

**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 25, 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 Officers Steven Jaeck and Michael Valuch  
C.I. File No. 06-S-28-7; EC 2279

Dear Council Members:

Returned herewith is a document filed by Attorney Laurie A. Eggert for attorney's fees for representing Police Officers Steven Jaeck and Michael Valuch. The claim is in the amount of \$935.00 for 8.50 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 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. 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.

1032-2006-229:124731v1

**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

February 2, 2006

TO: P.O. MICHAEL VALUCH  
DISTRICT: SEVEN

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 JULY 20, 2005
- 2) A citizen's complaint made by JERRY BIRKLEY
- 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: PO Michael T Valuch Sr

Print your name: PO Michael T VALUCH Sr

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  
Captain of Police  
Professional Performance Division

RECEIVED  
06 FEB 10 PM 2:00  
MILWAUKEE POLICE  
PROFESSIONAL PERFORMANCE  
DIVISION

MKH:kjs

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

February 2, 2006

TO: P.O. STEVEN JAECK  
DISTRICT: SEVEN

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 JULY 20, 2005
- 2) A citizen's complaint made by JERRY BIRKLEY
- 3) A police shooting incident occurring on N/A

Is this information correct?

YES  NO

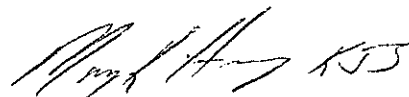
Did you receive legal representation  
in this matter?

YES  NO

Your signature: PO Steven Jaeck

Print your name: PO STEVEN JAECK

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

  
 MARY K. HOERIG  
 Captain of Police  
 Professional Performance Division

MKH:kjs

RECEIVED  
 06 FEB 03 PM 2:02  
 POLICE TRAINING  
 INVESTIGATIVE AFFAIRS

**EGGERT & CERMELE, S.C.**

*Attorneys at Law*

Laurie A. Eggert  
Jonathan Cermele  
Rachel L. Pings  
Timothy J. Walther

CITY OF MILWAUKEE

2006 JAN 19 AM 8:37

RONALD D. LEONHARDT  
CITY CLERK

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

January 16, 2006

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

**RE: MPD Criminal Investigation of POs Steven Jaeck and Michael Valuch  
Allegations Regarding Mr. Jerry Birkley  
Date of Incident: July 20, 2005  
Location of Incident: St. Joseph's Hospital**

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, this claim is hereby made on their behalf for the indicated legal fees. This incident involved a death in custody.

The MPD conducted a criminal investigation and investigated the matter as a critical incident. Assistant District Attorney Jackson reviewed the matter and did not issue charges against the officers. Attached is a copy of Assistant District Attorney Jackson's letter and an itemization of the time and services rendered.

Sincerely,

EGGERT & CERMELE, S.C.

Jon Cermele

JC/kjs  
Attachment  
JAECK AND VALUCH

**EGGERT & CERMELE, S.C.**

*Attorneys at Law*

Laurie A. Eggert  
Jonathan Cermele  
Rachel L. Pings  
Timothy J. Walther

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

January 16, 2006

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

RE: MPD Criminal Investigation regarding the death of Mr. Jerry Birkley  
Regarding: POs Steven Jaeck and Michael Valuch  
Date of Incident: July 10, 2005.  
Location of Incident: St. Joseph's Hospital  
Professional services

	<u>Hours</u>
7/20/2005 Telephone call from several PO's regarding critical incident; several telephone calls to and from Atty. Pings.	0.60
7/21/2005 Various telephone calls from witnesses; telephone call from PO Jaeck; travel to St. Joe's; travel to PAB; interview PO's Valuch and Jaeck; attend detective / DA interviews of same; return travel; open file; memos to file.  Intra-office conference with JC; telephone call from witness.	5.50  0.30
7/22/2005 Review and copy relevant Journal-Sentinel article for file.	0.20
11/21/2005 Telephone calls from PO Jaeck (2); review of file; discussion with DA Investigator.	0.40
11/23/2005 Telephone call to PO Jaeck; memo to file.	0.20
1/6/2006 Review file; telephone call to DA Investigator Weiss and e-mail to same regarding status.	0.30

