



Department of Justice  
Canada

Ministère de la Justice  
Canada

Bureau of Review

Bureau de l'examen

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**STUDY OF PARALEGALS**  
**A REVIEW STUDY**

September 1993

Programme Evaluation Section

Canada

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## EXECUTIVE SUMMARY

Paralegals emerged in the 1960's as a recognized professional group largely because the cost of legal services was becoming prohibitive. Private law firms and the public sector recognized that there were significant savings to be gained by assigning some aspects of legal work to trained legal assistants. As paralegals perform functions traditionally done by lawyers and some functions performed by legal secretaries and clerks, and because there can be employment and financial implications for those groups in recognizing paralegals as a professional group, this recognition has been gradual.

The Department of Justice has recognized the benefits of employing paralegals to a limited extent; there are, as of January 1993, 71 paralegals employed in the Department. These paralegals are working primarily in offices that carry out litigation and commercial and real property practices, with a few in Legal Service Units and other offices at Justice Headquarters.

Recent pressures to increase the efficiency of the Department's legal work has led some managers to conclude that more extensive use of paralegals may well be in order. The Bureau of Review, in collaboration with the Human Resources Directorate, undertook this study to examine the use of paralegals within the Department, and specifically, to compare the work paralegals do with the work they are trained to do, the work of other members of the Department, and the work paralegals do in other settings.

The study consisted of extensive consultations with managers, lawyers, paralegals and other key experts in the Department of Justice, private sector law firms, the Ontario Attorney General's office, the U.S. Department of Justice, institutions that train paralegals, independent private sector paralegals and paralegal associations. In addition, we conducted surveys of all lawyers and support staff in the four major Sectors of the Department that practice law.

The key findings of the study can be summarized as follows:

1. Justice Lawyers indicate that on average they currently spend 40 hours a week on tasks we identified as possibly appropriate for paralegals, and that 25 percent of this could be done by a paralegal, provided that the paralegal was adequately trained and experienced.
2. Managers in the Department see a need to moderately increase the role of paralegals so that they perform some of the more straightforward tasks currently undertaken by lawyers and lawyers can focus on more complex legal work for which they do not currently have sufficient time.
3. Departmental Sectors varied only moderately in the level of demand indicated for paralegal services, with Litigation indicating somewhat higher and Public Law somewhat lower. The survey reflected demand over and above the paralegal complement already in place.
4. Factors such as the type of law practiced, the location in which lawyers work, and the classification of lawyers had only a minor overall correlation with an expressed demand for increased paralegal services. These factors were significant in only a small number of specific cases.
5. Information from other jurisdictions and the private sector indicates that the use of paralegals in general is variable and dependent on the initiative of individual managers. However, experience in specific pockets outside the Department suggests a significant potential benefit to increased use of paralegals.
6. Managers and lawyers who have experience working with paralegals are generally very favourable to their use and advocate an increased role for them, whereas those with little or no experience tend to be more cautious or sceptical about their potential use.
7. Support staff in the four Sectors we studied report that they spend, on average, about 25 percent of their time performing junior-level paralegal tasks.
8. About one-quarter of those support staff say they spend more than 15 hours per week, and about ten percent reported spending upwards of 25 hours per week on senior legal secretarial tasks.

## 1. INTRODUCTION

### 1.1 Background

Paralegals emerged in the 1960s as a recognized professional group largely because the cost of legal services was becoming prohibitive. Private law firms and the public sector recognized that there were significant savings to be gained by assigning some aspects of legal work to trained legal assistants. An American publication entitled "Paralegal Personnel for Attorney General's Offices" cites the benefits of using paralegals as:

An economic benefit, whenever a paralegal replaces a lawyer and thus frees him for other work.

An increased level of office productivity, permitting the (lawyer) to expand his 'discretionary' caseload ...

An improvement in the quality of office work, deriving from a better match up between work needing to be done and the worker's aptitude to do it.<sup>1</sup>

As paralegals perform functions traditionally done by lawyers and functions performed by legal secretaries and clerks, and because there can be employment and financial implications for those groups in recognizing paralegals as a professional group, this recognition has been gradual. As recently as 1990, the Ontario government commissioned an in-depth study of paralegals (the Ianni report), to determine the form that the profession should take, and the standards that paralegals should have to meet in order to be recognized. The issue of what work is appropriate to independent paralegals has proven difficult to settle. In the three years since the Ianni report, the Ontario Government is still considering the report.

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<sup>1</sup> From Shayne, Neil T., The Paralegal Profession: A Career Guide, Oceana Publications Inc., New York, 1977.

As several studies have indicated, paralegals, if used effectively, can provide the benefits cited above. The Department of Justice has recognized this to a limited extent, and there are, as of January 1993, 71 paralegals employed in the Department. These paralegals are working primarily in offices that carry out litigation and commercial and real property practices, with a few in Legal Service Units and other offices at Justice Headquarters. Recent pressures to increase the efficiency of the Department's legal work has led some managers to conclude that more extensive use of paralegals may well be in order.

In practice, there is considerably more paralegal work being performed in the department than is being performed by employees with paralegal designations. Most lawyers perform at least some paralegal functions. Clerks and secretaries perform paralegal functions to varying degrees.

The Bureau of Review, in collaboration with the Human Resources Directorate, undertook this study to examine the use of paralegals within the Department, and specifically, to compare the work paralegals do with the work they are trained to do, the work of other members of the Department, and the work paralegals do in other settings.

## 1.2 Defining "Paralegal"

One of the first tasks was to establish what was meant by the term "paralegal". We sought a definition that would govern the design of the data collection instruments; in particular, we needed to know what tasks were appropriate to view as paralegal tasks, so we could then examine the extent to which those tasks were performed in the Department and who was performing them.

The review of the literature on paralegals and discussions with a variety of people with expertise in the area led to the realization that no reasonable consensus on a detailed, tasks-based definition of "paralegal" existed. Definitions that are generally accepted are general in nature, and employers or clients of paralegals define what "paralegal" means to them according to their needs and certain limits that exist on what paralegals are permitted to do or are capable of doing.

A modified version of the definitions of paralegal provided by The Canadian Bar Association,<sup>2</sup> and "The Institute of Law Clerks of Ontario" was adopted. The "umbrella" definition of a

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<sup>2</sup> W.S. Lockington, "Effective Use of Paralegals and Systems", The Canadian Bar Association, 1983.

paralegal used in this study is: "someone who performs delegated substantive legal work that a lawyer would perform in the absence of a paralegal". This includes "the compiling and recording of information, either from clients, governmental authorities or other sources with a view to providing a base of knowledge on which informed advice and direction may be given; and the drafting, completion and proper filing, registration or proper executive of legal documentation which will implement or effect the legal services."

This definition provided us with a useful framework for thinking about paralegal functions, but it was evident that an important part of the work would be to look at how the Department currently defines (in practice) paralegal functions, and whether there might be benefits to be derived from expanding or otherwise altering that definition. A major focus of this report is the identification of what are currently, and what can be, viewed as tasks appropriate to paralegals. It is the raw material upon which many of the findings and recommendations are based. The following methodology section describes the work we undertook at the outset of the study to develop a set of paralegal tasks, and the research we conducted using these tasks as a basis.

### **1.3 Organization of this Report**

The remainder of this report is organized into seven sections. It includes a description of the methods used to collect and analyze information, a description of the current status of paralegals in the Department (with some comparative information from other jurisdictions), a discussion of the role of paralegals, an examination of the expressed demand for paralegal services in the Department, an analysis of the factors influencing the effective use of paralegals, a section discussing issues in managing the integration of paralegals into the Department, and a set of recommendations designed to help the Department in deciding on how best to use paralegals in the future.



## 2. METHODOLOGY

Our research for this study included the following elements:

1. a background review;
2. interviews;
3. surveys; and
4. expert review.

### 2.1 Background Review

The purpose of the background review was to provide broad background information on the paralegal function, to understand the full scope of services that paralegals could provide to the Department, to understand how paralegals currently function in the Department, to obtain a preliminary sense of Justice practices that may influence the way paralegals can (or are likely to) be used in the Department, and to arrive at an acceptable working definition of the paralegal function for purposes of the study. This background information equipped us to develop the survey instruments and interview guides for the remainder of our work.

The background review consisted of:

1. a review of available information on paralegals currently working in the Department, such as their job descriptions, their location, their classification and their backgrounds and experience;
2. a review of literature on paralegals;
3. interviews with Justice staff, including five managers, five paralegals and five support staff;

4. interviews with directors and trainers of paralegals at educational institutions; and
5. a review of study approaches and development of a working definition of paralegal functions.

All information in this report pertaining to the current complement of paralegals in the Department, their location and their job classifications, and information on the numbers, location and job classifications of lawyers, was obtained from the Personnel Management Information System, Human Resources Management Systems & Official Languages, Department of Justice. It is up to date as of January 1993.

## **2.2 Interviews**

The primary source of information for this study was interviews with a wide range of people with knowledge of the paralegal function or with knowledge about departmental functions in which there may be a role for paralegals. These were in addition to those interviewed for the background review. People interviewed included lawyers and paralegals with private sector law firms, independent private sector paralegals, provincial government officials with knowledge about paralegal functions, U.S. federal Justice officials and officials with U.S. paralegal organizations, Department of Justice Human Resources officials, current Department of Justice paralegals, Justice managers who use, or may be able to use, paralegals or who currently use support staff to fulfil paralegal functions, Justice lawyers and support staff, and people in the U.S. and Canada who train paralegals. In addition, three focus groups were conducted with paralegals in Ottawa and the regions to generate discussion about the issues we wished to examine. More information on the interviews conducted is appended to the report.

## **2.3 Surveys**

Two key foci of this study are the extent to which secretaries and other support staff may be fulfilling paralegal functions in the Department, and the extent to which it may be possible to make more extensive use of paralegals to assist lawyers, in order to allow lawyers to concentrate on more complex legal work. In order to have a stronger information base upon which to decide what the optimum use of paralegals might be, we conducted two mail surveys inside the Department; one survey of all lawyers in four sectors of the Department [Litigation (including

the regional offices), Civil Law, Public Law (with the exception of privy Council Office (Justice) and the Statute Revision Commission) and Legal Services], and one survey of secretaries and other support staff in those same sectors.<sup>3</sup>

The questionnaire for the survey of lawyers provided a list of tasks that had been determined through preliminary consultations to be potentially appropriate for paralegals. Respondents were asked to estimate the average number of hours per week that they spend on each of those tasks themselves, and the average number of hours per week of that time that they thought could be performed by a paralegal. The time that they indicated was appropriate for a paralegal was to be a proportion of the total time they spend themselves on each task. Time currently spent by paralegals in their office was not to be included in any of the figures they provided. This was explicitly stated in the instructions.

The questionnaire for the survey of support staff provided a list of potential paralegal tasks that might be performed by secretaries and clerks in the Department. It included some of the tasks in the lawyer survey, and some additional tasks that were supportive in nature and unlikely to be performed by lawyers. Respondents were asked to indicate the average number of hours per week that they spend on each task.

Both questionnaires also included a final question asking for additional comments about the tasks we had identified, or any other tasks that they considered relevant to the study. Both questionnaires were sent out with a cover letter explaining the purpose of the study and the survey itself, and instructions on how to complete the questionnaire. We anticipated possible difficulties in interpreting the tasks, and in differentiating between paralegal functions and those performed by support staff that should not be considered as paralegals, and made efforts to clarify those points.

Prior to distributing the questionnaires, we tested them with a sample of lawyers and support staff, and made a number of alterations based on the feedback we received. We also consulted with a number of lawyers and experts in the paralegal field, to ensure that the tasks we had identified were sufficiently comprehensive and appropriate for the two populations we were surveying. Copies of both questionnaires and the supporting material are appended to the report.

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<sup>3</sup> The mailing list was provided by the Department's Human Resources Directorate.

The questionnaires were distributed by internal mail to the respondents' offices in December 1992 and were received back by the Bureau of Review in January 1993 (a small number were received in February). The response rate for both surveys was about 60 percent. After cleaning the data and eliminating unusable responses, we were left with 542 lawyers and 298 support staff responses, in both cases well over 50 percent of the population we were studying. The data was analyzed using SPSS.

The responses to these two surveys provide estimates of time respondents spend on certain tasks. None of the respondents, to our knowledge, maintains a timekeeping system that would provide accurate breakdowns of time spent for the categories of work we were inquiring about. Thus, it is difficult for us to know the degree of accuracy of the estimates.

#### **2.4 Expert Review**

An expert in the paralegal field, R.W. Ianni, Commissioner of the Ontario Task Force on Paralegals and President of the University of Windsor, was retained at the outset of the study to provide guidance at critical points. At the end of the preliminary research, in preparation for the interviews and surveys, he reviewed the list of paralegal tasks we had developed and the overall study plan. He also reviewed the results of the study, to provide additional insights he had based on the findings.

### 3. CURRENT STATUS OF PARALEGALS IN THE DEPARTMENT

There are currently 71 paralegals in the Department of Justice. Table 1 provides a detailed breakdown of where in the Department these paralegals work. It also provides figures for lawyers and support staff in each office, and the ratio of lawyers to paralegals.<sup>4</sup>

We can see that the great majority of paralegals are with litigation groups, with the regional offices (including the Montreal regional office) accounting for two-thirds of the total. The Public Law Sector has no paralegals, and the Legal Services Sector has nine, including four assigned to the Canada Student Loans administration at Secretary of State. Of the sections with larger numbers of lawyers, the Montreal Regional Office, Ottawa-Hull Prosecutions and Civil Litigation at Headquarters stand out as having greater numbers of paralegals per lawyer than the others. The overall ratio of lawyers to paralegals in the Department is 16:1.

Since the regional offices are the major employers of paralegals in the Department, we have provided the figures for each office in Table 2.

Table 3 organizes staff into areas of law to provide a picture of the distribution that relates more directly to the types of legal work being performed. It shows that paralegals are used to the greatest extent in civil litigation. Criminal prosecutions offices average one paralegal for every ten lawyers, and tax litigation offices average 13 lawyers for every paralegal. The Department's commercial and real property practice has significantly fewer lawyers than the other areas, and has a lawyer to paralegal ratio of eight to one. Legal Services units, with a few exceptions, do not currently use paralegals.

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<sup>4</sup> All information in this report pertaining to the current complement of paralegals in the Department, their location and their job classifications, and information on the numbers, location and job classification of lawyers, was obtained from the Personnel Management Information System, Human Resources Management Systems & Official Languages, Department of Justice. It is up to date as of January 1993.

<b>Table 1</b>				
<b>Ratio of Lawyers to Paralegals by Sector</b>				
<b>Sector</b>	<b>Total Para-Legals</b>	<b>Total Lawyers</b>	<b>Total Support Staff</b>	<b>Ratio Lawyers to Paralegals</b>
<b>Litigation Sector</b>	<b>44</b>	<b>429</b>	<b>349</b>	<b>10:1</b>
Regional Offices	32	338	260	11:1
Litigation - Non-Regional	12	91	89	8:1
Ottawa Hull Prosecutions	1	8	2	8:1
International Assistance Group	2	3	2	2:1
Crimes Against Humanity & War Crimes	1	10	22	10:1
Civil Litigation	6	22	22	4:1
Tax Litigation	2	22	15	11:1
<b>Civil Law Sector</b>	<b>18</b>	<b>142</b>	<b>118</b>	<b>8:1</b>
Regional Office (Montreal)	15	93	71	6:1
Civil Law - Non-Regional	3	49	47	16:1
Civil Lit & Real Property Law (Quebec)	2	11	6	6:1
Nat. Prog. for Integration of Two Languages	1	1	1	1:1
<b>Departmental Legal Services Sector</b>	<b>9</b>	<b>397</b>	<b>32</b>	<b>44:1</b>
Commercial Law & Adv. Services Group	1	7	3	7:1
Property Law Group	1	5	2	5:1
Health and Welfare	1	11	-	11:1
International Trade (JUT)	1	5	-	5:1
Public Works	1	8	-	8:1
Secretary of State	4	11	2	3:1
<b>Public Law Sector</b>	<b>-</b>	<b>120</b>	<b>70</b>	<b>-</b>
<b>All Other Sectors</b>	<b>-</b>	<b>70</b>	<b>522</b>	<b>-</b>
<b>TOTAL</b>	<b>71</b>	<b>1,158</b>	<b>1,091</b>	<b>16:1</b>

<b>Table 2</b>				
<b>Ratio of Lawyers to Paralegals by Region</b>				
<b>Regional Offices</b>	<b>Total Para-Legals</b>	<b>Total Lawyers</b>	<b>Total Support Staff</b>	<b>Ratio Lawyers to Paralegals</b>
<b>Edmonton</b>	<b>5</b>	<b>54</b>	<b>49</b>	<b>11:1</b>
Civil Litigation	1	7	4	7:1
Criminal Prosecutions	2	14	7	7:1
Real Property & Commercial Law	1	8	5	8:1
Tax Litigation	1	20	11	20:1
<b>Halifax</b>	<b>4</b>	<b>19</b>	<b>17</b>	<b>5:1</b>
Civil Litigation	1	5	2	5:1
Criminal Prosecutions	1	8	5	8:1
Real Property & Commercial Law	1	1	1	1:1
Tax Litigation	1	4	2	4:1
<b>Montreal</b>	<b>15</b>	<b>93</b>	<b>71</b>	<b>6:1</b>
Civil Litigation	10	48	29	5:1
Criminal Prosecutions	3	19	9	6:1
Tax Litigation	2	24	8	12:1
<b>Saskatoon</b>	<b>2</b>	<b>12</b>	<b>11</b>	<b>6:1</b>
Criminal Prosecutions	1	4	1	4:1
Real Property & Commercial Law	1	4	3	4:1
<b>Toronto</b>	<b>13</b>	<b>122</b>	<b>89</b>	<b>9:1</b>
Civil Litigation	5	44	33	9:1
Criminal Prosecutions	4	33	18	8:1
Real Property & Commercial Law	1	10	8	10:1
Tax Litigation	3	31	10	10:1
<b>Winnipeg</b>	<b>1</b>	<b>21</b>	<b>11</b>	<b>21:1</b>
Civil Litigation	1	8	1	8:1
<b>Vancouver</b>	<b>5</b>	<b>86</b>	<b>65</b>	<b>17:1</b>
Civil Litigation	2	15	17	8:1
Criminal Prosecutions	1	27	13	27:1
Real Property & Commercial Law	1	18	9	18:1
Tax Litigation	1	24	9	24:1
<b>Winnipeg</b>	<b>1</b>	<b>21</b>	<b>11</b>	<b>21:1</b>
Civil Litigation	1	8	1	8:1
<b>Yellowknife</b>	<b>2</b>	<b>16</b>	<b>9</b>	<b>8:1</b>
Civil Litigation	2	4	2	2:1
<b>TOTAL</b>	<b>47</b>	<b>431</b>	<b>331</b>	<b>9:1</b>

Area of Law	Total Para- legals	Total Lawyers	Total Support Staff	Ratio Lawyers to Paralegals
Civil Litigation <sup>5</sup>	30	167	118	6:1
Criminal Prosecutions <sup>6</sup>	16	162	104	10:1
Commercial & Real Property Law <sup>7</sup>	7	58	36	8:1
Tax Litigation	10	129	56	13:1
All Other Areas <sup>8</sup>	8	642	777	80:1
<b>TOTAL</b>	<b>71</b>	<b>1,158</b>	<b>1,091</b>	<b>16:1</b>
<b>N.B. Figures exclude Senior Manager from Regional Offices</b>				

### 3.1 Paralegal Classifications

Table 4 shows the areas of law that paralegals work in, broken down by classification. As can be seen in Table 4, paralegals in the Department range in classification from SI-1 to SI-6. Of the 71 now employed, 48 (two-thirds) are SI-1s or SI-2s. There are currently six SI-4s and three SI-6s.

