



Law Commission of Ontario: Past and Future



LAW COMMISSION OF ONTARIO
COMMISSION DU DROIT DE L'ONTARIO

Independence, Engagement, Impact

2018 marks the 10th anniversary of the first report by the Law Commission of Ontario (LCO).

Over the last ten years, the LCO has become Ontario's leading law reform agency. During this time, the LCO has completed 16 major projects and consulted with thousands of Ontarians on important law reform issues.

We've completed projects on a broad range of legal issues, including the law of capacity, joint and several liability, the *Provincial Offences Act*, division of pensions, RDSPs, family law, and laws governing older adults and disabled Ontarians.

Our current projects consider class actions, "internet speech", digital rights, and legal issues during the last stages of life.

The LCO has consistently provided independent, evidence-based, multi-disciplinary, and authoritative advice on some of Ontario's most complex and important legal policy issues.

This report celebrates our history, considers our current projects, and looks forward to the next phase of the LCO's work.

More information about the LCO is available on our website at www.lco-cdo.org.



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Current Projects

The LCO continues to address ground-breaking, contemporary and important legal issues. Our current portfolio of projects tackles some of Ontario's most complex and controversial legal questions, including:



Class Actions (Report Due in Early 2019)

Class actions have been called “the most significant modern development in civil justice in Canada.” This project is the first comprehensive, independent review of class actions since the enactment of the *Class Proceedings Act* in 1992. This project has national implications and includes the first empirical database of class actions in Ontario.

Defamation in the Internet Age (Report Due in Mid-2019)

The growth of “internet speech” challenges a host of “traditional” legal rules and assumptions governing the law of reputation (defamation), freedom of expression and privacy. The project considers how to strike the balance between freedom of expression, reputation, privacy, and access to justice in an online world. The project also considers internet intermediary platform liability and the blurring lines of digital jurisdictional boundaries. This project is the first of its kind in Canada.



Digital Rights (Project Starting in 2018)

The LCO is initiating a multi-year, multi-disciplinary series of law reform initiatives to consider provincial laws and “digital rights.” Topics to be addressed are likely to include legal issues related to artificial intelligence, consumer protection in the digital marketplace, and employment law and the “gig economy.” This project will bring together legal professionals, technologists, academics, governments, NGOs and private corporations to consider emerging and far-reaching questions about “digital rights.”

Last Stages of Life (Report Due in Mid-2019)

Medical assistance in dying (MAID) has turned the public’s attention to issues such as palliative care, advance care planning, and having a “good death.” This project considers a broad range of legal issues encountered at the end of life, including withholding and withdrawing treatment, resolving healthcare disputes, consent, advance care planning, transitions in care, palliative sedation, planned deaths at home, and how to accommodate cultural and religious needs. The project includes a dedicated analysis of Last Stages of Life issues for Ontario’s Indigenous communities. The Last Stages of Life project is the first of its kind in Canada.



Who We Are

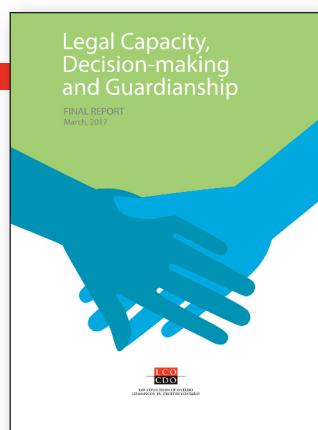
The LCO is a unique, innovative and productive partnership created by the Ontario Ministry of the Attorney General, the Law Foundation of Ontario, the Law Society of Ontario, Osgoode Hall Law School and the Law Deans of Ontario.

The LCO provides independent, balanced, and authoritative advice on some of Ontario's most complex and far-reaching legal policy issues. We evaluate laws impartially, transparently and broadly. The LCO is independent of stakeholder interests and is committed to a "public interest" perspective for every project.

Our reports include principled, practical, "problem-solving" recommendations that are informed by broad consultations and tested through a transparent and comprehensive process that engages a broad range of individuals, experts, and institutions.

