



1974

## Kentucky's Future Need for Attorneys

Leslie W. Abramson  
*University of Louisville*

Follow this and additional works at: <https://uknowledge.uky.edu/klj>

 Part of the [Legal Profession Commons](#)

**Right click to open a feedback form in a new tab to let us know how this document benefits you.**

### Recommended Citation

Abramson, Leslie W. (1974) "Kentucky's Future Need for Attorneys," *Kentucky Law Journal*: Vol. 63 : Iss. 2 , Article 2.  
Available at: <https://uknowledge.uky.edu/klj/vol63/iss2/2>

This Article is brought to you for free and open access by the Law Journals at UKnowledge. It has been accepted for inclusion in Kentucky Law Journal by an authorized editor of UKnowledge. For more information, please contact [UKnowledge@lsv.uky.edu](mailto:UKnowledge@lsv.uky.edu).

# Kentucky's Future Need For Attorneys

BY LESLIE W. ABRAMSON\*

## INTRODUCTION

There is an apparent magic surrounding the year 2000. The coming of the millenium has revived the art of prediction, and lawyers, too, find it difficult to resist the urge to forecast.<sup>1</sup> It is true that any attempt to predict the future is a precarious endeavor, even under the most stable of conditions. Nevertheless, planning in the area of legal education requires answers, however tentative, to these questions: Are there sufficient numbers of attorneys presently practicing law in Kentucky? Will there be future economic as well as demographic growth in the Commonwealth? If so, will there be a corresponding increase in demand for attorneys? In which geographic areas will the need arise? Is the current number of Kentucky law graduates adequate to meet the future demand for attorneys?

In answering these questions, the most recent statistics indicative of attorney supply and demand have been employed.<sup>2</sup> But statistics are not without drawbacks. They may at times be imprecise, not only in their numerical value, but also in their interpretative value for the future. Also, the recent addition of Salmon P. Chase School of Law to Northern Kentucky State College makes the task of defining the future supply of Kentucky law school graduates more difficult.

Despite these potential problems, however, the effort must be made to project future attorney needs in the Commonwealth.

Adequate legal services are an important ingredient in or-

---

\*Assistant Professor of Law, University of Louisville; J.D., University of Michigan, 1971; A.B., Cornell University, 1968.

<sup>1</sup> See, e.g., Goldman, *Lawyer Supply and Demand in Kentucky over the Next Decade*, 59 Ky. L.J. 189 (1970); Houghton, *The Market for Lawyers in Montana*, 26 MONT. L. REV. 189 (1965).

<sup>2</sup> This study was prepared for the Kentucky Council on Public Higher Education, and completed in August, 1974.

derly economic growth and an essential element in preserving a free society. On the other hand, an overabundance of lawyers can depress the economics of the profession to the point at which its ability to sustain desired standards of ethical conduct and to attract a high caliber of new talent are both threatened.<sup>3</sup>

Undoubtedly, additional studies will be needed from time to time, not only to test the accuracy of population projections and related factors, but also to seek a more accurate reading of the supply of law-trained graduates from all three Kentucky law schools. For the present, however, the following projection of the future need for attorneys in Kentucky may answer some of the questions posed by the bar, legal educators, present and future law students, and state legislators.

### I. ATTORNEY DEMAND

Traditionally, the lawyer-population ratio has been the only indicator used to determine whether or not there are enough attorneys practicing within a geopolitical unit to meet public needs. Recently, however, studies have questioned the soundness of using this ratio as the sole determinant of adequate legal representation.<sup>4</sup> In response to this criticism, several additional factors have been considered in this study in an attempt to more accurately gauge Kentucky's future attorney demand.

The intensity of economic activity, measured by per capita income and retail and wholesale trade, is one factor that should supplement a meaningful lawyer-population ratio. For instance, a county or cluster of counties with a relatively high lawyer-population ratio may appear at first glance to require more attorneys, but an examination of economic activity in the area may negate this impression. The incidence of certain life occurrences typically requiring legal representation is another variable that must be examined in estimating the need for attorneys. Thus, the optimum lawyer-population ratio in any one area should reflect statistics for divorces, injuries and fatal-

---

<sup>3</sup> Goldman, *supra* note 1, at 189.

<sup>4</sup> A. BLAUSTEIN & C. PORTER, *THE AMERICAN LAWYER* 11-13 (1954); Katzman, *There Is a Shortage of Lawyers*, 21 J. LEGAL ED. 169 (1968).



ities from automobile accidents, work injuries and major crimes. Current trends in law practice are also relevant in determining the future need for additional attorneys in Kentucky. And finally, the practical experience of Kentucky's practicing bar lends some human assistance to statistical data in predicting future lawyer requirements.

### A. *Population Projections*

Kentucky has been divided into 15 geographic units referred to as area development districts [hereinafter ADDs];<sup>5</sup> this study utilizes these groupings for comparative statistical purposes. Because Kentucky is composed of 120 counties and because its urban centers are often surrounded by rural areas, a regional rather than a county by county approach is less cumbersome and more realistic. Lawyers frequently practice in counties other than their resident counties, and the clustering of counties into ADDs reflects this fact. Any travel from region A to region B by some attorneys should be offset by comparable movement from B to A by other lawyers. The following list of the ADDs includes their component counties and a brief discussion of population growth trends for each.<sup>6</sup>

***Purchase ADD:*** *Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, McCracken, Marshall.*

Overall growth in the Purchase ADD is projected to be half the statewide average—about five percent between 1970 and 1980. Calloway and Marshall Counties are expected to grow by 14 percent and 13 percent respectively, however, because of expansion of the industrial base already present, and proximity to the Land Between the Lakes recreation area. Four counties—Ballard, Carlisle, Fulton, and Hickman—are projected to lose population because of continued out-migration. The remaining counties in the Purchase ADD will have very slow positive growth.

---

<sup>5</sup> See KY. REV. STAT. § 147A.050 (Supp. 1974) [hereinafter cited as KRS] which divides the state into 15 geographic units (ADDs) for the purpose of developing a regional approach to land-use planning throughout the state.

<sup>6</sup> 1 KY. PROGRAM DEV. OFFICE, KENTUCKY POPULATION PROJECTIONS 1975-2020 at 3-18 (1972).

***Barren River ADD:*** Allen, Barren, Butler, Edmonson, Hart, Logan, Metcalfe, Monroe, Simpson, Warren.

The Barren River ADD is projected to grow at the same rate as Kentucky (11 percent) during the next decade. Warren County is expected to grow by 23 percent from 1970 to 1980. The major growth center is Bowling Green, which is bisected by a major interstate highway and is the location of Western Kentucky University. Metcalfe and Monroe Counties are projected to decline slightly in population between 1970 and 1980, chiefly due to their lack of proximity to a major urban center and poor access characteristics. The remaining counties will show moderate growth.

***Big Sandy ADD:*** Floyd, Johnson, Magoffin, Martin, Pike.

The Big Sandy ADD is projected to decline in population by two percent from 1970 to 1980. Magoffin and Johnson Counties are expected to grow slightly because of the influence of the Mountain Parkway. Martin County's population will remain at about the same level until 1990, then decline. Floyd and Pike Counties are projected to lose population as they have during the past 20 years. These are coal-mining counties, and, although the demand for coal will continue to be strong for the next decade or two, it is thought that mining employment will not be sufficient to generate population increases or even to maintain stability. Coal mining is becoming increasingly mechanized, reducing the number of workers needed to produce a given quantity of coal.

***Bluegrass ADD:*** Anderson, Bourbon, Boyle, Clark, Estill, Fayette, Franklin, Garrard, Harrison, Jessamine, Lincoln, Madison, Mercer, Nicholas, Powell, Scott, Woodford.

The Bluegrass ADD is Kentucky's largest and is projected to grow at a faster rate than any other ADD except Jefferson—16 per cent between 1970 and 1980. The major growth center is Lexington, in Fayette County, Kentucky's second largest city. Smaller growth centers are Frankfort in Franklin County, Richmond in Madison County, and Winchester in Clark County. Other fast-growing counties are those contiguous to Fayette, especially Jessamine and Woodford. The Bluegrass ADD is served by two interstates (I-64 and I-75) and

the Mountain and Bluegrass Parkways. It is also the home of the University of Kentucky and Eastern Kentucky University. Although none of the 17 Bluegrass ADD counties is expected to lose population, those counties which are not contiguous to Fayette and are not served by an interstate or parkway are projected to grow slowly. The slowest growing counties are Boyle, Estill, Garrard, Harrison, Lincoln, and Nicholas.

***Buffalo Trace ADD: Bracken, Fleming, Lewis, Mason, Robertson.***

The Buffalo Trace ADD is expected to decline in population over the next decade. This ADD is not well served by transportation facilities, has no large urban centers, and has only a small industrial base. Only Bracken County is projected to have positive growth, because of its relative proximity and fair access to Cincinnati.

***Cumberland Valley ADD: Bell, Clay, Harlan, Jackson, Knox, Laurel, Rockcastle, Whitley.***

Overall, the Cumberland Valley ADD is expected to grow by only three percent from 1970 to 1980, but Laurel County, which has two mini-growth centers (London and Corbin) and is served by Interstate 75, will grow by 13 percent. The other counties with direct access to the interstate (Knox, Rockcastle, and Whitley) will also grow, as will Jackson County, which has a high birth rate, and Bell County, which has the communities of Pineville and Middlesboro. The remaining counties, Clay and Harlan, are expected to continue to decline in population. These counties have had severe out-migration in the past decade, a phenomenon which will probably continue.

***FIVCO ADD: Boyd, Carter, Elliott, Greenup, Lawrence.***

The FIVCO ADD includes Ashland, one of Kentucky's major cities. The ADD is projected to grow by seven percent between 1970 and 1980, somewhat slower than Kentucky as a whole. The most rapidly growing county in FIVCO is Greenup, which is adjacent to Boyd County (Ashland) and across the river from Ironton, Ohio. Greenup is expected to grow by 13 percent from 1970 to 1980. Two FIVCO counties, Elliott and Lawrence, are projected to lose population in the next decade. These counties have poor access, little industry, and no urban

centers. Carter County, although crossed by Interstate 64, is expected to have only moderate growth.

**Gateway ADD:** *Bath, Menifee, Montgomery, Morgan, Rowan.*

The Gateway ADD is expected to grow by 11 percent between 1970 and 1980, which is comparable to the statewide projection. The principal growth centers are Morehead, in Rowan County, and Mt. Sterling, in Montgomery County, which are projected to grow by 17 percent and 19 percent, respectively. Both cities are served by Interstate 64. Mt. Sterling has developed an important industrial base of its own, while also serving as a suburb to Winchester, in Clark County. Morehead is the home of Morehead State University, which contributes significantly to its growth. Morgan County is expected to decline by about two percent from 1970 to 1980, because of its remote location and lack of an urban industrial base. The other two counties, Bath and Menifee, will grow very slowly.

**Green River ADD:** *Daviess, Hancock, Henderson, McLean, Ohio, Union, Webster.*

Population in the Green River ADD is projected to increase by six percent between 1970 and 1980. Only Daviess and Hancock Counties are expected to grow significantly faster than the area as a whole—15 and 23 percent, respectively. Daviess County is the home of Owensboro, the major city of the ADD; Hancock County has some important industries and will pick up “spillover” growth from Owensboro. The three counties not contiguous to the Ohio River—McLean, Ohio, and Webster—are expected to have the slowest rates of growth in the next decade. No county in the Green River ADD is projected to lose population, however.

**Jefferson ADD:** *Bullitt, Henry, Jefferson, Oldham, Shelby, Spencer, Trimble.*

The Jefferson ADD is one of Kentucky’s fastest growing; it is projected to grow by 16 percent in the next decade. The counties which are expected to have the highest growth rates from 1970 to 1980 are Bullitt (51 percent), Spencer (29 percent), and Oldham (27 percent). Each of these counties con-



tains major suburbs of Louisville, Kentucky's largest city. Jefferson County, where Louisville is located, is projected to grow 17 percent. The slowest growing counties in the Jefferson ADD are Henry and Trimble, the only two counties not contiguous to Jefferson. The remaining county, Shelby, is projected to grow by a moderate five percent during the next decade.