<sup>5</sup> Includes Iqaluit and Inuvik Sub-Offices.

<sup>6</sup> These figures include all Whitehorse Regional Office lawyers, including a small number working in civil litigation or real property and commercial practices. This is because the Department's Human Resources database does not break this office down into component collator codes.

<sup>7</sup> Includes Commercial Law & Advisory Services Group and Property Law Group (Legal Services Sector).

<sup>8</sup> Includes Paralegals from: (A) Departmental Legal Services Units: International Trade (JUT)(1), National Health & Welfare (1), Public Works Canada - 1, Secretary of State (4), (B) National Program for the Integration of Two Official Languages (1).



<b>Table 4</b>						
<b>Classifications of Paralegals by Areas of Law</b>						
<b>Area of Law</b>	<b>SI-1</b>	<b>SI-2</b>	<b>SI-3</b>	<b>SI-4</b>	<b>SI-6</b>	<b>TOTAL</b>
Civil Litigation <sup>9</sup>	8	9	6	5	2	30
Criminal Prosecutions	3	12	1	-	-	16
Commercial & Real Property Law <sup>10</sup>	-	1	5	-	1	7
Tax Litigation	2	7	-	1	-	10
Other Paralegals:	-	-	-	-	-	-
Nat. Prog 2 Lang.	1	-	-	-	-	1
LSUs	-	5	2	-	-	7
<b>TOTAL</b>	<b>14</b>	<b>34</b>	<b>14</b>	<b>6</b>	<b>3</b>	<b>71</b>

### 3.2 Paralegal Training and Education

Complete information on the education and work experience of paralegals in the Department was not available to us for this study. However, we did interview 20 paralegals during the course of the study, and were thus able to obtain some information in this regard. As well, we obtained considerable information about the training that is generally available to paralegals, and the views of managers and paralegals in and outside the Department about what qualifications and skills are necessary to be an effective paralegal. The latter issues are discussed later in the report as part of the examination of the factors influencing the use of paralegals and our consideration of how best to manage the process of integrating paralegals into the Department.

Most of the paralegals we spoke to came from legal secretary backgrounds. Many have completed or are in the process of completing the two-year Legal Assistant Program offered by community colleges. In the Toronto area, some of the paralegals are completing courses through the Institute of Law Clerks. These courses are available through local community colleges.

<sup>9</sup> Includes Iqaluit and Inuvik Sub-Offices Includes Civil Litigation & Real Property Law (Quebec).

<sup>10</sup> Contains Commercial Law & Advisory Services Group and Property Law Group (Legal Services Sector).

A few paralegals have completed Bachelor and/or Masters programs at university (e.g., in Law, Economics, Library Science and English) or taken non-law-related courses at the university or college level. Most paralegals in the Department had government working experience prior to being hired as paralegals (in either administration or clerical or secretarial positions) and a few had worked as law clerks with private firms.

### **3.3 Functions Currently Performed by Paralegals**

Paralegals in the Department see themselves as part of a legal team: working in a substantive area of the law and providing legal assistance, "complementing" the work of lawyers and reducing their leg-work by collecting evidence, researching and handling documents, thereby allowing the lawyers to concentrate on the legal issues or "doing the law". Although a few paralegals may be involved in their own case work, the majority of paralegals are involved in the preparation and processing of legal documents, and are particularly familiar with the procedural aspects of the law. Paralegals indicated that it is important for them to know the law and be able to define legal issues for purposes of research and, in the case of litigation, in order to know the general direction a case is likely to take.

Paralegals are often involved from start to finish with a particular case or file and must be familiar with the legal and factual issues of the case/file. In contrast, most secretaries are involved in isolated steps of a file and are not required to know the specifics of the file. Paralegals told us that routine typing and photocopying, scheduling lawyer appointments, style changes, and formatting of legal documents and correspondence were secretarial responsibilities. Few paralegals have secretaries assigned to them although, when assigned to a particular lawyer, some paralegals use the services of the lawyer's secretary. In general, paralegals often perform their own support functions.

The following is a listing of the tasks that paralegals in the Department told us they perform.

1. **Conducting Legal Research, including:**

- collecting information and evidence;
- conducting document searches: attending to various registries for documents or information (e.g., taxes, certificate of status, title searches, corporate searches)
- conducting historical searches

- for litigation: defining legal issue to know direction the case will take
  - reviewing case law using Quick Law.
2. **Preparing Legal Documents, which includes:**
- filling in forms for registry office
  - preparing motions, affidavits, statements of claim, replies (tax court)
  - checking documents for accuracy
  - drafting legal opinion
3. **Analyzing Documents, including:**
- appeals (tax), statements of defence, evidence
4. **Attending Various Courts, including:**
- tribunals (e.g., coroner's inquest)
  - small claims and informal procedures court
  - speaking to uncontested motions (Ontario), and
  - attending examinations for discovery, judgement debtor examinations
5. **Maintaining Opinion and Legal Libraries, which includes:**
- collecting information, indexing it, entering it into electronic database
  - ordering books and filing periodicals
6. **Scheduling**
- court, limitation periods, responses, searches (for real estate closings)
7. **Conveyancing**
- land transfers, purchases, leasing, and
  - preparing complete file with exception of requisitions
8. **Interviewing and Advising Clients and Witnesses**

9. **Instructing Agents**

10. **Preparing Briefing Notes and Case Summaries**

The paralegals we interviewed confirmed what we understood from other sources to be true - that is, that paralegals **do not**:

1. **Sign Legal Opinions or Legal Proceedings**

- can research, review and draft only
- ultimate responsibility is the lawyers'

2. **Give Legal Advice**

- can advise on legal procedures

3. **Interview Witnesses (Criminal Law)**

4. **Plead Cases in Court**

- with the exception of Small Claims and Informal Procedures Courts, and tribunals.

**3.4 Areas of the Law**

Based on interviews with paralegals and managers, and a review of job descriptions of paralegals, we prepared the following account of the activities undertaken by paralegals in each major area of the law. This is of interest because there are some distinct differences in the knowledge base and types of skills required.

**3.4.1 Litigation**

To assist litigation counsel, paralegals take part in a wide range of duties and will often see a case through from beginning to end. Paralegals help manage the various stages of litigation and may assist in analyzing and assessing the facts of a case and identifying the legal problems.

They must keep abreast of new or amended legislation and regulations as they relate to current activities.

The primary activities of a litigation paralegal are: analyzing and collecting evidence; doing legal research; drafting pleadings and other legal documents; ensuring the timely filing of replies and other court documents; co-ordinating trials; interviewing witnesses and experts; organizing and preparing exhibits; conducting judgement debtor examinations; assisting at examinations for discovery and trials; following up on undertakings; preparing substantive correspondence; and preparing briefing notes and case summaries. Paralegals who conduct their own cases in Informal Procedures Court or Small Claims Court will also determine and organize questions for cross-examination; present the case to court; and recommend and negotiate settlements.

Some litigation paralegals also maintain precedent databases and procedural manuals, maintain computerized databases on case management and case development, provide computer-assisted litigation support, participate in the training of articling students, attend at tribunals, manage garnishment registries, and prepare statistical and liability reports.

#### **3.4.1.1 Civil Litigation**

In Civil Litigation, paralegals handle non-complex litigation files involving claims by or against the Crown and its agencies in a number of areas of law. Cases include motor vehicle accident claims, personal injury claims, property claims, basic contract cases and collection matters. Paralegals also assist legal counsel in the preparation and conduct of more complex litigation cases. Paralegals must have a working knowledge of statute law and case law and the principals of contract law. Some of the acts that paralegals will work with include: *Crown Liability Law*, *Small Claims Court Act*, *Motor Vehicle Act*, *Insurance Act*, and the *Statute of Limitations*.

#### **3.4.1.2 Tax Litigation**

Paralegals working in tax litigation assist in the preparation of cases before the Tax Court, Federal Court and Supreme Court of Canada. Paralegals can also conduct cases in the Informal Procedures Division of the Tax Court (cases under \$7,000). The work involved requires knowledge of a variety of Acts such as: the *Tax Court of Canada Act*, the *Federal Court Act*,

the *Department of Justice Act*, *Supreme Court of Canada Act*, *Income Tax Act*, and the *Unemployment Insurance Act*.

### **3.4.1.3 Criminal Prosecutions**

Paralegals working in Criminal Prosecutions can play an important role in the co-ordination of a variety of legal activities. With strict time limitations and high volumes of prosecution case files, paralegals can assist in maintaining accurate and thorough date-tracking systems and liaising with prosecution and defence lawyers, agents, court personnel, investigative agencies, client departments and foreign officials, in order to facilitate the execution of requests and ensure prompt and accurate legal action. Paralegals are required to know criminal court procedures and rules, rules of evidence in criminal litigation, *Criminal Code* provisions, the *Mutual Assistance Act*, and other related statutes and treaties.

Some of the activities these paralegals are involved with include: organizing and maintaining Provincial Court prosecution files; maintaining B/F systems and detailed date diaries; processing requests for inter- and intra-provincial transfer of charges on guilty pleas to federal prosecutions; processing requests for extraditions; processing requests for letters rogatory and mutual assistance from foreign courts; scheduling court appearances and organizing trials; conducting legal research; assisting in the conduct of investigations and preparing evidentiary materials; analyzing legal documents; preparing pleadings and other legal documents; assisting at case hearings; arranging and assisting in the interviewing of witnesses; administering admissions of service on court documents; organizing and maintaining computer factum libraries, computer precedents and case management systems; and instructing agents and other officials. Some paralegals also assist managers in allocating and distributing cases to in-house counsel.

### **3.4.2 Commercial and Real Property Law**

Paralegals working in commercial and real property law conduct real estate transactions relating to the acquisition, disposal, expropriation, leasing and exchange of Crown land. The work requires an in-depth knowledge of procedures followed in land acquisitions and exchanges and knowledge of a variety of acts and regulations such as the *Land Title Act* and Regulations, *Property Purchase Tax Act*, *Personal Property Security Act*, *Company Act*, *Expropriation Act*,

Government Land Purchase Regulations, and other provincial and federal statutes relating to property and commercial transactions.

The primary functions of paralegals working in commercial and real property law are: preparing all routine conveyance documents and correspondence; assisting in complex conveyances; conducting title searches (i.e., determining if any liens or encumbrances exist, and preparing abstracts of title); completing and processing all necessary legal documents for the purchase or sale of real property; ensuring accurate and timely filing and execution of legal and other documents; requisitioning funds from client department and ensuring funds are available at time of closing; attending to closing procedures at Land Title Office; appointing and instructing legal agents; reviewing and taxing legal agents' accounts; preparing briefs; conducting legal research; and preparing security and commercial documents (e.g., promissory notes, realty mortgages, assignments of lease).

The remainder of this report presents the findings of our study of the role of paralegals, the demand for additional paralegals services in the Department, and the issues involved in considering whether and how to enhance the role of paralegals.

## 4. THE ROLE OF PARALEGALS

To examine possible roles for paralegals, we interviewed a wide range of paralegals and managers in the Department of Justice and outside the federal government, including people from: the Ontario provincial government, the Ontario Branch of the Canadian Bar Association, paralegal associations in Ontario and the U.S., Legal Services for Regional Municipality of Ottawa Carleton, private sector law firms in Ottawa and Toronto, and the Department of Justice in the United States.

The issue of the role of paralegals appears to be largely centred on the level of professionalism accorded to and expected from paralegals. To a certain extent, this depends on the qualities of individual paralegals and the management and lawyers in individual offices. However, our examination of practices outside the Department indicate that there are ways in which management can foster a higher level of professionalism, and that paralegals are valued most highly in offices where this is done.

### 4.1 The Private Sector

In the private sector, the use of paralegals varies widely depending on the size of the firm and the attitudes of management about the appropriate level of responsibility for paralegals. We interviewed partners, paralegal supervisors and senior paralegals in three large firms in Toronto, each employing 50-60 paralegals. In each case, paralegals are considered to be professional employees who contribute greatly to the work of the firm. Their work is considered to be vastly different from that of support staff, and in most cases they have support staff themselves for their secretarial and clerical needs. All of the paralegals we interviewed had a high level of responsibility and extensive experience and training. Training is not directly provided by the firms, but firms supported any self-identified requirements for training or membership in professional organizations. Paralegals draw high salaries, but are expected to contribute to the profitability of the firm, and ultimately are judged on their ability to perform and contribute to billable hours. The focus on the profitability associated with using paralegals provided a direct



incentive to use paralegals rather than clerical tasks. As well, at least one firm used other mechanisms to ensure an adherence to professionalism such as: routing the assignment of paralegals to lawyer requests for assistance through the paralegal supervisor, and an extensive yearly performance appraisal of paralegals that evaluated their contributions to the firm and their failures in the past year.

In the private sector firms, paralegals were expected to work whatever hours were required for the successful completion of a project, and all reported regularly working long hours. Morale was reported to be high and paralegals were said to have a real sense of solidarity.

#### **4.2 U.S. Department of Justice**

In the U.S. Department of Justice, we interviewed managers, paralegal supervisors and senior paralegals in the Civil Trial Section of the Tax Division, the Torts Branch in the Civil Division, and the Fraud Section of the Criminal Division. We also interviewed the Director of Training for the Tax Division. Views on the appropriate role of paralegals in the U.S. Department of Justice varied greatly in the three sections. In the section of Tax Division where we conducted interviews, senior paralegals are expected to complete assignments with little or no supervisory guidance. They do provide their own support, but under no circumstance are expected to provide any clerical support functions to lawyers. Their professional skills and approach to their work are recognized and used to advantage by lawyers. As well, several tools are used to ensure paralegals are not used inappropriately such as: performance work plans, progress review records, performance achievements, individual element ratings, employee appraisal records, and the support of the paralegal supervisor and chief of the section. This emphasis on professionalism for paralegals is reflected in the low turnover and high morale of paralegals, and in the requirement for a high level of education in potential paralegals and the Division's commitment to ongoing training such as the use of in-house training provided by the Department and the development of section-specific courses for paralegals (about five per year on average).

In the Torts Branch in the Civil Division legal assistants are engaged as well as paralegals. Legal Assistants are very junior assistants engaged to fill the gap between the skills of secretaries and paralegals. In the Washington area, government salaries for secretaries are significantly lower than those offered in the private sector, and, as a result, the government has, for the most part, only been able to attract and retain secretaries with very few skills. Legal assistant positions have been developed in this section to bridge the gap between secretary skills and the work

appropriate to paralegals. Even with this high division of labour, the expectations on the part of lawyers in the section for professionalism from paralegals are not uniform. The Paralegal Supervisor and the Section Director said that paralegals in the section feel that they are underutilized and that morale is low. Aside from its recent plans to develop an extensive training program, the Branch has provided few resources for the training of paralegals. Until recently the identification of training requirements was the responsibility of each individual. No courses were offered for paralegals at the Branch level, paralegals were largely excluded from courses offered to lawyers, and training money was almost exclusively spent on Branch secretaries and lawyers. In the past there were few requirements for formal education for paralegal candidates. The Branch is in the process of changing this policy as part of its overall review of the use of paralegals, and is now committed to recognizing the professional role of paralegals and ensuring that they are provided with training to foster this approach.

