

**GRANT F. LANGLEY**  
City Attorney

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



THOMAS O. GARTNER  
STUART S. MUKAMAL  
THOMAS J. BEAMISH  
MAURITA F. HOUREN  
JOHN J. HEINEN  
SUSAN E. LAPPEN  
JAN A. SMOKOWICZ  
PATRICIA A. FRICKER  
HEIDI WICK SPOERL  
KURT A. BEHLING  
GREGG C. HAGOPIAN  
ELLEN H. TANGEN  
MELANIE RUTLEDGE  
JAY A. UNORA  
DONALD L. SCHRIEFER  
MIRIAM R. HORWITZ  
MARYNELL REGAN  
G. O'SULLIVAN-CROWLEY  
KATHRYN Z. BLOCK  
ADAM B. STEPHENS  
KEVIN P. SULLIVAN  
THOMAS D. MILLER  
JARELY M. RUIZ  
ROBIN A. PEDERSON  
CHRISTINE M. QUINN  
MARGARET C. DAUN  
JEREMY R. MCKENZIE  
MARY L. SCHANNING  
PETER J. BLOCK  
NICHOLAS P. DESIATO  
JOANNA GIBELEV  
JENNY YUAN  
T.C. MAKAYA  
Assistant City Attorneys

January 2, 2014

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

Re: Communication from Attorney D. Michael Guerin, Gimbel, Reilly, Guerin  
Brown, for legal fees for Police Sergeant Todd Kaul

Dear Council Members:

Returned herewith is a document filed by Attorney D. Michael Guerin for attorney's fees for representing Police Sergeant Todd Kaul. The claim is in the amount of \$5,663.91, including legal research expense of \$13.91. The claim for legal fees is for 17.4 hours of service billed at the rate of \$250.00 per hour, 5.20 hours billed at the rate of \$200.00 per hour, and 5.20 hours billed at the rate of \$50.00 per hour, for a total amount of legal fees of \$5,650.00. 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 inquest proceeding. Ultimately, Sergeant Kaul was not charged with any criminal or civil offense.

This claim again represents an opportunity for the Common Council to consider such a request under 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. (Emphasis supplied). The amended 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,

To the Honorable Common Council  
of the City of Milwaukee  
January 2, 2014  
Page 2


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 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 rates of \$250.00, \$200.00 and \$50.00.

Under all the circumstances, therefore, we would recommend that the City pay \$5,663.91 for attorneys' fees in this matter.

Very truly yours,



GRANT F. LANGLEY  
City Attorney



JAN A. SMOKOWICZ  
Assistant City Attorney

JAS  
Enc.

1032-2011-2729:198425



GIMBEL • REILLY • GUERIN • BROWN LLP

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

March 6, 2013

Mr. Ronald D. Leonhardt  
Attn: Marian Hartner  
Milwaukee City Clerk  
800 City Hall  
200 East Wells Street  
Milwaukee, Wisconsin 53202

Re: Sergeant Todd Kaul  
*Criminal Investigation*

Dear Ms. Hartner:

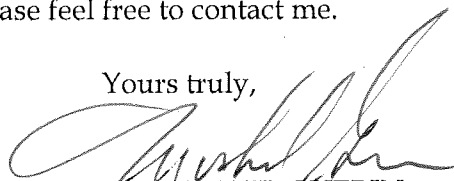
Todd Kaul a Milwaukee Police Sergeant retained our firm to represent him in connection with an incident of July 6, 2011 involving Derek Williams.

Consistent with its ethical obligation and the policy, the City Attorney's office was unable to represent Sergeant Kaul in this matter.

I am enclosing the printout of time at the hourly rate of \$250.00 an hour for services rendered regarding Sergeant Kaul.

If you have any questions, please feel free to contact me.

