

IN THE CIRCUIT COURT OF SEBASTIAN COUNTY, ARKANSAS  
CIVIL DIVISION

FILED  
SEBASTIAN DISTRICT  
2025 MAY 2 12:32  
CHRISTOPHER RUSSELL  
CLERK, SEBASTIAN COUNTY  
PLAINTIFF

JOEY MCCUTCHEN

v.

CASE NO. 2025-25-569 VII

CITY OF FORT SMITH; and  
JEFF DINGMAN, in his Official Capacity  
as City Administrator

DEFENDANTS

COMPLAINT

Comes now the Plaintiff, Joey McCutchen, and for his Complaint against the Defendants,  
states:

1. This is an action brought pursuant to the Arkansas Freedom of Information Act of 1967 (herein "FOIA"), as amended, codified as Ark. Code. Ann. § 25-19-101 *et seq.*
2. Plaintiff Joey McCutchen is an adult citizen of the State of Arkansas and a taxpayer who resides in Sebastian County, Arkansas.
3. This cause of action seeks declaratory and injunctive relief. This Court has subject matter jurisdiction over the Complaint for declaratory and injunctive relief pursuant to Ark. Code Ann. § 25-19-107(a).
4. Defendant City of Fort Smith is a municipal corporation located in Sebastian County, Arkansas and was formed pursuant to the laws of the State of Arkansas.

5. The City of Fort Smith, by and through its agents and employees, is required by law to provide access to public records upon proper request, as defined in Ark. Code Ann. § 25-19-103(5)(A), which states:

“Public records means writings, recorded sounds, films, tapes, electronic or computer-based information or data compilations in any medium required by law to be kept or otherwise kept and that constitute a record of the performance or lack of performance of official functions that are or should be carried out by a public official or employee, a governmental agency, or any other agency wholly or partially supported by public funds or expending public funds. All records maintained in public offices or by public employees within the scope of their employment shall be presumed to be public records.” Ark. Code Ann. § 25-19-103(5)(A)

6. Defendant Jeff Dingman is the Acting City Administrator for the City of Fort Smith. In this role, he is a public official subject to the Arkansas Freedom of Information Act and is responsible for ensuring compliance with FOIA, including responding to requests for public records under Ark. Code Ann. § 25-19-103.

### **BACKGROUND**

7. On April 22, 2025, the Fort Smith Board of Directors (the "Board") unanimously approved a resolution to hire Rebecca Cowan as the City's internal auditor, offering her an annual salary of \$110,000. (Exhibit A; Rebecca Cowan Employment Offer)

8. On or about April 23, 2025, it was publicly reported that Cowan was facing a pending felony stalking charge in LeFlore County, Oklahoma, related to a 2024 incident. This information had apparently not been disclosed to the Board prior to the vote to hire her.

9. On April 24, 2025, the Board convened a special meeting and voted unanimously to rescind its hiring of Cowan.

10. The City previously hired Strategic Government Resources (“SGR”), a Texas-based recruiting firm, to assist with the hiring process. Under the terms of its agreement, the City

agreed to pay SGR approximately \$22,889 to conduct a nationwide recruitment effort to hire an internal auditor, including a “Comprehensive Media Report” on each candidate and a “Background Investigation Report.” (Exhibit B; SGR Contract) The contract specified that background checks would be conducted for all candidates at a cost of \$500 per applicant. (Exhibit B; at Page 22) According to the City, SGR did not provide either for Cowan.

11. Despite the agreement and SGR’s stated intent to conduct background checks after interviews, none appears to have been done for Cowan. In a March 4, 2025 email, Gary Holland of SGR wrote that he recommended “doing the interviews soon followed by background checks and so forth for the candidates the BOD wants to consider for selection.” (Exhibit C; SGR email) Rick Lolley, the City’s Chief Human Resources Officer, responded: “We will have interviews with the Board and selected candidates before we do background checks.” (Exhibit C). Nonetheless, no background check report from SGR was ever produced for Cowan.

12. Additional communications suggest that City staff may have already settled on Rebecca Cowan as the preferred candidate before any formal interviews or evaluations were complete. In a March 10, 2025 email, Mr. Dingman informed the Board that staff had forwarded its interest in evaluating four top-tier candidates to SGR. (Exhibit D; Email Chain regarding Auditor Candidates) The following day, Director Jarred Rego responded that he would like the Board to interview Cowan in person. *Id.* In a subsequent March 12, 2025 email, Rick Lolley, replied: “I agree with him. Unless [Cowan] bombs the interview, I don't see the need to interview any other candidate. She is local, has been local for years and will likely stay local.” *Id.*

13. Importantly, and for the purposes of this Complaint, the City of Fort Smith publicly stated that its Human Resources department conducted a background check on Rebecca Cowan and relayed the information to City administration. As reported by *Talk Business & Politics* on



April 29, 2025:

“(Fort Smith) Human Resources produced the background check and relayed the information to Administration per City protocol,” noted a response from the city when asked if background checks were made on Cowan prior to the board’s April 22 decision to hire her.”

(Exhibit E; *Talk Business & Politics* Article)

14. The City went even further in its public statements, continuing to imply that a background check had been performed. In the same *Talk Business & Politics* article dated April 29, 2025, the City stated: “Reports and other documents were presented to the Board of Directors; however, a background check was not included.” (Exhibit E)

15. On April 24, 2025, Plaintiff submitted a FOIA request to City Administrator Dingman requesting two different sets of public records. Only the second request is relevant to this Complaint. (Exhibit F; Plaintiff’s FOIA Request)

16. Specifically, Plaintiff requested all records related to the City’s hiring of an internal auditor, including but not limited to:

“*All documentation regarding hiring or otherwise, including compensation, the internal auditor, including any and all communications, agreements, salaries of the search firm. Also, please provide any and all correspondence between the Fort Smith City Administration and Board of Directors, including texts, emails or otherwise regarding the internal auditor.*” (Exhibit F) [emphasis added]

17. On April 29, 2025, at 5:22pm, Plaintiff sent an email to Mr. Dingman inquiring about the City’s failure to respond to the April 24<sup>th</sup> FOIA request concerning the internal auditor. (Exhibit G; Email chain with City Administrator Dingman) As of that time, no documents had been produced, and Plaintiff was seeking an explanation for the delay. Plaintiff requested the records in advance of the upcoming April 30<sup>th</sup> Board meeting where the internal auditor hiring was being discussed further.

