

Executive Summary

Introduction

The Law Society of Upper Canada, Legal Aid Ontario, and Pro Bono Law Ontario share a common goal to improve access to justice for Ontarians. All three organizations already have in place a comprehensive range of programs and services designed to provide legal assistance to low- and middle-income residents with a civil legal issue. Those services are heavily utilized. Until recently, there was no empirical data on how well those services are received, where there are gaps in the assistance provided, and if existing resources could be better utilized.

The three organizations agreed in 2008 to undertake a joint research project – the Ontario Civil Legal Needs (OCLN) Project – to identify and quantify, for the first time, the civil legal needs of low- and middle-income Ontarians. This type of research has never before been undertaken on a province-wide basis in Ontario. The scale of this project called for the co-operation of organizations with an investment in Ontario’s civil legal system. The OCLN Project has been an active and effective partnership between the Law Society, Legal Aid Ontario and Pro Bono Law Ontario. The project also benefits from the support of the Law Foundation of Ontario.

The research has three phases: a phone survey to assess quantitatively the civil legal needs of low- and middle-income Ontarians, a series of focus groups with front-line legal and social service providers to identify gaps and areas for collaboration, and a mapping exercise to show the availability and range of existing services. The first two phases were completed in 2010, resulting in the publication of *Listening to Ontarians*, a report that summarizes the demand for civil legal services among low- and middle-income Ontarians. This document is the third and final phase of the research project.

The overriding goal of this phase of the project has been to collect data and to create a profile of the civil legal services market in Ontario for future use by not only the OCLN Project partners, but also by government, academia, front-line legal and social service organizations, and the public. We believe that this project creates an accurate picture of how and where the 20,203 lawyers who were in private practice in 2009 and the 3,695 paralegals providing legal services in 2011 work across the province. We hope that others will find value in our data, our

reports and other online resources in ways that enhance their own research and policy development.

The Mapping Report

The Geography of Civil Legal Services in Ontario is the work of Albert Yoon and Jamie Baxter. Mr. Yoon is an Associate Professor at the University of Toronto's Faculty of Law and Mr. Baxter is a Visiting Researcher, also at the University of Toronto's Faculty of Law. They have produced a comprehensive set of maps to help describe the market for legal services in Ontario, and to provide information useful in determining how this market might be structured differently to better serve middle- and low-income Ontarians with civil legal needs.

The mapping report examines how factors such as age and income of the general population will likely influence the demand for civil legal services. As well, the report looks at how the number of lawyers and paralegals in each region, their age, years of practice, and the area of law they practise may also influence access to justice.

Professor Yoon and Mr. Baxter used three sources of data for this report. General population data are from the 2006 Census data from Statistics Canada. Lawyer information is provided by the Law Society and Legal Aid Ontario, and paralegal demographic data were provided by the Law Society. Sources include a dataset of all lawyers of the private bar licensed to practise in Ontario as of October 2009 and all paralegals licensed to provide legal services in Ontario as of February 2011. The third source for data was supplied by Legal Aid Ontario. This included the amount of funding provided through Legal Aid Ontario's certificate program for subsidized legal services in Ontario as well as the geographic location of all lawyers who received Legal Aid Ontario certificate funding as of March 2010.

Each of the maps in this report relies on the census divisions used by Statistics Canada in the 2006 Census. These divisions are named in a reference map in Appendix B. The data are reported in quintile categories, representing equal fifths of the number of observations of the variables of interest (e.g., population, age, or income).

What did we learn from the Mapping Project?

The OCLN Project partners have distinct mandates and play very different roles within Ontario's legal system. Nevertheless, our interests overlap in this project because of its emphasis on the gathering of empirical data. Each of us can

consider the data through our respective lenses and use it to fulfil our mandates and enhance our policy development and program implementation processes.

This report has provided the opportunity to both answer and ask key questions about the market for civil legal services in Ontario. Many of our questions about the distribution and age of lawyers have been answered and our assumptions confirmed. We can use this information to assess the policies and programs we currently have in place. We can structure an evaluation process that can be tied to data.

More importantly, this report provides some surprising results. We can use this information to consider new questions about how we can enhance access to justice for Ontarians from a whole new perspective.

Demographic characteristics of Ontario's population

What are the key characteristics of Ontario's population, and how are they relevant to the demand for civil legal services spread across the province? The maps in Section 1 illustrate total population, age, income, education, immigration status, racialized status, Aboriginal status and language. By quantifying the client population that generates the demand for civil legal services in each district we can help predict the nature of demand. For example, those districts with large new immigrant populations can be expected to generate a relatively high demand for civil legal services in immigration law.

Where do lawyers and paralegals practise in Ontario?

