

GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
LINDA ULISS BURKE
VINCENT D. MOSCHELLA
Deputy City Attorneys



THOMAS O. GARTNER
BRUCE D. SCHRIMPF
ROXANE L. CRAWFORD
SUSAN D. BICKERT
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. FRICKER
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
VINCENT J. BOBOT
MIRIAM R. HORWITZ
MARYNELL REGAN
G. O'SULLIVAN-CROWLEY
KATHRYN M. ZALEWSKI
MEGAN T. CRUMP
ELOISA DE LEÓN
ADAM B. STEPHENS
KEVIN P. SULLIVAN
BETH CONRADSON CLEARY
THOMAS D. MILLER
Assistant City Attorneys

February 8, 2008

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

Re: Communication from Attorney Laurie A. Eggert for legal fees for
Police Officer Claude Osburn
C.I. File No. 06-S-257; EC 2366

Dear Council Members:

Returned herewith is a document filed by Attorney Laurie A. Eggert for attorney's fees for representing Police Officer Claude Osburn. The claim is in the amount of \$1,364.00 for 12.40 hours of service billed at the rate of \$110 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 officer 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. Wis. Stat. § 895.35, *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:amp
Enc.

1032-2006-2380:124731v1

OFFICE OF THE CITY ATTORNEY

Milwaukee City Hall Suite 800 • 200 East Wells Street • Milwaukee, Wisconsin 53202-3551 • Telephone: 414.286.2601 • TDD: 414.286.2025 • Fax: 414.286.8550

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

September 12, 2006

TO: P.O. CLAUDE OSBURN
DISTRICT: FOUR

RE: Receipt of Legal Services from Law Firm of
Attorney Laurie Eggert

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 JANUARY 7, 2006
- 2) A citizen's complaint made by DARRYL DOWNEY
- 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: Claude Osburn Jr

Print your name: Claude Osburn Jr

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

Mary K. Hoerig

MARY K. HOERIG
Deputy Inspector
Professional Performance Division

MILWAUKEE POLICE DEPARTMENT
PROFESSIONAL PERFORMANCE
DIVISION

06 SEP 27 AM 11:22

RECEIVED

MKH:kjs

DP

CERMELE & ASSOCIATES, S.C.

ATTORNEYS AT LAW

JONATHAN CERMELE
LAURIE A. EGGERT
RACHEL L. PINGS
MATTHEW L. GRANITZ

1840 NORTH FARWELL AVENUE
SUITE 303
MILWAUKEE, WISCONSIN 53202
(414) 276-8750
FAX (414) 276-8906

August 17, 2006

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

RECEIVED
CITY OF MILWAUKEE
2006 AUG 28 PM 4:16
RONALD D. LEONHARDT
CITY CLERK

**RE: MPD Criminal Investigation of PO Claude Osburn
Allegations Regarding Mr. Darryl Downey
Date of Incident: January 7, 2006
Location of Incident: 10422 West Jonen Street**

Dear Mr. Leonhardt:

The above-named police officer has retained us to represent him in connection with the above-referenced matter. Consistent with its policy, the City Attorney's Office has refused to represent him and, as he was performing the duties of his office at the time of the events giving rise to the incident, this claim is hereby made on his behalf for the indicated legal fees. This incident involved checking for a wanted usbjct.

The MPD conducted a criminal investigation and investigated the matter as a critical incident. District Attorney E. Michael McCann reviewed the matter and did not issue charges against the officers.

Attached is a copy of District Attorney E. Michael McCann's letter and an itemization of the time and services rendered.

CITY OF MILWAUKEE
RECEIVED
2006 AUG 29 PM 3:28
OFFICE OF
CITY ATTORNEY

Sincerely,

CERMELE & ASSOCIATES, S.C.

