

CITY OF MILWAUKEE

Form CA-43

GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
PATRICK B. McDONNELL
LINDA ULISS BURKE
Deputy City Attorneys



OFFICE OF CITY ATTORNEY

800 CITY HALL
200 EAST WELLS STREET
MILWAUKEE, WISCONSIN 53202-3551
TELEPHONE (414) 286-2601
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January 26, 2004

To the Honorable Common Council
of the City of Milwaukee
Room 205 - City Hall

Re: Communication from Attorney Laurie A. Eggert, Eggert & Cermele, S.C.
for legal fees for Police Officers Dan Dzievit and John Tabaska
C.I. File No. 02-S-83; EC No. 1741

Dear Council Members:

Returned herewith is a document filed by Attorney Laurie Eggert for attorney's fees for representing Police Officers Dan Dzievit and John Tabaska. The claim is in the amount of \$985.78 including \$6.78 in disbursements for 8.90 hours of service billed at the rate of \$110.00 per hour. We ask that this matter be introduced and referred to the Committee on Judiciary & Legislation.

We have reviewed this claim and advise that in our opinion, the time spent was reasonable. Legal representation was occasioned by a criminal investigation. No criminal charges were brought against the police officers on whose behalf this claim was filed.

As we have advised you under similar circumstances in the past, the Common Council has discretion to reject this claim or to pay it in whole or in part. Sec. 895.35, Stats., *Bablitch and Bablitch v. Lincoln County*, 82 Wis. 2d 574 (1978).

Very truly yours,


GRANT F. LANGLEY
City Attorney


JAN A. SMOKOWICZ
Assistant City Attorney

JAS:enm
Enc.

2276

BEVERLY A. TEMPLE
THOMAS O. GARTNER
BRUCE D. SCHRIMPF
ROXANE L. CRAWFORD
SUSAN D. BICKERT
HAZEL MOSLEY
HARRY A. STEIN
STUART S. MUKAMAL
THOMAS J. BEAMISH
MAURITA F. HOUREN
JOHN J. HEINEN
MICHAEL G. TOBIN
DAVID J. STANOSZ
SUSAN E. LAPPEN
JAN A. SMOKOWICZ
PATRICIA A. FRICKERL
HEIDI WICK SPOERL
KURT A. BEHLING
GREGG C. HAGOPIAN
ELLEN H. TANGEN
MELANIE R. SWANK
JAY A. UNORA
DONALD L. SCHRIEFER
EDWARD M. EHRlich
LEONARD A. TOKUS
MIRIAM R. HORWITZ
MARYNELL REGAN
G. O'SULLIVAN-CROWLEY
DAWN M. BOLAND
KATHRYN M. ZALEWSKI

Assistant City Attorneys

EGGERT & CERMELE, S.C.

Attorneys at Law

Laurie A. Eggert
Jonathan Cermele

1840 North Farwell Avenue
Suite 303
Milwaukee, Wisconsin 53202
(414) 276-8750
FAX (414) 276-8906

February 27, 2002

Mr. Ronald D. Leonhardt
Milwaukee City Clerk
200 East Wells Street, Room 800
Milwaukee, WI 53202

**RE: MPD Criminal Investigation of POs Dan Dzievit and John Tabaska
Allegations Regarding Mr. Anthony Stott
Date of Incident: April 23, 2001
Location of Incident: 3100 Block of North 21st Street
EC No.: 1741**

Dear Mr. Leonhardt:

The above-named police officers have retained us to represent them in connection with the above-referenced matter.

Consistent with its policy, the City Attorney's Office has refused to represent them, and as they were performing the duties of their office at the time of the events giving rise to the incident, the claim is hereby made on their behalf for the indicated legal fees. This incident involved a foot chase.

The MPD initiated a criminal investigation in which the officers initially declined to give a statement without counsel. When they requested counsel, IAD compelled the officers to give statements concerning the incident after issuing PI-21s. Later, the MPD decided not to issue criminal charges against the officers. Attached is a copy of the clearance report and an itemization of the time and services rendered.

Sincerely,

EGGERT & CERMELE, S.C.

Laurie Eggert
Laurie A. Eggert
Attorney at Law

1/26/02

O.K.