18. On April 30, 2025, Plaintiff sent a follow-up email to Mr. Dingman noting that the



City still had not produced any background check on Rebecca Cowan or the reference check report that had been referenced in prior communications. (Exhibit G) Importantly, Plaintiff included all members of the Fort Smith Board of Directors in this email to ensure they were aware of the City's failure to provide the requested documents. Despite this follow-up, the City did not provide the requested documents and did not cite any exemption under FOIA for withholding them.

19. On April 30, 2025, at 9:44 p.m., Mr. Dingman sent an email to Plaintiff, acknowledging their conversation earlier that evening at the April 30<sup>th</sup> Board meeting regarding the City's failure to respond to the FOIA request. (Exhibit G) Mr. Dingman stated that records had been made available through the City's portal at approximately 4:31 p.m. that same day. However, those records were still untimely under FOIA, and they did not include the background check referenced in prior communications. In the same email, Mr. Dingman addressed the missing background check, stating:

"The document to which you refer was delivered to me as a hard copy, not as an email, but I no longer have that document. If a copy of such [a] record exists it will be provided." (Exhibit G) [emphasis added]

20. Upon reviewing the documents produced by the City and Mr. Dingman in response to his FOIA request, Plaintiff found it highly unusual that none of the emails or written correspondence between City Administration and the Board of Directors following the public disclosure of Cowan's criminal charges were included—particularly given the significance of the issue and the expectation that internal discussions would have taken place. Plaintiff specifically requested those records in his FOIA request, and their absence was concerning.

21. On May 1, 2025, Fort Smith Board Member Christina Catsavis responded to Plaintiff's FOIA-related email by forwarding an earlier exchange with Mr. Dingman that had not been produced by him or the City. In that exchange, sent on April 24<sup>th</sup>, Director Catsavis—clearly

trying to determine whether a background check had actually been performed on Rebecca Cowan—wrote to Mr. Dingman: “I remember very certainly that we were told a background check had been performed and references had been checked and that her references were good.” (Exhibit H; Email chain between Christina Catsavis and Jeff Dingman).

22. In response to Director Catsavis, Mr. Dingman replied on April 24, 2025, at 3:51 p.m., stating: “I do not believe a background check was performed.” (Exhibit H) Yet just days later, on April 30, 2025, at 9:44 p.m., Mr. Dingman told Plaintiff that he had, in fact, received a hard copy of the background check on Rebecca Cowan but no longer had the document. (See Exhibit G). This clear contradiction raises two possibilities—either no background check was ever done, or one was completed and then withheld or discarded. The inconsistency not only contradicts the City’s public statement that Human Resources completed a background check and relayed it to City administration, but also calls into question whether the City ever had the record at all—or, if it did, whether the record was improperly discarded.

23. In a formal response issued on May 1, 2025, Mr. Dingman, on behalf of the City, stated that the background check on Rebecca Cowan had been “hand-delivered in hard copy,” but that the record “no longer exists.” (Exhibit I)

### **FOIA VIOLATION**

24. The City of Fort Smith and Mr. Dingman failed to comply with Arkansas FOIA in several respects. First, the City failed to produce responsive records within the three-day deadline imposed by Ark. Code Ann. § 25-19-105(e). Plaintiff gave Mr. Dingman multiple opportunities to explain the delay and resolve the issue informally, yet the City still failed to timely provide the documents, including records directly requested and plainly subject to disclosure under FOIA.

25. Second, the City failed to produce email correspondence between Mr. Dingman

and Board Member Christina Catsavis that clearly fell within the scope of Plaintiff's April 24, 2025 FOIA request. Plaintiff explicitly requested all communications between the City Administration and the Board of Directors regarding the internal auditor. The email exchange between Ms. Catsavis and Mr. Dingman was not disclosed in the City's response and was only obtained when Ms. Catsavis independently forwarded it to Plaintiff on May 1, 2025. Plaintiff makes no criticism of Director Catsavis and is grateful for her willingness to provide a record that the City failed to produce.

26. Third, Mr. Dingman and the City have offered conflicting explanations about the existence of a background check on Rebecca Cowan. On April 24, 2025, Mr. Dingman told Board Member Christina Catsavis that he did not believe one had been performed. However, on April 30, 2025, Mr. Dingman told Plaintiff that he had received a hard copy of the background check but no longer had the document. The City later confirmed in a May 1, 2025 response that no copy of the background check exists. This contradiction raises two possibilities—either a background check was never conducted, or one was conducted and was improperly discarded or destroyed.

27. If a background check was conducted and received by Mr. Dingman but later discarded—such conduct may constitute a violation of Ark. Code Ann. § 5-54-121, which criminalizes tampering with or destroying a public record. Although Ark. Code Ann. § 5-54-121 is a criminal statute, the destruction of the background check deprived Plaintiff and the public of its right under FOIA to inspect and obtain this public record. If the City discarded or otherwise failed to preserve the document, Plaintiff and the public were effectively denied access to a record that was both requested and subject to disclosure under the law.

