

CITY OF MILWAUKEE

Form CA-43

GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
Deputy City Attorney

PATRICK B. McDONNELL
LINDA ULISS BURKE
Special Deputy City Attorneys



OFFICE OF CITY ATTORNEY
800 CITY HALL
200 EAST WELLS STREET
MILWAUKEE, WISCONSIN 53202-3551
TELEPHONE (414) 286-2601
TDD 286-2025
FAX (414) 286-8550

September 29, 2003

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

Re: Communication from Attorney Laurie Eggert, Eggert Law Office, S.C.
for legal fees for Police Officer Kevin Porter
C.I. File No. 98-S-418

Dear Council Members:


Returned herewith is a document filed by Attorney Laurie Eggert for attorney's fees for representing Lieutenant of Police Officer Kevin Porter. The claim is in the amount of \$561.00 for 5.10 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 police 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. 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.
2277

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
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SUSAN E. LAPPEN
DAVID R. HALBROOKS
JAN A. SMOKOWICZ
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JAY A. UNORA
DONALD L. SCHRIEFER
EDWARD M. EHRlich
LEONARD A. TOKUS
MIRIAM R. HORWITZ
MARYNELL REGAN
G. O'SULLIVAN-CROWLEY
DAWN M. BOLAND

Assistant City Attorneys

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September 17, 1998

Assistant City Attorneys

Deputy Inspector Dale Schunk
Milwaukee Police Department
749 West State Street, Room 714
Milwaukee, WI 53233

Re: C.I. File No. 98-S-418
Communication from LAURIE A. EGGERT

Dear Deputy Inspector Schunk:

Enclosed please find a claim filed by attorney Laurie A. Eggert for Attorney's fees incurred during his representation of officer Kevin Porter.

Please determine whether this officer was in fact involved in the matter described in Ms. Eggert's claim, and have the officer verify Ms. Eggert's representation. Thank you for your anticipated cooperation in this matter.

Very truly yours,

J. A. Smokowicz
JAN A. SMOKOWICZ
Assistant City Attorney

9/24/03
O.K.
JAS
Letter # 2277

JAS:beg
Enclosure

4/5/99

~~O.K.
JAS
Letter # 2277~~

✓ on stat. provision of
nature of claim (i.e. is
lady claiming p.d. was harassing her
sexually?)

RECEIVED
MILWAUKEE POLICE
INTERNAL AFFAIRS
DIVISION
98 OCT - 1 AM 10:36

EGGERT LAW OFFICE, S.C.

Attorneys at Law

Laurie A. Eggert
Jonathan Cermele

CITY OF MILWAUKEE 1840 North Farwell Avenue
Suite 303
Milwaukee, Wisconsin 53202

98 AUG 31 PM 1:29

RONALD D. LEONHARDT
CITY CLERK

(414) 276-8750
FAX (414) 276-8906

August 24, 1998

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

**RE: MPD Criminal Investigation
Regarding Police Officer Kevin Porter
Date of Incident: January 14, 1997**

Dear Mr. Leonhardt:

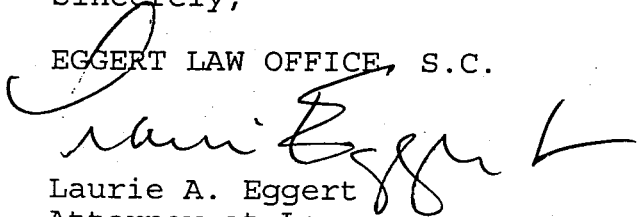
The above-named police officer has retained us to represent him in connection with the above-referenced matter.

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, the claim is hereby made on his behalf for the indicated legal fees. This incident involved an allegation of harassing phone calls on duty. The District Attorney will not issue charges against the officer. The MPD did not present the case to the DA for review due to lack of merit.

The attached is an itemization of the time and services rendered.

Sincerely,

EGGERT LAW OFFICE, S.C.



Laurie A. Eggert
Attorney at Law

EGGERT LAW OFFICE, 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 24, 1998

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

RE: MPD Criminal Investigation re: Tina Prusak
Regarding: Police Officer Kevin Porter
Date of Incident: January 14, 1997

Professional services

	<u>Hours</u>	
1/27/98 Telephone calls from client; open file; conference with client.	1.30	
1/28/98 Conference with client; memo to file.	0.50	
2/3/98 Telephone call from client; memo to file; telephone conference with Det. Hoover.	2.10	
2/4/98 Telephone conferences with client; telephone conference with Det. Hoover.	0.50	
5/28/98 Review of file; memo to file; telephone call to Internal Affairs; correspondence to client; close file.	0.70	
		<u>Amount</u>
For professional services rendered	5.10	\$561.00

Mr. Ronald D. Leonhardt

Page 2

Balance due

Amount

\$561.00

(Rate: \$110.00 per hour)

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

OCTOBER 21, 1998

TO: PO KEVIN PORTER
SPEC. OPER. BUR.

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 JANUARY 14, 1997
- 2) A citizen's complaint made by
- 3) A police shooting incident occurring on

Is this information correct?

YES X NO _____

Did you receive legal representation
in this matter?

YES X NO _____

Your signature: Kevin Porter

Print your name: KEVIN PORTER

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

Dale T. Schunk

DALE T. SCHUNK ²¹⁴
Deputy Inspector of Police
Internal Affairs Division

DTS:dnp

CITY OF MILWAUKEE

Form CA-43

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May 7, 1999

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EDWARD M. EHRlich
CHRISTOPHER J. CHERELLA
LEONARD A. TOKUS

Assistant City Attorneys

Attorney Laurie A. Eggert
Eggert Law Office, SC
1840 N. Farwell Avenue, #303
Milwaukee, WI 53202

Re: Claims for Attorney's Fees for Representation of Police Officers Jon DuChateau, George Suvaka, Jennifer Wardinski, Doug Williams, Wendy Shaw and Kevin Porter

Dear Ms. Eggert:

I have certain concerns regarding your three claims for representing the officers named above. For your convenience, copies of your claims accompany this letter.

