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February 26, 2021

VIA E-MAIL

Victoria Youth and Family Court Committee

Attn: Members of the Committee

Dear Sirs/Mesdames:

**Re: CRD Review of Youth and Family Court Committee Service:
Recommendations as a result of consultation**

Further to our consultation at Victoria Youth and Family Court Committee (the "Committee") meetings January 27, 2021 and February 3, 2021, we write to request the Committee's membership, by resolution passed in open meeting properly assembled, confirm it is interested in continuing with the process as outlined in this letter.

On January 27, 2021, we canvassed the Committee's history, problems faced by it and other family court committees, how grants can be made, and options for resolving structure and governance issues. On February 3, 2021, we went through each recommendation in the CRD report. Discussion occurred on public meeting and record keeping requirements, the role of the Provincial Ombudsperson, and on delegated versus advisory commissions. At this meeting, CRD was prepared to present a delegated commission model, but was informed January 26, 2021 by the Committee's Chair that it was not ready for further consultation and would not be ready until after an orientation session in February had been held for new members.

Suggested Motion Language

We ask that you consider a motion, in open meeting assembled, showing a group intention to continue with this process. We suggest the following:

That the Victoria Youth and Family Court Committee recommend to the Capital Regional District Board:

- 1. Consider creation of a delegated commission, rather than an advisory committee or commission, to continue the work of the Victoria Youth and Family Court Committee;*
- 2. Direct staff to continue to engage with the Committee to work to implement certain mandate, governance, and structure changes in accordance with the recommendations set out in the CRD's letter of February 26, 2021.*

Recommended Structure – Delegated Commission

A delegated commission will provide independence over administration and operation of the service, similar to how the Committee currently operates, but with a delegation of grant-making authority and a clear mandate set out in a bylaw. Similar commissions exist already at CRD: no

new model would need to be created. This has the least burden in time, monetary cost, and personal financial risk to appointees. A draft commission bylaw has been prepared to implement certain recommendations set out in this letter. Please note that though it would be a delegated commission, the Committee name would not change: “commission” is a legal status.

An advisory commission is not recommended. It would cause unnecessary delays relating to grant-making, would require additional Board referrals, and increase use of Board and staff time. Committee issues are specialized, funding applications are received throughout the year (particularly from youth) and the Committee is ideally staffed with persons able to advise on community need, something it has done in the capital region since the 1960s.

A society is not recommended. The administrative burden and need for additional insurance and other materials (risk, privacy, work safety, human rights policies) would quickly deplete resources. Volunteers who provide assistance to the Committee and certain local government appointments undertaking Committee work between meetings are likely be ineligible for the *Local Government Act* indemnity and would not be covered by CRD’s insurance.

Recommendations

Recommendations are organized into “must” or “may” categories and additional considerations contained in the below table.

Mandatory Recommendations - Structure

The following are recommendations based on legislative requirements and best practices.

Recommendation	Must / May	Reasoning
Set out mandate and delegation in a bylaw	Must	<p>A commission bylaw sets out delegation for grant-making and a clear mandate to guide the Committee in its business.</p> <p>A proposed mandate, compared to prior mandates and legislation is Schedule “A”. The Committee should examine its mandate to ensure it is accurately reflecting both its historical purpose per the <i>PCA</i> and the broader work it does.</p> <p>Quorum is currently set to seven members, the same number as CRD appointments. This is appropriate based on attendance and is approximately 30% of membership.</p>
Comply with <i>Community Charter (Formalize meetings)</i>	Must	<p>As a body of a local government, meetings and any sessions where decisions are made must be in open.</p> <p>Does not apply to work by volunteers or sub-committees, provided they are not making final decisions for the Committee.</p>
Public minutes and agendas unless in closed <i>(Formalize meetings)</i>	Must	<p><i>Community Charter</i> requires these to be published within a certain time, and to be publicly available or inspected on request. Publication could be met by online publication through CRD; prior minutes could be made available by CRD to meet requirements for public inspection. <i>YCJA</i> provides confidentiality provisions, if ever requested as a conference by the Court.</p>

