CITY OF MILWAUKEE

Form CA-43

GRANT F. LANGLEY
City Attorney

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

BEVERLY A. TEMPLE
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BRUCE D. SCHRIMPF
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HARRY A. STEIN
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DAWN M. BOLAND
KATHRYN M. ZALEWSKI

Assistant City Attorneys

OFFICE OF CITY ATTORNEY
800 CITY HALL
200 EAST WELLS STREET
MILWAUKEE, WISCONSIN 53202-3551
TELEPHONE (414) 286-2601
TDD (414) 286-2025
FAX (414) 286-8550

December 19, 2003

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

Re: Communication from Attorney Laurie Eggert, Eggert & Cermele, S.C. for legal fees for Police Officers Steven Sment and Sean Lips
C.I. File No. 02-S-263; ELO No. 1730

Dear Council Members:

Returned herewith is a document filed by Attorney Laurie A. Eggert for attorney's fees for representing Police Officers Steven Sment and Sean Lips. The claim is in the amount of $10,192.90, including $622.90 in disbursements for 87 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 the filing of a citizen's complaint against the officers with the Fire and Police Commission. The complaint was dismissed by the Commission.

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.
2295

CITY OF MILWAUKEE

Form CA-43

GRANT F. LANGLEY
City Attorney

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August 23, 2002

Commander Steven Settingsgaard
Milwaukee Police Dept., Internal Affairs Div.
6680 North Teutonia Avenue, Rm 325
Milwaukee, WI 53209

Re: C.I. File No. 02-S-263
Communication from EGGERT LAW OFFICE

Dear Commander Settingsgaard:

Enclosed please find a claim filed by attorney Laurie A. Eggert for Attorney's fees incurred during her representation of various officers. (See Attached)

Please determine whether these officers were in fact involved in the matter described in Ms. Eggert's claim, and have these officers verify Ms. Eggert's representation. Thank you for your anticipated cooperation in this matter.

Very truly yours,

JAN A. SMOKOWICZ
Assistant City Attorney

JAS:beg
Enclosure
5091

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

August 1, 2002

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

RE: Citizen Complaint of Laurence, Maxine and Prudence Bellinger Against POs Steven Sment and Sean Lips
Complaint No.: 99-17
Date of Incident: April 10, 1999
EC No.: 1730

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 trespassing investigation. The Fire and Police Commission dismissed the complaint after a hearing. Attached is a copy of the decision

On June 27, 2000, for reasons unrelated to this matter, Officer Sment resigned from the Department and took a job at the Wauwatosa Police Department. Attached is a copy of his dismissal letter and an itemization of the time and services rendered.

Nok P.O. Sment separated from MPD 6/27/00

12/18/03
O.F.
JMS
Letter 2295

Sincerely,

EGGERT & CERMELE, S.C.

Laurie A. Eggert
Attorney at Law

JC/ldl
SMENT LIPS

EGGERT & CERMELE, S.C.

Attorneys at Law

Laurie A. Eggert
Jonathan Cermele

1840 North Farwell Avenue
Suite 303
Milwaukee, Wisconsin 53202
(414) 276-8750
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August 1, 2002

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

RE: Citizen Complaint of Laurence, Maxine & Prudence Bellinger
Against POs Steven Sment and Sean Lips
FPC No: 99-17
Date of Incident: April 10, 1999
Location of Incident: 217-19 East Keefe Avenue

Professional services

		Hours
06/24/99	Office conference with PO Sment regarding new citizen complaint; review complaint; open file.	1.40
06/25/99	Telephone call from PO Sment; correspondence to FPC.	0.40
06/29/99	Telephone call from, and office conference with, PO Lips; review of file.	1.40
06/30/99	Review of correspondence from FPC.	0.10
07/19/99	Office conference with PO Lips.	0.50
07/29/99	Review of correspondence from Atty. Chesshir.	0.10
07/30/99	Correspondence to clients.	0.20
11/01/99	Telephone call to FPC.	0.10
11/17/99	Review of correspondence from FPC; correspondence to clients.	0.20

		Hours
03/01/00	Telephone call to and from PO Sment.	0.20
03/20/00	Attend Bellingers' criminal trial regarding same incident; meeting with clients; meeting with MPD witnesses; meeting with ADA; travel.	7.40
03/21/00	Attend Bellingers' criminal trial; meeting with clients; meeting with MPD witnesses; meeting with ADA; travel.	6.70
03/22/00	Attend Bellingers' criminal trial; meeting with clients; meeting with MPD witnesses; meeting with ADA; travel.	3.40
03/23/00	Telephone call from PO Sment; telephone call from PO Lips; telephone call from ADA Carmodi.	0.60
03/24/00	Telephone call PO Sment.	0.30
03/28/00	Office conference with PO Sment.	0.40
05/04/00	Discussion with PO Sment; discussion with ADA Carmody; telephone call to FPC.	0.40
05/16/00	Office conference with PO Lips; telephone call to FPC.	0.60
05/18/00	Telephone call to FPC.	0.40
05/31/00	Telephone call from FPC.	0.10
06/01/00	Review of file; telephone call to FPC.	0.10
	Telephone call from FPC; memo to file.	0.10
06/02/00	Telephone call FPC.	0.30
06/05/00	Telephone call and FAX to FPC; telephone call to clients.	0.40