	<u>Hours</u>
1/10/2006 Receive and review e-mail from DA Investigator Weiss; telephone call to Dep. Chief O'Keefe; receive and review Fax from same\ regarding clearance letter; telephone calls to clients and forward clearance letter to clients; close file.	1.00

	<u>Amount</u>
For professional services rendered	8.50
Balance due	<u>\$935.00</u>

(Rate: \$110.00 per hour)



OFFICE OF DISTRICT ATTORNEY  
CHILDREN'S COURT CENTER

# Milwaukee County

E. MICHAEL McCANN - District Attorney

December 28, 2005

Chief Nanette Hegarty  
City of Milwaukee Police Department  
749 West State Street  
Milwaukee, WI 53233

RE: Sudden Death of Jerry Birkley (B. 4/11/68)  
Date of Death: July 20, 2005

Dear Chief Hegarty:

Based upon my review of the police reports, autopsy protocol and toxicology report regarding the death of the above named individual, the evidence indicates Milwaukee Police Officers acted appropriately during the above mentioned incident.

The police reports reflect that on July 20, 2005 at approximately 8:03 p.m., City of Milwaukee Police Officers Michael Valluch, Jr. and Steven Jaeck were dispatched to a fight and while in route, it was updated to a child abuse at 20<sup>th</sup> and Burleigh. Upon arrival, they observed a black male, later identified as Jerry Birkley, standing in the doorway on the front porch at 3105 North 20<sup>th</sup> Street. He had one arm bear hugging a female child and the child was crying and attempting to push his arms away. He also was looking around and muttering to himself. Officer Jaeck told Birkley to drop the child, but he did not comply. Subsequently, Officer Valluch grabbed Birkley's right hand while Officer Jaeck grabbed his left hand, which resulted in Birkley dropping the girl.

While the officers attempted to control Birkley, he yelled "shoot me, shoot me, shoot me in the head." He also attempted to pull his arms away from the officers.

Other squads arrived on the scene, and officers began to walk Birkley off the porch. Officer Valluch indicated another officer instructed him that they should take Birkley to the ground. However, the officers all started falling and fell to the ground along with Birkley. Other squads were called to the scene, and subsequently, officers handcuffed Birkley, and used plastic zip-cuffs on his legs. After he was restrained, Birkley was placed in a conveyance wagon. The Milwaukee Fire Department was summoned to the scene, and a decision was made to initiate an "emergency detention" as a result of Birkley's behavior. A private ambulance was called for conveyance to a hospital for Birkley to be medically cleared.

The reports indicate that while the officers were engaged with Birkley, a family member told the officers he was paranoid, and encouraged him to cooperate with police and not struggle. Subsequent interviews of family members indicate Birkley's behavior was attributed to his use of crack cocaine and alcohol. George Birkley, the brother of the deceased, told police that Jerry had a substance abuse problem and uses crack cocaine. He stated that Jerry had an addiction to crack cocaine for many years, and he hallucinates when he uses crack cocaine. He also said that Jerry has a lot of anxiety over the family situation in the house and becomes very angry when he gets high.

Subsequently, a private ambulance transported Birkley to St. Joseph's Hospital. At the hospital, Birkley struggled with police, security guards and medical staff. As a doctor, several nurses and other staff were attending to Birkley, he became unresponsive with respiratory distress. CPR was utilized and Birkley was intubated. Birkley produced a pulse and was breathing by use of a ventilator. At this point, he was no longer struggling or fighting with personnel or police. A nurse remained in the room monitoring Birkley. After approximately 20 minutes, his heart stopped again and medical staff attempted life saving measures. Approximately 15-20 minutes, Jerry Birkley was pronounced dead.

The September 19, 2005 toxicology report signed by Susan B. Gock, among other things, indicates Birkley's blood was positive for cocaine metabolite and benzodiazepins. The August 9, 2005 autopsy protocol signed by Dr. Jeffrey Jenzen, Medical Examiner for Milwaukee County, cites the



cause of death as "acute cocaine psychosis associated with coronary arteriosclerosis."

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Donald S. Jackson".

Donald S. Jackson  
Assistant District Attorney

CC: Deputy Chief Brian O'Keefe  
DA File