In the Fraud Section of the Criminal Division, the level of professionalism expected of paralegals appears to be somewhere in between that articulated in the interviews in the Tax Division and the Civil Division. The Paralegal Supervisor and the Deputy Chief of the Section are united in requiring a high level of professionalism of paralegals, and in attempting to ensure that Section lawyers recognize and take advantage of the available skills. The Section has moved from direct assignment of paralegal tasks by lawyers to a centralized function where the Paralegal Supervisor reviews all tasks and makes assignments. This has greatly decreased the use of paralegals for clerical tasks. However, there appears to be an ongoing tension between the management responsible for paralegals and Section lawyers. Paralegals are still not given enough professional work. Lawyers do not appear to know how to work with paralegals. Lawyer turnover in the section is high and it is felt that the ineffective use of paralegals in the private sector in Washington is carried by these lawyers into their new jobs in the government. The paralegal supervisor has begun one-on-one training with lawyers to educate them in the proper use of paralegals.

The U.S. Department of Justice as a whole has recently endorsed the professional approach to paralegals, and has developed a new recruitment and training program to attract highly educated people to the Department.

### **4.3 Department of Justice, Canada**

In the Department of Justice, Canada, there does not generally appear to be a clear distinction made, in practice, between paralegals and support staff. Some managers said their paralegals were previously secretaries, and that they considered their background or experience sufficient for them to do the kinds of junior paralegal tasks they wanted done. Others said paralegals end up doing a lot of administrative and secretarial work, and junior paralegal work, in part because that is what they did as secretaries, and this is how lawyers are accustomed to using them. As well, they said that because there are not enough secretaries, paralegals often end up being drawn to meet the demand for that kind of support. In some cases, it was reported by managers that secretaries who had been promoted to paralegals still did largely secretarial tasks because they either were not able or not willing to take on paralegal tasks.

Some managers in the Department who support a more professional approach pointed out that lawyers are not accustomed to using paralegals and do not recognize the difference between paralegal and legal secretaries. They noted that lawyers sometime have well-established relationships with secretaries who perform certain junior paralegal tasks, and they are reluctant to change their habits. As well, lawyers typically do not feel any pressure to use paralegals differently than they would legal secretaries.

This is not to suggest that paralegals are used ineffectively throughout the Department. To the contrary, the managers we interviewed cited numerous cases of paralegals who provide a high level of professional service, and whose work is by no means of a secretarial or clerical nature. These paralegals can serve as models for the direction the paralegal function should move in.

### **4.4 Qualifications of Paralegals**

It is clear that the question of qualifications is closely related to the issue of what role paralegals should play in the office.

To examine the issue of what qualifications are necessary for a paralegal we spoke to managers who currently work with paralegals, to paralegals in the Department and outside, to trainers of paralegals and to managers in the Department who have little experience with paralegals, but who saw a potential value in their use.

From the interviews four qualifications emerged as being considered important, but no consensus exists on which qualifications are most important. The four are: formal paralegal training; any experience in the law office; in-house paralegal training; and, a university education.

We noted earlier that some, but not all, of the Department's current paralegal contingent have formal paralegal training from a recognized college program. This training received mixed reviews from the managers we spoke to. Some considered it absolutely essential. From their point of view paralegals without such training could only be glorified secretaries; they could do some junior paralegal tasks, but could not be relied upon to do the full range of tasks appropriate to paralegals. They considered that paralegals should be viewed as more distinct from secretaries than they often are; that the two roles are very different and that a paralegal needs to have an understanding of the law, the Justice system, and court systems and procedures. In their experience, secretaries promoted to a paralegal position are generally limited in this regard.

Other managers said that existing training courses simply do not meet their needs; that paralegals out of college still have to be fully trained in-house because college programs are too narrow in focus. There is a perception among some managers that college training courses focus on real estate conveyancing and other technical subject matters, and not enough on the basics of Canadian law, criminal procedure and other subjects important to their work. These managers often felt that secretaries with some in-house paralegal training were better equipped to assist lawyers because they already knew how the office operated and were familiar with the documents they had to handle.

Perceptions regarding the appropriate role for paralegals influence the extent to which managers are prepared to invest in training paralegals. There is little doubt that a secretary with considerable experience in a law office will require less up-front training than a newly recruited, college-trained paralegal, in order to perform junior paralegal tasks. On the other hand, someone with formal paralegal training, and particularly one with a university degree as well, will be far more likely in the long run to be able to cope with paralegal tasks that require a greater knowledge of the law and related systems and procedures, and analytical abilities, than a secretary with no formal training.<sup>11</sup>

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<sup>11</sup> We note here that some cases were cited during interviews of secretaries who have become exemplary paralegals in the Department without formal training outside the Department; these are unusual exceptions, but they point to a need for a certain amount of flexibility and manager discretion in applying requirements for qualifications.

If managers and lawyers perceive the role of paralegals as being only marginally different from secretaries, or if the work in the office simply does not lend itself to more advanced paralegal services, it stands to reason that the manager would be reluctant to invest the time training an educated paralegal instead of making use of the experience already available from secretaries in the office. If, however, paralegals are viewed more as a distinct professional group more closely aligned with lawyers than with secretaries (as is most often the case in the private sector, and was the case in the offices in the U.S. Department of Justice that we visited), formal paralegal training is universally viewed as necessary, and a university education is considered an important asset.

#### 4.5 Conclusions

There is a diversity of opinion among managers in the Department about the appropriate role of paralegals and whether they should be more aligned with lawyers than secretaries in terms of their responsibilities. The practice in larger firms in the private sector, and in some divisions in the U.S. Department of Justice, is to establish paralegals as professionals assisting lawyers in the full range of functions they perform, and to provide them with secretarial and clerical support as is done with lawyers. Paralegals are formally trained and educated, are paid substantially more than support staff, and are expected to perform and take responsibility accordingly.

We know from our consultations that many secretaries and clerks in the Department perform junior paralegal functions, and that some managers prefer to use paralegals who have previously been secretaries. Other managers consider that this approach blurs the line between paralegals and secretaries, and results in people with paralegal classifications doing large amounts of secretarial and administrative work, and being ill-equipped to provide the kind of legal assistance that lawyers in the Department require.

Ultimately, the goal in establishing a division of labour is to optimize productivity and the cost-effective use of resources. Our analysis in the Department and elsewhere points strongly to the conclusion that in most law offices there is a body of work that cannot be performed adequately by secretaries or clerks, and that is not cost-effective to direct to lawyers. This conclusion is supported powerfully in the findings of our survey of lawyers, which are presented in the next chapter. In addition, there is work of a "junior paralegal" nature that can be (and is currently being) performed by some senior secretaries. This kind of work can be performed by paralegals, but in most offices will be most cost-effectively carried out by senior secretaries that have the appropriate experience and/or training.

Through our extensive consultations with lawyers, managers, paralegals and support staff no widely accepted definition of "paralegal" emerged. This is in part because the way paralegals are employed depends to a large extent on the nature of the legal work an office conducts. This is particularly pronounced in an environment such as the Department of Justice, where law practices vary widely both between and within the four Sectors. However, we did encounter a number of ways of thinking about the differences between paralegals and secretaries that are helpful. The definition we cited earlier in the report refers to paralegal work as "delegated substantive legal work" that would otherwise be performed by a lawyer. Secretaries do not perform legal work because they are not required to make judgements based on knowledge of the law and legal procedures. The definition includes in paralegal work "the compiling and recording of information ... with a view to providing a base of knowledge on which informed advice and direction may be given; and the drafting, completion and proper filing, registration or proper execution of legal documentation which will implement or effect the legal services." The key is that work appropriate to paralegals should be contributing substantively to the provision of advice or direction or to the execution of legal services, or actually implementing legal actions or legal services. Secretarial work, on the other hand, contributes primarily to the production and distribution of documents, the physical organization of files and documents within the office, and assistance in the management of lawyers' and paralegals' schedules.

Another way of viewing the distinction is that paralegals are often involved in cases or files from start to finish, and must be familiar with the legal and factual issues. In contrast, secretaries are generally involved in isolated aspects of a file, and are not required to know the specifics of the file.

In the private sector, we found clear distinctions made between paralegal and office support functions, and in fact paralegals had access to secretarial and clerical support to the same extent that lawyers did. Paralegals were teamed with lawyers as substantive contributors to the delivery of legal services, whereas support staff provided generic office support. Paralegals were appraised based on their ability to contribute to billable hours. While billable hours do not apply in the public sector at present, the idea of responsibility for outcome does apply. Secretaries can be appraised according to the accuracy and speed of their work, but they are not responsible for the quality and quantity of legal work that is conducted, whereas paralegals, as part of the legal team, can be held accountable.

Despite these distinctions, there are inevitable grey areas, just as there are between the roles of paralegals and those of articling students or junior lawyers. The reality is that some matters

handled in a law office are more complex than others; some require more legal knowledge and experience, some require less. Thus, some work that fits into the above-described definitions of paralegal work is routine and can be performed by a secretary. As well, individuals, whether they are trained as paralegals or secretaries, vary widely in their capabilities and ambitions.

In every case, it is desirable to have employees work at the maximum level that they are capable of. The value of drawing distinctions between paralegals and support staff is to identify the maximum that each is capable of, and encourage their employment where they will be most cost-effective.

Our analysis suggests that the Department should be moving to optimize the mix of staff in its offices, by making secretaries, paralegals and lawyers available such that staff in each of those positions are fulfilling roles appropriate to their qualifications and experience. Lawyers should not, in general, be doing work that paralegals are qualified to do, and paralegals should not be doing work that secretaries are qualified to do. If they are, the Department is not making cost-effective use of its resources.

To accomplish the optimum mix of staff, the Department will need first to establish paralegals as a professional group that assists lawyers in performing lawyers' work, rather than providing general office and administrative support. The Department should also establish qualifications standards that will ensure that paralegals have formal legal training, and that reward people with university education. The standards should not exclude secretaries from upgrading themselves to paralegal status, but should place the onus on them to obtain the necessary qualifications.

At the same time, the Department needs to continue to recognize that many secretaries do junior paralegal work, and that some offices require this level of paralegal support and may not require professional paralegal support. Consideration could be given to establishing a "senior legal secretary" classification (perhaps the SCY-3 level as it currently exists could be formally recognized as a "senior legal secretary" position). The approach with secretaries, as with paralegals and lawyers, should be to encourage them to do work up to a level commensurate with their qualifications, experience and capabilities, to provide opportunities for advancement within the limits of their capabilities, and to provide sufficient mobility within the Department to allow for that advancement.

The policies required to implement these changes can be developed and put in place in relatively short order, but the changes themselves should be implemented gradually. Managers and lawyers

will need to learn how to use "professional" paralegals effectively, and how to manage the division of labour between lawyers and paralegals, and between paralegals and support staff. Secretaries and others interested in pursuing a paralegal career will have to be given the opportunity to qualify themselves, and the Department will have to develop a plan to attract the best available paralegals and a training plan tailored to the specific needs of the Department to integrate them into the Department and to ensure that both paralegals and senior legal secretaries are used as effectively as possible.

In Chapter 7, we examine issues pertaining to the resourcing and training of paralegals. First, however, we will present our findings about the expressed demand for paralegal services in the Department.



## **5. DEMAND FOR PARALEGALS**

In this section of the report, we examine our findings on the demand for paralegals in the Department of Justice. The research examined current functions being performed by lawyers and support staff, with a view to identifying functions that may be appropriate for paralegals. In this section we look first at the division of labour between lawyers and paralegals, and then the division of labour between support staff and paralegals.

### **5.1 Division of Labour Between Lawyers and Paralegals**

In considering the division of labour between lawyers and paralegals, we consulted with a broad range of managers, including those in the regional offices. We also met with 20 of the 71 paralegals currently employed in the Department, and some support staff that work in the same office as paralegals. We consulted outside the Department with lawyers, managers and paralegals in the Ontario government, the U.S. Department of Justice, and private sector law firms, with leaders of paralegal associations, and with institutions that train paralegals. Finally, we conducted a survey of the great majority of lawyers and managers in the Department.

The findings are described in detail below. We examine first the level of demand for paralegal services, and then the nature of that demand.

#### **5.1.1 Level of Demand for Paralegals**

One measure of the extent to which paralegals could play an increased role in the Department is the expressed demand for their services by lawyers. This is by no means the only measure since, as we will see, it relies on lawyers having a full understanding and appreciation of what paralegals can do, previous exposure to paralegals and the quality of any previous experiences, and a clear idea of how their own time is spent (which is often not as apparent as we think it is). In addition, lawyers in the Department do not generally work independently of other lawyers, so

individual assessments of demand for paralegals do not together necessarily reflect an accurate level of overall demand in an office, or in the Department as a whole. Nevertheless, lawyers' expressed demand for paralegal services can be taken as a significant indicator of a potential role for paralegals in the Department.

Our assessment of the demand for increased paralegal services in the Department is based on the results of the survey of lawyers and interviews with managers and a small number of non-manager lawyers. Both the survey and interviews indicated a strong interest in making more extensive use of paralegals, albeit with a number of specific limits and criteria as to the kinds of tasks considered appropriate for them to perform (these are discussed later in this section). Interviews with Justice managers indicated almost universal support for the increased use of paralegals, but only a moderate increase -- on average, one or two in each office.

Lawyer responses to the survey indicated a much greater potential use for paralegals. The survey asked lawyers to indicate how much time they spent in an average week on particular activities. The tasks are presented below:

- Managing Case Files, Opinion Files
- Preparing Litigation Reports, Legal Trend Reports, Other Summary Reports
- Conducting Records Searches, Collecting Evidence, Investigating Claims
- Conducting Discoveries
- Interviewing Clients or Other Parties (other than in discoveries)
- Attending Meetings with Clients or Other Interested Parties
- Conducting Legal Research
- Analyzing Facts/Evidence, Defining Legal Issues
- Preparing and Reviewing Pleadings, Facts, Contracts, Other Legal Documents
- Preparing and Reviewing Opinions, Briefing Notes, Case Summaries, Other Texts
- Drafting, Editing Correspondence
- Instructing Agents or Other Officials
- Conducting Negotiations
- Making Court/Regulatory Board Appearances

They were then asked to indicate how much of that time spent on those activities could be performed by a paralegal. The time that they indicated could be spent by paralegals was some proportion of the time they currently spend on the tasks themselves. Time currently spent on these tasks by existing paralegals is not included in the figures, because the lawyers are not

currently spending that time. Thus, the figures represent lawyers' assessment of incremental demand, rather than overall demand. Lawyers indicated that they currently spend on average, 40 hours a week on the tasks included in our survey and that paralegals could perform about 25 percent of this work.

Care must be taken in interpreting this latter figure, since the tasks we included on the list do not necessarily represent all tasks currently being performed by lawyers. However, the fact that, on average, lawyers spent 40 hours per week on these tasks and the fact that fewer than ten percent of lawyers indicated that they spent fewer than 30 hours per week on the tasks listed suggests that the list of tasks incorporated the great majority of work performed by lawyers.

The number of hours of work considered appropriate for paralegals is significant, irrespective of the proportion of lawyers' time that it represents. The number of lawyers responding to the survey represents close to half of all lawyers in the Department. Their responses indicate that the lawyers in our sample are spending more than 4,500 hours of work per week on these tasks. Doubling that figure to account for the 50 percent sample, we arrive at roughly 250 person-years of work on these tasks.

Of course, this does not indicate that the Department should hire 250 paralegals. The figures that lawyers provided us with indicate that a significant proportion of their work is not fully demanding of their legal expertise and experience, but few professionals are challenged consistently through 40 hours of work each week. As well, it is one thing to estimate amounts of time you spend on tasks that could be performed by someone else, but quite another to find an efficient way to transfer that work to the other person and have confidence that it will be performed to your standards.

We will discuss the implications of these and other issues later in the report. However, despite these caveats, and those mentioned at the beginning of this section, respondents made it clear that there is a considerable amount of work performed in the Department that would be appropriate for paralegals -- well beyond the magnitude currently performed by that group. We will see when we discuss paralegals in relation to support staff that this finding is further substantiated.

The survey responses were not restricted to the number of hours indicated by the lawyers. Many lawyers also provided us with additional comments about the need for paralegals and how they could best be used. About half of the lawyers surveyed made additional comments, the majority of which expanded on the utility of paralegals for specific tasks without offering any overall

assessment of their use. However, more than 30 percent of the comments were by lawyers strongly in favour of increased use of paralegals, including some who currently have paralegals available and saw great benefit in further enhancing their role. Comments typical of this group include:

"Paralegals are excellent. We need more on the team to make the work more efficient."

"I...endorse and support their use for many, if not all, of the above activities. It is clear that for practical and fiscal reasons, the department should be looking to paralegals to improve efficiency."

"I am of the view that paralegals are underutilized by our department. Many of the tasks handled by litigation counsel can be performed more effectively by legal assistants or paralegals. Our experience in [our regional office] is that our access to paralegal support is limited."

"With research training, I believe that further tasks could be delegated to paralegals, of course utilizing proper supervision guidelines. I am strongly in support of great use of paralegals."

"Strongly support concept and my section can certainly benefit."

"A great deal of my professional time could be saved by using a paralegal."

