

Item	04
Manager's Report No.	22
Council Meeting	02/08/26

TO: CITY MANAGER 2002 August 20

FROM: DIRECTOR PLANNING AND BUILDING OUR FILE: 17.316
OIC BURNABY RCMP DETACHMENT BBY-2550-2

SUBJECT: RESTORATIVE JUSTICE INITIATIVES IN BURNABY

PURPOSE: To respond to Council's request for further information on funding of the judicial one-year conferencing pilot project and future restorative justice initiatives in Burnaby.

RECOMMENDATION:

1. **THAT** this report be referred to the Community Issues and Social Planning Committee, the Family Court and Youth Justice Committee and the Community Policing Committee for information.

REPORT

1.0 BACKGROUND

At its meeting of 2002 January 7, Council approved a recommendation in a report from the Family Court and Youth Justice Committee to broaden the scope of community meetings on bullying prevention to include discussions about the desirability and feasibility of establishing a community-based restorative justice program in Burnaby. The report included information on a one-year conferencing pilot project in Burnaby launched by the Provincial government in response to the provisions of the new *Youth Criminal Justice Act* (YCJA).

Subsequently, Council, at its meeting on 2002 April 8, considered the annual report of Burnaby Youth Services prepared under the direction of the Officer in Charge, Burnaby RCMP Detachment. In considering the annual report, Council raised questions regarding the pilot project and the financial implications of the restorative justice focus of the new YCJA on the Burnaby Youth Services Program. This report responds to questions raised by Council.

2.0 PILOT PROJECT

The new YCJA has mandated that restorative justice principles be applied to youth who have been charged with an offence, as well as to first time offenders. (*Attachment 1* provides a diagram of a potential youth justice model as it relates to the provisions of the new YCJA). Restorative justice differs from retributive justice, upon which Canada's formal justice system is based, in that it focuses on what needs to be healed, what needs to be repaid and what needs to be changed if certain types of events or crimes are not to take place again. Restorative justice can be achieved through various practices, including victim-offender mediation, sentencing circles, and community conferencing. The latter is a process which includes not only the victim and offender, but also their families and supporters and others indirectly affected by the crime/event.

To respond to provisions in the new YCJA, expected to be proclaimed in April 2003, the Provincial government launched a one-year conferencing pilot centred on the Burnaby Court House involving youth already in the court system at the post-plea, but pre-sentencing phase. The project was initiated in September 2001. With the recent closure of the Burnaby Court House, the pilot project now operates out of Vancouver Youth Court.

The pilot project is funded by the Federal government and administered by the Ministry of Children and Family Development, the Ministry responsible for youth justice issues. As part of the pilot, a restorative justice consultant was hired to accept referrals from the court and to conduct conferences.

Upon completion of the pilot project, the Province has made a commitment to hire ten youth probation officers to be trained as restorative justice consultants. The Lower Mainland, including Burnaby, will be served by five consultants. These consultants will accept referrals from the Vancouver Youth Court on youth matters including those related to Burnaby.

The Provincial initiatives focus on youth within the court system and do not directly address community needs in the area of alternatives to the court system for youth who have come in conflict with the law for the first time and for whom police do not choose to pursue charges. To date, this role, albeit in a limited capacity, has been played by Burnaby Youth Services, as discussed below.

3.0 THE ROLE OF BURNABY YOUTH SERVICES

Burnaby Youth Services provides early intervention counselling services for youths aged 9 to 17 years and their families. It is designed as an alternative to prosecution by the courts

for young people who have been involved in a criminal matter or disruptive incident. Depending on the incident, police can choose to refer a first time offender to Burnaby Youth Services rather than formally charge the youth with an offence. Youth Services allows a youth to determine meaningful consequences for his/her behaviour, encourages responsibility for the incident and addresses root causes of the problem behaviour.

The Youth Services program was initiated in 1974. It functioned for a short period, but was disbanded when its staff moved to Langley to set up a similar program. Youth Services was reintroduced in 1980 with funding through a cost sharing arrangement with the Federal, Provincial and City governments. Subsequently, both the Provincial and Federal governments withdrew their funding. Currently, the City of Burnaby provides 100 percent of the funding for the program (approximately \$169,000 per annum for a staff of two counsellors and one secretary).

As part of the new YCJA, police will be required to pursue alternatives to the formal court system for first time offenders. It is anticipated that the increased focus on extrajudicial measures and community involvement in dealing with youth who have come into conflict with the law will result in an increase in referrals to Youth Services. Indeed, it is expected that the number of incidents diverted from the courts will likely be sufficient to sustain both Youth Services and a community-based restorative justice program, as described in section 5.0 below.