		Hours
06/06/00	Telephone call from PO Lips; telephone call to FPC.	0.20
07/25/00	Telephone call from FPC.	0.30
07/28/00	Receive and review Bellingers' claim v. City of Milwaukee.	0.40
08/01/00	Telephone call from and to FPC regarding PO Sment's resignation from the MPD.	0.20
08/10/00	Telephone call to and from FPC.	0.20
10/12/00	Telephone call to FPC.	0.20
10/24/00	Telephone call from FPC; memo to file.	0.20
10/25/00	Telephone call from FPC; telephone call to PO Lips; memo to file; correspondence to PO Lips.	0.50
10/26/00	Telephone call to and from PO Lips; memo to file; telephone call to FPC.	0.30
11/02/00	Telephone call to and from FPC.	0.20
11/06/00	Telephone call from FPC; correspondence to PO Lips.	0.20
11/14/00	Telephone call from FPC; telephone call to PO Lips; telephone call to witnesses; correspondence to client, PO Lips and witness.	0.60
11/15/00	Telephone call from FPC; telephone call to and from PO Lips.	0.40
11/17/00	Review of correspondence from FPC; review of file; draft witness and exhibit list.	0.80
12/15/00	Review of file; revise and finalize witness and exhibit list; correspondence to FPC and complainants.	0.50

		Hours
12/16/00	Telephone call from FPC.	0.20
12/21/00	Telephone call from and to FPC; review of criminal jury instructions regarding applicability of criminal convictions to FPC complaint.	0.80
02/22/01	Review of correspondence from FPC.	0.10
03/30/01	Telephone call to and from FPC; telephone call to clients.	0.30
04/02/01	Review of correspondence from FPC.	0.10
04/03/01	Telephone call to and from PO Lips.	0.20
04/10/01	Telephone call from FPC; telephone call to POs Sment and Lips; draft correspondence to witnesses.	0.50
04/11/01	Telephone call to POs Sment and Lips; modify letter to witnesses.	0.40
04/16/01	Review of correspondence from FPC.	0.20
04/19/01	Telephone call to and from PO Sment; meeting with PO Lips; telephone call to FPC.	0.90
04/30/01	Review of correspondence from FPC; correspondence to PO Lips; telephone call to witnesses.	0.50
05/01/01	Review of file; trial preparation.	2.50
05/02/01	Continue reviewing file; draft requests for Bellingers' medical records.	4.20
05/07/01	Receive and review Bellingers' exhibits; run CCAP report on Bellingers and witnesses.	0.90

		Hours
05/08/01	Obtain and review closed criminal file on Bellingers' arrest related to underlying event which is the subject of the FPC claim; travel; telephone call to and from witnesses.	1.50
05/09/01	Draft subpoenas.	0.30
05/14/01	Receive and review transcript of criminal trial.	1.40
05/15/01	Continue review of transcript from criminal trial; prepare for trial.	4.20
05/16/01	Continue review of transcript of criminal trial; prepare for hearing.	1.50
05/17/01	Telephone call from FPC.	0.30
05/24/01	Telephone call from PO Sment.	0.20
05/25/01	Office conference with PO Sment.	0.80
05/30/01	Intra-office conference; prepare for and attendance at hearing; meeting with Sgt. Lips.	7.40
	Intra-office conference.	0.20
05/31/01	Attendant at hearing; travel.	8.00
06/01/01	Review of file.	0.60
07/19/01	Telephone call to FPC.	0.20
08/06/01	Review Examiner's proposed decision; review transcript; commence drafting brief.	4.50
08/07/01	Continue review of transcript; continue drafting brief.	4.00

		Hours	
08/08/01	Continue review of transcript; continue drafting brief.	3.50	
08/09/01	Revision to brief; correspondence to clients.	3.20	
08/28/01	Several telephone calls to and from clients; revisions to brief; telephone call to FPC; file brief.	1.30	
09/20/01	Receive and review Bellingers' documents filed as brief to FPC.	0.50	
10/22/01	Review of correspondence from FPC.	0.20	
11/19/01	Telephone call to and from FPC; telephone call to client; correspondence to client; close file.	0.40	
			Amount
	For professional services rendered	87.00	$9,570.00
	Additional charges:		
03/20/00	Parking		7.50
03/21/00	Parking		7.50
	Parking		7.00
03/22/00	Parking		7.50
	Parking		7.00
05/24/00	Transcript - Bellingers' 3/21-3/22/00 Jury trial		202.10
09/12/00	Transcripts		79.90

