

Edward McKenna
Questionnaire

Seattle Municipal Court

Professional History

8. Year admitted to practice law in Washington: **1987**

9. Employment History (in reverse chronological order):

a. Start Date: **February 1990** End Date: **Present**

Organization: **Seattle City Attorney's Office**

Address: **700 Fifth Avenue, Seattle WA 98124**

Phone No.: **206-684-7757**

Position/Title: **Senior Assistant Seattle City Attorney**

Supervisor: **Craig Sims**

Nature of Practice (including frequency of court appearances):

Prosecution of misdemeanors and gross misdemeanors occurring in Seattle.

Although I frequently file criminal cases, I now make only occasional court appearances. I also occasionally appear before hearing examiners, representing the City in administrative law matters. As a criminal prosecutor, I appeared almost daily in court, having filed thousands of criminal cases, negotiated thousands more, and have tried more than 200 cases to trial.

Reason for leaving: **N/A**

b. Start Date: **November 1995** End Date: **2001**

Organization: **Washington State Board of Tax Appeals**

Address: **910 Fifth Ave., SE, Olympia, WA 98504**

Phone No.: **360-753-5446**

Position/Title: **Contract Hearing Examiner (Administrative Law Judge)**

Supervisor: **Richard Virant 425-487-1924**

Nature of Practice (including frequency of court appearances):

Conducted hearings of contested tax appeals. Issued written Findings of Fact and Conclusions of Law after hearing appeals of property tax valuations or Department of Revenue decisions.

Frequency of hearings varied but generally 4-12 per month.

Reason for leaving: **Contract position and backlog of cases ended.**

c. Start Date: **January 1989** End Date: **February 1990**

Organization: **Holland & Scales, P.S., Inc.**

Address: **Firm has dissolved**

Position/Title: **Associate attorney**

Supervisor: **Michael Holland (deceased) Symone Scales (retired)**

Nature of Practice (including frequency of court appearances): **Firm emphasis on commercial law, insurance defense, personal injury and post conviction litigation.**

Court appearances ranged from 1-3 per month.

Reason for leaving: **Accepted opportunity to enhance litigation skills as a prosecutor.**

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d. Start Date: 1987 End Date: 1989

Organization: **Washington State Board of Tax Appeals**

Address: **910 Fifth Ave SE, Olympia, WA 98504**

Phone No.: **360-753-5446**

Position/Title: **Law Clerk**

Supervisor: **David Akana**

Nature of Practice (including frequency of court appearances): **Researched case law and legal issues. Reviewed documents for legal compliance. Drafted proposed tax legislation. Drafted administrative rules of procedure.**

Reason for leaving: **Accepted position as associate attorney.**

10. Please list all other courts and jurisdictions in which you have been admitted to practice law and the dates of admission. Please provide the same information for administrative bodies having special admission requirements.

Federal District Court, 1989

11. Please list all bar associations and professional societies of which you are a member and give the titles and dates of any offices that you have held in such groups.

Northwest Indian Bar Association. Vice President 1997-98

Washington State Bar Association

Judicial Selection Committee 1993-95

Trial Advocacy Program, Instructor 1992-1996

Washington Association of Municipal Attorneys

Previously a member of the King County Bar Association, Lawyer Practice manual Committee 1989-90 and Washington Women Lawyers

12. Are you in good standing in every bar association of which you are a member? **Yes**

13. If you have ever been a judge, please identify any court committees on which you have served or administrative positions you have held. Please state the dates of service for each.

N/A

14. Please list up to five of your most significant professional accomplishments. (If applicable, please provide the case and court name and the citation if a case was reported (and copy of the opinion).

1) **Plagued by narcotics dealing, a neighborhood group contacted me to request assistance regarding a notorious "drug house". Neighbors explained that they were afraid for their children's safety because of IV drug users coming from the neighboring home. Working with neighbors, we scheduled a neighborhood meeting of impacted residents. An overwhelming number of persons attended to provide information and expressed a willingness to "take back" their neighborhood. After documenting the nuisance activities, I scheduled a meeting with the homeowner and representatives of the neighborhood group. During the informal "mediation" the homeowner explained that she was unable to control her drug addicted son who was selling narcotics from the basement and backyard trailer. With the assistance of relatives, we were able to negotiate a neighborhood agreement whereby the son was excluded from the home for an extended period of time (with certain exceptions) in exchange for the neighbors forbearing the initiation of coordinated neighborhood small claims court actions. The result was extremely successful. See http://www.seattlepi.com/local/286340_drughouse25.html. Similar actions have now been replicated in numerous other neighborhood actions with similar success.**

