

GRANT F. LANGLEY
City Attorney

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THOMAS O. GARTNER
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ELOISA DE LEÓN
ADAM B. STEPHENS
KEVIN P. SULLIVAN
BETH CONRADSON CLEAF
THOMAS D. MILLER
Assistant City Attorneys

February 27, 2008

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

Re: Communication from Attorney Laurie A. Eggert, Eggert Law Office,
S.C. for legal fees for Police Officers Adrian Harris and Pernell
Reynolds
C.I. File No. 06-S-371 EC 2391

Dear Council Members:

Returned herewith is a document filed by Attorney Laurie Eggert for attorney's fees for representing Police Officers Adrian Harris and Pernell Reynolds. The claim is in the amount of \$1,560.00 including \$20.00 in disbursements for 14.00 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 officers on whose behalf this claim was filed.

Pursuant to Wis. Stat. § 895.35 (2), the Common Council no longer has discretion with regard to this claim as all fees and expense were incurred after the effective date (January 7, 2006) of the amendment to the statute, and because all of the requirements of the statute have been met in this case.

Very truly yours,


GRANT F. LANGLEY
City Attorney


JAN A. SMOKOWICZ
Assistant City Attorney

JAS:amp
Enc.

1032-2009-3320:129227v1

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

January 31, 2007

TO: P.O. ADRIAN HARRIS
DISTRICT: SEVEN

RE: Receipt of Legal Services from Law Firm of
Attorney Jonathan Cermele

Attorney Jonathan Cermele has made a claim with the City, indicating the attached was provided with legal services arising out of one of the following situations:

- 1) A police shooting incident occurring on SEPTEMBER 30, 2006
- 2) A criminal investigation regarding BOSTON EVANS

Is this information correct? YES X NO

Did you receive legal representation in this matter? YES X NO

Your signature: Adrian Harris

Print your name: Adrian Harris

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
Deputy Inspector
Professional Performance Division

MKH: kjs

RECEIVED
07 FEB -5 PM 3:06
MILWAUKEE POLICE DEPARTMENT

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

February 27, 2007

TO: P.O. PERNELL REYNOLDS
DISTRICT: SEVEN

RE: Receipt of Legal Services from Law Firm of
Attorney Jonathan Cermele

Attorney Jonathan Cermele has made a claim with the City, indicating the attached was provided with legal services arising out of one of the following situations:

- 1) A police shooting incident occurring on SEPTEMBER 30, 2006
- 2) A criminal investigation regarding BOSTON EVANS

Is this information correct?

YES NO

Did you receive legal representation
in this matter?

YES NO

Your signature:

Print your name:

P.O. Pernell Reynolds

Pernell Reynolds

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
Deputy Inspector
Professional Performance Division

MKH: lrc

RECEIVED
07 MAR -7 AM 11:04
MILWAUKEE POLICE
INTERNAL AFFAIRS
DIVISION

CERMELE & ASSOCIATES, S.C.

ATTORNEYS AT LAW

JONATHAN CERMELE
LAURIE A. EGGERT
RACHEL L. PINGS
MATTHEW L. GRANITZ

6310 WEST BLUEMOUND ROAD
SUITE 200
MILWAUKEE, WISCONSIN 53213
(414) 276-8750
FAX (414) 276-8906

November 27, 2006

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

CITY OF MILWAUKEE
2006 DEC - 1 PM 12:08
MILWAUKEE CITY CLERK

**RE: MPD Criminal Investigation of PO's Adrian Harris and Pernell Reynolds
Allegations Regarding an Officer-Involved Shooting
Date of Incident: September 30, 2006**

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 the use of deadly force.

This claim is being submitted under §895.35(2), STATS., which provides that:

Notwithstanding sub (1), 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 unless, in relation to that conduct, any of the following applies

- a. The officer is convicted of a crime;
- b. The officer's employment is terminated for cause;
- c. The officer resigned for reasons other than retirement before the attorneys fees are incurred;
- d. The officer is demoted or reduced in rank
- e. The officer is suspended without pay for 10 of more working days. §895.35(2), STATS.

CITY OF MILWAUKEE
2006 DEC - 1 PM 12:11
MILWAUKEE CITY CLERK

Officer's Harris and Reynolds are considered to be "protective services officer" under the statute. They have incurred the fees compiled in this claim as a direct result of being investigated for actions taken within their official capacity, and in the performance of their duties, in connection with the use of deadly force. None of the "exceptions" to mandatory payment under §895.35(2) STATS. apply.¹

The incident resulted in the District Attorney's Office conducting a criminal investigation into the shooting of Mr. Boston Evans, under Chapter 979, STATS. That investigation qualifies as a "proceeding" which mandates payment under §895.35(2), STATS.

Assistant District Attorney Potter reviewed the matter and did not issue charges against the officers. Attached is a copy of Assistant District Attorney Potter's letter and an itemization of the time and services rendered.

Sincerely,

 CERMELE & ASSOCIATES, S.C.

