



Meeting Agenda

General Government Committee

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Thursday, October 8, 2020

5:00 PM

Online and via phone

Special Meeting - Register to attend:

https://us02web.zoom.us/webinar/register/WN_keADjrvNTq6bMgH-wx_ggg

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **COMMITTEE BUSINESS**

3.A [20-0789](#) Police Auditor Interviews

Attachments: [Oct. 8 Interview Schedule](#)
[Ogden, Murphy, Wallace RFQ](#)
[Mark McCarty RFQ](#)
[Police Auditor RFQ Notificaton](#)

4. **ADJOURNMENT**

The City of Olympia is committed to the non-discriminatory treatment of all persons in employment and the delivery of services and resources. If you require accommodation for your attendance at the City Council Committee meeting, please contact the Council's Executive Assistant at 360.753.8244 at least 48 hours in advance of the meeting. For hearing impaired, please contact us by dialing the Washington State Relay Service at 7-1-1 or 1.800.833.6384.



General Government Committee

Police Auditor Interviews

Agenda Date: 10/8/2020
Agenda Item Number: 3.A
File Number:20-0789

Type: recommendation **Version:** 1 **Status:** In Committee

Title

Police Auditor Interviews

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Interview applicants and finalize recommendations for the hiring of a Police Auditor.

Report

Issue:

Whether to interview candidates to recommend for hiring as a Police Auditor for the City of Olympia.

Staff Contact:

Debbie Sullivan, Assistant City Manager, 360.753.8499

Presenter(s):

N/A

Background and Analysis:

At its July 22, 2020, meeting, the General Government Committee recommended hiring a Police Auditor without revisions to the existing Ordinance No. 6220. This would allow the Police Auditor position to be filled in 2020. During the one-year term of the contract, updates to the ordinance can be considered, evaluated and incorporated before the recruitment and hiring of the next Police Auditor in 2021

At its Aug. 11, 2020, meeting, the City Council directed staff to launch the hiring process for a Police Auditor under the existing Ordinance No. 6220. The application process closed on September 21, and two applications were received

The General Government Committee will interview the candidates. The Interview schedule is attached. Applicants have been notified. Due to gathering restrictions under the COVID-19 pandemic, the interviews will be in conducted over Zoom.

Type: recommendation **Version:** 1 **Status:** In Committee

Neighborhood/Community Interest (if known):

N/A

Options:

1. Conduct the interviews and finalize appointment recommendations.
2. Do not conduct the interviews and direct staff to reschedule another date for the process.

Financial Impact:

N/A

Attachments:

Interview Schedule
Ogden, Murphy, Wallace RFQ
Mark McCarty RFQ
Police Auditor RFQ Notifications

POLICE AUDITOR INTERVIEWS	
TIME	THURSDAY OCTOBER 8– ZOOM
	Police Auditor Interviews (2 candidates)
5:30	<ul style="list-style-type: none">Ogden, Murphy, Wallace (confirmed)Mark McCarty (confirmed)
6:00	
6:30	GG Committee Wrap Up Discussion/Final Thoughts
6:45	



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TARA L. PARKER
206.447.2263
tparker@omwlaw.com

September 21, 2020

VIA EMAIL ONLY

Debbie Sullivan, Assistant City Manager - Strategic Initiatives
City of Olympia
601 Fourth Avenue E
Olympia, WA 98501

Re: Police Auditor Request for Qualifications ("RFQ")

Dear Ms. Sullivan:

Thank you for the opportunity to submit this response to the above-referenced RFQ, and for the opportunity to serve the City of Olympia. The Employment Misconduct Investigations team at Ogden Murphy Wallace, P.L.L.C. ("OMW") is uniquely qualified to fulfill the obligations of the Police Auditor to the highest standards of professional conduct and integrity.

As set forth in detail in the attached Statement of Qualifications, OMW attorneys have the skills and capacity to perform the contract and provide the services required. We have extensive experience performing neutral, outside investigations of law enforcement agencies, reviews of their internal processes, analyses of departmental compliance with applicable laws and policies, and providing constructive recommendations for further improvement.

In all of our work, we are prompt, efficient, complete, fair, independent, and impartial. We have a strong reputation for integrity and good judgment. We are also highly experienced in conducting investigations where there is alleged misconduct at the governance level, the potential for reputational damage is high, there is a particular need for institutional transparency and an expectation that findings of such investigation will be public, special skill or expertise is needed, and unquestionable neutrality is essential.

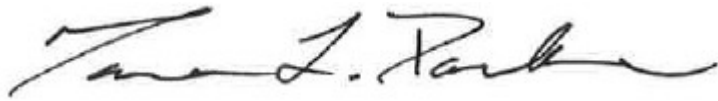
Our reputation and character as neutral, detail-oriented, culturally aware, trauma-informed, respectful attorney-investigators means that we will provide the City of Olympia with high-quality, timely, efficient investigation reviews, analyses of internal processes and policy compliance, as well as clear, constructive reporting and recommendations. As a well-established firm that has been part of Washington's legal community for over 100 years, OMW also has the financial resources to perform the contract properly and within the times proposed. As a provider of legal and consulting services to numerous governmental agencies, we also are in compliance with federal, state and local laws and ordinances relating to public contracts.

If we are selected, I will be your main contact with the firm. We are also proposing Karen Sutherland and Beth Van Moppes to perform this work. The attached Statements of Qualifications contains detailed information about our prior experience, references, and our proposed preliminary approach to fulfilling the duties and responsibilities outlined in the RFQ.

We welcome the opportunity to provide Police Auditor services to the City of Olympia. If you need any additional information regarding our firm, or if you would like to schedule an interview, please do not hesitate to contact me. My direct dial number is (206) 447-2263; my email is tparker@omwlaw.com; and my direct fax line is 206-447-0215. I look forward to hearing from you.

