



FEDERATION OF ONTARIO  
LAW ASSOCIATIONS

FÉDÉRATION DES ASSOCIATIONS  
DU BARREAU DE L'ONTARIO

Toronto Lawyers <sup>ASSOCIATION</sup> 

**FEDERATION OF ONTARIO LAW ASSOCIATIONS &**

**THE TORONTO LAWYERS' ASSOCIATION**

**COUNTY AND DISTRICT LAW LIBRARIES: ENSURING COMPETENCY IN THE**

**PROFESSION AND ACCESS TO JUSTICE**

**WHITE PAPER**

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### I. EXECUTIVE SUMMARY

The Federation of Ontario Law Associations (“**FOLA**”) represents 46 local law associations across Ontario which, in turn, represent approximately 12,000 lawyers across the province. FOLA engages in issues that affect its lawyers, most of whom are in private practice. These lawyers are on the front lines of the justice system, and see its triumphs and shortcomings every day. The Toronto Lawyers Association (“**TLA**”) is the voice of its 3,700 members who practice law in all disciplines across the City of Toronto.

FOLA and the TLA are deeply concerned with cuts made by the Law Society of Ontario (“**LSO**”) to County and District Law Libraries (hereafter “County Law Libraries”, “law libraries”, or “libraries”) in the absence of effective consultation. In 2020, the LSO cut the LiRN grant by 10%.<sup>1</sup> As a result, LiRN’s 2021 grant is 5.8% less than in 2016.<sup>2</sup> Not only have LSO grants not kept pace with the increased costs for electronic and print-based core collections, they have not kept pace with inflation.<sup>3</sup> Prior to 2020, County Law Libraries already faced a funding gap and yet the LSO expected LiRN to implement a 10% funding cut in 2021.

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<sup>1</sup> Theresa Leitch, (2021) “Future Focus: Where is LiRN Going” (“*LiRN Report*”), Brief History of LiRN, p.6.

<sup>2</sup> LiRN Report, *ibid.*, p. 6.

<sup>3</sup> *ibid.*

LiRN implemented the LSO's 10% global funding reduction on the basis of library size. Some County Law Libraries saw smaller funding reductions as their smaller budgets would be more negatively affected. Six (6) County Law Libraries saw a 14% cut to their 2021 LiRN grants. The libraries of Toronto, Ottawa, and Hamilton, for example, collectively saw a decrease in funding of \$254,000 (Toronto's funding decrease was \$90,000, Hamilton's was \$70,000 and Ottawa's \$94,000).

FOLA remains hopeful that no further cuts to library funding will be forthcoming. The 2020 funding cuts indicate a lack of appreciation for the critical role of County Law Libraries in ensuring practitioner competency, continuous development opportunities, access to justice, and lawyer mental health, despite the fact that County Law Libraries directly contribute to achieving two (2) of the four (4) objectives defined by the [LSO's 2019 – 2023 Strategic Plan](#):

1. Achieving Proportionate Regulation
2. Scope of regulation
3. Ensuring Competence and Quality of Service and
4. Access to Justice.

It is important that the LSO and justice system stakeholders have a robust understanding of the central role played by our County Law Libraries within our legal system and our profession before any funding decisions are made other than restoring the pre-2021 budget.

This white paper presents statistics on and explains the role of Ontario's County Law Libraries in the daily practice of lawyers, judges and the public. The following areas are addressed:

**1. The context of County Law Libraries today**

**2. The role of County Law Libraries in the practice of law in Ontario as it relates to:**

- a. **Lawyer Competency** - The link between County Law Libraries and competency was recently affirmed by the LSO's Professional Development & Competence Committee:

*High-quality library and legal information services are components of the Law Society's supports to licensees, and are an element of the Law Society's competence platform. Competence has been identified as a priority for the 2019-2023 bench term.<sup>4</sup>*

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<sup>4</sup> Law Society of Ontario, Professional Development & Competence Committee, "Transition from LibraryCo to LiRN Inc. (Legal Information and Resource Network.)"

Legal texts and databases are costly and their proper navigation is critical to ensuring the identification of relevant law. Library staff and their collections enable legal professionals to access the resources required to do their job.<sup>5</sup>

- b. **Access to Justice** - The rule of law requires that citizens and their counsel have access to the courts and legal information. County Law Libraries play a fundamental role in ensuring such access, regardless of the socio-economic status of clients or their lawyers. Library staff collect the information and tools necessary for a legal action at little or no direct cost to the litigants. Simply put, informed litigants “*have a better chance at understanding and interacting with the legal system*”.<sup>6</sup>
- c. **Lawyer Mental Health** – As recognized by the LSO<sup>7</sup>, lawyers face certain challenges or stressors unique to their work which increase their vulnerability for mental health and wellness issues. County Law Libraries play a fundamental role in helping lawyers manage their mental health and wellness. Physical law libraries provide spaces for formal structured mentorship and passive mentorship, connecting with colleagues, taking breaks between appearances in court, and obtaining substantive support from expert library staff and colleagues at the bar. These strategies have been expressly identified by the LSO as contributing positively to lawyer mental health.<sup>8</sup>

### 3. Statistics on the composition and use of County Law Libraries across the province

4. **Conclusion regarding the future of County Law Libraries in this province** - Not everyone practicing law in this province can afford an adequate legal resource collection in their office. Well stocked, staffed, and funded County Law Libraries enable all legal professionals to carry out the research on behalf of their clients and under their obligations per the *Rules of Professional*

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<sup>5</sup> March 5, 2020, Cadmus, Femi, “*Why Law Librarians are so important in a data-driven world*”, Oxford University Press Libraries, accessed on November 25, 2020 at <http://blog.oup.com/authors/femi-cadmus/>.