***Kentucky River ADD:*** *Breathitt, Knott, Lee, Leslie, Letcher, Owsley, Perry, Wolfe.*

The Kentucky River ADD is expected to decline in population by about two percent during the next decade. There will be little variation among county growth rates. Counties with positive growth (Breathitt, Knott, and Leslie) are those where birth rates are high enough to offset the very severe out-migration which characterizes all the counties in this ADD.

***Lake Cumberland ADD:*** *Adair, Casey, Clinton, Cumberland, Green, McCreary, Pulaski, Russell, Taylor, Wayne.*

The Lake Cumberland ADD is expected to have practically no growth during the 1970 to 1980 period. McCreary, Russell, Taylor, and Wayne Counties are projected to grow slightly, principally because of high birth rates. Most of the other counties will lose population. Pulaski County will grow very slightly until 1980. Pulaski declined in population from 1940 to 1960, then grew slightly from 1960 to 1970. While the city of Somerset is growing, the rural areas of Pulaski County are losing population rapidly, thereby producing relative stability in the population of this county as a whole.

***Lincoln Trail ADD:*** *Breckinridge, Grayson, Hardin, Larue, Marion, Meade, Nelson, Washington.*

The Lincoln Trail ADD is projected to grow by 11 percent between 1970 and 1980. Elizabethtown, located at the intersection of Interstate 65 and the Bluegrass-Western Kentucky Parkways, is the major urban growth center in the ADD. Hardin County, where Elizabethtown is located, is expected to grow by 15 percent. Each of the other counties in the Lincoln Trail ADD is projected to have a moderate growth rate. All counties benefit from good highways and proximity to Louisville and Elizabethtown.

**Northern Kentucky ADD:** Boone, Campbell, Carroll, Galatin, Grant, Kenton, Owen, Pendleton.

Another rapidly growing ADD is Northern Kentucky, which has a projected population increase of 15 percent between 1970 and 1980. The focus of this ADD is Cincinnati, a city of over a million people located just across the Ohio River. The fastest growing county is Boone, whose population is expected to be affected by the beltline highway, Interstate 275, being built around Cincinnati. Boone is projected to grow by 35 percent in the next decade. The Northern Kentucky ADD is presently served by two interstates, I-75 and I-71. Significantly, the counties which are growing the slowest are those neither served by an interstate nor adjacent to Cincinnati—Owen and Pendleton.

**Pennyrile ADD:** Caldwell, Christian, Crittenden, Hopkins, Livingston, Lyon, Muhlenberg, Todd, Trigg.

The Pennyrile ADD will grow at a slightly slower rate than Kentucky during the next decade (eight percent vs. 11 percent for Kentucky). The fastest growing county will be Christian, which is expected to increase in population by 16 percent between 1970 and 1980. The presence of both Hopkinsville, a moderately-sized city with an industrial base, and the Pennyrile Parkway, are responsible for Christian's projected growth. Of the other counties in this ADD, only Todd is expected to lose population and the loss will be small. The remaining counties are projected to grow slowly during the ten-year period.

#### B. Attorneys Currently Practicing Law

Attorneys "practicing law" for purposes of this study include private practitioners, government and military legal counsel, educators, and the salaried counsel of firms. These are the types of lawyers for which it is thought there will be a demand.<sup>7</sup> There are two sources from which one may approximate the present number of attorneys actually practicing law. One is the American Bar Foundation's Lawyer Statistical Re-

---

<sup>7</sup> Houghton, *supra* note 1, at 189 n.2. Since the number of judges required for the Court of Appeals and circuit courts remains fairly constant, those so employed are not included for determination of society's prospective needs.

port [hereinafter ABF Report], which is published every three to four years.<sup>8</sup> The most recent compilation was in 1971, which like its predecessors, was based on responses to a questionnaire mailed to "all" attorneys by Martindale-Hubbell, Inc. To arrive at what it claims to be an accurate count of lawyers in each state, the ABF Report augments the number of questionnaires returned with a factor for "Lawyers Not Listed." This designation is accompanied by the following explanation:

Lawyers Not Listed—Those lawyers failing to respond to the questionnaire. Since 1950, Martindale-Hubbell has tried to maintain accurate records for this category, but for various reasons the figures are no doubt larger than the actual number of individuals who have been admitted to the Bar but are unlisted. The figures may also include a number of persons who are deceased.<sup>9</sup>

The ABF Report statistics, then, are not only dated but are also quantitatively imprecise, even for 1971. On the other hand, the ABF Report offers the feature of including in each state's total number of attorneys, those lawyers not admitted to practice where listed. This category designates attorneys employed by federal agencies who do not litigate in Kentucky courts.

The second source is the roster of the Kentucky Bar Association [hereinafter KBA]. Membership in the KBA is required in order to practice law in Kentucky courts. This list, constantly updated, has five categories of membership: (1) over 75 years of age (assumed retired or inactive); (2) out-of-state and honorary; (3) judges; (4) members for less than five years; and (5) members for more than five years. Because only the last two categories of attorneys "practice law" to an appreciable extent, the number of lawyers in these two categories as of June 7, 1974, (4119)<sup>10</sup> is the figure that will be used to approximate the number of practicing attorneys in Kentucky as of January 1, 1975. This was the latest figure available when this study was undertaken. The number of law school graduates sched-

---

<sup>8</sup> AMERICAN BAR FOUNDATION, THE 1971 LAWYER STATISTICAL REPORT (1972) [hereinafter cited as REPORT].

<sup>9</sup> *Id.* at 6.

<sup>10</sup> Roster of the Kentucky Bar Association, June 7, 1974 [hereinafter cited as KBA Roster with relevant date].

uled for admission to the bar in the fall of 1974 hopefully will be offset by those who hold KBA membership but do not practice law in any of the aforementioned ways.<sup>11</sup> The 1971 ABF Report figures are used for comparative purposes or where no other data are available.

### C. Lawyer-Population Statistics

Lawyer-population ratios are on the decline.<sup>12</sup> This trend is primarily attributable to the increasing number of law schools and law students, which has produced a larger growth rate among lawyers than among the general population. Before analyzing the projected ratios for 1975, however, comparisons with the past should offer some historical perspective. Table 1 lists the lawyer-population ratio for the United States and Kentucky since 1890. As the table indicates, Kentucky's ratio has always been slightly higher than the national ratio.

TABLE 1  
LAWYER-POPULATION RATIOS FOR U.S.  
AND KENTUCKY SINCE 1890<sup>13</sup>

<u>Year</u>	<u>U.S. Lawyer-Population Ratio</u>	<u>Kentucky Lawyer-Population Ratio</u>
1890	1:682	1:780
1900	1:662	1:682
1910	1:801	1:856
1920	1:862	1:1015
1930	1:764	1:991
1940	1:733	1:1069
1952	1:696	1:910
1960	1:632	1:910
1963	1:637	1:918
1966	1:621	1:895
1970	1:572	1:831

<sup>11</sup> This group would include businessmen and other law-trained persons who recognize the value of KBA membership, although they are not currently practicing law.

<sup>12</sup> Goldman, *supra* note 1, compared Kentucky's lawyer-population ratio with that of nine other states. These states were chosen because of their similarity to Kentucky in urban-rural ratio, median family income, and/or per capita personal income. The 1966 ABF Report was used to compare the other state's lawyer-population ratios with Kentucky's. The 1971 ABF Report shows that all the states, including Kentucky, experienced a decline in the lawyer-population ratio.

<sup>13</sup> Wallbank, *The Function of Bar Examiners*, 1 BAR EXAMINER 27, 42 (1931); *Report of the Committee on Trend of Bar Admissions*, 17 BAR EXAMINER 140 (1948) (wherein are ratios for 1890-1940, including lawyers and judges); AMERICAN BAR FOUN-

Throughout the United States, the number of lawyers increased by 12.1 percent between 1966 and 1970, while the general population was increasing at a rate of only 3.2 percent for the same period.<sup>14</sup> In Kentucky, neither lawyer nor population growth rates were as high, but the differences in rates were more pronounced. Kentucky's population grew by 1.1 percent from 1963 to 1970,<sup>15</sup> but its lawyer population during that time grew by nine percent.<sup>16</sup> Kentucky's 1970 population ranked twenty-third among the states, with 1.58 percent of the general population,<sup>17</sup> but the number of attorneys ranked twenty-seventh with only 1.1 percent of the total number of attorneys in the U.S.<sup>18</sup> As of 1970, the lawyer-population ratio in Kentucky was higher than the national average. The two figures shown in Table 2 for the number of Kentucky attorneys in 1970 reflect the KBA and ABF Report totals, respectively.

TABLE 2  
KENTUCKY LAWYER-POPULATION RATIO, 1970

<u>Source</u>	<u>Population<sup>19</sup></u>	<u>Attorneys</u>	<u>Lawyer-Population Ratio</u>
KBA Roster	3,219,311	3,411 <sup>20</sup>	1:944
ABF Report	3,219,311	3,875 <sup>21</sup>	1:831

Using Bureau of Census and Kentucky Program Development Office population projections, a forecast of the 1975 lawyer-population ratio emerges, showing a further decline from 1970. (See Table 3)

---

DATION, LAWYERS IN THE UNITED STATES: DISTRIBUTION AND INCOME 52, 50 (Table 12) (1951 national and Kentucky ratios); 1961 REPORT at 86 (1960 national and Kentucky ratios); 1964 REPORT at 49 (1963 national and Kentucky ratios); 1967 REPORT at 12, 34 (1966 national and Kentucky ratios); 1971 REPORT at 6 (Table 2), 26 (Table 10) (1970 national and Kentucky ratios).

<sup>14</sup> 1971 REPORT at 6.

<sup>15</sup> *Id.* at 26.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> KY. DEPT. OF COMMERCE, KENTUCKY DESKBOOK OF ECONOMIC STATISTICS at 1 (1973).

<sup>20</sup> KBA Roster, April 1970 (includes judges).

<sup>21</sup> 1971 REPORT at 26.

TABLE 3  
KENTUCKY LAWYER-POPULATION RATIO, 1975  
(PROJECTED)

<u>Population</u>	<u>Attorneys<sup>24</sup></u>	<u>Lawyer-Population Ratio</u>
3,271,000 <sup>22</sup>	4,119	1:794
3,375,638 <sup>23</sup>	4,119	1:820

The exact figures for the number of attorneys in 1970 and the projected 1975 population are probably somewhere between the two figures cited for each. As might be expected, Kentucky's two largest population centers, Louisville and Lexington, have a significantly greater concentration of lawyers than the state as a whole. In these cities, too, there is a perceptible shift towards a lower lawyer-population ratio between 1970 and 1975. In 1970, Jefferson County's ratio was 1:487 and Fayette County's was 1:437; by 1975 these ratios are projected to be approximately 1:468 and 1:392, respectively.<sup>25</sup>

Elsewhere in Kentucky, there are pronounced variations in the projected lawyer-population ratio for 1975. Table 4 lists the 1975 projections, with respective ADD percentages of total population and attorneys, and ADD lawyer-population ratios.

As can be seen from Table 4, only the Jefferson ADD and the Bluegrass ADD show attorney percentages in excess of population percentages. In addition, these are the only districts with lawyer-population ratios comparable to the 1970 national average of 1:572. The remaining ADDs have a higher percentage of population than lawyers. As the table indicates, the FIVCO ADD and Big Sandy ADD approach parallel percentages for general population and attorneys. On the other hand, the Lincoln Trail ADD and the Gateway ADD indicate lawyer percentages less than one-half of the percentage of total population. The lawyer-population ratios reflect these percentage

---

<sup>22</sup> U.S. BUREAU OF THE CENSUS, CURRENT POPULATION REPORTS: REVISED PROJECTIONS OF THE POPULATION OF STATES 1970 to 1985 (Series P-25, No. 375) at 19 (1967).

<sup>23</sup> KENTUCKY POPULATION PROJECTIONS, *supra* note 6.

<sup>24</sup> KBA Roster, June 7, 1974, (projected). See text preceding note 11 *supra*.