Yours truly,

  
D. MICHAEL GUERIN

DMG/ker  
Enclosure

cc: Jan Smokowicz, Esq.  
MPSO/Kaul, Todd/Hartner 2013-03-06

TWO PLAZA EAST  
SUITE 1170  
330 E. KILBOURN AVE.  
MILWAUKEE, WI 53202  
P: 414-271-1440  
F: 414-271-7680  
WWW.GRGBLAW.COM

CITY OF MILWAUKEE  
2013 MAR -8 AM 11:26  
CITY CLERK'S OFFICE



Family Law, Personal Injury, Criminal Law, Real Estate,  
Business, Estate Planning, Civil & Commercial Litigation  
in State and Federal Courts  
Federal Tax ID 39-1094570

MPSO-Kaul, Todd  
418 West Amour Avenue  
Milwaukee WI 53207

Page: 1  
February 28, 2013  
ACCOUNT NO. 201301401M  
STATEMENT NO: 1

Criminal

*Our invoices for services are due and payable within 60 days from the invoice date. Failure to pay charges within that time will result in an interest charge of 1-1/2% on the unpaid balance per month thereafter.*

			HOURS
01/04/2013	DMG	Telephone conference with Todd regarding investigation regarding Derek Williams incident.	0.70
	SCM	Conference with Attorney Guerin.	0.30
01/07/2013	DMG	Office conference with Todd regarding incident of July 6, 2012; telephone conference with Special Agent R. Austin.	1.70
01/09/2013	DMG	Prepare memorandum regarding status and prepare for meeting with client.	0.90
01/10/2013	DMG	Conference with Assistant United States Attorney K. Watzka, FBI agents and attorney from Washington civil rights; research regarding immunity proffer.	2.10
01/21/2013	DMG	Conference with Attorney Dall'Osto regarding immunity issue and the State Inquest. Research Kastigar.	1.70
01/23/2013	DMG	Telephone conference with client regarding reporters; also has been notified of need for his testimony.	0.50
01/25/2013	SCM	Conference with Attorney Guerin; research immunity question.	0.80
01/28/2013	SCM	Conference with Attorney Guerin; research immunity issue; review Williams Report.	1.20
01/29/2013	MTS	Office conference with Attorneys Brown and Dall'Osto and L. Otte; took file; research State and Federal immunity.	2.00
01/31/2013	MTS	Research State and Federal immunity.	3.20
	SCM	Conference with Attorneys Guerin and Dall'Osto.	0.20

Criminal

			HOURS	
02/05/2013	DMG	Research regarding conflict; prepare correspondence to Attorney Langley regarding our representation of Sgt. Kaul.	0.90	
02/06/2013	DMG	Conference with Sgt. Kaul regarding issues with inquest; review file.	2.50	
02/07/2013	SCM	Conference with Attorneys Guerin and Dall'Osto regarding inquest procedure.	0.20	
02/08/2013	SCM	Review memorandum from Attorney Guerin regarding Franke email.	0.10	
02/12/2013	DMG	Attend inquest preparation with client.	1.00	
	SCM	Telephone conference with Attorney Guerin; attend inquest.	2.20	
02/13/2013	DMG	Client subpoenaed for 8:30 a.m. testimony, attempted to confer with Prosecutor Franke beforehand; attend testimony in the afternoon.	5.40	
	SCM	Telephone conference with client; conference with Attorney Guerin and Special Prosecutor Franke; attend Inquest during client and other police testimony.	6.40	N/C
02/14/2013	SCM	Telephone conference with client; conference with Attorney Guerin; attend Inquest during police officer testimony.	6.80	N/C
02/15/2013	SCM	Attend Inquest (morning)	4.30	N/C
02/18/2013	SCM	Conference with Attorney Guerin.	0.20	
		FOR CURRENT SERVICES RENDERED	27.80	5,650.00

## RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
D. M. Guerin	17.40	\$250.00	\$4,350.00
S. C. McGaver	5.20	200.00	1,040.00
M. T. Stephenson	5.20	50.00	260.00

Westlaw - On-line Legal research	13.91
TOTAL EXPENSES THRU 02/28/2013	13.91
TOTAL CURRENT WORK	5,663.91
BALANCE DUE	<u>\$5,663.91</u>

PLEASE RETURN ONE COPY OF THIS STATEMENT WITH YOUR PAYMENT.

THANK YOU!