

CITY OF MILWAUKEE

Form CA-43

GRANT F. LANGLEY
City Attorney

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

January 14, 2004

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

Re: Communication from Attorney Laurie A. Eggert, Eggert & Cermele, S.C.
for legal fees for Police Officers Kelly Peterson and Brant Ungerer
C.I. File No. 02-S-263; EC No. 1787


Dear Council Members:

Returned herewith is a document filed by Attorney Laurie Eggert for attorney's fees for representing Police Officers Kelly Peterson and Brant Ungerer. The claim is in the amount of \$1,462.75 including \$43.75 in disbursements for 12.90 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 a criminal investigation. No criminal charges were brought against the police 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. 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.

2276

BEVERLY A. TEMPLE
THOMAS O. GARTNER
BRUCE D. SCHRIMPF
ROXANE L. CRAWFORD
SUSAN D. BICKERT
HAZEL MOSLEY
HARRY A. STEIN
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
MIRIAM R. HORWITZ
MARYNELL REGAN
G. O'SULLIVAN-CROWLEY
DAWN M. BOLAND
KATHRYN M. ZALEWSKI
Assistant City Attorneys

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: MPD Criminal Investigation of POs Kelly Peterson and Brant Ungerer
Allegations Regarding Mr. Gabriel Guzman
Date of Incident: November 16, 2001
Location of Incident: 19th and Lincoln
EC No.: 1787**

CITY OF MILWAUKEE
RECEIVED
CITY ATTORNEY
02 AUG -5 PM 3:50

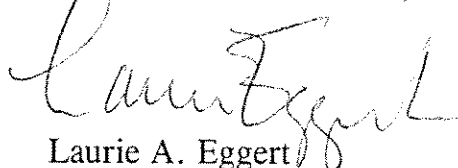
Dear Mr. Leonhardt:

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 use of force in self defense during a foot chase. Charges will not be issued against the officers. Attached is a copy of the clearance report and an itemization of the time and services rendered.

Sincerely,

EGGERT & CERMELE, S.C.



Laurie A. Eggert
Attorney at Law

CITY OF MILWAUKEE
2002 AUG -5 AM 11:47
RONALD D. LEONHARDT
CITY CLERK

1/14/04
C.K.
JRS
Letter 2276

LAE/ldl
PETERSON UNGERER

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

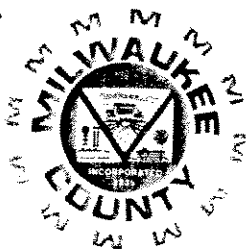
RE: MPD Criminal Investigation re: Mr. Gabriel Guzman
Regarding: POs Kelly Peterson and Brant Ungerer
Date of Incident: November 16, 2001
Location of Incident: 19th and Lincoln

Professional services

	<u>Hours</u>
11/16/01 Telephone call from clients; open file; travel to and from PAB, and to and from scene; conference with clients; statements to Det. and DA, PI-21 statements; memo to file.	7.80
11/26/01 Telephone call from and to Det. Lt.; telephone call to clients; preparation for and appearance at statements to Det.; memo to file; travel.	1.60
11/28/01 Telephone call to DDA Martin; memo to file; telephone call to clients.	0.70
12/13/01 Telephone call from client; review of file.	0.20
12/14/01 Telephone call to and from DDA Martin; telephone call to client; memo to file.	0.40
01/07/02 Review of file; telephone call to DDA Martin; memo to file.	0.40
01/08/02 Telephone call to and from clients.	0.30

	<u>Hours</u>	
01/21/02	Review of correspondence from DDA Martin.	0.10
01/24/02	Review of file; telephone call to DDA Martin; review Fax; telephone call to clients; correspondence to clients; correspondence to MPD Open Records.	0.80
04/11/02	Review of file.	0.10
05/24/02	Review documents from MPD Open Records; close file.	0.50
		<u>Amount</u>
	For professional services rendered	12.90 \$1,419.00
	Additional charges:	
11/16/01	Parking	1.00
05/24/02	MPD Open Records request	42.75
	Total costs	<u>\$43.75</u>
	Total amount of this bill	<u>\$1,462.75</u>
	Balance due	<u><u>\$1,462.75</u></u>

(Rate: \$110.00 per hour)



OFFICE OF DISTRICT ATTORNEY

Milwaukee County

E. MICHAEL McCANN • District Attorney

Robert D. Donohoo
Jon N. Reddin
Carol Lynn White
Patrick J. Kerney
James J. Martin