Jon Cermele

JC/kjs
Attachment
OSBURN



OFFICE OF DISTRICT ATTORNEY

COPY

Milwaukee County

E. MICHAEL McCANN • District Attorney

- Robert D. Dorrado
- Jon N. Raska
- Patrick J. Kimey
- Lovel Johnson, Jr.
- James J. Moran
- Thomas A. Sowa
- Alexander S. Szwarc
- William J. Usher
- Daniel G. Jooze
- Greg E. Sporen
- Tony Maggioni
- Greg D. Wilson
- David Rabas
- Pat Tarrant
- Donald J. Sime
- James G. Brown
- Norman A. Gahn
- Elizabeth G. Brown
- Carol E. Janda
- Steven H. Glavin
- Mary Anne Smith
- Mark S. Williams
- Linda Johnson
- John W. Sporer
- Thomas L. Potter
- David Foss
- Regina Chandler
- Carole Manchester
- Kenneth B. Berg
- Warren D. Zar
- Timothy J. Coffey
- Craig Gary Crowley
- Steven V. Liska
- Brad Vossart
- Jana Carroll
- Paul Tien
- William S. Fox
- Phyllis M. O'Connell
- Dennis B. Murphy
- Christine M. Davis
- Philip A. Bratt
- Thomas J. McClellan
- David J. Langford
- David J. Sinyal
- David N. Lerman
- Jane C. Prochaska
- DeAnn L. Howard
- Patricia A. McCowan
- Karen E. Furum
- Karen A. Uhlir
- Nancy Erickson
- Ronald E. Ouyang
- Lori S. Korshak
- Karla O'Dwyne
- Maria Dorsey
- James W. Frison
- Kurt W. Haveling
- Janice C. O'Brien
- William P. Furr
- Audrey Burkhardt
- Joanne L. Miranda
- John T. Chuzhoy
- Christopher A. Uogol
- Megan F. Carmody
- Laura A. Cavallo
- Shawn Pampa
- Kevin R. Shomlin
- Jennifer Malachuk
- Don D. Zingel
- Karen A. Wenzel
- Rebecca F. Deibel
- Mark A. Swanson
- Paul G. O'Connell
- David T. Maloney
- Ruby L. Hauge
- Jeffrey J. Ahrensberg
- Richard Ormrod
- Kurt L. Ueber
- Debra W. Becker
- Michael T. Mahoney
- Mary M. Spink
- Kathryn K. Pomeroy
- Joseph A. Corbett
- Jeffrey P. Orsatti
- Daniel M. Kline
- Jeffrey L. Finzer
- Daniel J. Saper
- Eara D. Swaine
- T. Christopher Goss
- Katherine Kucharski
- Lisa R. Frisker
- Tiffany J. Harris
- David R. Humboldt
- Jacob D. Coe
- Jay Mansfield
- Tiffany A. Skel
- Andrew J. Meyer
- Heidi H. Conner
- Hearty A. Noel
- Elizabeth Mueller
- Megan J. Thomas
- Grant I. Muddner
- Stephan Edward Merten
- Christine M. Quinn
- Michelle Ackerman Maran
- Adam J. Levin
- Jennifer K. Andrade
- Chloe Sterling
- Zach Whalley
- Rebecca A. Kialer
- Melanie J. Thompson
- Kelaine L. Chikja
- Janet M. Kucharski
- Carla Hainig
- Gilbert Ufer
- Jenna Morgan
- Anthony White
- Antoni Appa
- Jana Orsatti
- Nicole Ouyang
- Eric Hansen
- Lucy Krotford
- William Anthony Galt, Jr.
- Ken O'Brien
- Melissa A. Orsatti
- Monica J. Ross
- Michael J. Laska
- Rajal M. Mehta

This copy faxed to Carmela.
SPZ/h

May 26, 2006

Chief Nannette Hegerty
Milwaukee Police Department
749 W. State St., Room 716
Milwaukee, WI 53233

Re: **Critical Incident Involving Officer Claude Osburn and Citizen Darryl Downey on January 7, 2006**

Dear Chief Hegerty:

On January 7, 2006, a City of Milwaukee police squad driven by City of Milwaukee Police Officer Claude Osburn ran over Darryl Downey. Downey was handcuffed behind his back and was fleeing officers who had placed him under arrest. Downey sustained injuries as a result of being run over by the squad car. Downey was transported to Children's Hospital and needed surgery to repair injury to his internal organs.

Consistent with established practice, this office undertook an investigation of the matter. Our investigation included interviews of the police officers involved, including Officer Osburn, who gave a statement in the presence of Attorney Rachel Pings. Osburn denied intentionally using his squad car to run over Downey.