		Amount
05/08/01	MPD Open Records request	7.50
	Parking	2.00
05/10/01	Subpoenas (3)	18.00
05/31/01	Parking	5.50
06/06/01	Transcript - Jury trial (3/20/00, 3/21/00, 3/23/00)	176.40
	Investigator	95.00
	Total costs	$622.90
	Total amount of this bill	$10,192.90
	Balance due	$10,192.90

(Rate: $110.00 per hour)

BOARD OF FIRE AND POLICE COMMISSIONERS
OF THE CITY OF MILWAUKEE

In The Matter Of The Complaints of

LAURENCE BELLINGER,
MAXINE BELLINGER and
PRUDENCE BELLINGER
against
POLICE SERGEANT SEAN LIPS

DECISION OF
THE BOARD

FPC Complaint No. 99-17

After a full and complete review of the record in this case, we have no reasonable alternative but to accept the recommendation of the Hearing Examiner. The Complainants have failed to show by a preponderance of the evidence that on April 10, 1999, Police Officer (now Police Sergeant) Sean Lips, was discourteous or uncivil in violation of MPD Rule 4, section 2/060.00 or that he utilized more force than was reasonably necessary in violation of MPD Rule 4, section 2/445.00. We accordingly dismiss all charges against Sean Lips, the only remaining Police Department member involved in this incident, and adopt the Recommendation of the Hearing Examiner together with the proposed Summary of Proceedings and Findings of Fact.

In dismissing these charges, however, we are not saying that we believe that this call for service could not have been handled in a more appropriate manner. The Bellingers arrived home to find armed intruders, and were understandably upset. They expressed their outrage loudly and repeatedly to the police officers who responded, and made demands that the officers arrest the intruders. In the eyes of the Bellingers the intruders, who were white and reacted to the arrival of the police by calmly explaining their mistake in entering the Bellinger home to the officers, appeared to have been treated with more deference than the Bellingers, who are black.

What we appear to have here is a clash of cultures, where the actions of one culture do not meet the expectations of the other. The Bellingers, as black homeowners confronted by armed intruders, expected immediate justice. They felt they were not getting it and saw no alternative but to repeat their demands until the officers arrested the perpetrators. The officers, as authority figures charged with the duty and armed with the authority to demand information necessary to complete an investigation, expected calm compliance. They felt they were not

getting it and saw no alternative but to repeat their demands until the Bellingers calmed down and gave them the answers they needed. Neither party's expectations were met. Tempers flared and an altercation took place. At this point the officers had little alternative but to react as they did, and we do not fault them for their response at this juncture. From the onset, however, Officers Lips and Sment could have, and should have, made additional efforts to understand the concerns and outrage of the Bellingers regarding what they viewed as an armed invasion of their home. Officers Lips and Sment could have, and should have, looked beyond the bluster and the anger and the frustration and considered taking a different approach before the altercation took place. Flexibility, sensitivity, empathy - whatever you call it, there was not enough of it.

This is a training issue rather than a disciplinary issue. We have seen cases where police officers, regardless of their ethnic background or gender, are unable or willing to cope with and adjust to the variety of lifestyles and responses that they receive from people within our community. It is time that the Police Department and this Board recognize that this failure places both citizens and department members at risk of serious injury. We ask the Department to examine current training practices and to consider increasing the amount of time and effort spent on these issues for new recruits and tenured officers alike. We would also ask the Department to join us in creating an educational outreach program aimed at informing all members of our community as to their rights and obligations when dealing with law enforcement personnel. Our goal must be to foster a more respectful relationship which allows officers to do a job that is sorely needed and greatly appreciated in a manner that is safer, and more satisfying, for all.

Signed and dated at Milwaukee, Wisconsin, this 30th day of November, 2001.

Board of Fire and Police Commissioners
Of the City of Milwaukee

By: Carla Y. Cross

Carla Y. Cross, Vice-Chairperson

BOARD OF FIRE AND POLICE COMMISSIONERS
OF THE CITY OF MILWAUKEE

In The Matter Of The Complaints of

LAURENCE BELLINGER,
MAXINE BELLINGER and
PRUDENCE BELLINGER
against
POLICE SERGEANT SEAN LIPS

RECOMMENDATION OF
HEARING EXAMINER

FPC Complaint No. 99-17

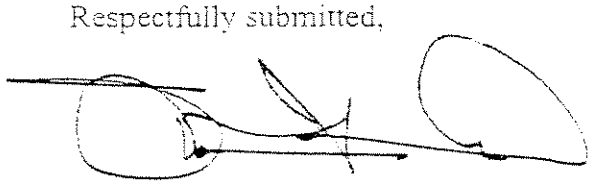
There are three complaints in this matter, and each of them alleges that former Milwaukee Police Officer Steven Sment and/or current Milwaukee Police Sergeant Sean Lips engaged in conduct on August 10, 1999 that, if proven, would constitute grounds for discipline. Steven Sment is no longer a member of the Milwaukee Police Department and, as a result, no longer subject to the jurisdiction of the City of Milwaukee Board of Fire and Police Commissioners.