JAS

Letter 2276

JC/ldl
DZITAB

CONFIDENTIAL
02 FEB 28 10 40 AM '02

EGGERT & CERMELE, S.C.

Attorneys at Law

Laurie A. Eggert
Jonathan Cermele

1840 North Farwell Avenue
Suite 303
Milwaukee, Wisconsin 53202
(414) 276-8750
FAX (414) 276-8906

February 27, 2002

Mr. Ronald D. Leonhardt
Milwaukee City Clerk
800 City Hall
200 East Wells Street
Milwaukee WI 53202

RE: MPD Criminal Investigation re: Mr. Anthony Stott
Regarding: POs Dan Dzievit and John Tabaska
Date of Incident: April 23, 2001
Location of Incident: 3100 Block of North 21st Street

Professional services

	<u>Hours</u>
05/23/01 Telephone call from PO Dzievit regarding new criminal investigation; open file; memo to file; telephone call to PO Tabaska.	0.70
05/29/01 Telephone call to and from PO Dzievit; review of file; meeting with PO Dzievit at IAD; meeting with Commander Schunk; meeting with Sgt. Drezek; travel; memo to file.	1.50
06/04/01 Telephone call from PO Tabaska; memo to file.	0.20
06/05/01 Brief discussion with PO Dzievit; telephone call to PO Tabaska; memo to file.	0.50
06/06/01 Telephone call from PO Tabaska; memo to file.	0.40

	<u>Hours</u>	
06/08/01 Telephone call to PO Tabaska; review of file; meeting with PO Tabaska at IAD; attend PO Tabaska's PI-21; travel; memo to file.	1.80	
06/20/01 Telephone call to and from PO Dzievit.	0.30	
06/26/01 Review of file; meeting with PO Dzievit at IAD; attend PO Dzievit's PI-21 statement; travel; memo to file	1.90	
08/06/01 Telephone call to IAD.	0.20	
08/16/01 Telephone call to DA.	0.20	
08/17/01 Telephone call to IAD.	0.20	
08/21/01 Telephone call to and from IAD; correspondence to clients; correspondence to MPD Open Records.	0.50	
02/15/02 Review of correspondence from MPD Open Records; correspondence to clients; close file.	0.50	
		<u>Amount</u>
For professional services rendered	8.90	\$979.00
Additional charges:		
01/23/02 Open Records request		6.78
Total costs		<u>\$6.78</u>
Total amount of this bill		<u>\$985.78</u>

Mr. Ronald D. Leonhardt

Page 3

Amount

Balance due

\$985.78

(Rate: \$110.00 per hour)

INCIDENT INFORMATION	INCIDENT BATTERY 940.19(1)	DATE OF INCIDENT 04-23-01	DATE OF REPORT 06-07-01	REP CON#
	VICTIM STOTT, ANTHONY NMI	LOCATION OF INCIDENT (ADDRESS) 3100 N. 25 TH STREET		DIST.
	VICTIM'S ADDRESS 3145 N. 25 TH STREET MILWAUKEE, WI 53206	REPORTED BY SAME		

PROPERTY CODES --- LIST CODE FOR EACH ITEM OF PROPERTY IN "CODE # " COLUMN ---

01-AIRCRAFT	09-CREDIT CARDS	15-HEAVY EQUIPMENT	21-NEGOTIABLE INSTRUMENT	27-RECORD/AUDIO VISUAL	34-STRUCT-STORAGE
02-ALCOHOL	10-DRUGS/NARCOTICS	16-HOUSEHOLD GOODS	22-NONNEGOT INSTRUMENT	28-STRUCT-SINGLE DWL	35-STRUCT-OTHER
04-BICYCLES	11-DRUG/MARC EQUIP	17-JEWELRY/PREC METAL	23-OFFICE EQUIPMENT	30-STRUCT-OTHER DWL	36-TOOLS
06-CLOTHES/FURS	12-FARM EQUIPMENT	18-LIVESTOCK	77-OTHER	31-STRUCT-OTHER COMM	38-VEH/PART/ACC
07-COMPUTER WARES	13-FIREARMS	19-MERCHANDISE	25-PURSE/BAG/WALLET	32-STRUCT-INDUST MFG	39-WATERCRAFT
08-CONSUMABLES	14-GAMBLING EQUIP	20-MONEY	26-RADIO/TV/VCR	33-STRUCT-PUBLIC	99-

