



June 26, 2020

Brad Branham  
City Attorney  
City of Asheville  
70 Court Plaza  
Asheville, North Carolina 28801

Dear Mr. Branham:

Thank you for the time you and John Maddux took to discuss your consulting needs on June 24th. Hillard Heintze would be honored to provide the City Attorney's Office with an Independent Analysis of the Asheville Police Department's (APD) response to the protests that occurred from approximately May 30 through June 6, 2020 in Asheville, including the destruction of protestors' medic station supplies during the protest/crowd control efforts of the APD.

At your request, we are submitting a proposed scope of work and estimated price scope to address the requests you made during our conference call. This work scope and the estimated costs for the services we would provide to the Asheville City Attorney's Office are as follows.

### **SCOPE OF SERVICES**

Our specific focus in assisting the City Attorney's Office will be to deliver a thorough, fair, objective, and factual Independent Analysis of the Asheville Police Department's response to the protests that occurred from approximately May 30 through June 6, 2020 in Asheville, including the destruction of protestors' medic station supplies during the department's protest/crowd control efforts. Our final assessment report will be based upon comparing and contrasting what our assessment reveals occurred before, during and immediately after these APD police actions to policing operations recognized in the greater law enforcement community as best practices, or emerging best practices. Our ultimate goal will be to:

- Learn what, exactly, occurred during the planning phase of what would be APD's response to the protests.
- Provide a clearer picture of how, when and why certain operational decisions were made in real-time during the response to the protests and immediately thereafter.
- Learn about and then share a greater understanding of the concerns of members of the Asheville community regarding the department's response to the protests.
- Provide formal recommendations that could assist APD to initiate any necessary changes or updates to policies, procedures, practices, or protocols when responding to protests, to include actions that could be taken to engage in positive discussions with protestors when protests are being planned to help coordinate a peaceful protest.
- Provide insights as to how APD could increase transparency in its operations with the greater Asheville community, which in turn could lead to increased trust and confidence in the work APD officers do every day.



We will accomplish this by reviewing and assessing evidence pertaining to APD's response to the protests, including examining any written Operational Plans that may have been created in preparation for APD's response to the protests; reviewing police reports and available video footage; interviewing involved parties, including community witnesses and involved officers; and then assessing how policies and procedures were put into practice.

Our engagement could begin within two weeks of being selected to perform this assessment work.

### **Phase 1 – Initial Document Review and Kick-off Meeting – Weeks 1-2**

In this phase, we will request copies of APD's existing written policies and procedures associated with crowd control and use of force, as well as any written Operational Plans that may have been created for APD's response to the protest incidents. We will review these documents and then facilitate a kick-off meeting with the City Attorney and any key stakeholders the City Attorney would like to have present. This meeting will clarify and confirm the Independent Analysis' objectives, special requirements, late-breaking areas of concern and specific issues relative to the engagement. At the City's election, we are prepared to accomplish this kick-off meeting via a video conference system, such as Microsoft Teams, which would help reduce project costs.

### **Phase 2 – On-Site and/or Virtual Engagement and Independent Analysis – Weeks 3-6**

In this phase, our team's subject matter experts will conduct in-person and/or secured virtual engagement activities to support the project's goals. Our team members will then:

- 1 Request, receive and review additional documentation and evidence relevant to APD's actions before, during and after the protests, as well as any reports or data gathered or developed by the City to date, including any video footage the community may have shared. We will work with the City Attorney's designated liaison to obtain documents and with the appropriate contact person from APD to schedule official interviews with the department's personnel. We will also work with the City Attorney's liaison to help facilitate the needed outreach to community members we need to contact and interview.
- 2 Our on-the-ground subject matter experts will visit the actual scenes of the police actions on May 30 through June 6, 2020 to gain a first-hand knowledge of the location where the incident occurred, which will serve to enhance our understanding of what occurred.
- 3 Working with the City Attorney's Office liaison, plan and facilitate at least one community outreach meeting where individuals from the community could meet with us in an open forum to share their concerns and ideas regarding this particular policing incident.
- 4 Interview relevant parties possessing information regarding the crowd control incident and/or the policies and practices that frame APD's operational response to such incidents. This will include employees of the APD and other City agencies, elected officials, and civilians. The interviews with APD personnel will be focused on those involved in the planning of APD's responses to the protests, those who were involved in the police incidents in question, and those involved in responding to the community's concerns. Our interviews with community members will be focused primarily with those who have first-hand knowledge of what occurred during the



protests.