<sup>6</sup> As stated by Stephanie Anderson and quoted by D.M. Moehrle in “*Librarians in the 21<sup>st</sup> Century: Why Law Libraries Are More Important Than Ever - In a Nation of Laws, the Right of Access is Fundamental*”, *Literary Hub*, accessed November 25, 2020.

<sup>7</sup> LSO, “*Personal Management s. 8 – Practice Support Resources*”, citing to CBA Wellness, “*Mental Health and Wellness in the Legal Profession*” (CPD: MDcme.ca, 2017). accessed on April 24, 2021 at <https://lso.ca/lawyers/practice-supports-and-resources/practice-management-guidelines/personal-management>.

<sup>8</sup> *Ibid.*, “*Managing Mental Health and Wellness - Section 8.6 – Practice Support Resources*, *ibid*, CBA Wellness, “*Mental Health and Wellness in the Legal Profession*” (CPD: MDcme.ca, 2017) and J. Cho, “*5 ways mindfulness helps lawyers*” (August 20, 2014).

*Conduct.* LSO cuts to County and District Law Library funding negatively impacts the ability of associations to maintain their library spaces as a place where lawyers can gather within their community and learn from one another. It also directly diminishes lawyer and paralegal competence by reducing access to critical legal texts and resources.

Competency is a key issue for the entire profession which requires a lifetime commitment to learning. County Law Libraries are the backbone which ensures that licensees can meet this commitment. It is especially important to ensure that young lawyers, and those who practice in less profitable areas of law, have access to libraries staffed by individuals who can assist with research and learning without limitation or interruption. County Law Libraries take on an even more important role in centres that do not have other resources (such as a law school). Legal resources must remain accessible, both in cost and availability, for our justice system to function properly.

Furthermore, the importance of the continuation of the County Law Library and association system in the maintenance of the mental health of the profession cannot be overemphasized. That system must be maintained, as an antidote to the stresses that continue to be placed on our profession.

Given the central role of County Law Libraries in effecting access to justice for litigants, both represented and self-represented, The Advocates Society called on the LSO to re-examine its funding for libraries:<sup>9</sup>

*As sole practitioners, smaller firms and self-represented litigants continue to voice their concerns over the impact of these cuts, our hope is that the Law Society takes the above-noted implications under serious consideration. Law libraries that continue to make available a full catalogue of resources, with the necessary staff, are necessary to support legal professionals in fulfilling their professional obligations, as required by the judiciary and the Law Society.*

We hope that as the LSO contemplates its budget for 2022, it remains cognizant of the need to allocate more funding to this critical resource. Ontario's County and District Law Library staff have been providing both the resources and the expertise to the full range of justice system participants for over 140 years. Our County Law Libraries already stretch every dollar of the LiRN grant to its fullest potential, and they cannot afford further cuts. FOLA and the TLA call on the LSO to ensure that its cuts to LiRN in response to COVID-19 are temporary, and that all funding will be reinstated thereafter. We cannot

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<sup>9</sup> February 14, 2021, The Advocates Society Letter to the Law Society of Ontario Treasurer, Teresa Donnelly.

harm one of the central pillars to lawyer and paralegal competency. We call on the Law Society to reinstate the funding which was cut last year and look to necessary increases to properly fund this critical resource.

## II. CONTEXT OF COUNTY & DISTRICT LAW LIBRARIES TODAY

### A. History of Courthouse Libraries, LibraryCo, and LiRN

Courthouse libraries in Ontario have a long history, many dating to the last half of the 19<sup>th</sup> century. Courthouse libraries were established throughout the province as a means for the local bar to have access to legal materials while in court and for research. Prior to 1997, Ontario’s Law Associations independently managed these courthouse libraries with some assistance and direction from the Great Library at the LSO. The bricks and mortar for the Courthouse libraries were (and continue to be) provided by the Ministry of the Attorney General, while the collections and library staff were funded by a combination of the LSO, local membership dues, and special project funding from the Law Foundation of Ontario.

Between 1997 and 2000, former LSO Treasurer Susan E. Elliott commissioned the Elliott Report titled *Beyond 2000: The Future Delivery of County Library Services to Ontario Lawyers* to create “province-wide standards relating to staff, collections, technology, facilities, and services”.<sup>10</sup> LibraryCo was created in 2001 as a result.