Maintain records consistent with the obligations of a public authority	Must	<p>Required by <i>Community Charter</i> and <i>FIPPA</i>. Covered by CRD records and privacy policies, use of Corporate Officer and FOI Manager for FOI requests.</p> <p>Records should be stored at CRD. A CRD e-mail address should be provided. Meeting minutes should be publicly accessible and available.</p>
Procedures bylaw compliance (<i>Formalize meetings</i>)	Must	<p>To resolve the existing complaints faced by the Committee, it should ensure:</p> <ul style="list-style-type: none"> • Agenda items can be raised with Chair in advance of meeting, or at a meeting itself by Notice of Motion; • Meetings have set times, with resolution required to continue them; • Speakers and delegations have set times, with resolution to extend; • Alternating speakers' lists are used to keep matters on topic, ensure small voices can be heard – members should not have wide-ranging discussions on topics outside the floor; • Compliance with Robert's Rules. <p>While a Priorities sub-committee can assist in preparing an agenda, it should not bump items from prior meetings or items raised by Notice of Motion. It should not be deciding agenda items without the full committee.</p> <p>Decisions should be made in an open, properly constituted meeting.</p>
Institute term limits	Must	<p>Representatives should exit after a certain time to ensure fulsome representation by other members and others sought to fill their roles as part of a transition plan.</p> <p>Two year terms are proposed, with a maximum of three consecutive terms. After one year, a Committee member is eligible for re-appointment. Staggered terms are also recommended for community appointments (e.g. CRD appointments).</p> <p>For transition, existing committee members who are beyond their term limits should receive the balance of their term plus the option for one additional two years term. A further term of two years can be provided at appointing organization's option with consent of Committee.</p> <p>Past long-time volunteers can be non-voting resource members or participate as volunteers, a practice formerly used by the Committee.</p>
Consolidate finances in CRD	Must	<p>There is no need to have separate bank account. Approved grants, honoraria, and reimbursements of expenses can be issued directly from CRD. Can be included in CRD financial checks and audit.</p>

Follow existing policies rather than create its own	Must	As a body of the CRD, the Committee should follow CRD policies, such as those relating to expenses; records management; standards of conduct; respectful workplace; and the like. If necessary, specific policies or exceptions can be developed in accordance with CRD's Policy Framework.
Re-arrange agenda items	Must	Agenda items should be re-arranged such that resource members speak at a dedicated time in the meeting (done).

Non-Mandatory Recommendations – Governance

The following are non-mandatory governance recommendations. Implementing a few would likely resolve many of the conflicts and issues faced by the Committee relating to its work.

Reduce or restructure meetings	May	<p>Consider (non-exhaustively, and based on needs):</p> <ul style="list-style-type: none"> - Setting a topic-based schedule for potential meetings, set in the January or February meeting of each year in advance - Aiming for the required four meetings per year to focus on family and youth resources in the region, with specific mandates for each meeting - Two grant intake and review meetings per year - Two resource member coordination meetings per year (Fall and Spring, for example), which may result in a greater focus on these organizations and greater attendance <p>Reducing the number of meetings annually may improve attendance and free-up member time to work on specific projects or volunteer tasks.</p>
Set specific mandates for sub-committees with dates for deliverables (reduce or restructure meetings)	May	<p>Sub-committee creation and appointments should be at the call of the Board, not at the call of the Chair, to ensure consistent direction.</p> <p>Consider reducing the number of sub-committees, depending on the projects and workloads is advisable.</p> <p>When creating such groups, set a mandate, time limit, and staff with volunteers (who do not need to be Committee members) – did this historically. Using time or mandate-limited sub-committees, will allow work to get done to be reported up to the Committee as a whole example:</p> <ul style="list-style-type: none"> e.g. Court Watch 2021, goal to attend court a certain number of times, visit a certain number or type of proceedings, report on a set future date. e.g. Working groups specific to certain issues, such as youth services on the West Shore, family services on the peninsula, with a set mandate and a time for reporting
Look at membership composition (reduce numbers and appoint family-and-	May	<p>The Committee may wish to consider:</p> <ul style="list-style-type: none"> • requesting CRD not utilize all seven of its community appointments, to reduce the numbers of voting members unless quorum or workload becomes an issue;