28. In addition to these FOIA violations, the circumstances surrounding the City's handling of the alleged background check raise significant concerns about transparency and



recordkeeping. In the digital age, it is beyond belief that the only copy of a background check conducted by a municipal government exists solely on a piece of paper—without any electronic backup, email trail, or internal record of its creation, transmission, or storage. These circumstances warrant further investigation to determine whether a background check was actually ever conducted and whether the City has complied with its legal obligations to maintain and produce public records.

WHEREFORE, Plaintiff respectfully requests that the Court enter a declaratory judgment that the City of Fort Smith and Jeff Dingman violated the Arkansas Freedom of Information Act by failing to timely produce records, by withholding responsive correspondence between Mr. Dingman and Director Christina Catsavis, and by failing to produce or preserve the background check on Rebecca Cowan if one was conducted. Plaintiff further requests that the Court order the City to turn over all other records responsive to Plaintiff's FOIA request as necessary, award Plaintiff his costs and attorney's fees, and grant all other just and proper relief to which he may be entitled.

Respectfully submitted,



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Fort Smith, AR 72902  
Phone (479) 783-0036  
Facsimile (479) 783-5168





623 Garrison Avenue  
3rd Floor, Room 315  
Fort Smith, AR 72901

Phone: (479) 784-2201

Fax: (479) 784-2430

administration@fortsmithar.gov

April 16, 2025

Ms. Rebecca Cowan  
cowanrebeccad@gmail.com

Dear Ms. Cowan:

It is with great pleasure that, on behalf of The City of Fort Smith, AR, (COFS) I extend to you this tentative offer of employment as Director of Internal Audit. In this position, you will be in the Internal Audit department and will be working closely with other department heads, the Audit Advisory Committee, and the Board of Directors of the City. You will report directly to the Board of Directors of the City.

This position is a regular, full-time position to begin on a mutually agreed upon date. On that day, you will need to attend new hire orientation at 8:45 AM in the Human Resources department (623 Garrison Avenue). Your starting salary will be \$4,230.77 biweekly, which if annualized amounts to \$110,000.02. Pay periods are on a bi-weekly basis, paid on Fridays. In this position, you will be classified as an exempt employee and will not be eligible for overtime.

**Offer includes:**

- Insured benefits beginning the first of the month after your first 60 days of employment. As outlined in our Summary of Benefits, COFS offers an array of insurance plans available to employees with costs shared by COFS.
- 401(a) retirement plan in which the City will contribute 7% of your gross earnings, as well as a 457 deferred compensation plan in which the City will contribute \$100 per month (\$1,200 annualized). You may also make contributions to the 457 plan.
- 160 hours of vacation time beginning your first day of employment. You will accrue vacation at the rate equivalent to 160 hours per year until such time as your years of employment with the City elevates you to a higher accrual rate as stated in the personnel handbook.
- Sick leave benefits in accordance with the COFS leave policies located in the personnel handbook.
- Car allowance of \$600 per month (\$7,200 annualized).



fortsmithar.gov



Rebecca Cowan  
Page 2  
April 16, 2025

Please note, the City's Board of Directors will have to approve the offer of employment and authorize execution of an At Will Employment Agreement for the employment offer to be final.

This letter is a guideline to the terms of your employment with the City of Fort Smith and fully supersedes any prior agreement or understanding, whether written or oral.

If you have any questions, please call me at 479-784-2202 or Rick Lolley at 479-784-2220. I look forward to your favorable response and to a mutually rewarding working relationship.

Regards,



Jeff Dingman  
Acting City Administrator

Agreed: Rebecca Cowan  
Date: 4/18/25



**Agreement for Limited Scope Recruitment Services  
for Director of Internal Audit  
between**

**Strategic Government Resources, Inc. ("SGR")  
and  
City of Fort Smith, Arkansas ("Organization")**

**Scope of Services.** SGR offers individually priced executive search components to deliver only the specific services you need. All services are rendered remotely. Onsite visits, if desired, are considered a separate component and subject to additional professional fees and travel expenses. Each of the individual components, and the pricing for each, is included below.

• **Limited Scope Recruitment / \$11,500\*** (reflects a \$2,400 discount)

*\* Ad placement costs are not included in the Base Price of \$11,500. Ad placement costs are estimated to be between \$2,000 and \$3,000 and shall be added to the total cost of services upon approval from the organization.*

- **Position Profile Brochure.** SGR utilizes a professional graphic designer and professional writer to produce a position profile brochure based on information and photos provided by the Organization. The brochure is reviewed and revised in partnership with the Organization until Organization agrees that it accurately reflects the community, organization, position, and desired attributes. *Organization agrees to provide photos/graphics and other information (job description, budget documents, links to web pages, etc.) needed to develop position profile brochure. Organization agrees to respond to drafts of documents and reports in a timely manner; failure to do so may extend timelines and can negatively impact the outcome of the process.* There may be additional charges for changes made to the Position Profile Brochure after the brochure has been approved by the Organization and the position has been posted online.
- **Marketing.** The marketing spans over thirty (30) days to a maximum of forty-five (45) days, as specified by Organization. Within this specified time period, SGR agrees to:
  - custom-made graphic for email and social media marketing
  - announcement in SGR's 10 in 10 e-newsletter on Servant Leadership;
  - position posting on SGR's website;
  - ad on SGR's Job Board;
  - email blast to SGR's category-specific, opt-in network of subscribers
  - promotion on SGR's LinkedIn
  - evaluation and recommendation for ad placements based on type of position and location; and
  - placements of ads (pass-through cost of ad placements not included).
- **Application Management.** SGR will receive resumes and cover letters on behalf of Organization through SGR's applicant tracking system, communicate with applicants



throughout the application submittal period, evaluate resumes after the position closes, conduct a virtual briefing with Organization after position closes, send emails to retain or release applicants after the briefing with the Organization, and provide application materials of retained applicants to the Organization.