<sup>25</sup> The 1970 ratios were calculated from county population figures in U.S. DEPT. OF COMM., 1970 CENSUS OF POPULATION (Vol. 1 Characteristics of the Population; Part 19 Kentucky) 19-16 (1973) and attorney figures from the 1971 ABF Report at 55-56. The 1975 ratios were calculated from the county population figures in KENTUCKY POPULATION PROJECTIONS, *supra* note 6, and attorney figures from KBA Roster, June 7, 1974.

TABLE 4  
PROJECTED 1975 LAWYER-POPULATION RATIOS  
BY AREA DEVELOPMENT DISTRICTS<sup>26</sup>

<u>ADD</u>	<u>Population</u>	<u>% Total Population</u>	<u>Attorneys</u>	<u>% Total Attorneys</u>	<u>Lawyer- Population Ratio</u>
Purchase	170,986	5.1	139	3.4	1:1230
Barren River	194,669	5.8	163	3.9	1:1194
Big Sandy	133,157	3.9	123	3.0	1:1083
Bluegrass	492,631	14.6	851	20.7	1:579
Buffalo Trace	49,890	1.5	33	0.8	1:1512
Cumberland Valley	186,670	5.5	133	3.2	1:1404
FIVCO	125,885	3.7	126	3.1	1:999
Gateway	58,598	1.7	34	0.8	1:1723
Green River	187,577	5.6	173	4.2	1:1084
Jefferson	835,747	24.8	1,672	40.6	1:500
Kentucky River	105,652	3.1	70	1.7	1:1509
Lake Cumberland	141,405	4.2	94	2.3	1:1504
Lincoln Trail	199,332	5.9	98	2.4	1:2034
Northern Kentucky	310,653	9.2	286	6.9	1:1086
Pennyrite	182,886	5.4	124	3.0	1:1475
TOTAL	3,375,638	100.0	4,119	100.0	1:820

disparities, with Lincoln Trail and Gateway having the largest ratios. It is interesting that the two districts with the highest lawyer-population ratios border on the two with the lowest ratio—Lincoln Trail with Jefferson and Gateway with Bluegrass.

In order to gauge the number of lawyers needed in the year 2000, present lawyer-population ratios must be compared with population projections for 2000. Then, by applying an arbitrary 1:1000 lawyer-population ratio, which is almost twice as high as the 1970 national ratio,<sup>27</sup> the increase in attorneys necessary to attain this ratio can be calculated. The figures indicated in Table 5 do not include the number of attorneys requiring replacement by 2000 due to attrition, either by death or departure from Kentucky. The attrition factor will be considered later in this study, using age statistics of the present bar, and applying morbidity tables to the present bar and the projected bar membership.

<sup>26</sup> Figures for ADD population from KENTUCKY POPULATION PROJECTIONS, *supra* note 6; figures for attorneys from KBA Roster, June 7, 1974.

<sup>27</sup> See Table 1, *supra*.

TABLE 5  
LAWYER PROJECTION FOR 2000 A.D.,  
BY AREA DEVELOPMENT DISTRICTS

<u>ADD</u>	<u>Projected Kentucky population for 2000<sup>23</sup></u>	<u>Lawyers needed in 2000 using present lawyer- population ratio</u>	<u>Compared with present number</u>	<u>Lawyers needed in 2000 with 1:1000 ratio or present ratio, which- ever is lower</u>	<u>Com- pared with present number</u>
Purchase	199,316	162	+23	199	+60
Barren River	264,735	222	+59	265	+102
Big Sandy	120,754	111	-12	121	-2
Bluegrass	732,506	1,265	+414	1,265	+414
Buffalo Trace	47,941	32	-1	48	+15
Cumberland Valley	205,880	147	+14	206	+73
FIVCO	147,049	147	+21	147	+21
Gateway	77,953	45	+11	78	+44
Green River	256,541	237	+64	257	+84
Jefferson	1,248,651	2,499	+827	2,499	+827
Kentucky River	99,547	66	-4	100	+30
Lake Cumberland	143,417	95	+1	143	+49
Lincoln Trail	256,338	126	+28	256	+158
Northern Kentucky	469,090	432	+146	469	+183
Pennyrile	236,234	160	+36	236	+112
TOTAL	4,506,952	5,746	+1,627	6,289	+2,170

Over the course of the next 25 years, more than 1,600 new attorneys will be required in order to maintain the present lawyer-population ratio in Kentucky of 1:820. This represents an increase of more than 39 percent in the number of new attorney positions necessary to keep pace with current ratios. Moreover, lowering the lawyer-population ratio to 1:1000 or maintaining the present ratio in each ADD, whichever is lower, would require an additional 2,170 attorneys, an increase of over 52 percent. If this were accomplished, it would lower the entire state ratio to 1:717. Only the Big Sandy ADD and the Kentucky River ADD are projected to lose population; thus, in either projection, they are the only ADDs which will require fewer attorneys than they presently have. While the remaining 13 districts are projected to increase in population, the increase

<sup>23</sup> KENTUCKY POPULATION PROJECTIONS, *supra* note 6.



in attorney requirement is by far the heaviest in the Jefferson and Bluegrass ADDs. These two ADDs would account for over 75 percent of the new positions in 2000 under the present lawyer-population ratio. Eight ADDs project a greater than 25 percent population increase by 2000 and thus will require a corresponding increase in attorneys: Northern Kentucky (51 percent); Jefferson (49 percent); Bluegrass (48 percent); Green River (37 percent); Barren River (36 percent); Gateway (32 percent); Pennyryle (29 percent); and Lincoln Trail (28 percent).

#### D. *Supplemental Factors Affecting Adequacy of Present Legal Services*

As discussed earlier, factors other than the lawyer-population ratio must be examined to determine the adequacy of legal services in any one locale. The types of activities which generate business for attorneys fluctuate from area to area, influencing attorney demand. The available statistics should aid in answering the question of whether a given ADD, with a lower percentage of attorneys than general population, actually needs additional lawyers. Moreover, the statistics may explain the current percentage differences between attorneys and general population. No attempt is made to forecast the future in terms of number of cases, volume of business, or percentage of cases or business for any particular ADD. Two basic divisions are made: (1) non-business related situations requiring legal representation by trial attorneys, and (2) economic activity which requires the preventive law expertise of corporate or tax attorneys. The statistics, while occasionally representing different time periods, are the most recent figures available for each type of business-generating situation.

##### 1. *Non-business Related Factors*

*Divorces:* Although the passage of a no-fault divorce law in 1972<sup>29</sup> theoretically eliminates the concept of fault in these proceedings, people will still require legal representation for questions of child custody, property rights, maintenance, and

---

<sup>29</sup> KRS § 403.010 *et seq.* (Supp. 1974).

child support. Table 6 lists the number of divorce decrees for each ADD during 1972, and then indicates the number of divorces per lawyer. Finally, the number of divorce decrees for each ADD is compared with the state total to obtain a percentage of the total divorces for each particular ADD.

TABLE 6  
1972 DIVORCE DECREES,  
BY AREA DEVELOPMENT DISTRICTS

<u>ADD</u>	<u>Divorces<sup>30</sup></u>	<u>Divorces/Lawyer<sup>31</sup></u>	<u>% Total Divorces</u>
Purchase	596	4	5.0
Barren River	679	4	5.7
Big Sandy	545	4	4.6
Bluegrass	2,191	3	18.5
Buffalo Trace	145	4	1.2
Cumberland Valley	492	4	4.2
FIVCO	413	3	3.5
Gateway	173	5	1.5
Green River	607	4	5.1
Jefferson	3,522	2	29.7
Kentucky River	344	5	2.9
Lake Cumberland	302	3	2.5
Lincoln Trail	706	7	6.0
Northern Kentucky	481	2	4.1
Pennyrile	658	5	5.5
TOTAL	11,854	3	100.0

It can be seen that the range in the number of divorces per lawyer is not large. Most ADDs average three to five divorces per lawyer, with only Jefferson and Northern Kentucky (on the low side) and Lincoln Trail (on the high side) falling outside the range.

*Work Injuries:* The Kentucky Workmen's Compensation Board determines liability and damages for work related injuries. Regardless of whether the Board's determination is appealed to a circuit court, legal representation still appears necessary to exact a fair damage award for injured and disabled workers. Proof of the extent and permanency of injury must be presented and, because the employer's insurance carrier is al-

<sup>30</sup> KY. DEPT. OF HUMAN RESOURCES, 1972 KENTUCKY VITAL STATISTICS, Table 25 at 58-59 (ADD figures compiled from county figures).

<sup>31</sup> Compiled with use of KBA Roster, June 7, 1974.

ways represented by counsel, an injured worker would be wise to secure professional representation. It is true, however, that some work injuries are so minor that no case is filed with the Workmen's Compensation Board; thus the total number of injuries in Table 7 is a somewhat inflated figure for determining actual attorney need. Table 7 lists the number of work injuries per lawyer. The number of work injuries for each ADD is compared with the state total in order to obtain a percentage of the total work injuries for each ADD.

TABLE 7  
FISCAL 1973 WORK INJURIES,  
BY AREA DEVELOPMENT DISTRICTS

<u>ADD</u>	<u>Work Injuries<sup>22</sup></u>	<u>Work Injuries/ Lawyer<sup>23</sup></u>	<u>% Total Work Injuries</u>
Purchase	1,795	13	5.0
Barren River	1,998	12	5.6
Big Sandy	1,968	16	5.5
Bluegrass	4,316	5	12.1
Buffalo Trace	188	6	0.5
Cumberland Valley	1,820	14	5.1
FIVCO	522	4	1.5
Gateway	331	10	0.9
Green River	4,101	24	11.5
Jefferson	9,821	6	27.5
Kentucky River	1,162	17	3.2
Lake Cumberland	963	10	2.7
Lincoln Trail	928	9	2.6
Northern Kentucky	2,228	8	6.2
Pennyriple	3,556	29	10.0
TOTAL	35,697	8.7	100.0

The range in number of work injuries per lawyer exceeds that of divorces. It is significant that the Green River ADD and the Pennyriple ADD, both in Western Kentucky and with a combined 21.5 percent of the total work injuries, have the two largest ratios of work injuries per lawyer. The Eastern Kentucky ADDs known for coal mining—Big Sandy, Cumberland Valley, and Kentucky River—have fewer work injuries and more attorneys to represent the injured. Even with recent pub-

<sup>22</sup> KY. DEPT. OF LABOR, 1972-1973 ANNUAL REPORT 44 (ADD figures compiled from county figures).

<sup>23</sup> Compiled with use of KBA Roster, June 7, 1974.

licity disclosing the large fees paid to attorneys in work injury cases, especially "black-lung" cases, it appears that additional attorneys could survive economically in the Green River and Pennyrile districts. It is also noteworthy that work injuries are more dispersed throughout the state than divorces, with the Jefferson ADD and Bluegrass ADD having almost a ten percent lower share of the work injuries in the state.

*Crimes:* Politicians of every party affiliation annually decry the crime rate and promise to institute a "law and order" policy to reduce crime and make the streets safe. Often, in an effort to show the effective implementation of such policies, crime statistics are manipulated.<sup>34</sup> Kentucky's law enforcement agencies do not appear to engage in such tactics to justify budget allocations for law enforcement; the state statistics, composed of homicides, rapes, robberies, assaults, breaking and entering, larceny, and thefts reported each year, often reflect a percentage decrease when compared with the previous year. Although not all crimes are solved, most investigations result in prosecutions, and the accused must be represented by counsel if one of the penalties for the offense charged includes incarceration.<sup>35</sup> Table 8 lists the number of crimes reported for each ADD during 1972, and then indicates the number of crimes per lawyer. Finally, the number of crimes in each ADD is compared with the state total in order to obtain a percentage of the total crimes for each ADD. While it is true that misdemeanors and traffic offenses account for a significant portion of criminal activity annually, the statistics for serious felonies indicate the ratio of crimes per lawyer for those cases which should consume more of an attorney's time and accordingly should generate a larger fee.

