Considerations**

The preceding paragraphs present a detailed 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. For purposes of quantitative profiles and projections, “demand” at any point in time is represented by the number of lawyers that employers or clients are willing and able to hire at the prevailing market wage. In this sense, 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 as defined for economic analysis purposes.

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; large law firms, for instance, have to compete with business consulting firms while small boutique law firms have to compete with high-technology startup companies to hire attorneys. While the diversification of professional employment 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 economic 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.

Concluding Recommendations

We conclude, then, that there are not likely to be any serious overall supply-and-demand mismatches in California in the coming decade. Supply is likely to meet or exceed demand in the sense defined above. Further, greater diversification of the profession plus mobility within it probably means that aggregate oversupply will not create problems as long as the economy remains more or less stable. Finally, most of the supply-demand mismatches we have identified in the legal profession are a function of conditions that market forces are not likely to correct. For this reason, 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.

Conclusions drawn about labor force conditions for lawyers in the aggregate and in detail could be corroborated and extended by future research. The following questions, in particular, merit investigation.

- What explains the increasing proportion of inactive Bar members, and will the proportion continue to grow? While several underlying factors have been suggested, there is very little evidence to determine how strong a role each of them plays. In particular, estimates of supply would benefit from a better understanding of inactive Bar membership.

- What has happened to ethnic trends in lawyer-to-population ratios in California over the past 10 years within regions and work settings? Current Population Supplement datasets rely on samples so small that cannot support such disaggregate analyses. The
upcoming decennial census will provide data that should be analyzed to answer questions about trends in ethnic disparities.

- What kinds of supply and demand problems arise among rural and small city legal service providers and users? Within the time frame of this research, it was not possible to draw a representative sample to survey; and we were unable to identify existing datasets that portray their situation in any detail. In particular, it would be valuable to test hypotheses related to the potential for geographic independence to overcome local mismatches between supply and demand for legal services.

- What implications do the combined effects of technology, megafirms and MDPs, nationalization/globalization, and political and professional rule-making have for the future structure of the legal profession? These sources of influence are interrelated and in other service professions they have had profound effects. They should have an impact not only on supply and demand but on many other characteristics of legal education and the legal profession.

Answers to these kinds of questions would be of nationwide interest.