<p>youth-involved individuals)</p>		<ul style="list-style-type: none"> • requesting each municipal member appoint an elected official and a community member, such that they can act in each other's absence and collaborate on the municipalities needs; • methods and recruitment to ensure a majority of members must have experience in "education, health, probation, and welfare"; • look to actively recruit successors for long-time members, as well as new resource members; and • establishing a qualifications matrix, to determine what skill sets are missing on the Committee. <p>CRD can also assist in coordinating appointments with service participants, such as developing standards advertisement language, setting reminders for intake periods, and the like.</p>
<p>Grant intake procedure and grant agreement form</p>	<p>May</p>	<p>May set grant-intakes per year and reserve some amount for applications that come up between meetings. May wish to establish non-exhaustive criteria for grants.</p> <p>Can still review grants through sub-committee, with recommendations and summary to Committee for approval. Have a conflicts recusal procedure to avoid allegations of bias or impropriety (as with other CRD granting bodies).</p> <p>Before any funding is provided, a grant-agreement must be entered into to protect funds (simple, mandatory).</p>
<p>Maintain a volunteer registry</p>	<p>May</p>	<p>This is strongly recommended if the Committee intends to continue to perform work outside properly constituted meetings, such as Court Watch, facility visits, or assistance to individual youth and families.</p> <p>The <i>Local Government Act</i> indemnity only applies to elected officials when working within their role, not when doing hands-on volunteer work (say court watching) not typically the duty of a local government official; for individual appointments and volunteers, it only applies when under the local government's direction: the Committee would need to specifically mandate tasks to its volunteers and sub-committees (if any) by resolution to ensure works are being properly supervised. It can do this by specific, mandated resolutions or by utilizing a volunteer coordinator, similar to how other delegated commissions operate.</p> <p>To qualify for insurance for their own injuries, volunteers must also register with CRD's Risk and Insurance Department. Individuals working with vulnerable youth should have a recent valid criminal record check on file with CRD. This will satisfy an insurer should a claim arise relating to misconduct involving youth.</p>



Additional Recommendations Arising

From the questions asked by members and others since the July CRD report, the following items are recommendations arising.

Annual work plan	May	The Committee may wish to consider setting an annual work plan, similar to the City of Vancouver's committee. While the Committee does do forward planning, planning of the year may help it remain focused.
Continued online meetings	May	Local Government bodies, even post-COVID health orders, can host electronic meetings. CRD has facilities to do so via WebEX and Microsoft Teams; some use Zoom depending on the circumstances. This will facilitate attendance and engagement.
Maintain a region-wide focus	Must	<p>On January 27, it was brought to the attention of the writer that the Committee had previously engaged in suicide watch of a vulnerable young person. This is outside the mandate of the committee and the insurance and indemnity of the individual members. Specific policies are available for this work but only where doing so when properly trained, registered, and with appropriate supports in place, none of which the Committee has.</p> <p>Committee members also attended a First Nations Court sentencing hearing in Duncan and participated in sentencing. As it is work outside the regional district, this may be outside the mandate of the committee. Any court appearances on behalf of the Committee should first be instigated by a direct request from the Court or a specific individual seeking assistance.</p>

Conclusion

This review was conducted on the basis of the documents available and interviews with Committee members. Despite requests, the writer remains without access to past minutes and agendas. The Committee's 2021 annual report has not been finalized or distributed. If available, these documents may affect our opinion relating to certain governance recommendations.

Should you have questions, please contact the writer by e-mail, scarey@crd.bc.ca, or at the direct line, 250-360-3128.

Best regards,


 Steven N. Carey, B.Sc, J.D.
 Manager, Legal Services
 Lawyer and Trademark Agent

cc. Cynthia Day, Chair, Victoria Youth and Family Court Committee; Robert Lapham, Chief Administrative Officer;
 Kristen Morley, General Manager, Corporate Services
 Encl. Schedule "A" – Mandate Samples

Schedule "A"
Mandate and Objectives Summaries

Objectives

Suggested by CRD	Existing Committee Objective/Mandate
<p>The Committee has the following objectives:</p> <ul style="list-style-type: none"> (a) to identify, inform, assess, educate, and report on regional resources for youth justice and family court issues and related needs; (b) to act as a resource for the public and youth and family organizations; and (c) to encourage collaboration between and visibility of community services. 	<p>N/A</p> <p>The current Committee Constitution and Terms of Reference make no mention of mandate or purposes, though there are references to the <i>PCA</i> and <i>YCJA</i>.</p>

Comments: The Committee should clearly identify objectives to guide it in its core work.

Additional Activities of the Committee

Suggested by CRD	Existing Committee Objective/Mandate
<p>The Committee may, within its mandate:</p> <ul style="list-style-type: none"> (a) take positions on policy initiatives, legislation, and services affecting families and youth justice in the region, in the name of the "Victoria Family Court and Youth Justice Committee"; and (b) undertake other activities consistent with the activities of a family court and youth justice committee, as permitted by law. <p>Subject to bylaws, policies, and procedures, the Committee may:</p> <ul style="list-style-type: none"> (a) establish advisory groups to examine specific issues, who will report on their work; (b) contract for support services, volunteer coordination, communications, feasibility studies, and other services and goods related to its mandate; (c) undertake necessary, incidental, or ancillary administrative tasks in order to effect its work. 	<p>The Family Court Committee can:</p> <ul style="list-style-type: none"> a) Be a force in educating the public on issues related to Family Court; b) Sit in on court hearings to monitor the actions of all officials concerned with the welfare of youth and to assist judges upon request; c) Inform the Intermunicipal and the Capital Regional Electoral District Committees of the problems which are of concern to the community; d) Enter and monitor both open and closed custody facilities as concerned members of the public; e) Comment upon legislation concerning families and youth; f) Make recommendations to appropriate legislative bodies concerning any matters deemed to be covered by our several mandates; g) Be visible within the community and recognized as the appropriate body to whom complaints can be made, and to whom recommendations can be proposed for improvement. <p style="text-align: right;"><i>[1985 Constitution Summary]</i></p>