While Youth Services and other agencies involved in youth justice issues support the focus of the new YCJA, concern has been expressed that the Federal and Provincial governments are not providing operating funds to assist with the implementation of community-based alternatives to the formal court system. That said, until the provisions of the new YCJA are fully implemented, it will not be possible to determine the impact of the new Act on the workload of Youth Services staff. If there is a significant increase in referrals, Youth Services may be unable to meet the demands without additional staff support. Without additional resources, Youth Services may see its wait lists for services grow and staff may need to discontinue participation on a number of community committees and task forces. Moreover, if wait lists become too long, police may choose to give out more warnings to youth rather than refer them to the counselling services offered by Youth Services.

4.0 COMMUNITY-BASED RESTORATIVE JUSTICE AND YOUTH SERVICES

As another alternative to the formal court system, there has been some expressed community interest in the establishment of a community-based restorative justice program in Burnaby. A community-based program would involve the victim, the offender, family members of the victim and offender, and members of the community to deal with a single incident of harm

to the victim and community. As described in further detail below, either trained volunteers or paid staff would facilitate the process to deal with the offence and determine appropriate amends.

Youth Services staff would support the establishment of a community-based restorative justice program and believe that it could be used to resolve some of the issues that have been referred to Youth Services. A community-based program would deal with a single incident of harm whereas Youth Services would continue to assess and address root causes of the offence. A partnership of the two programs would create a complementary system of counselling the young offender and dealing with the incident of harm to the community and the victim. Each program offers different services and each would play a role in creating safer communities. In this regard, Youth Services has been actively involved in recent community initiatives exploring community-based restorative justice.

5.0 COMMUNITY-BASED RESTORATIVE JUSTICE INITIATIVES IN BURNABY

At its meeting on 2002 January 7, Council approved the Family Court and Youth Justice Committee's proposal to hold community meetings on the feasibility and desirability of establishing a community-based restorative justice program in Burnaby as an alternative to the court system for youth who have become involved in a crime/disruptive incidents for the first time. The proposal to hold community meetings on restorative justice developed out of the results of two bullying symposia sponsored by the Committee in late 2000 and early 2001. The concept of restorative justice as an appropriate process for addressing bullying surfaced several times at the symposia.

In exploring the development of a community-based restorative justice program, the Family Court and Youth Justice Committee forged links with the Restorative Justice Steering Committee, an informal group brought together by Justice Thomas Gove in late 2001 with the similar purpose of exploring a community-based program and its application in Burnaby. The Steering Committee is comprised of representatives of a number of community agencies including the Burnaby School District, the Burnaby RCMP, Burnaby RCMP Victim Services, and the John Howard Society. Staff from Burnaby Youth Services has been actively involved with the Steering Committee. Since the spring of 2002 Planning Department staff has also been attending Steering Committee meetings.

The two groups, the Family Court and Youth Justice Committee and the Restorative Justice Steering Committee, have worked together to plan for the community meetings in October 2002. At its meeting of 2002 July 8, Council approved funding of up to \$2000 to cover costs associated with the two meetings. Van City Credit Union has also tentatively agreed to provide funding for the two meetings.

The purpose of the meetings will be to:

- raise public awareness of restorative justice principles and the role they could play in administering justice in Burnaby;
- present different models of restorative justice programs in other communities;
- solicit community views on whether a community-based restorative justice program in Burnaby is desirable, how such a program might work and who would be the focus of such a program; and
- depending on the feedback received, determine the interest in pursuing a community-based restorative justice program in Burnaby.

In other communities where restorative justice programs have been established, the structure, funding and ownership of the programs vary and include the following models:

- programs run by non-profit agencies that receive support through fund raising and time limited, project based contracts with Federal and Provincial governments (e.g., the John Howard Society of the Lower Mainland, Fraser Region Community Justice Initiatives Association);
- programs funded by partnerships with school districts, municipalities and non-profit agencies (e.g. the Calgary Community Conferencing Program);
- programs that have trained their existing staff to employ restorative justice and conferencing principles in their work (e.g. Burnaby School District); and
- programs that receive support from the municipality to hire a coordinator to oversee the management and training of volunteers who facilitate conferences (e.g. City of North Vancouver, Fraser Burrard Community Justice Society (Tri-Cities)).

The process to explore a community-based restorative justice program for Burnaby is still in its initial phase. As such, it is not possible to provide information on how a potential community-based restorative justice program in Burnaby would be structured and funded. Staff have been advised that it is likely that neither the Federal or Provincial government will be providing any operating funds to assist with the implementation of community-based alternatives to the court system. If this is in fact the case, then funding of the program will be even more challenging. Therefore, notwithstanding the initial comments, efforts should be made to secure operating funding assistance from the two senior levels of government. Should this not be forthcoming, then other sources of funding will need to be pursued.