Over 70 percent of the state's crimes occur in the three most populous ADDs—Jefferson, Bluegrass and Northern Kentucky. It is only in these three ADDs that the percentage of crimes is higher than the ADDs' respective percentages of state population. In the Jefferson ADD, which includes Louisville, there is an especially large disparity; this ADD contains 24.8

---

<sup>34</sup> See generally Note, *Crime Statistics—Can They Be Trusted?* 11 AM. CRIM. L. REV. 1045-1086 (1973).

<sup>35</sup> *Argersinger v. Hamlin*, 407 U.S. 25 (1972).

TABLE 8

1972 CRIMES, BY AREA DEVELOPMENT DISTRICTS

<u>ADD</u>	<u>Crimes<sup>36</sup></u>	<u>Crimes/Lawyer<sup>37</sup></u>	<u>% Total Crimes</u>
Purchase	1,517	11	2.6
Barren River	2,845	17	4.9
Big Sandy	880	7	1.5
Bluegrass	10,029	12	17.2
Buffalo Trace	433	13	0.8
Cumberland Valley	1,602	12	2.7
FIVCO	1,236	10	2.1
Gateway	572	17	1.0
Green River	2,343	14	4.0
Jefferson	24,301	15	41.8
Kentucky River	1,033	15	1.8
Lake Cumberland	1,137	12	2.0
Lincoln Trail	1,572	16	2.7
Northern Kentucky	6,511	23	11.2
Pennyrile	2,164	17	3.7
TOTAL	58,175	14	100.0

percent of the state's population while accounting for 41.8 percent of the crimes reported in Kentucky. Except for the Big Sandy ADD with a ratio of seven criminal cases per lawyer, and Northern Kentucky with 23 cases per lawyer, the other districts show a range of between ten and 17 criminal cases per lawyer.

*Automobile Fatalities and Injuries:* Automobile accident cases are the source of a significant share of the trial lawyer's income. Most cases are taken on a contingent fee basis whereby the lawyer receives anywhere from 25 to 50 percent of the damages recovered. With a no-fault automobile insurance law taking effect in Kentucky on July 1, 1975,<sup>38</sup> many lawyers claim that much less litigation will arise from automobile accidents. This may not necessarily be the case. Although the effects of no-fault probably will not be felt until 1977 or later, it is arguable that lawyers will be able to spend more time with large damage cases which formerly had to compete with minor "fender-bender" and laceration cases for the lawyer's time. Table 9 lists the number of fatalities and injuries from automo-

<sup>36</sup> KY. DEPT. OF PUBLIC SAFETY, 1972 UNIFORM CRIME REPORTS 58-69 (1972) (ADD figures compiled from county figures).

<sup>37</sup> Compiled with the use of KBA Roster, June 7, 1974.

<sup>38</sup> KRS § 304.39-010 *et seq.* (Supp. 1974).

bile accidents for each ADD during 1973, and then indicates the number of fatalities and injuries per lawyer. As with the other types of cases, the number of fatalities and injuries for each ADD is then compared with the statewide total to obtain a percentage of the total fatalities and injuries for each ADD. It is acknowledged that some minor injury claims are settled with insurance companies directly, assuming that liability is clear, but the bulk of injury situations are handled by lawyers who file suit and negotiate with attorneys who represent insurance companies.

TABLE 9  
1973 AUTOMOBILE FATALITIES AND INJURIES,  
BY AREA DEVELOPMENT DISTRICTS

<u>ADD</u>	<u>Fatalities &amp; Injuries<sup>a</sup></u>	<u>Fatalities &amp; Injuries/Lawyer<sup>b</sup></u>	<u>% Total Fatalities &amp; Injuries</u>
Purchase	1,700	12	4.8
Barren River	2,296	14	6.5
Big Sandy	1,482	12	4.2
Bluegrass	5,805	7	16.4
Buffalo Trace	321	10	0.9
Cumberland Valley	2,368	18	6.7
FIVCO	1,267	10	3.6
Gateway	676	20	1.9
Green River	2,225	13	6.3
Jefferson	7,482	4	21.2
Kentucky River	1,185	17	3.4
Lake Cumberland	1,353	14	3.8
Lincoln Trail	2,175	22	6.2
Northern Kentucky	3,013	11	8.5
Pennyrile	1,964	16	5.6
<b>TOTAL</b>	<b>35,312</b>	<b>9</b>	<b>100.0</b>

Two points are significant. First, none of the other types of cases appear to be so dispersed throughout the state as are automobile fatalities and injuries. Among the three most populous ADDs, only the Bluegrass ADD has a higher percentage of accidents than population. This may be due to the exceptionally large number of counties, interstate highways, state park-

<sup>a</sup> Figures from the Kentucky State Police for 1973 (ADD figures compiled from county figures).

<sup>b</sup> Compiled with use of KBA Roster, June 7, 1974.

ways, and other roads within this ADD. Second, the range in the number of fatalities and injuries per lawyer is almost as large as that found with work injuries—from four to 22. However, there is a continuum along the range of the lawyer-automobile accident ratios, whereas the lawyer-work injury ratios tend to cluster at either end of the range. The only ADDs with less than ten auto cases per lawyer are those with the highest percentage of attorneys—Jefferson and Bluegrass.

The preceding discussion has alluded to comparisons between the individual ADD percentages of total state cases and the ADD percentage of the general population. For example, the Jefferson ADD accounted for 41.8 percent of the state's crimes but only 24.8 percent of the population. Comparing ADD population percentages and attorney percentages, it may appear that ADDs with a higher percentage of population than attorneys have too few attorneys, and ADDs with a lower percentage of population than attorneys have too many attorneys. This difference is illustrated by the variations among ADDs in the lawyer-population ratio. In Table 10, percentages of case activity are examined for indications of whether the disparity in population and lawyer percentages is justified by differences in the incidence of crime, injury and divorce per ADD. Table 10 compares the ADD percentages for population and attorneys (Table 4), with those for divorces (Table 6), work injuries (Table 7), crimes (Table 8), and automobile fatalities and injuries (Table 9). The hypothesis is that an ADD with a lower percentage of lawyers than of population does not necessarily have too few lawyers if the percentages for types of cases in that ADD are closer to the attorney percentage than to the population percentage. Conversely, an ADD with a higher percentage of lawyers than of population is not necessarily saturated with attorneys if the percentages of crime, injury and divorce cases are closer to the attorney percentage than to the population percentage. The discussion following applies this hypothesis to the statistics for each ADD.

*Purchase ADD:* Because all of the case percentages except crimes are closer to the population percentage than to the attorney percentage, it would be reasonable to conclude that there are too few attorneys currently practicing in this ADD.

TABLE 10  
PERCENTAGES OF TOTAL STATE POPULATION,  
ATTORNEYS, AND CASES BY  
AREA DEVELOPMENT DISTRICTS

<u>ADD</u>	<u>Popula-</u> <u>tion</u>	<u>Attorneys</u>	<u>Divorces</u>	<u>Work</u> <u>Injuries</u>	<u>Crimes</u>	<u>Auto</u> <u>Fatalities</u> <u>and</u> <u>Injuries</u>
Purchase	5.1	3.4	5.0	5.0	2.6	4.8
Barren River	5.8	3.9	5.7	5.6	4.9	6.5
Big Sandy	3.9	3.0	4.6	5.5	1.5	4.2
Bluegrass	14.6	20.7	18.5	12.1	17.2	16.4
Buffalo Trace	1.5	0.8	1.2	0.5	0.8	0.9
Cumberland Valley	5.5	3.2	4.2	5.1	2.7	6.7
FIVCO	3.7	3.1	3.5	1.5	2.1	3.6
Gateway	1.7	0.8	1.5	0.9	1.0	1.9
Green River	5.6	4.2	5.1	11.5	4.0	6.3
Jefferson	24.8	40.6	29.7	27.5	41.8	21.2
Kentucky River	3.1	1.7	2.9	3.2	1.8	3.4
Lake Cumberland	4.2	2.3	2.5	2.7	2.0	3.8
Lincoln Trail	5.9	2.4	6.0	2.6	2.7	6.2
Northern Kentucky	9.2	6.9	4.1	6.2	11.2	8.5
Pennyrile	5.4	3.0	5.5	10.0	3.7	5.6

*Barren River ADD:* With all of the case percentages much closer to the population percentage than to the attorney percentage, seemingly this ADD can absorb more attorneys.

*Big Sandy ADD:* Except for the crime percentage, which is below the attorney percentage, the case percentages are larger than the population percentage. In the short run, then, this ADD can use more lawyers, but the long-run population projections for losses may balance this short-run demand.

*Bluegrass ADD:* All of the case percentages except work injuries are distributed in the range between the attorney and population percentages. Thus, it is difficult to say that at present this ADD has a surplus of attorneys. With so many attorneys working for the state in this ADD, however, it is possible that there is a shortage of practicing attorneys at this time.

*Buffalo Trace ADD:* The consistent pattern of case percentages closer to the attorney percentage than to the higher population figure indicates that this ADD has enough attorneys.

*Cumberland Valley ADD:* With two case percentages closer to the population percentage and two closer to the attor-



ney percentage, it is questionable whether more attorneys are necessary. However, the higher percentage, in three of the case areas, than the attorney percentage may signal a need for some additional lawyers now.

*FIVCO ADD:* The percentages for attorneys and population are close, and two of the case percentages are much lower than the attorney figure. Therefore, this ADD has enough attorneys for the present, and perhaps too many.

*Gateway ADD:* Because all of the percentages here are so small, comparing the various figures may be futile. However, the percentage for divorces and automobile injuries may indicate the need for several more attorneys.

*Green River ADD:* This area's population percentage is one-third larger than its attorney percentage. In addition, three of the four case percentages are closer to the population percentage, with the work injury percentage more than twice the population percentage. Thus, more attorneys are needed in this ADD.

*Jefferson ADD:* On the basis of the case percentages, this ADD appears to have a surplus of attorneys.<sup>41</sup> However, these figures may be deceiving because many attorneys in this ADD work for the government or are engaged in business rather than law practice.

*Kentucky River ADD:* With three of the four case percentages nearer the higher population percentage, there is an apparent need for more lawyers. However, as with the Big Sandy ADD, the unfavorable population projections may cancel this need.

*Lake Cumberland ADD:* Of the case percentages, only the automobile injury figure approaches the population percentage; the remaining percentages are much closer to the lower attorney percentage. This ADD probably has enough lawyers now.

*Lincoln Trail ADD:* The wide gap between the population and attorney percentages is magnified by the equally wide margin of case percentages—two a little higher than the 5.9 percent population figure and two slightly more than the 2.4 percent attorney mark. More attorneys are needed in this ADD.

---

<sup>41</sup> But see economic activity percentages and discussion accompanying note 45 *infra*.

*Northern Kentucky ADD:* The range in case percentages is three times more than that between the population and attorney figures. Such variation renders analysis too speculative to be of value.

*Pennyrile ADD:* Since three of the four case percentages are higher than the larger population figure, there appears to be a genuine need for more lawyers in this ADD.

This analysis by ADDs indicates that some districts currently need more attorneys, some districts need fewer, and others apparently have an adequate number already. Examination of economic activity in the next section will complete the statistical analysis of factors supplemental to the traditional lawyer-population ratio, and may modify the foregoing conclusions based on case loads.

## 2. *Economic Activity*

Measuring the economic activity in each ADD may indicate a need for attorneys whose work is primarily concerned with corporate or tax matters. Before analyzing Kentucky's business profile by ADDs, it is useful to look at this state's relative position in the national economy. As mentioned earlier, the 1970 U.S. Census ranked Kentucky twenty-third in population among the states. However, the state ranks fortieth in projected population growth rate, with an even lower ranking, 41, for growth between 1975 and 1985.<sup>42</sup> Equally alarming are the most recent economic statistics for the state. The 1967 U.S. Census of Business shows Kentucky having the percentages and ranks for United States business listed in Table 11.<sup>43</sup> Recall that Kentucky, in the 1970 Census, had approximately 1.58 percent of the total U.S. population.

The 1967 U.S. Census of Business lists Kentucky's trade and service industries by county. The three types of economic activity measured are: (1) retail trade, (2) wholesale trade, and (3) selected services. Retail trade encompasses establishments

---

<sup>42</sup> U.S. BUREAU OF THE CENSUS, *supra* note 22.