Thomas A. Schultz
Alexander G. Stenarz
Fredric E. Mastasic
William J. Moller
Gerald R. Falk
Donald S. Jackson
Gale G. Shelton
Terry Magowan
Gary D. Mahkon
David Robles
Deborah Daley
Peg Tarrant
Douglas J. Simpson
Cynthia G. Brown
Norman A. Gahn
George N. Prietz, III
Stephanie Gineris Rothstein
Carol E. Stauder
Steven H. Glamm
Mary Anne Smith
Mark S. Williams
Linda Johnson
John M. Stoiber
Thomas L. Potter
David Feiss
Rayann Chandler Szychinski
Elisa Castellon
Carole Marchester
Kenneth R. Berg
Benbow P. Chessman, Jr.
Lovell Johnson, Jr.
Warren D. Zier
Timothy J. Cotter
Carol Berry Crowley
Steven V. Licata
Brad Vorpahl
Jane Carroll
Paul Tiffin
Minam S. Falk
Phyllis M. DeCarvalho
Dennis P. Murphy
Christopher Ford
Christine M. Kraus
Philip A. Anell
Thomas J. McAdams
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Mary K. McCann
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David M. Larman
Janet C. Protasiewicz
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Patricia A. McGowan
Irene Partum
Karen A. Loebel
Nancy Ettenheim
Marcella DePeters
Ronald S. Dague
JoAnn M. Hornak
Catherine A. Gaudreau
Lori S. Korbium
Kanne O'Byrne
Mana Dixon
James W. Frisch
Kurt B. Berkley
James C. Griffin
William P. Pipp
Audrey Skwierawski
Joanne L. Hardtke
John T. Chsholm
Christopher A. Liegel
Megan P. Carmody
Laura A. Crivello
Derek C. Mosley
Shawn Pompe
Brian J. Resler
Karen A. Lynch
Allison M. Ritter
Kevin R. Shomin
Jennifer Rypel
Beth D. Zargibel
Shannon Carrick
Rebecca F. Dallet
Mark A. Sanders
Paul C. Decinsky
David T. Maione
Jeffrey J. Altenburg
Rachael Gossens
Deborah L. Mills
Patti Webitsch
Kent L. Lovem
Paul R. Sander
Nelson W. Phillips, III
Bradford J. Logsdon
Patrick J. Farley
Joy Bertrand
Margaret M. Zimmer
Bruce W. Becker
Michael T. Mahoney
Mary M. Sowinski
Kathryn K. Samer
Jeanette Corbett
Jeffrey P. Grepp
Thomas C. Binger
David Maas
Jeremy L. Resar
Daniel J. Gabier
Sara P. Scullen
Gerise M. Hooks
Brent Nister
T. Christopher Dee
Katharine Kucharski
Lisa P. Fricker
Robin J. Rosche
Phillip R. Ranguebsin
Tiffany J. Harris
Emory H. Booker, II
Daniel R. Humble
Jacob D. Con
David H. Weber
Joy Hammond
Martin T. Lundquist
John J. Riester
Trevor A. Sisk
Andrew J. Maier

January 18, 2002

Arthur L. Jones, Chief of Police
Milwaukee Police Department
749 West State Street
Milwaukee, WI 53233

Dear Chief Jones:

I conducted an investigation into the shooting death of Gabriel Guzman by Milwaukee police officers Kelly Peterson and Brant Ungerer on November 16, 2001, at the rear of 2253A South 19th Street in Milwaukee.

I concluded that the officers' shooting of Guzman was privileged in self-defense and defense of others pursuant to section 939.48, Stats. There was no criminal wrongdoing by the officers because their actions were necessary to prevent death or great bodily harm to themselves or others.

Thank you for your department's cooperation in the investigation into Guzman's death.

Sincerely,

Handwritten signature of James J. Martin

James J. Martin
Deputy District Attorney

cc: Laurie A. Eggert, Esq.
Peter Arnold, Esq.

MILWAUKEE POLICE DEPARTMENT

USE OF FORCE REPORT

FORM PF-10
Revised 12/95

INCIDENT	<input type="checkbox"/> DISPATCHED ASSIGNMENT TYPE <input checked="" type="checkbox"/> EFFECTING ARREST <input type="checkbox"/> INVESTIGATION	
	<input type="checkbox"/> FIELD INTERVIEW <input type="checkbox"/> BOOKING/CUSTODY <input type="checkbox"/> EXECUTION/SEARCH WARRANT	
	<input type="checkbox"/> TRAFFIC STOP <input type="checkbox"/> CONVEYANCE <input type="checkbox"/> OTHER _____ DESCRIBE _____	