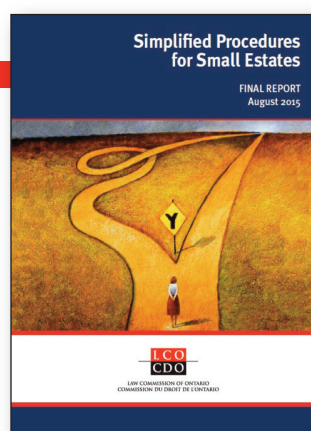
The LCO is located at Osgoode Hall Law School, York University, Toronto, Canada.

LCO



2017

This project comprehensively reviewed provincial laws governing POAs, substitute decision-makers and legal capacity. The report was described as "ground-breaking" and "best in class". LCO recommendations were included in the *Strengthening Quality and Accountability for Patients Act, 2017*.



2015

This report considered improvements to the administration of small estates in Ontario. The report was called "excellent...[the] simplified, plain language processes recommended for those who seek probate will result in benefits to thousands of Ontarians each year..."

Governance and Leadership



The LCO's work is guided by a Board of Governors that includes a broad cross-section of leaders within Ontario's justice community. Past and current board members include Deputy Attorney Generals, law deans, judges from the Ontario Court of Appeal, and leading lawyers and academics from across Ontario. The LCO board is uniquely positioned to influence the development of law reform in Ontario.

Board Chairs

- Patrick J. Monahan, 2007 – 2009
- Larry Banack, 2009 – 2012
- Bruce Elman, 2012 – 2018
- Andrew Pinto, 2018 – Present

Current Board Members

- Raj Anand – Law Society of Ontario Representative
- Professor Linda Cardinal – Member At-Large
- Mary Condon – Osgoode Hall Law School Representative
- The Honourable J. Michal Fairburn – Judicial Representative
- The Honourable Stephen T. Goudge – Law Foundation of Ontario Representative
- Irwin Glasberg – Ministry of the Attorney General Representative
- Elizabeth Grace – Member At-large
- Sonia Ouellet – Member At-large
- Andrew Pinto (LCO Chair) – Member At-Large
- Michael Tamblyn – Member At-Large
- Dean Christopher Waters – Ontario Law Deans Representative
- Nye Thomas (LCO Executive Director) – *Ex Officio* Member

Past Board Members

- Mark L. Berlin (2012 – 2018)
- Gwen Boniface (2011 – 2014)
- Paul Boniferro (2018)
- Christopher D. Bredt (2008 – 2014)
- Camille Cameron (2014 – 2015)
- Nathalie Des Rosiers (2009 – 2013)
- Adam Dodek (2011 – 2014)
- Neil Finkelstein (2007 – 2008)
- William Flanagan (2009)
- Neena Gupta (2007 – 2012)
- Marie Henein (2007 – 2009)
- Ian Holloway (2009 – 2012)
- The Honourable Frank Iacobucci (2007 – 2012)
- The Honourable Russell Juriansz (2008 – 2009)
- The Honourable Harry S. LaForme (2014 - 2018)
- Mark Leach (2012)
- Yves LeBouthillier (2007 – 2008)
- Jinyan Li (2009 – 2010)
- The Honourable James MacPherson (2007 – 2008)
- Patrick J. Monahan (2012 – 2017)
- Maria Páez Victor (2012 – 2018)
- Murray D. Segal (2007 – 2012)
- Lorne Sossin (2010 – 2018)



2014

The provincial government asked the LCO to recommend changes that would improve Ontarian's access to the federal Registered Disability Savings Plan program. The province implemented several LCO recommendations, including new streamlined processes and protections against financial abuse.

