



Retention and Re-engagement Task Force Final Report

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October 2014

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I. Introduction

The Law Society of Alberta is charged with the job of governing the practice of law in the Province of Alberta:

"The Law Society of Alberta governs in the public interest by maintaining and strengthening an independent legal profession. It serves as an advocate to protect the public, and promotes a high standard of legal services and professional conduct among lawyers."

As such, the Law Society of Alberta is not an advocate for the legal profession, but is a body whose core obligation is to serve the public interest. However, as the work of the Law Society of Alberta has evolved over time, we have come to recognize the clearly symbiotic relationship between the health and welfare of the practice of law and the interest of the public.

When the Retention and Re-engagement Task Force (RRTF) was implemented in 2010, its task was to develop and recommend strategies which would encourage diversity and equity in the legal profession. Early information available to the Law Society raised certain concerns that women in particular were leaving the private practice of law in higher numbers than were men, and this inequity raised concerns over the maintenance of diversity in the private practice of law and concerns over how a failure to attract and maintain a diverse membership in the practice of law could negatively impact the public interest.

Over the course of time, the work of the RRTF has examined these concerns in greater detail, and in particular, due to the collection and analysis of exit data from those leaving private practice we have become more knowledgeable of why lawyers do leave private practice and what strategies might be helpful in seeking to encourage future lawyers to remain within the practice or to return to the practice after taking leave.

A review of the data shows both good and bad news - of greatest concern is the greying of the profession and a marked tendency for younger lawyers to leave the private practice of law (women and men) within the first 5 or 6 years of their admission. As outlined in the report:

Within 5 years of being called to the bar, 57% of women and 49% of men will have left private practice. Many will move to in-house or government positions, but close to 30% (28% of women and 29% of men) will have left the practice of law entirely.

The implications of this trend are obvious. As our profession and the justice system more broadly struggles with finding answers to concerns over Canadians' access to justice, a failure to secure sufficient numbers of lawyers in the practice can only serve to increase the difficulty of Canadians finding lawyers to assist them in serving their needs in a timely and cost-effective manner, particularly when coupled with a recognition that the ratio of lawyers in private practice as a proportion of the general population has also declined over time.

Recently, both the CBA Futures Report¹ and the report of the Action Committee on Access to Justice in Civil and Family Matters (Cromwell Report)² have pointed to the need for improved collection and analysis of data. As stated in the CBA Futures report:

One final impediment to change is the absence of good data on the Canadian legal profession. Lawyers are trained to think rationally and to act on the best information available. For many lawyers, anecdotal evidence, opinions, predictions, and wish lists are not sufficient to support moves towards change.

To the great credit of the Law Society of Alberta, collection of exit survey data and effort to analyze that and other sources of data has allowed us to more effectively understand the challenges facing the Law Society in meeting its obligation to serve the public interest, culminating in this final report with suggested strategies to move forward.

Central to this strategy will be the ongoing collection and review of data relating to practice demographics, and continued review and analysis of existing and future retention and reengagement strategies. Currently the Law Society has created the Retention and Reengagement (R & R) Liaison Position which is anticipated to be a source of connection and coordination between the Administration and the Benchers of the Law Society of Alberta allowing for continued understanding and response to retention and reengagement issues as they impact upon the legal profession and the public interest.

It has been my great pleasure to have been the beneficiary of the incredibly dedicated work of many persons, including past committee members, and in particular, I would like to express tremendous gratitude to previous RRFT Chairpersons Sarah King-d'Souza, Q.C., and (now) Justice Frederica Schutz, to Law Society Equity Ombudsperson Jocelyn Frazer and finally to Law Society Policy and Program Counsel Susan Billington, Q.C. who worked tirelessly to complete this final report.

With respect to the issue of implementation of report strategies, I am indebted to the comments of incoming President James Eamon, Q.C. who flagged the concern over losing of what he referred to as "institutional memory". The Law Society of Alberta, its staff and Benchers have engaged in a myriad of excellent work represented within this report. However, if the report is reviewed, considered and then filed away - the risk is that the knowledge contained within this report may become lost, and over a relatively short period of time, fade from the institutional "memory" of the Law Society of Alberta.

It is for this reason that care needs to be taken to assure an implementation strategy that not only recognizes the current suggested strategies, but builds upon those strategies for the future.

¹ **Futures: Transforming the Delivery of Legal Services in Canada**, August 2014 Canadian Bar Association Report - <http://www.cbafutures.org/CBA/media/mediafiles/PDF/Reports/Futures-Final-eng.pdf?ext=.pdf>

² **Access to Civil and Family Justice: A Roadmap for Change**, October 2013 Action Committee on Access to Justice in Civil and Family Matters Report - http://www.cfcj-fcjc.org/sites/default/files/docs/2013/AC_Report_English_Final.pdf

With the wrap-up of the RRTF by the delivery of this Final Report, and to ensure continuity, an R & R Bencher Liaison has been designated to work with the administration on retention and reengagement issues. The R & R Bencher Liaison is vested with the responsibility to follow up on the strategies recommended in this Report. This includes the obligation to oversee and monitor:

- existing retention and reengagement initiatives;
- the implementation of the recommendations in the Report;
- consideration and implementation of future strategies for retention and reengagement of lawyers in the private practice of law.

It is recommended that ongoing data collection relating to entry and exit demographics be made central to that role and that a periodic analysis of that data be completed by the Law Society and reported upon to the Benchers to assure that the broad policy objectives of the Law Society are implemented with an eye on assuring continued diversity and retention of quality lawyers within our profession.

In the final analysis, we have become much more aware that the best interests of the public and the best interests of the members of the legal profession are actually very connected. Integral to the maintenance of the Rule of Law is the maintenance of a vibrant and diverse legal profession. The effort of the Law Society should continue to serve the interests of the public by working to maintain and implement retention and diversity policies within the profession, and to continue in its excellent work in collecting and analyzing demographic data - in particular, exit data - so as to act as a barometer of the ongoing health of the legal profession in Alberta, ultimately, to serve the best interests of the public.

Robert G. Harvie, Q.C.,
Chair Retention and Re-engagement Task Force (Feb. 2014)
Current Retention and Reengagement Bencher Liaison

II. Executive Summary

The Retention and Re-engagement Task Force (RRTF) was conceived as an access to justice strategy. The RRTF was initially directed by the Benchers in 2010 to advance the strategic goal as articulated in the Law Society's Strategic Plan 2010-2013 of Access to Justice by promoting diversity within a competent legal profession that serves a diverse public. This was directed to meet the public interest goal of promoting diversity and equity among those who provide legal services to enhance the public's equal access to justice.

The RRTF was determined to make its recommendations based on sound data and information gathering. This Final Report of the RRTF details the research strategy and the research outcomes upon which it based the final recommendations. The research includes an analysis of demographic data, consultant reports on Exit Survey data, Smaller Communities Survey data, a background environmental scan on other jurisdictions approaches and data on legal service delivery in Alberta.

Progress on the implementation of strategies has been achieved during the course of the work of the RRTF including: a comprehensive Communications Plan of existing Law Society retention and reengagement initiatives; the implementation of the *Justicia* Project Phase 1 and the adoption of *Justicia* Phase 2; and collaboration with the Canadian Bar Association and the Faculties of Law at the University of Alberta and the University of Calgary to attract summer students, articling students and lawyers to centres outside Edmonton and Calgary.

The mandate of the RRTF was to ultimately make recommendations regarding the retention of lawyers in the private practice of law; and in particular the retention of women lawyers and lawyers outside of Edmonton and Calgary where the problems of retention are most acute. During the course of the RRTF's work, other retention issues were identified including the high attrition rates from the private practice of law for both women and men; impediments in the regulatory requirements could be contributing to retention issues; and the challenges in the transition to small firm and sole practice.

The strategies suggested by the RRTF are comprehensive. The RRTF was of the opinion that a range of strategies will be required to shift the trend of lawyers leaving the private practice of law and that no one recommendation or strategy alone would be enough to shift the high attrition rates of women and men leaving the private practice of law. The strategies for consideration and implementation are:

1. Make retention and reengagement issues a strategic priority;
2. Implement a comprehensive Communications Plan regarding issues and programs relating to retention and reengagement;
3. Further support the implementation of the *Justicia* Project;
4. Continue to collaborate in smaller communities and rural development initiatives;
5. Review strategies related to insurance and member fees;
6. Continue to collect data on the legal profession with an emphasis on a longitudinal approach that tracks and monitors trends;
7. Implement a regulatory review to identify impediments and barriers to retention such as barriers to entry of the legal profession and re-instatement rules;
8. Continue initiatives that assist foreign trained lawyers;
9. Develop enhanced proactive programs to support lawyers who transition to small firm or sole practice; and
10. Facilitate outreach and education to the legal profession on retention and re-engagement issues.

III. Background

The Retention and Re-engagement Task Force (RRTF) was conceived as an access to justice strategy arising from the Strategic Directions Report of the Law Society of Alberta's Access to Justice Committee in January 2010³. The RRTF was initially directed by the Benchers to advance the strategic goal as articulated in the Law Society's Strategic Plan 2010-2013 of Access to Justice by promoting diversity within a competent legal profession that serves a diverse public. This was directed to meet the public interest goal of promoting diversity and equity among those who provide legal services to enhance the public's equal access to justice. The strategic goal was renewed by the Benchers in 2014-2016 Strategic Plan⁴.

To meet these strategic goals, the Benchers directed the RRTF to develop and recommend strategies that are aimed at the retention and re-engagement of lawyers in practices providing legal services to the public with the goal of:

- providing Albertans with a greater number and diversity of lawyers who deliver legal services to the public
- promoting equity and diversity in legal workplaces
- re-positioning certain current Law Society initiatives, and recommends new initiatives that promote diversity and inclusion
- meeting the test of furthering the public interest.⁵

A. Mandate

The Strategic Directions Report of the Access to Justice Committee recommended the specific mandate given to the RRTF was to explore the proposition that it is good public policy for the Law Society of Alberta to enhance access to justice for Albertans by developing programs and policies that will retain and re-engage lawyers from across Alberta in the private practice of law by:

- Supporting the retention of female lawyers and lawyers from diverse backgrounds in the private practice of law; and
- Supporting sole practitioners, and small, rural and remote firms.

The focus for the RRTF was identified by the Access to Justice Committee as there are similarities in the barriers to practice that these demographic groups face such as:

- Taking a leave of absence or vacation
- Business development and client development

³ Strategic Directions Report of the Access to Justice Committee: Rodney Jerke, QC Chair: January 19, 2010

⁴ Law Society of Alberta Strategic Plan 2014 – 2016 available on the Law Society of Alberta website at www.lawsociety.ab.ca

⁵ Minutes of the 445 Bencher Meeting, February 2010.

- Mentoring
- Practice management
- Cost and availability of technology and online resources
- Flexible work arrangements

During the course of its work, the wider and more general issue of the retention of lawyers in the private practice of law became front and centre due to the rather alarming statistics on attrition rates from the private practice of law. This is viewed as access to justice issue by the RRTF because if it continues, it will have the effect of reducing the availability of legal services to Albertans.

Given the amount of data and issues to be considered, the RRTF developed some guidelines for its work which were reported on in the First Interim Report in April 2012:

- A key principle is that a diverse profession can best serve an increasingly diverse population in Alberta
- It is important for the Law Society to collect data and to project trends affecting the availability of legal services to the public
- It is in the public interest that the strategy to retain and re-engage lawyers in the private practice of law enhances access by the Alberta public to legal services by lawyers
- A key strategy is to identify the key points of attrition for active insured members leaving the private practice of law; and then to develop strategies to retain those lawyers
- It is important to keep the brightest and the best in the legal profession
- The Law Society as regulator in the public interest has a role to play in supporting practitioners in providing legal services to the public to ensure quality, competent and consistent legal services

The work of the RRTF has been guided by three Chairs:

- Sarah King-d'Souza (2010-2012);
- Frederica Schutz (2012-2013)⁶ and
- Robert Harvie (2013 to the winding of the RRTF in February 2014). Mr. Harvie continues as the Bencher Liaison for the ongoing implementation of the recommendations in this Report.