"A senior paralegal could assist senior counsel almost to the same extent as a junior lawyer. As a lawyer ... with 23 years call, I find it offensive that I have to do many routine things the same way I did 20 years ago. I would be more productive and my expertise could be greater utilized by the Department if I had the regular assistance of a paralegal."

"Our paralegal provides excellent drafting services. She also maintains a valuable precedent system and acts as a 'problem solver'. I would use a paralegal to assist in more complex cases (and cases are becoming increasingly complex)."

"Our paralegal's assistance has been invaluable."

"Good paralegals would be a blessing."

"Experience frequent frustration at lack of time for thorough research -- this is where I think paralegals would be of greatest assistance."

"I would make best use of a paralegal to improve the quantity of research that could be done to buttress development of legal opinions."

"We sure could use one around here! Our work involves a lot of review and sorting of documents, and we think a paralegal could speed up our work considerably."

"Critical to have a paralegal for Real Estate practice."

"I believe that a qualified paralegal can perform all aspects of the tasks indicated which pertain to the collection and analysis of facts -- a considerable portion of most 'legal' work."

"I find it difficult to trust paralegals with any matters other than those of a routine nature; e.g., collections, land transfers, basic searches on quick law, etc. However, assuming fully trained and competent people -- more could be done by paralegals than is presently the case in this office."

About ten percent of the comments we received were either clearly negative or expressed concern about the use of paralegals. The following are some of those comments:

"Unless [the paralegal is] senior and well trained and highly conscientious, I personally would not rely on [their] legal research or analysis of legal issues. Would rather work longer and harder myself."

"I would not feel 100 percent comfortable relying on a paralegal's legal research or analysis or areas where judgement on legal issues is required. This is even more important if the Crown is to be bound by their decisions."

"The proposition that paralegals can be used in immigration work is asinine. The caseload is too heavy to take on the additional task of instructing and supervising an assistant whose ability to assist, due the nature of the work (90 percent legal drafting), would be minimal. I need a secretary so I can spend less time filing, photocopying, ordering transcripts, etc."

"Care must be taken to ensure that paralegals do not become lawyers (akin to accountants in the law field!!)"

"The paralegals should be properly trained and qualified. A secretary who has been promoted to paralegal does not have the training to perform the tasks set out above."

"Paralegals do not come with legal training or legal education. In this office, paralegals are secretaries who through desire to improve their situation, or through an honest interest in the law, or for whatever other reason, learn on-the-job and because of the work they performed are now pigeonholed in a 'paralegal' designation ..."

"... I am also concerned about the Law Society's perception/views regarding paralegals performing legal functions."

"I have responded on the basis that paralegals will be qualified. My experience shows that this is not a reasonable expectation as many of DOJ's paralegals have none of the skills necessary to complete the above tasks..."

"The functions that could be performed by a paralegal are largely the same as those that could be performed by a competent legal secretary at the SCY-3 level."

"The need is not so much for paralegals as for secretarial help. Time spent filing, researching, making travel arrangements, copying, arranging appointments, etc. is wasted 'legal' time."

The following tables provide some detail from the survey responses.

<b>Number of Hours</b>	<b>Percentage of Respondents</b>
No hours	6.6
0.5 to 5 hours	20.8
5.5 to 10 hours	23.1
10.5 to 15 hours	18.6
15.5 to 20 hours	9.0
20.5 to 40 hours	7.5

Table 5 suggests that very few lawyers see none of the work they do as being appropriate for paralegals, and that the greatest number (23 percent) see 5.5 to 10 hours per week of their work as being appropriate. A surprisingly high proportion of lawyers (16.5 percent) told us that more than 15 hours per week could be performed by paralegals.

Sector	Number of Respondents	Average Hours Per Week
Civil Law	43	10.3
Litigation	227	10.5
Public Law	42	7.9
Legal Services	230	9.5

Table 6 indicates little variation in demand for increased paralegal services among Departmental sectors, with the exception that lawyers in the Public Law Sector appear to see less of their work as being applicable to paralegals. Given the nature of the work conducted in that sector, and the lack of what are traditionally viewed as "typical" paralegal functions such as record searches, conveyancing and drafting and processing of affidavits and other standard legal documents, it is perhaps noteworthy that the demand indicated by Public Law lawyers is as high as it is.

In interpreting Table 6 it is also important to note the relative numbers of lawyers responding in each Sector. The response rate to the survey was lower in the Public Law and Civil Law Sectors than the other two Sectors. Our responses represent about one-third of lawyers in the smaller Sectors, and about 60 percent of lawyers in Litigation and Legal Services. Even taking this into account, the figures we obtained about demand for increased paralegal services in Public and Civil Law represent a considerably smaller overall demand than that indicated by lawyers in Litigation and Legal Services.

At present, civil litigation is the area of law with the highest paralegal to lawyer ratio in the Department. Table 7 indicates that lawyers practicing civil litigation may have greater need for increased paralegal assistance than those practicing in other areas.

<b>Table 7</b>		
<b>Incremental Demand for Paralegal Services by Type of Law Practiced</b>		
<b>Type of Law</b>	<b>Number of Respondents</b>	<b>Average Hours Per Week</b>
Civil Litigation	79	12.2
Criminal Law	72	9.8
Commercial & Property Law	33	9.7
Tax Law	69	9.7
Other (primarily Legal Services)	289	9.3

<b>Table 8</b>		
<b>Incremental Demand for Paralegal Services by Location</b>		
<b>Location</b>	<b>Number of Respondents</b>	<b>Average Hours Per Week</b>
Litigation HQ	41	10.8
Civil Law HQ	8	20.5
Public Law HQ	42	7.9
Legal Services Sector	230	9.5
Halifax Regional Office	12	10.9
Montreal Regional Office	35	8.2
Toronto Regional Office	57	9.9
Winnipeg Regional Office	14	11.9
Saskatoon Regional Office	9	4.8
Edmonton Regional Office	31	10.9
Vancouver Regional Office	47	10.4
Yellowknife Regional Office	10	16.4
Whitehorse Regional Office	6	7.8

Table 8 indicates that lawyers in Civil Law at Headquarters see the greatest need for increased paralegal assistance, and that those in Public Law see the least need. With the exception of the Yellowknife and Saskatoon Regional Offices, the regional offices indicate a demand in keeping with the norm for the Department as a whole. The Saskatoon office (and the Montreal office to a lesser extent) shows a smaller need, probably because it currently has a higher ratio of paralegals to lawyers than the other regional offices.



Classification	Number of Respondents	Average Hours Per Week
LA-1	107	10.9
LA-2A	291	9.9
LA-2B	84	10.1
LA-3A	42	8.0
LA-3B	17	5.1

We would expect that junior lawyers spend more of their time doing less complex legal tasks and administrative tasks than would senior lawyers. This is borne out of the survey in that LA-1s indicated the highest number of hours of their work as being applicable to paralegals. In particular, tasks such as managing files, conducting records searches, collecting evidence, investigating claims, conducting legal research, and drafting and editing correspondence, showed as being conducted more by LA-1s and LA-2As than by more senior lawyers, and were more heavily cited as requiring the services of paralegals by those lower classifications of lawyers. However, the difference between them and more senior lawyers is small. If the figures for LA-2As and LA-2Bs are to be interpreted as indicating that those lawyers spend about 25 percent of their time performing tasks that a paralegal could perform, then there would indeed appear to be a significant need for support. As we noted above, we should not expect professionals at any level to spend all of their time doing highly challenging work, but the survey results, in themselves, appear to indicate a significant underutilization of lawyer skills and experience.

### **5.1.2 The Nature of Demand for Increased Paralegal Services**

We discussed earlier in this report the kinds of tasks that are generally considered appropriate for paralegals in the Department. In this section, we examine the findings of interviews and the survey of lawyers to consider the kinds of tasks for which there may be a demand for paralegal services in the Department over and above those already being handled by paralegals.

Interviews with Justice managers indicated that demand for paralegal services is of two types: a demand for greater assistance in tasks that are already being performed by paralegals, and the

identification of tasks that are currently being performed by lawyers or secretaries, or that are simply not being done adequately due to lack of resources. Most managers expressed a need for greater assistance in the primary functions currently being performed by their paralegals. Aside from these general statements, interviews elicited the following observations about the ways in which they thought their offices could benefit from an increase in paralegal services.

1. Managers in Public Law, commercial and property practices, and Legal Services Units suggested that paralegals could play an increased role in document management, such as organizing, indexing, analyzing and summarizing documents. In some offices, agents are currently used for this work in cases where large numbers of documents are involved. It was noted that in-house paralegals could provide better continuity and a shorter learning curve for this kind of work than agents.
2. Managers in criminal prosecutions offices and some DLSUs said that paralegals could be used to conduct preliminary legal research. This was echoed in the lawyer survey, where legal research was cited frequently as an area that would benefit greatly from paralegal assistance, both in terms of providing lawyers with more time for more complex analytic work and in producing a higher quality of work in cases that now receive inadequate attention due to workload constraints.
3. Managers in civil litigation practices said paralegals could provide greater assistance in examinations for discovery and in preparing routine technical opinions, thereby allowing lawyers to spend more time managing their case load and moving cases through more quickly.
4. A manager in criminal prosecutions suggested that routine aspects of the processing of applications for mercy of the Crown could be conducted by a paralegal.
5. A commercial and real property manager said paralegals should monitor all agents and agent files, providing standard instructions and processing accounts. That manager also suggested that paralegals could be responsible for processing routine aspects of contracts covering employer-employee relationships.
6. Several managers of Legal Service Units noted that a paralegal could free up a significant proportion of their time by receiving client requests for services and, giving due consideration to the implications of the issues involved and having an understanding of

the work conducted by lawyers in the office, make recommendations regarding work assignments. One manager suggested that the quality of the assignments might well improve because the paralegal would have time to make more considered judgements than a manager generally has.

7. Managers of Legal Service Units and a manager in Public Law suggested that paralegals could be made responsible to prepare litigation reports.

Our lawyer survey results indicate that a wide range of tasks are viewed by lawyers as being potentially appropriate for paralegals. They indicate that the more administrative and management directed tasks might be the most applicable, while the more purely legal tasks would be less so, with the exception that legal research stands out as the task for which lawyers indicate the most need for increased assistance from paralegals. Interviews with managers and the comments we received from lawyers indicate that this is not a task that is commonly performed by paralegals in the Department. Tasks 4, 13 and 14 are viewed as requiring very little increased paralegal assistance, and we know that these tasks are not currently performed by most paralegals. Table 10 presents, for each task identified in the survey, the proportions of lawyers that indicated specified numbers of hours per week as being applicable to paralegals.

Some caution is warranted in considering the use of paralegals for legal research. It was suggested to us that legal research tends to be given less attention than it should be because lawyers find it a somewhat dry and at times tedious aspect of their work. In law school, we were told, courses on legal research are less popular than the more substantive courses, but prove to be among the more valuable courses for lawyers starting out. The risk is that this task might be passed on to paralegals without adequate consideration of the training required to do it properly. Graduates of paralegal training programs do not typically have that training, and the Department may need to develop its own legal research program if paralegals are to be used for this task.

**Table 10**  
**Incremental Demand for Paralegal Services by Task**  
 (% of Respondents)

Task	Zero Hours	.5 to 5 Hours	> 5 Hours
1. Managing Case Files, Opinion Files	40.6	56.8	2.6
2. Preparing Litigation Reports, Legal Trends Reports, Other Summary Reports	62.1	37.7	.2
3. Conducting Records Searches, Collecting Evidence, Investigating Claims	60.0	39.4	.6
4. Conducting Discoveries	94.8	4.8	.4
5. Interviewing Clients or Other Parties (other than in discoveries)	75.0	24.8	.2
6. Attending Meetings with Clients or Other Interested Parties	75.0	24.8	.2
7. Conducting Legal Research	26.4	68.5	5.1
8. Analyzing Facts/Evidence, Defining Legal Issues	62.0	37.8	.9
9. Preparing and Reviewing Pleadings, Factums, Contracts, Other Legal Documents	49.4	48.5	2.1
10. Preparing and Reviewing Opinions, Briefing Notes, Case Summaries, Other Texts	51.2	47.1	1.7
11. Drafting, Editing Correspondence	36.0	62.7	1.3
12. Instructing Agents or Other Officials	81.7	18.3	-
13. Conducting Negotiations	94.8	5.2	-
14. Making Court/Regulatory Board Appearances	95.7	3.7	.6

The main conclusion we can draw from this information is that the demand for paralegal services is not isolated to a few routine functions such as title searches or the drafting and processing of affidavits and other standard legal documents. Rather, paralegals are viewed broadly by lawyers in the Department as having a potential benefit in assisting them in a wide range of functions.

It is not the intention of this study to make recommendations about what sections of the Department should be using paralegals for which specific types of functions. We can see from the survey results that some tasks are viewed as being ones that would benefit significantly from increased paralegal assistance, that others are viewed as generally inappropriate for paralegals, and that some tasks are ones that would benefit moderately from increased paralegal assistance.

Future examinations at a more detailed, office-specific level will need to be conducted to determine the extent and nature of the benefits to be derived from paralegal assistance in each office. Our information at this point suggests that such consideration should not be restricted to those offices with property transactions or routine litigation -- the traditional paralegal environments.

## **5.2 Division of Labour Between Paralegals and Support Staff**

One of the impetuses for conducting this study of paralegals in the Department of Justice was the recognition that there is a substantial amount of junior level paralegal work being performed by secretaries and other support staff. This fact was confirmed in a recent review of secretaries at the SCY-2 level in the Department. Following this review, secretaries spending 25 percent of their time performing these junior paralegal tasks were promoted to the SCY-3 level. These secretaries could be seen as filling a "senior legal secretary" role. Human Resource managers were interested in finding out more about the extent to which paralegal tasks are being performed by secretaries and other support staff, and to consider whether such work was being adequately recognized.

Our investigation of support staff and the paralegal function included a survey of all secretaries and other support staff in the majority of offices in the Department including the regional offices. In addition, we included in interviews with managers, lawyers, paralegals and support staff in Justice and outside the Department a discussion of the appropriate division of labour between paralegals and support staff, and the differences in skills, experience and training that are required.

Our survey of support staff was designed to find out the extent to which paralegal tasks are currently being performed by support staff. Respondents were provided with a list of tasks, and asked to indicate how much time, in an average week, they spent on those tasks.

To develop the list of paralegal tasks we examined the job descriptions of current paralegal positions through the Department, and consulted extensively with lawyers, managers, paralegals and support staff in the Department, and with people in equivalent positions in the private sector. We also consulted with directors and instructors at programs that train paralegals. Once we had developed a preliminary list of tasks, we tested that list with a sample of support staff and had the list approved by paralegals and lawyers, including some leading experts in the study of

paralegals. The list was modified based on these examinations. One modification was to leave off the list a few of the tasks that we were told would be conducted only by very senior paralegals and never by support staff. The list of tasks, then, comprised those to which it was possible that support staff would be contributing.

We recognized, in designing the survey, that no absolute definition of paralegal work exists. There are certain tasks that must be performed by lawyers, and there are certain tasks that can be performed by paralegals depending on the degree of complexity of the matter at hand and the experience and competence of the paralegal. Similarly, there are tasks, such as those we identified for the support staff survey, that can be viewed as paralegal because they involve some knowledge of legal procedures, but which are relatively straightforward and can be conducted, at least to some degree, without the benefit of formal paralegal training.

It is possible in most cases, however to differentiate between standard secretarial work and work that has a paralegal aspect. To maximize the accuracy of the responses to the survey, we provided instructions that stressed the differences between the two, and provided specific examples of what should, and what should not, be included in the task we identified.

### **5.2.1 Findings**

We received responses to the survey from 298 support staff in the Department, which represents about 60 percent of those we surveyed and more than 50 percent of all support staff in the sectors we surveyed. The survey responses indicate that, on average, support staff in the Department spend about 25 percent of their time performing tasks that we have identified as paralegal tasks. About 35 percent of support staff spend more than 10 hours per week on these tasks, and about 10 percent spend between 25 and 40 hours per week. Table 11 provides a breakdown of the hours of paralegal work currently being performed by secretaries and clerks, as reported in the survey responses.

<b>Number of Hours</b>	<b>Percentage of Respondents</b>
No Hours	21.9
0.5 to 5 hours	25.3
5.5 to 10 hours	17.7
10.5 to 15 hours	10.4
15.5 to 20 hours	8.7
20.5 to 25 hours	5.2
25.5 to 40 hours	10.8

Table 12 presents a breakdown of the paralegal tasks that support staff told us they were spending time on. It shows that the great majority of secretaries and other support staff are not spending a great deal of time on any one task. It appears to describe a situation in which support staff are asked to contribute in a minor way to a variety of tasks that have paralegal aspects to them. The total time being spent on paralegal tasks is substantial, but support staff are not given significant responsibility for any particular paralegal tasks. This corresponds with the findings of interviews with managers.

