

Address to Kelowna City Council

November 25, 2019

Hon. Geoffrey Barrow and Jesse Emmond




A Community Court for Kelowna



Introduction

- ▶ Why are we here?

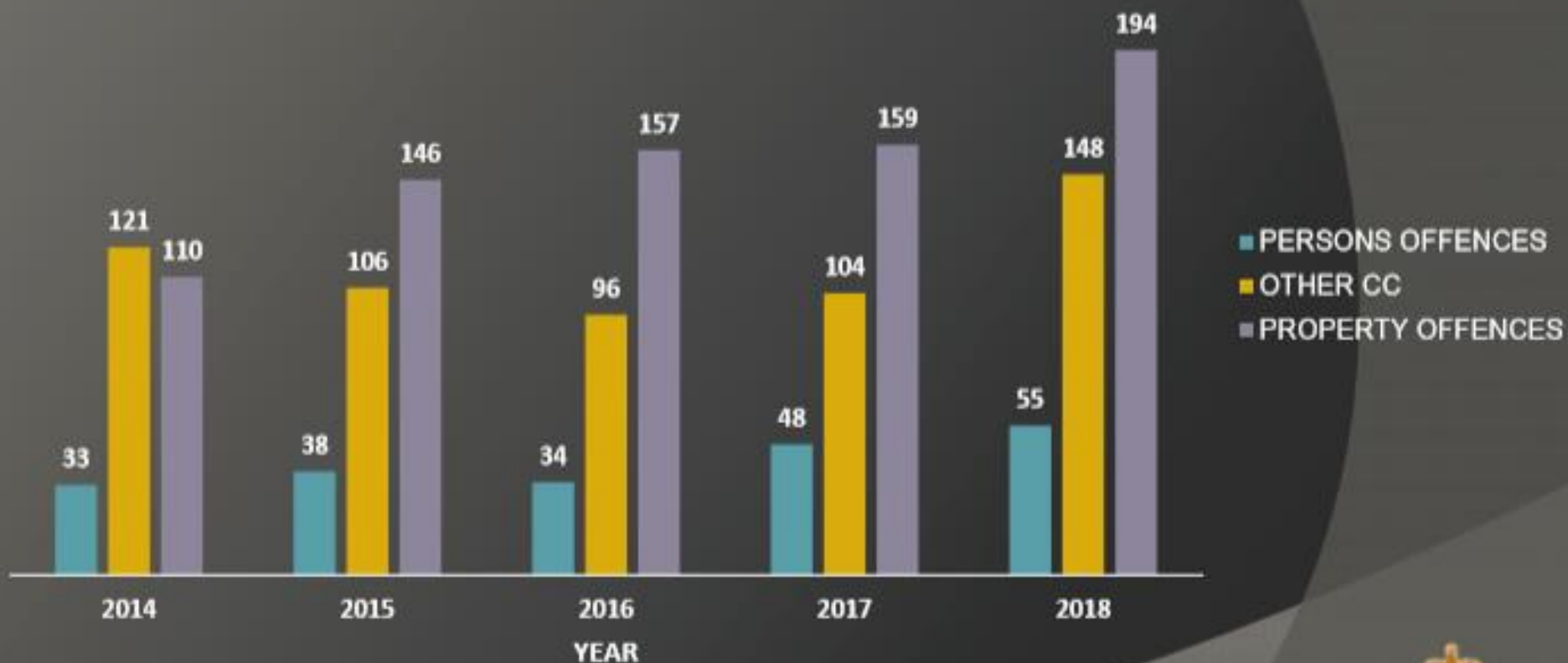
1. To outline the problem behind some of the criminal offending in the downtown core of our city.
 2. To explain what a community court is, how it operates, and how a such court would contribute to a solution for the problem in Kelowna.
 3. To solicit your feedback and support.
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The Problem Simply Stated

- ▶ How to reduce repeat offending, particularly in the downtown core of the city.