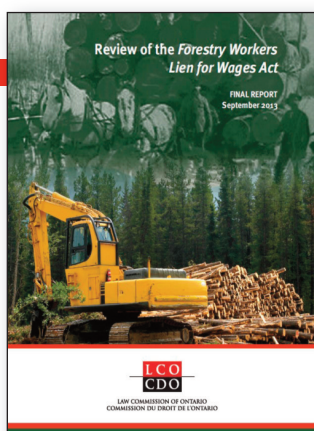
What We Do

The LCO provides independent, evidence-based, and forward-looking advice on some of Ontario's most complex and controversial legal policy issues. The LCO's analysis of provincial laws, policies, programs, and practice is rigorous, multidisciplinary, and based on extensive consultations with the persons and institutions most affected by them. As a result, our reports are an authoritative, long-term resource for policy-makers, stakeholders, academics, and the general public.

The LCO's reports have led to legislative, regulatory and policy amendments. They are cited in judicial decisions, policy reports, academic articles, and media stories for many years. They also contribute to public legal education to public legal education and public debates on important and topical law reform issues.

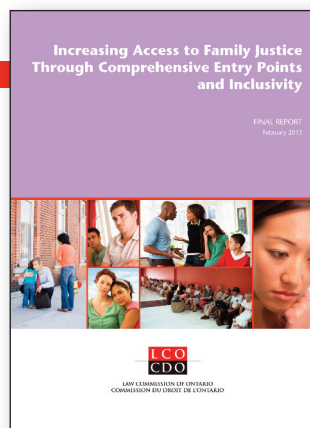
Many institutions, organizations and individuals rely on the LCO's work, including:

- Government decision-makers at the provincial, national, and municipal levels;
- Legal system professionals, including the judiciary, legal organizations, and lawyers;
- Regulators such as the Law Society of Ontario, regulated health professions, and others;
- Private and public institutions involved with legal issues or the justice system, such as hospitals and financial institutions;
- Community groups, agencies, community legal clinics, and individuals working in project-related areas;
- Academics and experts working in LCO project-related areas,
- Law schools; and,
- The general public.



2013

The LCO reviewed the Forestry Workers Lien for Wages Act in light of changes in Ontario's forest industry. The LCO recommended repealing the Act.



2013

This report considered how to improve access to family justice services at the community level. The report influenced changes in family law services at Legal Aid Ontario, the Law Society of Ontario, and the provincial government.

Advancing Law Reform

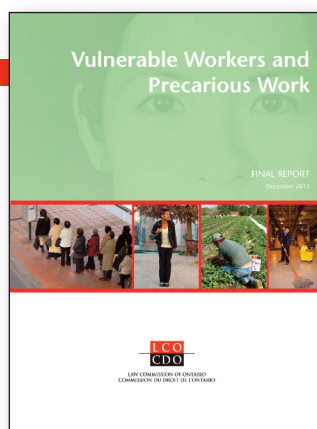
By definition, LCO reports break new ground in law reform. Our Defamation in the Internet Age project, for example, is the first project of its kind in Canada. Other projects, such as our Class Actions and Legal Capacity projects, are the first comprehensive reviews of important Ontario statutes in more than 20 years.

In the last five years alone, the LCO has initiated or completed nine major projects and has circulated more than 30 final reports, interim reports, discussion papers or commissioned papers. Major projects during this period include:

- Digital Rights
- Class Actions
- Defamation in the Internet Age
- Last Stages of Life
- Legal Capacity, Decision-making and Guardianship
- Simplified Procedures for Small Estates
- Capacity and Legal Representation for the Federal RDSP
- Review of the Forestry Workers Lien for Wages Act
- Increasing Access to Family Justice

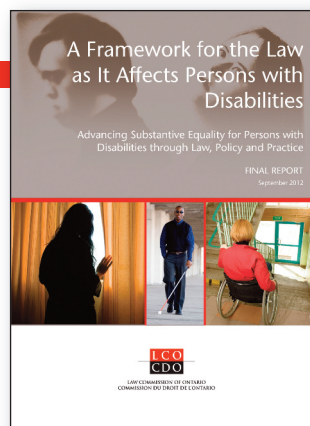
The LCO also supports law reform, policy making and critical debate through conferences, forums, events, and roundtables. Recent examples include:

- Forum on Open Data in the Justice System;
- Roundtable on Legal Ethics and Practice for the Last Stages of Life;
- An international conference on defamation;
- LCO/Mozilla Digital Rights Roundtable;
- A panel on internet intermediary liability at RightsCon 2018.