Task	Zero Hours	.5 to 5 Hours	5.5 to 10 Hours	> 10 Hours
1. Updating, Indexing, Cross-referencing Case Files, Opinion Files, Precedents or Procedures Manuals	45.0	46.0	5.4	3.7
2. Conducting Records Searches, Library Searches	49.7	46.3	3.7	.3
3. Drafting Correspondence	40.6	51.3	5.7	2.3
4. Drafting Routine Affidavits, Pleadings, Contracts and Other Legal Documents	62.8	29.2	6.0	2.3
5. Informing Clients and Other Officials of Case-Related Matters (providing information, answering questions)	43.3	51.7	3.4	1.6
6. Scheduling (Tracking limitations; court dates; witness, counsel, client meetings; preparation deadlines or work schedules)	56.0	40.6	2.7	.3
7. Attending Meetings with Clients or Other Interested Parties	95.6	4.4	-	-
8. Collecting and Compiling Case-Load Statistics or Other Summaries of Legal Matters Handled by the Office (including preparing Litigation Reports)	68.1	27.9	3.7	.3
9. Management of Garnishment Registries	98.3	1.3	.3	-

Tables 13 through 16 provide breakdowns of the hours being spent by support staff on paralegal functions, based on the sector they work in, the type of law practiced in their offices, their location and their job classification.

Table 13 indicates that support staff working in the Litigation and Civil Law Sectors perform more paralegal tasks than their counterparts in the other two Sectors studied. This corresponds to findings from the lawyer survey, but there is more variability in the case of support staff. None of the information from the study suggests that this has anything to do with different management style; it would appear to be because the offices in those Sectors, and particularly the litigation practices, handle more case files, have more formal scheduling to undertake, and otherwise have greater need for the services identified in the survey. Since paralegals are a relatively scarce commodity in all but a few offices, secretaries and other support staff perform those duties.



<b>Table 13</b>		
<b>Support Staff Paralegal Hours by Sector</b>		
<b>Sector</b>	<b>Number of Respondents</b>	<b>Average Hours Per Week</b>
Civil Law	24	9.7
Litigation	127	12.8
Public Law	17	5.1
Legal Services	130	6.9

<b>Table 14</b>		
<b>Support Staff Paralegal Work by Type of Law Practiced</b>		
<b>Type of Law</b>	<b>Number of Respondents</b>	<b>Average Hours Per Week</b>
Civil Litigation	48	12.5
Criminal Law	38	12.0
Commercial & Property Law	17	11.7
Tax Law	35	12.9
Other (primarily Legal Services)	160	7.1

Location	Number of Respondents	Average Hours Per Week
Litigation HQ	32	9.7
Civil Law HQ	4	19.4
Public Law HQ	17	5.1
Legal Services Sector	130	6.9
Halifax Regional Office	7	12.3
Montreal Regional Office	20	7.6
Toronto Regional Office	32	14.8
Winnipeg Regional Office	3	20.5
Saskatoon Regional Office	4	9.9
Edmonton Regional Office	19	17.0
Vancouver Regional Office	22	13.7
Yellowknife Regional Office	4	5.4
Whitehorse Regional Office	4	6.8

Tables 14 and 15 also show moderate differences in average performance of paralegal tasks along the lines we would expect. Practices that specialize more are likely to have a greater amount of routine work that is appropriate for paralegals, as opposed to practices (primarily the Departmental Legal Service Units) that provide a wide range of services. Table 15 shows that the litigation practices in the regional offices tend to require more paralegal assistance than Headquarters offices. The exceptions are the Montreal office, which has a significantly higher complement of paralegals than most offices in the Department, and the two territorial offices. Civil Litigation at Headquarters shows a high requirement for these services, but it is risky to draw conclusions in this case since the figure is based on only four respondents.

<b>Classification</b>	<b>Number of Respondents</b>	<b>Average Hours Per Week</b>
ST-SCY 2	28	7.0
ST-SCY 3	213	9.5
ST-SCY 4	9	6.1
CR 2 TO CR 6	41	12.1
OTHER	7	12.1

The great majority of support staff responding to the survey are secretaries at the SCY-3 level. They report that they spend, on average, about 25 percent of their time performing the paralegal tasks we identified in the survey. This is in line with their being classified at the SCY-3 level. Clerks in the law offices in the Department that we surveyed reported closer to a third of their time as being spent on these tasks.

### 5.3 Conclusions

In this chapter we have reported the findings of the two surveys and interviews regarding the level of demand for paralegal services in the Department.

The key findings emerging from the survey of lawyers and our interviews with Justice managers and paralegals regarding the division of labour between lawyers and paralegals can be summarized as follows:

1. Justice lawyers indicate that on average they currently spend 40 hours a week on tasks we identified as possibly appropriate for paralegals, and that 25 percent of this could be done by a paralegal, provided that the paralegal was adequately trained and experienced.
2. Managers in the Department see a need for a moderately increased role for paralegals, to perform some of the more straightforward tasks currently undertaken by lawyers. This would free lawyers' time for more complex legal work for which they do not currently have sufficient time.

3. Department sectors varied only moderately in the level of demand indicated for paralegal services, with Litigation indicating somewhat higher and Public Law somewhat lower. The survey reflected demand over and above the paralegal complement already in place.
4. Factors such as the type of law practiced, the location in which lawyers work, and the classification of lawyers had only a minor overall correlation with an expressed demand for paralegal services. These factors were significant in only a small number of specific cases.
5. Information from other jurisdictions and the private sector indicates that the use of paralegals in general is variable and dependent on the initiative of individual managers. However, experience in specific pockets outside the Department suggests a significant potential benefit to increased use of paralegals.
6. Managers and lawyers who have experience working with paralegals are generally very favourable to their use and advocate an increased role for them, whereas those with little or no experience tend to be more cautious or sceptical about their potential use.

The key findings from the survey of support staff and interviews regarding the division of labour between paralegals and support staff are:

1. Support staff in the four Sectors we studied report that they spend, on average, about 25 percent of their time performing junior-level paralegal tasks. For SCY-3s, this is in line with their being classified at the SCY-3 level.
2. About one-quarter of those support staff say they spend more than 15 hours per week, and about ten percent reported spending upwards of 25 hours per week on senior legal secretarial tasks.
3. Few support staff reported spending significant amounts of time on any one paralegal task. The norm appears to be that support staff spend a bit of time each week on a variety of tasks that can be viewed as junior-level paralegal.
4. The perception widely held among Justice managers is that secretaries perform few paralegal tasks.

The findings strongly suggest a demand for paralegal services in the Department beyond what is being met by the current complement of paralegals. The findings also suggest that consideration should be given to an increased use of paralegals in all four Sectors studied, and in a wide range of offices within those Sectors. The findings regarding the division of labour between paralegals and support staff point to the need for a formally recognized "senior legal secretary" position, perhaps at the SCY-3 level. This would recognize and reward secretaries who have the capability and initiative to take on tasks that are of a junior paralegal nature and would distinguish these tasks from those better suited to fully trained paralegals -- tasks that require knowledge of the law and legal procedures and the analytic and organizational abilities that paralegals should be expected to have.

As we have noted in the course of discussing findings, the demand we have seen for paralegal services does not translate itself simply into a recommendation for the Department to increase its complement of paralegals. A number of critical factors need to be considered in deciding how best to address the demand. These factors are examined in the next section.

## 6. FACTORS INFLUENCING THE USE OF PARALEGALS

An important challenge faced by all managers is to staff their offices with the optimum mix of skills and abilities to get the job done as cost-effectively as possible. Cut-backs in government, PS-2000 and single operating budgets both encourage and enable managers to make maximum use of resources. While the Department may adopt a principle to increase the use of paralegals, managers will have to determine whether, and the extent to which, paralegals can improve the cost-effectiveness of their operations. There are a number of factors these managers will take into consideration, or that will influence their decisions.

### 6.1 Potential Benefits to be Derived

Before managers will make a change in the structure of their office operations, they need to be confident that some benefit will accrue. Our findings indicate that there are a number of clear benefits to using paralegals assuming that the nature of the work and workload is appropriate for their use. These are:

1. Significant cost savings from using paralegals instead of lawyers to perform routine legal tasks;
2. Improved productivity and job satisfaction for lawyers;
3. Improved quality of work produced; and
4. Opportunities for advancement for support staff that have aspirations and abilities to work as paralegals.

### 6.1.1 Significant cost savings from using paralegals instead of lawyers to perform routine legal tasks

The current pay scale for paralegals is in the \$31,000 to \$61,000 range, as compared to the pay scale for lawyers up to the LA-2B level of \$42,000 to \$93,200. We present below the maximum pay for each level of paralegal (SI) and lawyer (LA):

SI		LA	
SI-1	\$30,892 to \$35,521	LA-1	\$42,400 to \$60,200
SI-2	\$37,241 to \$40,619	LA-2A	\$60,200 to \$84,300
SI-3	\$40,655 to \$44,279	LA-2B	\$76,400 to \$93,200
SI-4	\$43,932 to \$48,091	LA-3A	\$82,800 to \$105,000
SI-5	\$49,442 to \$54,251	LA-3B	\$95,000 to \$115,900
SI-6	\$55,427 to \$60,956	LA-3C	\$105,700 to \$128,900
SI-7	\$62,621 to \$68,558		
SI-8	\$69,293 to \$75,927		
N.B. These are national ranges. Toronto has its own range.			

If paralegals are integrated into office operations, they can perform many of the tasks now being undertaken by lawyers at a substantially reduced cost. Private sector firms under pressure from clients to reduce the costs of legal services are turning increasingly to paralegals to perform routine tasks, and interviews with the private sector indicated a high level of satisfaction with the quality of work and the savings being derived. Managers interviewed in Washington who have made extensive use of paralegals spoke highly of the contributions they made and the savings that accrued to their divisions.

The study did not look at the Department's use of Crown agents, but managers interviewed frequently noted that much of the work being assigned to agents, at considerable cost to the Department, could be performed by paralegals. In cases that involved travel by a paralegal, agents are thought to be more cost-effective, but where the volume of cases is high, savings could still be realized.

### **6.1.2 Improved productivity and job satisfaction for lawyers**

Lawyers with considerable experience who are spending a substantial amount of their time handling routine legal matters cannot be said to be fully productive in any meaningful sense. From the point of view of a supervisor or manager, staff will be most productive when their work makes best use of their skills and experience. An office operates at a cost-effective level when the mix of staff is appropriate to the mix of work being undertaken. As well, it is generally accepted that job satisfaction is maximized when an employee's skills and abilities are used fully, and when the work presents challenges that uses and even broadens those skills and abilities. Productivity and the quality of work can be greatly influenced by the degree of job satisfaction that exists in an office.

We cannot comment generally on the levels of job satisfaction being experienced among lawyers in the Department, but our findings strongly suggest that many lawyers are spending significant amounts of time on tasks that could be performed by a paralegal; routine legal tasks that are very unlikely to challenge a lawyer with some experience. A large number of lawyers we surveyed supplemented their responses with comments indicating that they and other lawyers in their office were required to carry out an inordinate amount of routine work due to the lack of sufficient support. Many of the managers we interviewed indicated that they could make good use of several more paralegals, and that in general senior lawyers were required to do too much junior-level work due to the lack of both paralegals and junior lawyers.

Not everyone agrees that paralegals are the answer. In a few of the interviews, Justice managers said they would first hire junior lawyers if they had more available person-years, and that there is a burden on some senior lawyers in having to supervise paralegals; they say that junior lawyers would not require supervision. In some offices, there appears to be very little demand for increased paralegal services. In general, however, managers told us that a sufficient amount of paralegal-level work does exist, and that there is a potential benefit to the office as a whole and to the existing lawyers in recognizing this demand.

### **6.1.3 Improved quality of work produced**

According to interviews with managers who have worked extensively with paralegals, there is an opportunity to improve the quality of legal work on routine matters by using paralegals. Because they devote their full attention to these matters, they are more likely to have the time



and the inclination to prepare fully, whereas lawyers who are carrying a number of complex files and number of routine matters may tend to give the more routine matters less attention, and obtain a lesser result. In more complex cases, lawyers with sufficient paralegal support benefit from assistance in tracking the details of cases and in the meticulous and labour-intensive work of organizing thousands of documents, interviewing witnesses, and conducting factual research. They are thereby able to concentrate on handling the more strategic aspects of cases.

#### **6.1.4 Opportunities for advancement for support staff that have aspirations and abilities to work as paralegals**

We have seen that a large number of support staff perform some junior paralegal functions. Indeed, the performance of these paralegal functions is recognized in the Department as a criterion upon which secretaries can be promoted to the SCY-3 level. These secretaries are a valuable resource for their offices, and for the Department as a whole, because of their experience. Managers who we spoke to in the Department and outside said that practical experience in a law office is an important qualification for a paralegal, along with formal paralegal training. For those secretaries who are interested and have the aptitude, the creation of more paralegal positions in the Department would offer an opportunity for advancement that does not exist at present. It would also allow managers to take advantage of the secretaries' experience in their offices. To be promoted to a paralegal position, secretaries would of course be expected to meet the new qualifications.

#### **6.2 Types of Work Conducted in the Office**

The types of legal work conducted in an office, and the amounts of different types of work, will be a major determining factor in deciding on an appropriate paralegal complement. In Chapters 3 and 4 of this report, we discussed the role of paralegals and the range of tasks that paralegals in various settings are asked to perform. Our consultations outside the Department showed that the Department was not out of line with the practices elsewhere, in that most paralegals are employed in supporting litigation, or in very specialized legal/clerical functions. However, there is an increasing interest in the private sector and in other government jurisdictions in expanding the extent to which paralegals are used to fulfil those traditional roles and in broadening the way in which paralegals are used to include more functions such as legal research and assistance in organizing and preparing briefing notes, case summaries and the more routine opinions.

The demand that we see for additional paralegal assistance from the survey of lawyers, and the support, albeit more moderate in degree, indicated by managers in the Department, reflect this broader perspective of what paralegals can do. The fact that the demand for increased paralegal services was expressed quite uniformly throughout the four Sectors we studied suggests that, while the predominance of paralegals properly belongs in litigation offices and in commercial and real property, serious consideration should be given in all offices, including those in the Public Law and Legal Services Sector, to the inclusion (or expansion) of paralegals in the mix of staff.

Our findings are by no means sufficient basis for recommending how individual offices could expand their use of paralegals to advantage. Individual managers will need to examine their specific situations. There is, however, sufficient evidence to suggest that managers may benefit from taking an expansive view of how paralegals could be integrated into their staff.

### 6.3 Availability of Qualified Paralegals

An important factor in managers' and lawyers' interest in using paralegal services is the qualifications of the paralegals that are available. As we noted earlier, it is by no means a simple matter to go from an expressed demand for paralegals to their successful use and integration. Concern was expressed throughout our consultations in the Department that it would be difficult to find paralegals with sufficient knowledge and experience to be considered reliable, and that, unless their work can be heavily relied upon, the increased use of paralegals will not result in any significant time savings for lawyers. Indeed, the fear was expressed that an unqualified paralegal would be more of a hindrance than a help. Some respondents offered examples of situations in which this had been the case.

The Department's requirements for paralegals differ from those of the private sector in some respects, both in the kinds of general legal knowledge that is required and in the understanding of specific issues and procedures that paralegals need. We have seen that formal training for paralegals is available in Canada through community colleges and some other institutions, but it is also apparent that Justice lawyers and managers consider that training as only a first step, and that most paralegals arriving in the Department directly from college require considerable training and experience in their offices before they can relieve lawyers of a significant burden.

To a large extent, it will be incumbent on the Department itself to develop a body of qualified paralegals to meet its needs, and to foster a working environment that can attract the best recruits. In Chapter 7, we examine some mechanisms through which this could be accomplished.

#### 6.4 Awareness/Openness of Lawyers and Managers

Managers will be influenced to a large extent in their consideration of using paralegals by their level of familiarity with, and general openness to, the notion of the paralegal role. Interviews indicated overwhelmingly that managers who work with paralegals extol their virtues and are open to expanding their integration into their offices. They tend to view paralegals as being appropriate for a wide range of functions; some suggested the virtual full range of lawyer activities, albeit with limitations relating to the complexity of specific matters and to the obvious restrictions such as court appearances. Of course, some managers have had negative experiences with individual paralegals. In general, however, lawyers recognize that the value of a paralegal is highly dependent on the qualities of the individual. The point is: managers with experience do not generally view the role of paralegals in a restrictive way, and are generally supportive of an expanded use of paralegals, provided that some important conditions are met, such as adequate qualifications and personal qualities of the candidates, a definition of their role in the office relative to lawyers and support staff, and a gradual approach to their integration.

Managers with little or no experience with paralegals tend to view the role of paralegals in a more restrictive way, and tend to be more sceptical that they will be of value in their office. Their concerns were not substantially different than those with experience: that it would be difficult to find someone with the necessary qualifications, that lawyers would have difficulty relying on their work when the lawyers remained ultimately responsible for the product, and that it would be difficult to integrate a new level of professionals into the office. The difference appears to be that they have not had the opportunity to see the advantages of a competent paralegal, so they are less sure that the work of overcoming the difficulties will be worth it.

To some extent, this different perspective is based on the fact that some offices are a more traditional environment for paralegals than others. A manager in a litigation unit is more likely to have a positive perspective on the usefulness of paralegals than a manager in a unit whose function is primarily advisory or political, where the role for a paralegal may indeed be very limited.

We would certainly not argue, based on our findings, that all offices should be using paralegals. Rather, we conclude that, to some degree, reluctance on the part of a manager (or a lawyer) towards the use of paralegals may be a result of a lack of awareness of the full range of possibilities for paralegals, and the kinds of benefits that can accrue and/or a function of the type of work undertaken by that manager's unit.