In 2014, “the LSO, FOLA, and TLA formed a Transition Committee to discuss a new structure for the library system.”<sup>11</sup> A critical finding of the “needs assessment” conducted at the time was “that library users attached tremendous value to legal information and library services.”<sup>12</sup> There was a recognition by key justice system stakeholders of “the importance of striking the right balance between moving legal information and support services into the future while still maintaining value for licensees and avoiding unnecessary disruption to the system of services and supports.”<sup>13</sup> This led to the May 2017

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<sup>10</sup> LiRN Report, *supra* note 1, p.3.

<sup>11</sup> LiRN Report, *ibid.*, p. 3.

<sup>12</sup> LiRN Report, *ibid.*, p. 3.

<sup>13</sup> LiRN Report, *ibid.*, p. 3.

agreement by the shareholders of LibraryCo (LSO, FOLA, and TLA) to create LiRN. The Unanimous Shareholder Agreement was dated November 29, 2019.

LiRN's express mandate includes:<sup>14</sup>

- Facilitating the regulatory mandate to ensure that the public is served by lawyers and paralegals with high standards of learning and competence,
- Supporting the ongoing learning and professional development of licensees, with a specific emphasis on the use and application of legal information, legal research and legal training content and activities,
- Establishing a platform that provides access to information for all licensees, and
- Considering the development of a supportive legal information services targeted to the needs of users.

LiRN seeks to achieve these objectives by facilitating a *"blended system of county law libraries."*<sup>15</sup> In so doing, LiRN assists the LSO in meeting two (2) of its four (4) strategic objectives as defined in the [LSO's 2019 – 2023 Strategic Plan](#). Those four (4) strategic objectives are:

1. Achieving Proportionate Regulation;
2. Ensuring Competence and Quality of Service; and
3. Determining Appropriate Scope of Regulation.
4. Access to Justice

LiRN notes that Objective #2 (Ensuring Competency and Quality of Service) *"is meant to ensure that lawyers and paralegals maintain their professional knowledge and skills and provide legal services competently and professionally."*<sup>16</sup> *"Supporting newer licensees"* and *"better engagement with licensees to inform them about the LSO's competence focused resources,"* among others, are priorities for the LSO in meeting Objective #2.<sup>17</sup> LiRN rightly notes that *"this objective is also directly related to the services that LiRN provides, in that access to resources and library staff helps lawyers provide competent service."*<sup>18</sup> The issue of LiRN meeting LSO's Objective of Access to Justice is dealt with later in this paper.

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<sup>14</sup> LiRN Report, *ibid.*, p. 3.

<sup>15</sup> LiRN Report, *ibid.*, p. 3.

<sup>16</sup> LiRN Report, *ibid.*, p. 5.

<sup>17</sup> LiRN Report, *ibid.*, p. 5.

<sup>18</sup> LiRN Report, *ibid.*, p. 5.

## *B. Costs of Maintaining Core Library Collections and Operations*

On November 9<sup>th</sup> (two days before the November Convocation) FOLA was advised by LiRN that the LSO would be cutting Library funding by 10% for 2021 and that LiRN had agreed to submit a budget proposal to the LSO reflecting that.<sup>19</sup> LSO funding for County Law Libraries has not kept pace with inflation or the increased costs of vital electronic and print-based legal resources. For example,

1. Despite rising costs, LiRN's 2021 grant is 5.8% less than it was 2016;<sup>20</sup>
2. LibraryCo / LiRN's Quicklaw costs have increased by 3% per year for 2019, 2020 and 2021 – 9% over three years,<sup>21</sup> without taking into account the compounding nature of the increases, which render the increases even more dramatic; and
3. During this same time period, LiRN's grant has been cut by 10%.<sup>22</sup>

The cost of electronic legal resource platforms is high. Examples of electronic legal resource platforms includes products such as WestlawNext Canada and its many practice-specific modules and O'Brien's Forms and Precedents, Lexis Advance Quicklaw, HeinOnline, DivorceMate, RangeFindr, amongst others. Courthouse libraries in Ontario all have access to Lexis Advance Quicklaw through a consortial purchase made by LiRN. For this province-wide contract, LiRN spent \$329,796 in 2021 for the Lexis Advance Quicklaw subscription. The "2021 cost is \$27,483.00 per month or \$329,796.00 for the year".<sup>23</sup> Meanwhile LiRN's entire 2021 budget allotment for electronic resources, not just Lexis, was only \$375,000.<sup>24</sup> The Lexis Advance Quicklaw subscription is crucial to provision of legal research in County Law Libraries, as it provides equitable access to a quality legal research resource to all lawyers in the province.

Across Ontario's County Law Libraries, 74% of libraries spent a quarter or less of their budget on additional electronic resources. Furthermore, 80% of libraries have digital offerings in addition to what LiRN provides. Subscriptions to additional products such as Divorcemate, O'Brien's Online, TR Proview, Lexis Practice Advisor, WestlawNext Canada, RangeFindr, CCH Online, JUSTIS, ICLR, and Irwin Law e-

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<sup>19</sup> LiRN Report, *ibid.*, p. 5.

