

## REPORT TO GOVERNANCE AND FINANCE COMMITTEE MEETING OF WEDNESDAY, OCTOBER 07, 2020

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### **SUBJECT**     Review of the Victoria Family Court and Youth Justice Committee

### **ISSUE SUMMARY**

In October 2019, the CRD Board directed staff to conduct a review of the Victoria Family Court and Youth Justice Committee (the “Committee”) to understand its mandate, governance, and finances, and present options for moving forward.

### **BACKGROUND**

To appreciate the current mandate and governance structure of the Committee, it is important to review the history of how the Committee evolved.

In 1964, the Committee was formed by the City of Victoria, with representatives of Victoria, Oak Bay, Esquimalt, and Saanich. Its four members reported as an advisory committee to another advisory committee of the City of Victoria tasked with inter-municipal business.

In 1967, the CRD received supplemental letters patent requiring it to fund the construction of a new courthouse for family and youth, servicing Victoria, Oak Bay, Saanich, Esquimalt, and the electoral areas (provincial unorganized territory).

In 1984, the Committee became a youth justice committee under the then-*Young Offenders Act* (now the *Youth Criminal Justice Act*) by the provincial Attorney General.<sup>1</sup>

In 1987, the CRD received supplemental letters patent requiring it to operate, participate in, and fund a *Provincial Court Act* family court committee on behalf of Victoria, Saanich, Oak Bay, and Esquimalt, as well as the electoral areas of Colwood, Metchosin, Sooke, Langford, and View Royal. At the time, CRD was the authority tasked with construction of a family and youth court building. The maximum requisition was \$5,000. The Committee ceased reporting to the City of Victoria and reported to the CRD as an advisory committee, having previously reported to the CRD on an ad hoc basis.

By the mid-1980s, its membership had expanded, with one CRD representative being added, and seven members-at-large appointed by CRD. As CRD’s electoral areas became municipalities, additional members were added. School district members also became voting members at some point, having previously been non-voting members as late as the mid-1980s.

In 1998, an establishing bylaw was created for the service and the maximum requisition became \$10,000. Participants were to “participate in and share the cost” of the funding and operation the

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<sup>1</sup> Hon. Brian Smith: “The establishment of a Youth Justice Committee, while not conferring any particular rights and privileges on the Committee and its members, recognizes that the Committee has a legitimate role, as representatives of your community, in making the youth justice process more effective. [...] The specific programs and activities your Committee might wish to pursue would be discussed with local officials of the youth justice system.”

Committee. Also that year, Central Saanich, Sidney, and North Saanich joined the service as the Sidney courthouse closed.

In 2000, CRD broadened the service authority to also allow funding of “board approved committees”. This was to provide funding for the Capital Region Action Team for Sexually Exploited Youth (CRAT). At the time, the Committee did not use its full \$10,000 requisition and consented to share an annual \$1,500 with CRAT rather than have CRD create a new service. The CRD Board approved CRAT as a “board approved committee”, and continues to fund it to this day by sending a cheque for \$1,500 to Oak Bay annually.

In 2003, the requisition amount was lifted to \$15,000. The then-chair of the Committee advocated for the increase due to expenses of office space, staffing support, and the value the committee provided to the community in giving local government officials and lens into how the justice system treated youth in custody and youth involved with the justice system. The Committee was identified as a select committee of the CRD Board, tasked with advising on operations of the court system and impacts on youth and family.

In 2004, the CRD Board ratified the Committee’s Constitution and Terms of Reference, which included broad membership and multiple-sub-committees. They are substantially similar to what is in use today, and what has been used since the mid-1980s. No detailed discussion on the work of the Committee or its operations is demonstrated in the meeting minutes.

In 2014, such committees became optional.<sup>2</sup>

In 2019, it was brought to the attention of the CRD that the Committee was paying for an outside Canada professional development activity and was making grants with its budget. This review was commenced soon after at the request of the CRD Board.