We also interviewed Daryl Downey in the presence of his attorney, Mr. Gordon Aaron. Downey is currently in custody at the Ethan Allen School at Wales, WI. Downey asserts Officer Osburn intentionally ran him over "with all four tires" as he attempted to surrender to pursuing officers. Downey further asserts Osburn intentionally caused the rear wheels of the squad to "spin on top of him" causing "road rash" to his body. Downey lacks some credibility based ~~_____~~

In the early afternoon of January 7, 2006, Downey was arrested and handcuffed behind his back at 10422 W. Jonek and was about to be placed in a squad car when he broke free and ran at first southward and then generally eastward through the yards. In an attempt to contain Downey, Osburn headed eastward in his car and rounded the corner of West Jonek and 103rd Court going southbound. At that time Osburn saw Downey running eastbound "like he's going to dart into traffic." Osburn stated he thought the best way to avoid striking Downey was to cut hard to the right presuming that Downey would continue eastward and would pass in front of him, crossing N. 103rd Court without being struck by

Chief Hegerty

May 26, 2006

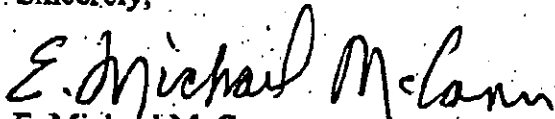
Page 2

the car. Downey in a statement to Investigator Weiss said he determined at that time he had nowhere to go and attempted to transition from running to stopping. In so doing, Downey, with his hands cuffed behind him, slipped onto his back. The car being operated by Officer Osburn at least in part (rear wheels and possibly front wheels as well) passed over Downey. Downey then got up and ran and was thereafter apprehended by Osburn.

Officer Osburn clearly had a right to pursue Mr. Downey. Osburn stated that he rounded the corner of Jone and N. 103rd Court "in a hurry." Downey stated his belief that Osburn was going between 50 and 60 m.p.h. The most objective observer, a citizen named Ginger Rich, who saw at least part of the incident, believed that the car being operated by Osburn was "not going slow but was not fast."

I have determined that there is no substantial evidence that Osburn intended to or recklessly harmed Downey and accordingly find no crime was committed by Osburn when this unfortunate incident unfolded.

Sincerely,



E. Michael McCann
District Attorney

cc: Atty. Jon Cermele

CERMELE & ASSOCIATES, S.C.

ATTORNEYS AT LAW

JONATHAN CERMELE
LAURIE A. EGGERT
RACHEL L. PINGS
MATTHEW L. GRANITZ

1840 NORTH FARWELL AVENUE
SUITE 303
MILWAUKEE, WISCONSIN 53202
(414) 276-8750
FAX (414) 276-8906

August 18, 2006

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

RE: MPD Criminal Investigation regarding injury to Darryl Downey
Regarding: PO Claude Osburn
Date of Incident: January 7, 2005
Location of Incident: 10422 W. Jonen St.
Professional services

	<u>Hours</u>
1/7/2006 Various telephone calls to and from MPD officers regarding potential "critical incident"; travel to PAB; interview PO's Claude Osburn and Gary Thundercloud; represent same regarding statements to CIB and DA McCann; return travel; open file; memo to file.	7.20
1/13/2006 Telephone call from and to client; memo to file.	0.30
1/24/2006 Telephone call from client.	0.10
2/8/2006 Conference with Balcerzak; e-mail to DA Investigator Weiss regarding status of investigation; receive and review several e-mails regarding same; print and file all correspondence.	0.30
2/9/2006 Receive and review e-mail from DA Investigator; telephone call to client; memo to file.	0.30
2/13/2006 Receive and review e-mail from DA Investigator Weiss; respond to same; print and file.	0.30

	<u>Hours</u>
3/3/2006 E-mail to DA Investigator Weiss.	0.20
3/9/2006 Telephone call from client regarding status.	0.10
3/22/2006 Review file; telephone call to DA Investigator Weiss.	0.20
3/23/2006 Telephone call from client; memo to file.	0.20
4/6/2006 Review file; correspondence to DA Investigator Weiss.	0.10
4/10/2006 Telephone call from client.	0.10
4/11/2006 Telephone call to DA Investigator Weiss; memo to file.	0.20
4/24/2006 Telephone call from client.	0.10
5/8/2006 Review file; telephone call to DA McCann.	0.10
5/10/2006 Telephone call from client.	0.10
5/24/2006 Telephone call from client (message); telephone call to and from McCann; telephone call to client; memo to file.	0.30
6/21/2006 Telephone call to McCann; telephone call to client; travel to and attend PI-21; receive and review Fax from McCann clearing client of criminal charges; close file.	2.00
7/11/2006 Correspondence to clients; close file.	0.20

	<u>Amount</u>
For professional services rendered	✓ 12.40 ✓ \$1,364.00
Balance due	<u>\$1,364.00</u>