The RRTF was also guided in its work by the Work letters delivered by the President of the Law Society in 2010, 2011, 2013 and 2014.⁷

⁶ The Hon. Justice Frederica Schutz was appointed the Court of Queen's Bench of Alberta in November 2013. Robert Harvie as Vice-Chair assumed the position of Chair of the RRTF in December 2013.

⁷ Work Letters dated

B. Project Plan and Issue Identification

At its first meeting, the RRTF adopted a project planning model to guide the RRTF's work plan. Generally, a five stage approach was adopted including:

- Phase 1 - Issue Identification
- Phase 2 - Research and information gathering
- Phase 3 - Policy development and Interim Reports
- Phase 4 –Final Report with Recommendations
- Phase 5 – Implementation

The RRTF framed the issues at their meeting at the outset of the project as follows:

- What are the assumptions about retention and re-engagement of lawyers in the private practice of law?
- Is there an attrition of lawyers from the private practice of law? And if so:
 - who is leaving the practice of law;
 - why are they leaving;
- who are we trying to retain and re-engage; and
- what would keep or would have kept these lawyers in private practice of law?

The RRTF then set out to research and gather data to answer these questions.

C. Research and Information Gathering

Tasked with the mandate as discussed above, the RRTF wanted to ensure that the outcome of their work was based on sound evidence and research strategies. There were certain assumptions and anecdotal information about retention and re-engagement that needed to be tested such as: women are leaving the private practice of law in disproportionate numbers; rural practitioners are leaving and not being replaced in their communities; and lawyers over the age of 50 will be retiring in the next 10 years. In setting the policy direction for retention and re-engagement, the Benchers require evidence based information and strategies so the most effective direction can be pursued to meet the challenge of the retention and re-engagement of Alberta lawyers in the private practice of law.

To inform its work and in pursuit of the evidence needed, the RRTF engaged a number of research strategies and reports from consultants⁸: The data collections and research

⁸Consultant Research Reports:

- *Report on the Findings of the Law Society of Alberta's Exit Survey, 2005-2010*, Guyn Cooper Research and presentation by Merrill Cooper: January 2011 (the *Exit Survey*)

reports were shared with the Benchers in the November 2011 Report to the Benchers and are available on Board Books. Benchers will find the comments attached to the *Exit Survey* and the *Smaller Communities Survey* particularly compelling. The research outcomes were also presented at the April 2012 and April 2014 Bencher meetings.

What follows in this section of the Report is a summary of this research data and survey outcomes. The research helped to inform the RRTF on the causes of attrition in the legal profession in Alberta and informed the RRTF in the development of the range of suggested strategies to address the retention and re-engagement of Alberta lawyers in the private practice of law.

1. Membership Data Trends and Attrition Rates

The Law Society of Alberta through the Office of the Equity Ombudsperson, Jocelyn Frazer, compiles data and trends on the demographics of Alberta's legal profession. This information on the demographics of lawyers in Alberta includes the year of call, age, gender, practice setting and location. An analysis of this data which follows shows that there are challenges facing the legal profession including: the "greying" of the Bar; lawyer attrition in the private practice of law; and lawyer diversity.

To set the context of the data analysis, Chart 1 shows the current overall membership statistics as of September 30, 2014. Membership includes all active members of the Law Society including active insured and in-house/government lawyers. There are now approximately 8800 active lawyers in Alberta, 62% of which are men. Approximately 6150 are in private practice and approximately 2650 are in-house or government lawyers. Women make up 33% of the private practitioners, while they constitute slightly over 50% of in-house or government lawyers.

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- *Addressing Retention and Re-engagement Issues of Lawyers in the Private Practice of Law*; and presentation by Bottom Line Research on retention and re-engagement initiatives by the legal profession in Canada, United Kingdom, the United States and Australia: May 2011
 - Analysis of the Law Society data by summer student Brianna Butchart entitled *Alberta Lawyer Demographic Information and Analysis*: June 2011
 - General Membership Trends in Alberta presentation: Jocelyn Frazer, Equity Ombudsperson: June 2011
 - *Smaller Community Lawyer Survey*, Guyn Cooper Research and presentation by Merrill Cooper: June 2011
 - *Programs and Initiatives for the Retention and Re-engagement of Lawyers in the Private Practice of Law*, prepared for the Canadian Legal Career Development Network: Susan V.R. Billington, QC July 2011
 - Background literature review

Chart 1
Membership Statistics as of September 30, 2014

Practising			
	Male	Female	Total
Calgary	2937	1909	4846
Edmonton	1761	1155	2916
Other	762	341	1103
Total	5460	3405	8865

Students-at-law			
	Male	Female	Total
Calgary	158	158	316
Edmonton	91	85	176
Other	34	34	68
Total	283	278	560

Some general trends emerge from the data:

- Overall membership numbers are increasing;
- The proportion of women in the profession is increasing;
- There are more students seeking admission to the Alberta bar than ever before;
- High numbers of lawyers, both men and women leave private practice ;
- More lawyers are choosing careers outside of private practice
- The profession is aging;
- The number of active lawyers over the age of 60 has tripled in the past 10 years;
- The percentage of lawyers practicing in Calgary continues to increase while the percentage of lawyers in communities outside Edmonton and Calgary is declining.

Age – Much like other sectors of the population, as a profession, the legal profession is aging. There are proportionally fewer younger lawyers now than there were 25 years ago. In particular, there were *actually* fewer lawyers between the ages of 31 and 40 practising in 2010 than there were in 1990. Chart 2 and Chart 3 shows general membership trends by age. The number of lawyers over the age of 60 has more than tripled in the last 10 years. The numbers of younger lawyers has, by contrast, remained relatively stagnant or actually declined in some categories.

Additionally, the aging of the Bar is particularly acute in smaller Alberta communities. The Smaller Community survey data suggests that there is a correlation between age and community size with a higher proportion of older lawyers moving toward retirement in the smallest communities.⁹

⁹ Report on the Findings of the Survey of Lawyers Practicing in Smaller Alberta Communities, Merrill Cooper, Guyn Cooper Research Associates Ltd., June 29, 2011. – See analysis of the Smaller Community Survey in section III(3) below

Chart 2
Percentage of Lawyers by Age

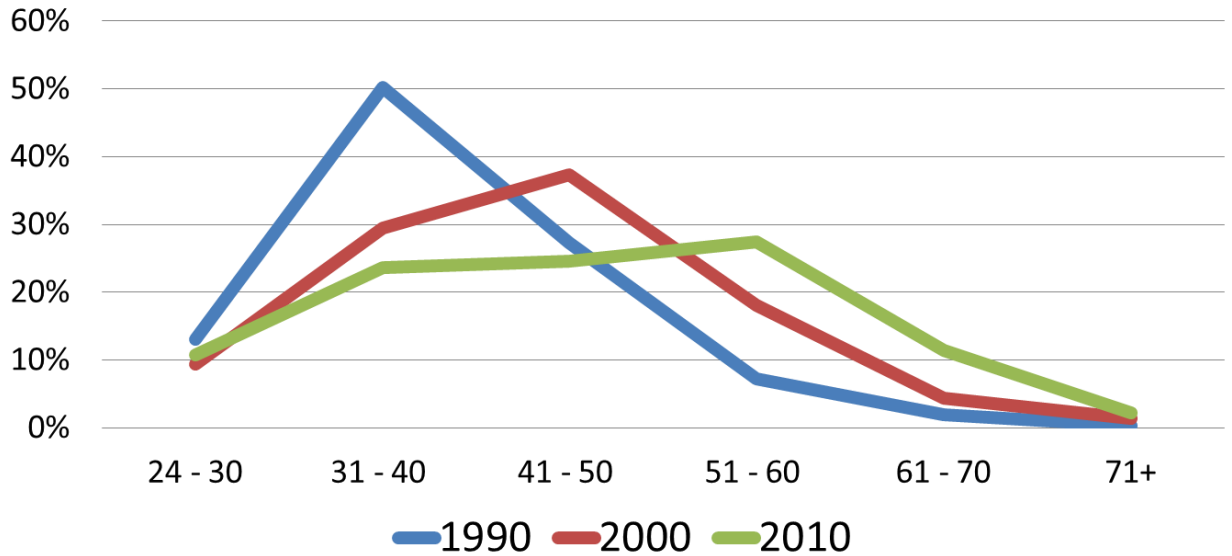
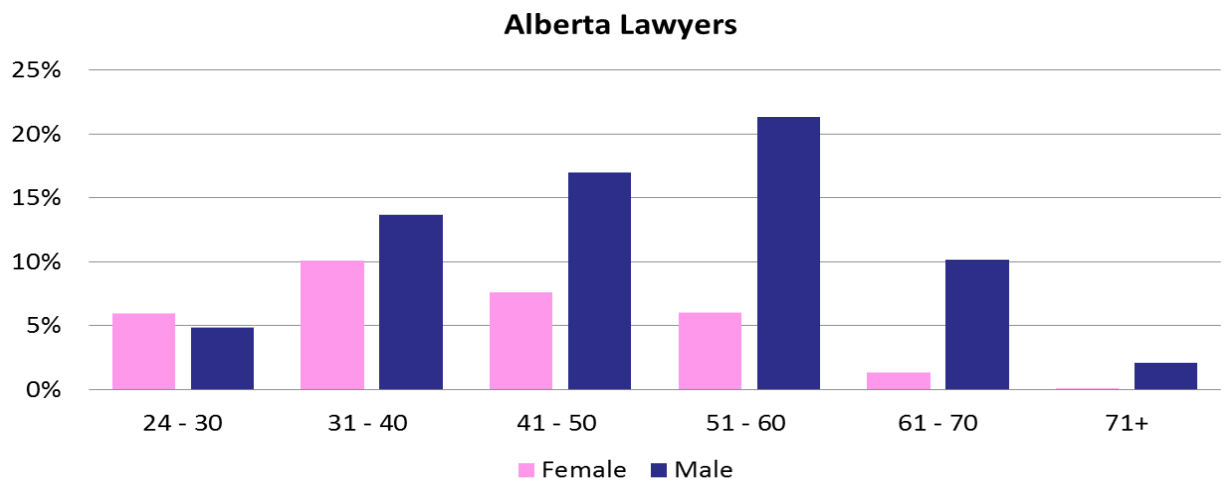