2) **A few years ago, Captain Dan Oliver of the Seattle Police Department expressed his frustration to me regarding high rates of auto theft and lack of offender accountability. At that time, thefts of automobiles in Seattle had reached an all-time high. While looking for causes of the high theft rate, I realized that many auto thefts were occurring while offenders were out of custody, pending filing of charges for previous auto thefts. I suggested an experimental project, whereby prolific auto thieves would be charged by the Seattle City Attorney's Office with gross misdemeanor offenses. The City Attorney's Office would also immediately file those charges, resulting in arraignment and release conditions being set. As a consequence, misdemeanor defendants received more jail time than repeat felons. The result was an immediate reduction in auto theft rates, dropping Seattle from the top 10 cities for auto thefts to number 16. After publishing the significant results, the King County Prosecutor's Office initiated its felony auto theft project, resulting in even greater reductions.**

3) **Many motels located on Aurora Avenue North in Seattle serve as long-term housing for low-income individuals or persons with disabilities. I was once with a police officer who responded to a low-cost run-down motel located on Aurora Avenue North. While there, I met a resident of the motel who explained his unfortunate situation to me. Basically, the person stated that he was HIV positive and had serious health complications. He had little money and scraped together funds where he could in order to stay at the motel which charged \$250 per week. The building and his unit were in deplorable condition, and he stated the building was infested with bedbugs and roaches. Unfortunately, the State Department of Health, which regulates and licenses motels, has only two inspectors for the entire state. Even when inspections do rarely occur, only unoccupied rooms can be inspected. Realizing that police officers are routinely called to incidents at motel rooms, I drafted an easy-to-follow checklist of common health code violations for officers to fill-out and send to the Health Department. After a very short while of using the checklist, the Health Department issued emergency order closing one motel and another shortly thereafter. Other motels quickly realized they too were not meeting the minimum health requirements and subsequently, many motels along Aurora suddenly began fixing their rooms to meet minimum health standards for the benefit of their residents.**

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15. Please summarize up to eight of the most significant matters that you participated in as an advocate. Please include the dates of your participation and the reason each was significant to you. Please provide the citation if a case was reported. If you have been a judge, please include some cases that have been tried before you.

City v. Marks SMC# 219516

I once prosecuted a domestic violence child abuse case. The child was 14 years old and contended he had been punched, kicked and beaten by his drunken father after smarting-off to his dad. A DV No-contact Order was in place separating the son from his father. I explained to the child that because there were no witnesses, it was extremely unlikely that his father would be convicted in light of his claim of "self defense". The child explained that he was tired of being abused by his father and that he wanted to stand up to him. Win or lose, he wanted his father to know that he was going to stand up to him and tell the truth. After the father testified that he was simply restraining his out-of-control child who had assaulted him, the jury rendered a defense verdict.

I have always remembered this case for the courage displayed by this young victim. Staying at his grandmother's home, he had to take several buses to arrive at court in the morning and did so for three straight days. He was determined to send a message that abusing him (and his siblings) wasn't going to be tolerated any longer. He recognized that he lived in a dysfunctional family and was determined to make changes by standing-up for what he thought was right.

I think about this case often because it reminds me of the particular difficulties of prosecuting domestic violence cases and the courage that victims must sometimes display when facing their accusers.

Opposing Counsel was Doug McCrae 206-328-7600
The judge was the Honorable Ron Mamiya 206-684-8709

City v. ?

I had prosecuted a rape case that had been declined by the County. The suspect and victim were both elderly Vietnamese immigrants living in an assisted-care facility. Neither the victim nor suspect spoke English, and each had an interpreter. After negotiating what I thought was a favorable disposition, I explained the proposal to the victim. Noticing the victim wouldn't make eye-contact with me, I inquired further. The interpreter explained to me that in Vietnam, many elderly Vietnamese believed they could never be "made whole" after being victimized unless the repentant offender followed the process of "kow tow". As explained to me, the suspect must tender a small sum of money to the victim while bowing, symbolizing the return of what had been taken. After discussing with the defense, the defendant agreed and submitted to the kow tow. Upon acceptance, the victim was then able to make eye contact and thanked me for what I had done for her.

