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June 13, 2018

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

Re: Communication from Attorney Steven D. Michael Guerin, Gimbel, Reilly,
Guerin & Brown, for legal fees for Police Sergeant Stephen Chin

Dear Council Members:

Returned herewith is a document filed by Attorney D. Michael Guerin for attorney's fees for representing Police Sergeant Stephen Chin. The claim is in the amount of \$5,125.00 for 20.50 hours of service billed at the rate of \$250 per hour, but should be in the amount of \$5,650.00, for 22.6 hours of service. We ask that this matter be introduced and referred to the Committee on Judiciary & Legislation.

Legal representation was occasioned by a state criminal proceedings against an individual injured in a shooting incident involving police. No criminal charges were brought against the officer on whose behalf this claim was filed following his testimony in those proceedings.

This claim is governed by the amended Wis. Stats. §895.35(2). The pertinent language in that statute is the following: "the city...shall reimburse a protective services officer for reasonable attorney fees incurred by the officer in connection with a criminal proceeding arising from the officer's conduct in the performance of official duties" except for certain circumstances that do not apply here. The statute thus removes discretion from the City over whether to pay such claims arising from certain criminal proceedings, but does not specify what are to be deemed "reasonable" attorneys' fees.

As to the proper definition of "reasonable" attorney fees, such a requirement has been interpreted by the Wisconsin Supreme Court in the past in a comparable context. *Village of Shorewood v. Steinberg*, 174 Wis. 2d 191, 204-5, 496 N.W.2d 57 (1993). In doing so, it referred to one of its rules, SCR 20:1.5, relating to fees that attorneys may charge. The factors prescribed by that rule include: 1) time and labor required, 2) novelty and difficulty of the questions involved; 3) skill required to perform services; 4) apparent likelihood that lawyer will be precluded from other work; 5) the fee customarily charged; 6) amount involved and results obtained; 7) limitations imposed by client or



To the Honorable Common Council
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circumstances; 8) nature and length of the relationship; 9) experience and ability of the lawyer; and, 10) whether the fee is fixed or contingent. Given what we know of this situation, time and labor required, the skill required to perform the services, the fee customarily charged, and the experience and ability of the lawyer support the hourly rate of \$250.00.

Under all the circumstances, therefore, we would recommend that the City pay \$5,650.00 for attorneys' fees and expenses in this matter.

Very truly yours,



GRANT F. LANGLEY
City Attorney



JAN A. SMOKOWICZ
Deputy City Attorney

JAS
Enclosure
1032-2017-781:249697



Writer's Direct E-mail
dmguerin@grgblaw.com

at

September 10, 2015

RECEIVED

APR 11 2017

OFFICE OF
CITY ATTORNEY

Jim Owczarski, City Clerk
Milwaukee City Hall
200 East Wells Street, Room 205
Milwaukee, Wisconsin 53202

Re: *Sergeant Stephen Chin*
February 21, 2013, Shooting

ED

Dear Mr. Owczarski:

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On February 21, 2013 Stephen Chin, A Sergeant on the Milwaukee Police Department, was involved in a shooting incident at 5240 North 45th Street while on duty. The Milwaukee Police Department and the Milwaukee District Attorney conducted a criminal investigation into the matter.

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The incident resulted in injuries to Kelvin Johnson. Mr. Johnson was subsequently charged with several crimes as a result of this event. Sergeant Chin was required to attend and be prepared to testify in the trial of Kevin Johnson. There were concerns whether Sergeant Chin's trial testimony might invade his constitutional rights to avoid subjecting himself to criminal liability.

Consistent with its ethical obligations and policy, the City Attorney's office was unable to represent Sergeant Chin in this matter and we were retained.

I am enclosing the printout of time at the hourly rate of \$250.00 an hour for services rendered regarding Stephen Chin. Sergeant Chin has incurred the fees compiled in these printouts as a direct result of his being investigated for actions taken within his official capacity, and in the performance of his duties, in connection with the use of force. None of the "exceptions" to mandatory payment under § 895.35(2) Stats. apply. Therefore this investigation qualifies as a "proceeding" which mandates payment under § 895.35(2) Stats.



04/03/13 DMG	Review District Attorney Chisholm's correspondence to Chief Flynn; forward to client.	1.00
01/07/14 DMG	Telephone conference with District Attorney Chisholm regarding trial in February; schedule pre-motion meeting.	0.30
01/09/14 DMG	Telephone conference with client regarding meeting preparation for motion hearing.	0.20
01/14/14 DMG	Conference with district attorney; review reports and prepare for meeting.	2.00
01/20/14 DMG	Prepare correspondence to client and review of Gibbs Report (use of force).	2.00
02/21/14 DMG	Telephone conference with client regarding preparation for trial; review file regarding memorandums and police reports.	0.80
02/24/14 DMG	Telephone conference with client; travel to courthouse regarding testimony; trial begins.	3.00
02/25/14 DMG	Attend trial of Kelvis Johnson.	<u>3.00</u>
	FOR CURRENT SERVICES RENDERED	20.50

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RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
D. M. Guerin	20.50	\$250.00*	\$5,125.00
TOTAL CURRENT WORK			\$5,125.00
BALANCE DUE			<u>\$5,125.00</u>

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APR 11 2017

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PLEASE RETURN ONE COPY OF THIS STATEMENT WITH YOUR PAYMENT.
THANK YOU!