<sup>20</sup> LiRN Report, *ibid.*, p. 6.

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

<sup>23</sup> LiRN Report, *ibid.*, p. 11.

<sup>24</sup> LiRN Report, *ibid.*, p. 11.



books are critical to practitioners and are very cost intensive for small and medium sized firms, and are thus provided by County Law Libraries across the province through their modest budgets.<sup>25</sup>

In addition to the costs of electronic collections, costs associated with text required by the “Core List” of legal resources have also gone up. LiRN explains:<sup>26</sup>

*The Core List, originally put together by LibraryCo and more recently kept up to date by the Ontario Courthouse Libraries Association, sets out the materials that each library should, at a minimum, have ready access to, either in their own collection or through regional interlibrary loans. Each library serves a bar with differing practice areas, which also affects necessary resources and attendant costs. The approximate cost of maintaining the full core list on an annual basis is approximately \$100,000.*

As important to the library as the collection of legal resources is the library staff. Highly competent library staff are central in facilitating access to legal resources. LiRN reports that, “[i]n many cases, library staff have not received raises in years. The Bank of Canada’s inflation rate calculator indicates a 7% rise from 2016 to 2020; LiRN’s grants to libraries are now 1.3% less than they were in 2016”.<sup>27</sup> For the vast majority of County Law Libraries in Ontario, staff work in one- or two- person libraries. The responsibility for almost all areas of the library and association fall to them. Volunteer boards may take on some roles, such as those related to corporate governance, but for the majority of library locations, the library staff attend to all financial, administrative, and library duties. Staff salaries are the purview of the associations they are employed by, but the available funding for these positions is tied to the LiRN grant. Many associations are unable to bridge the gap left by an insufficient LSO library levy to pay their staff at a rate that has kept up with inflation.

To complete the funding picture, each library is responsible for most of the operational costs of their physical space. While rent is not charged by the Ministry of the Attorney General, associations bear the cost of internet service, phone service, equipment (such as photocopier) rental or purchase, computers, additional software, furniture, supplemental cleaning, business supplies, and other operating expenses. The costs of these too continue to rise each year and cannot be overlooked as part of the true cost of maintaining a library.

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<sup>25</sup> *Ibid.*, pp. 11-12.

<sup>26</sup> *Ibid.*, p. 7

<sup>27</sup> *Ibid.*, p. 8.

Prior to 2020, Ontario’s County Law Libraries already faced a funding gap and yet the LSO expected LiRN to implement the 10% funding cut in 2021. LiRN has concluded that “*digital research is the way of the future*” but the costs of these resources are only increasing. Indeed, costs for electronic law subscriptions has outstripped the rate of inflation by 3-4 times the Consumer Price Index.

### *C. Services Provided by County Law Libraries*

LiRN surveyed the services provided by County Law Libraries across the province:<sup>28</sup>

<b>Services</b>	<b>Percent Offering</b>
Library administration (e.g., budgeting, planning, project management, people management)	100%
Collection management	100%
Legal research	98%
Collection development	98%
Library client services (e.g., circulation, photocopying, interlibrary loans)	98%
Library orientation	88%
Association administration ( e.g. payroll, financial administration)	81%
Association event planning (e.g. social events, AGM’s, holiday events)	76%
Organization/provide legal research training	74%
Marketing for the library collection and services	74%
CPD - Managing registration / booking group viewings	71%
Cataloguing	71%
Marketing for Association events	69%
Marketing for CPD events	64%
CPD - Planning conferences or programs	62%

<sup>28</sup> *Ibid.*, p. 9.

Current awareness services	62%
Internet site development for the Association	62%
Internet site development for the library	59%
Library assessment services-user satisfaction surveys-usage statistics	52%
Room bookings	45%

Several County Law Libraries also offer live, locally produced CPD programming and strategic planning. The above listed services demonstrate that libraries go beyond simply making online resources available to their members. They represent the focal point of every legal community in this province. County Law Libraries provide the legal community and members of the public with legal research, training, expertise in legal texts and resources, and a site where mentorship takes place.

### **III. THE ROLE OF LAW LIBRARIES IN ONTARIO**

#### ***A. Competency***

Legal research is of fundamental importance to the practice of law in Ontario. The common law demands that lawyers and litigants understand the law as it has been decided previously. This is the premise on which the entire legal system rests. It is essential that lawyers and paralegals have access to legal research materials in order to adequately inform the Court of the development of the common law when arguing their case. We cannot forget that this obligation is an ethical and professional requirement of legal professionals as Officers of the Court.

Competency requires access to high-quality library and legal information services. The link between law libraries and competency was recently affirmed by the LSO's Professional Development & Competence Committee:

*High-quality library and legal information services are components of the Law Society's supports to licensees, and are an element of the Law Society's competence platform. Competence has been identified as a priority for the 2019-2023 bench term.<sup>29</sup>*

Meanwhile, legal texts and databases are very expensive and their proper navigation is critical to ensuring the identification of relevant law.

