

4. Re: Burnaby Provincial Courts.  
 Transfer of Court Orderly Function from R.C.M.P. Court Detail to  
 Court Clerk Sub-Department.

Council is aware of constant review of the feasibility of transferring administrative, clerical and other duties from R.C.M.P. uniformed staff to Municipal staff. In this respect, considerable consideration has been given by the Manager, District Judge Goulet, Superintendent Lambert, the Prosecutor and the Court Clerk to replacing R.C.M.P. members now performing services to Burnaby's Provincial Courts with civilian staff attached to the Court Clerk's office, which is a sub-department of the Municipal Manager's Office.

While in Court, R.C.M.P. Orderlies perform a dual role: they ensure maintenance of order and provide protection to Judges, Prosecutors, witnesses and others in Court; they act as Court Clerk in calling the Court to order, calling and swearing-in witnesses, recording dispositions, and performing other related in-Court functions. During pre- and post-Court periods, Court Detail staff perform a variety of clerical and other functions in support of the Court process, not the least of which is contributing toward effective liaison between Judges, Prosecutors, the Court Clerk, R.C.M.P., and others. While not performing duties directly associated with the Court process, Court Detail members are deployed to provide relief and assistance to other units of the Burnaby detachment.

Orderly services are provided by R.C.M.P. Orderlies to Burnaby's two Adult Courts (#1 and #2), and to Court "A" when "Juvenile" cases are heard in that Court. "Family" cases are also heard in Court "A" but with clerical functions provided in support of the Court performed by the Supervisor-Family Services Division, Human Resources Department, with R.C.M.P. staff attending this Court for maintenance of order purposes only as required.

Daily use of Courts and allocation of cases have been under consideration of Judge Goulet. Effective December 1, 1973, scheduled use of Courts is as follows:

Court	Mon.	Tues.	Wed.	Thurs.	Fri.
#1 (Adult)	Criminal Cases, Provincial Statutes, By-Laws				Federal Cases
#2 (Adult)	Criminal Cases, Provincial Statutes, By-Laws				*
"A" (Family & Juvenile)	*	Family Cases		*	Juvenile Cases

\* No scheduled use.

\*\* Effective January 1, 1974, Court "A" will be used for Family cases on one Wednesday only per month.

From the above-noted Court schedule, one Orderly is required for five days per week in Court #1, with a second required in Court #2 for four days per week and one day in Court "A". It should be noted that we have considered transfer of court clerical functions performed in Court "A" by the Supervisor-Family Services Division to the Court Clerk's office, but rejected the concept in that no advantage is to be gained and, furthermore, transfer would require adding to the Court Clerk's staff, some unnecessary duplication of effort in Court, and duplication of the records maintenance function.

Superintendent Lambert estimates that his Orderlies are occupied with Court-related duties for approximately 25 hours of a maximum 40 work hours per man per week. On a daily basis, each Orderly spends approximately 5 hours per day on Court duties. During September of this year we commenced recording hours that each Court is actually in session during the day and from our sample recording over a period of 8 weeks during October and November, we estimate that Orderlies in Courts #1 and #2 each spend, on the average, approximately 3½ hours per day in Court. Considering Superintendent Lambert's estimate of a total 5 hours per day required for Court activities, each Orderly then spends 1½ hours per day with "out-of-Court", but Court-related, duties.

Unpredictable Court down-time due to adjournments, changes of plea and other causes has been of concern to Judge Goulet who, by some over-scheduling of cases, has attempted to offset down-time through last minute adjournment

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applications and plea changes. Court down-time is also of concern to the Manager in consideration of transfer of the Orderly function to civilian staff, the concern being that we must find useful work for the total 7 hour work day. We are, however, now satisfied that gainful employment would be available for the following reasons:

- No staff has been added to the Court Clerk's office since April, 1968 although Court activities have increased considerably since that date. Although part-time staff is retained for vacation and sick relief purposes, the relatively small establishment (Court Clerk, Court Records Clerk, Clerk II, and Cashier, as those most involved with Court clerical services) does not readily lend itself to effective function continuity in the event of absences. With orientation training on a rotation basis and conducted over an extended period of time, the two additional civilian "Court Clerks" would provide necessary back-up for the unit when required.
- There is a volume of necessary work which can be delayed, batched, and assigned to the two "Court Clerks" for completion while they are not in Court. Certain functions now performed by the Court Clerk's staff, such as Exhibit control and various typing and filing duties lend themselves to redistribution to the "Court Clerks". Further, research conducted during 1973 indicates that it is feasible, and desirable, to transfer from the R.C.M.P. Traffic Detail to the Court Clerk's office, the Motor Vehicle Branch vehicle registration search function and related duties, including the clerical preparation and follow-up of summons issue, arising out of Parking offences as work which can be batched and completed during Court down-time. We anticipate no major problems through transfer of the "M.V.B." function and, with this understanding, Superintendent Lambert is prepared to endorse transfer. Without adding to the Court Clerk's staff, transfer of the "M.V.B." function will not be feasible.
- During actual transfer of the Court Orderly function we will need to examine pre- and post-Court clerical functions presently performed by R.C.M.P. Orderlies in greater detail than presently feasible, and determine which responsibility elements should remain with the R.C.M.P. and which should be assigned to the Court Clerk's office. As regards pre- and post-Court functions, Judge Goulet anticipates that the civilian Clerks would provide more direct and increased support to the Judges and Prosecutors than that now possible from R.C.M.P. Court Orderlies, particularly as regards liaison between Judges and Prosecutors and others involved in the Court process.