2012

The report influenced many changes to the *Employment Standards Act* and the *Stronger Workplaces for a Stronger Economy Act* on issues such as wage recovery caps; minimum wage increases; stronger accountability measures for temporary employment agencies; and protections for foreign workers, among others.



2012

This comprehensive, innovative framework is frequently cited as the leading approach for developing and evaluating laws, policies and practices affecting persons with disabilities.

Public Engagement and Public Legal Education

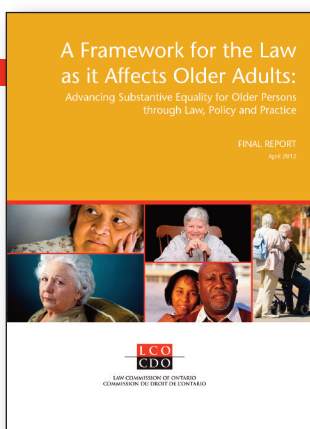
The LCO is a national and international leader in public engagement on law reform issues.

Since its inception, the LCO has engaged with thousands of Ontarians on law reform projects, including governments, legal professions, justice organizations, community organizations, academics, and the general public. The LCO consults with stakeholders provincially, nationally, and internationally.

The LCO promotes public engagement through:

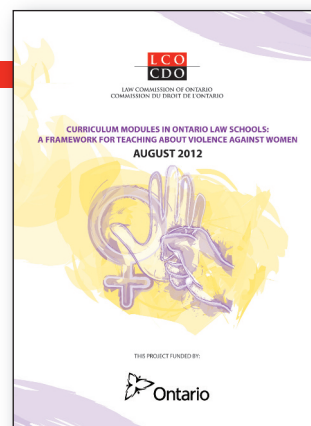
- Project consultation papers, interim and final reports;
- Commissioned research papers;
- In person stakeholder meetings, workshops, symposia, and public forums;
- Dedicated, easy to access project and issue sheet/backgrounders;
- Online webinars and public surveys;
- Dedicated, broad-based Advisory Groups;
- Speaking engagements, articles, guest lectures at law schools and other faculties;
- Social media strategies;
- A newsletter circulated to interested individuals and organizations.

The LCO's website has become the hub for LCO consultations and public education. The website is bilingual and every important LCO project document is translated into French. Some documents have also been translated into as many as ten additional languages.



2012

This comprehensive, innovative framework is frequently cited as the leading approach for developing and evaluating laws, policies and practices affecting older adults.



2012

Funded by the Ontario Government through the Ontario Women's Directorate, this unique project developed model course components for Ontario law students on issues related to violence against women, with emphasis on domestic or intimate partner violence.

LCO

LCO Staff, Funding, and Pro Bono Contributions

The LCO has a small, dedicated staff who are experts in legal and public policy research, law reform, access to justice, consultation and stakeholder engagement, and contemporary public policy development.

The LCO is funded by the Law Foundation of Ontario, the Ontario Ministry of the Attorney General, the Law Society of Ontario, Osgoode Hall Law School, and York University. The LCO also receives significant in kind support from Osgoode Hall Law School and York University.

The LCO's resources are multiplied through its proven ability to develop partnerships, engage communities, and leverage pro bono contributions from across Ontario.