A list of activities undertaken by staff as part of this review is attached at Appendix A. Staff reviewed areas of conflict that were raised by some members of the Committee about its work, role, expenses, and governance. Some Committee Members take the position that the Committee is not accountable to the CRD, is wholly independent, and is able to spend funds as it wishes, subject to its own policies. Other Committee Members take issue with a lack of defined outcomes; non-compliance with meeting requirements; frequent multi-hour catered meetings; complicated governance; lack of term limits; and an unwieldy annual report. Staff undertook a review of current Committee operations and, where appropriate, applied a comparative analysis to other CRD committees and commissions as set out below.

## **ALTERNATIVES**

### ***Alternative 1***

The Governance and Finance Committee recommends to the Capital Regional District Board:

That staff be directed to report back on the process to restructure the Committee in accordance with the recommendations set out in Appendix H.

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<sup>2</sup> *Justice Statutes Amendment Act*, 2014. Hon. S. Anton: “This provision was put in some time ago. There never has been funding for these committees. There was “a municipality must.” There was no way of enforcing compliance. So we have now made it permissive. Some municipalities have family court committees; others do not. [...] There are 17 family court committees now. The exact amount of how many could, I don’t know. But it’s communities with a courthouse or around a courthouse.”

*Alternative 2*

The Governance and Finance Committee recommends to the Capital Regional District Board:

That staff be directed to report back with the process for winding-up the service and appropriate bylaw amendments.

*Alternative 3*

That this report be referred back to staff for additional information.

**DISCUSSION**

***Statutory Purpose of Committee***

The Committee has a statutory grant of authority, summarized in Appendix B, with relevant legislative provisions set out in Appendix C. Family Court Youth Justice Committees are not part of the justice system, rather they discuss local issues. The Committee has never and will never receive court referrals.

As a result, the Committee undertakes the following activities:

- grants;
- court watch, where volunteers attend court and report observations;
- awareness raising, collective collaboration and group action, as well as reporting by local service providers (youth and vulnerable persons non-profits, police, school districts);
- lobbying on initiatives related to youth and family matters, including on barriers faced by youth and families in accessing services and navigating the court system; and
- acting as a resource for those doing civic events related to access to justice;

The Committee has also written papers, organized conferences, and assisted in coordinating presentations at schools and in the community. A list of projects funded or organized by the Committee post-2004 is Appendix D, while a summary of current works is Appendix E.

***Meetings***

The Committee meets nine times per year for at least two hours. Out-of-time agenda items are not typically rescheduled. Speakers do not have strictly enforced time limits. Votes are informal. Meetings are closed, except by advanced invitation or the annual meeting. The Committee's executive believes that without closure, certain members would be unable to attend and speak freely (e.g. child support workers, crime task forces).<sup>3</sup> Meeting minutes are not public. The Committee has confidentiality agreements, historically to protect the information of youth in the criminal and family court system if referrals were received. They are extremely broad.

Most CRD advisory bodies or commissions meet four to nine times per year. Meetings are open, speakers and delegations have limited times, and agendas and minutes are public, in accordance with the *Community Charter* and the CRD *Procedure Bylaw*. CRD's confidentiality agreements are more limited in scope than those currently used by the Committee.

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<sup>3</sup> Were it acting under a referral from the Courts as a youth justice committee, the *Youth Criminal Justice Act* does have language prohibiting the publication of information on young offenders. The *Community Charter* allows closure per ss. 90(f), Law enforcement investigations; 90(j) and 90 (m) information that is prohibited from disclosure under freedom of information legislation or another enactment. Closure only applies to the portion of the meeting where such information is discussed.

### ***Sub-Committees***

The Committee uses sub-committees to champion initiatives. Currently operating are:

- a steering committee, which sets the agenda in advance of meetings and is often where discussions on business occur;
- a court watch committee, responsible for scheduling volunteers to attend youth and family court and report back with their findings and observations to the Committee;
- a priorities committee, who review applications for grant funding and community youth-related initiatives that the Committee can support;
- a youth matters committee, that raises awareness of issues for youth and youth at risk in the court system and in society, and raise awareness of youth services;
- CRAT, with the purpose of assisting youth who are in or may be at risk of entering the sex trade. It primarily organizes in-school presentations.