QUANT	TYPE OF PROPERTY	DESCRIPTION	SERIAL #	INVENTORY #	CODE #	VALUE

RELATED INCIDENT #'S	EVIDENCE INVENTORY #'S	ADDED PROPERTY ATTACHED PO-14	TOTAL VALUE RECOVERED PROPERTY \$
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USE FOR WEAPONS IN POSSESSION OF PRISONER AT TIME OF ARREST -- CHECK ALL APPLICABLE ITEMS

1 2	1 2	1 2	1 2	1 2	1 2
<input type="checkbox"/> ALTERED STOCK	<input type="checkbox"/> CHROME/NICKEL	<input type="checkbox"/> HANDGUN	<input type="checkbox"/> OTHER	<input type="checkbox"/> REVOLVER	<input type="checkbox"/> SHOTGUN
<input type="checkbox"/> AUTOMATIC	<input type="checkbox"/> DOUBLE BBL	<input type="checkbox"/> IMPLIED WEAPON	<input type="checkbox"/> OTHER FIREARM	<input type="checkbox"/> RIFLE	<input type="checkbox"/> SIMULATED WEAPON
<input type="checkbox"/> BOLT ACTION	<input type="checkbox"/> DRUG/NARCOTIC	<input type="checkbox"/> KNIFE/CUTTING INSTR	<input type="checkbox"/> PERSONAL WEAPON	<input type="checkbox"/> SAWED OFF	<input type="checkbox"/> SINGLE BBL
<input type="checkbox"/> BLUE STEEL	<input type="checkbox"/> EXPLOSIVES	<input type="checkbox"/> LIQUID GAS	<input type="checkbox"/> POISON	<input type="checkbox"/> SEMI AUTO	<input type="checkbox"/> THROWN OBJECT
<input type="checkbox"/> BLUNT OBJECT	<input type="checkbox"/> FIRE/INCENDIARY	<input type="checkbox"/> MOTOR VEHICLE	<input type="checkbox"/> PUMP ACTION	<input type="checkbox"/> SHORT/SNUB BBL	<input type="checkbox"/> UNKNOWN

ARRESTED #1 LAST NAME	FIRST NAME	MID	RACE	SEX	DATE OF BIRTH	AGE	ETHNIC ORIGIN
							<input type="checkbox"/> HISPANIC <input type="checkbox"/> NON-HISPANIC
ADDRESS	CITY	STATE	HEIGHT	WEIGHT	BUILD	HAIR	EYES
ALIAS	SCARS, MARKS, MOLES, DEFORMITIES, AMPUTATIONS, FACIAL HAIR, SKINTONE, TATTOOS, PECULIARITIES ETC.						

I.D. DIV #	SOC. SEC. #	ADDED WEAPON INFO ARRESTED #1
RESIDENT OF COUNTY Y N	GANG RELATED Y N DRUG RELATED O O	LOCATION OF ARREST
DATE/TIME OF ARREST	TYPE OF ARREST	POSSESSED SUSPECTED DRUGS AT TIME OF ARREST
	<input type="checkbox"/> ORDERED IN/CITED <input type="checkbox"/> W/WARR/SUSP CARD <input type="checkbox"/> ALL OTHER ARRESTS	Y N <input type="checkbox"/> <input type="checkbox"/>

ARRESTED #2 LAST NAME	FIRST NAME	MID	RACE	SEX	DATE OF BIRTH	AGE	ETHNIC ORIGIN
							<input type="checkbox"/> HISPANIC <input type="checkbox"/> NON-HISPANIC
ADDRESS	CITY	STATE	HEIGHT	WEIGHT	BUILD	HAIR	EYES
ALIAS	SCARS, MARKS, MOLES, DEFORMITIES, AMPUTATIONS, FACIAL HAIR, SKINTONE, TATTOOS, PECULIARITIES ETC.						