Sincerely,

OGDEN MURPHY WALLACE, P.L.L.C.

A handwritten signature in black ink, appearing to read "Tara L. Parker", with a stylized, flowing script.

Tara L. Parker

TLP:jmw

Attachment

Statement of Qualifications

1. Prior Experience and Technical Competence

Ogden Murphy Wallace, P.L.L.C. (“OMW”) is responding to all areas for which services are being solicited. A brief description of our firm experience and technical competence to perform these services is set forth below.

OMW has been a member of the legal community since 1902, with 66 attorneys in offices in Seattle and Wenatchee. We are a leader in employment law and workplace relations in the Pacific Northwest, primarily due to our emphasis on preventive practices such as workplace investigations, training, policy development and implementation, and alternate dispute resolution. We have provided external investigations to the following law enforcement-related agencies: the King County Sheriff’s Office, the City of Seattle Police Department, the City of Redmond Police Department, the City of Mukilteo Police Department, the University of Washington Police Department, and the King County Office of Law Enforcement Oversight. Our other workplace investigation clients have included King County, Pierce County, the Port of Seattle, the City of Seattle, Seattle City Light, the Cities of Redmond, Edmonds, and Mukilteo, the University of Washington, Western Washington University, Eastern Washington University, Bellevue College, along with numerous other state agencies, private sector employers, and nonprofits. Our investigation work includes reviewing prior internal investigations and providing feedback on the agency’s policies, procedures, and practices.

In addition to its work related to investigations, OMW provides legal advice to the police departments of the cities we represent, such as the cities of Redmond, Edgewood, Poulsbo, Gig Harbor, Mukilteo, Woodinville, Normandy Park, Monroe, Duvall, and Issaquah, along with numerous special purpose districts, housing authorities, and many others. In this role, we also audit procedures and draft policies, Civil Service codes, regulations, and ordinances.

We are knowledgeable and experienced in investigations related to discrimination, harassment, bias, inappropriate conduct, retaliation, use of excessive force, and conduct prohibited by workplace civility policies. Because we frequently perform investigations for law enforcement agencies, we are knowledgeable about the applicable Constitutional protections, along with civil service rules and rights of employees who are represented by unions. We have also received extensive training on contemporary investigative techniques and best practices. We consistently receive feedback from our clients attesting to the high quality and thoroughness of our work, the respect with which we treat all parties and stakeholders, and our analyses and recommendations related to our clients’ workplaces (including workplace culture), their processes, and their procedures.

As noted in our cover letter, we are consistently prompt, efficient, complete, fair, independent, and impartial. We have a strong reputation for integrity and good judgment. We are also knowledgeable and experienced with federal, state, and local civil rights, equal protection, and employment laws related to employment practices, including labor law as applied to public safety employees. Our experience includes conducting investigations involving allegations of misconduct at the highest governance levels, the potential for reputational damage is exceptionally high, there is a particular need for institutional transparency and an expectation that findings of such investigation will be revealed, special skill or expertise is needed, and unquestionable neutrality is essential.

Our experience conducting investigations, reviewing investigations conducted by others, auditing our client's policies, procedures and practices, analyzing trends such as use of force and demographics of individuals contacted by police, revising policies, regulations, and Civil Service codes, and conducting training on subjects such as preventing discrimination, harassment, and bias in police departments makes us uniquely suited to perform the work described in the City's RFQ.

The attorneys we are proposing for this work all have extensive experience identifying issues and potential violations of law and policy, conducting investigations, auditing information, drafting reports, and making recommendations. Their areas of expertise include interpreting legal and legislative decisions related to civil and Constitutional rights, police misconduct, discrimination, harassment, equal protection, equal pay, Civil Service, and employment and labor laws. We also have experience interpreting and applying other laws and standards related to employee conduct such as wage and hour laws, workplace safety, LEOFF, ethics, and conflict of interest laws and rules, among other things. We are also well-versed in conducting interviews and performing other work that is partially or wholly remote as a result of the impact of COVID-19.

We have experience with diverse work groups and with employees, applicants, and program participants from a wide variety of protected classes. We are known for being able to communicate with, relate to, and gain the trust of the people we come into contact with through our work. This, and our reputation in the community, enable us to dig deep for information and provide high-quality, insightful reports and recommendations.

Our extensive public sector experience makes us sensitive to the issues that are unique to the public sector, such as the need for transparency, the Public Records Act, working with a wide variety of stakeholders, conflict of interest issues, prohibitions on gifts of public funds and use of public resources for private gain, and *Loudermill*, *Weingarten*, and *Garrity* rights.

Additional information about the qualifications of the attorneys proposed for this work are included below.

KAREN M. SUTHERLAND

Karen Sutherland is a Member (equivalent of partner) of OMW and the Chair of its Employment and Labor Law and Workplace Investigation Groups. She is also a member of its Litigation, Municipal, and Business Departments. Ms. Sutherland's experience includes conducting workplace investigations on issues such as discrimination and harassment based on age, race, sex, sexual orientation, national origin, disability, religion, and other protected status; ethics and conflicts of interest; theft and fraud; HIPAA violations; Title IX sexual assault allegations; failure to follow hiring and promotion processes; animal care issues; retaliation; safety issues; whistleblower complaints; misuse of information and technology assets and other employer property; hostile work environment; workplace violence and bullying; retaliation, wage and hour laws; employee theft and damage; construction and maintenance issues; scientific research issues; and environmental law issues. Ms. Sutherland also serves as a neutral arbitrator for the King County Superior Court and as a Hearing Examiner, and she has testified on matters relating to employment law and relating to her workplace investigations.