Comments: Concerns were raised by the Committee's Chair about losing the ability to perform certain work as a body of CRD. The suggested mandate is broad enough to encompass historical tasks and undertake future obligations consistent with its objectives.

PCA Language Summary

Suggested	Provincial Court Act
<p>The Committee is hereby tasked with the following duties:</p> <p>(a) to meet at least four times per year to:</p> <ul style="list-style-type: none"> i. consider and examine community resources for family and children's matters; ii. make recommendations to the court, the Attorney General, or others; iii. solicit and consider applications for receipt of grant-funding;* and iv. connect family-and-justice-involved individuals, service providers, and government in a way that encourages collaboration and identifies service gaps; <p>(b) if requested by the court, to act a resource or assist as directed; and</p> <p>(c) report annually to its member local governments and the Attorney General on activities and recommendations.</p>	<p>(6) The family court committee must do the following:</p> <p>(a) meet at least 4 times a year to consider and examine the resources of the community for family and children's matters, to assist the court when requested and generally, and to make the recommendations to the court, the Attorney General or others it considers advisable;</p> <p>(b) assist the officers and judges of the court, if requested, to provide a community resource or assistance in individual cases referred to the committee;</p> <p>(c) report annually to the municipalities involved and to the Attorney General respecting their activities during the past year.</p>

Comments: A plain-language *PCA* reproduction, with grant-making and collaboration added.

YCJA Language Summary

Suggested by CRD	Youth Criminal Justice Act
<p>Not considered necessary to reproduce due to length.</p> <p>Encompassed in the “act as a resource or as directed”, “undertake other activities”, and mandate.</p>	<p>(a) in the case of a young person alleged to have committed an offence,</p> <ul style="list-style-type: none"> (i) giving advice on the appropriate extrajudicial measure to be used in respect of the young person, (ii) supporting any victim of the alleged offence by soliciting his or her concerns and facilitating the reconciliation of the victim and the young person, (iii) ensuring that community support is available to the young person by arranging for the use of services from within the community, and enlisting members of the community to provide short-term mentoring and supervision, and (iv) when the young person is also being dealt with by a child protection agency or a community group, helping to coordinate the interaction of the agency or group with the youth criminal justice system; <p>(b) advising the federal and provincial governments on whether the provisions of this Act that grant rights to young persons, or provide for the protection of young persons, are being complied with;</p>

	<p>(c) advising the federal and provincial governments on policies and procedures related to the youth criminal justice system;</p> <p>(d) providing information to the public in respect of this Act and the youth criminal justice system;</p> <p>(e) acting as a conference; and</p> <p>(f) any other functions assigned by the person who establishes the committee.</p>
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Other Mandate Language

Richmond

- Mandate copies the *PCA*;
- RFCC functions as a link between the Court and City Council whereby:
 - Court personnel and clients may draw on the concern and support of the community;
 - Family and youth resources may be monitored; and
 - Community may become educated about the justice system and its effects on children, youth and families;

Vancouver

- Provides input to City Council and staff about issues of concern;
- Considers any matters which may referred to the Committee by Council or staff and take under consideration matters proposed by the Vancouver Board of Education;
- Reviews and advises Council and staff on the development, implementation and assessment of City policies and services related to children, youth and families;
- Advocates for the best interests of children, youth and families;
- Identifies opportunities and empowers children and youth to have a voice in civic decision making;
- Provides recommendations to staff and Council on issues affecting children, youth and families;
- May take positions on policy initiatives from other levels of government within the mandate of the Committee; and
- Acts as a family court committee under the *BC Provincial Court Act ...* or a youth justice committee under the *Youth Criminal Justice Act*.
- Works co-operatively with other agencies whose activities affect constituent communities, including initiating and developing relevant projects;
- Acts as a resource for staff doing public involvement processes and civic events;
- Exchanges information with constituent communities and the general public about relevant programs and areas of interest; and
- Engages in outreach to disseminate information and encourage participation from constituent communities.