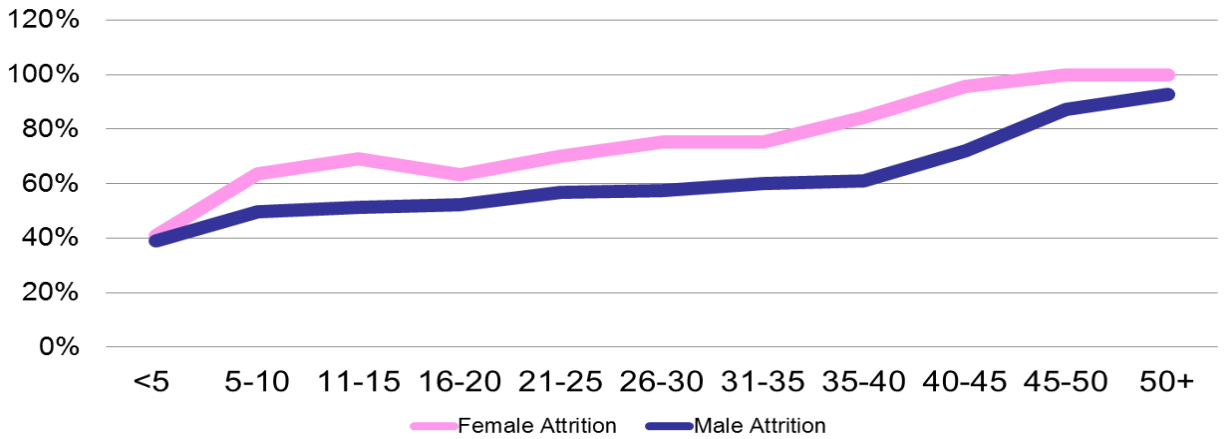
Chart 3
Alberta Lawyers by Age



Lawyer Attrition

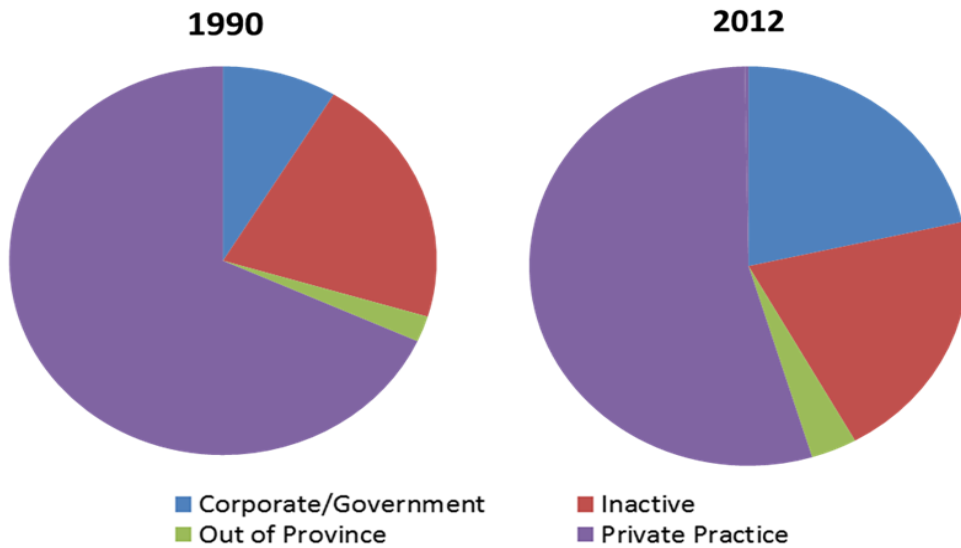
As is the case in other provinces, there are high rates of attrition of lawyers from private practice. In Alberta, this isn't purely a gender issue. Within 5 years of being called to the bar, 57% of women and 49% of men will have left private practice. Many will move to in-house or government positions, but close to 30% (28% of women and 29% of men) will have left the practice of law entirely.

Chart 4
% Leaving By Years At Bar



So, while the numbers of practicing lawyers has increased over time, that doesn't necessarily translate into an increase in lawyers who are actively engaged in providing legal services to the public. Over the last 20 years, there has been considerable growth in the proportion of lawyers practicing in the in-house or government sector, at the expense of lawyers in private practice as shown in Chart 5 below:

Chart 5
Alberta Lawyers



Geographic distribution shifting

Geographically, 55% of Alberta lawyers are working in Calgary and 33% in Edmonton, and the remaining 12% work in other Alberta communities. Compare this to 2003, where 49% of lawyers were in Calgary, 32% in Edmonton, and 19% in other parts of the province. That means that while the number of lawyers in Calgary has steadily increased, the numbers for Edmonton have remained static, while the numbers in other parts of the province have declined. The geographic distribution for articling students is similar: 56% in Calgary, 31% in Edmonton, and 12% in other Alberta communities.

Student Numbers Entering the Profession

For many years, the number of students-at-law registering in Alberta remained relatively consistent, with minor fluctuation from year to year for any number of reasons. For example, exactly the same number of lawyers were called in 2011 and 1982, 407. In recent years, however, there has been a noticeable increase in the number of students-at-law who are entering the profession. In 2013, 511 members were called to the bar compared to 334 in 2003. There are currently 561 students-at-law registered with the Law Society of Alberta. A large part of this increase is due, in part, to the increasing number of internationally trained lawyers seeking entry into the profession. Many of these law graduates are Canadian-born candidates who have gone abroad for their legal education, but a large number are new Canadians with international law degrees, many with prior practice experience.

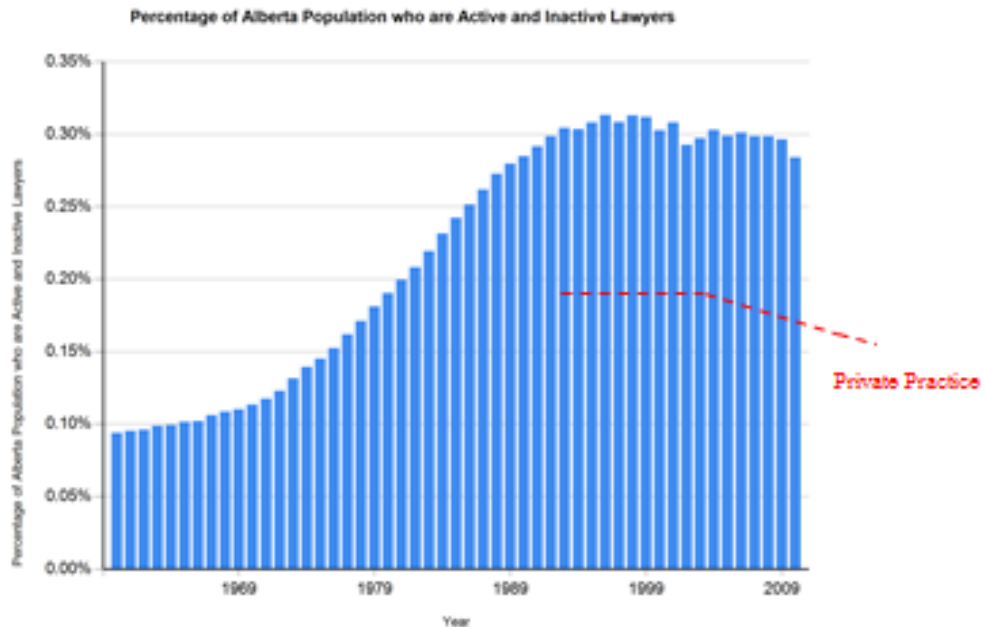
The good news for lawyers outside of the major urban centres is that there has been a steady increase in the number of students articling in smaller communities in the last few years. That increase can be seen in both the actual number of students who are articling outside of Edmonton and Calgary as well as the number of communities that they are working in. In 2010, there were 306 students, working in 23 different communities. When you remove those students working in Edmonton and Calgary, that leaves 36 students-at-law in 21 different communities in Alberta. In 2014, by contrast, of 561 students-at-law, there are 68 students articling in 30 different communities outside of Edmonton and Calgary.

Lawyers in proportion to general population

The trends also indicate that over time there has been a decline in the proportion of lawyers relative to the general population as shown in Chart 6 below. There is some optimism however, as there is a steady growth in the number of articling students in 2014 as seen in Chart 1.

Chart 6

Proportion of Lawyers Relative General Population



Lawyer Demographics

In 2011, the Law Society began collecting additional information regarding the demographics of the legal profession through voluntary questions on the Member Information Update Form. The purpose of collecting this data is to acquire more information about the make-up of the legal profession.

Chart 7 that follows indicates the outcome of the data collected. Generally, many demographic groups are under-represented in the legal profession. When this data is compared against the general population statistics, the legal profession does not reflect the general population in terms of these demographic attributes.

Chart 7
2013 Lawyer demographics

Attribute	Lawyers	General Population
Visible Minority	7.1%	14%
Aboriginal	1.5%	16%
Disability	1.0%	14%
English 2nd Language	2.6%	21%
LGBTT	1.0%	-
Other	1.2%	-
In 2013, of 8562 lawyers, 1328 lawyers chose not to answer this question		

In summary, the demographic data collected through the Office of the Equity Ombudsperson indicates the following trends:

- Overall membership numbers are increasing although the proportion to the general population has decreased;
- The proportion of women in the profession is increasing particularly in the in-house category;
- There are more students seeking admission to the Alberta bar than ever before;
- There is a high attrition rate of lawyers from the private practice of law within the first 5 years of practice with both men and women leaving private practice;
- More lawyers are choosing careers outside of private practice and migrating to in-house/government positions, or finding better opportunities outside the legal profession totally
- The profession is aging, particularly in the smaller centres and rural areas in the province
- The number of active lawyers over the age of 60 has tripled in the past 10 years;
- although there is increasing diversity in the profession, the legal profession does not reflect the general population

- The percentage of lawyers practicing in Calgary continues to increase while the percentage of lawyers in communities outside Edmonton and Calgary is declining.

2. Exit Survey

Since 2004, the Law Society has conducted an annual survey of lawyers moving to inactive or retired status. The survey was first developed and piloted in 2004 by Guyn Cooper Research Associates (GCRA) as part of a comprehensive study of equity and diversity in the legal profession.¹⁰ Since 2005, the survey has been administered as an on-line survey and sent to all lawyers in Alberta who transfer from active to inactive/retired membership status. The purpose of the Exit Survey is to collect longitudinal data on the trends of those who leave the practice of law. The RRTF commissioned GCRA to do an analysis of the Exit Survey data from 2005 to 2010 (the Exit Survey).

The analysis of the Exit Survey data revealed a shift in trends some of which were positive:

- Discrimination or the perception of discrimination has declined. In 2004, 39% of respondents reported experiencing discrimination in the practise of law while in over the survey period 2005-2010, the experience of discrimination fell to 20%. The 2013 survey data confirms this trend with those experiencing or uncertain they have experienced discrimination or harassment at 20%
- Among women, the level of respect and dignity with which they were treated by their colleagues increased over time from 32% in 2005 to 59% in 2010; and by the public, from 26% to 54% in 2010. There was no clear pattern for men
- Among women, the percentage of those who were very satisfied with levels of remuneration increased from 21% in 2005 to 40% in 2010; and with employment benefits, from 32% in 2005 to 50% in 2010.
- There was satisfaction with some aspects of practise of law for both men and women who were equally and very satisfied with the intellectual challenge, contact with clients and relationship with legal and other workplace colleagues.

The following data and trends from the Exit Survey Report were particularly helpful to the RRTF in focussing its work:

- **The loss of lawyers in the private practice of law** - The private bar in Alberta is losing lawyers who may be among its best a brightest new members to other practice settings and to less stressful work outside of the legal profession. Only 28% of respondents reported that they intended to return to practice, with an additional 40% unsure about their future plans. The proportion of those who did not intend to return steadily increased from 23% in 2005 to 43% in 2010. The intention to return was highest among respondents under the age of 40 (45%-

¹⁰ Cooper, M.; Brockman, J.; Hoffart, I. 2004. *Final Report on Equity and Diversity in Alberta's Legal Profession*. Completed for the Law Society of Alberta, Joint Committee on Equality, Equity and Diversity. Available at <http://www.lawsocietyalberta.org>.

46%) and among women (39% or women as compared with 16% of men). At the same time, increasing number of lawyers over the age of 50 years are retiring from practice.