Sole practitioners and professionals from smaller and medium sized law firms often do not have the resources to support this required bank of knowledge. By way of example, a Westlaw subscription can cost \$400 a month. The same service can be accessed through one's local law library for the cost of the licensee library fee which was \$182 in 2020 (since reduced to \$159 for 2021). The economies of scale cannot be overstated.

Not only are the County Law Libraries a vital legal and regional research hub for lawyers, paralegals, and licensing candidates, they are also an invaluable partner for the Courts when distributing practice information, and ensuring that our judiciary has access to legal resources. We have been advised that members of the judiciary consult the material in many of the County Law Libraries that is not otherwise available to them in their offices or judicial library, including rare books that are only otherwise available at the Great Library in Toronto.

This is where our County Law Libraries step in. Not even the largest and best-funded library can afford to have everything, so libraries have long worked together to make resources sharable and accessible to each other. Libraries in large regional centres tend to have a larger collection and can share with libraries in smaller markets. Cuts to any one of these libraries is devastating on a local level, but as you move to larger scale libraries, budget cuts impact their ability to assist many smaller libraries and the legal community who rely upon them.

### *B. Access to Justice*

The rule of law requires that citizens not only have access to the law but also have an opportunity to understand it. County Law Libraries collect precisely the information that litigants require to advocate for their rights. In addition to the critical importance of their paper and electronic collections, County Law Libraries are staffed by highly educated library staff to help legal professionals and, in the

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<sup>29</sup> Law Society of Ontario, Professional Development & Competence Committee, "Transition from LibraryCo to LIRN Inc. (Legal Information and Resource Network)"

jurisdictions where members of the public have access to law libraries, the public navigate the electronic and print-based collection.

County Law Library staff perform hundreds of research tasks every day and contribute directly to Ontarians' access to justice. Not only do the critical services research librarians grant to members of the public affect their rights, they increase the competency of counsel who are entrusted with representing Ontario citizens with integrity and professionalism.

The ability of lawyers to do their job is dependent upon access to ongoing educational resources as case law develops. Interpreting case law through scholarship and secondary resources brings clarity to the law which aids in the resolution of disputes. The financial pressure created by increased costs to electronic legal resources is acute in the areas of family and criminal law. With legal aid budgets being tightened, the availability of competent research from local library staff becomes of paramount concern. Lawyers rely on the professional assistance of library staff to make their work more effective and efficient.

As our legal system becomes increasingly complex and specialized, electronic and print-based tools become essential to ensure lawyer competence. The cost of these legal resources is of special concern in small and solo firms. Not only does this result in increased costs to the client which, in turn, negatively impacts access to justice, it can also negatively impact the diversity of our bar. A disproportionate percentage of the diverse members of our legal profession are in their first ten years of practice and/or practice in small firms.<sup>30</sup> For example, the last Statistical Snapshot of Lawyers in Ontario published by the LSO shows that 51% of racialized lawyers practice at firms with nine or fewer lawyers, while only 37% of white lawyers do.<sup>31</sup>

As mentioned above, junior lawyers and those in small firms are particularly vulnerable to library cuts as they rely heavily on those resources. Given that electronic and print-based legal resources are a pre-condition to lawyer competence, any further cuts to financially accessible services will disproportionately impact diverse legal professionals and the diverse communities they serve. This is of particular concern given that a diverse legal profession is required to provide Ontarians with access

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<sup>30</sup> [Statistical Snapshot of Lawyers in Ontario](https://lawsocietyontario.azureedge.net/media/lso/media/lawyers/practice-supports-resources/equity-supports-resources/snapshot-lawyerseng-pdf.pdf)  
<https://lawsocietyontario.azureedge.net/media/lso/media/lawyers/practice-supports-resources/equity-supports-resources/snapshot-lawyerseng-pdf.pdf>.

<sup>31</sup> *Ibid* at Table 5b.

to justice. As stated by the Supreme Court of Canada stated in *Trinity Western University v. Law Society of Upper Canada*.<sup>32</sup>

*Access to justice is facilitated where clients seeking legal services are able to access a legal profession that is reflective of diverse population and response to its diverse needs. Accordingly, ensuring diverse legal profession...furthers access to justice and promotes the public interest.*  
[emphasis added]

True access to justice depends upon the public's access to licensees who are constantly keeping abreast of the changes in statutes, regulations and common law alike. County Law Libraries play a fundamental role in ensuring access to the common law and the secondary materials that interpret it. As stated by The Advocates Society,<sup>33</sup>

*Law libraries serve a critical role in lawyers' ability to meet their professional obligations and in the functioning of our justice system. Law libraries allow legal professionals to conduct extensive legal research to understand the law, and thereby satisfy their professional obligations, without incurring exorbitant (and potentially prohibitive) costs. Law libraries equip lawyers to properly advise the Court of the applicable law when advocating on behalf of their clients. Law libraries are also important to self-represented litigants, providing them with legal resources and support to which they would otherwise not have access. In short, having the necessary legal resources available to all litigants is imperative for the proper functioning of our legal system.*

In short, County Law Libraries and librarians ensure that licensees have the necessary tools to advise and represent members of the public from all walks of life.