Karen Sutherland has performed investigations into the practices of the King County Office of Law Enforcement Oversight, the King County Sheriff's Office, the Seattle Police Department, the Redmond

Police Department, Mukilteo Police Department, and the University of Washington Police Department. Ms. Sutherland has also provided policy compliance training for the Redmond Police Department.

All of Ms. Sutherland's investigations of police departments have included an analysis of department policies and procedures and compliance with them. In addition, she has analyzed Civil Service rules and drafted proposed changes to them to make them compliant with current statutory and case law. She also was part of a 3-person team that rewrote the Washington Administrative Code and procedures relating to discipline for sexual assault, sexual harassment and stalking for a large university.

Ms. Sutherland performed a trend analysis on use of force involving K-9 units for a police department that resulted in changes in training. She also did a trend analysis for a police department involving use of force to see if there were trends involving interactions with individuals who had disabilities. In addition, Ms. Sutherland did a trend analysis involving interactions initiated by police with individuals who were smoking in non-smoking areas to assess whether there were any trends involving interactions with people of color.

Ms. Sutherland represents governmental entities, businesses, nonprofits, and individuals regarding employment and labor issues in arbitrations, mediations, and other proceedings. She also drafts Memorandums of Understanding ("MOUs"), employee handbooks, management guides, and sexual and racial harassment policies; conducts workplace training on such topics as harassment, documentation of employee discipline, wage and hour issues, ethics, conflicts of interest, and HIPAA; and she advises on *Weingarten*, *Garrity*, and *Loudermill* rights.

Ms. Sutherland has conducted training on identifying, investigating, and addressing discrimination and harassment issues; conducting investigations; the First Amendment in the workplace; reopening the workplace post-COVID; wage and hour issues; ethics and conflicts of interest; Title IX procedures; and other workplace topics to entities such as the Washington State Bar Association; King County Bar Association; University of Washington; the Cities of Redmond, Edmonds, Poulsbo, and Medina; King County Fire District No. 20; PATH; Restaurants Unlimited; Hopelink; and others.

Ms. Sutherland was awarded the 2004 Helen M. Guisness Memorial Award for exemplary and distinguished service on behalf of the King County Bar Association ("KCBA"). She has chaired the KCBA *Bar Bulletin* committee, co-chaired the KCBA Awards Committee, and for many years chaired the Washington State Bar Association's annual Ethics in Civil Litigation program.

Ms. Sutherland has an AV Preeminent rating from Martindale-Hubbell, which is its highest rating. She is a frequent lecturer, author, and business advisor on discrimination, wrongful termination, non-compete agreements, employment law, and workplace issues, and she writes a monthly column for the King County *Bar Bulletin* in addition to articles on substantive areas of the law. Ms. Sutherland is also an accomplished glassblower, encaustic artist, and cartoonist whose work is shown in several local galleries and shops. She has been recognized as a Superlawyer by *Washington Law & Politics* magazine and was featured in the March 2006 *Washington CEO* magazine's cover story, "League of Justice: A Look at Washington's Most Amazing Attorneys." She has been selected for inclusion in the Washington State Bar Association's annual "best of" CLE program several times. In her spare time, Ms. Sutherland serves as a community partner and mentor and has provided internships for students in the Highline School District.

Ms. Sutherland earned her B.A. degree in political science from the University of Washington in 1980 and her J.D. degree from the University of Washington School of Law in 1984. She was elected to *Phi Beta Kappa* in 1981. She was admitted to the Washington State Bar in 1984 and has also been admitted to the United States District Court, Western District of Washington; United States District Court, Eastern District of Washington; and the Ninth Circuit Court of Appeals bars. Ms. Sutherland is licensed by the State of Washington as a Private Investigative Agency Principal (private investigator). Additionally, she is a member of the King County Bar Association and its Labor & Employment Law and Government Lawyers sections, the Association of Workplace Investigators, and the Society for Human Resource Management.

ELIZABETH (“BETH”) VAN MOPPES

Beth Van Moppes is a Member of OMW and is part of its Workplace Investigation and Employment and Labor Law Groups. The majority of Ms. Van Moppes’ practice is devoted to providing services as an independent workplace investigator. Her investigations include issues such as harassment, including sexual harassment, and discrimination, retaliation, whistleblowing, employee misconduct/just cause, workplace bullying, embezzlement, and ethics. Ms. Van Moppes’ is an Association of Workplace Investigators (“AWI”) Certificate Holder, an American National Standards Institute (“ANSI”) accredited certificate, and the Seattle Circle Convener for AWI, an organization for which she is responsible for leadership, organization, and continuity in meetings for local AWI investigators-members. AWI is a professional membership association for individuals who conduct, manage, or have a professional interest in impartial workplace investigations. Its mission is to promote and enhance the quality of impartial workplace investigations.

Ms. Van Moppes has performed two contracts for the Port of Seattle Police Department that involved review of their investigation process, one internal and one external. Both related to underlying allegations of violations of an officer’s civil rights. In the former, her analysis included consideration of whether the Department had followed its own investigative and disciplinary procedures.

Additionally, Ms. Van Moppes worked for two years as an Assistant Attorney General for the State of Washington representing the Department of Corrections before the Personnel Appeals Board. The majority of that work involved review of the Department’s internal investigations and subsequent disciplinary actions against officers. A number of those cases involved allegations of excessive use of force against inmates. In so doing, her analysis included consideration of the Department’s policies, procedures and training regarding use of force. Thereafter, she was tasked with defending the Department’s disciplinary actions before the Personnel Appeals Board, including demonstrating to the PAB why or why not the amount of force used was excessive under the circumstances and in light of the Department’s policies and procedures and training of those officers.