<sup>43</sup> U.S. BUREAU OF THE CENSUS, 1967 CENSUS OF BUSINESS (Selected Services: U.S. Summary BC 67-SAI at 1-14; Wholesale Trade: U.S. Summary BC 67-WAI at 1-56; Retail Trade: U.S. Summary BC 67-RAI at 1-40) (1970). These figures were obtained by calculating the Kentucky percentage of the United States totals from raw figures for Kentucky and the United States in each of the three areas listed.

TABLE 11  
KENTUCKY'S PERCENTAGES AND RANKS  
IN U.S. BUSINESS, 1967

	<u>% of U.S. Total</u>	<u>Rank</u>
Retail Trade	1.3	25
Wholesale Trade	0.9	30
Selected Services	0.8	30 <sup>44</sup>

with one or more employees. Among these businesses are building material dealers, department stores, food stores, automotive dealers, gasoline service stations, apparel and accessory stores, furniture stores, eating and drinking places, drug stores and jewelry stores. Wholesale trade includes dealers in (1) durable goods such as motor vehicles, furniture, recreational and hobby goods, and metals and minerals, and (2) non-durable goods, like apparel, notions, groceries, farm-product raw materials and petroleum and its products. Selected service industries include (1) personal services such as laundry cleaning, photographic studios, barber shops and funeral services; (2) business services, like advertising, computer services, management consultants, and equipment rental services; (3) dental laboratories, legal services, and architectural engineering and land surveying services. Table 12 makes the same types of comparisons between economic activity and the current number of lawyers as Table 10 made between trial-oriented cases and attorneys. Like Table 10, Table 12 lists the ADD percentages of population and attorneys, followed by the ADD percentages of retail trade, wholesale trade, selected services, and per capita income. The hypothesis remains the same; namely, that the degree of economic activity may play an important part in explaining disparities among lawyer-population ratios. The discussion following examines Table 12's implications for each ADD.

*Purchase ADD:* With all the economic activity percentages equal to or higher than both the population and attorney percentages, a definite need for more lawyers is apparent.

---

<sup>44</sup> Partial figures released by the 1972 Census of Business show Kentucky with a 65 percent increase in retail trade and wholesale trade volume, and a 61 percent increase in selected services, but no national figures are yet available to indicate whether Kentucky's relative percentage or rank has changed.

TABLE 12<sup>45</sup>  
PERCENTAGES OF TOTAL STATE POPULATION,  
ATTORNEYS, AND ECONOMIC ACTIVITY  
BY AREA DEVELOPMENT DISTRICTS

<u>ADD</u>	<u>Popula- tion</u>	<u>Attorneys</u>	<u>Retail Trade</u>	<u>Whole- sale Trade</u>	<u>Selected Services</u>	<u>Per Capita Income</u>
Purchase	5.1	3.4	6.3	5.8	5.5	5.1
Barren River	5.8	3.9	5.9	4.3	4.3	4.6
Big Sandy	3.9	3.0	2.6	1.6	1.4	2.8
Bluegrass	14.6	20.7	15.9	14.3	16.9	15.0
Buffalo Trace	1.5	0.8	1.4	1.2	0.8	1.2
Cumberland Valley	5.5	3.2	4.3	2.5	3.7	3.5
FIVCO	3.7	3.1	3.1	2.0	2.7	3.4
Gateway	1.7	0.8	1.4	1.3	0.9	1.1
Green River	5.6	4.2	5.9	3.7	4.9	5.4
Jefferson	24.8	40.6	29.4	51.7	40.8	30.5
Kentucky River	3.1	1.7	2.0	1.1	1.0	2.0
Lake Cumberland	4.2	2.3	3.4	1.5	2.3	3.0
Lincoln Trail	5.9	2.4	4.4	1.4	3.6	5.9
Northern Kentucky	9.2	6.9	8.8	4.4	6.8	10.7
Pennyrile	5.4	3.0	5.2	3.2	4.4	5.8

*Barren River ADD:* Since all of the percentages are higher than the attorney figure, some additional attorneys may be needed in this ADD.

*Big Sandy ADD:* Because the economic activity percentages are below the attorney percentage, evidently no current demand exists for more lawyers here. The population projections for the ADD confirm this conclusion.

*Bluegrass ADD:* Many attorneys in this ADD are employed by the state. This factor causes the attorney and population percentages to more closely approximate one another, thus making the economic percentages consistent. Therefore, no surplus of attorneys is apparent.

*Buffalo Trace ADD:* On the basis of these percentages, it can be seen that economic activity is distributed throughout the small range between attorney and population percentages. This small range makes analysis difficult, but suggests a current need for several new attorneys.

<sup>45</sup> Percentages of economic activity and per capita income were calculated from figures in KY. DEPT. OF COMMERCE, KENTUCKY DESKBOOK OF ECONOMIC STATISTICS 37-40, 14 (1973).

*Cumberland Valley ADD:* All of the economic percentages are close to the attorney percentage; thus, an adequate number of attorneys currently serves this ADD.

*FIVCO ADD:* Three of the four economic percentages are equal to or below the lower attorney percentage. Accordingly, there appears to be a sufficient number of attorneys now in this ADD.

*Gateway ADD:* Again, as in the Buffalo Trace ADD, the small percentage and ranges make analysis difficult. With all the economic percentages higher than the attorney figure, it seems that several more attorneys could be absorbed.

*Green River ADD:* Although the wholesale trade percentage is lower than the attorney percentage, the other economic conditions are high enough to suggest a definite need for more lawyers in this ADD.

*Jefferson ADD:* The Jefferson ADD, like the Bluegrass ADD, contains many attorneys working in the public sector. Moreover, this ADD apparently serves as the principal wholesale area in the western half of the state. The wholesale figure alone would seem to indicate no surplus of attorneys on the basis of economic activity.

*Kentucky River ADD:* The small percentages of economic activity show no need for more lawyers; two of the percentages are as low as one-third of the population percentage.

*Lake Cumberland ADD:* The volume of both economic activity and trial-oriented cases is far below this ADD's population percentage. Thus, it appears that there are enough lawyers in this ADD.

*Lincoln Trail ADD:* This ADD has a sizeable portion of the state's per capita income, but the other economic percentages are not as high. Even so, the wide range between attorneys and population should be narrowed, and the percentages for retail trade and selected services indicate a current need for more attorneys.

*Northern Kentucky ADD:* Most of this ADD's wholesale sources are across the Ohio River in Cincinnati. The range in economic percentages is as wide as it was for trial-oriented cases. There is probably a sufficient number of attorneys practicing in this ADD.

*Pennyrile ADD:* All the percentages for economic activity

are higher than the attorney percentage. Therefore, an apparent need for more lawyers exists.

When the results of Table 10 and Table 12 are combined, the following ADDs consistently indicate a need for more attorneys: Purchase, Green River, Barren River, Gateway, Lincoln Trail and Pennyryle. Other ADDs, namely Bluegrass, Big Sandy, FIVCO, Buffalo Trace, Cumberland Valley, Kentucky River and Northern Kentucky, show inconsistent needs depending upon which factor is considered. The remaining two ADDs, Jefferson and Lake Cumberland, reflect an adequate number of attorneys.

### E. *Current Trends in the Practice of Law*

Are the legal system and the legal profession developing and responding to new roles for lawyers in both public and private institutional settings? Professor Alan Merson has stated:

Beyond mere population growth, there appear to be at least three factors influencing the expansion of legal needs. First, urbanization and highly complex societal settings require more elaborate regulatory mechanisms . . . . Second, as a more highly educated populace gains increased insight into law's role in and the ordering of life, a greater proportion of the population demands legal services. Third, a new and enlarged role for the lawyer, imposed by contemporary public and private institutional settings, suggests a new set of legal needs quite different in scope from those heretofore served by lawyers.<sup>46</sup>

The following discussion briefly sketches some of the ways in which the legal profession and the legal system are preparing for a fairer, more efficient use of legal resources.

#### 1. *No-Fault Insurance*

The purpose of no-fault insurance is "to provide prompt payment to victims of motor vehicle accidents without regard to whose negligence caused the accident in order to eliminate

---

<sup>46</sup> Merson, *Meeting Legal Needs: A New Malthusian Dilemma*, 47 DEN. L.J. 54, 55 (1970).

the inequities which fault-determination has created."<sup>47</sup> Whether known as no-fault automobile insurance or automobile reparation reform, the advent of this type of legislation has been greeted by most attorneys with anything but enthusiasm.

Automobile insurance and compensation studies abound.<sup>48</sup> With no-fault plans having been passed in at least 21 states, there are as many combinations, permutations and variations of recovery rules and insurance coverage as there are reform plans. While a "total" no-fault plan would eliminate all personal injury litigation arising from automobile accidents, the plans thus far adopted by the states permit tort recovery through litigation under specified circumstances. Recently, the United States Senate passed a National No-Fault Motor Vehicle Insurance Act.<sup>49</sup> This legislation provides that if a state fails to adopt some type of no-fault plan during its first legislative session following enactment of the bill, "title III of this Act shall be applicable in that State . . . ."<sup>50</sup> This national legislation, if enacted, will no doubt face court tests similar to those encountered by the state no-fault plans.<sup>51</sup>

In economic terms, lawyers dislike the no-fault concept because they fear a serious reduction in their incomes. This is especially true of plaintiffs' attorneys, whose clients' judgments amount to approximately 80 percent of the over one billion dollars per year collected in automobile negligence litigation.<sup>52</sup> Since one object of no-fault plans is to eliminate "frictional costs," such as the overhead costs of insurers, lawyers and courts,<sup>53</sup> a measure of any plan's effectiveness is its reduction of attorneys' fees. The typical no-fault plan provides a threshold amount of damages below which no law suit may be

---

<sup>47</sup> KRS § 304.39-010(2) (Supp. 1974).

<sup>48</sup> See, e.g., U.S. DEPT. OF TRANSPORTATION, AUTOMOBILE ACCIDENT LITIGATION, A REPORT OF THE FEDERAL JUDICIAL CENTER (1970); U.S. DEPT. OF TRANSPORTATION, AUTOMOBILE PERSONAL INJURY CLAIMS (1970).

<sup>49</sup> S. 354, 93d Cong., 1st Sess. (1973).

<sup>50</sup> *Id.* at § 201(d). S. 354 is set out in 119 CONG. REC. 954 (1973).

<sup>51</sup> See, e.g., *Grace v. Howlett*, 283 N.E.2d 474 (Ill. 1972) wherein the Illinois Supreme Court held one provision of that state's no-fault law to be unconstitutional.

<sup>52</sup> 1 U.S. DEPARTMENT OF TRANSPORTATION, AUTOMOBILE PERSONAL INJURY CLAIMS 80 (1970); U.S. DEPARTMENT OF TRANSPORTATION, AUTOMOBILE ACCIDENT LITIGATION, *supra* note 48, at 40.

<sup>53</sup> KEETON & O'CONNELL, BASIC PROTECTION FOR THE TRAFFIC VICTIM: A BLUEPRINT FOR REFORMING AUTOMOBILE INSURANCE 69 (1965).

brought. The threshold figure may be variously gauged by medical expenses incurred, damages claimed for pain and suffering, or the amount of first party benefits paid. Even plans providing low threshold levels eliminate many lawsuits and, accordingly, much of the lawyer's income.

In the past, approximately 90 percent of automobile accident claims have been settled before judgment.<sup>54</sup> Thus the automobile negligence lawyer has been not so much a trial lawyer as he has been a negotiator. As a result of no-fault insurance, however, the negligence lawyer of the future in a no-fault state will presumably spend more time in court.

Interesting as this observation may be, the pertinent inquiry is whether personal injury attorneys will be able to survive economically. Lobbyist-lawyers who oppose no-fault tell their lawyer-legislator brethren about the scores of Massachusetts attorneys who had to go out of business, relocate, or find other sources of income following the effective date of the Massachusetts no-fault plan in 1971.<sup>55</sup> Legislators, however, appear to find these and other economic "horror" stories secondary to the need for a rational compensation system for those injured in automobile accidents. The popularity of the no-fault concept is, in part, a response to consumer pressure, which in turn may provide lawyers with fertile new areas, such as products liability, environmental concerns, socio-economic group conflicts, and discrimination problems, on which to base their law practices.