▪ **Factors influencing the decision not to practice law**

The primary reasons for leaving practice either permanently or temporarily (excluding those who continue to practice outside Alberta) were:

- Pursuit of better work/life balance (69%)
- More rewarding opportunities elsewhere (63%)
- Dissatisfaction with the practice of law (56%)

The younger the respondent, the more likely he or she was to identify one or more of these factors as somewhat or greatly contributing to their move to inactive status. Men were slightly more likely to have left practice to pursue more rewarding opportunities elsewhere. Women were slightly more likely to have been influenced by the involuntary loss of employment, inability to find a job, discrimination, work/life balance issues and Law Society fees/dues. Women were far more likely than men to have been influenced by the birth of a child and/or care of a child.

These trends are affirmed by the 2013 survey data where [other than those who have retired due to age (15%) or moving to another province to practice (24%)] the greatest factors influencing the decision to move to inactive status were:

- More personally rewarding opportunities elsewhere
- Lack of balance with personal life
- Dissatisfaction with the practise of law
- Birth of a child
- Law Society fees/insurance fees
- Care of a child or children

Men and women were notably dissatisfied with stress at work, the balance between work and personal life, and the adversarial nature of legal work, although women were significantly less satisfied than men with regard to these three (3) factors. Women were notably less satisfied than men with control over work, credit for work, opportunities for advancement and the mentoring available them.

The issues of stress and life balance were commented on frequently by the survey respondents. Reduced levels of stress and/or improved “work-life balance” often in conjunction with normal/reduced hours of work, would make the legal profession more attractive to them. Both women and men talked specifically about the challenges inherent in practising law and being a parent, especially with young children.

The data suggests that many lawyers who have moved to inactive status due to dissatisfaction could be enticed back if they perceived the working conditions to better suit their ambitions and life style.

One male respondent stated:

...There are other career options that might have been more rewarding with less debt. There may be alternative legal areas more suited to me but I have to stay at a "higher end" firm with guaranteed salary income because I can't afford to pay debt and family expenses otherwise. I have friends who are RCMP and firefighters who make what I do, but enjoy significant time off and pensions and are generally happier.

A female respondent commented:

...The profession will continue hemorrhaging women until there is a substantive shift in policies and equally important, attitudes towards familial responsibilities. I like to think that I was an able litigator, practising at a very respected firm, but until some part-time practice or job-sharing becomes a reality in the industry, I wouldn't return to practice for all the tea in China...

Another respondent to the survey commented as follows:

...The law is a lousy business. The stress that this creates was overwhelming....I just can't be bothered to put up with the stress and strain of practice anymore. Life is too valuable to go to an early grave practicing law.

- **Law Society Fees and Dues** – Although most lawyers were “somewhat satisfied” with Law Society fees and dues, of those who were dissatisfied commented that the fees were too excessive to allow them to retain their status in Alberta, or to practice on a part-time basis. The most common suggestion from respondents to retain lawyers and make the profession more attractive related to fees and dues to accommodate alternate work arrangements or part-time practice. Some also commented on the barriers on returning to practice.

...due to my family circumstances, I run the risk of being inactive for over 4 years and having to meet potentially quite onerous requirement (and high fees) to return to practice...there should be some added flexibility to encourage women back to active practice after the birth of their children.

...the procedure for changing status to inactive does not seem to fit sell for those who are only on mat leave. Perhaps there should be a specific category to simplify the process for those on parental leave...

...the Law Society should consider if you have been laid off as a corporate counsel a status other than “inactive” while you are pursuing or applying for new in-house opportunities. A lot of employers require you to be an “active member” as part of their requirements. This is costly for a member who may have suffered from some form of inappropriate action...

- **Articling and training of young lawyers/ access to justice** – The consultant also identified two other themes emerged with respect to satisfaction with the practice of law; articling/ training of young lawyers and access to justice. With respect to training for articling students and young lawyers, expressed dissatisfaction with the lack of practical training provided about the day-to-day business of the practice of law. Some when as far as to suggest that the articling program should be eliminated with a skills based program focussing on law practice; or have alternatives to private firm articling placements. Themes also emerged regarding access to justice including the inaccessibility of legal services for lower and middle income groups.
- **Discrimination and harassment** – As noted above the experience of discrimination and harassment in the profession has reduced from 35% in 2004 to 20% in 2010 and affirmed by the 2013 statistics. There were however, respondents who expressed forceful views and commented about its continued existence in the profession including on the basis of gender, race, sexual orientation and age.
- **Intention to return to practice** - When asked about their intention to return to practice there was an increase in those who reported they did not intend to return from 23% in 2005 to 43% in 2010. The intention to return was highest among respondents under the age of 40 (45 – 46%) and among women (39% or women compared with 16% of men).

The consultant advised that the most telling indicator of overall satisfaction with the practice of law is the response to the question: “If you could do it all over again, would you become a lawyer?” Almost half of all respondents would still become a lawyer (which is consistent with the 2013 data). Responses varied greatly by age group. On 33% of respondents under the age of 30 and 40% of those aged 30 – 39 would still become a lawyer as compared with 59% of those aged over 60 years (mostly men). Likewise, women (40%) were less likely than men (56%) to report that they would become a lawyer.

- **Retention and re-engagement strategies suggested by Exit Survey respondents** - The Exit Survey asks three open ended questions intended to elicit feedback and recommendations from respondents to make the legal profession more attractive to them. The responses are interesting reading and available in their entirety in the *Exit Survey Report*. The suggestions and comments from members are reproduced in the consultant’s report and are over 20 pages in length.

The consultant grouped member responses into themes as follows in order of frequency of response:

Fees/dues/membership status – sample comments:

- *Have more options for lawyers to remain on the active list. I became inactive because I could not afford to pay membership dues while I accepted a temporary legal work opportunity overseas, even though I knew I would be returning Alberta.*
- *Create a part-time membership status*
- *Less costly active/insurance fees while on parenting leave*
- *Insurance fees are difficult to pay for new lawyers who have finished their articles and do not have continuing employment at a law firm*
- *I want to return to the active list but am concerned about the amount of the insurance levy and whether I'll even be permitted to return to active without exams if I take an extended family leave from work*

Availability of hours and type of practice/alternate arrangements and work-life balance – sample comments

- *More part-time opportunities*
- *Make the practise of law more flexible*
- *Promote work-life balance*
- *Provide assistance to small or independent practitioners who have temporary but serious health problems a means by which their clients could be served while the practitioner recovers*
- *Something-anything- to allow women like me to stay in the workforce part-time*
- *Moving away from the billable hour*
- *Foster the use of lawyers on a part-time or project basis to utilize the experience and expertise of lawyers who desire to work less but who do not want to fully retire*

Education/training and finding/keeping/leaving work – sample comments

- *Law school and bar ads should focus on the practicality of being a lawyer more.*
- *More training at law school about the business of practicing law*
- *Elimination of the articling program. Replace it with a well-designed course that focuses on mastery of the skills required to be effective in law practice*
- *More mentors*
- *More access to information about career opportunities in all areas of law and all firms and organizations. More access to what career alternatives are available*

Civility in the legal profession

- *Improve collegiality amongst lawyers as a work ethic.*
- *Encourage a more civil attitude and interactions between members of the bar*

Miscellaneous suggestions

- *Less paperwork to go from inactive to active status*
- *Locum registry for lawyers to fill in when I go on leave*
- *The reinstatement process should make returning from short periods of leave, such as 1 year maternity/parental leave a more simple process. The long application form is more suitable to extended leaves*
- *I realize that the Law Society's primary focus must be protection of the public, but I wonder if it wouldn't be helpful to have some organisational expansion ongoing support – educational even financial business set-up support*

▪ **Exit Survey Conclusions:**

First, we are happy to report that the consultant concluded that the efforts of the Law Society of Alberta over the past decade to raise awareness about and reduce discrimination and sexual harassment have contributed to significant improvement in some aspects of practice for female lawyers. The conclusions in the report indicated that the Law Society exercises considerable clout in the legal profession beyond regulation and protection of the public interest, and has the capacity to build on its successful track record to influence other aspects of practice that are contributing to increasing rates of attrition among younger lawyers, both male and female. In addition, it appears from the additional comments offered by respondents that some lawyers would like to see the Law Society providing or overseeing additional services, such as career guidance, mentoring programs, and practical instruction in the practice of law for new lawyers.

Secondly, the analysis of six years of data from the Exit Survey reveals two primary factors that encourage lawyers to permanently move to inactive status.

- **Fees and Insurance dues** - The first factor affecting the decision to move to inactive status is Law Society fees and insurance dues for lawyers who wish to work on a part-time basis or who work in multiple jurisdictions. Respondents of both genders and in all age groups, including those who have reached retirement age but would like to take on the occasional file, report that it is too expensive to pay fees in multiple provinces.
- **Shift in Culture of Legal Profession** - The second factor is what is perceived as a shift in the culture of legal practice. This trend that was identified to be most common in private practice was described as “overly competitive cutthroat, and

driven by the pursuit of profits". Respondents, primarily those over the age of 40 years, commented on the decline of civility and collegiality in the profession; respondents under the age of 40 and those who were called to the bar within the past decade were most likely to describe excessive hours of work at the expense of a healthy, balanced lifestyle that includes time for family and other interests.

The issues raised by the younger lawyers seem to reflect the fact that society has changed, and the legal profession has failed to keep pace. As noted by Statistics Canada, "[t]he increased participation of women in the paid work force has been one of the most significant social trends in Canada in the past quarter century. By 2004, 58% of all women aged 15 and over were part of the paid work force, up from 42% in 1976, and the percentage was highest in Alberta, at 64%. And the highest levels of employment, 77% in Canada, were among women aged 25 to 54 years. Moreover, many of these working women have children: In 2004, 73% of all Canadian women with children under age 16 living at home were part of the employed workforce, up from 39% in 1976."¹¹

The consultant also concludes that unlike other professions, such as medicine, the legal profession has not evolved to accommodate the competing demands of practice and parenting. This is not only a women's issue. Fewer men in any profession have a stay-at-home partner who has primary responsibility for running the household and raising the children, leaving the men free to devote themselves to their careers.

The data from the Exit Survey also shows that younger lawyers, both women and men, simply do not want to devote their waking hours to work alone, and they do not enjoy the aggressive pursuit of profit to the exclusion of all other aspects of their lives. Until the legal profession can better accommodate the expectations of younger lawyers through alternative working arrangements, such as part-time and more flexible hours, which include benefits packages, and a shift in firm culture toward more collegial, less competitive inter-personal relationships, the profession will continue to lose lawyers who may be among its best and brightest members to less stressful and, often, equally or more lucrative, work outside of the legal profession.

Exit Survey Recommendations:

The consultant made the following conclusions in the Exit Survey Report:

¹¹ Statistics Canada, 2006 *Women in Canada*. (5th ED). (Ottawa, ON: Minister of Industry), p. 103

- **Take credit for your successes**

The findings of this study should be widely disseminated to members of the legal profession, congratulating members on the significant and very important improvements with respect to discrimination against and the sexual harassment of women, along with the finding that some of the other important factors contributing to attrition among women and young lawyers have not significantly improved. This is partly a very good news story, and the changes are at least partially attributable to the efforts of the Law Society of Alberta.

- **Introduce part-time fees and insurance dues**

Survey respondents clearly indicated that reduced Law Society fees and insurance dues for members practicing on a part-time basis would lower attrition rates. The Law Society of Alberta should follow the lead of law societies in some other provinces and introduce part-time fees and dues.

- **Support alternative work arrangements**

With a view to developing model policies for alternative work arrangements, review the success of such policies developed by other law societies over the past few years. Once these policies have been adopted or developed by the Law Society of Alberta, it may be necessary to provide incentives to law firms to implement them.

