

## **Sampling Appendix B: Estimating the Eligible Population**

The After the JD project has defined the eligible population as persons who:

- a) first became members of a state bar (including the DC bar) in CY 2000;
- b) who graduated from law school in the period July 1, 1998 through June 30, 2000.

In order to estimate the numbers of eligible persons, we first need to know how many persons met these criteria in some recent year. In addition, because we are designing an area probability sample in which a limited number of geographic areas (Primary Sampling Units, PSUs) will represent the entire nation, we need to know the number of eligibles in each of the 396 metropolitan and non-metropolitan PSAs from which the PSUs will be sampled. Unfortunately, no data source provides exactly the information we need. And the data sources which are available are somewhat inconsistent with each other.

The National Conference of Bar Examiners (NCBE) produces an annual report which includes the number of persons admitted to the bar, and the basis of admission (bar exam, diploma privilege, or motion), on a *statewide* basis. The number of persons admitted on the basis of passing a bar exam plus those admitted by diploma privilege (Wisconsin only) comes closest to our target, but there are two major exceptions. First, many persons who are admitted on the basis of bar exam passage are already licensed as attorneys in another state, but do not qualify for admission by motion because they have been practicing for less than the 3-5 years required for motion admission. A dozen states administer a separate attorney's examination, and report separately the numbers of persons who passed these attorney exams, but most states have a single exam which applies to attorneys and non-attorneys alike.

Second, the DC Bar admits persons who are already admitted to a state bar without a length of practice requirement, and over 90% of the persons admitted in DC are admitted on the basis of motion; it appears that the great majority of recent law school graduates who become members of the DC bar and practice in DC are first admitted in another state but do not practice in that other state.

For purposes of estimating the number of eligible persons, we began with the 48,554 persons admitted to the bar on the basis of examinations or diploma privilege. In the 12 states with a separate attorney exam, we discounted that initial count by the number of attorney exam passers in that state who took the attorney exam. In the majority of states, which did not have a separate attorney exam, we approximated the proportion of attorney entrants using the average proportion attorneys among exam passers in the states which did have an attorney exam. (In the three states with attorney exams *and* motion admissions, we assumed some of the attorney exam takers would have been admitted in the past year, such as one fifth of those in states with 5 year motion requirements and counted only the remainder as attorney exam takers). This estimate of ineligible exam takers is somewhat rough, since the attorney proportion of passers varied from less than 1% to 27% among the states with an attorney exam, so the variance around the mean of 8% is probably quite large. In any case, our resulting estimate is 48,695 persons, who had not been attorneys for

more than a year, who were admitted in 1999 on the basis of exam or diploma privilege. This revised figure was our best estimate of the number of persons who would be eligible for the After the JD study.

Our best information on the geographic distribution of jobs taken by recent law school graduates comes from the annual reports of the National Association for Law Placement (NALP) on the jobs taken by graduates of American Bar Association (ABA) accredited law schools. The NALP data is intended to provide for about each graduate in each year an indication of whether they had a job upon graduation, and the geographic location (city and state) of each job taken. We aggregated the NALP data up to metropolitan and statewide totals for comparisons with the NCBE data, but our primary uses of it were at the metropolitan (and non-metro remainders of a state) level.

For purposes of determining the geographic distribution of the number of AJD-eligibles within states, we used a slightly revised version of the NALP fractions within states. The NALP numbers were adjusted to re-distribute to metro and non-metro areas the 12.6% of graduates who reported only a state of job or where the city could not be classified as metro or non-metro. This re-distribution was done proportionately to the reported jobs taken in specified areas within each state. This adjustment does not change the statewide or national totals of job takers, but only re-distributes the “statewide” job takers to specific areas within each state. For purposes of our estimation, we used the percentages of job takers in areas within each state and applied it to the revised NCBE figures on the numbers of eligibles statewide.

We made a number of other attempts to reconcile the NALP and NCBE data, without great success. As noted above, our best estimate of the number of eligibles from the NCBE data is about 48,695 persons in 1999, but that the NALP data have information on the geographic locations of only 30,851 graduates in 1999. We know about the following differences between and problems with the two datasets:

a) bar exam passage rates vary substantially from state to state, so it may be the case that the rate at which persons who “take jobs” in different states actually become members of the bar in that state may vary considerably from state to state.

b) we can only roughly estimate the numbers of attorneys taking the bar exam in a second state (who are not eligible for our study), and being admitted after passing that exam, in 39 jurisdictions.

c) we do not know the number of persons in each state who take the bar exam twice in one year, passing the second time, but since later exam passage rates vary considerably from state to state, the variation in these numbers from state to state could be considerable. In fact, since some states report in 1999 more persons taking (and passing) the bar exam on their second or later attempt than fail on the first attempt, the cumulative bar passage rate was impossible to reliably estimate.

d) the NALP data include geographic information on job takers for only 30,851 of the 39,452 graduates in 1999, and we can only assume, perhaps incorrectly, that the 8601 persons with

missing information on job location are distributed geographically in the same manner as those who did provide this information. This might not be correct, however, if persons who fail to report are more likely to take jobs in the same state as their law school than those who do report, or if they are more likely to never take a job as an attorney (perhaps because they never passed a bar exam).

e) the NALP data include information only for the 173 of the 184 ABA-accredited law schools, and it seems certain that graduates of the 11 non-reporting schools are distributed differently among states than the 173 reporting schools, if for no other reason than that there are so few non-reporting schools that any concentration of job takers in their home states would cause mal-distribution problems.

f) the NALP data include information only on the ABA-accredited law schools, and not on law schools accredited only in their own state, or not accredited at all. The non-accredited schools are clearly not distributed proportionally to accredited school over the country, since most states do not allow graduates of non-accredited schools to become members of the bar. We found it impossible to obtain information on the number of graduates of all the non-ABA accredited schools. Our best estimate comes from the NCBE data on the proportions of first time bar exam takers who were from non-accredited schools.

We made numerous attempts to adjust the NALP figures for each of these factors, to see if they would be much closer to the NCBE figures for each state, but none of the factors individually nor the cumulative effect gave a close enough approximation to be confident we understood the process by which state job taker totals relate to state bar admissions totals. Although our adjustments for graduates of unaccredited law schools and for differential first-time bar exam passage rates seemed reasonable to us, our estimates of the proportion of exam takers who were already attorneys, our inability to estimate cumulative bar passage rates, our inability to estimate the effects of the missing data from the 11 non-reporting ABA-accredited schools, and especially the geographic distribution of the 22% of 1999 graduates who did not report taking a job, made a realistic reconciliation of the two sets of numbers impossible. We will not be surprised, therefore, if our actual counts of the numbers of eligibles in each area selected varies somewhat from our estimates.

After extensive comparisons of the two data sources, we concluded that it was not feasible to reconcile them. Rather, we decided to use each for its strengths: the NCBE data for statewide admissions totals, and the NALP data for intrastate geographic distributions.