Prior to joining OMW, Ms. Van Moppes was Of Counsel to Beresford Booth PLLC. She has conducted investigations for the Washington State House of Representatives, Port of Seattle, the City of Issaquah, the City of Lakewood, Grant County Public Utility District, Wenatchee Valley College, Seattle Housing Authority, public and private entities, for-profit and non-profit agencies, and large and small private sector businesses.

Ms. Van Moppes is a frequent speaker and trainer for clients and various national and local human resources, employee relations, and special interest groups on topics related to workplace management including the critical skills managers need for performance management, professionalism, and diversity and inclusion awareness. Additionally, she guides clients in everyday workplace issues, focusing on preventative measures employers can take to maintain both business culture and employee engagement.

Ms. Van Moppes earned her B.A. degree in International Relations from Scripps College in 1989 and her J.D. degree from Seattle University School of Law in 1996.

TARA L. PARKER

Tara Parker is an associate attorney in the firm's Workplace Investigation and Employment and Labor Law Groups. Her practice is largely devoted to conducting workplace investigations for both public and private sector employers. Ms. Parker holds a Private Investigator license and an Association of Workplace Investigators ("AWI") Certificate, an American National Standards Institute ("ANSI") accredited certificate. She has conducted over 50 workplace investigations on a wide variety of subjects including protected class discrimination, sexual harassment, unprofessional and hostile conduct, retaliation and ethics violations.

In the past year, Ms. Parker has conducted investigations for the King County Sheriff's Office and the Pierce County Sheriff's Office. Each of those investigations involved allegations of misconduct by high-ranking Sheriff's Department employees. In each matter, Ms. Parker worked with Internal Investigations Units, analyzed department policies and procedures, and assessed the departments' compliance with applicable laws and regulations.

Many of Ms. Parker's investigations have involved public officials, providing her with a heightened awareness of the unique challenges that can arise in such matters. During the 2019 Washington State Legislative session, Ms. Parker served as the Human Resources Officer for the Washington State Senate and as the Independent Investigator for the Washington House of Representatives. In her investigative roles for the legislature, Ms. Parker has investigated claims of sexual harassment, discrimination, hostile environment, retaliation, and ethical violations involving multiple stakeholders throughout the legislative community. Ms. Parker has also performed investigations for several Washington State departments and agencies, as well as King County, the City of Bellevue, and the Port of Kennewick.

Before joining OMW, Ms. Parker practiced law at two other Seattle law firms, clerked for four judges at the Washington State Court of Appeals, Division One, and worked as a trial consultant on dozens of complex high-stakes litigation matters.

Ms. Parker received her B.A. degrees, cum laude, in Psychology and Sociology from Western Washington University in 1992. She received her J.D. in 1998 from the University of Pittsburgh. She is a member of the Washington State Bar Association, the King County Bar Association, and the Association of Workplace Investigators.

2. References

King County Prosecuting Attorney's Office. Susan Slonecker, Senior Deputy Prosecuting Attorney
(206) 447-9488; Susan.Slonecker@kingcounty.gov

Pierce County Human Resources Department. Bo Welch, EEO/ADA Specialist
(253) 798-2909; Bo.Welch@piercecountywa.gov

Port of Seattle. Tony Ramos, Senior Manager, Workplace Responsibility
(206) 787-3000; Ramos.T@portseattle.org

3. Preliminary Approach to Performing the Police Auditor Contract

If we are selected for this contract, we would take the following approach to fulfilling the duties and responsibilities outlined in the RFQ.

First, Ms. Parker as the primary contact will meet and consult with the appropriate City Council members and staff to set forth a specific contract performance plan with clear priorities, deliverables, and deadlines. Having established such a plan, we will determine the most efficient and cost-effective way to fulfill the contract in a manner that does not result in any duplication of work on the part of OMW's team members. We will also immediately establish appropriate points of contact, document sharing and retention plans, and a schedule for consultation and reporting as needed.

Within two weeks of signing the contract, we will be available to begin our review of police professional standards investigations relating to complaints about the Police Department or its employees, including those alleging the use of excessive force or unnecessary force, civil rights violations or bias, to determine if the investigations met the standard of being complete, thorough, objective, and fair. Factors we propose to use to make this determination will include, but are not limited to the following:

- Were the investigation policies and procedures established by the Department followed?
- Were all witnesses with firsthand knowledge interviewed? If not, was there a legitimate reason for not interviewing them?
- Were all relevant documents and other records obtained and preserved? If not, was there a legitimate reason for not doing so?
- Was a site visit appropriate for the investigation to be complete? If so, was one conducted? If not, was there a legitimate reason for not doing so?
- Was the questioning of the parties and the witnesses conducted in a manner that would elicit truthful, accurate, and complete answers, to the best of the interviewee's ability?
- Were credibility determinations made consistent with the credibility criteria applied by courts?
- Were reasonable accommodations made for interviewees with disabilities or who were not proficient in English?
- Did the report weigh all relevant evidence and articulate a reasonable basis for the findings, applying the appropriate standard of proof and burden of proof?

Within two weeks of signing the contract, we will begin conducting an impartial review of the Police Department's internal investigative process and verification of the Department's compliance with established policy and procedures. Factors we propose to use to conduct this review and determination will include, but are not limited to the following:

- Does the process set forth in the Police Department's General Order 52.1 Professional Conduct Review System result in complete, thorough, objective, and fair investigations?
- Does the process set forth in General Order 52.1 present any barriers to the filing of complaints or participation in the investigation process that could have a disparate impact on people who are members of a protected class?
- Is the process set forth in General Order 52.1 followed by the Department?
- Do the complaints that are sustained reflect any trends or patterns that should be addressed, such as through additional training or changes to Department policies, procedures, or practices?
- Is discipline or other corrective action imposed consistently in response to sustained complaints?
- Have the Professional Standards Lieutenant or the Department identified any policies or procedures that need improvement that have not been implemented? If so, what barriers are there to implementing such changes or improvements?
- Has the Department complied with established policy and procedures, such as Use of Force in General Order 1.4 and its Code of Ethics and Professional Conduct and Responsibility, General Order 1.1.5?