### **Phase 3 – Completion of Analysis and Report to the City Attorney's Office – Weeks 7-9**

In this phase, we will:

- 1 Review and assess the available information and what we learned during our other assessment activities to determine formal findings that are responsive to the goals we outlined previously in the Scope of Services section of this document.
- 2 Provide key written recommendations that could serve to help APD and the City address our assessment's findings.
- 3 Submit a draft final report in Microsoft Word format to the City Attorney's Office for an initial review to help ensure the accuracy of the data we include in the report. We would ask that the City Attorney's Office take no more than two weeks to alert us to any data points that should be considered for any appropriate edits. We would then make any necessary and appropriate edits to the draft report.
- 4 Submit, in PDF format, the Independent Analysis Report outlining our findings and recommendations regarding the incident within a week of receiving the City Attorney's comments or questions on the draft report.
- 5 If requested, attend a virtual or in-person public meeting to provide a high-level PowerPoint overview of our Independent Analysis and answer inquiries regarding any of our findings and recommendations.

### **FEES AND EXPENSES**

Consultant will discount its GSA rates from the approved hourly rate of \$378 for subject matter experts to a blended rate of \$225 per hour, a 40.5% discount. Expenses will be billed as incurred and are anticipated to be related primarily to any lodging, transportation and standard per diem expenses. The estimated costs outlined below are based upon having four subject matter experts review preliminary written materials and then participate in a Virtual, On-Line Kick-Off Meeting, as well as four subject matter experts on the ground in Asheville for up to four days each for two Site Visits. Depending on whether some of the work could be concluded via remote internet meetings, or whether each of the four subject matter experts are needed on the ground for the entirety of each Site Visit, opportunities could be identified to reduce the estimated costs. We are always sensitive to the budget impacts municipal agencies constantly face, especially considering the COVID-19 pandemic and its impact on local government funding.



### The Hillard Heintze Asheville City Attorney's Office Engagement

Project Task	Est. Hours	Hourly Rate	Estimated Cost
Phase 1: Initial Document Review and Virtual Kick-off Meeting	14	\$225	\$3,150
Phase 2: Independent Analysis	168	\$225	\$37,800
Phase 3: Completion of Analysis and Report to City Attorney's Office	112	\$225	\$25,200
If requested, make a formal, in-person presentation about our report to the Asheville City Council (Two Team Members)			
<b>Total (Excluding Expenses)</b>	<b>294</b>	<b>\$225</b>	<b>\$66,150</b>
Optional: Addition of Counsel Presentation	24	\$225	\$5,400
<b>Optional Total (Excluding Expenses)</b>	<b>318</b>	<b>\$225</b>	<b>\$71,550</b>



Very truly yours,

HILLARD HEINTZE, LLC, a Jensen Hughes Company

A handwritten signature in black ink that reads "Robert L. Davis". The signature is written in a cursive, professional style.

Robert L. Davis  
Senior Vice President, Practice Lead  
Law Enforcement Consulting



## The Hillard Heintze Team Supporting You

### **ROB DAVIS, SENIOR VICE PRESIDENT, LAW ENFORCEMENT CONSULTING**



Rob Davis is a highly regarded and innovative national leader and expert in policing and public safety with a special emphasis on ethics and integrity programs, as well as issues ranging from use of force policy to active shooter planning.

Since joining Hillard Heintze, Rob has led the firm's Law Enforcement Consulting practice. This responsibility has ranged from serving as a strategic advisor on a high-level engagement Hillard Heintze conducted in partnership with DHS's Homeland Security Studies and Analysis Institute to evaluate integrity and counter-corruption programs within U.S. Customs and Border Protection to advancing the firm's on-the-ground support to working with collaborative reform for a growing list of cities across the United States.

Innovation has been the cornerstone of his career in policing and public safety. A 30-year veteran of the San Jose, California Police Department, Rob rose from patrol officer to Chief of Police of the tenth-largest city in the nation (2004-2010). He gained recognition for his progressive use of technology, his sensitivity to the diversity of the citizens under his protection and his internationally lauded model of gang prevention, intervention and suppression.