- o *Organization agrees to refer all prospective applicants to SGR and not to accept applications independently during the recruitment process.*
- o *Organization shall specify how long SGR will accept applications for the position, up to a maximum of 45 days.*
- o *Within seven (7) business days of application close date, SGR will conduct a virtual briefing with Organization and present candidate evaluations.*
- o *Organization agrees to provide SGR with a list of any candidates to be released within two (2) weeks following the briefing with SGR. At that time, SGR will release any candidates that will not continue in the process and email the remaining candidates that the Organization will be the primary contact from that point forward. If the Organization does not provide a list of candidates to be released, SGR will email all candidates and notify them that the Organization will be the primary contact from that point forward. SGR will then consider services fulfilled.*
- o *If the Organization is not satisfied with the applicant pool, SGR must be notified within three (3) weeks of triage briefing date, and SGR will then coordinate with Organization to reopen position, for a maximum of 45 days, at no additional charge to Organization (with the exception of reimbursable expenses). After the second posting of position, each additional opening will be charged as a new position for the full amount of \$11,500.*
- **Stakeholder Survey / \$1,500**
  - *SGR will provide recommended survey questions within three (3) business days of project initiation. SGR will set up an online survey within one (1) business day after Organization has reviewed and approved the survey questions. Stakeholders can be directed to a web page or invited to take the survey by email. SGR and Organization will agree to the open survey time period, typically ten (10) to thirty (30) days.*
  - *Organization shall be responsible for marketing and promoting the survey to stakeholders.*
  - *A written summary of results is provided to Organization within three (3) business days of survey close date. Survey is not validated statistically.*
- **Recorded Online Interviews / \$250 per candidate**
  - *SGR provides recommended position-specific questions for Organization approval, prompts candidates to complete online interviews, and emails a link to Organization to view the recorded interviews.*
  - *Candidates are typically given five (5) to seven (7) days to complete the interviews. SGR will provide a link with the candidate interviews within two (2) business days after candidates complete the recorded interviews.*
- **Comprehensive Media Reports / \$1,250 per candidate**
  - *SGR uses a proprietary media search process to go far beyond automated Google/LexisNexis searches. SGR's process is customized to provide a comprehensive media search on each candidate.*
  - *SGR will provide media report via email within two (2) weeks of receiving completed release form from candidate.*



- **Management Style Assessments / \$175 per candidate**
  - SGR uses the DISC Management psychometric assessment to provide detailed insights regarding how a candidate would lead and manage an organization. SGR will also provide a DISC Management Comparison Report, which presents a side-by-side view of each candidate's preferred management style.
  - Candidates are typically given two (2) to three (3) business days to complete the assessments. The assessment reports will be provided to Organization within two (2) business days of assessment completion by candidates.
- **Background Investigation Report / \$500 per candidate**
  - Through SGR's partnership with a licensed private investigations firm, we are able to provide detailed comprehensive background reports.
  - Background check reports include: SSN trace and address verification; credit bureau report (if requested); personal information, address, and employment comparisons; county criminal and civil records search (for counties where the candidate has lived or worked in the last 10 years); state criminal records search (for states where the candidate has lived in the last 10 years); county wants and warrants (for counties where the candidate has lived or worked in the last 10 years); Federal criminal records search; InstaCriminal national search; Global homeland security search; sex offender records search; driving/motor vehicle records; education verification for highest degree obtained; employment verification (if requested); and military verification (if requested).
- **Reference Checks / \$250 per candidate**
  - SGR provides the organization a specific list of contacts to request from the candidate, based on the type of position. SGR provides a written (anonymous) summary of reference checks.
- **Supplemental Services / \$250 per hour**
  - If the Organization desires any supplemental services not mentioned in this section, an estimate of the cost and hours to be committed will be provided at that time, and no work shall be done without approval. Supplemental services will be billed out at \$250 per hour.

**Reimbursable Expenses.**

- **Ad Placements.** Ad placements are billed at actual cost. No ad placement costs will be incurred without prior approval of Organization.
- **Reproduction Costs.** Reproduction costs are not anticipated or taken into consideration in component search pricing.
- **Shipping.** Shipping charges are billed at actual cost.
- **Travel.** Travel is not anticipated or taken into consideration in component search pricing. If the Recruiter and Organization agree that Recruiter travel is beneficial for the component search, travel time for the recruiter will be paid at a rate of \$250 per hour, plus \$1,000 per day for each day the recruiter is working onsite, regardless of number of hours worked. Travel expenses will be reimbursed in accordance with SGR's travel policy rates.