Advance a business case for the adoption of alternative work arrangements as a strategy for preventing attrition among lawyers under the age of 40 years.

- **Collect demographic data**

Collect demographic information in addition to age and gender from all active members. This would allow for comparison of the members moving to inactive status with active members of the Law Society.

- **Monitor attrition**

Continue to administer the Exit Survey, although it should be revised to reflect the findings in this report and to provide data that better aligns with the current interests of the Law Society, including the attrition of lawyers practicing in rural locations and those moving to in-house/government positions. Prior to making these revisions, complete an analysis of current Law Society of Alberta membership data to determine what additional or different variables should be reflected in the Exit Survey.

Consider completing a broader study of Alberta lawyers similar to the 2004 Equity and Diversity study, this time with a focus on attrition and retention rather than discrimination.

- **Replicate successful programs**

Investigate the success of programs intended to prevent the attrition of younger lawyers, such as the Locum Program and the Maternity Loan Pilot Program in British Columbia. If such programs have been successful, consider replicating them in Alberta.

- **Continue to support pro bono work**

Comments from survey respondents indicated that some members do not know that insurance fees can be waived for members elect to become “active for pro bono” and volunteer to provide pro bono services through an authorized pro bono provider¹². Therefore, the Law Society should continue to raise awareness about the pro bono practicing status

3. Smaller Communities Survey

The mandate of the RRTF also includes strategies for the retention and re-engagement of lawyers in centres outside of Edmonton and Calgary. The RRTF decided to refer to these locations as “smaller communities” as opposed to “rural communities”. Smaller communities is a more descriptive and inclusive term of the range of communities outside Edmonton and Calgary. Many centres such as Red Deer, Lethbridge, Medicine Hat, Grande Prairie that are experiencing retention and engagement issues are urban centres (although they may serve those living in rural communities).

To provide information on the issues facing lawyers in smaller communities, Guyn Cooper Research conducted a survey of lawyers practicing in smaller communities to identify any challenges they may be facing and obtain feedback from these lawyers about ways in which the Law Society might be able to assist. The survey was administered to all active insured and inactive members in Alberta communities other than Calgary and Edmonton. The survey was completed by 230 lawyers, eight of whom were inactive. Findings of this survey reveal many issues faced by lawyers practicing in Alberta’s smaller communities that may contribute to increased attrition and, over time, access to justice challenges for residents of these communities.

Survey data on respondent demographics and retirement plans suggest a correlation between age and community size, with a higher proportion of older lawyers who are moving toward retirement in the smallest communities. Forty-seven percent of respondents were aged 55 years and older, and this percentage exceeds 50% in most of the communities with populations of less than 50,000 residents. Only 29% to 38% of respondents in these communities indicated that they intend to practice for another 10 years or more, and few respondents have entered into formal arrangements with other lawyers to assume responsibility for their files in the event of their death or long-term incapacitation.

Seventy-four percent of respondents practice alone or in small firms, with 38% reporting that they are sole practitioners alone or sharing offices, and an additional 36% working in private firms with two to four lawyers. Less than 1% of respondents work in firms with 20 or more lawyers. In communities with fewer than 10,000 residents, 52% of respondents were sole practitioners, as compared with 38% in communities with 10,000 to 20,000 residents and 32% in communities with 50,000 to 100,000 residents. Most respondents reported that they operate general practices, providing legal services in many areas of law, and that they are serving primarily individuals and small business.

¹² Rules of the Law Society of Alberta, Rule 148(2.1)

This is especially true for lawyers practicing in communities with fewer than 10,000 residents, where individuals make up 94% of their client base.

Although some respondents expressed deep satisfaction with practice in smaller centres, the majority identified a range of problems and serious challenges with which they contend on an ongoing basis in order to provide services, most notably, traveling long distances, professional isolation and burnout, lack of access to continuing legal education and information, lack of access to administrative and legal supports ranging from staff to law libraries and legal databases, highly stressed court systems resulting in delays and frustrations and, for some, onerous practice fees and dues. Some respondents also commented that they feel they are not respected by colleagues in larger municipalities and that their issues are not a priority for the Law Society.

Some of these issues are both the cause and consequence of law firms' in smaller centres inability to recruit and retain articling students and new lawyers. Several respondents explained that the salary expectations of some students and lawyers exceed the capacity of firms and that, in the eyes of some students and new lawyers, the benefits of small-town practice are not sufficient to compensate for lower earnings in conjunction with the many other practice issues faced by lawyers in smaller communities. Although many lawyers come to appreciate working in a smaller centre, getting them to there in the first place is an ongoing challenge.

Challenges in taking on articling students appear to be greater for sole practitioners, 94% of whom reported that they had not hired an articling students in the past five years, with time required to supervise (36%), insufficient variety of work (37%), and inconsistent level of work (35%) identified as the main barriers (no visual representation provided). These data indicate that community size and firm size together compound the barriers to hiring articling students.

Given that many respondents described current lawyer shortages in their communities, an exodus of practicing lawyers over the next decade may exacerbate access to justice issues for residents in the near future.

Smaller Communities Survey Conclusions

The consultant indicated that the most frequently offered recommendations from the survey respondents about ways in which the Law Society might be able to help lawyers practicing in smaller centres to prevent, avoid, or overcome barriers to practice were as follows:

Promote practice in smaller communities and offer incentives to students and lawyers

- Follow the example of colleges of physicians and surgeons across Canada and offer incentives, such as grants or subsidies, to articling students to practice in smaller communities.
- Raise awareness among law students about the benefits of practice in smaller communities.

Improve access to continuing legal education and information on policies and procedures

- Encourage LESA to offer web-based training opportunities, such as webcasts that can be accessed at any time.
- Offer continuing legal education courses in smaller communities using local lawyers as teachers and facilitators
- Provide on-line video access to CBA meetings.
- Disseminate information on changes in law and procedures electronically.
- Follow the examples of law societies in other provinces and negotiate reduced rates for legal databases.

Prevent and reduce practice isolation and burnout

- Encourage and expand the use of mentors.
- Develop a locum list or “bank.”

Reduce Law Society fees and dues

- Pro-rate fees and dues to income
- Introduce part-time fees and dues for part-time lawyers

Address obstacles in the justice system

- Encourage the government to increase funding for legal aid
- Encourage the government to expand courthouses, re-open courthouses that have been closed, and hire additional judges and support staff.
- Encourage the government to re-visit the two-year “drop dead” rule.

4. Select Data from Ipsos Survey on Legal Service Delivery

The Law Society collected data on Legal Service Delivery as part of the Alternate Delivery of Legal Services (ADLS) Project.¹³ This data was carefully reviewed and considered by the RRTF and informed the work of the RRTF on the types and nature of legal services that are delivered to Albertans. The Ipsos data provided context for the importance or the retention of lawyers in the private practice of law to service the legal needs of every day Albertans. The data showed:

- Most legal services to Albertans are delivered by lawyers in sole practice or in firms of under 10 lawyers (72%)
- Most respondents were happy with their lawyer’s services (78%)
- 62% of Alberta lawyers work in firms of less than 10 lawyers.

¹³ See the Final Report on the Alternate Delivery of Legal Services, Law Society of Alberta, February 2012.

- Cost was a top of mind barrier to going to see a lawyer
- Although cost was perceived to be a barrier, once they saw a lawyer 87% indicated that the costs were clearly communicated to them
- 89% indicated that the final cost was close to what they expected
- 91% believed they had received good value from their lawyers service
- For those who went to a lawyer the following indicates the range of legal services:
 - Real Estate transaction (84%)
 - Wills and Estates (78%)
 - Family relationship problems (59%)
 - Small business issues (54%)
 - Other include: legal action (47%); personal injury (46%); crime incidents (40%); immigration (35%); property damage (27%); discrimination (25%); employment (19%); housing (15%); land issues (13%); benefits (10%); money or debt issues (9%); consumer issues (8%).
- 75% of respondents indicated they had no training on their personal legal rights and responsibilities; although 70% felt that they were knowledgeable about their personal rights and responsibilities
- Low income Albertans face additional barriers. Households with incomes of less than \$50,000 were:
 - More likely to have experienced legal issues listed above (with the exception of real estate and wills and estates)
 - More likely to state they expected that resolving their issue would be too stressful or thought nothing could be done
 - More likely to feel the outcome of their issue was unfair
 - More likely to think that assistance from a lawyer would have led to a better outcome
 - More likely to have access secondary resources in attempt to resolve their issue
 - More likely to have been involved in a Court proceeding¹⁴.

The conclusion of the RRTF in reviewing the work of the ADLS Project is that the availability of lawyers is important to legal service delivery in Alberta. Certainly, there are barriers to accessing legal services and they are most acute for those with low household income. The data shows that those who are in need of legal help and are able turn to lawyers for assistance do so for a wide range of legal issues and advice; and are generally satisfied with the service they receive from lawyers. The Ipsos survey of the legal profession shows that lawyers are taking steps to facilitate Albertans access. Over half provide pro bono legal services to clients; and offer legal services to clients on a limited scope retainer. In addition, the vast majority have provided legal services on a reduced fee basis. The high attrition rates from the private practice of law are therefore an access to justice concern.

¹⁴ Further analysis of Ipsos data is available in the research reports for the Alternate Delivery of Legal Services Committee which can be found on the Law Society of Alberta website at www.lawsociety.ab.ca

The data collection and research stage of the RRTF's work was comprehensive and time-consuming. The result was a wealth of base line information from which the RRTF could base its conclusions, suggested strategies and recommendations. The RRTF encourages the Law Society to continue to commission survey information and data collection from the legal profession in Alberta as it will provide longitudinal information on the impacts of its program development and trends on lawyers and legal service delivery in Alberta.

IV. Work of the RRTF during the Course of the Task Force

A. Progress Reports to Benchers

The RRTF undertook the considerable task of thoroughly reviewing and digesting the research information outlined above. As well, the Chairs of RRTF were mindful of the importance of adequately informing the Benchers of the progress of the RRTF's work and key research data. This was coupled with the RRTF's sincere desire to make some progress during the course of its work on recommending and developing initiatives to address the issues.

Although the work progressed slowly, much work has been accomplished by the RRTF. The Benchers have been apprised of the progress of the work of the RRTF through written Reports to the Benchers by the Chairs of the RRTF.¹⁵; and through two Interim Reports¹⁶ and the final oral Report presented at the April 2014 Benchers meeting¹⁷.

A wide range of solutions were brainstormed by the RRTF to accomplish the goal of the retention and re-engagement of lawyers in the private practice of law¹⁸. Not all of these solutions are recommended to be implemented by the RRTF; however, the members of the Task Force believe it is important for the Benchers to be aware of the full range of potential solutions and strategies that were considered and could be implemented to address the issue of retention and re-engagement. These potential solutions are listed in Appendix 1.

The RRTF recognizes that there are limited resources to develop and implement additional programming. In suggesting strategies to retain and re-engage lawyers, the RRTF has given priority those initiatives that will make the most impact in the Alberta context with the limited resources available. These suggested strategies also take into account the demographic and particular research outcomes in Alberta.

¹⁵ See RRTF Bencher Reports dated: Feb 3-4, 2011; April 7-8, 2011; June 9 – 11, 2011; November 24-25, 2011; February 2-3, 2012; April 12-13, 2012; June 7 – 9, 2012; September 27-28, 2012; November 29-30, 2012; April 12, 2013; June 5-6, 2013; October 3-4, 2013; December 5-6, 2013; February 6-7, 2014

¹⁶ Interim Report of the Retention and Re-engagement Task Force (April 3012); and The Second Interim Report of the Retention and RE-engagement Task Force (September 2013).