In accordance with the schedule established by the City Council, we will prepare and file a mid-year annual report which lists the complaint type, whether additional investigation was requested, the response, findings regarding whether each audited complaint met established standards, an analysis of key trends and patterns, and recommendations for revisions to improve investigation practices.

The hourly rates we propose for this work are: Tara Parker, \$320/hr.; Karen Sutherland \$385/hr.; and Beth Van Moppes \$385/hr.

EXHIBIT A

EQUAL BENEFITS COMPLIANCE DECLARATION

Contractors on City contracts estimated to cost \$50,000 or more shall comply with the City of Olympia Municipal Code, Chapter 3.18. This provision requires that if contractors provide benefits, they do so without discrimination based on age, sex, race, creed, color, sexual orientation, national origin, or the presence of any physical, mental or sensory disability, or because of any other status protected from discrimination by law. Contractors must have policies in place prohibiting such discrimination, prior to contracting with the City.

I hereby declare that the Contractor listed below complies with the City of Olympia Equal Benefits Ordinance, that the information provided on this form is true and correct, and that I am legally authorized to bind the Contractor.

Ogden Murphy Wallace, P.L.L.C.

Contractor Name



Signature

Tara L. Parker

Name (please print)

21 September 2020

Date

Attorney at Law, Private Investigator

Title

Mark S. McCarty
1816 Franklin Avenue East
Seattle, WA 98102-3729
206-550-7844
msmccarty@comcast.net

September 22, 2020

RE: Police Auditor
City of Olympia

Greetings:

I am very interested in discussing with you the position of Police Auditor with the City of Olympia. I just became aware of this position last night and have rushed to get the application materials together. I have extensive knowledge, skills, and experience with law enforcement internal investigations that make me a great fit for this important position during these incredibly challenging times of tension between law enforcement agencies and the greater public.

A major part of my legal practice for more than a decade before joining the Seattle Police Department (SPD) was representing law enforcement unions, which included representing officers involved in internal investigations. I have represented police officers, correction officers, and civilian employees from the point of giving their initial internal investigation statements through appeals to civil service commissions and arbitration. As the Employment Legal Advisor and Human Resource Director with SPD for ten years, I reviewed and advised the Chief of Police on internal investigations, including making recommendations for revisions to processes, procedures, policies, and training. I also frequently advised SPD's Internal Affairs Unit on how to proceed with specific investigations. I am unique in that I have represented management, labor unions, and individual employees in law enforcement internal investigations. This wide experience has given me a broad knowledge on what makes a successful internal investigation in a law enforcement setting where employees are represented by labor organizations.

I also have first-hand experience in conducting and reviewing employment-related investigations. At the beginning of my career, I investigated unfair labor practices for the National Labor Relations Board. More recently, for two years I worked as an investigator for the St. Louis Civil Rights Enforcement Agency, where I investigated employment and fair housing complaints. I most recently have been employed as a Labor and Employee Relations Manager at the Seattle School District, where parts of my duties have been to investigate employment-related complaints and to review specific investigations performed by others to ensure that all relevant evidence has been obtained.

In addition, as a practicing attorney my primary focus has been on labor and employment law where I have represented management, labor unions, and individual employees. I also have worked as a neutral decision-maker with the National Labor Relations Board in Washington D.C., and Baltimore. For the past thirty plus years, I have worked with labor and employment law issues here in the State

Mark S. McCarty

Page 2 of 2

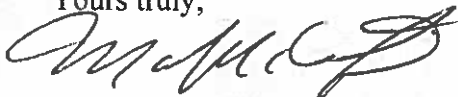
of Washington, and I am quite familiar with the unique nuances of Washington labor law, especially as applied to law enforcement personnel.

It is important to note that I no longer have any clients currently working or connected in any matter with law enforcement agencies. While I have much experience in working with law enforcement - related investigations, I have no work that creates a conflict of interest or even the appearance of a conflict. In addition, my work with Seattle Public Schools will voluntarily end within the next few months.

I have the extensive experience in internal law enforcement-related investigations you are looking for as the Police Auditor for the City of Olympia. I also have direct first-hand experience in conducting employment investigations and know how challenging they can be. When combined with my wide experiences in investigations, my thorough knowledge of labor, employment, and collective bargaining laws makes me an excellent candidate to be a success as the next Police Auditor.

I look forward to discussing this wonderful opportunity with you.

Yours truly,

A handwritten signature in dark ink, appearing to read 'Mark S. McCarty', written in a cursive style.

Mark S. McCarty

MARK S. McCARTY
1816 Franklin Avenue East
Seattle, WA 98102
206-550-7844
msmccarty@comcast.net

QUALIFICATIONS:

- Law Degree with 30+ years of experience in employment and labor law in public and private employment settings;
- More than two decades of experience in investigating and supervising/reviewing investigations in employment settings, the large majority of which involved internal investigations in Washington law enforcement agencies;
- Chief spokesperson in contract negotiations representing both management and labor organizations;
- Vast knowledge and experience with National Labor Relations Act, Fair Labor Standards Act, Americans with Disabilities Act, Family Medical Leave Act, and corresponding Washington Statutes and Regulations;
- Extensive knowledge and experience with contract administration, collective bargaining, and human resource programs and policies;
- Human Resource Director for complex public sector law enforcement organization with more than 1800 employees with many different collective bargaining agreements;
- Legal Advisor to major law enforcement organization with significant involvement in advising on contract interpretation, administering collective bargaining agreements, processing of grievances and civil service appeals, and review of internal investigation results and recommendations;
- Reputation for facilitating communication among diverse parties and for building respectful and working relationships between management and labor;
- Proven track record of solving challenging problems with aggressive competing interests with skill and grace and without complications;
- Training and coaching supervisors, employees, and union representatives;
- Employee Relations experience in investigations, arbitrations, mediations, civil service hearings, and settlement resolutions of grievances, civil service appeals, EEOC, and other claims;
- Effective verbal and written communicator honed by years of representing parties before administrative agencies, trial courts, and courts of appeals;
- Highly skilled communicator and collaborator with widely diverse parties at all levels of an organization;
- Experienced working in confidential environments;
- Experienced working in environment with dramatically competing demands;
- Experienced identifying and resolving work place issues at low levels and in timely manner without supervision;
- Experienced in investigating and analyzing information and providing wise and skillful suggestions for proceeding; and
- Extensive supervisory experience in a public employment environment.

PROFESSIONAL EXPERIENCE:

November 2016—present

Seattle School District

Labor and Employee Relations Manager

- I am the primary contact for the administration of all collective bargaining agreements covering all classified employees in more than 100 school buildings.
- I also serve as an adviser and resource to directors/managers for all labor and employment laws, performance evaluations, compensation issues, and District policies and procedures.
- In addition, I assist in or conduct investigations into employee misconduct allegations and either lead or assist in collective bargaining negotiations with the labor representatives for classified staff.

November 2014-November 2016

City of St. Louis Civil Rights Enforcement Agency

Investigator

- As an investigator for the Civil Rights Enforcement Agency of the City of St. Louis, I investigated and recommended actions on alleged unlawful discrimination/retaliation in employment and housing cases within the boundaries of the City of St. Louis.

September 2012-October 2014

McCarty Law Firm

Owner

- Own and operate law firm representing individuals and labor organization on collective bargaining issues and civil matters ranging from wills, divorces, and custody to civil rights violations, wrongful discharge, and wage and hour.
- May-July 2013 and February-March 2014 project consultant for TrueBlue, Inc. in Tacoma, WA reviewing and advising on numerous employment and labor issues associated with the operation of the nation's largest blue-collar employment referral agency.
- January-May 2014 contract consultant assisting Seattle Police Department with transition to new command staff under newly-elected Mayor Ed Murray.

September 2007-June 2012

Human Resource Director

Seattle Police Department

- Responsible for managing the human resource needs of the Seattle Police Department
- Primary responsibility for the management and oversight of:
 - Employment Services (recruitment, selection and hiring)
 - Payroll and Benefits Administration
 - Wellness and Accountability
 - Employee Relations
 - Personnel Records

- Americans with Disabilities Act
 - Classification and Compensation Management
 - Family Medical Leave Act and
 - Equal Employment Opportunity
- Directed the work of 30 positions via 6 direct reports to design, implement, and administer all human resources initiatives and systems for a total workforce of approximately 1800 Police Department employees (1300 sworn officers and 500 civilians) who are represented by multiple unions.
- Responsible for working collaboratively with the City's Personnel Department on a variety of program and policy issues.
- Advised and provided leadership on human resource and labor relations policy and short and long-term strategic planning.

January 2002 – March 2008

Employment Legal Advisor

Seattle Police Department

- Provided legal policy direction and advice to the Chief of Police and all sworn and civilian managers on all aspects of labor and employment laws, constitutional law regarding the rights of public employees, discrimination laws, as well as a broad range of other legal issues related to eight different collective bargaining agreements, personnel rules, civil liability, and public disclosure law.
- Served on labor-management committees and participated in collective bargaining negotiations for the Department's uniformed bargaining units through mediation and interest arbitration.
- Advised and managed legal issues for the Chief of Police regarding the Department's internal disciplinary system, including ensuring consistency in application.
- Managed legal human resource policies of the Department and identified and resolved legal issues related to the Department's policies and procedures.
- Primary contact for the Police Department with the City Attorney's Office on Department labor and employment cases in litigation.
- Drafted confidential legal opinions and recommendations for the Chief and Command Staff.
- Responded to federal, state, and city agencies on matters relating to civilian and sworn employment, such as Equal Employment Opportunity Commission, Labor and Industries, Human Rights' Commission, Seattle Ethics Commission.
- Developed, organized, and implemented training for front line supervisors on how to recognize and address daily employment legal issues.

October 1995 – January 2002

Managing Attorney

Campiche, Hepburn, McCarty, & Bianco

Seattle, Washington

- Legal practice involved the representation of employers and employees in collective bargaining negotiations, discrimination issues, overtime claims, contract grievances, unemployment compensation, and retirement benefits.

- Representation included administrative hearings, trials, appellate advocacy, mediations, and arbitrations.
- Also represented plaintiffs in personal injury and maritime matters.
- Served as managing partner of fifteen-employee law firm.
 - Primarily responsible for managing office and supervising staff, including hiring, firing, promoting, and discipline.
 - Duties included ensuring compliance with overtime laws, family-medical leave requirements, reasonable accommodation of employees, and non-discriminatory work environment.
 - Also responsible for handling daily operating decisions associated with business.

September 1990-September 1995

Attorney-Associate and Partner

Reaugh, Fischnaller, and Oettinger

Seattle, Washington

- Practice primarily focused on representing public and private employees and unions in collective bargaining negotiations, internal disciplinary matters, grievances, and before civil service commissions.
- Represented employees with issues involving overtime pay, disability, sex, and race discrimination, and family-medical leave.
- Developed as a significant part of my practice the representation of public employees with retirement issues, including successful challenges of the Department of Retirement Systems before the Washington Court of Appeals.