**Terms and Conditions.**

- **Obligation.** This contract provides enabling authority only, and no work will be initiated without the advance authorization of Organization. There is no obligation under this agreement for the Organization to utilize any of these services or any minimum volume of these services.
- **Termination.** The Organization reserves the right to terminate this agreement at any time upon giving SGR seven (7) days advanced written notice to SGR, Attn: Melissa Valentine, PO Box 1642, Keller, TX 76244 or by email to [Melissa@GovernmentResource.com](mailto:Melissa@GovernmentResource.com). In such event, SGR will be compensated for all work satisfactorily completed up to and through the date of termination. From and after the effective date of termination, neither party shall have any obligation to the other.
- **Equal Opportunity Commitment.** SGR abides by equal employment opportunity. SGR does not discriminate and will not enter into an engagement with an entity or organization that directs, or expects, that bias should or will be demonstrated on any basis other than those factors that have a bearing on the ability of the candidate to do the job. The Organization agrees that Organization is ultimately responsible for candidate selections and that Organization will not discriminate against any candidate on the basis of age, race, creed, color, religion, sex, sexual orientation, national origin, disability, marital status, or any other basis that is prohibited by federal, state, or local law.
- **Fair Credit Reporting Act.** The Organization agrees that if Organization decides not to hire a candidate as a result of their credit history report, Organization agrees to comply with the FCRA with regard to any pre- or post-adverse action notices and requirements.
- **Confidentiality.** The Organization acknowledges that the nature of executive recruitment is such that SGR engages in discussions with prospects who may or may not ultimately become a candidate, and that SGR may utilize its proprietary network of relationships to identify and engage prospective candidates, and that premature release of such proprietary information, including names of applicants and prospective applicants, may be damaging to the prospects and to SGR. Accordingly, the Organization acknowledges and, to the extent provided by law, agrees that all information related to this search is proprietary and remains the property of and under the exclusive control of SGR, regardless of whether such information has been shared with the Organization, including all decisions regarding release of information.
- **Public Information Requests.** The Organization agrees to provide legal opinions to SGR regarding when and if information must be released in accordance with Public Information requests. If the Organization receives an open records request, the Organization shall notify and share the request with SGR in writing as soon as possible but within no more than three (3) business days of receipt. The Organization shall provide sufficient time for SGR to notify and provide advance notice to the impacted individuals prior to the Organization releasing the required information with protected information redacted.
- **Payment.** SGR will bill the fixed fee for the Limited Scope Recruitment in two (2) installments: 50% upon contract execution and 50% upon completion of services. Expenses, including reimbursable ad placement expenses, and supplemental services will be billed as incurred or provided. Payment terms are thirty (30) days from date of invoice. Balances that are unpaid after the payment deadline are subject to a fee of 5% per month or the maximum lawful rate, whichever is less, on the owed amount every month, charged monthly until the balance is paid.

Summary of Pricing. Please Initial below to confirm anticipated services.

Service	Pricing (excludes reimbursable expenses or add-ons)	Initial for Service
Limited Scope Recruitment	\$11,500	RL
Stakeholder Survey	\$1,500	—
Recorded Online Interviews	\$250 per candidate	RL
Comprehensive Media Reports	\$1,250 per candidate	RL
Management Style Assessment	\$175 per candidate	RL
Background Checks	\$500 per candidate	RL
Reference Checks	\$250 per candidate	RL

## Organization Contact for Invoicing:

Name: RICK LOLLEYPosition: CHIEF HUMAN RESOURCES OFFICEREmail: Rick.Lolley@FortSmithAR.govPhone: 479-784-2220Approved and Agreed to, this the 6th day of MAY, 2024 by and between

DocuSigned by:

Jeri J. Peters

E6200024B505400

Jeri J. Peters, President of Executive Recruitment  
Strategic Government ResourcesCarl E. Geffken

City of Fort Smith, Arkansas

Name: CARLE. GEFFKENTitle: CITY ADMINISTRATOR



**Lolley, Rick**

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**From:** Lolley, Rick  
**Sent:** Tuesday, March 4, 2025 3:25 PM  
**To:** Gary Holland  
**Cc:** Dingman, Jeff  
**Subject:** SGR- Video Interviews

Gary,

Thanks for the update. We will have interviews with the Board and selected candidates before we do background checks.

Rick

-----Original Message-----

**From:** Gary Holland <garyholland@governmentresource.com>  
**Sent:** Tuesday, March 4, 2025 1:42 PM  
**To:** Lolley, Rick <Rick.Lolley@FortSmithAR.gov>  
**Cc:** Dingman, Jeff <JDingman@FortSmithAR.gov>  
**Subject:** [Warning: External Email] SGR- Video Interviews

**\*\*CAUTION: EXTERNAL-EMAIL** This message originated from outside the organization. Please do not click on any links or open attachments unless you recognize the sender and know the content is safe. **\*\***

Hi Rick and Jeff:

The semi finalists for the director of internal audit have completed the video interview. However, one candidate's response to the first question was cut off prematurely, and I'm asking them to redo that response. I should be able to send all of the Interviews to you soon.

Some of the candidates are asking what the next steps in the process will be, so if you could give me some insights into whether invitations for a personal interview will come next or if you will want to do background checks, etc., ahead of the interviews in Fort Smith. I recommend doing the interviews soon followed by background checks and so forth for the candidates the BOD wants to consider for selection.

I look forward to hearing from you,  
Gary

Gary Holland  
SGR - Executive Recruitment  
Sent from my iPhone





**Lolley, Rick**

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**From:** Lolley, Rick  
**Sent:** Wednesday, March 12, 2025 8:16 PM  
**To:** Dingman, Jeff  
**Subject:** Re: Internal Audit Candidates for review

I agree with him. Unless she bombs the interview, I don't see the need to interview any other candidate. She is local, has been local for years and will likely stay local.

Rick  
Sent from my iPhone

On Mar 12, 2025, at 7:28 PM, Dingman, Jeff <JDingman@fortsmithar.gov> wrote:

The only feedback I've received so far...

--Jeff.D

**From:** Rego, Jarred <Jarred.Rego@FortSmithAR.gov>  
**Sent:** Wednesday, March 12, 2025 9:12 AM  
**To:** Dingman, Jeff <JDingman@FortSmithAR.gov>  
**Subject:** Re: Internal Audit Candidates for review

Jeff,

I would like for us to interview Rebecca in person.

Thanks!

- Jarred

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**From:** Dingman, Jeff <JDingman@FortSmithAR.gov>  
**Sent:** Monday, March 10, 2025 3:32 PM  
**To:** Board of Directors Email Group <BoardofDirectors@FortSmithAR.gov>  
**Cc:** Lolley, Rick <Rick.Lolley@FortSmithAR.gov>  
**Subject:** Internal Audit Candidates for review

Mayor & Directors,

Staff forwarded the Board's stated interest in evaluating four of the five top-tier Internal Auditor candidates to SGR, less the one that was interviewed last summer.

SGR asked each of the four to submit a video interview. For your evaluation, please see the below links to the video interviews conducted by the candidates.