During our research, we considered the effect on Court security through transfer of the "Orderly" function. Traditionally, and as is current practice in other jurisdictions, a Court Clerk and a Court Orderly both attend Court. However, in Burnaby's Courts, with R.C.M.P. in attendance during much of Court time (prisoner escort), the almost constant presence of at least one R.C.M.P. member on the Court floor in the vicinity of the Court Clerk's office, the availability of a telephone on the Court Clerk's desk to request R.C.M.P. escort of those convicted and to be placed in custody, and the fact that special R.C.M.P. assistance is available when disturbances are anticipated in the Courts, are all factors indicating little or no loss of security through employment of civilian Court Clerks. As an added measure, it is possible to install a buzzer system which, in the event of unanticipated disturbances, could be unobtrusively activated in Court to alert the R.C.M.P. Provost Office and, alternatively, the R.C.M.P. Communications Centre. Judge Goulet is prepared to accept these security measures as being adequate for Burnaby's Courts at this time.

Although Judge Goulet suggests that Court "runner" services, for Judges and Prosecutors essentially, could be provided by an Orderly for a short period during morning sessions (the need for "runner" services is a detail for examination following function transfer), in our opinion there is no apparent justification at this time in following tradition by retaining both a Court Orderly and a Court Clerk in Burnaby's Courts at the same time. We are, therefore, only considering transfer of the Court clerical function from R.C.M.P. Orderlies to civilian staff.

Continued ...

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The Personnel Director recommends that the classification for the proposed civilian positions be Court Clerk and also recommends that because of conflict with position titles, the existing Court Clerk title be revised to Supervisor-Court Administration.

The Personnel Director recommends that the value of the new Court Clerk positions be at Pay Grade 17, \$7,908 - 8,220 - 8,640 - 9,024 - \$9,456 per year. Assuming salary to be at mid-step of the range, i.e. \$8,640, salary plus related costs would be \$9,735 per Court Clerk, or \$19,470 per year for two Court Clerks.

Further to the matter of costs, the 1974 Capital Improvement Budget, for Justice Administration purposes, includes two desks and chairs for the Court Clerks at \$275 per set, or a total of \$550. At this time we do not anticipate the need for additional office equipment, other than desks and chairs, for the two proposed positions.

Council is advised that space is available in the Court Clerk's office to accommodate the two proposed Court Clerks but that with these additional persons, future staff additions to the Court Clerk's office could mean over-crowding and the need to look elsewhere for space.

In examination of the effect of function transfer on R.C.M.P. staff numbers, as referenced previously Superintendent Lambert estimates that his two Orderlies are occupied with Court duties for approximately 25 hours of the available 40 hours per week per man. With release of 50 man-hours to the R.C.M.P., this would mean that the equivalent of 1.25 members (to be practical, one member only) would be available for other duties.

Council, at its meeting of July 16, 1973 approved increasing the present R.C.M.P. establishment of 182 members by 2 members for the fiscal year 1974/1975, with one member to be used as a Dogmaster and the second on traffic duties. With the release of one R.C.M.P. member from Court duties we would simply not add one of the two positions approved for 1974/1975, however, Superintendent Lambert advises that the R.C.M.P. Court Detail is presently facing a work overload problem and that certain Court Detail functions, such as serving of summonses, are being farmed out to other units of the Detachment. Further, in that employment of civilian Court Clerks will require training and co-ordination during an anticipated transitional period of between two and three months, it will not be feasible to release R.C.M.P. members from the Court Detail during this period. Although our immediate recommendation is that we not add one of the two positions approved for the fiscal year 1974/1975, Superintendent Lambert will be re-assessing his uniformed staff needs following deletion of Court clerical functions from the scope of R.C.M.P. responsibilities.

The cost to the Municipality for the sixth and additional R.C.M.P. members for the fiscal year 1974/1975 is expected to be \$14,850 per man. With 5/8 of an R.C.M.P. Court Orderly's work day spent on Court duties, the cost for such, exclusive of cost of supervision, is \$9,281 per man, per year, or \$18,562 for 2 men. The cost per civilian Court Clerk, occupied full-time with Court related duties, would be \$9,735, or \$19,470 for 2 Clerks. The anticipated annual additional funds spent in direct clerical support of the Courts would then be \$908.

Following is a summary of our observations regarding criteria and justification for transfer of the Court Orderly function to civilian Court Clerks:

1. Court Security.

Providing that measures exist in the Courts as previously referenced, we anticipate that adequate security will exist.