Based upon a careful review of the transcript and all of the exhibits herein, it is my opinion that the Complainants have failed to prove the allegations of discourtesy and excessive force against Sean Lips, currently a Sergeant with the Milwaukee Police Department. The testimony of Steven Sment, Sean Lips, Gregory Rosenthal and Dino Baschiera is, for the most part, consistent and credible. The testimony of Laurence Bellinger, Maxine Bellinger and Prudence Bellinger varies significantly from one to the other. In more than one instance, seemingly memorable conduct by an officer which is stressed by one member of the Bellinger family is glossed over or not even mentioned by another member of the family, even though that family member was in a position to see and hear the same thing.

The anger felt by members of the Bellinger family, upon finding three unknown individuals inside a property which the Bellinger family believed they rightfully owned, affected their judgment on the day in question. The failure of Officer Sment and Officer Lips to immediately arrest those individuals further angered the Bellinger family, and this anger appears to have resulted in their refusal to cooperate and the eventual altercation. It is my belief that anger still clouds their recollection of the events of April 10, 1999, and that their collective versions of the events are less than credible in many respects.

I would recommend that the Board find that the Complainants have failed to prove by a preponderance of the evidence that Sean Lips was discourteous or used more force than was reasonable and necessary on April 10, 1999, and that the complaints herein be dismissed.

Respectfully submitted,



Steven Fronk, Hearing Examiner

BOARD OF FIRE AND POLICE COMMISSIONERS
OF THE CITY OF MILWAUKEE

In The Matter Of The Complaints of

LAURENCE BELLINGER, MAXINE BELLINGER and PRUDENCE BELLINGER against POLICE SERGEANT SEAN LIPS	SUMMARY OF PROCEEDINGS AND FINDINGS OF FACT FPC Complaint No. 99-17

SUMMARY OF PROCEEDINGS

These complaints proceeded to hearing on May 31, 2001, with Steven Fronk acting as Hearing Examiner on behalf of the Board. Complainants Laurence Bellinger, Maxine Bellinger and Prudence Bellinger appeared in person, pro se. Sergeant Sean Lips appeared in person and by Attorney Jonathan Cermele of the Law Offices of Eggert and Cermele. The complaints of Laurence Bellinger (Exhibit 1) and Prudence Bellinger (Exhibit 3) allege that Police Officer (now Sergeant) Sean Lips and his partner, former Police Officer Steven Sment, utilized excessive force and failed to utilize appropriate courtesy and civility in dealing with each of them on April 10, 1999. The complaint of Maxine Bellinger (Exhibit 2) alleged that Lips and Sment failed to utilize appropriate courtesy and civility and courtesy in dealing with her on April 10, 1999. A copy of Milwaukee Police Department Rule 4, Section 2/445.00 relating to the use of force was marked as Exhibit 4. A copy of Milwaukee Police Department Rule 4, Section 2/060.00 relating to appropriate courtesy and civility was marked as Exhibit 5.

Testimony of Laurence Bellinger: In the spring of 1999 Laurence and Maxine Bellinger purchased and were residing in the living quarters above a commercial building at 217-219 East Keefe Avenue in the city of Milwaukee. Their daughter, Prudence Bellinger, resided elsewhere but was with them on April 10, 1999 when they returned home in the middle of the afternoon. Prudence checked the mailbox and found a handwritten note (Exhibit 6) stating as follows: "Dear Sir. You must contact Cathryn at 344-4700 to discuss this building. It has been foreclosed on and has been sold. If you do not contact me I will be forced to remove you with the police. Thank You." (Transcript, Page 27). Maxine and Laurence were certain that this was a mistake,