In fact, many managers commented during interviews that lawyers need to be educated on the benefits that paralegals can provide, and that more knowledge of the role of paralegals would probably encourage the increased use of paralegals. Proponents of the use of paralegals have noted a tendency on the part of some lawyers to overestimate the complexity of some aspects of their work, and an accompanying reluctance to be open to the possible benefits of paralegal assistance. In one U.S. Department of Justice Division we visited, this problem was addressed by providing one-on-one training for lawyers on the effective use of paralegals.

#### **6.5 Degree of Independence Appropriate to Paralegals**

In the private sector, independent paralegals sell legal services directly to the public. The extent to which paralegals are competent to, and should be permitted to, perform legal tasks without the supervision of lawyers is an issue that is hotly debated in the private sector legal community and law societies have contested the right (and the ability) of paralegals to provide certain services.

Paralegals working for the Department of Justice provide services to lawyers in the Department, rather than to the public. While the issue of capability of paralegals is certainly important in considering their use in the Department, the issue of whether or not they should provide services independently of lawyers does not arise.

To examine the issue of how independent or responsible paralegals can be in providing services for the Department, we interviewed a sample of Justice managers, Justice paralegals, managers and paralegals in the Ontario government and the U.S. Department of Justice, and managers and paralegals in the private sector. We also reviewed the numerous comments provided to us by Justice lawyers through the survey.

The great majority of people we spoke to considered that there were a few clear guidelines to differentiate between what paralegals can do and what must be left to lawyers, and that, beyond those guidelines, the degree of responsibility that a lawyer accords to a paralegal will be

dependent on the confidence the lawyer has that the work will be done competently. In all cases, it was considered that lawyers are responsible for the work performed by paralegals. As we noted above, this is a source of concern for some lawyers and managers because of what they perceive as a shortage of well-qualified and knowledgeable paralegals upon whom they could rely to produce quality work with a minimum of supervision. It was widely recognized among the lawyers and managers we consulted that paralegals who require a lot of supervision and whose work must be reviewed frequently do not bring a significant net benefit to their employers. It would be important for the Department to take steps to ensure that its paralegal workforce is qualified and competent to work with a fair degree of independence, albeit under the ultimate supervision of lawyers.

## 6.6 Conclusions

It has been demonstrated in the course of this study, both within the Department and outside, that, if they are used effectively, paralegals can provide considerable benefit to a law office, both financially and in terms of the overall quality of work and job satisfaction. That is not to say that all law offices can make effective use of paralegals; there are certainly those for which this would not be appropriate. However, there are almost certainly substantial benefits to be accrued by a more extensive use of paralegals in the Department of Justice.

We have seen that a number of factors would influence managers' decisions on whether, and how, to make use of paralegal services. Certainly the type of legal work performed in the office is a major factor; offices that handle a high volume of routine legal matters are more likely to perceive a need for paralegal support than ones that do not. However, we have seen that qualified and competent paralegals who can gain the confidence of the lawyers they work with, and can work with a high degree of independence, could be beneficial in assisting in a broad range of tasks. If the Department decides to increase its complement of paralegals, it will have to include in its plans, methods of recruitment and training that will foster the growth of a highly qualified, professional paralegal workforce.

The next section of the report examines issues in managing the integration of paralegals into law offices in the Department.

## **7. MANAGING THE INTEGRATION OF PARALEGALS**

In the previous two sections, we identified an apparent demand for increased use of paralegals in the Department, and examined the nature of that demand and some of the factors that would influence managers' decisions about whether, and how, to make greater use of the services paralegals can provide.

In this section, we look at issues that we have identified as being important to any integration of paralegals into offices in the Department. These issues would be relevant to the Department as a whole if it seeks to develop an action plan for the increased integration of paralegals, and to individual managers who are considering how to manage the integration of paralegals beyond what currently exists. The central thread of this chapter is that senior management in the Department will need to take a leadership role in planning and shaping its workforce if it is to benefit fully from paralegal services.

### **7.1 Identifying the Demand**

As we have noted, we have concluded that a significant demand exists in the Department for additional paralegal services, and that the Department stands to derive substantial benefits if it can manage their integration effectively. However, we cannot say, on the basis of our findings, the direction that individual managers should be taking, or the number of paralegals required in individual offices. Nor can we say with any precision the number of paralegals that the Department should have on staff to meet the demand. Even with the estimates we have from individual managers, we believe that it would be imprudent to try to provide such numbers since, at this point, we do not have sufficient analysis of the operations in individual offices to substantiate such conclusions.

We can, however, provide some insights into how to proceed with identifying demand for paralegals. These insights are based on what we have seen in other jurisdictions, and what we have learned from Justice managers and staff about what they believe would be required.

The Department would have to clarify the role it intends for paralegals before any detailed assessment of demand for paralegal services is undertaken. The message from our consultations is that the role of paralegals should be made clear and distinct from that of secretaries and other support staff; paralegals should be established as a professional group performing tasks that require legal training. They should, as a rule, have formal paralegal training. Their role should be restricted, to the extent possible, to the performance of legal work that would otherwise have to be performed by a lawyer, and they should have access to administrative and secretarial support as do lawyers.

Once the role of paralegals were clarified, managers would enter into a process of consultations with their staff to assess the level of demand for different types of paralegal services. The workloads of existing paralegals would need to be examined to ensure that they are not being asked to perform a significant amount of work that is more appropriate for a secretary (i.e., the types of work a SCY-3 could perform). We cannot expect a rigid division of labour -- people at all levels undertake some support functions when it is required to complete a job on time, or when support staff are simply not available. However, this should be the exception rather than the norm for paralegals as for lawyers.

The process of identifying demand in specific offices would have to be coordinated and supported by a central coordinating body to ensure a consistency in approach and to ensure that the Department's overall direction is being followed. At least one senior paralegal and a senior lawyer with experience working with paralegals should participate in the coordinating process. The coordinating body should be fully endorsed by senior management, with a clear mandate to implement an enhanced role for paralegals. Leadership at the most senior levels should be the driving force of the initiative.

It could be useful to select a few offices, including DLSUs and Regional Offices, whose managers are particularly supportive of the move to increase the use of paralegals, to pilot the process of identifying demand and the subsequent planning for the integration of more paralegals.

The process of identifying demand in specific offices should lead to the development of an action plan for the Department as a whole, and for individual offices. The plan should be implemented gradually enough to allow for a smooth transition, and to allow current Justice staff to position themselves to compete for the paralegal positions that open up. In addition, since the plan may well involve offices adjusting their mix of staff, the plan would have to provide enough time for

such adjustments to be made. General time lines would have to be established and monitored, to ensure that the plan is implemented.

## 7.2 Resourcing the Demand

If the Department is to embrace a move toward an increased and more effective use of paralegals, it will need a plan to resource the demand that is identified. It will have to both provide the means to acquire the paralegal personnel needed, and ensure that the paralegal workforce is of high quality. Our study provided us with some guidance on what would be most effective.

While managers and lawyers in the Department have expressed general acceptance of the notion that paralegals could be used to greater benefit, and have agreed that their offices could benefit from more paralegals, there is still considerable concern about the quality of services they would receive and how paralegals could be integrated.

The Department will have to play a direct role in developing and maintaining a workforce of qualified, competent paralegals to ensure that a pool of skilled people is available. It is reasonable to anticipate that there will be reluctance on the part of some managers to endorse the move to increased use of paralegals, and if their early experiences are with insufficiently qualified and trained recruits, their reluctance is unlikely to diminish.

Central to the successful resourcing of the demand for paralegals will be the development of a set of qualifications for candidates. It is apparent that paralegals operate most cost-effectively in offices that establish high qualifications; at a minimum, formal college paralegal training should be required. University education should be viewed as an important asset. Exceptions could be made for existing paralegals, though, ideally, existing paralegals should be encouraged to obtain the training and/or education required to meet the new qualifications. Organizational and analytical skills should be demonstrable. If high standards and expectations are established, high quality and professional work is more likely to result.

These kinds of standards are certainly the norm in the private sector, and in the U.S. Department of Justice a new and, apparently very successful, regime of high qualifications and professional standards has been put in place to remedy a situation in which many paralegals were insufficiently trained and were either providing more general support than paralegal support, or not able to provide adequate paralegal support. If the Department were to embrace a move to



increase the use of paralegals, it should take the opportunity to head off problems which could arise in the future by establishing high professional standards and qualifications for hiring.

The Public Service Commission (PSC) standards for an SI position demand at least two years of post-secondary education. The Department would need an explicit rationale for establishing a standard higher than the PSC norm. One way of overcoming this problem would be to not staff paralegal positions at the SI-1 level. Paralegals would enter at the SI-2 level, and would be required to have higher qualifications than the two-year post-secondary minimum. This would have the added advantage of establishing a clearer distinction between the paralegal workforce and support staff; it would contribute to the perception among managers and lawyers, as well as paralegals themselves, that paralegals were indeed a professional group.

Offices we examined outside the Department that appeared to have the most positive experiences with paralegals not only had high professional standards and expectations in place, but followed this up with competitive pay scales, opportunities for advancement, mobility within the Department (or firm). The work environment was one in which professional paralegal work was highly regarded and valued by lawyers. The combination of these qualities appear most likely to attract the best candidates and the consensus is that the benefits associated with the use of paralegals are dependent in large measure on the skills and competency of the individuals hired.

An important point, raised frequently by managers and lawyers in the Department, was that secretaries have considerable experience that places them ahead of paralegals who arrive from outside the Department. Every effort should be made to provide secretaries and any existing paralegals who do not meet the new standards for paralegals, with opportunities to upgrade themselves to paralegal status if they are interested in doing so, and if they are, in the view of managers, capable of doing so. The standards that are set should not be compromised, but incentives should be made available to allow the Department to take advantage of this valuable resource, and allow those secretaries who are motivated to advance their careers.

### **7.3 In-House Training and Professional Development**

We acknowledged earlier in this report that there would be a cost associated with hiring formally trained and educated paralegals from outside the Department, rather than promoting secretaries and clerks from within the Department. New recruits would not have the hands-on experience in the operations of the offices they work in, and likely would not have the kind of detailed

knowledge of specific aspects of the law and procedures that secretaries with years of experience in the office may have. On the other hand, their education and training will leave them better equipped in the long run to provide a high level of paralegal services.

The Department could minimize this up-front cost, and promote the effective employment of paralegals if it managed the training of its paralegal staff well. If managers and lawyers are to have a positive experience with new paralegals, the paralegals must have adequate training. Our work provided us with some insights on paralegal training.

Most managers and lawyers in the Department and outside agree that formal paralegal training is beneficial. However, it is also generally felt that important gaps exist in preparing paralegals to work in the Department of Justice (the same was true in other offices we visited as well). Two kinds of training appear to be lacking: training of a general substantive nature about the courts and court procedures, tax law, criminal procedures, and other areas; and, training of a highly specialized nature that would prepare paralegals to handle the kinds of documents dealt with in specific offices.<sup>12</sup> Our review of paralegal programs generally supports this view. Programs are geared to private sector paralegal requirements, because that is where the great majority of students look for employment.

Paralegals within the Department feel that they do not have access to adequate opportunities for professional development. Part of the problem is that there are few courses or seminars outside the Department for paralegals. Another part of the problem is that in-house courses are either not intended for paralegals or are too technical to be useful for paralegals and that, in any case, paralegals are not made to feel welcome at these courses.

The lack of professional development opportunities was viewed by some as symptomatic of the lack of recognition paralegals receive as a professional group distinct from secretaries and other support staff. The cancellation of the national conference planned for Departmental paralegals in 1992 was due to budget constraints (one of the issues scheduled to be discussed at the conference was paralegal training needs). Nearly every paralegal we interviewed cited this as an example of the extent to which they are not valued by the Department.

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<sup>12</sup> We provide a listing of the types of formal paralegal training that is available in Canada, and the courses that are offered, in an appendix to this report.

The U.S. Department of Justice experience with paralegal training is interesting. This Department has recently implemented a recruitment program called the "Honours Program" for new graduates of paralegal programs. Successful candidates are required to have a four-year degree and paralegal certification. They are placed in a training program within the Department for one year, where they are provided with intensive training and a rotation among sections. The program has met with great enthusiasm from potential candidates, with 300 people applying for the seven available spots last year. The managers we spoke to also spoke very highly of the program, and of the calibre of paralegals it is producing.

In the U.S. Justice Tax Division they have developed a division-centred training program. A training manager (who is a lawyer) is assigned to attend on an on-going basis, the meetings of division managers. That person is able, both through direct consultation and general participation in the management of the Department, to identify training needs and plan courses. This person is responsible to develop divisional courses and to tailor the training to divisional needs.

Prior to developing any in-house training programs, the Department should discuss with institutes that train paralegals, the possibility of their modifying their curricula to better suit the needs of the Department. During our consultations, we met with directors of several training institutes, and these people appeared very anxious to "sell" their programs. If the Department is able to present the possibility of even a small number of new positions each year, as part of its long-term integration plan, it may well be able to influence existing curricula, and perhaps have Justice lawyers participate in paralegal training. One Justice manager we spoke to has had experience teaching in such an institute, and spoke positively of the importance of such training.

However the training is provided, Justice managers and lawyers should be actively involved in identifying paralegal training needs. By taking responsibility for training its paralegal workforce beyond the entry requirements that are established, the Department can take control of the direction of the paralegal function, and maximize its utility.

One final point about training is worth mentioning, since it was raised by both Justice managers and managers in the US. Department of Justice. Early in the process of implementing changes to its employment of paralegals, the Department may want to consider developing a training seminar for managers and lawyers on the effective employment of paralegals. We can anticipate that some adjustments would be required, particularly in offices with little experience with paralegals, but also in offices that may not be taking full advantage of the paralegals they

currently have to relieve their lawyers of legal work. Even in offices that are using their paralegals very well there may be avenues for improvement.

#### 7.4 Conclusions

This section of the report has identified key issues that the Department will need to address if it decides to move ahead with an enhanced role for paralegals. Based on interviews in the Department and examinations of operations in other legal environments, we have provided some guidance on how the Department could take a strong leadership role in managing the integration of more paralegals and promoting the professionalization of its paralegal workforce.

**APPENDICES**

**APPENDIX 1**

**Interviews**

## APPENDIX 1

### Interviews

#### Department of Justice Canada

1. **Managers:**

Litigation

4 headquarters  
9 regional offices

Civil Law

2 headquarters  
2 regional offices

Public Law

3 headquarters

Legal Services

4 headquarters  
2 lawyers in LSUs

2. **Paralegals:**

15 in headquarters (including 4  
from Legal Services)  
6 in regional offices

3. **Support Staff:**

5 (including 1 from a regional office)

4. **Corporate Management Sector:**

5 in Human Resources (including 1  
in a regional office)  
1 in Legal Education

#### Paralegal Associations

1. Institute of Law Clerks (president and 1 member)
2. Canadian Association of Legal Assistants (President)
3. Ottawa Association of Legal Assistants (2 members)

#### Educational Institutes

1. Humber College, Toronto, Paralegal Program (Director and 1 Professor)
2. Algonquin College, Ottawa, Paralegal Program (Director and 1 Professor)
3. Vancouver Community College, Legal Assistant Program (Co-ordinator)
4. Seneca College, Toronto School of Legal and Public Administration (Chair and 2 Professors)
5. La Cité Collégiale, Ottawa, Legal Assistant Program (Co-ordinator)
6. Carleton University, Department of Law (Professor)

7. George Washington University,  
Washington, U.S. Legal Assistant  
Program (Director)

#### Independent Paralegals

2 in Ontario

#### Private Law Firms

1 partner  
5 lawyers (1 member of the CBAO  
committee on paralegals, and the  
president of the CBAO)  
1 paralegal supervisor  
5 paralegals

#### Provincial Government

1. Ministry of the Attorney General,  
Ontario (2 personnel managers, 1  
paralegal supervisor, and 1 paralegal)
2. Ontario Legal Aid Plan (Clinic  
Funding Manager and one paralegal)
3. Ministry of the Attorney General,  
British Columbia (one personnel  
manager)

#### Department of Justice, United States

1. **Tax Division:**  
  
1 section chief  
1 director training  
1 paralegal supervisor
2. **Civil Division:**  
  
1 deputy director  
1 paralegal supervisor
3. **Criminal Division:**  
  
1 section chief  
1 deputy director  
1 paralegal supervisor
4. **Personnel**  
  
5 paralegal specialists

#### Internal Revenue Service United States

2 personnel officers



**APPENDIX 2**

**Educational Training - Paralegals**

## APPENDIX 2

### Educational Training - Paralegals

Institutes that provide educational training and background for paralegals are primarily focused at the community college level. The National Guide to College and University Programs (CEIC, 1992) identifies 17 colleges offering Legal Assistant programs. The majority of these programs are offered in Ontario, where 12 colleges currently provide Legal Assistant courses. Other locations are Edmonton, Winnipeg, Red Deer, Vancouver and Cumberland, Nova Scotia. Some colleges also offer satellite programs in other communities. La Cité collégiale in Ottawa offers a french program in Common Law. Programs are generally located in a community college's School of Business or School of Office Administration. Seneca College, in an effort to emphasize the legal nature of the program, offers the Legal Assistant Program through the School of Law and Public Administration.

In recent years, Regulatory Law Administration Programs have been introduced at both Seneca and Algonquin Colleges. These programs offer legal education geared towards the administration of client files and the management of regulatory compliance programs in regulatory agencies. Programs are also designed to equip students with the skills necessary to be advocates on behalf of claimants before regulatory boards and tribunals in matters of appearances of first instance that do not require the services of a practising lawyer.