## 2. *Public Defender System*

The 1972 Kentucky General Assembly enacted a bill which established the Office of Public Defender as an independent state agency.<sup>56</sup> The object of the legislation is to provide legal services, at state and local government expense, to needy per-

---

<sup>54</sup> U.S. DEPARTMENT OF TRANSPORTATION, *AUTOMOBILE ACCIDENT LITIGATION*, *supra* note 48, at 8, 37, 40.

<sup>55</sup> MASS. ANN. LAWS ch. 90, § 34A *et seq.* (Supp. 1974).

<sup>56</sup> KRS § 31.010 (Supp. 1974). Enactment of this bill was a legislative response to the persistent problem of attorneys serving as court-appointed counsel without compensation. The 1974 General Assembly enacted several amendments, which relate primarily to the scope of state funding and the manner of administration of the district or county public defender offices.



sons<sup>57</sup> accused of serious crimes.<sup>58</sup> The Public Defender is obligated to establish a district public defender office in judicial districts with ten or more circuit judges.<sup>59</sup> Currently, the Thirtieth Judicial District, comprised of Jefferson County, is the only district with more than ten circuit judges. The legislation permits the Public Defender to create district public defender offices in each of the Commonwealth's 53 judicial districts containing less than ten circuit judges.<sup>60</sup> Additionally, the fiscal court of any county, though not required to establish a public defender system, may provide representation to needy persons who are charged with serious crimes.<sup>61</sup> Alternative methods, such as counties within a judicial district or cities within a county combining to form a joint public defender office, are also permitted. Local programs initiated by fiscal courts are eligible for state funding if a plan is submitted and approved by the Office of Public Defender.<sup>62</sup> The maximum funding is 40 cents per capita in the county or counties of the judicial district participating in the plan, but in no case will it be less than \$14,000 per circuit judge per judicial district.<sup>63</sup>

Three types of defender plans have been implemented, with each judicial district adopting one of the three: (1) full-time defender plans, (2) assigned counsel plans, and (3) non-profit organization programs. The full-time defender plans require each attorney in the district office to perform professional skills exclusively for the public defender program. As public employees, these full-time defenders are not likely to earn as much as they otherwise would in part-time or full-time private

---

<sup>57</sup> KRS § 31.100(3) defines a needy person as one "who at the time his need is determined is unable to provide for the payment of an attorney and all other necessary expenses of representation."

<sup>58</sup> Serious crimes include felonies, misdemeanors or offenses for which the penalty includes the possibility of confinement for *six months or more* or a fine of \$500 or more, and acts that, but for the age of the person involved, would otherwise be serious crimes. KRS § 31.100(4). Given the decision in *Argersinger v. Hamlin*, 407 U.S. 25 (1972), the Kentucky statute appears inadequate to cover the need. *Argersinger* held that the possibility of incarceration for *any* period of time requires that the defendant be represented by counsel.

<sup>59</sup> KRS § 31.060.

<sup>60</sup> KRS § 31.040(1).

<sup>61</sup> KRS § 31.160.

<sup>62</sup> KRS § 31.050(2).

<sup>63</sup> *Id.*

practice. Approximately 27 attorneys are currently employed as full-time defenders in the eight full-time programs throughout the state.

An additional 11 judicial districts use the assigned counsel plan, in which each lawyer who is otherwise qualified (not employed in any capacity by a governmental unit involved in the instant prosecution) represents needy persons on a rotating basis. Assigned attorneys are compensated at an hourly rate. The remaining judicial districts utilize non-profit organization programs, under which only those attorneys who desire court appointments serve as defenders. The problem of finding eligible attorneys has arisen in both assigned counsel and non-profit organization plans as a result of the practice in many counties and judicial districts whereby some of the already small number of attorneys serve as part-time county attorneys or as commonwealth's attorney.<sup>64</sup>

The future of the public defender program appears secure. There has been some concern, however, about the viability of the full-time programs because they do not allow member lawyers to take outside cases. While this factor may serve as somewhat of a deterrent to full-time defender work, representation of needy persons in any of the programs provides valuable training for the development of courtroom technique. If population projections for the year 2000 are realized, the General Assembly will have to provide for as many as seven additional judicial districts and as many as 16 additional judicial positions.<sup>65</sup> Such new districts and judgeships will necessitate an expansion of the public defender system. However, the large number of Kentucky law graduates should easily fulfill this need.

---

<sup>64</sup> The only practical difference between the assigned counsel plan and the non-profit organization plan is that under the former, the attorney submits his bill directly to the court, while under the latter plan, the non-profit organization is billed by the attorney.

<sup>65</sup> Section 138 of the Kentucky Constitution provides:

Each county having a city of twenty thousand inhabitants, and a population, including said city, of forty thousand or more, may constitute a district, and when its population reaches seventy-five thousand, the general assembly may provide that it shall have an additional judge, and such district may have a judge for each additional fifty thousand above one hundred thousand.

### 3. *Specialization*

The growing public displeasure with legal services may flow, in part, from the fact that most lawyers are incapable of performing every type of legal task with equal ability. Most attorneys, in fact, find themselves automatically eliminating certain areas of the law from their practices. Members of the public, generally not endowed with clairvoyance, have difficulty discerning which lawyers will best meet their needs. However, lawyers attempting to advertise their expertise are confronted by the ethics committees of their local bars.<sup>66</sup> The public disenchantment generated by this state of affairs has produced a rash of consumer-oriented books and periodicals which describe pro se representation in selected judicial and quasi-judicial proceedings.<sup>67</sup>

Specialization will allow the organized bar to regulate and supervise rapidly increasing de facto specialization. Designation of lawyers as specialists in particular areas of the law should enable citizens to make a more intelligent choice of counsel. The idea of specialization in the United States, like our common law, is derived from the English experience. There, trial lawyers—barristers—are a separate part of the legal profession. Interestingly, Chief Justice Burger has called on national bar organizations to postpone specialty certification in all areas except that of trial advocacy.<sup>68</sup>

Pursuant to a recommendation by an American Bar Association Special Committee on Specialization, the task of promulgating plans for voluntary specialization was given to state bar organizations.<sup>69</sup> The logistics of specialty certification, as stated in the plans, vary significantly. For example, California requires a written (and sometimes oral) examination for those who satisfy the "substantial involvement" and "special educational experience" qualifications. In addition, recertification every five years is mandatory. On the other hand, New Mexico requires only that an attorney certify that at least sixty percent of his practice time during the previous five years was in the

---

<sup>66</sup> Joiner, *Specialization in the Law*, 48 FLA. B.J. 163, 164 (1974).

<sup>67</sup> *Do-It-Yourself Law*, 83 NEWSWEEK 90-91 (June 24, 1974).

<sup>68</sup> Burger, *Special Skills of Advocacy*, 48 FLA. B.J. 154 (1974).

<sup>69</sup> A.B.A., *Report on Specialization*, 92 A.B.A. REP. 584 (1967).

designated area of law practice. In the Commonwealth, the Kentucky Bar Association is moving forward with its program.<sup>70</sup> At its 1974 annual convention, the Kentucky Bar Association Board of Governors approved a specialization plan for the state bar. The details of the plan will be unavailable until it is approved by the Kentucky Court of Appeals.

Although specialization may not, in absolute terms, provide new areas of law practice, the idea of departmentalization of legal skills could produce improved employment opportunities for law graduates. In rural areas, the general legal practitioner will continue to flourish. However, if specialization is attractive to the public, general practitioners in urban areas will gather together into law firms to present their own brand of collective, but individually specialized, "womb to tomb" services. Such an approach might improve employment opportunities, because such law firms would seek to fill every specialty or group specialty position.

#### 4. *Group and Prepaid Legal Services*

In 1972, Kentucky, through its Court of Appeals and upon the recommendation of the Kentucky Bar Association, became the first state to adopt a prepaid legal services rule.<sup>71</sup> Kentucky was also the second state to adopt a group legal services rule.<sup>72</sup> Though very similar in concept, there are some basic distinctions between the two plans.

Prepaid legal services is "a system in which the cost of possible legal services needed in the future is prepaid in advance by, or on behalf of, a client who receives such services."<sup>73</sup> Most prepaid plans permit the free choice of an attorney, and the plans may have deductibles, maximum limits and restricted types of coverage. Group legal services is a system whereby a particular group, whose primary purpose is "other than the rendering of legal services,"<sup>74</sup> offers a plan for payment

---

<sup>70</sup> Letter from Leslie G. Whitmer, Director, Kentucky Bar Association, June 24, 1974.

<sup>71</sup> KY. R. CT. APP. 3.476 (1972) [hereinafter cited as RCA].

<sup>72</sup> RCA 3.475 (1972).

<sup>73</sup> Whitmer, *Group and Prepaid Legal Services Phase I: Standards*, 36 Ky. B.J. 21, 22 (1972).

<sup>74</sup> *Id.* at 21. A labor union is an example of such a group.

of legal services to its members. Organizations may adopt either type of plan, subject to attorney compliance with the rules of the Kentucky Court of Appeals as adopted from the Code of Professional Responsibility.

Group and prepaid legal services are a possible means of increasing the total demand for legal services. Recent United States Supreme Court decisions have recognized the public need for such programs by approving the existence of group legal plans.<sup>75</sup> One purpose of these programs is to make the public aware that competent, trustworthy, and moderately priced legal services are available.<sup>76</sup> Another aim is to reclaim legal work now being performed by trust companies, banks, and insurance agents.<sup>77</sup> A desirable side effect of both of these programs is the efficient collection of fees.

The future of a new system for delivery of legal services depends, of course, on consumer acceptance. In 1971, a small labor union enrolled in a prepaid legal services program, utilizing the Shreveport plan.<sup>78</sup> Under the plan, the use of legal services increased among both those who had previously employed legal counsel and those who had not.<sup>79</sup> The union members became aware that lawyers could assist them in many more situations than they had previously realized. The participants also felt that under the plan, attorneys gave and would continue to give personal attention to their problems.<sup>80</sup> This successful, but isolated, experiment does not necessarily assure acceptance in other geographic and demographic regions, but the results of the experiment do suggest that such programs have some chance of success in the future.

### 5. *Legal Assistants*

Present and potential clients are disturbed by the escalat-

---

<sup>75</sup> *United Transp. Union v. State Bar of Mich.*, 401 U.S. 576 (1971); *UMW v. Illinois State Bar Ass'n*, 389 U.S. 217 (1967); *Brotherhood of R.R. Trainmen v. Virginia Bar*, 377 U.S. 1 (1964); *NAACP v. Button*, 371 U.S. 415 (1963).

<sup>76</sup> See Note, *Group Legal Services: A Blessing in Disguise for the Legal Profession*, 58 IOWA L. REV. 174, 189 (1972); Schwartz, *Forward: Group Legal Services in Perspective*, 12 U.C.L.A. L. REV. 279, 288-91 (1965).

<sup>77</sup> Greenwalt, *Group Legal Services—Why, and How*, 41 N.Y.S.B.J. 300 (1969).

<sup>78</sup> F. MARKS, R. HALLAUER & R. CLIFTON, *THE SHREVEPORT PLAN* (1974).

<sup>79</sup> *Id.* at 61-82.

<sup>80</sup> *Id.* at 93-95.

ing costs of legal services. Low and middle income wage-earners requiring the services of an attorney often find them prohibitively expensive. Low income citizens, in particular, have discovered that costly legal representation is often essential in order to take advantage of the social legislation enacted for their benefit.<sup>81</sup> Many of these people must simply do without.