I.D. DIV #	SOC. SEC. #	ADDED WEAPON INFO ARRESTED #1
RESIDENT OF COUNTY Y N	GANG RELATED Y N DRUG RELATED O O	LOCATION OF ARREST
DATE/TIME OF ARREST	TYPE OF ARREST	POSSESSED SUSPECTED DRUGS AT TIME OF ARREST
	<input type="checkbox"/> ORDERED IN/CITED <input type="checkbox"/> W/WARR/SUSP CARD <input type="checkbox"/> ALL OTHER ARRESTS	Y N <input type="checkbox"/> <input type="checkbox"/>

V E H	VEHICLE USED	MAKE	MODEL	TYPE	COLOR	STATE	EXP	TYPE	V.I.N. #

REPORTING OFFICER	PAYROLL #	LOC #	ASSISTING OFFICER	SUPERVISOR	TOTAL ARRESTS
<i>Det. William C. Smith</i>	53908	04		<i>St. Mary Hoerig</i>	0
DET. WILLIAM C. SMITH	53908	04			

INVESTIGATIVE NARRATIVE:

This report was dictated by Det. William C. SMITH, of the Criminal Investigation Unit/Internal Affairs Division (CIU/IAD), early shift.

On Wednesday, April 25, 2001, at approximately 5:00 p.m., I, Det. William C. SMITH, was instructed by Lieutenant of Detectives Mary HOERIG, of the Internal Affairs Division, to respond to 3145 N. 25th Street to investigate a battery complaint.

Upon my arrival at that location, I did have occasion to interview the above listed victim identified as Anthony NMI STOTT, black male, DOB 02-24-69, of 3145 N. 25th Street. Mr. STOTT stated that on April 23, 2001, approximately 7:00 p.m., he was standing at the corner of 27th and Auer Avenue waiting for a friend to exit a corner store. He stated that he and his friend had gone to the store to buy beer when he had to urinate. STOTT further related that the police observed him urinating, at which time he was motioned by the police to "come here." STOTT stated that he then proceeded to run away from the scene. He stated that he ran to the location of 3100 N. 25th Street when he decided to stop running because he knew he was going to get caught. STOTT stated that the police tackled him, at which time he fell on the concrete, which causing bruising and a laceration to his face. He stated he asked the police what they were doing, at which time numerous police officers started kicking and hitting him. He stated that the police were yelling at him and telling him to put his hands behind his back. He stated there were approximately seven white officers and one black officer involved in the beating of him. On this date I did have occasion to observe that STOTT did have swollen right eye and a broad laceration to the right side of his face.

While continuing this investigation I did have occasion to interview the supervisor on the scene identified as Sgt. Pamela HOLMES, who stated that she responded to the foot chase on this date (04-23-01). She stated that she arrived at the scene, at which time she observed the suspect, STOTT, being walked from the yard. Sgt. HOLMES stated that she then observed that STOTT was bleeding on his face, at which time she asked how he had gotten the mark on his face. She stated that Officers DZIEVIT and STOJSAVLJEVIC told her that STOTT had tripped and fell. Sgt. HOLMES stated that she herself asked STOTT as to how he the mark on his face, at which time he told that he had tripped and fell on the concrete. She stated that STOTT was cooperative. Sgt. HOLMES further stated that STOTT'S family was outside and they were cooperative and they were apprised as to how the incident

occurred. She stated that STOTT told his family that he had tripped and fell on the concrete also.

I also did interview P.O. Branko STOJSAVLJEVIC who initiated the foot chase with STOTT and his partner P.O. Kerry WASHINGTON. P.O. STOJSAVLJEVIC stated that STOTT ran from the scene on 27th and Auer after they observed him urinating. He stated that once STOTT was apprehended, he observed STOTT bleeding from the face. He stated that STOTT indicated to him that he had slipped and fell on the concrete. P.O. STOJSAVLJEVIC stated that Sgt. HOLMES responded to the scene and subsequently talked to STOTT who advised her that he did not want to make a complaint. He further added that STOTT advised Sgt. HOLMES that he had run from the police because he was afraid and also advised that he had tripped and fell on the concrete. I also did interview all the other additional officers involved in this offense.

At this time it does not appear that a criminal violation occurred on the part of any officers involved in said offense, therefore this complaint will be cleared as baseless. Lieutenant of Detectives Mary HOERIG was apprised and advised me to file same.

On Wednesday, May 20, 2001, I, Det. SMITH, re-interviewed Antione O. SMITH regarding this incident. Mr. SMITH stated that he cannot identify any officers involved in this incident.