Advisory Groups

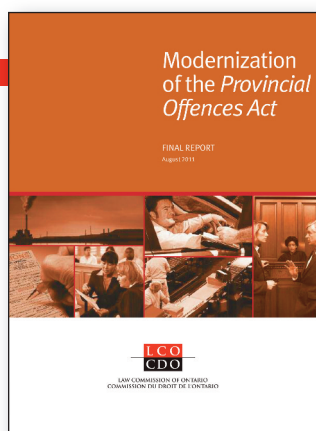
The LCO leverages significant pro bono resources through its volunteer project advisory groups. During our second mandate (2011-2016), the Commission relied on 11 Advisory Groups with almost 180 members. One Advisory Group met more than 30 times over the course of several years.

Partnerships

The LCO collaborates with literally dozens of organizations across the province every year. For example, the LCO partnered with almost 20 organizations during its current Last Stages of Life project.

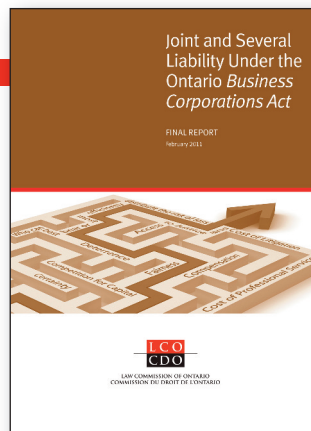
External Funding/In Kind Contributions

Finally, the LCO leverages its resources through external funding and in-kind contributions from other organizations, such as SSHRC.



2011

Schedule 35 of the *Stronger, Fairer Ontario Act (Budget Measures)*, 2017, S.O. 2017, c. 34 – Bill 177 included amendments to modernize the Provincial Offences Act, based on recommendations from this report.



2011

This project was led by Professor Poonam Puri, through the LCO Osgoode Hall Law School Scholar-in-Residence program.

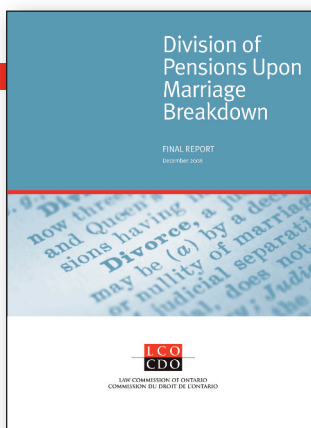
Law Reform in Canada

The LCO is Ontario's second-generation law reform agency.

Our predecessor, the Ontario Law Reform Commission (OLRC), was established in 1964. It was the first law reform agency in Canada and reported to the Attorney General of Ontario. Between 1964 – 1996, the OLRC issued almost 100 reports and study papers on topics as diverse as charities, jury trials, land law, AIDS testing, child welfare, personal property security, privacy, the *Landlord and Tenant Act*, and enforcement of judgements. OLRC reports were widely praised for their excellence and are still relied on by courts and lawmakers today.

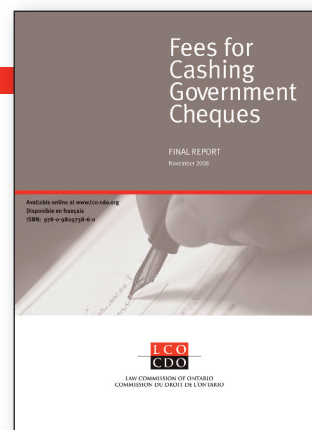
In the mid-2000s, justice leaders in Ontario recognized the need for a renewed law reform agency in Ontario. Shortly thereafter, the LCO was established by an agreement between the Ontario Ministry of the Attorney General, the Law Foundation of Ontario, the Law Society of Ontario, Osgoode Hall Law School and the Law Deans of Ontario.

Today, there are law commissions in six Canadian provinces (Alberta, British Columbia, Manitoba, Ontario, Nova Scotia and Saskatchewan) with the development of a seventh commission underway (Quebec). There are over 60 independent law commissions operating world-wide.



2008

Family Statute Law Amendment Act, 2009, S.O. 2009, c. 11 – Bill 133 enacted changes to how pensions are divided when couples separate and divorce, based in part on the recommendations from this report.



2008

Bill 59: Putting Consumers First Act (Consumer Protection Statute Law Amendment), 2016, implemented recommendations from this report.



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