¹⁷ See PowerPoint presentation Retention and Re-engagement Task Force Final Presentation to the Benchers April 2014

¹⁸ See Appendix 1 for Range of solutions Considered by the RRTF

The RRTF realized that not all solutions are on the same timeline; that is that there are solutions that can be implemented in the short-term, some in the mid-term and there are those recommendations that will take a longer term approach. As such, the formulation of recommendations to address the retention and re-engagement issues was addressed in this context in the First Interim Report in April 2012. The RRTF also wanted to develop recommendations that they could start supporting and working on right away.

B. Identification of Existing Retention and Re-engagement Strategies

As part of its mandate, the RRTF reviewed the many existing law society programs that support the retention and re-engagement of lawyers in the private practice of law. In doing so, it becomes apparent that there are many initiatives and programs that the Law Society delivers and supports that contribute to the retention by supporting lawyers in the private practice of law. These programs include:

- Equity Ombudsperson
 - provides confidential assistance with the development of workplace policies and the resolution of harassment and discrimination concern;
 - serves law firms and individuals working in the legal profession through outreach initiatives and confidential advisory services.
- Model Policies and Guidelines – the Law Society has many model workplace policies and guidelines available either online or through the Equity Ombudsperson that support the retention of lawyers. Workplace training on the policies are also available from the Equity Ombudsperson:
 - Respectful Workplace
 - Maternity/Parental Leave
 - Diversity and Equality in the Workplace
 - Workplace Violence
 - Harassment (model policy)
 - Equality in Employment Interviews
 - Alternative Work Schedules
 - Gender inclusive communications
 - Bereavement, compassionate and Family Responsibility Leave
 - Law Society policy on Workplace Diversity and Equality Principles for work by outside lawyers and law firms
- Practice Management Support and the Practice Advisors
- SoloNet
- Mentor Program
- Assist
- Aboriginal Summer Student Program
- Exit Survey and Data Collection
- Retention of Women Working Group
- The Retention and Re-engagement Task Force

The RRTF realized that not all of these programs may be well understood or publicized as available to lawyers in Alberta. A communications strategy was a key strategy that was implemented by the administration during the course of the RRTF's work.

C. Communication Plan

The RRTF worked with the Communications Department and developed a communications strategy which resulted in the Communications Plan: October 2011 and 2012. The Communication Plans also provides strategies to communicate the RRTF mandate and research work moving forward.

Many of the key communication strategies from the Communications Plan have been implemented including:

- Development and publishing a Retention and Re-engagement brochure with the range of programming available.
- Alberta Law Conference Law Society plenary - The topic for the plenary session was on the erosion of the legal profession monopoly. As part of this, Steve Raby introduced and distributed the retention and re-engagement brochure and highlighted the range of existing services delivered by the Law Society
- The Advisory - The January/February 2012 edition of the *Advisory*, focused on supporting sole practitioners and small businesses. Former Chair of the RRTF, Sarah King d'Souza authored an article entitled: *Law Society of Alberta programs and Initiatives: Supporting the retention and re-engagement of lawyers in the private practice of law*. Other articles of note in that edition: *Executive Director's Report: Online Policies and Programs Support Sole Practitioners and Small Firm Lawyers; A Portrait of the Profession in 2012; Interest Growing Strong in SoloNet Pilot Project; Sole Practice – A New Year Resolution*.
- Ongoing Communications Plans – A new Communications Plan will be developed in conjunction with the Communications Department, the Office of the Equity Ombudsperson and the Practice Advisors to communicate these programs any new program developments.

D. Justicia

Upon the recommendation of the RRTF, the *Justicia* Project has been adopted in Alberta in two phases. Phase 1 was adopted in April 2012 and implementation started in June 2012. Phase 2 was adopted in February 2014 and plans are currently underway for its implementation.

In Ontario, the *Justicia Project* was introduced by the Law Society of Upper Canada in 2008 and focuses on the retention of women lawyers in the private practice of law. The *Justicia* project has brought together over 55 law firms in Ontario committed to sharing best practices, developing resources and adopting programs to support women lawyers. The RRTF believes that the *Justicia* Project in Alberta will be beneficial to the public and

the profession in Alberta and is consistent with the access to justice goal established in the Law Society of Alberta Strategic Plan 2012 – 2013 and the newly adopted Strategic Plan 2014-2016.

The RRTF recognized that the *Justicia* Project will serve to meet many of the goals it has identified for the retention and re-engagement of lawyers in private practice including:

- Educate and explain why model policies are needed and assist lawyers and law firms to implement those policies;
- A proactive approach for law firms to implement model policies including the maternity and parental leave policies recognizing that the Law Society has been a leader in the development of model policies
- Encourage culture to change;
- Educate on diversity in the profession;
- Law firms will take the lead on this work with the Law Society as partner.

1. **Justicia Phase 1**

The Benchers adopted the *Justicia* Project Phase 1 in April 2012. The *Justicia* Project is a voluntary program aimed at retaining women lawyers in the private practice of law. Law firms participating in the *Justicia* Project have pledged their support by a written Commitment to share best practices, develop resources and adopt programs and policies to support women lawyers which includes:

- Tracking law firm demographics
- Workplace policies such as parental leave, flexible work arrangements and respectful workplace policies
- Networking and business development
- Mentoring and leadership development.

This Report proposes the expansion of the *Justicia Project* to Phase 2.

▪ **Law Society Strategic Plan**

Justicia Phase 1 was adopted as a strategy to further the goals of the Law Society in its Strategic Plan 2010 – 2013 regarding inclusion and diversity in the legal profession. The RRTF believes that the extension of the *Justicia* Project to Phase 2 will further the objectives of the goals and strategies of the Strategic Plan 2014-2016. A key value in the Strategic Plan is: *Respect - inclusion, diversity and equity in the profession and in the Law Society*. Goal 4 of the Strategic Plan is identified as follows: *Promote access to legal services and meaningfully contribute to the Access to the Justice discussion*. A key strategy for goal 4 is to promote inclusion and diversity in the profession. A key result for this goal is that there will be *enhanced inclusion and diversity the Law Society and the legal profession*. The *Justicia* Project is a proactive approach to retention that meets the strategic goal of encouraging law firms to implement policies and strategies

to retain women in the private practice of law; and to track the outcomes. The *Justicia* Project is a key initiative of the Law Society Alberta and other law societies across Canada to foster these retention goals and to provide key measurable indicators towards results based outcomes.

- **Background to the *Justicia* Project**

Women have been entering the legal profession and private practice in record numbers for many years. Across the country, 50% of lawyers graduating from law schools are women, yet once they enter private practice large numbers do not stay. Attrition rates are notably high amongst women 5 – 7 years at the Bar. Most women who leave either leave the practice of law altogether or find new positions working for corporations or the government. The departure of women from private practice means that the legal profession is losing a large component of its best and brightest in core areas of practice. Ontario studies have shown that the cost of associate turn-over is staggering – it is estimated at \$315,000 for a four year associate. Demographic information provided to the RRFT indicates that in Alberta as law firm size increases, the diversity within the firm is more likely to decrease. Additionally, the loss of women in private practice exacerbates problems with the public's ability to access legal services, particularly in smaller communities. There are many studies showing that it makes good business sense to retain and foster the development of women lawyers in the private practice of law through good workplace policies that enhance the work experience within law firms.

The Law Society of Alberta over the past many years has developed model workplace policies and guidelines; and worked with law firms on the adoption of policies to enhance equity and diversity in the legal profession in Alberta. Many law firms have adopted policies within their firms on this basis. However, the Law Society cannot control or dictate policy and program development or implementation within those firms. The *Justicia* Project differs in its approach in that the law firms themselves make the commitment to foster, develop and implement these policies and programs. The *Justicia* Project makes a concerted effort within the profession to bring law firms together to make a collective commitment to retain women in the private practice of law. The commitment also is designed to collect measurable outcomes including the number of law firms committed to *Justicia*, the number of law firms adopting policies and guidelines, as well as the collection of base line data within law firms to measure results.

The Retention and Re-engagement Task Force has been allied with the Law Societies' Equity Network (LSEN), which includes representatives from Canadian law societies. LSEN is a working group of the Federation of Law Societies that shares information about issues related to equity and diversity in the legal profession and within law societies and engages collaboratively in the development and implementation of joint and regional or national projects. The group's vision is to enhance the capacity of law societies to promote inclusion, equity and diversity within the legal profession and within law societies by increasing opportunities for collaboration amongst provincial law society equity advisors/policy counsel and ombudspersons.

In 2010, the Law Society of Upper Canada proposed the idea to the Law Society Equity Network, to extend the reach of *Justicia* beyond Ontario to other provinces. In introducing the *Justicia* project in Alberta, we have been able to build on the work done by Ontario with the goal of leveraging their work to avoid duplication while tailoring the approach to meet the needs of law firms in Alberta. In addition to the Law Society of Upper Canada and the Law Society of Alberta, the Barreau du Quebec, the Law Society of British Columbia and the Law Society of Manitoba have launched *Justicia* in their jurisdictions; and the Law Society of Saskatchewan has recently advised that they are actively reviewing measures for implementation of *Justicia* there.

In April 2012, the Benchers of the Law Society of Alberta adopted Phase 1 of the *Justicia* Project to focus on the large national law firms who had already adopted *Justicia* in Ontario.

▪ **The *Justicia* Project – Phase 1 – A Successful Beginning**

The *Justicia* Project Phase 1 was designed and is being implemented to meet the objectives of the Law Society's Strategic Plan. The RRTF has updated and reported on the success of the *Justicia* Project Phase 1 in each of its Reports to the Benchers since the adoption of Phase 1 in April 2012. Phase 1 has built a solid foundation for the extension of the *Justicia* Project to Phase 2. There has been 100% participation with the firms that were invited to join *Justicia* Phase 1. These firms are as follows:

- Blake Cassels & Graydon
- Borden Ladner Gervais
- Davis
- Fasken Martineau DuMoulin
- Dentons
- Gowling Lafleur Henderson
- Heenan Blaikie¹⁹
- McCarthy Tetrault
- McMillan
- Miller Thomson
- Norton Rose
- Osler Hoskin & Harcourt
- Stikeman Elliott
- Torys

The measures of the successful implementation of *Justicia* Phase 1 are as follows:

- There has been 100% participation in Phase 1 from 14 firms; and all have signed the *Justicia* Commitment²⁰
- The timelines in the Project Plan have been met.
- Two Managing Partner's Summits have been held in accordance with the timelines on June 19, 2012 and May 21, 2013, with a third planned for November 20, 2014.

¹⁹ Heenan Blaikie is no longer participating due to the firm's dissolution

²⁰ See Appendix 1 – *Justicia* Commitment

- There have been quarterly *Justicia* Diversity Officer Meetings since the project was adopted with consistently high attendance by all *Justicia* signatory firms
- Three *Justicia* Working Groups have completed the work of the review of the policies and guidelines for law firms. These policies will be communicated to the profession as part of the *Justicia* Communications strategy:
 - Maternity and Parental Leave Working Group
 - Flexible Work Place Arrangements Working Group
 - Career Advancement into Partnership Working Group
- Work is continuing by the *Justicia* Diversity Officer on the next part of the *Justicia* Commitment including:
 - Networking and business development
 - Mentoring and leadership development.
- Tracking law firm progress towards the *Justicia* goals, checklists of the policies and law firm demographics have been distributed.
- Tracking progress of the *Justicia* Project, a baseline survey on law firm demographics and policies was conducted via Survey Monkey in April 2013. Thirteen of the 14 law firms have responded with a commitment by the final firm to complete the survey.
- A Communications Plan for the *Justicia* project has been identified as a key aspect to foster understanding and inclusion by firms in the Project. In consultation with the Law Society's Communications Department, a *Justicia* Communications Plan is being developed and implemented including:
 - Developing a SharePoint site for the *Justicia* Diversity Officers for posting of the Guidelines, policies and other information relating to the Project
 - Developing a presence for the *Justicia* Project on the Law Society's website
 - Strategies for outreach and information on the *Justicia* Project.