As part of the discussion and development of any proposal, however, it will be stressed to all stakeholders that the City's role, through the Family Court and Youth Justice Committee, is to facilitate the two community meetings in October 2002. *As such, it would be made*

explicit that the City would not be committing to assumption of future responsibility for, funding of, or involvement in, either the development or operation of a program. This role is consistent with the City's approach to community service provision, as articulated in the Official Community Plan. The OCP recognizes a number of roles the City can play in service provision including one of a direct provider or funder of programs as well as a cooperator or advocate for service provision. In this regard, the City plays a direct role in providing an alternative to the formal court system through its funding of Burnaby Youth Services. It is therefore appropriate for it to assume the role of a cooperator for any community initiatives to establish a community-based restorative justice program in Burnaby (e.g., helping with program planning or efforts to secure external funding).

The Family Court and Youth Justice Committee will report back to Council on the results of the community meetings in 2002 October. Any future steps proposed for the Family Court and Youth Justice Committee in facilitating a community-based restorative justice program for Burnaby will be presented to Council for information and approval.

6.0 FUTURE INITIATIVES

As a follow-up to the community meetings in the fall, and in anticipation of an expressed community interest in pursuing a community-based restorative justice program in Burnaby, the Restorative Justice Steering Committee has submitted a letter of intent to apply for funding (\$10,000) from the Federal Government's National Crime Prevention Centre to pursue the possible development of a program for Burnaby. If there is community interest, and funding is received, the Steering Committee intends to hold ten to twelve consultation meetings with interested community members on the design of an appropriate restorative justice program for Burnaby. The goal will be to determine the desired model for a community-based restorative justice program in Burnaby. It is expected the process will determine:

- the number and type of personnel (e.g. staff and volunteers) to run the program;
- the annual cost of the program;
- on-going funding sources for the program
- other resources required to run the program (e.g., office space, meeting space, equipment, training materials); and
- responsibility for the program (e.g., who will oversee the program and to whom it will be accountable).

The Steering Committee has not heard yet if it will be invited to submit a formal application for funding from the National Crime Prevention Centre. As noted above, if the Steering Committee receives funding to develop the framework for a community-based program, any proposed future involvement by the Family Court and Youth Justice Committee in the process will be presented to Council for approval.

7.0 CONCLUSION

A new Youth Justice Criminal Act (YJCA) is expected to be proclaimed in April 2003 by the Federal Government. The new Act has mandated that alternatives to the formal court system be applied to youth who have been charged with an offence as well as to first time offenders. In response to the new Act, the Provincial government launched a one-year conferencing pilot project in September 2001 out of Burnaby Youth Court for youth already in the court system. With the closure of the Burnaby Court House, the project now operates out of Vancouver Youth Court. Upon completion of the project, the Province has made provisions to continue to use conferencing for youth in the court system.

In terms of first time offenders, there has been considerable community interest in establishing a community-based restorative justice program for Burnaby. To this end, the Family Court and Youth Justice Committee has received approval and funding of up to \$2000 from Council to hold two community meetings in 2002 October to explore the desirability and feasibility of establishing a program in Burnaby. The Committee is working with the Restorative Justice Steering Committee, an informal group of community-based agencies, in planning the meetings.

Following the meetings, the Family Court and Youth Justice Committee will report back to Council on the results of the consultation. If it appears that there is significant interest in a community-based restorative justice program in Burnaby, the Committee will provide Council with information on a possible approach, including a discussion of any role the city might or might not play in either the development or operation of such a program.

In closing, it is noted that the City has had a long tradition of funding and administering Burnaby Youth Services - an early intervention counselling program which offers an alternative to prosecution by the courts for youths who have been involved in a criminal matter or disruptive incident. Indeed, when senior government funding support for Youth Services was withdrawn, the City assumed full funding responsibility for the program. Therefore, while acknowledging that a community-based restorative justice program could be a valuable complement to Youth Services, it must be stressed from the outset that the City has no budget to directly fund or administer such a program. In public consultation meetings, it would be stated that an appropriate City role with respect to any potential community-based restorative justice program would be that of facilitator or cooperator. Any work on examining possible models for a community-based restorative justice program in Burnaby needs to focus on funding sources beyond the City.

It is recommended that this report be referred to the Community Issues and Social Planning Committee, the Family Court and Youth Justice Committee and the Community Policing Committee for information.

B. Rukow
for J.S. Belhouse, Director
PLANNING AND BUILDING

K.R. Handy
K.R. Handy, Inspector
ACTING OIC
BURNABY RCMP DETACHMENT

MM/SD/sla/sa

Attachment

cc: Deputy City Manager
Director Parks, Recreation and Cultural Services
City Clerk
Director Finance