and entered the building with the intention of calling the phone number indicated in the note. Upon entry they found three unknown individuals (2 males, 1 female) dressed in plain clothes in the building, and more than one of them had a flashlight and/or a drawn handgun. (Pages 29-31) There was some shouting back and forth, and Laurence sent Prudence out of the building to call the police. Laurence Bellinger testified that he convinced everyone to calm down and wait for the police, and approximately 30 minutes later Officer Lips, Officer Sment and a second squad car arrived on the scene. (Page 35) It was Laurence Bellinger's recollection that Officer Sment spoke to Prudence and Maxine Bellinger while Officer Lips sent the second squad away and told Laurence to go back inside the building. (Page 37) Laurence complied, but continued to insist that the three individuals whom he had found in the building be arrested. One of the officers told Laurence Bellinger more than once to "get your ass back in the building", but he is unclear as to whether this was Lips or Sment (pages 38-46). Various papers were produced without the situation being resolved, and Laurence and Maxine re-entered the building to retrieve more documents. Laurence saw one the officers trying to take some of the paperwork from Prudence, shoving her against the building and removing a flashlight with what Laurence perceived as the intention of striking Prudence. (Page 51) Laurence grabbed the flashlight and an altercation ensued involving Laurence Bellinger, one or more of the officers, and all three of the individuals in plain clothes. (Pages 52-59) Laurence Bellinger claims that all he did was grab the officer's flashlight to prevent it from being used as a weapon against Prudence, while the officers and the 3 other individuals kicked and punched him repeatedly and unnecessarily while handcuffing him. Several documents were marked as exhibits including a color photocopy of several photos taken by Bellingers (Exhibit 7); discharge instructions from Mt. Sinai Hospital regarding treatment of Laurence Bellinger on April 12, 1999 (Exhibit 8); printout of Milwaukee Police Department CADS (computer aided dispatch) report regarding this incident (Exhibit 9); portions of transcript from the Milwaukee Circuit Court criminal trials of Laurence Bellinger and Prudence Bellinger (Exhibit 10); booking photo taken of Laurence Bellinger on April 10, 1999 (Exhibit 11). On cross examination a number of issues were raised by Attorney Cermele regarding inconsistent testimony from Mr. Bellinger as to the sequence of events, the location and actions of Officer Lips and former Officer Sment, and what Laurence Bellinger did or did not recall concerning the incident that took place on April 10, 1999. (Transcript, Pages 76 - 100) It should be noted that

the transcript of the Circuit Court criminal proceedings (Exhibit 10) indicates that Lawrence Bellinger testified that Officer Sment, not Officer Lips, was the individual who struggled with and attempted to strike Prudence Bellinger with a flashlight.

Testimony of Maxine Bellinger: Maxine Bellinger testified that it was former Police Officer Sment who first spoke to her, and that she attempted to show him a copy of the note that was found in the mailbox (Exhibit 6) and the land contract for the property (Exhibit 12). After looking at the documents, both officers spoke to the three individuals who had been in the building when the Bellingers returned, and Sment stated the documents "did not prove anything" (Page 114-115). Maxine felt that the officers were ignoring them, and she went into the building once again to retrieve additional paperwork. When she returned she saw one of the officers struggling with Prudence Bellinger, and Laurence Bellinger attempting to take the officer's flashlight away. Both officers and all three plain clothes civilians became involved in a physical altercation with Lawrence (Pages 116-122). According to Maxine Bellinger, she cannot specifically say who did what, but both officers and all three civilians were beating her husband (Page 119). One of the officers had called for backup, and additional officers arrived on the scene and put Laurence, Maxine and Prudence Bellinger in a paddy wagon. Additional documents including a letter from Wisconsin Gas to Laurence Bellinger at 219 East Keefe (Exhibit 13), a check signed by Maxine Bellinger with a handwritten notation stating "217-19 E. Keefe Avenue" (Exhibit 14) and a seller's permit issued to Maxine Bellinger listing 217-19 E. Keefe Avenue as the address (Exhibit 15) were also made part of the record. On cross examination Maxine Bellinger testified that Laurence was angry but not enraged, although a copy of the complaint of Prudence Bellinger (Exhibit 3) indicated that her father had appeared to have "lost his mind" when he found people in his building (Pages 130-132). According to Maxine, Laurence was excited but "never, never got angry that day" (Page 134).
Her testimony is that "the police" and the three civilians beat her husband, but she cannot specifically identify which officer took what specific action (Pages 135-150).

Testimony of Prudence Bellinger: According to Prudence Bellinger, the events prior to the arrival of the police were essentially as her father had testified. Once Officers Lips and Sment arrived, Officer Lips initially spoke to Prudence and Maxine Bellinger while Officer Sment spoke to the three civilian "intruders". A short time later Laurence Bellinger came out of