This case was important to me because it has served as a constant reminder to think about cultural differences that may be important to both victims and suspects, and it continues to remind me of cultural differences in my everyday affairs.

I am unable to recall the case title

Opposing counsel was Ann Mahoney 206-624-0422.

The interpreter was Angelique Wiegand, 206-587-3333 who is now an attorney.

The judge was the Honorable George Holifield.

Educational Background

16. Please list all undergraduate and graduate (non-law school) colleges and universities attended, years of attendance, degree awarded and reason for leaving if no degree was awarded.

University of Washington	1981-83	B.A
College/University	Dates of Attendance	Degree

Shoreline Community College	1980-81	A.A
College/University	Dates of Attendance	Degree

17. Please list all law schools attended, years of attendance, degree awarded and reason for leaving if no degree was awarded.

University of Puget Sound	1983-1986	J.D.
Law School		

University of Notre Dame	1985	Certificate of Completion
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Professional Experience

18. Please summarize, briefly, the general nature of your current law practice.

I am currently a "Community-based Prosecutor" My office is physically located within the community I serve. I work with police, business groups, community organizations and individuals to identify and reduce public safety problems. The purpose of community prosecution is to prevent or reduce crime and victimization as well as reduce costs associated with prosecution (police, prosecution, court and jail costs). Often times using "creative" or non-traditional means, significant crime reductions have resulted from the program. Most recently, I have accepted the added responsibility of resolving violations related to Seattle's environmental laws.

The community prosecution program has been extremely successful, resulting in documented reductions of crime in specific areas of our community and specific types of crime. I have recently been invited to participate as a faculty member at the National District Attorney's Association National Community Prosecution Conference in Washington D.C., specifically to address creative problem solving ideas.

19. If you are in practice, please describe your typical clients and any areas of special emphasis within your practice.

As an Assistant Seattle City Attorney, my only client is the City of Seattle. However, because I also represent all departments within the City, I typically work with many problem solving partners (Revenue and Consumer Affairs, Seattle Public Utilities, Department of Planning and Development, Seattle Police Department, and many others) to resolve public safety problems or livability concerns. Although assigned as a prosecutor, resolving community problems through actual prosecution isn't common.

Typically, I meet with community and business groups, police officers, individuals and others to learn of community concerns. I then attempt to resolve the issue through various means. Often, a simple phone call is sufficient to resolve the concern. Occasionally, creative means to

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solve problems becomes necessary, utilizing problem solving partners or empowering communities to resolve problems. Crime reduction, reduced victimization and government cost saving are the goals of community prosecution and I have been able to effectively guide the program to consistently reach those goals.

20. If your present law practice is different from any previous practice, please describe the earlier practice, including the nature of your typical clients and any area of special emphasis within your practice.

As a criminal prosecutor, I previously filed and prosecuted typical criminal cases and represented the City in court, from arraignment through sentencing. I held many positions within the City Attorney's Office, including trial prosecutor, trial training instructor, Master Calendar prosecutor, Assistant Trial Unit Supervisor, High Impact and Chronic Offender prosecutor. I filed thousands of criminal cases and negotiated thousands more. I have tried hundreds of trials before juries and judges.

21. Within the last 5 years, did you appear in trial court:

Regularly Occasionally Infrequently

22. Within the last 5 years, did you prepare appellate briefs and appear before appellate courts:

Regularly Occasionally Infrequently

23. Within the last five years, how often did you appear in the court for which you are applying:

Regularly Occasionally Infrequently

24. Career Experience

- (a) What percentage of your appearances in the last five years was in:

(1) Federal appellate courts	_____	%
(2) Federal trial courts	_____	%
(3) State appellate courts	_____	%
(4) State trial courts	_____	%
(5) Municipal courts	70	%
(6) District courts	_____	%
(7) Administrative tribunals	30	%
(8) Tribal courts	_____	%
(9) Other	_____	%
TOTAL		100%

- (b) What percentage of your practice in the last five years was:

(1) Civil litigation (excl. family law)	20	%
(2) Criminal litigation	20	%

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(3) Family law litigation _____ %
 (4) Non-litigation **60** %
 TOTAL 100%

(c) What percentage of your trials in the last five years were:

(1) Jury trials _____ %
 (2) Non-jury trials **100** %
 TOTAL 100%

(d) State the number of cases during your total career that you have tried to verdict or judgment (rather than settled) in the following courts, and indicate for each court the following percentages: trials in which you were sole counsel or chief counsel, jury trials, and trials where you were the arbiter/decision maker.