Another key success was the hosting by the Law Society of the May 21, 2013 Managing Partners Summit with special guest speakers from Legal Leaders for Diversity (LLD); Leanne Geale and Ken Fredeen. Ms. Geale is Vice President, General Counsel and Director of Shell Canada Ltd. Mr. Fredeen is General Counsel of Deloitte & Touche. LLD was formed in 2011 as a small group of general counsel who were involved with diversity initiatives in their companies. They decided to set up a group of general counsel to take a leadership role in the legal profession to promote inclusion and

diversity in the legal profession. LLD is now a group of general counsel from 80 corporations across Canada that have developed Best Practices for inclusion and diversity²¹. This meeting was a big success and provided momentum for the Diversity Officers and Managing partners of the law firms to work towards fulfilling the *Justicia* commitment goals.

2. *Justicia* Phase 2

Justicia Phase 2 was contemplated in the April 2012 *Justicia* Phase 1 proposal as follows:

The RRTF proposes to advance the *Justicia* Project in Alberta in two phases. Phase 1 will be directed at the national firms who have participated in *Justicia* in Ontario and any other interested firms. Phase 2 will be directed at regional, medium, small and solo firms... These firms may have different concerns and needs with respect to policies to support women lawyers, and may have different capacities and infrastructures to develop and implement programs. This group may find alternate ways of implementing the principles of *Justicia*...It is critical that an evaluation component is an integral aspect of each Phase of the plan in particular if the project is to move from Phase 1 to Phase 2. Before moving the plan to Phase 2, a budget and project plan will be presented to the Benchers for approval.²²

The RRTF believes because of the success of Phase 1, that the extension of the project to Phase 2 will be beneficial to the public and the profession in Alberta and is consistent with the access to justice goals established in the Law Society of Alberta Strategic Plan 2014 – 2016. The *Justicia* Project's aim has been to create a shift in culture and lead the way for innovative, systemic change that works for the profession and the public. It has been observed that *Justicia* also makes good business sense, as increasing number of clients are seeking out law firms that actively promote diversity. The outline above of the Phase 1 accomplishments indicates the progress towards the shift in culture and the leadership for innovative, systemic change.

The following are key aspects of the Phase 2 implementation:

- ***Justicia* Commitment** - As in Phase 1, it is important for the success of Phase 2 that participating law firms sign a formal Commitment to the project for a three year period. The Commitment focuses on:
 - Tracking law firm demographics
 - Workplace policies such as parental leave, flexible work arrangements and respectful workplace policies
 - Networking and business development
 - Mentoring and leadership development – skills for women.

²¹ Legal Leaders for Diversity participating corporations – see Appendix 2

²² Retention and Re-engagement Task Force (RRTF); Proposal to Introduce the *Justicia* Project to Alberta Law Firms; April 2012

As indicated above, the commitment to these goals is also intended to provide a method to track progress of the Project.

- **Phase 2 Champions** – A key aspect to the success of Phase 1 was the leadership by Gowling Lafleur Henderson and in particular, Sandra Mah (partner – now with Davis LLP) and Ken Warren, QC (managing partner Gowlings) as champions of the *Justicia* Project. The RRTF believes that it was essential to identify additional law firm champions if the Project was to be expanded to Phase 2. Equally important was to identify whether there was interest or motivation by law firms to expand the *Justicia* project outside the demographics of the Phase 1 law firms (the large national firms mostly located in Calgary) to the other regions of the province. We are pleased to advise that four law firms from three cities have come forward to champion *Justicia* Phase 2:
 - Field Law (Suzanne Thomas), Edmonton
 - Reynolds Mirth Richards Farmer (Matthew Woodley), Edmonton
 - Huckvale Wilde Harvie MacLennan (Rob Harvie), Lethbridge
 - Duhamel Manning Feehan Warrender Glass, Red Deer

As part of Phase 2, the additional Calgary law firms (those law firms not involved in Phase 1) will be invited to join *Justicia* as well.

- **Phase 2 Law Firms** – A list of over 50 possible mid-size and larger regional law firms have been identified that may be interested in participating in *Justicia* Phase 2. Smaller firms not listed will also be encouraged to participate in Phase 2 of the Project. We anticipate a robust communications plan will be necessary in this regard.

E. Rural Initiatives Collaborative with ARDN, Faculties of Law and CBA

As shown by both the data from the Smaller Communities survey and the Law Society's data, there are challenges to legal service delivery in rural and smaller communities outside Edmonton and Calgary. This issue is consistent with data from other professions and in other provinces in Canada where lawyers are aging, retiring and not being replaced by younger lawyers.

In British Columbia, the Canadian Bar Association developed a project with the goal of addressing the shortage of lawyers in rural communities in that province. The Rural Education and Access to Lawyers Initiative (REAL), is a coordinated set of programs that addresses the current and projected shortage of lawyers practicing in small communities and rural areas of British Columbia. This exciting initiative is delivered by the Canadian Bar Association BC Branch (CBABC) and is made possible by funding from the Law Society of BC, the CBABC and the Law Foundation of BC. The key components of the project are:

- Funding for second year summer student placements in rural and small communities throughout British Columbia;
- Promotional support to assist with the marketing of regions to law students and new lawyers;
- Professional support from the Regional Legal Careers Officer for students who are interested in practicing in rural and small communities;
- Professional support from the CBABC Regional Legal Careers Officer to assist law firms and practitioners with the recruitment, hiring and retention of students and new lawyers in rural and small communities.

In Alberta, the Alberta Rural Development Network independently identified the diminishing number of lawyers in as being a challenge for their stakeholders in rural Alberta.²³ The ADRN has as its vision to build a strong sustainable network that is the leading source of trusted rural development research and learning. The ADRN contacted the Law Society for data and information regarding this issue. The ADRN wanted to emulate the REAL Project that was developed in BC and in 2012 made a submission to the Alberta Law Foundation for funding. Unfortunately, the funding for the Project was deemed not to be within the parameters of the ALF.

During this same time, the Canadian Bar Association Alberta Branch had the REAL Project from BC on their radar screen as well. Working collaboratively, the CBA, the Law Society, the Deans and Career Development Officers at the Faculties of Law at the University of Calgary and the University of Alberta, made a concerted effort to work with lawyers in the smaller centres to encourage the placement of summer students and articling students. The CBA took the lead with a special supplement in their newsletter with then President Cyril Gurevitch QC actively advocating placements within rural law firms.

The first concentrated efforts were made in 2012 and 2013 in Medicine Hat and Grande Prairie. This met with success in placing both summer students and articling students. Strategies included special rural development panel sessions at each of the U of C and U of A Faculties of Law. Lawyers from smaller centres sat on a panel and made presentations about the merits of practicing in smaller centres and answering the law students' questions. The U of C also hosted a BBQ for students in Medicine Hat as part of the support for them integrating into the community.

Some demonstrable progress has been made through the collaborative approach between the CBA, the Faculties of Law in Alberta and the Law Society. As indicated above in the statistics from the Office of the Equity Ombudsperson noted above, there has been a demonstrable improvement both in articling placements and number of lawyers in smaller centres.

²³ Melissa St. Dennis, *Shortage of Lawyers in Rural Alberta? The complex issue of Lawyers, Legal Services and Justice in Regional and Rural Centres*: Alberta Rural Development Network, The Rural Connector, Friday, November 1, 2013.

It is recommended that the collaborative efforts in working with the CBA and the Faculties of Law continue to address the challenges in attracting articling students and lawyers to smaller centres in Alberta.

F. Review of Insurance Programs for Part-Time Fees

The issue of part-time member and insurance fees was widely identified in the surveys and research as a barrier to accommodating participation legal practice.²⁴ In particular, the cost of fees was identified by women practitioners as the one of the leading reasons they transferred to the inactive list and did not return to either the full-time or part-time private practice of law. It was also noted that the Law Society of British Columbia and the Law Society of Upper Canada have developed and implemented a program of part-time insurance fees for their members. The RRTF was enthusiastic about recommending that a system of part-time fees be implemented.

Insurance Fees - The RRTF invited the Director of the Alberta Lawyers Insurance Association (ALIA) to outline the feasibility of part-time insurance fees²⁵. It was concluded that if part-time (PT) insurance fees were to be implemented, that fulltime members (FT) would have to pay more. The rationale was that the insurance program would still have to collect the same amount of overall premium. This means that offering a discount to PT members would require FT members to pay more than they would if PT members paid FT rates.

For example, in BC, 86.5% of the members are FT and 13.5% are PT. By way of example, there was 10% PT and 90% FT breakdown for Alberta, on 2011 figures, there were approximately 5,220 FT and 580 PT members. Instead of all 5,800 paying the FT levy of \$3,124, 10% would pay \$1,562. This means that the FT members would each have to pay between \$175 and \$230 more. These were rough estimations however, it did identify the issue of implementing a part-time insurance fee. Concern was also expressed as to whether part-time fees would have the desired outcome of higher participation and retention rates in the profession.

At the time the part-time insurance fees were being considered by the RRTF in 2011 and 2012, the Benchers were keen to keep the insurance fee increases to a minimum for lawyers in Alberta. There were some extraordinary claims being processed at the time due to the increased incidence of mortgage fraud claims.

The report from the Director of Insurance was carefully considered by the RRTF. The consensus of the RRTF members was that they were not opposed to full-time

²⁴ 2014 Annual Member Fee: \$2,656.50 (this includes the Assurance Fund Levy of \$598.50) and the 2014/2015 Insurance Levy: \$3,727.50

²⁵ See memo dated August 29, 2011 from Lisa Sabo, Director of Insurance Re: Part-time insurance fees. Since that time, the lawyers insurance programs in Alberta have been re-organized into a new structure called ALIEX (Alberta Lawyers Insurance Exchange).

members carrying a larger proportion of the overall premium. Some members indicated that it could be construed that the part-time members have been paying a disproportionate amount for many years. The task force members did understand however, that the timing to implement this change (which would result in a higher fee for full-time members) was not propitious due to the extraordinary claims and potential for increased premiums based on the risks to the insurance program.

With the change of the insurance programs to ALIEX, an additional factor has emerged. Under the ALIA program, when a lawyer went inactive, a pro-rated proportion of the insurance fees was rebated to the member. There is some concern that the availability of a rebate may not be available in the future. This could cause difficulty for lawyers who go on leave for maternity, parental or medical leave. It would be worthy of reconsideration in the future.

Given the changes in the insurance program for Alberta, the RRTF recommends that ALIEX review their program and explore options to develop and implement a program of part-time insurance for Alberta lawyers.

Member Fees - Given that the part-time insurance fee issues had been identified as problematic the RRTF then looked at alternate ways to provide some movement on the overall cost of fees. The member fee was identified as a possibility.

To encourage inactive lawyers to return from inactive status, the RRTF suggests that the member fee could be waived for one year for those lawyers returning to active insured status. This would provide some time for the lawyer to re-establish their practice and rebuild their cash flows. This would be an incentive for lawyers to return to private practice after being inactive during a period of time such as a maternity or parental leave²⁶.

V. Other Issues that the Task Force has Identified

During the course, other issues and problems were identified that are related to the mandate given to the RRTF.

