

# Impact of Early Retirement Incentive Program

Office of the City Attorney - Budget Request 2010-11

The advent of the City's Early Retirement Incentive Plan (ERIP) will provide considerable relief of financial pressure on this Office. Unfortunately, this easing of financial pressure will also represent a very significant loss of experienced staff electing to retire as part of this program. The effects of their departure will be felt for a number of years.

As of this date, approximately 83 employees have indicated a willingness to take advantage of ERIP. Although some participants may ultimately decide to rescind, the majority are expected to follow through with their initial decision.

Forty (40) of those electing to participate in ERIP are attorneys; six (6) are investigators; six (6) are witness service coordinators; twenty-seven (27) are highly-experienced legal clerks, assistants and secretaries (many of whom are supervisors of large staffs); the remaining four (4) employees are administrative personnel.

Ten (10) of the ERIP participants are employed in the proprietary departments and are revenue offset. These participants will undoubtedly be replaced, further eroding general fund staffing in this Office. Thirty two (32) of the ERIP participants are assigned to the Criminal Branch, with the remaining employees located in the Civil Branch (39) and Administration (2).

The impact of the ERIP will further aggravate the chronic staffing shortages experienced in the Criminal and Civil Branches.

Criminal justice and public safety will be the areas most severely impacted by such a loss of experienced staff. In that this Office has more discretion in filing criminal matters, it can more readily assign staff to the Civil Branch, where the City obviously cannot control the number, timing or type of lawsuits filed against it.

As both this Office and the City Council express a clear desire to reverse costly expenditures on outside counsel, this Office is also forced to reduce staffing on certain matters due to the hiring freeze and ERIP. There is clearly less opportunity in civil litigation to delay, defer, or eliminate cases or to hope for early settlements. In such litigation, where millions of dollars are at stake, opposing counsel may use certain available strategies or tactics to unnecessarily extend the life of a civil case, anticipating that a settlement will be reached in order to stem increasing costs and resource constraints. Obviously, such cases must be actively monitored and managed by experienced attorneys who, in most instances, will also be handling large caseloads and many other pending matters. It is therefore critical to the defense of the City to maintain sufficient staff to handle these potentially costly civil litigation matters. The need to

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maintain sufficient staff in the Civil Branch equally extends to the proprietary departments, as well as to other special entities that use the legal services of this Office.

In anticipation of ERIP and the long-term hiring freeze, which has been in place since early 2009, this Office must find its assignment flexibility in the operations of the Criminal Branch. The reduced staffing in Criminal Branch Operations will likely lead to a reduction of public safety and security in the future, as decisions and compromises in case management are implemented. The following are likely consequences of long-term understaffing in the Criminal Branch of this Office:

- Arrest cases will be dismissed due to the unavailability of prosecutors for trial.
- Defense bar will be reluctant to settle cases in a pre-trial time frame, opting rather to pursue the matter to trial contemplating that the assigned prosecutor will be unprepared or unavailable to proceed to trial on the cases.
- Repeat offenders on probation will frequently be among those defendants who are not properly processed and thereby "slip through the cracks" due to the unavailability of prosecutors to thoroughly review or proceed to trial on the matter. Such a consequence will greatly diminish the public's confidence in our local criminal justice system and be a significant source of frustration for victims, law enforcement and community leaders.