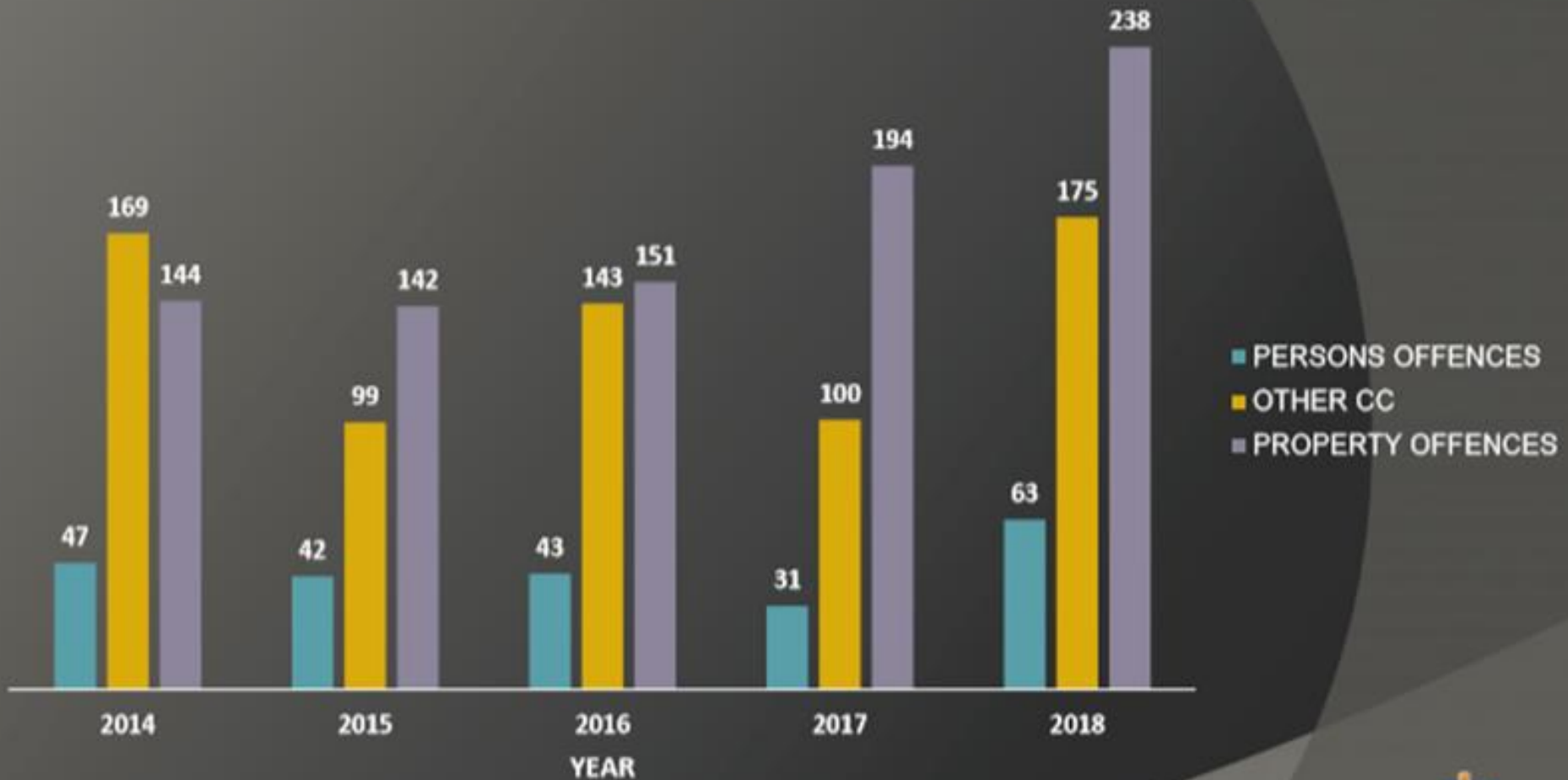
SECOND QUARTER OF 2018

YEARLY COMPARISON OF CRIME DOWNTOWN BY QUARTER (APRIL TO JUNE)



THIRD QUARTER OF 2018


YEARLY COMPARISON OF CRIME DOWNTOWN BY QUARTER (JULY TO SEPT)




What is a Community Court?

1. A type of specialized court or problem-solving court in the Provincial Court system.
2. It is a sentencing court, not a trial court.
3. Accused who wish to be sentenced in community court must meet several criteria:
 - Have an addiction or mental health issue, or be homeless;
 - Express a willingness to deal with their addiction, mental health issue, or homelessness; and
 - Be prepared to accept responsibility for their offence(s).


Two fundamental, preliminary and related points:

1. Offences dealt with by a community court are usually less serious and are straightforward, however the underlying causes for these offences (addiction, mental health challenges, or homelessness) are complex and difficult to treat or manage.
 2. Criminal courts must sentence offenders in accordance with the principles of sentencing.
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Traditional sentencing procedure for low-level offenders

1. Duty counsel meets with the offender and obtains instructions to plead guilty. Counsel gets the offender's personal information and circumstances;
 2. Crown Counsel and defence counsel discuss possible sentencing options and either agree on an appropriate sentence or agree to disagree;
 3. The case is called in remand court. The Crown details the offence and criminal history of the offender; defence counsel outlines the offenders personal circumstances, and the judge imposes a sentence.
 4. The sentence can include a jail term, a period of community supervision (probation), or both.
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Limitations of the Traditional Approach

- The information provided to the judge about the offender may be incomplete, inaccurate, and sometimes both;
 - The options available to and effective for the particular offender to address the underlying issue may not be known to the court;
 - In the result the sentence may not address rehabilitation needs in the most effective way possible.
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Sentencing in Community Court