If additional work is to be performed by CRD committees or commission, and staff are not involved, committee members do this outside meetings. Public bodies such as CRD cannot hold meetings in an informal setting and fail to invite the public to attend, and cannot operate all meetings in closed without public access to minutes.

### ***Membership, Appointment, Attendance***

There are 23 voting members and a number of non-voting resource members. CRD appoints seven members-at-large, as well as Chair, Vice Chair, and Treasurer. There is no public process for soliciting interest in CRD positions. Typically, the Committee recruits and recommends new members and CRD formalizes the appointment. Similarly, the Committee holds an election for officers at its AGM and the CRD ratifies results. Municipalities directly appoint elected officials or members of the public.

CRD committees or commissions have a typical membership of three to seven persons, though some advisory committees are larger where the intent is to get a diverse range of views from the community. Most advisory committees only meet a few times per year to provide advice or adjudicate grant applications received. CRD committees and commissions are governed by bylaws and use a public application process for new members.

It is reported that some Committee Members do not attend regularly, or attend a few meetings each year then drop off. Reported reasons for non-attendance range from the length and frequency of meetings; the time of day of meetings; a need to travel for meetings; length of speakers on individual issues; and a lack of completion of agenda items.

### ***Governance***

The Committee operates through a constitution; a terms of reference, developed by the Committee; expense policies; and individual guidance documents for each sub-committee.

The constitution is similar to the terms of reference of informal CRD working groups or committees, but the reporting relationship and authority is not as clear as that set out in a bylaw or standard CRD terms of reference. The expense policy is similar to but does not match current CRD expense policies.

### ***Records and CRD Services***

The Committee has no permanent home for documents. Its annual report stores all records, resulting in an unwieldy document.<sup>4</sup>

It does not use and is not provided regular access to CRD facilities or services. Pre-2000, it relied more on CRD services, though maintained its own office space. It does not have a safety or privacy officer.

CRD committees and commissions store records in Legislative Services or have a specific division assigned to assist in record keeping. They access CRD resources, with varying levels of support depending upon the committee or commission, and may direct questions regarding risk and insurance, safety, records management, legislative procedure, or any other issues to the appropriate staff resource and receive advice.

### ***Banking and Expenses***

The Committee's bank account requires multiple signatures. An audit committee reviews receipts. CRAT's record keeping and funds are held by Oak Bay.

The Committee's day-to-day expenses consist of:

- a contracted minute taker and secretary for an amount of approximately \$2,600 per year (or ~\$300 per meeting). It has had a contracted secretary since the mid-1980s;
- catered self-serve meals in an amount of up to approximately \$3,800 per year (roughly 25% of its budget); and
- Some reimbursement for parking, office supplies, and transit for members and guest speakers (less than \$600).

Regarding lunches, there is concern of the Committee executive that if meetings were not catered, members may not arrive or attend in a regular or timely fashion. Others say that if meetings were less frequent, at different times, and stuck to a time-limited agenda, such catering would not be necessary or, if attendance increased, may be justified.

Larger CRD commissions that meet over the lunch-hour are catered; commission and committee meetings that commence early or meet in the evening often have light refreshments.

In 2019, the Committee approved a member attending a conference in Las Vegas, Nevada. Some members were concerned there was no debate or discussion on this expense and felt that it had already been decided at a sub-committee level or at a prior meeting.

Typically, CRD committees and commissions do not provide for member professional development, or if they do, have a reasonable cap on what is reimbursable. They would not normally fund such activities outside of Canada.