May 1988 - August 1990

Managing Attorney

Aitchison, Snyder & Hoag

Seattle, Washington

- Responsible for the establishment and daily management of the Seattle office, including hiring, firing, and supervising staff, assigning work, purchasing equipment and supplies, and operating within a budget.
- Also responsible for representing numerous independent law enforcement labor unions in all facets of employment law, including negotiations of collective bargaining agreements, grievances, mediations, arbitrations, and proceedings, hearings, and trials before the Public Employment Relations Commission, the Washington Department of Personnel, and state courts.
- Developed and conducted shop steward training seminars.

October 1979 - May 1988

Attorney

National Labor Relations Board

August 1987 - May 1988

Baltimore Regional Office

- Full trial practice in investigation and prosecuting unfair labor practice charges.

November 1982 - August 1987

Division of Enforcement Litigation, Washington, D. C.

- Responsible for briefs, motions, and presentation of oral arguments to United States Courts of Appeals in cases seeking enforcement or review of NLRB decrees; negotiation of settlements on referred cases.
- Recipient of Certificate of Commendation for Outstanding Performance.

October 1979- November 1982

Office of Appeals, Washington D.C.

- Responsible for *de novo* review of appeals from Regional Directors' refusals to issue complaints. Position required analysis of opinions in all varieties of unfair labor practices.
- Recipient of Certificate of Commendation for Outstanding Performance.

PROFESSIONAL

ORGANIZATIONS:

- Past Contributing Member, Major Cities' Chiefs of Police Human Resources National Committee
- Past President and Trustee, Labor Section, King County Bar Association
- Steering Committee, Pacific Coast Labor and Employment Law Conference
- Preeminent Rating 2011, 2012, and 2013 by Martin-Dale Hubbell

EDUCATION:

- Duke University School of Law, Durham, North Carolina
J.D. received May 1979
- Washington University; St. Louis, Missouri
A.B. received May 1975

MARK S. McCARTY
1816 Franklin Avenue East
Seattle, WA 98102
206-550-7844
msmccarty@comcast.net

REFERENCES:

1. Charles Bryson: Director of Office of Civil Rights, St. Louis, MO; 314-622-3301; brysonc@stlouis-mo.gov
2. Stan Damas: Former Director of Labor Relations, Seattle Public Schools, 303-638-5166: Standamas@iCloud.com
3. Joseph Kessler: Former Captain and Assistant Chief with Seattle Police Department; 206-799-3350; sylandjoe@comcast.net
4. Deborah Bianco; Former law partner; 206-794-4884; debbianco@debbinacolaw.com
5. Richard O'Neill; Former President of Seattle Police Officers' Guild; 206-437-5732; rokneel@comcast.net

MARK S. McCARTY
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Seattle, WA 98102
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msmccarty@comcast.net

APPROACH:

My general plan for initially approaching the responsibilities of being the Police Auditor for the City of Olympia is to review the Police Department's manual in detail, any collective bargaining agreements with labor unions representing Police Department staff, and the organization of the Police Department. I also of course will speak directly with the Police Department's commanders, the officers of any labor unions, and the members of any civil service commission to discuss issues and areas of concern with internal investigations.

HOURLY RATES:

The standard hourly rate I charge is \$120. I am flexible with that depending upon the number of hours required by the contract.

EQUAL BENEFITS COMPLIANCE DECLARATION

Contractors on City contracts estimated to cost \$50,000 or more are required to comply with Olympia's Equal Benefits Ordinance, and must complete both pages of this Equal Benefits Compliance Declaration. Please note: No City contract can be executed until the contractor has completed this Declaration and submitted it to the City.

SECTION 1: Contractor Information

Name of Contractor: Mark McCarty Contact Person: Mark McCarty
 Phone Number: 206-550-7844 Fax: N/A Email: msmccarty@comcast.net
 Approximate Number of Employees in the U.S.: 0 Project #: Police Auditor

SECTION 2: Compliance with Equal Benefits Ordinance

1. Does the contractor have any employees? ☐ YES ☒ NO

If the answer to Question 1 is "NO", the contractor qualifies for Option C on Page 2 of this Declaration.

If the answer to Question 1 is "YES", continue to Question 2.

2. a. Does the contractor provide, or offer access to, health insurance benefits to employees, or to the spouses of employees?*
- ☐ YES ☐ NO
- b. Does the contractor provide, or offer access to, health insurance benefits to employees, or to the domestic partners of employees?*
- ☐ YES ☐ NO

* (Please Note: for 2(a) and (b), the answer must be "YES" even if the employees must pay for some or all of the cost of spousal or domestic partner benefits.)

If the answers to both Questions 2(a) and 2(b) are "NO", the contractor qualifies for Option B on Page 2 of this Declaration.

If the answer to either Question 2(a) or 2(b) is "YES", continue to Question 3.

3. **BENEFITS PROVIDED**

If the contractor provides employee health insurance benefits, please indicate so on the list below. If the contractor provides equal benefits, for each "Yes" marked in one column, there should be a corresponding "Yes" marked in the other column.

EMPLOYEE BENEFIT	FOR SPOUSES		FOR DOMESTIC PARTNERS	
Health Care	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Dental Care	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Vision Care	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> YES	<input type="checkbox"/> NO

If the answers to Question 3 indicate that the contractor provides equal benefits, the contractor will be in compliance with the Equal Benefits Ordinance and qualifies for Option A on Page 2 of this Declaration.

If the answers to Questions 3 for any listed benefits are "YES" in the spouse column and "NO" in the domestic partner column, continue to Question 4.

4. Does the Contractor provide a cash equivalent of insurance benefits to the domestic partners of employees?
- ☐ YES ☐ NO

If the answer to Question 4 is "YES," the Contractor qualifies under Option D on Page 2 of this Declaration.