Other institutes offering legal education are The Institute of Law Clerks of Ontario, Universities offering Bachelor of Arts degrees in Law, a General Certificate in Civil Law offered by the University of Ottawa, and "Technique Juridique" programs in Civil Law in Quebec.

In the Province of Quebec, programs for legal technicians are offered by the Collège de l'Assomption and the Collège O'Sullivan, which are private institutions, and by the Collège d'Ahuntsic and the Collège François-Xavier-Garneau, which are public institutions.

#### 1. Legal Assistant Programs:

Legal assistant programs are designed to train legal assistants as "specialists capable of doing independent legal work under the general supervision of a lawyer in legal or other law related offices". Program calendars identify legal assistants as skilled technicians or specialists who have studied legal theory and procedures, and who can apply this knowledge to assist legal practitioners. The primary emphasis is on training assistants to work in private law firms,

although the principles and procedures would also be applicable to legal departments of private industry and government.

Independent judgement is seen as a critical component to these positions, as assistants will often have to work on their own. Some examples of work functions are: interviewing clients; drafting pleadings, wills, probate, conveyancing and corporate documents; legal research; file management; and assisting in trial preparation. One program advises potential applicants that "an inexperienced Legal Assistant graduate will usually be assigned secretarial responsibilities initially" and that "full legal assistant status and responsibility will require experience beyond the training provided in the program" (Red Deer College).

Admission to a Legal Assistant program requires a Secondary School Graduation Diploma, or mature status (19 years). Many of the colleges emphasize good communication skills (both oral and written) as a key component to this profession; and therefore require either Grade 12 English or a competency assessment as a pre-requisite to entry. This emphasis on communication skills continues throughout the program with many colleges requiring the completion of two to three courses in Communications/English.

Diploma programs are generally of two years/four semesters duration with a field placement required. Most field placements occur during the last year of the program, and range anywhere from one day per week in the last year or semester up to six months following completion of course requirements. Some colleges offer co-op programs where students will complete one or two semesters of school, work for one or two more semesters, then return to school for the last two semesters (two calendar years). Others will require blocks of employment for one to three weeks during the final semesters.

Some schools also offer certificate programs to individuals who have work related experience or a related educational background (e.g., Legal Secretary Program). Certificate programs are often one year in length and can generally be completed on a part-time basis. Vancouver Community College in British Columbia provides a continuing education program that allows students to concentrate in a specific area of the law (e.g., litigation, real estate, etc.), thus providing an avenue for movement out of one area of law into another.

Courses:

On the legal side of Legal Assistant programs, courses concentrate in the following areas:

- Real Estate Law
- Commercial Law
- Corporate Law

- Litigation
- Civil Procedures and Torts
- Estates and Wills
- Family Law
- Criminal Law

Many colleges also provide separate courses in Legal Research and in Contracts. Students are often required to take anywhere from two to four courses in Real Estate, Litigation and Corporate Law. Few colleges offer separate courses in Ethics and Evidence/Advocacy. Most colleges incorporate legal drafting and interviewing instruction into each area of the law.

The administrative side of the Legal Assistant program offers courses in the following areas:

- Accounting
- Communications/English
- Keyboarding/Typing
- Computer Applications
- Law Office Procedures/Management

Keyboarding/Typing skills are required at most colleges with a minimum of 20 to 40 w.p.m. As previously mentioned, all colleges place a great emphasis on communication skills.

In addition to administrative and legal courses, many colleges require one or two additional courses in such areas as mathematics, economics, psychology, sociology, Canadian Studies, Government Administration, Public Speaking and Humanities. Capilano College in North Vancouver requires the completion of three university credits and three credits in basic computer training before graduation. Some programs allow for additional electives.

## 2. Regulatory Law Administration (Algonquin and Seneca Colleges)

Regulatory law administration is a one year post-diploma program currently offered at Algonquin and Seneca colleges. Eligible applicants must have a university degree or any three-year college diploma, or mature status (19 years) with three to five years experience in the legal field. These programs are designed to train students as administrators of regulatory agencies, regulatory investigation and enforcement officers, adjudicators of disputes, and client advocates.

Courses offered include:

- Labour law and regulations
- Social welfare programs and administration
- Creditors' rights and bankruptcy administration
- Regulatory administration and procedures
- Immigration Law
- Municipal planning and development
- Dispute resolution
- Evidence/Advocacy
- Ethics
- English for regulatory law
- File preparation and maintenance

The program calendar identifies potential employment as Workers Compensation Board Claims Adjudicators, Social Assistance Review Board Claim Officers, Unemployment Insurance Adjudicators, Pay Equity Review Services Officers, Community Legal Workers and Regulatory Compliance Administrators in the Public Sector.

### 3. Programs for Legal Technicians (Quebec)

The programs for legal technicians offered by the four CEGEPS are three-year professional training programs leading to a diploma of college studies in legal technology (diplôme d'études collégiales - the D.E.C.). Their purpose is to train students for the labour force.

These programs prepare their graduates for professional duties in various work settings. In a law firm or notarial practice, a legal technician may be asked to consider the legal information required in the preparation of cases and pleadings. More specifically, they must retrieve information from statutes, regulations, case law and academic texts, analyse the contents and extract the information relevant in drafting pleadings or any other documents needed for processing a case. Graduates are also trained to perform other duties in law firms or notarial practices, such as: preparing and attending hearings, preparing witnesses, being responsible for case follow-up, minor office bookkeeping and billing, maintaining and updating some records or databases and preparing company minutes and annual reports.

The programs for legal technicians also prepare graduates to work in a bailiff's office. The duties of a bailiff are to serve written procedures issuing out of a court [serve process], carry out seizures and other judicial decisions that are executory and to execute warrants and ascertainties of the condition of premises.

Graduates are prepared to perform the following courtroom duties: ensure that court hearings proceed smoothly, issue subpoenas and writs of execution, summonses and warrants, prepare certificates from the register of civil status and perform various administrative duties necessary for the operation of the courts.

Finally, graduates may work in a registry office where they will be required to examine every document presented for registration, issue search certificates and perform searches to determine the interests affecting specific real property.

Requirements for admission to the various programs for legal technicians are similar in all the CEGEPs. That is, a diploma of secondary studies (DES) is the minimum requirement, and a special mathematics course is also required. In l'Assomption and O'Sullivan colleges, the program is offered only to students admitted to Adult Education. Generally speaking, these programs all offer courses on theory, case studies and other practical exercises, including on-the-job training periods to complete their students' training.

#### 4. The Institute of Law Clerks in Ontario

##### A) **Organization:**

The Institute of Law Clerks of Ontario was established in 1968 to advance the status and interests of law clerks and to promote legal education for the purpose of increasing their knowledge, efficiency and professional ability. The Institute defines Law Clerk as "a trained professional doing independent legal work, which may include managerial duties, under the direction and guidance of a Lawyer and whose function is to relieve a Lawyer of routine legal and administrative matters and assist him in the more complex ones".

The Institute offers seven different classes of membership, of which four classes require different levels of experience and/or education. All members must be residents of Ontario, and with the exception of student, honorary, retired and ex-officio members, must be engaged in "Qualifying Employment". Qualifying employment requires members to be performing the duties of a law clerk in Ontario on a full-time basis. This employment must be certified in writing by the lawyers or the firm of lawyers employing or supervising the applicants.

The seven classes of membership are as follows:

##### 1. Student Member:

- has attained the age of 18 years;

- has been granted a law clerk certificate/diploma by an approved Ontario educational institution or its equivalent, or has passed the Institute's Associate examinations; and
- must obtain qualifying employment within two calendar years of year of graduation.

2. **Ordinary Member:**

- has attained the age of 18 years;
- has been in qualifying employment for a period of not less than six consecutive months at the time of seeking admission.

3. **Associate Member:**

- has attained the age of 21 years;
- has been in qualifying employment for a period of not less than three consecutive years at the time of seeking admission; of which not less than one year shall be in the Province of Ontario; and
- has passed the Institute's Associate examinations.

OR

- has been in qualifying employment within the Province of Ontario for a period of eight consecutive years prior to December 31, 1983, at the time of seeking admission.

OR

- has been admitted by examination as Associate of Institute of Legal Executives of the United Kingdom or has qualified by a comparable examination in any other Common Law jurisdiction.

4. **Fellow Member:**

- has attained the age of 25 years;
- has been in qualifying employment for a period of not less than seven consecutive years at the time of seeking admission; of which not less than one year shall be in the Province of Ontario;
- has been admitted as an Associate Member of the Institute; and
- has passed the Institute's Fellowship examination.

OR

- has been admitted by examination as Fellow of Institute of Legal Executives of the United Kingdom or has qualified by a comparable examination in any other Common Law jurisdiction.

5. **Retired Member:**

- Ordinary, Associate or Fellow members;
- retain all privileges pertaining to class of membership occupied on date of retirement.

6. **Honourary Member:**

- appointed by vote of all members of board of director in recognition for their contribution to the development or welfare of Law Clerks.

7. **Ex-Officio Member:**

- the person occupying the office of Secretary of the Law Society of Upper Canada immediately upon assuming that office.

There are approximately 400 members currently registered with the Institute of which approximately 250 are Associate Members and 25 are Fellow Members. Membership fees range from \$25 to \$150, depending on status.

**B) Continuing Legal Education**

The Institute offers evening programs in affiliation with the continuing legal education departments of community colleges (primarily the Toronto region). courses are available in four main areas of the law:

- **Real Estate;**
- **Estates;**
- **Litigation (Civil and Criminal); and**
- **Corporate Law**

Courses range from 13 to 26 weeks in length and each course requires the passing of an Associate level exam. Associate level courses are prepared by the Institute in consultation with a Toronto area Law Professor. At the request of the community college, the Institute will provide a syllabus outlining the course content. The college is then responsible for hiring a lawyer to teach a course structured by the college. Students are eligible for Associate Member status upon completion of all four examinations. These exams are available to anyone who meets the aforementioned requirements for Associate membership. It is not necessary to complete the courses before writing the exam. Students enrolled in the college's Legal Assistant day program are encouraged by the Institute to write the Associate examinations upon completion of that program.



Fellowship courses are offered in **Contracts** and in **Family Law** and concentrate less on the procedural aspects of law and more on the legislation of various areas of law (study acts). The Institute hires lawyers to teach courses and has a contract with a local professor to design courses. The Institute states that Fellowship examinations are designed to test law clerks at a level equivalent to taking a bar admission course.

Additional continuing education is offered through periodic seminars, workshops and annual conferences. Workshops tend to focus on procedures rather than substantive law. The Institute also publishes a bi-monthly newsletter -- "Law Clerks Review" -- advising members of amendments to legislation, administrative changes, job opportunities and upcoming events.

There are currently ten Ontario college campuses offering the Institute of Law Clerk Associate courses. The Institute recommends students have a legal background prior to taking these courses (through education, employment or both).

## 5. University Programs

### Bachelor of Arts - Law

Generally located with the social sciences, university Law Departments offer a bachelor program that studies the law and legal structures within a social, economic and political context.

The emphasis is on law as a social science and includes policy courses and methodology courses in standard legal and social science analysis. The programs do not generally teach case law, nor any procedural courses. The degree is not a pre-law degree, nor does it qualify anyone to practice law or give counsel in legal matters.

Required core courses may include:

- Introduction to Legal Studies
- Introduction to Private Law Relationships
- Introduction to Criminal Law in Context
- Introduction to Public Law
- Legal Research Methods (Honours)

Examples of other available courses are: International Economic Law; Tax Law and Policy; The Legal Nature of Property; Young Offenders and the Law; Employment Law; Labour Law; Constitutional Law, Public International Law; Civil Liberties and Human Rights; Criminal Justice Reform; Contemporary Theories of Law, State and Politics; Intellectual Property Law; Administrative Law and Control.

Many student enroled in these programs are currently working in fields where they come into contact with various legal situations and want a background in the legal areas they are involved with (e.g., police, criminology students, social workers and teachers).

Some universities also offer a one-year certificate program in law. For example, the University of Ottawa offers a one-year certificate program in Civil Law. This program teaches the basic principles of Civil Law, but does not qualify anyone to practice law.

**APPENDIX 3**

**Survey Instruments**



MEMORANDUM/NOTE DE SERVICE

Security classification – Cote de sécurité
File number – Numéro de dossier  3057
Date  1992-12-23
Telephone/FAX – Téléphone/Télécopieur  993-5003 / 992-6340

TO/DEST:

Name of a Lawyer  
Criminal Prosecutions - Toronto/Poursuites pénales - Toronto

FROM/ORIG.:

Mario Dion, Assistant Deputy Minister/Sous-ministre adjoint  
Corporate Management Sector/Secteur de la gestion intégrée

SUBJECT/OBJET:

**Survey of Lawyers Regarding Paralegal Functions/Enquête des avocats sur les fonctions parajuridiques**

Comments/Remarques

The Department of Justice, under the direction of the Bureau of Review, is conducting a study of the use of paralegals in the Department. The study has two main purposes: to determine whether there is currently work being conducted by support staff that should be recognized as paralegal work; and, to assess the extent to which lawyers could be assisted in their work by assigning paralegals to perform some of the tasks they currently perform. You may have been notified of this study by your manager. In October, a letter regarding this study was sent to senior managers for their information and for dissemination.

Le ministère de la Justice entreprend, sous la direction du Bureau de l'examen, une étude sur l'utilisation des parajuridiques dans le Ministère. Cette étude a deux objectifs principaux : déterminer si le personnel de soutien entreprend, à l'heure actuelle, des travaux que l'on pourrait qualifier de travaux parajuridiques; et évaluer dans quelle mesure les avocats pourraient être assistés dans leurs fonctions en affectant des parajuridiques à certaines tâches qu'ils accomplissent à l'heure actuelle. Vos gestionnaires vous ont peut-être déjà mis au courant de cette étude. En octobre, nous avons envoyé une lettre aux gestionnaires afin de les en informer et afin qu'ils en fassent part.

For purposes of the study we consider paralegals to be non-lawyers who perform delegated substantive legal work under the supervision of a lawyer. This includes people referred to as law

Aux fins de cette étude, un parajuridique est un employé qui accomplit du travail juridique sans être avocat, sous le contrôle d'un avocat. Les parajuridiques sont parfois appelés commis légistes en

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clerks in Ontario, legal assistants in B.C. or paralegals and paralegal specialists within the Department of Justice. Their role can include the compiling and recording of information, either from clients, governmental authorities or other sources with a view to providing a base of knowledge on which informed advice and direction may be given; and the drafting, completion and proper filing, registration or proper execution of legal documentation which will implement or effect the legal services.

As part of this study, we are conducting a survey of lawyers in the Department to collect information about the kinds of work they currently perform that could be undertaken by a paralegal, in order to assess the amount of time for which paralegals could be used to reduce the burden on lawyers or allow them to concentrate more on work requiring lawyer skills and expertise. We have interviewed a wide range of Justice managers and paralegals, lawyers and paralegals in other jurisdictions, private sector lawyers and paralegals, and other people knowledgeable about the role of paralegals in the legal profession--people educating paralegals, and people involved in various studies and task forces on the use of paralegals.

Ontario, assistants juridiques en Colombie-Britannique et spécialistes parajuridiques au ministère de la Justice. Leur rôle peut consister à compiler et à enregistrer de l'information en provenance de clients, d'autorités gouvernementales ou d'autres sources, pour constituer une base de connaissances qui permette de donner un conseil et une orientation en connaissance de cause; et à rédiger, à terminer et à bien constituer en dossier, à inscrire et à bien rédiger les saisies et la documentation juridique qui met en application les services juridiques ou a une incidence sur eux.

Dans le cadre de cette étude, nous envoyons un questionnaire aux avocats du Ministère pour obtenir de l'information sur les catégories de travaux qu'ils accomplissent actuellement, et que pourraient entreprendre des parajuridiques, et ainsi évaluer le montant de temps durant lequel on pourrait utiliser des parajuridiques pour réduire leur charge de travail et leur permettre de se concentrer davantage sur des travaux qui nécessitent leur compétence et leur expertise d'avocat. Nous avons interrogé une gamme étendue de gestionnaires et de parajuridiques du ministère de la Justice, d'avocats et de parajuridiques de d'autres juridictions, d'avocats et de parajuridiques du secteur privé et d'autres personnes qui connaissent le rôle des parajuridiques dans la profession juridique - personnes qui enseignent aux parajuridiques, et personnes qui participent à des

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The survey is based on a list of potential paralegal functions. A few of these are more managerial or administrative in nature, but most are professional legal functions. In the case of the professional legal functions, the division of labour between paralegals and lawyers will usually be one of degrees; a paralegal may be able to perform some aspects of a task quite independently, some aspects under the close supervision of a lawyer, and other aspects not at all. This will depend on the specific matter being addressed, the experience of the paralegal (and the confidence of the lawyer in assigning responsibility), and mandated limitations on what paralegals are permitted to do.

We are asking that you take a few minutes to provide us with estimates of the amount of time that you spend performing certain tasks, and the amount of time spent on tasks that you think a paralegal could perform. Your estimates will be used to provide us with information on potential demand for paralegal services. We are making no attempt in this study to make determinations about whether or not paralegals should be assigned to specific functions or specific offices. Rather, we have been asked to provide preliminary information to be used in the development of a broad Departmental approach for

études et à des groupes de travail sur l'utilisation des parajuridiques.