The Committee has built a new website (approximately \$3,000 over two years), replacing its prior website which it was incapable of updating without significant technical assistance. It has password protected "members only" sections (for agendas and other materials that are difficult

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<sup>4</sup> The Annual Report contains documents on the Committee's creation, finances, past work product, terms of reference, constitution, letters from government, and other materials that would not normally form part of an annual report.

and expensive to mail or e-mail) that were not yet accessible as of the spring of 2020. The website was not procured through CRD.

The 2019/2020 budget year, for the first time in about a decade, a budget has been requested for the Committee's \$15,000 annual requisition. Other CRD services require detailed five-year budgets, updated each year, in advance of funding and have clear restrictions on purchasing authority (such as not using public funds to purchase capital items that do not belong to CRD). Most Board committees do not have an allocated budget amount, or if they do, it is much smaller (less than \$1,500).

### **Grants**

The Committee issues grants to youth justice initiatives, such as the Sidney Youth Mental Health Clinic (saved from closure by Committee funding); conferences, such as Reimagining Masculinities, an all-ages ticketed event featuring speakers on healthy male identity; sponsorship of a cultural safety exercise; and further funding to CRAT.

The grant function is problematic. CRD must delegate clearly to authorize granting.<sup>5</sup> CRD records from 2000 state the Committee is not authorized to provide grants, but records from 2004 state the Committee does and may provide grants. Going back as far as 1999, the Committee also provides small honorariums (less than \$300 for a year) to guest speakers and individuals involved in justice work in the community. Despite some inconsistency in the CRD's past messaging as to whether grants are permitted, the Committee should not be issuing grants without proper authority delegated by bylaw.

## **IMPLICATIONS**

### **Alternative 1: Regularize the Committee**

If the work of the Committee is valued, the Committee must be restructured to avoid member disputes, clarify its mandate, and to ensure public accountability. Regularizing the Committee would give it clear access to CRD's privacy, legal, safety, risk and insurance, and other support services. Incorporating it may allow youth and family matters to be referred by the CRD Board.

Successful family court committees operate in Vancouver and Richmond:

- Vancouver's advisory committee has a terms of reference stating the local government's policies and procedures apply. It does not have a separate budget. It is supported by staff. It holds four to six meetings per year, has a diverse membership (including youth members), and its meetings are typically two hours long. Its broadened mandate encompass all children, family, and youth issues, with a focus on including youth in civic engagement. Its terms of reference are at Appendix F.
- Richmond's advisory committee has an annual budget of \$2,500 that may be used for food, travel, attendance at conferences, and the like. It has a membership of 8 to 15. It is supported by staff. It operates in a similar fashion to the Committee, with a focus on court watching, advocacy on the concerns of youth and families, and presentations to participants to facilitate to communication across organizations. Unlike the Committee, it has fewer elected officials and more community members to focus on its work as a

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<sup>5</sup> *Local Government Act*, section 263 (1)(c) Subject to the specific limitations and conditions established under this or another Act, the corporate powers of a board include the following ... to provide assistance for the purpose of benefiting the community or any aspect of the community;

volunteer “working committee”, with more of a focus on justice initiatives and lobbying. Its terms of reference are Appendix G.

This option will require staff time and would take several months given current staff capacity and the need to work with existing Committee members on the initiative. It would require bylaw changes and staff involvement to ensure the Committee is trained in *Community Charter* meeting requirements and CRD policies and procedures.

A list of recommendations is contained in Appendix H. If pursued, staff will consult and report back with bylaw amendments and specific feedback from the Committee.

### **Alternative 2: Dissolve the Family Court Committee**

Winding-up the service would remove CRD involvement and allow those individuals who are passionate about the work of the Committee to lobby individual local governments for funding. Municipalities could establish their own committees or directly fund justice initiatives with municipal grants-in-aid. It would remove \$15,000 per year from the CRD budget and not require any additional staff time.