If in response to Question 3 for any listed benefit both a "YES" and a "NO" answer have been given, and in response to Question 4 the contractor DOES NOT provide a cash equivalent, the contractor is not in compliance with the Equal Benefits Ordinance.

THE CITY OF OLYMPIA

CITY CONTRACTS – NON-DISCRIMINATION IN BENEFITS (Equal Benefits Ordinance)

Please Note: No City contract can be executed until the contractor has completed both pages of this Declaration and submitted it to the City.

EQUAL BENEFITS COMPLIANCE DECLARATION

I, Mark McCarty
(Name)

on behalf of Mark McCarty
(Contractor Name)

declare that said Contractor complies with the Equal Benefits Ordinance by:

(Choose **ONE** of the following)

Option A

☐ Offering equal benefits, as defined by the Equal Benefits Ordinance, to employees with spouses and employees with domestic partners.

Option B

☐ Offering benefits neither to the spouses nor to the domestic partners of employees.

Option C

☒ Having no employees.

Option D

☐ Offering a cash equivalent.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this 22 day of September, 2020, at Seattle,
(City)

WA
(State)

Mark McCarty
Signature

Mark McCarty
Name (please print)

owner
Title

Contractor Tax Identification Number



Notification of Request for Qualifications

City of Olympia | Capital of Washington State

Police Auditor

The City of Olympia is soliciting a qualified auditor to review specified investigations within the Olympia Police Department (OPD).

The Police Auditor is selected and retained by the City Council. The City Council's General Government Committee is leading the recruitment and hiring process for a Police Auditor. They will make a final recommendation to the full Council for approval.

A. BACKGROUND

Olympia Police Department

The Olympia Police Department provides professional, innovative, and progressive criminal justice services to the Olympia community. OPD is comprised of two divisions – Operations and Administrative Services. The Office of the Chief oversees the entire department and is responsible for the Department's Professional Standards Program. The Department also runs the Olympia City Jail, a 28-bed facility, and administers contracts with the Lewis County and Yakima County Jails for additional bed space. A Crisis Response Unit (CRU) program and Familiar Faces program were created within the last two years. The CRU delivers non-enforcement response to individuals experiencing crisis while the Familiar Faces program provides peer navigators to work with the community's highest users of services to seek out non-enforcement solutions.

OPD employs 110 individuals which is made up of 76 Commissioned personnel, 13 Corrections Officers, and 21 civilians. In 2019, OPD reported 50,595 calls for service, 3,007 arrest, and 1,218 bookings in Olympia's Municipal Jail. In the most recent [Office of Professional Standards Report](#) information is provided on internal investigations, findings, and corrective actions.

Police Auditor

On September 20, 2002 City Council approved Ordinance No. 6220 which added a new Chapter (2.38) to the Olympia Municipal Code – Police Auditor. The stated purpose of the Police Auditor is to “provide an independent review and audit of investigations of complaints about the Police Department and/or its employees” in order to increase public trust and confidence in the professional accountability systems of the Police Department.

The City Council retained their first Police Auditor, in compliance with the Ordinance, on January 28, 2003. A Police Auditor was in place every year until 2009. Due to the great recession, the funding was cut starting in 2010. During the 2020 budget process, the Council appropriated funds to reinstate a Police Auditor.

B. DUTIES AND RESPONSIBILITIES:

The Police Auditor will be responsible for the following:

1. Reviewing police professional standards investigations relating to complaints about the Police Department or its employees to determine if the investigations meet the standard of being complete, thorough, objective, and fair.
2. Reviewing all complaints about police employees that allege the use of excessive or unnecessary force, civil rights violations, or bias. Review of all reported uses of force within the department as defined in [Olympia Police Department General Order 1.3](#).
3. Providing an impartial review of the Police Department's internal investigative process and verification of the Department's compliance with established policy and procedures.
4. Filing a mid-year and annual report with the City Council, with a copy to the City Manager which lists the complaint type, whether additional investigation was requested, the response, and a finding on each complaint case audited indicating whether the investigation met established standards or failed to meet established standards. Each report shall give an analysis of key trends and patterns, and recommendations for revisions.

C. APPLICANT SELECTION CRITERIA:

City staff will evaluate qualifications and develop a list of qualified applicants. Applicants may be invited to appear for interviews (as deemed necessary by the General Government Committee). The Committee will make a final recommendation to the full Council for approval based on qualifications, demonstrated competence, and technical response to the Request for Qualifications (RFQ). When the final recommendation is approved, the successful Police Auditor will be invited to enter into contract negotiations with the CITY.

The City of Olympia will evaluate the statement of qualifications based on the following criteria:

1. A history of exemplary personal and professional conduct and integrity;
2. The ability to establish a broad base of credibility in the community;
3. A law degree or an advanced degree in a relevant social science;
4. Knowledge of and experience with contemporary investigative techniques;
5. Knowledge of labor law as applied to public safety employees;
6. Excellent written and oral communication skills; and
7. Familiarity with and the ability to use basic social science statistical analysis techniques.

INSTRUCTIONS TO SUBMIT QUALIFICATIONS

The deadline for this RFQ is **5:00 pm Pacific Standard Time, Tuesday, September 22, 2020**. Earlier responses are welcome.

To obtain information to submit qualifications, please visit either:

1. [City of Olympia RFP & RFQ Page](#). The Request for Qualifications will be posted under “Current RFP/RFQs”. If using this option, please review this page to verify any addendums posted are reviewed before submitting.
2. [Washington State’s Electronic Business Solution \(WEBS\)](#). The Request for Qualifications can be found by in WEBS by searching:

Organization Name: Olympia, City of

-OR-

Customer reference number: OLY-RFQ-001

For questions about this RFQ, please contact the RFQ Coordinator via email at dsulliva@ci.olympia.wa.us.