

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

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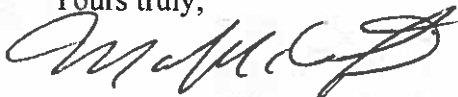
of Washington, and I am quite familiar with the unique nuances of Washington labor law, especially as applied to law enforcement personnel.

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', with a stylized flourish at the end.

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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

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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

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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