## **Fort Smith human resources director retains job after internal auditor mishap**

The Fort Smith Board of Directors on Tuesday (April 29) did not fire Rick Lolley, the city's human resources director. Lolley was on the hot seat following a failed attempt to hire an internal auditor.

Instead, the board voted unanimously to authorize Acting City Administrator Jeff Dingman to "initiate" any appropriate disciplinary actions against Lolley who, based on responses from the City of Fort Smith, did not provide the board all the background info on an internal auditor candidate. The board action followed more than two hours in executive session.

The board on April 22 unanimously approved a resolution to hire Rebecca Cowan for the position of internal auditor with an annual salary of \$110,000. On April 23, Talk Business & Politics was the first to report that Cowan faced felony charges related to a 2024 stalking charge. Cowan, who is scheduled for court in Poteau on May 21, is charged with a felony but is not a convicted felon.

On April 24, the board met in a special called session to rescind the resolution to hire Cowan. Board members interviewed by Talk Business & Politics said they were not aware of Cowan's legal situation prior to the April 22 vote.

However, there were members of city administration who did know about Cowan's background.

Keller, Texas-based SGR was paid \$22,889 by the city to conduct a nationwide recruitment effort to hire an internal auditor, a position open since April 1, 2024. The contract between the city and SGR was approved May 6, 2024. SGR conducts a second search for candidates in January 2025 when the first round failed to deliver a suitable candidate. The total cost included both searches.

Although the contract indicated that SGR would be paid \$1,250 to conduct a "Comprehensive Media Report" on each candidate and be paid \$500 provide a "Background Investigation Report" on each candidate, the city said SGR did not provide either for Cowan.

"(Fort Smith) Human Resources produced the background check and relayed the information to Administration per City protocol," noted a response from the city when asked if background checks were made on Cowan prior to the board's April 22 decision to hire her.



A simple Internet search would have discovered Cowan's legal situation, so it is unclear the extent of background vetting conducted by SGR or the city.

"Reports and other documents were presented to the Board of Directors; however, a background check was not included," noted a response from the city to several questions posed by Talk Business & Politics. "In her pre-screening questionnaire, which was provided to the Board, Ms. Cowan was asked whether a background check would reveal any concerning information. She disclosed that she was currently involved in litigation related to a highly contested divorce."

Board members have said they prefer to have the city conduct a new search for internal auditor without using a recruitment firm. No details have yet been provided about the nature of that search.



## Suzanne Desmarais

---

**From:** Joey McCutchen <jmccutchen@mccutchenlawfirm.com>  
**Sent:** Thursday, April 24, 2025 10:34 AM  
**To:** Jeff Dingman  
**Cc:** Suzanne Desmarais; MSN Receptionist; Stephen Napurano  
**Subject:** FOIA

Pursuant to FOIA, please provide all documentation, including draft resolutions, ordinances or otherwise, regarding amendments to the consent decree proposal set for vote on May 13, 2025. This could include, but not limited to, separating out police, street etc from consent decree item or shortening the length of time for consideration of streets and police by the voter.

Also, please provide all documentation regarding hiring or otherwise , including compenstion, the internal auditor, including any and all communications, agreements, salaries of the search firm. Also, please provide any and all correspondence between the Fort Smith City Administration and board of directors, including texts, emails or otherwise regarding the internal auditor.

Sent from my iPhone



**From:** "Dingman, Jeff" <JDingman@fortsmithar.gov>  
**Date:** April 30, 2025 at 9:44:57 PM CDT  
**To:** Joey McCutchen <JMcCutchen@mccutchenlawfirm.com>  
**Cc:** Suzanne Desmarais <sdesmarais@mccutchenlawfirm.com>, "Rego, Jarred" <Jarred.Rego@fortsmithar.gov>, "Good, Andre" <Andre.Good@fortsmithar.gov>, "Kemp, Lee" <Lee.Kemp@fortsmithar.gov>, "Catsavis, George" <George.Catsavis@fortsmithar.gov>, "Catsavis, Christina" <Christina.Catsavis@fortsmithar.gov>, Kevin Settle <Kevin.Settle@fortsmithar.gov>, "Martin, Neal" <Neal.Martin@fortsmithar.gov>, Mayor <mayor@fortsmithar.gov>  
**Subject:** RE: Late and Incomplete FOIA Request Response regarding Internal Auditor hire

Mr. McCutchen:

I entered your emailed request into the City's records request system and have replied via that system. Your original email, included at the base of this email string, included two separate requests and I entered each separately into the records request system. I responded to the first one via the system on Monday, April 28 at 10:28 a.m. When you and I spoke last evening, you indicated that you had received that response and then, quite fairly, asked why I had not responded to your other request.

This afternoon at 4:31 p.m. the system sent an email to this email address indicating that records responsive to your request are available in that system. I have attached an email that I sent you at 12:21 p.m. today (April 30), not included of the string below, in which I conveyed: "I intend to have a response for you still today, even if I may need to continue to add to it tomorrow or later." I told you last night that I would produce a reply today, and I did.

I have added your specific question from the email you sent me today at 12:14 pm (below) as a separate entry into the records request system. The document to which you refer was delivered to me as a hard copy, not as an email, but I no longer have that document. If a copy of such record exists it will be provided.

SGR was asked to conduct and did provide a professional reference check, and that report has been added to the records request center.





SGR was not asked to conduct a background check. No record exists.

The links you reference as no longer active are also no longer active for us. That system does not belong to the city, therefore the city no longer has active links to provide.

