

City of Rochester

Responses to Questions Submitted regarding Request for Proposals Conflict Counsel, Rochester Police Department Disciplinary Hearings

December 29, 2017

The City Contact for this RFP received the following questions concerning the RPD by the deadline for questions, December 22, 2017, 5:00 PM EST. Questions that call for the same or substantially similar responses are grouped together for convenience.

1. Conflicts and Use of Conflict Counsel in 2016 and 2017

- Question: In regard to the above-referenced RFP, can you tell me how many occasions conflict counsel was needed for each of the past two years?
- Question: In how many Section 75 cases was the Law Department conflicted out, in the last two calendar years (if any)?

Answer: The City has not used Conflict Counsel in 2016 or 2017. The City's most recent retention of conflict counsel was in approximately 2008, in a representation that continued beyond that year. The City Law Department is evaluating pending Section 75 cases for potential conflicts.

2. Anticipated Need for Conflict Counsel in 2018 and 2019

- Question: And your estimate of how many times conflict counsel will be needed for each of the coming two years? I'm not aware of the use of conflict counsel and would like a sense of the amount of anticipated work going forward.

Answer: The City Law Department is evaluating pending Section 75 cases for potential conflicts and anticipates that approximately five (5) of these pending cases will require conflict counsel to conduct hearings. The City expects that conflict counsel would conduct hearings for pending conflict cases in 2018, on dates to be determined. The City Law Department anticipates that approximately three (3) to five (5) additional cases will arise in each 2018 and 2019 that require conflict counsel. Some of those cases may resolve without hearings. These numbers are all only rough estimates based on current circumstances and initial assessments, and all are subject to change. The City anticipates engaging in further discussions with attorneys and firms selected for interviews, in the City's sole discretion, concerning the volume of pending and prospective conflict cases that may require conflict counsel.

3. Advance Notice of Disciplinary Hearings

- Question: How much notice is generally provided to RPD officers and to conflict counsel in advance of a disciplinary hearing?

Answer: Counsel for the City and counsel for RPD officers subject to disciplinary hearings work together with the hearing officer to schedule hearings at a time agreeable to all,

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with sufficient time to prepare for the hearings. The scheduling process can begin once an officer pleads not guilty to departmental charges, at which point a hearing officer is designated.

4. Minimum Contact with Flat Fee Per Case

- Question: Would the City be amenable to a minimum contract (e.g. \$10,000) with a flat fee per case rate schedule (of \$X per hearing and \$Y per appeal)?

Answer: Yes, without specifying a particular minimum amount, the City would consider a minimum-amount contract with a flat-fee-per-case rate schedule.

5. Past Hourly Fees

- Question: What is the range of approved hourly fees that the City has paid to conflict counsel in the last 2-3 years?

Answer: The City has not used conflict counsel during the last 2-3 years, so no hourly fees were approved during that time period. The range of hourly fees approved in the City's most recent retention of conflict counsel for a Section 75 proceeding, in 2008, was \$205 per hour to \$275 per hour. The circumstances of that representation, however, were different than the Representation contemplated by this RFP in that the representation was limited to disciplinary proceedings resulting from a single incident. The range of approved hourly fees for outside counsel for other matters in recent years is \$210 per hour to \$325 per hour.