One possible way of reducing costs is to increase the use of paralegal workers in the profession. Legal assistants can perform basic research and investigative tasks, thereby reducing the time professionals must devote to any one case. For years, lawyers in private practice have had the benefit of a legal assistant in the form of the legal secretary. The performance of various professional tasks by non-lawyers in probate and real estate practice is common. Likewise, corporations and insurance companies have used legal assistants in the preparation, negotiation, and disposition of many legal problems. Use of legal assistants in the public sector has not been as widespread, perhaps because the demand for more efficient use of employees is not as great as in the private sector.<sup>82</sup>

The paralegal worker, to be effective, must have sufficient legal knowledge to allow independent work, with only periodic supervision by the attorney. Many questions arise when attempting to shape a comprehensive and efficient approach to the education of paralegal workers. It has been suggested that legal assistants be trained either in the law schools or in junior colleges; the most difficult tasks, however, are to develop a curriculum of proper scope and substance, and to determine what types of persons can most effectively teach such a program.<sup>83</sup>

In 1971, more than 164 such programs existed.<sup>84</sup> These programs were conducted by universities, law schools, bar associations, law firms, legal secretary groups, corporations, legal aid groups, and other public interest organizations. None, how-

---

<sup>81</sup> Examples of such legislation are workmen's compensation, unemployment benefits, and welfare benefits. See Holme, *Paralegals and Sublegals: Aid to the Legal Profession*, 46 DEN. L.J. 392-398 (1969).

<sup>82</sup> A.B.A., SPECIAL COMM. ON LEGAL ASSISTANTS 4 (1971).

<sup>83</sup> *Id.* at 45-72.

<sup>84</sup> *Id.* at 133-44.

ever, existed in Kentucky. While the future impact of the paralegal on law practice is uncertain, several important ethical and economic questions merit consideration. If legal assistants are increasingly utilized, will attorney's fees reflect this fact? Should it be unethical for a lawyer to bill for professional time, when a portion of the work has been performed by a paralegal?<sup>85</sup> If, in the future, a significant portion of legal work is performed by paralegal workers, it seems likely that fewer attorneys will be required to handle the same amount of work. This is a factor which should be considered in estimating the overall future demand for attorneys.

It is impossible to do more than speculate as to the impact of current trends in law practice on the future demand for attorneys. The most that can be said, it seems, is that some developments, such as no-fault automobile insurance and increased use of paralegal workers should decrease the demand for attorneys, while other developments, such as mandatory representation of indigent defendants and specialization, may increase the demand.

#### F. *Survey of the Bar*

During the 1974 Kentucky Bar Association Convention, most of the registrants<sup>86</sup> completed a questionnaire designed to ascertain any current shortage of attorneys from the practical experience of Kentucky's practicing bar. Those attending the convention represented a cross section of law-trained citizens. While most of the respondents were practitioners, others were judges, law school faculty members, or retired. Geographically, the respondents were from all regions of the state, with 68 of Kentucky's 120 counties represented. Two of the nine questions related to present and short-run needs for lawyers in the county where each respondent's law practice was located: "Aside from regular turnover due to retirement, etc., can your county use additional lawyers at the present moment?"<sup>87</sup> Yes: 98; No: 152; Undecided: 30.

---

<sup>85</sup> *Id.* at 90.

<sup>86</sup> Approximately 85-90 percent of those in attendance.

<sup>87</sup> The question also read "If so, how many?" However, there were too few responses to justify computation of the typical or average response.

With only 39 percent of the respondents indicating a present need for additional attorneys, it appears that, in the opinion of attorneys, there is an adequate number of lawyers now practicing in the state. The response of attorneys from Kentucky's two largest counties, Jefferson and Fayette, was: Yes: 26; No: 44; Undecided: 9.

This 37 percent "yes" response parallels the statewide 39 percent affirmative response. It is somewhat surprising that as many as 37 percent answered affirmatively because the low lawyer-population ratio in Louisville and Lexington suggests that attorneys would overwhelmingly indicate an overcrowded situation. If one accepts the proposition that those who attended the convention are more concerned about the future of the legal profession than those who did not attend, it can be argued that questioning all attorneys in these two counties would have resulted in a lower percentage of "yes" responses. The same criticism, of course, would apply to the statewide percentages.

A much lower percentage of "yes" responses results when the answers of those practicing for less than five years are isolated: Yes: 22; No: 47; Undecided: 11.

Sixty-one percent of all respondents indicated no need for more attorneys, but over 68 percent of the young lawyers in effect said "we have enough lawyers" and perhaps not enough business to make a living. This may be a typical reaction of any new entrant into the marketplace, but perhaps a less than accurate barometer of the more than 1000 attorneys who have been admitted to practice in Kentucky for less than five years.

The second question concerned the short-run need for attorneys in the county where each respondent's law practice is centered: "Do you expect any growth in your county between now and 1980 that might require additional lawyers?" Yes: 198; No: 60; Undecided: 22.

By better than three-to-one, the registrants, who found no current shortage of lawyers, indicated a distinct need for more attorneys by 1980. While the skeptic might cite the dramatic shift as evidence of inconsistency, a reasonable explanation may be that many attorneys predict their counties will experience population and economic growth over the next several years. The responses of lawyers from Jefferson and Fayette to this question were: Yes: 63; No: 15; Undecided: 1.



Nearly 81 percent from the two most populous counties think that their area will experience growth between now and 1980 which will create a need for more lawyers. Thus, while the majority of respondents see no need for lowering the *present* lawyer-population ratio, they do foresee either population or economic growth that will necessitate an increase in the number of attorneys.

## II. ATTORNEY SUPPLY

Kentucky requires an "L.L.B. or equivalent professional degree"<sup>88</sup> before the bar examination may be taken, and thus, law schools approved by the American Bar Association or the Association of American Law Schools are the only sources of attorneys within the state. Any discussion of the future supply of lawyers must include the present supply as well as the projected growth plans, if any, of the state's law schools. Consideration must also be given to the number of annual bar admissions, which includes graduates of out-of-state law schools. For the purposes of supply projections, a class profile is included to analyze the percentage of law students who eventually practice in Kentucky. Finally, the future supply of lawyers for the next 25 years must be compared with the number of attorney positions available in the year 2000.

### A. *Kentucky Law Schools*

The University of Kentucky College of Law,<sup>89</sup> in Lexington, is the state's oldest law school in terms of membership in the Association of American Law Schools. The enrollment at the University of Kentucky was 508 in the fall of 1973, which represented an increase of 17 percent over the 1969 enrollment of 442. The College of Law expects to maintain its student body at or below 500 students for the foreseeable future. The number of students is not the only factor on the rise. Currently, 92 percent of the students at the University of Kentucky are residents of Kentucky, compared with 79 percent in 1969. The College of Law plans to maintain its resident-nonresident ratio

---

<sup>88</sup> RCA 2.070(2) (1973).

<sup>89</sup> All of the statistics for the University of Kentucky were obtained in an interview with Assistant Dean Joseph Rausch, June 10, 1974.

at approximately 90:10. Tuition at the University of Kentucky has increased from \$280 per academic year (two semesters) for residents to \$480 in 1973. Nonresident tuition has grown from \$980 to \$1,210 per year during the years from 1969 to 1973. Currently there are 23 faculty members with an additional seven faculty positions to be established during the next three years. The number of graduates from the University of Kentucky increased from 154 in 1971-72 to 178 in 1973-74.

The University of Louisville School of Law became a member of the Association of American Law Schools in 1933. Enrollment at the University of Louisville in the fall of 1973 was 691; this represents an increase of 39 percent over its 1969 enrollment of 422.<sup>90</sup> The faculty at the University of Louisville expects its student growth to level off at 600 over the next few years. The percentage of resident students has increased from 78 to 83 percent since 1969, and may increase further with the entrance of the University of Louisville into the state university system. Tuition for residents has decreased from \$1,050 in 1969 to \$950 in 1973. For nonresidents, tuition during the same time period has risen from \$1,800 per academic year to \$1,960. The University of Louisville currently has 20 full-time faculty members, with ten practicing attorneys serving as lecturers on a part-time basis. The number of graduates from the University of Louisville School of Law has increased from 45 in 1964-65 to 134 in 1971-72 to 197 in 1973-74.

The Salmon P. Chase College of Law, located at Northern Kentucky State College in Highland Heights near Covington, is the state's third and newest law school, having entered the state educational system in 1972. The enrollment at Chase has increased 45 percent from 1969 through 1973, with 549 students enrolled in the fall of 1973. Chase now operates its law school exclusively during evening hours. However, in September 1975, a day program with 75 full-time students will begin. All of these day students will be Kentucky residents. The enrollment in Chase's evening program should stabilize at 600 to 625, one-third of which will be residents. All of Chase's nonresident students are from the Cincinnati metropolitan area. Tuition at

---

<sup>90</sup> All of the statistics for the University of Louisville were obtained from Dean James A. Merritt during June, 1974.

Chase is now computed at \$40 per credit hour for residents and \$45 per credit hour for nonresidents. No information is yet available on tuition rates for the day program. In the last five years, the number of Chase graduates has increased from 43 in 1969-70 to 104 in 1973-74.<sup>91</sup> Very few Chase graduates formerly took the Kentucky bar, since most were Ohio residents who took the Ohio bar examination and were then admitted to practice in Kentucky by motion. However, in 1973, the Kentucky Court of Appeals changed its rule and eliminated this practice. The 1973 Directory of Law Teachers lists 47 full-time and adjunct faculty members for Chase. Most of the present faculty have adjunct status, and it is probable that more full-time faculty will be hired when Chase begins its day program.

### B. *Class Profiles*

In order to formulate an estimate of the number of persons who will be graduating from the state's law schools and remaining in Kentucky to practice law between now and 2000, two class profiles have been constructed. One profile is of the class which entered the University of Kentucky College of Law in the fall of 1970 and the other is a combination of the University of Louisville's 1969 evening division and 1970 day division. Members of both should have graduated in May of 1973 if they pursued the normal academic program. In addition, most of those who did graduate have had over a year in which to seek employment in Kentucky or elsewhere. It is recognized that because supply and demand are interdependent, the percentage of graduates who remain in Kentucky to practice law may be a function of the demand for attorneys at the time. The process here seeks a current indication of the percentage of graduates who are choosing to practice in Kentucky immediately upon graduation, given the interrelated factors of supply and demand. An increasing percentage loss of graduates from Kentucky as time goes on is also acknowledged,<sup>92</sup> but this figure is not accounted for statistically. No profile is made for the Salmon P. Chase College of Law since so very few of its gradu-

---

<sup>91</sup> All of the statistics for Salmon P. Chase College of Law were obtained in a telephone conversation with Dean W. Jack Grosse, June 11, 1974.

<sup>92</sup> Goldman, *supra* note 1, at 198.

ates have chosen to practice in Kentucky. Later supply estimates, however, will include Chase.

Before proceeding to a profile of the students who actually enrolled in the law schools, it is interesting to note the swelling numbers of applications and the corresponding decrease in the percentage of students who are accepted. Tables 13 and 13a demonstrate this phenomenon by comparing 1970 applications and enrollments with those of 1973.

TABLE 13  
APPLICATIONS AND ENROLLMENTS  
OF ENTERING CLASSES

	<u>Applied</u>	<u>Enrolled</u>	<u>% Enrolled of Applications Processed</u>
UK Fall 1970	706	174	.25
UL Fall 1970 (Day and Evening)	774	165	.21

TABLE 13a  
APPLICATIONS AND ENROLLMENTS OF  
ENTERING CLASSES

	<u>Applied</u>	<u>Enrolled</u>	<u>% Enrolled of Applications Processed</u>
UK Fall 1973	755	155	.16
UL Fall 1973 (Day and Evening)	1,050	229	.22
Chase Fall 1973	1,471	203	.14

Applications have increased by more than 25 percent in three years, and show the increased interest in legal training as preparation for a business or professional career. It may be expected, though, that the number of applications will stabilize since, *inter alia*, fewer persons are returning from military service and other vocations may become more attractive.

Table 14 proceeds to examine the results of the class profiles. As the table indicates, most students graduated while others withdrew voluntarily or were dismissed for academic reasons. A few students are still enrolled, having postponed or

slowed their academic program for various reasons. Two columns appear for each school. The first lists the actual number of persons in each designated category, and the second column indicates the percentage of those enrolled who are within that group.