<u>Number</u>	<u>Court</u>	<u>% as Sole / Chief Counsel</u>	<u>% Jury</u>	<u>% as the Arbiter</u>
200+	Municipal	90	80	<u>0</u>
10	State Dist.	100	70	<u>0</u>
20	State Superior	80	0	<u>0</u>
	Federal Dist.			
65	Administrative	95	0	<u>75</u>
	Tribal Courts			
	Other			

(e) State the number of appellate cases during your total career where you appeared as counsel of record in the following courts, and indicate for each court the following percentages: cases where you were sole counsel or chief counsel, and cases where you were the arbiter/decision maker (if applicable).

<u>Number</u>	<u>Court</u>	<u>% as Sole / Chief Counsel</u>	<u>% as the Arbiter</u>
4	State Superior Court	80	<u>0</u>
	WA. Div. I COA		
	WA. Div. II COA		
	WA. Div. III COA		
	WA. Supreme Court		
	Fed. Cir. COA		
	U.S. Supreme Court		

(f) Briefly describe no more than five significant litigation matters that you directly handled as the sole counsel. For each, please provide the name and telephone number of opposing counsel, the name of the judge or other judicial officer, and the citation (if applicable).

Please see those cases listed in question # 15. I was sole counsel on all but two of those matters.

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- (g) State in detail your experience in adversary proceedings before administrative boards or commissions during the last five years.

I have filed objections to numerous liquor license applications or license renewals, representing the interests of the City of Seattle before the Washington State Liquor Control Board. The vast majority of those matters were resolved prior to hearing. In some instances, the Board ruled in favor of the City's objection without a formal hearing. In one matter, I appeared and testified as a witness on behalf of the City. In other matters, the City withdrew its objections.

25. Please briefly describe any legal non-litigation experience that you feel enhances your qualifications to serve as a judge.

As a community-based prosecutor, I have learned that prosecutors have a responsibility to not just prosecute crimes, but also to reduce public safety problems before they involve prosecution. Working with, and learning from programs sponsored by the National District Attorney's Association, American Prosecution Research Institute, Center for Court Innovation, Bureau of Justice Assistance and other organizations, I have learned from and contributed to evidence-based research showing reduction in crime can be achieved without the necessity of resorting to traditional prosecution. Those same organizations provide evidence-based research showing how the courts can also become a stronger community partner to reduce crime. Similarly, these organizations routinely offer technical assistance to implement court sponsored crime reduction programs, grants and guidance to change courts from traditional jail-courts to program courts that allow offenders to make positive changes while still being held accountable. The impacts can ultimately be measured in reductions in recidivism, as opposed to jail.

My family "adopted" a displaced family at the fall of Vietnam. Because she was not educated in the United States, my "sister" occasionally finds herself in unusual legal entanglements. I commonly have to take the time to resolve her situations. My sister serves a reminder to me of the struggles that persons with ESL commonly endure.

While acting as the Master Calendar prosecutor in Seattle Municipal Court, I proposed the Certificate of Readiness, whereby defense counsel would be relieved of the requirement to physically appear in order to simply answer "ready" for trial. I worked with the court and defender agencies to implement the Noted Motion calendar to resolve last-minute pre-trial motions and pleas, and also worked with the defender agencies to implement the early exchange of preferred trial dates to ease the time commitment at the master Calendar. I also drafted the procedures for subpoenas and in-camera review of police officers' personnel records, which was adopted by the court.

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26. If you are now an officer or director of any business organization or otherwise engaged in the management of any business enterprises, please provide the following: the name of the enterprise, the nature of the business, the title of your position, the nature of your duties, and the term of your service. If you are appointed and do not intend to resign such position(s), please state this below along with your reasons for not resigning.