Nous avons basé notre enquête sur une liste de fonctions parajuridiques possibles. Certaines d'entre elles sont de nature davantage administrative ou gestionnelle, mais la plupart sont de nature juridiques professionnelles. Dans le cas des fonctions juridiques professionnelles, la distinction entre le travail de l'avocat et celui du parajuridique est en général une différence de degré; un parajuridique peut accomplir certains aspects d'une tâche d'une manière tout à fait indépendante, certains aspects sous le contrôle étroit d'un avocat, et peut ne pas pouvoir accomplir certains autres aspects de cette tâche. Tout dépend du sujet en question, de l'expérience du parajuridique (et de la confiance de l'avocat qui délègue la responsabilité), et des limites du mandat du parajuridique.

Nous vous demandons de consacrer quelques minutes à estimer le montant de temps que vous consacrez à certaines tâches, et le montant de temps que vous consacrez à des tâches qui, d'après vous, pourraient être accomplies par un parajuridique. Nous utiliserons vos estimations pour mieux connaître la demande de services parajuridiques. Dans cette étude, nous n'essayons absolument pas de déterminer s'il faudrait, ou pas, affecter les parajuridiques à des fonctions ou à des bureaux particuliers. Par contre, nous désirons obtenir de l'information préliminaire pour élaborer une

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the use of paralegals. Your assistance in this endeavour will be greatly appreciated.

Your responses will be kept confidential. We have placed a code number on your survey to allow us to identify your sector and section and your lawyer classification. This will enable us to draw conclusions about the location of demand within the office for paralegal assistance and the levels of lawyers that require the assistance. The code also has an individual number for each respondent. Once your responses are entered into the computer for analysis, there will be no remaining link between your name and your responses. The consultants managing the survey (Alderson-Gill & Associates) have been instructed not to submit the list of names to the Department, and to destroy the list as soon as the data has been entered into the computer.

We would like to receive your responses within two weeks of your receiving the survey. We have provided a return envelope for this purpose. If you have any questions about this survey, please do not hesitate to call Ms. Alyson MacLean at the Bureau of Review (613-993-5003).

démarche ministérielle visant à optimiser l'utilisation des parajuridiques. Nous vous remercions beaucoup de nous aider dans ce projet.

Vos réponses demeureront strictement confidentielles. Nous avons inscrit sur votre questionnaire un code qui nous permettra d'identifier votre secteur, votre section et votre classification d'avocat. Ce code nous permettra de déterminer l'emplacement de la demande d'aide parajuridique à l'intérieur du Bureau et le niveau des avocats qui ont besoin de cette aide. Ce code contient également un numéro personnel pour chaque répondant. Une fois que nous aurons inscrit votre réponse dans l'ordinateur, nous détruirons tout lien avec votre nom. Nous avons demandé aux conseillers qui gèrent cette enquête (Alderson-Gill & Associates) de ne pas soumettre la liste de noms au Ministère, et de la détruire dès qu'ils auront inscrit les données dans l'ordinateur.

Nous aimerions recevoir votre réponse au plus tard deux semaines après que vous ayez reçu votre questionnaire. Nous vous prions d'utiliser l'enveloppe-réponse ci-joint. Si vous avez des questions, n'hésitez pas à appeler Mme Alyson MacLean au Bureau de l'examen (613-993-5003).

Mario Dion

## INSTRUCTIONS FOR LAWYER SURVEY

On the next page you will find a list of tasks that could be performed by a paralegal. Please estimate, for each task, the **average** number of hours per week that you currently spend and, of these, the average number of hours per week that could be assigned to a paralegal. That will allow us to determine the areas in which paralegals are viewed as potentially useful, and to get a sense of the level and nature of potential demand for their services in the Department.

You should assume that the paralegal would have the necessary training and experience, including experience in required substantive areas, to fulfill a legitimate paralegal role. We recognize that some of the work you indicate will be appropriate only for a senior paralegal, while others will be appropriate for a more junior paralegal. For our purposes we do not need to distinguish among levels of paralegal work.

Most of the tasks we identify are professional legal tasks, but a few are more managerial or administrative in nature. In no case do we intend a task to include secretarial or clerical work that does not have a requirement for some legal training. Task 1 (Managing Case Files, Opinion Files) is intended to capture such activities as tracking the progress of matters and identifying and scheduling next steps, ensuring that client or court deadlines are met, and setting priorities. Task 2 (Preparing Litigation Reports, Legal Trends Reports, Other Summary Reports) is intended to capture work that will assist in the management of the overall practice by collecting and reporting on workloads and the nature of work being conducted, and by categorizing and summarizing cases or files in ways that will be useful to managers and lawyers.

We expect that your responses will vary considerably depending on the nature of the work you do. For example, task 8 (Analyzing Facts/Evidence, Defining Legal Issues) is one that lawyers working on certain types of files might view as inappropriate for paralegals. For others, there may be routine matters for which an experienced paralegal could define issues, conduct research and highlight appropriate material, leaving the lawyer more time to concentrate on the more complex matters.

In the case of task 4 (Conducting Discoveries) paralegals in some offices conduct discoveries on routine matters on their own, and in others, a paralegal can be an important part of a team--following up on undertakings for example. In task 9 (Preparing and Reviewing Pleadings, Factums, Contracts and Other Legal Documents) and task 14 (Making Court/Regulatory Board Appearances) while the paralegal cannot prepare factums or appear before superior courts, they can assist the lawyer in preparing factums for superior courts, or prepare their own factums and appear before courts and regulatory bodies as permitted. Similarly, while paralegals are unlikely to prepare opinions on their own (task 10), they may be able to contribute to their preparation. **Your estimates should include those aspects of a task that paralegals could undertake themselves, and those for which paralegals could assist under direct supervision.**

The hours you indicate in the "lawyer" column should never exceed the number of hours that you work in an average week and may in fact be fewer because the list of tasks includes only those that a paralegal could potentially fulfill. There are some functions you may be performing, such as providing legal opinions, that a paralegal is unlikely to perform. Or you may, for lack of adequate support staff, be spending time on copying and other clerical functions. Clerical functions are not appropriate for a paralegal either. Clearly, it would be better to use a paralegal than a lawyer for this work, but in this survey we are attempting to document need for paralegals, not other types of support. **The estimates that you make pertain only to your own work. If you have a paralegal assisting you already, do not include their time with yours.** If you do not perform one of the tasks on our list leave both columns blank, even if the work is done by others in your office.

**WE ANTICIPATE THAT IT SHOULD NOT TAKE MORE THAN 20 MINUTES TO COMPLETE THIS SURVEY**



## LAWYER SURVEY OF PARALEGAL TASKS

In the "Lawyer" column please fill in the number of hours that you spend on each task in an average week. Your total should not exceed the number of hours **you** spend in an **average** week. In the "Paralegal" column please indicate the number of hours of that work that could be conducted by a paralegal.

Average hours per week

TASKS	LAWYER (Hours you spend)	PARALEGAL (Hours of your total that could be conducted by a paralegal)
1. Managing Case Files, Opinion Files		
2. Preparing Litigation Reports, Legal Trends Reports, Other Summary Reports		
3. Conducting Records Searches, Collecting Evidence, Investigating Claims		
4. Conducting Discoveries		
5. Interviewing Clients or Other Parties (other than in discoveries)		
6. Attending Meetings with Clients or Other Interested Parties		
7. Conducting Legal Research		
8. Analyzing Facts/Evidence, Defining Legal Issues		
9. Preparing and Reviewing Pleadings, Factums, Contracts, Other Legal Documents		
10. Preparing and Reviewing Opinions, Briefing Notes, Case Summaries, Other Texts		
11. Drafting, Editing Correspondence		
12. Instructing Agents or Other Officials		
13. Conducting Negotiations		
14. Making Court/Regulatory Board Appearances		

15. We are interested in your opinion on the tasks that you consider that a paralegal can successfully perform. Please provide your comments in the space below. (If there is not enough room provided here, please attach your comments to your completed survey.)

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MEMORANDUM/NOTE DE SERVICE

Security classification - Cote de sécurité
File number - Numéro de dossier <b>3057</b>
Date <b>1992-12-23</b>
Telephone/FAX - Téléphone/Télécopieur <b>993-5003 / 992-6340</b>

**TO/DEST:** Name of a Secretary  
Criminal Prosecutions - Toronto/Poursuites pénales - Toronto

**FROM/ORIG.:** Mario Dion, Assistant Deputy Minister/Sous-ministre adjoint  
Corporate Management Sector/Secteur de la gestion intégrée

**SUBJECT/OBJET:** **Survey of Support Staff Regarding Paralegal Functions/Enquête du personnel de soutien sur les fonctions parajuridiques**

Comments/Remarques

The Department of Justice, under the direction of the Bureau of Review, is conducting a study of the use of paralegals in the Department. The study has two main purposes: to determine whether there is currently work being conducted by support staff that should be recognized as paralegal work; and, to assess the extent to which lawyers could be assisted in their work by assigning paralegals to perform some of the tasks they currently perform.

Le ministère de la Justice entreprend, sous la direction du Bureau de l'examen, une étude sur l'utilisation des parajuridiques dans le Ministère. Cette étude a deux objectifs principaux : déterminer si le personnel de soutien entreprend, à l'heure actuelle, des travaux que l'on pourrait qualifier de travaux parajuridiques, et évaluer dans quelle mesure les avocats pourraient être assistés dans leurs fonctions en affectant des parajuridiques à certaines tâches qu'ils accomplissent à l'heure actuelle.

For purposes of the study we consider paralegals to be non-lawyers who perform delegated substantive legal work under the supervision of a lawyer. This includes people referred to as law clerks in Ontario, legal assistants in B.C. or paralegals and paralegal specialists within the Department of Justice.

Aux fins de cette étude, un parajuridique est un employé qui accomplit du travail juridique sans être avocat, sous le contrôle d'un avocat. Les parajuridiques sont parfois appelés commis légistes en Ontario, assistants juridiques en Colombie-Britannique et spécialistes parajuridiques au ministère de la Justice.

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As part of this study, we are conducting a survey of secretaries and other support staff in the Department to collect information about the amount and types of paralegal work they may be performing. This information will be used to guide the Department in the optimum use of paralegals. We are aware that it has been recently recognized that the work of some secretaries (STSCY03) in the Department may include some junior paralegal tasks. The information collected in this study will not be used to remove those paralegal tasks from SCY03's.

For this study we have interviewed a wide range of Justice managers and paralegals, lawyers and paralegals in other jurisdictions, private sector lawyers and paralegals, and other people knowledgeable about the role of paralegals in the legal profession-- people educating paralegals, and people involved in various studies and task forces on the use of paralegals.

We are asking that you take a few minutes to provide us with estimates of the time you spend performing certain tasks. Your estimates will be used to provide us with information on potential demand for paralegal services. We are making no attempt in this study to make recommendations about whether or not paralegals should be assigned to specific functions or specific offices. Rather, we have been asked to provide preliminary information to be used in

Dans le cadre de cette étude, nous envoyons un questionnaire aux secrétaires et autres employés de soutien du Ministère pour obtenir de l'information sur le montant et les catégories de travaux parajuridiques qu'ils accomplissent actuellement. Nous utiliserons cette information pour permettre au Ministère d'optimiser son utilisation des parajuridiques. Nous savons que, récemment, on s'est rendu compte dans le Ministère que le travail de certaines secrétaires (STSCY03) comprend des tâches parajuridiques mineures. Nous n'utiliserons pas l'information recueillie dans cette étude pour retirer aux SCY03 ces fonctions parajuridiques.

Pour cette étude, nous avons interrogé une gamme étendue de gestionnaires et de parajuridiques du ministère de la Justice, d'avocats et de parajuridiques de d'autres juridictions, d'avocats et de parajuridiques du secteur privé et d'autres personnes qui connaissent le rôle des parajuridiques dans la profession juridique - personnes qui enseignent aux parajuridiques, et personnes qui participent à des études et à des groupes de travail sur l'utilisation des parajuridiques.

Nous vous demandons de consacrer quelques minutes à estimer le temps que vous consacrez à accomplir certaines tâches. Nous utiliserons vos estimations pour mieux connaître la demande de services parajuridiques. Dans cette étude, nous n'essayons absolument pas de déterminer s'il faudrait, ou pas, affecter les parajuridiques à des fonctions ou à des bureaux

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the development of a broad approach for optimizing the use of paralegals. Your assistance in this endeavour will be greatly appreciated.

Your responses will be kept confidential. We have placed a code number on your survey to allow us to identify your sector and section and your classification. This will enable us to draw conclusions about the level and kinds of paralegal work being conducted by non-paralegal support staff in the Department. The code also has an individual number for each respondent. Once your responses are entered into the computer for analysis, there will be no remaining link between your name and your responses. The consultants managing the survey (Alderson-Gill & Associates) have been instructed not to submit the list of names to the Department, and to destroy the list as soon as the data has been entered into the computer.

We would like to receive your responses to this survey in the next two weeks. We have provided a return envelope for this purpose. If you have any questions about this survey, please do not hesitate to call Ms. Alyson MacLean at the Bureau of Review (613-993-5003).

particuliers. Par contre, nous désirons obtenir de l'information préliminaire pour élaborer une démarche ministérielle visant à optimiser l'utilisation des parajuridiques. Nous vous remercions beaucoup de nous aider dans ce projet.

Vos réponses demeureront strictement confidentielles. Nous avons inscrit sur votre questionnaire un code qui nous permettra d'identifier votre secteur, votre section et votre classification d'avocat. Ce code nous permettra de déterminer l'emplacement de la demande d'aide parajuridique à l'intérieur du Bureau et le niveau des avocats qui ont besoin de cette aide. Ce code contient également un numéro personnel pour chaque répondant. Une fois que nous aurons inscrit votre réponse dans l'ordinateur, nous détruirons tout lien avec votre nom. Nous avons demandé aux conseillers qui gèrent cette enquête (Alderson-Gill & Associates) de ne pas soumettre la liste de noms au Ministère, et de la détruire dès qu'ils auront inscrit les données dans l'ordinateur.

Nous aimerions recevoir votre réponse au plus tard deux semaines après que vous ayez reçu votre questionnaire. Nous vous prions d'utiliser l'enveloppe-réponse ci-joint. Si vous avez des questions, n'hésitez pas à appeler Mme Alyson MacLean au Bureau de l'examen (613-993-5003).

Mario Dion

## INSTRUCTIONS FOR SUPPORT STAFF SURVEY

On the next page you will find a list of tasks that could be performed by a paralegal. Please estimate, for each task, the **average** number of hours per week that you currently spend. An important purpose of our study is to determine whether there is currently work being conducted by secretaries and other support staff that should be recognized as paralegal work. Your estimates will help us to determine where and the extent to which this may be the case.

We **do not** expect that the hours you indicate will add up to the total hours you work, because the list of tasks includes only those that are paralegal tasks. The estimates that you make pertain only to your own work. If you do not perform one of the tasks, there should be no estimate for a paralegal, even if the work is done by others in your office.

In making your estimates, it is critical that you consider only work of a paralegal nature. Your estimates **should not** include activities such as typing, filing and other standard secretarial tasks, unless they are a part of a paralegal task. For example, for task 1 (Updating, Indexing, Cross-referencing Case Files, Opinion Files, Precedents or Procedures Manuals), you should include only time spent only on those specific functions, and not on filing or file retrieval, or any work on administrative files. In the case of tasks that involve drafting (tasks 3 and 4), we are referring to drafting that you undertake yourself, rather than typing you may do for a lawyer's draft of a document.

Task 6 (Scheduling) refers to scheduling directly related to a **case file** or an **opinion file**, rather than general scheduling of appointments that might be performed for a manager. Scheduling includes tracking limitations and court dates, organizing meetings, monitoring preparation deadlines, and otherwise organizing work schedules. Task 5 (Informing Clients and Other Officials of Case-related Matters) refers only to work directly related to specific case files rather than other contacts you may have for the general administration of the office.

WE ANTICIPATE THAT IT SHOULD NOT TAKE MORE THAN 20 MINUTES TO COMPLETE THIS SURVEY

## SUPPORT STAFF SURVEY OF PARALEGAL TASKS

In the "Hours you spend per week" column please fill in the number of hours, if any, that you spend on each of the following tasks in an average week. We recognize there may be weeks in which you spend far more time, but please try and think in terms of an average week. Remember that the hours should not include time spent on secretarial functions such as typing and filing, unless they are part of a paralegal task.

PARALEGAL TASKS	HOURS YOU SPEND PER WEEK (on average)
1. Updating, Indexing, Cross-referencing Case Files, Opinion Files, Precedents or Procedures Manuals	
2. Conducting Records Searches, Library Searches	
3. Drafting Correspondence	
4. Drafting Routine Affidavits, Pleadings, Contracts and Other Legal Documents	
5. Informing Clients and Other Officials of Case-related Matters (providing information, answering questions)	
6. Scheduling (Tracking limitations; court dates; witness, counsel, client meetings; preparation deadlines or work schedules)	
7. Attending Meetings with Clients or Other Interested Parties	
8. Collecting and Compiling Case-Load Statistics or Other Summaries of Legal Matters handled by the office (including preparing Litigation Reports)	
9. Management of Garnishment Registries	

10. If you are conducting any paralegal tasks **that are not listed above**, please list these in the space provided below and indicate the number of hours you spend on these tasks in an average week. (If there is not enough room provided here, please attach your comments to your completed survey.)

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