TABLE 14  
CLASS PROFILE—ENTERING CLASSES

	UK Fall <u>1970</u>	UK % of Those <u>Enrolled</u>	Fall 1969 (evening) UL Fall 1970 <u>(day)</u>	% of those <u>UL Enrolled</u>
Enrolled	174	—	165	—
Graduated	149	.86	114	.69
Withdrew	14	.08	22	.13
Dismissed	2	.01	28	.17
Still in School	9	.05	1	.01

Two observations must be noted. First, all students “still in school” should graduate within the year, increasing the graduation percentage for the University of Kentucky to 91 percent. It is reasonably safe to assume that these students will graduate since all have persisted in their studies up to now. Second, the 69 percent graduation rate for the University of Louisville is unusually low when compared to other entering classes. Accordingly, that percentage will be raised to 75 percent for future use in this study.<sup>93</sup> Table 14a breaks down the above figures for residency.

Table 15 follows the law graduates from performance on the bar examination to practice in Kentucky. The statistics indicate the number of students proceeding through each category and the corresponding percentage of enrollees and graduates in each category.<sup>94</sup>

---

<sup>93</sup> It was the author's desire to use the most recent entering class which was also capable of being followed for one year subsequent to graduation. This was the class that entered in 1970. Information conveyed by Dean Merritt indicated, however, that the graduation rate for the 1970 entering class was atypically low.

<sup>94</sup> The Kentucky Court of Appeals' Order Book, kept by the Clerk of the Court, lists in alphabetical order those persons who have passed the bar examination for the particular examination period in question. By comparing these names with the names of graduates, the number of those passing the bar examination was determined. Members of KBA and those practicing in Kentucky were determined from the KBA roster.

TABLE 14a  
CLASS PROFILE—ENTERING CLASSES,  
BY RESIDENCY

	UK Fall 1970		UL Fall 1969 (evening) and Fall 1970 (day)	
	<u>Resident</u>	<u>Nonresident</u>	<u>Resident</u>	<u>Nonresident</u>
Enrolled	140	34	122	43
Graduated	121	28	86	28
Withdrew	9	5	14	8
Dismissed	2	—	21	7
Still in School	8	1	1	—

TABLE 15  
LAW GRADUATES—INITIAL STEPS  
FOLLOWING GRADUATION

	<u>UL</u>	% UL		<u>UK</u>	% UK	
		<u>Graduates</u>	<u>Enrolled Originally as Freshmen</u>		<u>Graduates</u>	<u>Enrolled Originally as Freshmen</u>
Enrolled	165	—	—	174	—	—
Graduated	114	—	.69 (.75)	149	—	.86 (.91)
Passed Bar Exam.	83 <sup>as</sup>	.73	.50	124 <sup>as</sup>	.83	.71
Member, Kentucky Bar Association	80	.70	.48	122	.82	.70
Practicing in Kentucky	80	.70	.48 (.52)	112	.75	.64 (.68)

The percentages for “graduates” in parenthesis under “% UL Enrolled Originally” and “% UK Enrolled Originally” are the adjusted percentages which were discussed above. The two percentages for “practicing in Kentucky” under the original enrollment categories are also adjusted, and are the product of multiplying the respective graduate percentage practicing in Kentucky (70 and 75, respectively) by the adjusted percentage for graduates under “enrolled originally” (75 and 91, respec-

<sup>as</sup> This figure includes two recent graduates who are taking the July 1974 bar examination and presumes that they will pass.

<sup>as</sup> This figure includes three recent graduates who are taking the July 1974 bar examination and presumes that they will pass.

tively). The average of these two adjusted percentages (52 and 68) is 60, which will be used as the approximate percentage of students who enroll in and graduate from Kentucky law schools and then practice in Kentucky.

The next task is to compute the annual number of graduates who will practice in Kentucky. For this purpose, the enrollment figures are those which were stated above by administrative officers or by the faculty of each of the three law schools. For the University of Kentucky, the expected enrollment is 500, one-third, or 166, of whom will presumably complete the requirements for their J.D. degree annually. (The number who withdraw or are dismissed is often offset by transfer students from other schools.) Sixty percent of 166 equals 100 graduates per year who will practice in Kentucky. For the University of Louisville, the prospective enrollment is 600, of whom one-third or 200, will graduate each year. Sixty percent of 200 is 120 graduates per year who will practice in the state. The situation at Chase is somewhat different. The figure we use here will be for residents only, since almost all nonresidents at Chase live in Cincinnati, just across the Ohio River. If the projected enrollment figures are valid until 2000, Chase will have 225 day students and 200 evening students who are residents. The graduation fraction for day and evening divisions will be one-third and one-fourth, respectively, since the day program is for three years and the evening program is for four years. The total for Chase, then, is 125, sixty percent of which is 75 graduates per year who will practice in Kentucky.

The total number of graduates from the three law schools who will graduate annually and practice in Kentucky is 295. Thus, during the 25 years between now and 2000, the state's law schools will produce 7,375 lawyers who will practice in Kentucky.

### C. *Bar Admissions*

Paralleling the growth of Kentucky's law schools has been the increase in the number of attorneys admitted to practice by passing the state bar examination over the past five years: 1969 - 202; 1970 - 154; 1971 - 209; 1972 - 258; 1973 - 278. In 1974, the number will probably be even higher, since the 127 persons who passed the February 1974 examination represent an in-

crease of 30 percent over the number who passed the bar examination in the winter of 1973.

Also relevant is the number of persons who attend law school outside Kentucky and annually take the Kentucky bar examination. The July 1973 bar examination results were the first which listed, in the Court of Appeals' Order Book, the law school from which each bar admittee graduated. Of the 189 who passed the July 1973 examination, 28 (or 15 percent) were from out-of-state law schools. Let us assume that (1) 15 percent is and will continue to be an average annual percentage of Kentucky bar admittees from out-of-state law schools, and (2) all of those attorneys enter practice in this state. Accordingly, if 295 Kentucky law school graduates will be admitted to practice and will actually practice in Kentucky, then 51 non-Kentucky law school graduates will do the same. Thus an average of approximately 346 persons annually will be admitted to practice in Kentucky and will enter practice here between 1975 and 2000, for a 25 year total of 8,650 lawyers by the year 2000.

#### D. Attrition

Attrition due to death or retirement during the next 25 years will require replacement of many attorneys who are currently practicing law. Many attorneys retire or become relatively inactive after they reach the age of 65. Table 16 lists the year of birth for the 4,119 "active" lawyers in the Kentucky Bar Association.

TABLE 16  
YEAR OF BIRTH FOR PRESENT  
KBA "ACTIVE" ATTORNEYS<sup>97</sup>

	<u>Number of Attorneys</u>
Ante 1905	294
1905 - 1914	543
1915 - 1924	679
1925 - 1934	731
1935 - 1944	1,232
1945 -	574
No data	66

---

<sup>97</sup> KBA Roster, July 10, 1974.



Assuming that all persons born in 1934 or earlier will be deceased or retired by the year 2000, then at least 2,247 currently "active" attorneys will require replacement in the next 25 years. In addition, of the attorneys who were born after 1935, some will die before 2000. Table 17 lists the number of currently "active" attorneys who were born after 1934. Next, the table lists the survival rate based on 25 year survival possibilities for lawyers.<sup>98</sup> The last column lists the number of attorneys, for each birth year, who must be replaced between now and 2000.

Account must also be taken of the morbidity rate of the 7,375 attorneys who are projected to graduate from Kentucky law schools and practice in Kentucky between now and 2000. Assuming that the average age of the law school graduate is and will continue to be 28 years of age, there will be an additional loss of 247 attorneys. This total is computed by (1) multiplying the respective survival probabilities for every age from 29 through 53 years by 295—the number of Kentucky law graduates entering practice annually, and (2) subtracting the product in step (1) from 295. An additional morbidity figure must be computed for the 1,275 out-of-state law school graduates who will take the Kentucky bar examination and practice in this state between now and 2000. Again, assuming that the average law school graduate is 28 years of age, then there will be another loss of 41 attorneys. Table 18 summarizes the morbidity figures.

---

<sup>98</sup> These figures were obtained in a letter from Michael T. DaRif, A.S.A., Senior Actuarial Assistant for Capital Holding Corporation, July 19, 1974:

Mortality of white male and female Kentucky residents is assumed to be represented by the Life Table for White Males: Kentucky, 1959-61 and the Life Table for White Females: Kentucky, 1959-61, respectively. The published tables have been used without adjustment for trend, since it is felt that any significant improvement in mortality since the period 1959-61 has occurred primarily at the older ages, while the information requested pertains essentially to the working ages.

In order to modify the 1959-61 population mortality experience to more accurately reflect the mortality experienced by attorneys, reference has been made to a National Vital Statistics Division report "Mortality by Occupation and Industry Among Men Twenty to Sixty-four years of Age: U.S., 1950", which was published in 1962. This report, which appears to be the most recent published analysis of mortality by occupation, indicates that overall mortality among male attorneys and judges at ages twenty to sixty-four was ninety percent of that experienced by all males of working age

TABLE 17  
ACTIVE ATTORNEYS DYING BEFORE 2000

<u>Year of Birth</u>	<u>Attorneys</u>	<u>Survival Percentage**</u>	<u>Attorneys Lost By Death</u>
1935	64	.739	17
1936	76	.758	18
1937	87	.776	19
1938	88	.793	18
1939	102	.810	19
1940	134	.825	23
1941	143	.839	23
1942	182	.851	26
1943	187	.863	27
1944	169	.873	21
1945	154	.884	18
1946	146	.893	16
1947	143	.902	14
1948	102	.910	9
1949	27	.917	2
1950	2	.924	—
TOTAL	1,806		270

TABLE 18  
PROJECTION OF PRACTICING KENTUCKY ATTORNEYS FOR THE YEAR 2000

	<u>Admitted to Practice</u>	<u>"Loss" by 2000</u>	<u>Remaining</u>
Born before 1935 and practicing in 1974	2,247	2,247	—
Born 1935-1950 and practicing in 1974	1,806	270	1,536
Kentucky Law School Graduate and Practitioner, 1975-1999	7,375	247	7,128
Non-Kentucky Law School Graduate and Kentucky Practitioner, 1975-1999	1,275	41	1,234
TOTAL	12,703	2,805	9,898

during 1950. However, since the mortality differentials observed in this report tended to disappear rather rapidly as age increased, it has been assumed that the percentage of published population mortality, the percentage increasing from fifty-five percent at age twenty-five to eight-five percent at age forty-five to ninety-five percent at age sixty to one hundred percent at ages sixty-five and above.

\*\* Since no percentage is available for female lawyers and for ease in compiling the statistics, only the male probability rate is used. Inclusion of the female probability rate would not significantly alter the morbidity rate, but perhaps would reduce it slightly.

Table 5 demonstrated that reducing the lawyer-population ratio to 1:1000 or maintaining the present ratio, whichever is lower, would generate a need for 6,289 attorneys by the year 2000. Comparing this figure with Table 18 indicates that Kentucky will have over 50 percent more lawyers than it will need in the year 2000.

### III. CONCLUSION

Because forecasting future attorney demand is based, in part, on figures which reflect the ways in which attorneys presently spend their time, such prediction is an imprecise science. There is no way to determine the number of attorneys who may be utilized in presently unknown or undeveloped areas of the law. The projected demand may, indeed, change drastically. But it is more probable that, although shifts in emphasis may occur in law practice, on balance, actual needs will approximate predicted needs. Counsel required for indigent defendants and group legal services will open new markets for attorneys, but the coming of no-fault automobile insurance and legal assistants will close others. It is true that a larger population and a growing economy will create a greater demand for legal services, but this growth probably will not be sufficient to sustain the large number of law graduates projected to practice law in Kentucky.

The problem of an excess supply of lawyers would, eventually, resolve itself as more potential law school enrollees realize that there will be no market for their services. However, the economic harshness that marketplace controls will impose on future graduates can be prevented if fewer persons are admitted to law school. Educational planners, to be worthy of their name, should take steps to protect future law graduates from the same fate now suffered by recent Ph.D. recipients. Otherwise, future young attorneys may find themselves courting the services of unemployment agencies rather than serving the public in courts of law.