2. Court and Police Images.

The replacement of a uniformed Constable by a civilian Clerk will assist

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to dispel any notion that Courts are police oriented. In this regard, during preliminary research Superintendent Lambert made it clearly understood that if R.C.M.P. members are to continue to serve the Courts as Orderlies, they would continue to wear the R.C.M.P. uniform rather than appear in civilian attire. Further to this matter, attached is a copy of a letter dated November 30, 1973 from Judge Goulet to the Manager which includes the statement that "I would like this letter to serve as confirmation of my position that police are not to be Court Clerks in the future".

3. Statutory Requirements.

The Provincial Court Act, Section 9(1), states "Each municipality shall provide for the appointment and remuneration of clerks of the court, court stenographers, court recorders, clerical and other assistance as may be necessary ..." Regardless of whether we provide R.C.M.P. Orderlies or civilian Court Clerks, we comply with statutory requirements as regards providing staff in support of the Court system.

4. Matching of Training and Experience to Job Requirements.

Except as regards providing protection in Court and escorting prisoners, training and experience of R.C.M.P. members are not matched to clerical functions they now perform in Court.

Although Court experience is valuable for rounding-out of total experience, R.C.M.P. members as Court Clerks are not used for their intended purpose. Although there is no criticism of service provided by the R.C.M.P. (in fact, service is considered as excellent), the very fact that Courts provide a training ground can, with staff reassignment, mean some loss or interruption of function continuity.

5. Full-time Utilization of Staff.

As previously referenced with this report, although unpredictable Court down-time can, without pre-planning of work loads, present difficulties, we are reasonably assured that the proposed Court Clerks will be gainfully occupied.

Further, the additional Clerks will provide required back-up and continuity of function within the Court Clerk's office during peak periods of activity and in the event of staff absences. Also, adding the Clerks will satisfy Judge Goulet's request for more direct and increased support to the Judges and Prosecutors, particularly as regards improved liaison between the Judges and Prosecutors and others. Further, addition of the Clerks should provide the means of transferring the Motor Vehicle Registration clerical function from the R.C.M.P. Traffic Detail to the Court Clerk's office.

6. Cost.

Although the final effect of function transfer as regards cost will not be known until approximately April 1974, transfer will mean additional cost but will, we anticipate, provide improved clerical services in support of the Court process.

Superintendent Lambert and Judge Goulet are unanimous in their opinion that function transfer is both desirable and feasible. The Municipal Solicitor and Prosecutor advises that he is not opposed to the R.C.M.P. being replaced by civilian Court Clerks.

RECOMMENDATIONS:

THAT, effective immediately, clerical functions performed by R.C.M.P. Court Orderlies in support of the Court process be transferred to civilian staff attached to the Court Clerk Sub-Department; and

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RECOMMENDATIONS: Cont'd.

THAT approval be granted to increase the complement of the Court Clerk Sub-Department by two Court Clerks; and

THAT \$19,470, as the salary and related costs for two Court Clerks, be approved for inclusion with the 1974 Justice Administration Provisional Budget; and

THAT \$550 be approved with the 1974 Capital Improvement Budget to provide for acquisition of office furnishings for the two Court Clerks.

ITEM 4  
MANAGER'S REPORT NO. 1  
COUNCIL MEETING Jan. 8/74



PROVINCIAL COURT OF BRITISH COLUMBIA  
BURNABY JUSTICE BUILDING, 6355 GILPIN STREET, BURNABY 2, B.C. TELEPHONE 291-7131

30th November, 1973.

Mr. M. J. Shelley,  
Municipal Manager,  
Municipal Hall,  
Burnaby 2, B. C.

Dear Mr. Shelley:

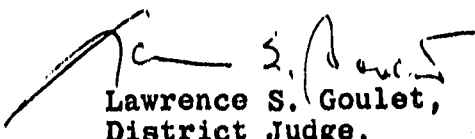
Re: Court Clerks

During the course of our discussions about Court Clerks for the Burnaby Courts, I thought I had made it clear that entirely apart from economics, expediency and personal preferences, there was a basic requirement to be met that policemen are not considered proper persons to be Court Clerks and that uniformed policemen are definitely not permitted to act in that capacity. Earlier this week in discussions with Mr. Hughes, I realized that perhaps I had not incorporated this aspect of the matter in our correspondence.

The use of police orderlies as Clerk of the Court has grown over the past six or seven years due to the rising volume of court transactions and the lack of proper personnel in the Court. While I have allowed this to continue while the question of civilian Court Clerks for our Courts was being considered, I do not wish to be misunderstood as accepting this situation. Accordingly, I would like this letter to serve as confirmation of my position that police are not to be Court Clerks in the future.

It may be of interest to you to know that until about a month ago, North Vancouver and Burnaby were the only Municipalities in the Lower Mainland area that did not provide civilian Court Clerks for their Courts and that North Vancouver is now in the process of engaging them.

Yours very truly,

  
Lawrence S. Goulet,  
District Judge.

LSG:ef