While not all County Law Libraries throughout the province provide legal research assistance directly to members of the public, there are critical ways in which some libraries make service available, providing a direct access to justice benefit, including directional assistance through their websites, over the phone, or in-person for people in their community seeking alternative legal information or representation providers.

### **C. Lawyer Mental Health**

County Law Libraries play a fundamental role in helping lawyers manage their mental health and wellness throughout Ontario. As recognized by the LSO, lawyers face certain challenges or stressors unique to their work which increases their vulnerability for mental health and wellness issues. It is trite

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<sup>32</sup> *Trinity Western University v. Law Society of Upper Canada*, 2018 SCC 33 (CanLII), [2018] 2 SCR 453 at para. 23.

<sup>33</sup> February 14, 2021, The Advocates Society Letter to the Law Society of Ontario Treasurer, Teresa Donnelly.

to say that the mental health of the members of our profession has never been more challenged than it is today. This mental health crisis has been exacerbated by numerous factors, including the following:

1. **Social Isolation:** The pandemic has left many lawyers isolated, having a disproportionate impact on young lawyers across all fields of practice, and in particular criminal lawyers and family lawyers.
2. **Technology and Law:** In addition to ‘keeping up on the law’, lawyers must adapt to and navigate the constantly changing technological advances. Those advances, in some cases, are required in order for lawyers to service their clients and meet client expectations. In other cases, external circumstances such as COVID-19 have resulted in a dramatic and sudden technological shifts.
3. **Economics of Law:** The economic realities of operating a law firm continuously put pressure on the economic well-being of lawyers, adding anxiety and stress to the members of our profession.
4. **Lawyers and Change:** Lawyers, as a group, have a basic need to be in control, or at least to feel that they are in control, given the legal liability that attaches to the provision of legal services. This requires that they have knowledge of their files, their client relationships, the law, their practice, and how changes can impact facets of their work. The fact that change is occurring with increasing frequency, often without warning and often with practice-altering results, continues to burden members of our profession with stress and burn-out.
5. **Demands of Clients and Litigious Clients:** Clients have become increasingly sophisticated, and with that sophistication their expectations have become increasingly challenging to manage. More than ever, clients are seeing themselves as knowing more than their lawyer. Increasingly, therefore, lawyers are required to defend their legal advice and their profession. This increases anxiety and stress.
6. **Self-Criticism, Self-Doubt, Insecurity, Resilience:** Lawyers, by nature, and through training, are critical thinkers. They analyze and look for cracks, weaknesses, and faults in a document, in a witness’s statement, or otherwise. Rather than looking for the good in themselves, lawyers oftentimes see their faults, whether independent of or as reinforced by others.
7. **Support:** Lawyers are not good at reaching out for support. Traditional legal cultures improperly conflate the need for help with weakness or incompetence. Conscious acknowledgment of the need for assistance is, in and of itself, often a negative indicium for a lawyer, leading to feelings of self-doubt, insecurity and worthlessness.

**8. Time:** Time is a multifaceted source of stress and anxiety for lawyers. Pressures to be accountable for billable hours, to complete non-billable administrative work, to market, and at the end of the day, to spend time with family, all work together to create a hotbed of stress for lawyers.

The important role played by County Law Libraries and their affiliated associations in combating these stressors cannot be overstated. They actively and passively serve as an antidote to many of the pressures which lead to mental health challenges in the profession.

**1. Social Isolation:** Physical law libraries create informal spaces where mentorship and collegiality is fostered amongst our local bars. They provide spaces for formal structured mentorship and passive mentorship, connecting with colleagues, taking breaks between appearances in court, and obtaining substantive support from expert library staff and colleagues at the bar.

**2. Technology:** Both lawyers and library staff provide continuing professional development formally through association programming and, informally, through interactions at the County Law Library itself.

**3. Economics:** County Law Libraries are an inexpensive source for legal resources and legal education; both critical components of the economics of law.

**4. Lawyers and change:** County Law Libraries and their associations are a huge source of support for lawyers in a constantly changing environment. Nothing demonstrates this more clearly than the role of libraries and their associations in disseminating information about changes brought about by the COVID-19 pandemic. These libraries and their associations also provide a forum for sharing solutions for implementation of those changes.

**5. Demand of Clients and Blame Culture:** There is nothing better than a supportive ear when facing the pressure of a demanding client or the disappointment of an angry one. The informality of a County Law Library setting (whether during a court day or during an association event), allows lawyers to seek that support in an informal setting.

**7. Self-criticism, Self-Doubt, Insecurity, Resilience:** Positive feedback from others in the profession, whether directly or through the connection that comes from casual conversation, provides a huge boost to a lawyer's self-esteem and feeling of well-being. Such feedback occurs naturally in the course of local law library and association events.