Rob oversaw what has historically been the lowest-staffed police department of any major city in the country – with only 1.2 sworn officers per 1,000 residents (the national average is approximately 2.6 officers per 1,000 residents). According to the FBI – and, in many respects, a clear measure of Rob's leadership in recent years – San Jose is routinely ranked one of the safest “big cities” in America. This distinction is even more remarkable given that the Department received this accolade amid seven straight years of budget cuts while fighting crime in a city that adds 15,000 to 20,000 new residents every year. Rob oversaw the nation's first voluntary study of racial profiling conducted by a local police agency.

Rob has also earned international recognition as an expert in addressing gangs and gang violence, having served as a consultant for the U.S. State Department on five occasions. He traveled throughout Central and South America to train federal police agencies, politicians, government administrators, education leaders, heads of social service organizations and citizens regarding the design, implementation and evaluation of anti-gang programs. Rob has served in national and international leadership positions, in part as President of the Major Cities Chiefs Association.

Rob strongly believes in being actively involved in the community and has served on the boards of the San Jose/Silicon Valley Chamber of Commerce, the YWCA of Silicon Valley, Big Brothers/Big Sisters of Santa Clara County, and the Silicon Valley/Monterey Bay Council of the Boy Scouts of America. Rob holds a B.A. degree with Honors in English from San Jose State University and graduated Summa Cum Laude with a Master of Public Administration degree from Golden Gate University in San Francisco. He holds a Master



Instructor's Certificate from the California Commission on Peace Officer Standards and Training and is a graduate of the FBI's National Executive Institute and the FBI's National Academy.

### **MARCIA K. THOMPSON, ESQ., VICE PRESIDENT, LAW ENFORCEMENT CONSULTING**



Marcia K. Thompson is an attorney and law enforcement practitioner with over 20 years working in the criminal justice field. As a Vice President within our Law Enforcement Consulting practice, she provides oversight, management and technical assistance on various law enforcement assessments, trainings and reviews. Marcia has served as a law enforcement administrator within the Department of Safety at the University of Chicago Police Department, where she oversaw professional standards, accreditation, compliance, training, records management, recruitment, field training, in-service training, leadership development, succession planning, community engagement, youth outreach and the community advisory committee in support of the University's transparency and inclusion initiative.

Marcia has served as an advisor to several law enforcement organizations on civil rights and law enforcement issues for over 15 years. She has been an active member of the IACP Civil and Human Rights Committee for over 10 years. In addition, she has provided insight and guidance on timely and novel civil rights and human rights matters impacting law enforcement nationally, including bias-free policing, tasers, use of force, stop and frisk, constitutional policing, procedural justice, hate crimes, and affinity group protections. She has also served as General Counsel and advisor to the National Organization of Law Enforcement Executives (NOBLE) for many years. In both capacities, she provided a legal perspective and civil rights lens on law enforcement, community policing and criminal justice matters.

Marcia is a Virginia Supreme Court certified mediator as well as a collaborative problem-solver, change management facilitator, and equal employment opportunity (EEO) and civil rights professional. While serving as an Ombudsman for an entire federal agency, she impartially handled agency-wide concerns and trends regarding policy, practices and procedures. For many years, Marcia has served as a federal fact finder, EEO counselor, trained EEO investigator and hearing officer, providing neutral hearings and drafting administrative appellate determinations. She has conducted large facilitated dialogues with community members on police departments and other related public services in several cities, including Washington, D.C.; New Orleans, Louisiana; and Chicago, Illinois. She has participated in and held other facilitated dialogues on workplace and community topics, and taught others to use similar facilitative and problem-solving techniques to engage pertinent stakeholders.

Marcia has provided advisory and consulting services to law enforcement organizations nationally for over 15 years. She led Hillard Heintze's subject-matter experts working on our Denver Sheriff Department engagement, which focused on use of force, management issues, staffing and training. She has conducted law enforcement assessments and provided training, technical assistance and compliance work at departments ranging from small to large, including the Birmingham Police Department, Gainesville Police Department, Murfreesboro Police Department, Virgin Islands Police Department, Winslow Township Police and the Boulder Police Department.