LOCATION	DAY: Friday	DATE: 11-16-01	MIL TIME: 12:45AM	ADDRESS: 2253 S. 19th St. rear of	DISTRICT: 2
	<input type="checkbox"/> TAVERN <input type="checkbox"/> PUBLIC PLACE <input type="checkbox"/> STREET/SIDEWALK <input type="checkbox"/> ALLEY LIGHTING: <input type="checkbox"/> FULL LIGHT/DAYLIGHT				
	<input type="checkbox"/> DWELLING <input type="checkbox"/> SCHOOL <input checked="" type="checkbox"/> FIELD/PARKING LOT <input type="checkbox"/> YARD <input type="checkbox"/> DIM/DUSK/DAWN				

INCLUDE ONLY OFFICERS WHO ACTUALLY USE FORCE - LIST WITNESSING OFFICERS IN WITNESSES SECTION

LAST NAME: 1. PETERSON		FIRST: Kelly	MID.: M.	PAYROLL #: 65697	SOCIAL SECURITY #: #9	RANK: PO	LOCATION: 25
<input checked="" type="checkbox"/> On Duty	<input checked="" type="checkbox"/> Uniform	<input checked="" type="checkbox"/> Firearm: Glock 22		01268MPD	1	5'	
<input type="checkbox"/> Off Duty	<input type="checkbox"/> Plainclothes	<input type="checkbox"/> Imitant/Inflammatory		TYPE	AMOUNT DISCHARGED	APPROX. DISTANCE	
<input checked="" type="checkbox"/> Squad Patrol	<input type="checkbox"/> One Officer	<input type="checkbox"/> Baton		APPROXIMATE NUMBER OF TIMES STRUCK	<input type="checkbox"/> Expandable	<input type="checkbox"/> 16"	
<input type="checkbox"/> Foot Patrol	<input checked="" type="checkbox"/> Two Officer	<input type="checkbox"/> Bodily Force/Other		DESCRIBE TYPE		<input type="checkbox"/> 21"	
OTHER DUTY ASSIGNMENT		<input type="checkbox"/> Canine					
<input checked="" type="checkbox"/> Intentional		<input type="checkbox"/> Unintentional		Officer injuries: None			

LAST NAME: 2. UNGERER		FIRST: Brant	MID.: A.	PAYROLL #: 60858	SOCIAL SECURITY #: #9	RANK: PO	LOCATION: 25
<input checked="" type="checkbox"/> On Duty	<input checked="" type="checkbox"/> Uniform	<input checked="" type="checkbox"/> Firearm: Glock 22		01023MPD	7	15'	
<input type="checkbox"/> Off Duty	<input type="checkbox"/> Plainclothes	<input type="checkbox"/> Irritant/Inflammatory		TYPE	AMOUNT DISCHARGED	APPROX. DISTANCE	
<input checked="" type="checkbox"/> Squad Patrol	<input type="checkbox"/> One Officer	<input type="checkbox"/> Baton		APPROXIMATE NUMBER OF TIMES STRUCK	<input type="checkbox"/> Expandable	<input type="checkbox"/> 16"	
<input type="checkbox"/> Foot Patrol	<input checked="" type="checkbox"/> Two Officer	<input type="checkbox"/> Bodily Force/Other		DESCRIBE TYPE		<input type="checkbox"/> 21"	
OTHER DUTY ASSIGNMENT		<input type="checkbox"/> Canine					
<input checked="" type="checkbox"/> Intentional		<input type="checkbox"/> Unintentional		Officer injuries: None			

LAST NAME: GUZMAN		FIRST: Gabriel	MID.: nmn	SEX: m	RACE: h	ETHNIC ORIGIN: <input checked="" type="checkbox"/> HISP. <input type="checkbox"/> NON-HISP.	D.O.B.: 8-12-81
ADDRESS: 1009 S. 22nd St.		TELEPHONE NUMBER					

<input checked="" type="checkbox"/> Amed Weapon(s): .38 Rohm Revolver Model 38T Ser. #4	
<input type="checkbox"/> Arrested Charge(s):	
<input checked="" type="checkbox"/> Criminal Record	<input type="checkbox"/> Under Influence of Alcohol/Drugs
<input type="checkbox"/> Emergency Detention	<input checked="" type="checkbox"/> Unprovoked Attack on Officer
<input checked="" type="checkbox"/> Resisting Arrest	<input type="checkbox"/> Act of Committing Crime
Injuries: G/S Chest Left Arm G/S Left Leg	
Conveyed by: Med 3	
Conveyed to: Froedart	
Treated by: Dr. John Weigeldt	
Condition: Deceased	
Photos taken by: Sq. 386 Julie Lecourt # taken: 93	

WITNESSES	LAST NAME: 1.	FIRST	MID.	SEX	RACE	D.O.B./PAYROLL #
	ADDRESS			TELEPHONE NUMBER		
WITNESSES	LAST NAME: 2.	FIRST	MID.	SEX	RACE	D.O.B./PAYROLL #
	ADDRESS			TELEPHONE NUMBER		
WITNESSES	LAST NAME: 3.	FIRST	MID.	SEX	RACE	D.O.B./PAYROLL #
	ADDRESS			TELEPHONE NUMBER		

Detailed description of incident (use Form PI-4 if additional space is required).

