

January 27, 2006

To the Honorable  
Judiciary and Legislation Committee  
Common Council of the  
City of Milwaukee  
Room 205 – City Hall

Re: Settlement of the lawsuit entitled *Gustafson and Cornejo v. Jones, et al.*  
Case No. 00-C-1397

Dear Committee Members:

Enclosed please find a proposed substitute Resolution. We ask that this be considered by the Committee on Judiciary and Legislation with the following recommendation.

Throughout the entire time that was pertinent to this lawsuit, the plaintiffs, Rod Gustafson and Javier Cornejo, were members of the Milwaukee Police Department. In November 1993, they were transferred from the Tactical Enforcement Unit to patrol duty. In December 1994, they filed a Federal lawsuit alleging retaliation for certain statements that they made, claiming a violation of their First Amendment rights. In January 2000, a jury rendered a verdict in their favor. In the second lawsuit to which this correspondence relates, Gustafson and Cornejo claim that from December 1994 through the summer of 2002, former Chiefs Jones and Arreola and Deputy Chief Ray retaliated further against the plaintiffs by prohibiting them from obtaining any other desirable assignment within the Milwaukee Police Department.

In the course of the litigation, the plaintiffs have produced evidence that they sought transfers on a number of occasions. They have also produced evidence that Gustafson and Cornejo were on one or more occasions either ranked at the top of transfer list, near the top of transfer list, or were the subject of a specific request from the commanding officer within a unit to which the plaintiffs sought transfer, but that they were nonetheless not transferred. The plaintiffs also

developed evidence in discovery relating to the first lawsuit indicating that Chief Jones believed that the officers should remain in their respective district patrol assignments.

The plaintiffs in their complaint sought \$300,000.00 in compensatory damages and \$20 Million in punitive damages. In their first lawsuit, they were able to recover the total of \$380,000.00 plus attorney's fees.

With regard to their claim in the present lawsuit relating to the continuing refusal to transfer them, the plaintiffs are now willing to accept \$90,000.00 in settlement of all of these claims. Because we believe that it is in the best interests of the City given all of the circumstances outlined above, we recommend your approval of the payment of the proposed settlement amount. We have enclosed an appropriate Resolution for your convenience.

Very truly yours,

GRANT F. LANGLEY  
City Attorney

JAN A. SMOKOWICZ  
Assistant City Attorney

JAS/dj  
enclosure  
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