**8. Support and Time:** Against the backdrop of the challenges lawyers have in making meaningful connections and in making time for seeking support, County Law Libraries and their associations are an efficient and casual venue for getting the support that lawyers require. Whether a CPD event, a conversation on a legal problem with a law librarian, or a social chat with a colleague, lawyers get much of the support they need through the very existence of the County Law Library and its association.

By way of conclusion on this issue, one cannot look at the County Law Library as strictly a bricks and mortar issue. The existence of the library and association system in the province of Ontario has performed, and continues to perform, a vital role in preserving the mental health of lawyers. The local nature of the support is also key to its effectiveness. Someone practising in Perth will have very different issues and a very different perspective than someone practicing in Thunder Bay, in ways only understood by others practising in their county. Direct, meaningful, in person dialogue makes a huge difference in the effectiveness of the support that lawyers seek.

#### IV. Statistics on Library Use

In order to obtain insight into the use of County Law Libraries, FOLA sampled the use of law libraries by practitioners in Ontario.<sup>34</sup> The County of Carleton Law Association (“**CCLA**”) also conducted a survey of the use of its law library by members. The results of these surveys give insight into the demographics of practitioners that use Ontario’s law libraries and their areas of practice.

The results of the FOLA Survey, appended at [Annex “A”](#), demonstrates the importance of law libraries to both the barristers and solicitors sampled. Specifically,

- **84.5%** of Respondents were over three (3) years of call.
- **15.5%** of Respondents were under three (3) years of call.

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<sup>34</sup> Generally speaking, sampling is a statistical means of measuring a given population with the intent to accurately extend the measurement to represent a larger population. However, not all sampling methods are created equal. Unlike the LSO that requires its members to fill out a questionnaire once a year in its Annual Report, FOLA does not have the ability to require each of its members to fill out a survey. As such, FOLA’s survey therefore provides a non-probability-based sample of practitioner usage. To obtain a probability-based sample of practitioners’ use of law libraries in Ontario, the LSO could include questions on library use as part of its Annual Lawyers Report.

- Of respondents sampled,
  - a. **28.6%** were family lawyers,
  - b. **18.1%** were civil litigators,
  - c. **16.3%** were criminal lawyers,
  - d. **10.0%** practiced real estate,
  - e. **8%** were solicitors,
  - f. **8%** practiced in wills and estates, and
  - g. The remainder were made up of lawyers in diverse practice areas such as child protection and labour and employment.
  
- During pre-COVID times, **29.6%** of respondents were in Court more than once per week, **16.3%** were there at least once per week, and **24.2%** were there at least once a month.
  
- On the days when lawyers sampled were in court pre-COVID, **38.6%** of respondents used their law library at least once per month, **18%** used it at least once per week, and **13%** used it more often.
  
- Despite the fact that 30% of respondents were rarely in Court, **93.3%** of Respondents used the library for a source of legal research and **78%** used the library for a source of research assistance. This means that, within the group of lawyers sampled, litigators (in court) and non-litigators (do not attend court) used their law library as a source of legal research and research assistance.
  
- **82%** of respondents sampled attended the courthouse for the sole purpose of using the law library. **46%** of respondents regularly attend the courthouse for the sole purpose of library resource use. Only **12.8%** of respondents sampled indicated that they have never done this. Every other respondent has.
  
- Also of note was the use of law libraries for non-research purposes:

- a. **68.4%** of respondents sampled used their law library for CPD,
  - b. **59.5%** of respondents sampled used their law library as a community hub,
  - c. **60.7%** of respondents sampled used their law library as a fundamental support for their practice,
  - d. **45.4%** of respondents sampled used their law library as a place where they obtain legal advice, and
  - e. **34.6%** of respondents sampled used their law library as a place where they obtained emotional support.
- **87%** of the respondents sampled confirmed that they have taken advantage of the off-site services provided by law libraries.
  - **95.8%** of respondents sampled confirmed that they could not buy all of the legal resources that they required to do their job for \$180, thereby demonstrating the value presented by the LSO levy for LiRN.

A two-day survey of the CCLA's membership demonstrated the critical role of librarians to maintaining the competency of our legal profession. The CCLA received 162 responses in 48 hours:

- **36.9%** of respondents were under three (3) years of call.
- **52.1%** of respondents were from firms/law corporations with 1-10 lawyers.
- When respondents were in court (with **30%** there at least once per week and **50.6%** there at least once a month), **41%** of Respondents "*usually*" used the library and **35%** "*always, with few exceptions*" used the library. Only **24%** of Respondents "*rarely*" or "*sometimes*" used the library.
- **78.7%** of respondents have attended the courthouse for the sole purpose of library resource use, with **36%** of Respondents doing this often.
- **77.1%** of respondents have taken advantage of the off-site library resources (email etc.), with **46.9%** doing it often.