the building and asked the officers to arrest the three individuals. Officer Sment, according to Prudence, said "look, nigger, I told you to get back in the building until we are ready for you" (Page 157). Officer Lips apparently tried to retrieve the documents from Prudence, and a struggle ensued. According to Prudence "whatever Lips was doing, Sment was driving him to do it" and "Sment pushed me" against a wall and Prudence hit her head (Page 159). Prudence then saw her dad "coming from nowhere and he drops the cane and I said, oh, my God, I never seen my dad run like that before, and I get pushed one more time" by either Sment or her dad (Page 160). Prudence saw her dad on his knees holding the flashlight and saw Officer Lips come running and kick her dad in the face before returning toward Maxine Bellinger while Officer Sment and the three civilians fought with, subdued and handcuffed Laurence Bellinger (Page 160-162). Prudence also testified that when she asked why she was being arrested, Sment said "because you are niggers" (Page 166) and that later, at the police station, Lips said "we won" when responding to questions from other officers concerning the incident (Page 164). On cross examination Prudence Bellinger testified that former Officer Sment, not Officer Lips, had made racially derogatory remarks and used profanity on the date in question (Pages 169-171). Additional testimony added little new information, and centered around inconsistencies between the testimony of Prudence Bellinger at the Milwaukee Circuit Court criminal proceedings (at which she was convicted of disorderly conduct) and her testimony on the date of this hearing.

Testimony of former Milwaukee Police Officer Steven Sment: Steven Sment is currently a City of Wauwatosa Police Officer, but on April 10, 1999 he was a member of the Milwaukee Police Department. As concerns this incident, Officers Sment and Lips responded to a call from what was described as a real estate agent and two private investigators regarding intruders at 217-19 East Keefe Avenue. Upon arrival Officer Sment went to speak to the three individuals who had called in and were sitting in an SUV at the scene. Lips went to speak to two women (later identified as Maxine and Prudence Bellinger) who were in front of the building. While Sment was talking to the three individuals he was approached by an "irate male subject", later identified as Laurence Bellinger, who was yelling that he wanted the three individuals arrested (Page 197). Mr. Bellinger continued yelling despite Sment's attempts to calm him down. Sment walked away from the auto with Bellinger so he could take Mr. Bellinger's statement, but Laurence Bellinger still would not calm down (Page 200). Sment saw Prudence

Bellinger hand a document to Officer Lips briefly and then snatch it back, and when Lips tried to recover and read the document Prudence Bellinger pushed Lips into the wall (Page 202). Sment moved to assist Lips, and as he did so he turned and saw Laurence Bellinger charging at him. Laurence punched him in the jaw and Sment stumbled as a result of the blow. Sment then saw Laurence Bellinger charging at Officer Lips. The three civilians rushed to the aid of Lips and Sment. Even with their assistance it took more than a minute to control Laurence Bellinger and handcuff him (Page 205-209). Sment denies using any profane or racially derogatory language, or hearing Sean Lips use any such language, at any point during the incident. Sment further denies that he or Lips used any more force than was necessary under the circumstances toward either Prudence Bellinger or Laurence Bellinger (Page 210-213).

Testimony of Gregory Rosenthal: On April 10, 1999, Rosenthal was employed as a private security officer by a company owned and operated by Dino Baschiera. Rosenthal and Baschiera were escorting Cathryn Carr to a property that Carr was considering purchasing on East Keefe Avenue, and Carr had informed them that the property was vacant and in foreclosure. Rosenthal was dressed in dark blue uniform pants, a dark blue T-shirt emblazoned with the company logo and the words SECURITY OFFICER in 1" tall block letters, and a bullet resistant vest. He was licensed to carry, and was armed with, a handgun on the date in question (Pages 244-248). While inside the property the Bellingers returned, a verbal dispute arose, and the police were called. Officer Sment spoke to Rosenthal, Baschiera and Carr while Officer Lips spoke to Maxine and Prudence Bellinger. During Officer Sment's attempted interview Laurence Bellinger approached Sment from behind more than once, shouting and interjecting that Rosenthal was lying and things of that nature. Officer Sment asked Laurence Bellinger to step away so the interview could be completed, but Laurence would cooperate only minimally before returning and once again interjecting himself into the conversation. According to Rosenthal, Sment remained "very placid" while Laurence Bellinger "continued to be irate" (Page 250). Officer Lips approached Sment with documents in his hand. Prudence Bellinger requested, then demanded that Officer Lips return the documents to her. Officer Lips stated that he was not through with them, and Prudence attempted to grab them out of his hands. A struggle over the documents ensued, and Prudence Bellinger "stepped back and pushed Officer Lips" (page 251). Officer Lips then tried to handcuff Prudence, and as Sment turned to aid Lips, Laurence

Bellinger "rushed up and hit Officer Sment in the face" (Page 251). As the officers struggled to handcuff Mr. Bellinger, Rosenthal and Baschiera went to their aid because they felt the officers "were fighting a losing battle". Rosenthal testified that he believed the officers were "well within the means" concerning how much force was utilized, and that neither Sment nor Lips used profanity or said anything that could be construed as racially disparaging (Pages 254-256).