With regard to your representation of Officers DuChateau, Suvaka, Wardinski and Williams, I am concerned that the officers were not entitled to separate representation from your office under the circumstances described in your letter. The City is not, therefore, in position of having to reimburse them for attorney's fees. It does not appear a Wisconsin Department of Corrections inquiry into a death in custody constitutes "charges of any kind" nor does it constitute an "action . . . brought against any officer . . ." See § 895.35, Stats. Just as significantly, your explanation of your involvement in this inquiry begins with the statement that, the "City Attorney's Office has refused to represent" these officers. I do not understand how that representation could be made in light of your further explanation that the inquiry was a Wisconsin Department of Corrections' investigation, and that it followed a criminal investigation which had been "completed" before the Wisconsin Department of Corrections' inquiry began. If this is merely a state departmental inquiry into an incident involving City of Milwaukee employees, and if a criminal inquiry had already been completed and no charges had been brought against the officers, our office would have been fully

OFFICE COPY

Laurie A. Eggert
May 7, 1999
Page 2

qualified to represent them and should have appeared to represent their interests, if they desired counsel.

I note in your bill for this matter that you have included a of couple telephone conversations with Mr. Langley. Before writing this letter to you, I spoke to him about this matter. He indicated to me that he did not recall ever authorizing you to represent these officers in this matter. Under these circumstances, in the absence of further satisfactory explanation, I cannot recommend payment of this claim.

The next claim about which I have some questions involves your claim for representing Officer Wendy Shaw. The explanation that you provide indicates that you represented Ms. Shaw in connection with a criminal investigation of another police officer, Brian Blumenberg, relating to an incident which "occurred after a party for P.O. Wendy Shaw."

Sec. 895.35, Stats., however, is limited to "charges of any kind . . . against any officer . . . in the officer's official capacity . . ." In order to evaluate your claim properly, I will need a better explanation of the way in which a criminal investigation of another officer for conduct occurring after a private party for your client police officer is connected to your client's "official capacity." In the absence of an adequate explanation, I will also have to recommend denial of this claim.

Lastly, with respect to your claim for attorney's fees for representing Officer Kevin Porter, your explanation also leads to a concern about the "official capacity" requirement. You explained that the "incident involved an allegation of harassing phone calls on duty." While it is certainly possible that these phone calls could be connected to your client's duties as a police officer, your minimal explanation also leaves open the possibility that this could relate to phone calls which were entirely personal in nature, given that the complainant is identified as a Ms. Tina Prusak. Please provide me with further details relating to this incident that would tend to show that the calls were made as part of the officer's official capacity. If it appears that they are telephone calls of a purely personal nature which do not involve his duties as a police officer, I would, again, have to recommend denial of this claim.

If you have any further questions or concerns about my request, please do not hesitate to contact me.

Sincerely,



Jan A. Smokowicz
Assistant City Attorney

JAS:jlj
Encl.
20847

EGGERT LAW OFFICE, S.C.

Attorneys at Law

Laurie A. Eggert
Jonathan Cermele

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Suite 303
Milwaukee, Wisconsin 53202
(414) 276-8750
FAX (414) 276-8906

May 28, 1999

Mr. Jan Smokowicz
Assistant City Attorney
800 City Hall
200 East Wells Street
Milwaukee, WI 53202

**RE: MPD Criminal Investigation regarding PO Kevin Porter
Date of Incident: January 14, 1997**

Dear Jan:

In your letter of May 7, 1999 regarding this claim, you expressed concert about the "official capacity" requirement. You state that if the officer were making purely personal phone calls, you would recommend denial of the claim.

You asked for more details regarding the allegations. The MPD investigated an allegation that Officer Porter made harassing phone calls to Ms. Prusik while he was at work and in uniform. The allegations were untrue; Porter did not make the phone calls to Ms. Prusik. It is, consequently, difficult to assure you that he was not making those calls for purely personal reasons.

The MPD investigated Porter because they had reason to suspect that the person who made the phone calls was a police officer who was on duty in a marked squad. The MPD concluded that it was not Porter.

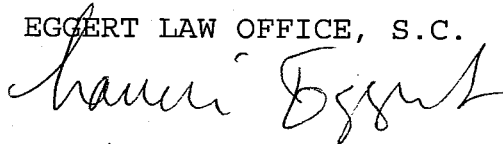
Porter's claim should be paid, just as the City has paid the claims of other officers who were improperly identified as having participated in alleged wrongdoing while on duty. Both sets of officers have the misfortune of being identified as the culprit, even though neither did anything wrong. For example, the City routinely pays fees for representing officers wrongly accused of theft, even though stealing while on duty could be construed as going on a lark of one's own. However, where the officer did not steal anything, and suspicion was placed on him due to the fact that the complainant identified him as the police officer that stole the money while on duty, the innocent officer should not suffer the additional indignity of having to pay a lawyer to get rid of the charges. So far, the City has agreed with that proposition.

City Attorney Smokowicz Letter
RE: P.O. Kevin Porter
May 28, 1999
Page Two

Please contact me if you have any further questions. As always, it is a pleasure to address your concerns.

Respectfully,

EGGERT LAW OFFICE, S.C.



Laurie A. Eggert
Attorney at Law

LAE/ldl

pc: P.O. Kevin Porter
Attorney Michael Edmonds

CC\SMO52799.LLE