Jeff.D

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**From:** Joey McCutchen <jmccutchen@mccutchenlawfirm.com>  
**Sent:** Wednesday, April 30, 2025 8:55 PM  
**To:** Dingman, Jeff <JDingman@FortSmithAR.gov>  
**Cc:** Suzanne Desmarais <sdesmarais@mccutchenlawfirm.com>; Rego, Jarred <Jarred.Rego@FortSmithAR.gov>; Good, Andre <Andre.Good@FortSmithAR.gov>; Kemp, Lee <Lee.Kemp@fortsmithar.gov>; Catsavis, George <George.Catsavis@FortSmithAR.gov>; Catsavis, Christina <Christina.Catsavis@FortSmithAR.gov>; Kevin Settle <Kevin.Settle@FortSmithAR.gov>; Martin, Neal <Neal.Martin@FortSmithAR.gov>; Mayor <Mayor@FortSmithAR.gov>  
**Subject:** Late and Incomplete FOIA Request Response regarding Internal Auditor hire

Mr. Dingman:

As noted below, the city is in violation of FOIA by failing to provide my Record Request in a timely manner. When I asked you last night about the late FOIA response, you responded you did not have the time to get it done time.

My FOIA request on April 24, 2025 requested "all documentation regarding hiring the internal auditor..." Even today, I have not received all documentation.

I expect a full, complete response to my FOIA request by noon, Thursday, April 30, 2025.

There are various links that are not activated. Please provide those public records or activate the links.

I have not received the Reference Check Report on Rebecca Cowan noted in emails as the consolidated Reference Report. I have not received the video interviews of Rebecca Cowan.

I did not receive any background check on Rebecca Cowan. Under Arkansas Law, if no records exist, you are required to specifically state, "no records exist." You did not do so. Please produce any and all background checks immediately. Also, under FOIA, you are required to provide the specific exemption, if one exists. You did not do so.

You also did not produce the email or other document from Fort Smith Human Resources with the attached background check, relaying the Human Resources background check. According to the Talk Business and Politics Article, the city stated to TB&P, "Human Resources produced the background check and relayed the information to Administration, per city protocol." You go on to state that "Reports and other documents were presented to the board of directors; however, a background check was not included."

You also did not produce a background check from SGR. In the partial documents you provided today, SGR repeatedly talks about them doing or going to do a background check. Per my FOIA request, I again ask for the SGR background check. If no such SGR background check exists, you



are required to reply no SGR background check exists. If no SGR background check exists, my FOIA request of April 24, 2025 certainly covers all documents that discuss the SGR background check.

I also note in the partial documents, including emails, that you provided that all board members were told, in writing or verbally, that a positive reference check report was received from SGR. It seems this is deceptive, if the background check reflects negatively.

In addition to my FOIA request, I also, as a Fort Smith Citizen, request you to answer and explain the following: who in Fort Smith Human Resources produced the background check? Who relayed the background check to "Administration?" Who specifically received the background check in "Administration?" Why was the background check not provided to the board of directors? Did the background check include the fact that Rebecca Cowan was charged with a felony before she was hired? Did SGR do background check? If not, why not? Why is/was Mr. Lollie's job in jeopardy, since HR both "produced the background check and relayed the information to Administration."

The board spent 2 1/2 hours in executive session to direct you to "initiate any disciplinary action concerning the Chief Human Resource Officer and report to board of directors in swift and timely fashion."

If you have any questions, please feel free to contact me.

**Joey McCutchen**  
**Trial Lawyer**

**"Protect the 7<sup>th</sup> Amendment; it's the one that protects all the rest."**

**McCutchen Napurano - The Law Firm**

P.O. Box 1971, 1622 North B Street

Fort Smith, AR 72901

Office: [\(479\) 783-0036](tel:(479)783-0036) Fax: [\(479\) 783-5168](tel:(479)783-5168)



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**From:** Dingman, Jeff <[JDingman@FortSmithAR.gov](mailto:JDingman@FortSmithAR.gov)>  
**Sent:** Wednesday, April 30, 2025 3:10 PM  
**To:** Joey McCutchen <[jmccutchen@mccutchenlawfirm.com](mailto:jmccutchen@mccutchenlawfirm.com)>  
**Cc:** Suzanne Desmarais <[sdesmarais@mccutchenlawfirm.com](mailto:sdesmarais@mccutchenlawfirm.com)>  
**Subject:** RE: [Warning: External Email] RE: FOIA

This message is acknowledged.

Jeff.D



---

From: Joey McCutchen <[jmccutchen@mccutchenlawfirm.com](mailto:jmccutchen@mccutchenlawfirm.com)>  
Sent: Wednesday, April 30, 2025 2:12 PM  
To: Dingman, Jeff <[JDingman@FortSmithAR.gov](mailto:JDingman@FortSmithAR.gov)>  
Cc: Suzanne Desmarais <[sdesmarais@mccutchenlawfirm.com](mailto:sdesmarais@mccutchenlawfirm.com)>  
Subject: [Warning: External Email] RE: FOIA

**\*\*CAUTION: EXTERNAL-EMAIL This message originated from outside the organization. Please do not click on any links or open attachments unless you recognize the sender and know the content is safe. \*\***

Please confirm you received my email below.

**Joey McCutchen**  
**Trial Lawyer**

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P.O. Box 1971, 1622 North B Street

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From: Joey McCutchen  
Sent: Wednesday, April 30, 2025 12:14 PM  
To: 'Dingman, Jeff' <[JDingman@FortSmithAR.gov](mailto:JDingman@FortSmithAR.gov)>  
Cc: Suzanne Desmarais <[sdesmarais@mccutchenlawfirm.com](mailto:sdesmarais@mccutchenlawfirm.com)>  
Subject: RE: FOIA

Mr. Dingman:

As we discussed last night at the meeting, the city is late on my FOIA request regarding the internal auditor I sent last Thursday ( see below) and is in violation of FOIA.