Testimony of Dino Baschiera: Once Officers Lips and Sment arrived at the scene on April 10, 1999, Officer Sment spoke to Baschiera, Rosenthal and Carr while Officer Lips spoke to Prudence and Maxine Bellinger. According to Baschiera, Laurence Bellinger was "very aggressive, belligerent" and "repeatedly interrupted" Sment's interview (Page 265). Officer Sment "asked him repeatedly to go towards Officer Lips' location" but got only limited, temporary compliance. Baschiera saw Officer Lips walk toward them and Prudence Bellinger attempt to grab documents from Lips' hand, and a struggle ensued. Laurence Bellinger came from behind Officer Sment and struck Sment in the face with his fist, and grab the flashlight that had been in Officer Sment's hand. It was at this point that Baschiera and Rosenthal decided that the officers needed their help, and they assisted the officers in taking Laurence Bellinger to the ground and placing him in handcuffs (Page 269). At no point did Baschiera hear Officer Lips or Officer Sment use profanity or any racially disparaging language. At no point did Baschiera see Officer Sment or Officer Lips use any more force than was necessary to take Laurence, Prudence and Maxine Bellinger into custody. It was Baschiera's opinion that both Sment and Lips conducted themselves in a "very professional manner" on the date in question (Page 271-272). On cross examination Baschiera testified that both he and Rosenthal were licensed to carry a firearm, and that Rosenthal may have been carrying a firearm but he (Baschiera) was not on April 10, 1999.

Testimony of Sergeant Sean Lips: On April 10, 1999, then Police Officer (now Sergeant) Sean Lips received a radio dispatch concerning a trespass complaint at 217-219 East Keefe Avenue. Upon arriving at the scene Officer Lips went to speak to Prudence and Maxine Bellinger while his partner, Officer Sment, went to speak to the other group of individuals. Maxine Bellinger provided Lips with a handwritten note that she stated had been left in the mailbox (Exhibit 6) and what purported to be a land contract. (Exhibit 12) Officer Lips conducted a brief review of those documents, but was unable to determine exactly what they

pertained to or who had legal right to the premises (Page 285). Lips understood that Maxine Bellinger's concern was "that she is the owner of the property and that these people were on the property, but I did tell her that the documents that she gave me at the time I could not make a sound decision whether she had a legal right to the property" (Pages 285-286). Maxine went back into the building to look for additional documents. Laurence Bellinger was attempting to intercede with Officer Sment's investigation, and Prudence Bellinger attempted to go over to where Officer Sment was interviewing the other parties. Officer Lips advised her several times to remain where she was while Officer Sment conducted his investigation. Officer Lips noted that Officer Sment was having difficulty conducting his interview because of Laurence Bellinger, and Lips walk toward them in an attempt to get Laurence to calm down. As he did this Prudence Bellinger grabbed the documents in Officer Lips' hand and a struggled ensued which involved Officer Lips, Officer Sment, Lawrence Bellinger, Prudence Bellinger and at least one of the civilian security officers (Pages 289-295). Officer Lips denies using any more force than was necessary under the circumstances, and further denies utilizing any profane or racially derogatory language during the incident (Pages 296-298).

PROPOSED

FINDINGS OF FACT

1. The Board of Fire and Police Commissioners of the City of Milwaukee has authority over only current members of the City of Milwaukee Fire Department and Police Department. The Board does not have authority over former members of either Department.
2. That on April 10, 1999, Steven Sment was a City of Milwaukee police officer. Steven Sment is no longer a member of the Milwaukee Police Department, having resigned in order to accept a position with the City of Wauwatosa Police Department. For this reason, the Board lacks authority over former Police Officer Steven Sment. Any reference to Police Officer Steven Sment refers to current City of Wauwatosa Police Officer Steven Sment.
3. That on April 10, 1999, Sean Lips was a City of Milwaukee police officer. Subsequent to that date Sean Lips was promoted, and currently holds the position of Sergeant with the Milwaukee Police Department. Any reference to Police Officer Sean Lips refers to current City of Milwaukee Police Sergeant Sean Lips.
4. That on April 10, 1999, Officer Sean Lips and his partner, former Officer Steven Sment, were dispatched to 217-219 East Keefe Avenue relative to a trespassing complaint.
5. That upon arrival at the scene, Officer Sment attempted to interview one group of individuals consisting of Catherine Carr, Gregory Rosenthal and Dino Baschiera while Officer Lips attempted to interview Maxine Bellinger and Prudence Bellinger. At some point Lawrence Bellinger exited the building and attempted to participate in the conversation involving Officer Sment.
6. That a dispute arose involving Lawrence Bellinger, Prudence Bellinger, Maxine Bellinger, Officer Sment and Officer Lips. This escalated into a physical altercation and resulted in the arrest of Lawrence Bellinger, Maxine Bellinger and Prudence Bellinger.
7. That Complainants Lawrence, Maxine and Prudence Bellinger allege that Officers Steven Sment and Sean Lips were discourteous and profane at various points during the incident.
8. That Complainants Lawrence, Maxine and Prudence Bellinger also allege that Officer Sment and Officer Lips utilized excessive force at various points during the incident.