Dissolution may have consequences for youth and family services providers in the Capital Region. The Committee is a place for justice-involved individuals to connect and collaborate. Without funding, this may not occur and may lead to a lack of a coordinated community focus on youth and family issues and a loss of opportunities. Long term members see the best value of the Committee as the coordination piece, to keep the issues facing families and youth continued in the attention of local government and service agencies. Unlike other communities, a number of initiatives have come out of the work of the Committee that continue (CRAT’s programs in schools, the Mobile Youth Services Team, and other works).

Most other Family Court Youth Justice Committees in the province have been dissolved by other local governments in recent years.<sup>6</sup> Reasons include the following:

- mandates were unclear;
- participants did not share administrative support, or chose not to remit expenses;
- committees were not utilized, and as a result, expanded work beyond their intended purpose;
- terms of reference were revised without consultation. Some excluded qualified members and jurisdictions, while others referred to jurisdictions that did not exist;
- local governments were permitted limited influence over a committee’s activities and operations. One committee, without documented reasons, excluded elected officials and refused to recognize the supervisory relationship between funding governments and the committee, resulting in its complete loss of funding; and
- local governments thought it not their role to facilitate this work.

Regarding the non-use of these Committees, since the 1960s, other tools have been developed that replace the non-local functions of a committee, such as:

- diversion of charges through alternative measures (by way of voluntary community work, letters of apology, restitution, anger management, skills courses, etc.);

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<sup>6</sup> These committees have been a source of confusion for at least 20 years. In 1999, the Union of BC Municipalities wrote to the BC Attorney General requesting clarification on their purpose, but did not receive a response. In 2012, Port Moody requested clarification from the Province, who denied any knowledge, then on further inquiry confirmed there was no longer a provincial committee liaison nor a list of such committees.

- incorporation of restorative justice and community accountability programs into the youth criminal justice system;
- pre-sentencing reports focused on mental health, addictions, and cultural factors;
- incorporation of victim impact statements in sentencing;
- local and provincial victims services programs;
- the creation of youth and family justice centres, providing self-help and information services, dispute resolution options, limited legal advice, community resource listings, courses and publications;
- BC's Representative for Children and Youth, who advocates for youth across the foster and family justice systems;
- the use of collaborative family law, where lawyers attempt to negotiate resolution rather than traditional adversarial litigation, is more common; and
- issues facing families, women, children, youth, and trauma survivors are more readily understood by the judiciary and law enforcement.

### **Alternative 3: Refer back to staff**

Should further information be necessary, the Committee could continue to operate as normal, with any grant issues arising being referred to the Board for ratification, until a decision is made by the Board on continued operation of the service.

### **CONCLUSION**

Though well-intentioned, the Committee is not operating in accordance with CRD procedure and policy requirements. While the mandate and purpose of the committee has become less relevant in recent years with an increase in other family and youth justice support agencies that are better placed to undertake this specialized work, the Committee is valued by its long-term members and some community stakeholder organizations. Assistance in governance and its regularization would avoid confusion and disputes but would only be successful if Committee members recognized CRD's jurisdiction over its governance; alternatively, the service should be wound-up and consideration put to other uses for funding.

### **RECOMMENDATION**

The Governance and Finance Committee recommends to the Capital Regional District Board:  
That staff be directed to report back on the process to restructure the Committee in accordance with the recommendations set out in Appendix H.

Submitted by:	Steven Carey, B.Sc, J.D., Manager, Legal Services (Contract & Bylaws)
Concurrence:	Kristen Morley, J.D., General Manager, Corporate Services & Corporate Officer
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer



**ATTACHMENTS**

Appendix A: Review actions

Appendix B: Summary of legislative grant of authority

Appendix C: Relevant sections of the *Provincial Court Act, Youth Criminal Justice Act*

Appendix D: Projects 2000 to 2018

Appendix E: Projects to 2020

Appendix F: Vancouver's Children, Youth and Families Advisory Committee Terms of Reference

Appendix G: Richmond Family Court Committee Terms of Reference

Appendix H: Recommendations for Restructuring Committee