On Friday, November 16, 2001, at approximately 12:45AM, Sq. 628A, PO Brant UNGERER and PO Kelly PETERSON, observed a white Bonneville driving erratically. The squad's red light and siren were activated as the Bonneville attempted to elude the officers. The Bonneville struck a parked auto in the 2200 block of S. 19th St. and the occupants fled on foot. A molotov cocktail fell out of the vehicle onto the pavement and later two additional molotov cocktails were recovered from inside the vehicle.

PO Kelly PETERSON observed the driver of the vehicle holding a dark long barreled handgun in his left hand and began chasing him on foot northbound on the sidewalk. PO PETERSON identified herself numerous times and ordered the suspect to drop the gun. The suspect pointed the handgun at PO PETERSON on two separate occasions while running on the sidewalk.

PO UNGERER remained in the squad and drove into the alley in an attempt to parallel the foot pursuit.

The suspect ran westbound into the yards and into a fenced parking area at the rear of 2253 S. 19th St. The suspect was confronted by PO PETERSON in this area. The suspect now had the handgun in his right hand. She ordered the suspect to drop the gun numerous times. The suspect stated words to the effect of, shoot me, shoot me, just kill me. The suspect pointed the gun to his head. He then lowered the gun from his head and began to extend his right arm toward her at which time she fired a single gunshot striking the suspect in the chest.

PO UNGERER observed PO PETERSON and the suspect in the rear parking area of 2253 S. 19th St. as he drove northbound in the alley. He exited the squad and observed the suspect pointing a handgun at PO PETERSON at which time he fired seven gunshots at the suspect striking him in the leg and arm. The suspect went to the ground and medical attention was summoned.

A detailed account of this occurrence is documented in Incident #01-320-3030 (copy attached).

This matter was reviewed by Deputy District Attorney James J. MARTIN. On Friday, January 18, 2002, DA MARTIN ruled the death of Gabriel GUZMAN by Police Officers Kelly PETERSON and Brant UNGERER justifiable. He ruled GUZMAN's shooting was privileged in self-defense pursuant to Section 939.48 of the Wisconsin State Statutes.

ASSIGNED SUPERVISOR Lt. Scott A. Schaefer			
REPORTING SUPERVISOR Lt. Scott A. Schaefer <i>Scott A. Schaefer</i>	LOC CODE 91	FAYROLL # 41276	DATE 1-19-02
COMMANDING OFFICER'S RECOMMENDATION: <input type="checkbox"/> In Compliance/Rules & Procedures <input type="checkbox"/> Further Investigation Warranted <input type="checkbox"/> Training Academy Counseling/Instruction <input type="checkbox"/> Bur./Div./Dist. Counseling/Instruction Provided			
CHECK ALL BOXES THAT APPLY			
SIGNATURE	LOC CODE	FAYROLL #	DATE
COMMANDING OFFICER UNIFORM PATROL/CIB <input type="checkbox"/> Concur with Bureau, Division, District Level Investigation <input type="checkbox"/> Other _____			
SIGNATURE			DATE
COMMANDING OFFICER INTERNAL AFFAIRS DIVISION <input type="checkbox"/> Referred to Training Bureau <input type="checkbox"/> Other _____			
SIGNATURE			DATE

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

SEPTEMBER 13, 2002

TO: P.O. KELLY PETERSON
DISTRICT TWO

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 NOVEMBER 16, 2001
- 2) A citizen's complaint made by GABRIAL GUZMAN
- 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: Kelly Peterson

Print your name: Kelly Peterson

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


STEVEN M. SETTINGSGAARD
POLICE COMMANDER
Internal Affairs Division

SMS:kjs

RECEIVED
02 SEP 25 AM 11:23
MILWAUKEE POLICE
INTERNAL AFFAIRS
DIVISION

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

SEPTEMBER 13, 2002

TO: P/O. BRANT UNGERER
DISTRICT TWO

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 NOVEMBER 16, 2001
- 2) A citizen's complaint made by GABRIAL GUZMAN
- 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: PO. Brant A. Ungerer

Print your name: PO. Brant A. UNGERER

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

RECEIVED
02 SEP 23 AM 11:23
MILWAUKEE POLICE
INTERNAL AFFAIRS
DIVISION

St. Settingsgaard
STEVEN M. SETTINGSGAARD
POLICE COMMANDER
Internal Affairs Division