WCS:v11 06-07-01
01-137\01-137.CLR

REVIEWING D.A. NONE	P.O./DET. ASSIGNED DET. WILLIAM C. SMITH	COURT CASE NUMBER
FINAL CHARGE	DISPOSITION/DATE 06-07-01	VICTIM NOTIFIED BY
INCIDENT STATUS <input type="radio"/> CLEARED BY ARREST 18 OR OVER <input type="radio"/> PARTIAL CLEARANCE BY ARREST <input checked="" type="radio"/> UNFOUNDED/BASELESS <input type="radio"/> NO PROSECUTION DESIRED	<input type="radio"/> PROPERTY RECOVERED <input type="radio"/> WARRANT REFUSED	<input type="radio"/> ARREST UNDER 18 <input type="radio"/> A. Detained at MCCC <input type="radio"/> B. Ordered in to MCCC DATE: _____ <input type="radio"/> WAIVED AS AN ADULT
----- C.I.B. ADMINISTRATIVE USE ONLY -----		
CLEARED EXCEPTIONALLY	<input type="radio"/> A. Death of Offender <input type="radio"/> B. Prosecution Declined	<input type="radio"/> C. Extradition Denied <input type="radio"/> D. Refused to Cooperate <input type="radio"/> E. Juvenile, no custody <input type="radio"/> F. Not Applicable
JUSTIFIABLE HOMICIDE INFORMATION	<input type="radio"/> A. SUSP ATTKCD PO AND SAME PO KILLED SUSP <input type="radio"/> B. SUSP ATTKCD PO AND OTHER PO KILLED SUSP <input type="radio"/> C. SUSP ATTKCD CIVILIAN <input type="radio"/> D. SUSP ATTEMPTED FLIGHT FROM CRIME	<input type="radio"/> E. SUSP KILLED IN COMMISSION OF CRIME <input type="radio"/> F. SUSP RESISTED ARREST <input type="radio"/> G. UNABLE TO DETERMINE/NOT ENOUGH <input type="radio"/> H. SUSPECT KILLED BY PRIVATE CITIZEN <input type="radio"/> I. SUSPECT KILLED BY POLICE OFFICER

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

DECEMBER 5, 2002

TO: P.O. DAN DZIEVIT
DISTRICT TWO

RE: Receipt of Legal Services from Law Firm of
Attorney

Attorney Laurie Eggert has made a claim with the City, indicating the attached was provided with legal services arising out of one of the following situations:

- 1) An incident occurring on APRIL 23, 2001
- 2) A citizen's complaint made by ANTHONY SCOTT
- 3) A police shooting incident occurring on N\A

Is this information correct? YES NO

Did you receive legal representation in this matter? YES NO

Your signature: *P.O. Dan Dziewit*

Print your name: DANIEL C DZIEVIT

Upon completion, please return this memorandum to the Internal Affairs Division at the Police Academy (Room 325) as soon as possible.

Steven M. Settingsgaard
Steven M. Settingsgaard
Police Commander
Internal Affairs Division

SMS:kjs

RECEIVED
02 DEC 10 PM 2:24
MILWAUKEE POLICE DEPARTMENT
INTERNAL AFFAIRS
DIVISION

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

DECEMBER 5, 2002

TO: P.O. JOHN TABASKA
DISTRICT SEVEN

RE: Receipt of Legal Services from Law Firm of
Attorney

Attorney Laurie Eggert has made a claim with the City, indicating the attached was provided with legal services arising out of one of the following situations:

- 1) An incident occurring on APRIL 23, 2001
- 2) A citizen's complaint made by ANTHONY SCOTT
- 3) A police shooting incident occurring on N\A

Is this information correct?

YES X NO _____

Did you receive legal representation
in this matter?

YES X NO _____

Your signature: PO [Signature]

Print your name: PO JOHN C TABASKA

Upon completion, please return this memorandum to the Internal Affairs Division at the Police Academy (Room 325) as soon as possible.

RECEIVED
03 JAN 21 PM 2:52
MILWAUKEE POLICE
INTERNAL AFFAIRS
DIVISION
SMS: [Signature]

[Signature]
Steven M. Settingsgaard
Police Commander
Internal Affairs Division