Firstly, there is no doubt that attrition rates are high for women. After 5 years, 57% of women have left the private practice of law. What was surprising is that the attrition rates are also high for men. After 5 years, 49% of men have left the private practice of law. The burdens of practicing law and better work life balance are identified as key reasons for this trend.

Secondly, barriers to entry to the legal profession were identified by the RRTF as contributing to the issue; that is retention issues start right after law school. Many students are facing barriers to the entry to the profession through the lack of articling positions.

²⁶ Rules on re-instatement would still apply (currently 12 months of practice in the last 48 months).

Thirdly, several impediments in the regulatory requirements of the Law Society could be contributing to retention issues such as:

- Education plans for articles – the requirements in the substantive law components of the education plans for articles relate mostly to the private practice of law. These requirements are prohibitive for articles other in other legal workplaces such as in-house legal departments and should be updated to be in line with the competencies as required by the CPLED (Canadian Centre for Professional Legal Education) Bar Admission Course.
- Re-instatement process - The re-instatement process of moving from inactive to active should be simplified and streamlined. For instance, moving back to active status from a maternity/parental leave can be as cumbersome as the process for a lawyer who has been inactive for several years.
- Closing of trust account rule - The closing of a trust account while inactive or on leave for a definite period of time (such as a maternity, parental, sabbatical or education leave) can be burdensome and costly for a member particularly when they know that they are returning to practice.
- Foreign trained lawyers – the issue of barriers to the entry to the profession by foreign trained lawyers (those trained at law schools outside Canada) is an issue that has become more and more common. It is now widely known that the biggest law school in Canada is the National Centre for Accreditation operated through the Federation of Law Societies Canada. Opportunities for entry to the legal profession through articles continue to be a challenge and are being addressed by the Foreign Trained Lawyers project of the Law Society of Alberta.
- Transition to Small Firm and Sole Practice – The Ipsos survey indicates that over 62% of Alberta lawyers practice in firms of under 10 lawyers. Additionally, 72% of Albertans identified that they used the services of a lawyer in a law firm of under 10 lawyers.

Many lawyers have benefitted from articling with a small firm and understand the rigours of running a small business. Many others article in law firms where there is business support and can devote themselves solely to the practice of law. For those who transition from a law firm that has the business and practice supports to a small firm or sole practice, it can be a challenge and for some disastrous. These lawyers are mostly good in the substantive law practice, after all they got through law school and passed the rigours of the Bar admission process. They may not have had the benefit of business or practice experience on how to run a small business.

The RRTF noted that there is a high attrition rate for lawyers in transition to small and sole practice. These practitioners do not want to fail in their practice and many just lack the knowledge and experience of best practices in management

and business skills. More practice management resources are needed on a proactive basis to offer support for lawyers in transition to small or sole firm practice. The Law Society as the regulator of the legal profession acting in the public interest needs to develop a proactive program of practice management support for lawyers in transition to small firm or sole practice. Waiting for client complaints or insurance claims against a lawyer should not be the only trigger for intervention by the Law Society to assist and remediate a lawyer who demonstrates difficulty in the practice of law. Such a program should also emphasize civility in the practice of law. A proactive program to support and encourage the delivery of high quality legal services is an important aspect of the regulatory role of the Law Society.

VI. Suggested Strategies to Address Retention and Re-engagement

The suggested strategies (recommendations) below have been developed by the RRTF to address retention and re-engagement issues of lawyers in the private practice of law. It should be stated that the RRTF was of the opinion that no one recommendation or strategy alone would be enough to shift the high attrition rates of women and men exiting the private practice of law. The RRTF was of the view that the high attrition rates will be reversed only with the development and implementation of a range of strategies over time. Some strategies will likely work better than others and a lack of success with one strategy should not preclude the development and implementation of others.

The RRTF has not made suggestions on the program development or the “how to’s” of the strategies. The strategies suggested have been prioritized by the RRTF as to those that if developed and implemented will make a difference over time to the legal profession and to the public by enhancing the retention of lawyers in the private practice of law. It should also be noted that not all strategies that were identified by the RRTF have been included as recommendations. The strategies that are identified below are those that are likely to be the most effective and achieve the desired outcomes to retain and re-engage lawyers in the private practice of law.

The trends over five years as shown in the Exit Survey analysis, indicate that the programs of the Law Society have made a difference with declining rates of discrimination and harassment; and increasing rates of satisfaction by women on levels of remuneration and level of respect and dignity with which they are treated. This should provide momentum and incentive to keep working to develop and implement strategies to address the very important access to justice issue of the retention and re-engagement of lawyers in the private practice of law.

The RRTF suggested the following strategies to address retention and re-engagement:

- 1. Strategic Priority:** Retention to remain a priority in the strategic and business plans of the Law Society
 - Sufficient resources allocated to fulfill the strategic goals
 - Continue to link the work of the RRTF to the Strategic Plan to demonstrate the full commitment by Law Society

- Identify champions around the Benchers table and in the profession to continue this important work
 - Assign an internal Retention and Re-engagement project team of the Law Society staff to ensure this work does not get lost or overlooked/lost in a broader mandate
 - Consideration should also be given to reconvening the Retention and Re-engagement Task Force at a later to evaluate and monitor the ongoing work and progress. This option is considered in the Work Letter from President Kevin Feth regarding the Retention and Re-engagement Task Force dated March 11, 2014.
- 2. Comprehensive Communications Plan:** A comprehensive and consistent communication strategy should be developed and implemented for the legal profession highlighting:
- Issues and data relating to the retention and attrition of lawyers in the private practice of law
 - existing Law Society retention programs, resources and supports for lawyers
 - the Law Society retention and re-engagement initiatives as identified by the Task Force and any newly implemented initiatives
- 3. *Justicia* Project:** The *Justicia* Project should continue its implementation with the completion of Phase 1 and the further development of Phase 2. Adequate resources are needed to complete Phase 1. Additional resources will likely be required for the implementation of Phase 2 as it is larger in scope both regionally and in the number of law firms
- 4. Smaller Communities and Rural Development Initiatives:** Collaboration with the CBA and the Faculties of Law have resulted in concrete improvements in the number of articling students and lawyers going to smaller centres in Alberta. Continued collaboration with the CBA and the Law faculties should continue this trend and is a cost effective strategy to improve access to justice in rural and smaller communities in Alberta.
- 5. Fees:**
- Review and recommend options to the Benchers for a program of member fees and insurance fees to accommodate part-time and flexible work-place arrangements
 - In the short-term, consider a waiver of member fees for 1 year for those returning from inactive status (particularly those returning to small firm or sole practice from a maternity/parental or other leave)
- 6. Data Collection:** Continue to collect data through a variety of methods including the Exit Survey, change of status survey and other retention data to evaluate and monitor progress. Also consider a comprehensive survey of

lawyers focussing on attrition, retention and re-engagement; and another surveys on legal service delivery in Alberta such as the Ipsos survey conducted in 2009 and reported in 2010. The collection of longitudinal data approximately every 5 years provides information to the Law Society on trends and issues that affect the delivery of legal services and access to justice for Albertans.

- 7. Regulatory Review:** Review and make changes to the regulatory impediments affecting retention and re-engagement:
 - barriers to entry to the legal profession as retention issues start right after law school:
 - lack of articling positions
 - consider alternatives to articling
 - promotion of composite articles
 - changes to the Education Plans to be more in line with identified entry level competencies and remove restrictions to areas of practice
 - Closing of trust accounts - Review regulatory impediments in the LSA Rules for leave of absence (ex: maternity/parental leave; health leave)
 - Simplify re-instatement rules
 - Clarify member status options
- 8. Foreign Trained Lawyers:** Continue to develop and support initiatives that reduce barriers to foreign trained lawyers in the practice of law in Alberta.
- 9. Transition to Small Firm and Sole practice:** Develop proactive programs to support lawyers who transition to small firm or sole practice
- 10. Facilitating outreach and Education:**
 - Retention and re-engagement events hosted by the Law Society to provide information and options to those lawyers who are considering leaving or returning to the private practice of law
 - Job posting board
 - Maternity Leave mentoring program
 - Locum Registry

VII. Conclusion

The RRTF was established with a mandate to explore the proposition that it is good public policy for the Law Society to enhance access to justice for Albertans by developing programs and policies that will retain and re-engage lawyers from across Alberta in the private practice of law by:

- Supporting the retention of female lawyers and lawyers from diverse backgrounds in the private practice of law; and
- Supporting sole practitioners, and small, rural and remote firms.

The RRTF articulated a five phase approach to its work:

- Phase 1 - Issue Identification
- Phase 2 - Research and information gathering
- Phase 3 - Policy development and Interim Reports
- Phase 4 –Final Report with Recommendations
- Phase 5 – Implementation

The delivery of this Final Report with suggested strategies recommendations to address the issue of retention and reengagement completes Phase 4 of the Project Plan.

Phase 5 implementation began during the course of the RRTF's work. Considerable progress has been made on program development and implementation during the course of the work of the RRTF including the development and implementation of *Justicia* Phase 1 and 2. Additionally, in collaboration with the Canadian Bar Association and the Faculties of Law, progress has been made in attracting summer students, articling students and lawyers to centres outside Edmonton and Calgary.

The suggested strategies and recommendations of this Report are supported by the rich background research and collection of data undertaken by the RRTF. The RRTF is confident that if these strategies are developed and implemented by the Law Society's administration in consultation with the R & R Bencher Liaison, that there will be an improvement in the retention and re-engagement of lawyers, both women and men, in the private practice of law in Alberta.

Appendix 1 –

Range of Solutions Considered by the RRTF in its Interim Report – April 12-13, 2012

To be thorough in our reporting, the full range of solutions brainstormed by the RRTF in June 2011 is listed below. Not all of these solutions are recommended to be implemented by the RRTF; however, the members of the task force believe it is important for the Benchers to understand the full range of potential solutions and strategies that are being considered and could be implemented to address the issue of retention and re-engagement. Recognizing that there are limited resources, the RRTF in making recommendations has taken as an important priority those initiatives that will make the most impact with the limited resources available in the Alberta context taking into account the demographic and particular research outcomes in Alberta.

a) Administration

- Develop, implement and evaluate a “network” for regional firms and sole practitioners/small firms (*SoloNet*);
- Data collection to provide additional information on attrition and projections for demographic data – based on trending data we already have;
- Law Society as a leader in model policies – proactive;
- Educate and explain why model policies are needed and assist lawyers and law firms to implement those policies;
- Update existing Law Society model policies including the maternity and parental leave policies
- Encourage culture to change;
- Educate on diversity in the profession;
- Law Society – partner with others (CBA etc.) and law firms;
- Legal Education Society of Alberta – further support for regional delivery of CLE;
- Enhancing supports for regional lawyers and law firms/small firms/sole practitioners;
- Develop programs that will support a range of practitioner needs (diversity) –
- Communicate existing Law Society programs for retention and re-engagement
- Identify programs that address key attrition points;
- Review and update reinstatement process.

b) Task Force

- Part-time insurance; Lawyers (particularly those responding to the *Exit Survey*) are asking for part-time insurance and believe it will make a difference;
- *Justicia* – Need law firm champion in Alberta;
- Ongoing Advisory Committee for Implementation of recommendations – identify stakeholders;
- Retention and re-engagement strategies do not stand alone - as part of Competence and A2J;
- Align with regulatory programs where appropriate

- Data collection – increased depth of data collection particularly on demographics of the profession.

c) Specific Regional/Rural Initiatives

- Lawyers practicing outside of Edmonton and Calgary is an access to justice issue;
- Incentives for articling positions outside of Edmonton and Calgary;
- Incentives for hiring new lawyers in regional areas;
- Summer Student program;
- Conflict rules for smaller centres;
- Education at law schools re: regional opportunities.