- ▶ A pre-court meeting is held before the sentencing hearing. It is attended by the Crown, defense, a probation officer, a representative from an agency that has an ongoing therapeutic relationship with the offender;
 - ▶ Each participant will know the offender from his or her unique professional perspective;
 - ▶ Each will share that knowledge with the others;
 - ▶ The lawyers can formulate their positions with reasonably comprehensive information;
 - ▶ The judge will have the benefit of more complete information and nuanced submissions from counsel; and
 - ▶ **The resulting sentence will be tailored to meet all the goals of sentencing, including the rehabilitation of the offender.**
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Monitoring of Community Supervision imposed by Traditional Court

- ▶ When offenders serve the custodial portion of their sentence they return to the community. If underlying issues have not been addressed, the likelihood of repeat offending is increased
 - ▶ When offenders fail to follow the terms of their probation order or commit a new offence they are brought back to court either charged with a fresh offence or breach of probation or both; the process is repeated, sometimes with more severe sanctions and with the court often having no better understanding of the offender's underlying issues.
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Monitoring of Community Supervision imposed by Community court

- ▶ Judges will often order a review of the community supervision conditions to take place on a set date in the future. On that date, the offender appears in court and his or her circumstances are reviewed.
 - ▶ Reviews may be requested by the police, probation, an outreach or health worker, or others, for a variety of reasons, including when behavior is observed that indicates a heightened risk of re-offending.
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Continuity of justice system personnel

- ▶ Whenever possible the same judge, or one of two judges, will preside in community court on a regular basis.
- ▶ Whenever possible the same Crown Counsel, or one of two Crown Counsel, will appear on behalf of the Crown in community court.
- ▶ This has two salutary effects:
 1. The justice system participants gain a better understanding of the ever-changing and often limited resources available to address addiction, mental health or homelessness issues;
 2. A sense of personal accountability between the offender and the court is often created between the offender and the judge.

Ancillary benefits of a community court

- ▶ Expertise among justice system personnel is developed;
 - ▶ The community is engaged in the process through participation in the supervision of the court's operation;
 - ▶ Innovative approaches to rehabilitation can be developed.
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Timeline:

- Summer 2010** – First attempt at establishing a community court in Kelowna: the “Kelowna Community Justice Project”, which operates for two years;
 - Summer 2012** – Operation of the court is suspended by the BC Chief Judge, after an evaluation of the court by an independent third party;
 - Summer 2015** – Review of reasons for suspension in a report by Mr. Emmond, recommendation is made for new efforts;
 - Spring 2016** – Provincial court releases Specialized Court Strategy document, providing guidelines for problem-solving courts in BC;
 - Summer 2016** – Meetings held with local judiciary, probation, police, health providers, Crown and others to explain the initiative and garner support;
 - Spring 2017** – Advisory Committee to the Chief Judge on Specialized Courts is established;
 - April 2017** – Crown Counsel advises they are unable to support the initiative due to resource concerns, particularly resulting from the Bacon murder trial;
 - Summer to Winter 2017** – Work continues on developing a business case and securing support from stakeholders;
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Timeline continued:

Spring 2018 – Bacon trial ends, and Crown is again petitioned for support. Crown advises it will make its views known through the Advisory Committee;

June 2018 – Advisory Committee meeting scheduled. Initial business case for a new community court in Kelowna is submitted seeking tentative or conditional approval in order to secure Crown's participation in design of the community court;

Summer 2018 – Teleconference held with Advisory Committee to answer questions about the proposal. Advisory Committee advises that tentative or conditional approvals are not granted as a matter of policy;

November 2018 – Submission is retooled without Crown Counsel input; community court steering committee is scheduled to speak to the application before the Advisory Committee in December.

December 2018 – Finalized business case for the community court is submitted. Meeting with advisory committee is adjourned and eventually rescheduled for February 2019;

February 2019 – Steering committee speaks to application with Advisory Committee; chair of the committee adjourns matter to a June 2019 meeting.

Timeline continued:

February 2019 – the BC Chief Judge agrees to meet with the steering committee in Kelowna in May 2019;

May 2019 – the Advisory Committee meets in Kelowna; we speak to the proposal in detail and arrange for various community stakeholders to address their local concerns and willingness to support the initiative;

Summer 2019 – some issues with the Kelowna proposal are identified by Justice Services, working with the Advisory Committee; written submissions to address these issues are submitted in July 2019;

October 2019 – additional written submissions are submitted, providing further information in support of the summer 2019 submissions and ostensibly answering all concerns raised by the Advisory Committee;

November 2019 – presentation is to Kelowna City Council.



Conclusion

- ▶ A community court in Kelowna will aid in reducing criminal offending in the city, particularly in the downtown core.
 - ▶ We believe there is widespread support for a community court in Kelowna.
 - ▶ We are grateful for support the City has extended in the past.
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