While these statistics indicate the library's central role in ensuring professional competency to both solicitors and barristers, the comments left by our members bring this role into sharp relief. The following declarations of appreciation are representative of the comments left by the legal professionals sampled:

- *"Pretty much the sole source of legal research".*
- *"Library staff provides assistance with the library materials and research".*
- *"For CPD and connecting with the legal community".*
- *"It helps us provide the best service for our client. Gives us access to greater support and resources".*
- *"(My library) is crucial to my practice and my clients. We have both benefited immensely from its services. My workplace is not located downtown, so being able to email the (Courthouse) librarians to help with research has been incredibly helpful. Also, many times when I have appeared in court, I end up requiring the use of a printer and/or binding machine. Having the library there to assist me has been a huge help."*
- *"Librarians have been extremely helpful on every occasion (quite a few) when I have sought their assistance in finding authorities."*
- *"As the world shifts, libraries are going to look different, but there will always be a need for them, especially as electronic resources increasingly require prohibitive fees for access. The legal community needs a library where they can access those resources."*
- *"Legal research, COD resources, provides key updates and bulletins, links to court procedures".*
- *"The staff support and assistance is invaluable, particularly for small firms and solo practitioners. The physical collection is helpful and necessary. Access to the databases, particularly Lexis and Westlaw would otherwise be prohibitively expensive for small firms, so the library acts as an equalizing measure between counsel."*
- *"As a Family Law lawyer, I depend on my local Courthouse Library for research either in person research or sending a request to the staff for research. My library provides excellent research, and resources. I do only court work and I am in court multiple times per week -- and I always use it for drafting orders meeting opposing counsel, doing calculations etc. often times while I am attending court and have been asked by the Judge to do this work."*

- *“For solo practitioners and small firms, the library is an invaluable resource for legal texts and updated information resources. It would not be affordable for one lawyer to purchase everything required to run a high caliber practice.”*
- *“My Courthouse Library is absolutely essential for comprehensive research tools and thus essential to ensuring access to justice.”*
- *“Courthouse libraries provide lawyers in rural and remote communities with colleagues that they would not otherwise have.”*
- *“Courthouse librarians offer lawyers the ability to provide informed counsel and representations to the Court, especially for clients that cannot afford the costs of other legal research providers.”*
- *“Our Courthouse Library provides for access to harder-to-find or niche resources, especially on issues that arise outside of main practice areas.”*
- *Courthouse Libraries provide access to resources that are prohibitively expensive for sole or small firm practitioners.”*
- *“Courthouse libraries offer a one-stop-shop for key resources small firms and sole practicing lawyers cannot otherwise afford”*

When LSO members refer to their law libraries as *“essential,” “absolutely necessary,”* and *“critical to [their] practice,”* we trust that the LSO listens given its obligation to ensure competency in the profession.

## **V. CONCLUSIONS ON THE FUTURE OF COUNTY LAW LIBRARIES**

Not everyone practicing law in this province can afford an adequate legal resource collection in their office, nor do they have access to expensive electronic research services. Well stocked, staffed, and funded County Law Libraries enable all legal professionals to carry out the research required of them for their clients and under their obligations per the *Rules of Professional Conduct*.

Competency is a key issue for the entire profession which requires a lifetime commitment to learning. County Law Libraries are the backbone which ensures that licensees can meet this commitment. It is especially important to ensure that young lawyers, and those who practice in less profitable areas of law, have access to libraries staffed by individuals who can assist with research and

learning without limitation or interruption. Legal resources must remain accessible, both in cost and availability, for our justice system to function properly.

Furthermore, the importance of the continuation of the County Law Library and association system in the maintenance of the mental health of the profession cannot be overemphasized. That system must thrive, as an antidote to the stresses that continue to be placed on our profession. LSO cuts to law library funding negatively impacts the ability of associations to maintain their library spaces as a place where lawyers can gather within their community and learn from one another. It also directly diminishes lawyer and paralegal competence by reducing access to critical legal texts and resources.

Given the central role of County Law Libraries in effecting access to justice for litigants, both represented and self-represented, The Advocates Society called on the LSO to re-examine its funding for libraries:<sup>35</sup>

*As sole practitioners, smaller firms and self-represented litigants continue to voice their concerns over the impact of these cuts, our hope is that the Law Society takes the above-noted implications under serious consideration. Law libraries that continue to make available a full catalogue of resources, with the necessary staff, are necessary to support legal professionals in fulfilling their professional obligations, as required by the judiciary and the Law Society.*

We hope that as the Law Society contemplates its budget for 2022, it remains cognizant of the need to allocate more funding to this critical resource, and that this year's reduction is not indicative of a downward trend for the future. Ontario's County Law Library staff have been providing both the resources and the expertise in their use to the full range of justice system participants for over 140 years. Our County Law Libraries already stretch every dollar of the LIRN grant to its fullest potential, and they cannot afford further cuts. FOLA and the TLA call on the LSO to ensure that its cuts to LiRN in response to COVID-19 are temporary, and that all funding will be reinstated thereafter. We cannot harm one of the central pillars to lawyer and paralegal competency.

**FOR MORE INFORMATION, PLEASE CONTACT**

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**ANNEX A**

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<sup>35</sup> February 14, 2021, The Advocates Society Letter to the Law Society of Ontario Treasurer, Teresa Donnelly.