I have also read the Talk Business and Politics article dated April 29, 2025 in which the city stated, " Fort Smith Human Resources produced the background check and relayed the information to administration per city protocol." I believe this information in this quote is covered in my original FOIA request. Please produce any and all documents related to the production of the background check, including the background check itself and the documentation of the background check being "relayed to city administration per city protocol."

**Joey McCutchen**  
**Trial Lawyer**

**"Protect the 7<sup>th</sup> Amendment; it's the one that protects all the rest."**

**McCutchen Napurano - The Law Firm**

P.O. Box 1971, 1622 North B Street

Fort Smith, AR 72901

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From: Joey McCutchen  
Sent: Wednesday, April 30, 2025 10:53 AM  
To: 'Dingman, Jeff' <[JDingman@FortSmithAR.gov](mailto:JDingman@FortSmithAR.gov)>  
Subject: RE: FOIA

I need to see an email.

**Joey McCutchen**  
**Trial Lawyer**

**"Protect the 7<sup>th</sup> Amendment; it's the one that protects all the rest."**

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From: Joey McCutchen  
Sent: Tuesday, April 29, 2025 5:22 PM  
To: Dingman, Jeff <[JDingman@FortSmithAR.gov](mailto:JDingman@FortSmithAR.gov)>  
Subject: FW: FOIA

You are late on this response regarding the internal auditor. Why has I not received the documents?

**Joey McCutchen**  
**Trial Lawyer**

**"Protect the 7<sup>th</sup> Amendment; it's the one that protects all the rest."**

**McCutchen Napurano - The Law Firm**

P.O. Box 1971, 1622 North B Street

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From: Suzanne Desmarais <[sdesmarais@mccutchenlawfirm.com](mailto:sdesmarais@mccutchenlawfirm.com)>  
Sent: Tuesday, April 29, 2025 5:19 PM  
To: Joey McCutchen <[jmccutchen@mccutchenlawfirm.com](mailto:jmccutchen@mccutchenlawfirm.com)>  
Subject: Fw: FOIA



## Joey McCutchen

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**From:** Catsavis, Christina <Christina.Catsavis@FortSmithAR.gov>  
**Sent:** Thursday, May 1, 2025 1:52 PM  
**To:** Joey McCutchen  
**Subject:** Fw: Background information related to DIA candidate

In response to your FOIA request here is my communication about the internal auditor.

Thank you,

Christina Catsavis

---

**From:** Dingman, Jeff <JDingman@FortSmithAR.gov>  
**Sent:** Thursday, April 24, 2025 3:51 PM  
**To:** Catsavis, Christina <Christina.Catsavis@FortSmithAR.gov>  
**Subject:** RE: Background information related to DIA candidate

Christina,

Your message is acknowledged.

The professional references were certainly checked, and I believe the positive responses from those was relayed to the Board.

I do not believe a background check was performed. Whether it was specifically asked by the Board I cannot attest but regardless it is certainly proper that the city would have done one for this position.

I firmly believe that Director Rego did NOT know that there was a felony arrest or any charges currently pending.

Rick Lolley intends to be there, and we are seeking Doug Carson's attendance as he handles much of our employee work with Daily & Woods. We are asking that either Jerry or Colby attend if Doug cannot.

Jeff.D

---

**From:** Catsavis, Christina <Christina.Catsavis@FortSmithAR.gov>  
**Sent:** Thursday, April 24, 2025 3:06 PM  
**To:** Dingman, Jeff <JDingman@FortSmithAR.gov>  
**Subject:** Re: Background information related to DIA candidate

Jeff,

I still have not received an answer to my previous questions. Since it appears that we will be having a meeting this evening to discuss the situation I will forgo my trip down to City Hall and wait until this evening to discuss further but I would like my questions answered. I remember very certainly that we were told a background check had been performed and references had been checked and that her references were good.



To: Dingman, Jeff <[JDingman@FortSmithAR.gov](mailto:JDingman@FortSmithAR.gov)>  
Subject: Fw: Re: Current Stalking case # [2023-00166](#)

Jeff,

Director Christina Catsavis contacted me this morning asking for information on Rebecca Cowan. She stated she was led to believe that a thorough background investigation had been conducted and that Ms. Cowan was simply involved in a nasty divorce and had no idea that there were felony criminal charges being levied against her. I told her that I had no idea who Rebecca Cowan was until Rick introduced me to her at Tuesday night's meeting and that any background check done did not involve me or the police department. She asked for a copy of the police report from LeFlore County. It is attached and previously sent.

-db

---



From: City of Fort Smith Records Request Center <[fortsmithar@govqa.us](mailto:fortsmithar@govqa.us)>

Sent: Thursday, May 1, 2025 7:09 PM

To: Joey McCutchen <[jmccutchen@mccutchenlawfirm.com](mailto:jmccutchen@mccutchenlawfirm.com)>

Subject: City Department Records Request :: C004913-043025

--- Please respond above this line ---



---

RE: City Department Records Request of April 30, 2025, Reference # C004913-043025

Dear Joey McCutchen,

The City of Fort Smith received a public records request from you on April 30, 2025. Your request mentioned:

**I have also read the Talk Business and Politics article dated April 29, 2025 in which the city stated, "Fort Smith Human Resources produced the background check and relayed the information to administration per city protocol." I believe this information in this quote is covered in my original FOIA request. Please produce any and all documents related to the production of the background check, including the background check itself and the documentation of the background check being "relayed to city administration per city protocol."**

The City of Fort Smith has reviewed its files and has determined there are no responsive record(s) to your request.

**The background check information was hand-delivered in hard copy. That record no longer exists. The Chief Human Resources Officer does not have a copy of the packet that was delivered. No record exists.**

For questions or additional information, please reply to this email.

Sincerely,

Jeff Dingman  
Deputy City Administrator  
City Administration

---

To monitor the progress or update this request please log into the [Records Request Center](#)