I am a member (along with my brothers) of McKenna Oil, LLC. The business is based in Montana and the holdings consist of a small amount of real estate (grazing land) and mineral rights which are leased to others. The holdings were inherited and the LLC was formed, in essence, to protect further dilution of what we considered a family heirloom. The members have received no wages from the assets, and have only paid proceeds to non-profit organizations. CJC 5(C)(3) allows judges to hold and manage investments, including real estate, and although judges *should* not serve as managers of companies, it is not mandatory. Because the business is primarily real estate, and because it is a Montana LLC and all assets are located in Montana, there is no likelihood of a conflict or need for disqualification.

27. Please list all chairmanships of major committees in bar associations and professional societies and memberships on any committees that you have held and believe to be of particular significance.

I formerly held the position of Vice-President of the Northwest Indian Bar Association (NIBA). Because NIBA encompasses several states, I routinely assisted the President by attending Bar conferences or filling in on various committees as the representative of NIBA. Many of those Bar Leader conferences involved promotion of diversity and increasing access to justice.

As a member of the King County Bar Association's Young Lawyer Division, I was active in the Lawyer Practice Manual Committee, and our subcommittee was the first to distribute legal forms on disk.

As a "House Captain" with Christmas in April (now "Rebuilding Together") I was able to organize a team of 75 volunteers to completely remodel a disabled elderly person's home in just one day. As one can imagine the organizational requirements were significant as was the coordination of immediate problem-solving tasks necessary to accomplish the objective.

Judicial Interest and Experience

28. In 50 words or less, please describe why you should be appointed / elected and are seeking a judicial position.

I believe the citizens of Seattle deserve excellence in the judiciary – judges who perform at the highest level. I also believe the Court should be an active partner with other branches of City government, defender agencies and citizen groups to implement innovative and cost-efficient programs.

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29. In 50 words or less, please describe your judicial philosophy.

I believe the court should treat others as it demands - with dignity and respect. I believe that everyone should believe their case or testimony has been adequately heard and carefully considered. I believe the court should play a larger role to reduce public safety and provide convicted persons with meaningful opportunities and guidance to make positive changes to benefit themselves, and benefit our community as well.

30. Have you ever held a judicial office or have you ever been a candidate for such office? No.

31. Have you ever held public office other than a judicial office, or have you ever been a candidate for such an office? No.

32. Please briefly identify all of your experience as a neutral decision-maker (e.g. judge (permanent or pro tem) in any jurisdiction, administrative law judge, arbitrator, hearing officer, etc.). Give courts, approximate dates, and attorneys who appeared before you.

I was a contract hearing examiner (Administrative Law Judge) for the Washington State Board of Tax Appeals from approximately 1995 to 2001. During that time I presided over approximately 50+ cases. I issued decisions (Findings of Facts and Conclusion of Law) in each of those matters. Although I don't personally recall all of the cases, an on-line search (<http://bta.state.wa.us/>) of cases in which I presided revealed the names of attorney Russell Austin, Barbara Smith and Teddi Light (Mr. Austin is deceased and I could not locate contact information for the others). In the vast majority of those cases, the appellant appeared pro se. In many cases, appellants were represented by non-attorneys (allowed under the board's rules). One such regular non-attorney representative was Harley Hoppe (206-275-1100).

Community and Civic Activities

33. Please list your community and civic activities, including dates and leadership roles held, over the last 10 years.

As a community prosecutor, I have been committed to the program and recognize that community problems don't resolve themselves during the standard "nine-to-five" work hours. Consequently, I have dedicated myself to the community, working long or odd hours, leaving less time for other civic and professional activities that I previously enjoyed. Some examples of my professional community activities are listed below:

Rebuilding Together (formerly Christmas in April). This is a program intended to benefit elderly and disabled persons. Similar to a mini-version of Extreme Makeover, volunteers converge on a home to conduct necessary repairs. I have acted as both a volunteer and House Captain to oversee and coordinate rebuilding activities. Various dates in April.

Northeast Coalition to Prevent Underage Drinking. I participate in both the general membership and Enforcement and Consequences Roundtable. The emphasis of the coalition is to reduce underage drinking, underage substance abuse and issues related to minors and access to alcohol. This is a continuing coalition.

North Seattle Advisory Council member. This is a forum attended by representatives from north Seattle neighborhood groups. Emphasis of the Council is to discuss public safety ideas, trends and information that can be taken and further disseminated within the community.

On various occasions, I have acted as a mentor for students of Seattle University School of Law, participated in Seattle's Anti-graffiti Coalition, and participated as mock trial judge for both high school competitions as well as Seattle's law schools.