9. That Complainant Lawrence Bellinger was, as a result of a jury trial, convicted of the crime of battery to a law enforcement officer for his actions on April 10, 1999.

10. That Complainant Prudence Bellinger was, as a result of a jury trial, convicted of the crime of disorderly conduct for her actions on April 10, 1999.

11. That Officer Steven Sment and Officer Sean Lips deny using profanity or being discourteous in their dealings with the Bellinger family on the date in question.

12. That Officer Steven Sment and Officer Sean Lips deny utilizing more force than was reasonable and necessary against Lawrence Bellinger and Prudence Bellinger.

13. That citizen witnesses Gregory Rosenthal and Dino Baschiera both testified that they neither heard nor saw any action by Officer Sment or Officer Lips that they interpreted as discourteous, and that neither officer used any profanity at any point during the incident.

14. That Gregory Rosenthal and Dino Baschiera testified that Lawrence Bellinger and/or Prudence Bellinger initiated the physical altercation, and that neither Officer Sment nor Officer Lips utilized any more force than was necessary under the circumstances.

15. That Gregory Rosenthal and Dino Baschiera testified that the officers were professional at all times in their dealings with complainants.

16. That the Complainants have failed to provide sufficient evidence to prove by a preponderance of the evidence that Sean Lips failed to utilize appropriate courtesy and civility on April 10, 1999, in alleged violation of MPD Rule 4, Section 2/060.00.

17. That the Complainants have failed to provide sufficient evidence to prove by a preponderance of the evidence that Sean Lips utilized more force than was reasonable and necessary on April 10, 1999, in alleged violation of MPD Rule 4, Section 2/445.00.

NOV 8 2000

EGGERT LAW OFFICE, S.C.

BOARD OF
FIRE AND POLICE COMMISSIONERS : CITY OF MILWAUKEE : COUNTY OF MILWAUKEE

In Re:
THE CHARGES OF LAURENCE, MAXINE,
AND PRUDENCE BELLINGER AGAINST
POLICE OFFICERS SEAN LIPS AND STEVEN SMENT

ORDER OF DISMISSAL

To Officer Steven Sment:

WHEREAS, accused Police Department member Steven Sment resigned from the Milwaukee Police Department effective June 27, 2000, and is therefore no longer under the jurisdiction of the Fire and Police Commission,

IT IS HEREBY ORDERED that the Complaint of Laurence, Maxine, and Prudence Bellinger, Complaint No. 99-17, filed with the Board on April 14, 1999, is dismissed only against Officer Steven Sment, with the Complaint against all other accused member(s) remaining in full force and effect, by the

MILWAUKEE BOARD OF
FIRE AND POLICE COMMISSIONERS

WOODY WELCH,
CHAIRMAN

BY:

JOSEPH J. CZARNEZKI
EXECUTIVE DIRECTOR

DATED AT MILWAUKEE, WISCONSIN, NOVEMBER 6, 2000

c: Attorney Jonathan Cermele ✓

NOV 8 2000

BOARD OF
FIRE AND POLICE COMMISSIONERS : CITY OF MILWAUKEE : COUNTY OF MILWAUKEE

In Re:
THE CHARGES OF LAURENCE, MAXINE,
AND PRUDENCE BELLINGER AGAINST
POLICE OFFICERS SEAN LIPS AND STEVEN SMENT

ORDER OF DISMISSAL

To Officer Sean Lips:

WHEREAS, accused Police Department member Steven Sment resigned from the Milwaukee Police Department effective June 27, 2000, and is therefore no longer under the jurisdiction of the Fire and Police Commission,

IT IS HEREBY ORDERED that the Complaint of Laurence, Maxine, and Prudence Bellinger, Complaint No. 99-17, filed with the Board on April 14, 1999, is dismissed only against Officer Steven Sment, with the Complaint against all other accused member(s) remaining in full force and effect, by the

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CHAIRMAN

BY:

JOSEPH J. CZARNEZKI
EXECUTIVE DIRECTOR

DATED AT MILWAUKEE, WISCONSIN, NOVEMBER 6, 2000

c: Attorney Jonathan Cermele

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM SEPTEMBER 13, 2002

TO: P.O. SEAN LIPS
SENSITIVE CRIMES

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 10, 1999
2) A citizen's complaint made by MAXINE LAURENCE
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: Det Sean Lips

Print your name: Sean Lips

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

Steven Settingsgaard KJS
STEVEN M. SETTINGSGAARD
POLICE COMMANDER
Internal Affairs Division

SMS:kjs