Marcia was a professor for close to 10 years at Bowie State University and taught criminal justice, social justice, civil rights, conflict resolution, juvenile analysis, criminology, criminal law, constitutional law, criminal procedure, evidence, trial and advocacy practice, victimology, rule of law, mediation, police management, intelligence, and public records and ethics. She received her Bachelor of Arts in Criminal Justice from Michigan State University and her Juris Doctorate from George Mason University School of Law. She is licensed to practice law in the Commonwealth of Virginia.

### **MICHAEL DIRDEN, ESQ., SENIOR ADVISOR**



Michael Dirden joined Hillard Heintze as a Senior Subject-Matter Expert following a long and successful career with the Houston Police Department. As the Executive Assistant Chief of Police, Michael provided leadership and oversight for the department's Investigative, Strategic and Field Operations, including accountability for Patrol Operations, Traffic Enforcement, the Mental Health Division, Apartment Enforcement and Differential Police Response.

Michael worked with the Hillard Heintze Law Enforcement Consulting Practice on collaborative reform, and he was instrumental in review and analysis of police department operations in San Francisco and the Collaborative Reform Initiative for Technical Assistance (CRI-TA) site in Memphis through the U.S. Department of Justice Office of Community Oriented Policing Services (COPS).

Michael's body of work in law enforcement highlights an enduring commitment to advancing the profession through community engagement. He has served on numerous national committees focused on use of force, internal affairs and community building with trust. Within the Houston Police Department, Michael developed a strong understanding of the collective bargaining practices used by departments to maximize efficiencies.

Working through the department ranks, he rose from Sergeant, Organizational Development Unit, where he helped review and redesign the department's core processes and structure, to the role of Assistant Chief of Police, where he was instrumental in providing Professional Standards and Criminal Investigations oversight.

Upon his appointment as Executive Assistant Chief of Police, Michael served as chairman of the following internal review processes or programs: Conducted Energy Device (Taser); Use of Force Committee; Personnel Concerns (Early Warning System); Administrative Disciplinary Committee; Independent Police Oversight Board; Public Safety Advisory Committee; and Uniform and Equipment Standards Committee.

Michael holds a Juris Doctorate from South Texas College of Law (Houston, Texas), a Master of Science from Sam Houston State University (Huntsville, Texas) and a Bachelor of Arts in Economics from the University of Texas (Austin, Texas).





## CHAD M. MCGINTY, SENIOR DIRECTOR



Chad McGinty brings nearly three decades of law enforcement, public safety and security leadership experience to his role as Senior Director of Security Risk Management at Hillard Heintze. As an accomplished client advisor, Chad specializes in implementing strategic initiatives to support the security risk-related objectives of public and private clients.

Before joining Hillard Heintze, Chad served in the Ohio State Highway Patrol for nearly 28 years, starting as a Trooper and tactical team member, rising through the ranks of command level positions to a member of the senior staff, Major-Commander of Field Operations. His service with the Ohio State Highway Patrol included oversight of statewide patrol operations, Executive Protection, Capitol Operations Security, Explosive Detection Canines, the Aviation Section and the Special Response Team. He also worked as the governmental affairs spokesperson, serving as the liaison to the Ohio General Assembly on law enforcement matters.

Over the course of his professional career, Chad has planned and commanded multiple high-level security details and large-scale law enforcement response initiatives. These include numerous community actions, statehouse demonstrations, security for the Governor, Supreme Court Justices, Legislators and dignitaries. Chad was responsible for coordinating and commanding the crowd control/field force response for the visiting law enforcement officers assigned to the 2016 Republican National Convention in Cleveland, Ohio. Chad implemented the successful staging and response plan for 1,400 field force officers from 18 agencies and 15 states across the nation.

Chad's work with Hillard Heintze includes serving as a client security advisor, performing threat and vulnerability assessments, and security operations ranging from private residences to large-scale multi-state projects. He is an accomplished public speaker and instructor of a wide variety of law enforcement-related topics, including development of effective leadership skills.

Chad has completed over 500 hours of management, supervisory and leadership training, and he is a graduate of Northwestern University's Center for Public Safety, School of Police Staff and Command.