Section 2 of the report switches the focus to lawyers and paralegals. Where do lawyers and paralegals practice in Ontario, in what languages, and in what areas of civil law? For lawyers, we report on civil litigation, employment law, family law, and immigration law. For paralegals, we look at workers' compensation claims, small claims court work, social assistance benefits claims, human rights, landlord and tenant claims, and property tax claims. Having identified, in Section 1, those districts with large new immigrant populations, we can now go to Section 2 to look at the number of lawyers practising immigration law who work in those districts. We can then begin to build a picture of the market for civil legal services, district by district, and by area of law. We would anticipate fewer access to justice issues, for instance, in a district with a small new immigrant population even if that district is in the lower quintiles for lawyers practising immigration law. By contrast, a district in a high quintile for French-speaking clients with few lawyers

and paralegals offering services in French will pose a greater challenge for clients in that district seeking legal help.

Age profiles of lawyers and paralegals and years in practice

We look at the median age of lawyers and of paralegals in each district, as well as the percent of lawyers called to the bar since 2006. These data help reveal districts with more acute risk to access to justice from the ageing of the local bar. Some of those districts with the highest numbers of older lawyers are among those districts in the highest quintile for recently-called lawyers. The risks associated with the graying of the bar are likely lower in such districts compared with districts with a high quintile for age and a low quintile for lawyers called to the bar since 2006. Combining age and length of practice data with the data on where lawyers and paralegals with certain specialties practice, yields another picture: where are newly-licensed lawyers or paralegals who focus on immigration law or employment law choosing to open their practice? Is it reasonable to assume that the general population demographics will help to influence the location a new lawyer or paralegal chooses, an idea called “territorial justice” that has been studied in the United Kingdom? A description of this research from England and Wales is included in Appendix A.

Legal Aid Ontario

Legal Aid Ontario plays a key role in access to justice by providing legal services to clients with limited means. Several delivery methods are used, including legal clinics, staff offices, the certificate program, duty counsel, and the funding of Aboriginal legal services corporations.

Section 2 includes maps that illustrate how legal aid funding through Legal Aid Ontario’s certificate program is allocated across the province, where legal aid lawyers and lawyers who provide legal services are located, and the breakdown of Legal Aid Ontario’s certificate provision for areas of civil law. Additional data describe funded legal clinics, staff duty counsel for criminal and family law issues, and pro bono contributions from the private bar.

Related and relevant research findings from outside Canada

Researchers in the United Kingdom have done more than any other jurisdiction to quantify the spatial distribution of legal service providers and the geographic dimensions of barriers to access to justice. Their data, however, are more than 20 years old. More recent work is being done in Alberta. In Appendix A there is a brief literature review of these two sets of research findings, and how they can be usefully compared with the geography of civil legal services in Ontario.

What we did not expect

As a result of this project, we have a number of opportunities to work independently and together to make a difference in enhancing access to justice for Ontarians as well as enhancing Ontarians' understanding and perception of what access to justice means to them. The following findings provide results that were a surprise to us.

We gathered data on the question in the Lawyers Annual Report relating to the number of lawyers who provide legal services pro bono and the number of hours they report as pro bono. The result is overwhelmingly positive and surprising. It also prompts us to ask more questions. Do lawyers all have the same understanding of what constitutes pro bono legal services? What do we, the Project partners, need to know about lawyers and pro bono? What information about pro bono legal services will best help the public, particularly those individuals who do not qualify for legal aid? How can we use the information we gather to further engage the profession and promote pro bono participation?

In looking at the practices of Ontario's paralegals, there is a very low percentage of paralegals who report that they provide services in human rights claims and property tax claims. Outside of the GTA, Middlesex and Algoma divisions, there are no paralegals reporting that they provide services related to human rights. North of Grey and Simcoe divisions, no paralegals report that they provide legal services in property tax claims. Numerous opportunities as well as questions present themselves because of this information. What are the reasons why the majority of paralegals are not pursuing this area of practice? Are there market factors at play? Are there education and training factors involved?

When we look at the results for where lawyers practise and what they practise, the results are impressive for both positive and potentially negative reasons. The average age of lawyers in the cities is much younger than in certain, less urban divisions in Ontario. How will this age disparity affect access to legal

services in the next five years? Will this information influence the decisions that law students and new calls consider for their careers? Could this information influence decisions that are made as to how technology could be used to enhance access to legal services? Are there localized factors to explain the variations in the legal services market, both from a demand and supply perspective?

The way ahead – What can be done with the data and results of this Project?

Listening to Ontarians and *The Geography of Civil Legal Services in Ontario* combine to provide the groundwork for the three Project partners and other members of the legal community to work together in identifying and developing innovative solutions to continue to improve the access to justice for low- and middle-income Ontarians. A range of solutions is required. Different people need different types of support based on their unique circumstances. A more vulnerable individual may need the assistance of a lawyer or paralegal while another individual may require access to clear and correct information.

We acknowledge that there are limits to how much this work can be applied to other contexts and projects. Further research would be required to achieve a definitive picture of how uniform access to justice is for civil legal needs clients across the province. The two reports of the Ontario Civil Legal Needs Project, however, provide valuable and new information that helps the public and the legal community understand the complexities of civil legal needs among Ontarians and the opportunities for enhancing the delivery of legal services now and in the future.