

ITEM 7  
MANAGER'S REPORT NO. 35  
COUNCIL MEETING 1981 07 27

RE: MUNICIPAL LIABILITY TO MAINTAIN JUVENILE DELINQUENTS IN INSTITUTIONS OUTSIDE THE PROVINCE

The reference in the following report to our opposing any order of the Provincial Court means that if and when the occasion arises, the Legal and Lands Department will present an argument in court in opposition to an order. The only cost would be the time that one of the Municipal Solicitors would spend in court in behalf of the Corporation's position on this matter. As noted in the report, the Ontario and Vancouver appeals will determine if municipalities are financially liable for the institutional care of juveniles.

MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT the recommendation of the Municipal Solicitor be adopted.

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TO: MUNICIPAL MANAGER JULY 15, 1981  
FROM: MUNICIPAL SOLICITOR  
RE: Municipal Liability to Maintain Juvenile Delinquents  
in Institutions Outside the Province

RECOMMENDATION:

1. THAT Burnaby oppose any order of the Provincial Court that would impose on the Municipality liability for payment of costs of supporting or treating a juvenile delinquent outside the Province.

SUMMARY:

Burnaby's liability under section 20 of the Juvenile Delinquents Act for payment of the expense of maintaining a juvenile delinquent in a treatment centre outside the Province is currently in question in a case before Judge Byrne in the Juvenile Court at Burnaby.

REPORT

The case presently before Judge Byrne in the Juvenile Court at Burnaby involves a 16 year old boy who has been before the Court at various times during the past six years. The Court notified the Municipal Solicitor's office that Burnaby should be represented and Pat Flieger attended June 16 and July 13.

The proceedings on June 16 were adjourned in order that a psychiatric assessment of the boy could be completed. The judge also ordered representatives of the Department of Health to be present at the next hearing.

On July 13 the Court heard representations by the Department of Health (Mental Health Branch), Human Resources, and Corrections with respect to a new program with the Interdepartmental Child Care Resource (ICCR). The program has some \$2.3 M available in 1981 to provide support and facilities within the Province for children like this juvenile.

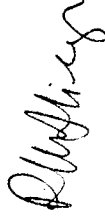
The Court appeared to reject as insubstantial the plan prepared for the treatment of this juvenile under the ICCR program and indicated that she intended to order that the boy be sent to William Roper Hull Home, a private treatment facility in the Province of Alberta. She further indicated that her intention was to order that the costs, some \$160 per day, be paid by Burnaby.

LEGAL POSITION OF BURNABY:

1. The precedent on which Judge Byrne relies is the Vancouver case wherein Judge Boyle ordered a juvenile sent to W.R.H.H. in Alberta and ordered the City to pay the costs. That decision was upheld by the Supreme Court and is being appealed to the Appeal Court of British Columbia.
2. The Ontario Appeal Court decision on which the Vancouver case relies has been appealed (not yet heard) to the Supreme Court of Canada.
3. The outcome of those two appeals will determine, finally, Burnaby's liability for these costs.

MUNICIPAL SOLICITOR

By:



P. W. Fliieger