Jon Cermele

/kjs

Attachments

HARRIS and REYNOLDS

¹ Neither officer was convicted of a crime, terminated for cause, resigned prior to incurring the fees associated with this claim, demoted, or suspended without pay for more than 10 days. See §895.35(2)(b), ST-ATS.



OFFICE OF DISTRICT ATTORNEY

RECEIVED

NOV 07 2006

DERMEL & ASSOCIATES S.C.

Milwaukee County

E. MICHAEL McCANN • District Attorney

Robert D. Dierckx
 Jon N. Reddin
 Patrick J. Kenney
 Lovell Johnson, Jr.
 James J. Martin
 Thomas A. Schutz
 Alexander G. Skelacz
 William S. Muto
 Donald S. Jackson
 Dale G. Snelson
 Terry Majewski
 Gary D. Minkow
 David Rentes

Peg Tallant
 Douglas J. Simpson
 Cynthia G. Biewer
 Norman A. Gahn
 Stephanie Ginens-Rohrer
 Carol E. Janick
 Steven H. Glamm
 Mary Anne Smith
 Mark S. Williams
 Linda Johnson
 John M. St. Louis
 Thomas L. Pette
 Doreen Fess
 Rayann Chardier-Szymanski
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 Kenneth R. Berg
 Warren D. Zuo
 Timothy J. Colter
 Curt Berry-Choway
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 T. Christopher Dee
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 Caran Hewig
 Giffen Urie
 Janna Jensen
 Anthony White
 Anton Apotto
 Julia Driscoll
 Nicole Deneinger
 Erin Kishen
 Lucy Kizilost
 William Anthony Bell, Jr.
 Erin Giesen
 Maureen A. Bracken
 Monica J. Ave
 Michael J. Lonski
 Phil M. Hauser

November 2, 2006

Chief Nannette Hegerty
 City of Milwaukee Police Department
 749 W. State Street ~ 7th Floor
 Milwaukee, WI 53233

RE: **Officer Adrian Harris**

Dear Chief Hegerty:

On Saturday, September 30, 2006, our office responded to 3272 North 26st Street (alley), after Boston Evans had been shot by MPD Officer Adrian Harris at 1:19 am.

Our investigation found that Officer Adrian Harris and his partner, Officer Pernell Reynolds (both in uniform) had been stopped in their unmarked squad in the 3000 block of North 27th when they were rear-ended by 17-year-old Boston Evans—hard enough to push the squad 5-10 feet forward on the wet pavement. When both officers exited the squad and approached the 2000 Chrysler Evans was driving, Evans backed suddenly, striking another car, then swerved around them and drove off, leading Harris and Reynolds on a brief Kojak light and siren pursuit that ended in the alley behind 26th Street, where Evans had pulled the Chrysler onto a concrete slab.

When Officer Harris stopped the squad perpendicular to the Chrysler, Officer Reynolds got out and began to approach the passenger side of the Chrysler, yelling at the driver to show his hands, as Harris was exiting the driver's side of the squad. Suddenly, Evans backed rapidly and at an angle, directly at Reynolds, who quickly took cover behind a parked Jeep. The Chrysler struck that parked Jeep with enough force to knock Officer Reynolds to the ground and break a bone in his left hand. When Officer Harris saw his partner go down, he feared that the Chrysler was going to drive over him, and fired one or two shots at Evans, from over the hood of his squad, and from a distance of perhaps 15-20 feet.

Immediately after striking the parked Jeep and knocking Officer Reynolds to the ground, the Chrysler drove rapidly forward striking yet another (the 4th and final) vehicle. During this time, Officer Harris ran out from behind his own squad, and across the front of the Chrysler, as it began moving forward and its headlights shone directly into his face. Officer Harris states that he fired 2-3 more shots at the windshield of the Chrysler, one-handed, as he ran to avoid being struck. (We could find no bullet damage to the front of the Chrysler.)

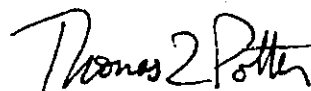
Boston Evans was the driver and only occupant of the vehicle, and no weapon or contraband was found. (He did not have a driver's license.) Evans sustained a gunshot

wound to his left shoulder, for which he was treated and released that same day. We believe one of Officer Harris' first shots shattered the Chrysler's driver's-side window (glass was found at the scene) and struck Evans in his shoulder. Oddly, Evans insisted that he had *already* been shot a few minutes *before* his encounter with the officers by a "bunch of men" he did not know near 27th and Locust. This makes very little sense, and no evidence was found to support any earlier shooting, but Evans continues to insist that he was already shot, even after speaking to his appointed lawyer.

All officers involved cooperated fully with our investigation, which is now complete. (Note that Boston Evans has been charged in 06CF005347 with 2^o RES and Fleeing.)

Our conclusion is that Officer Harris' use of deadly force was privileged, given that Boston Evans had backed his vehicle rapidly at Officer Reynolds, knocking him down and injuring him, and then drove that same vehicle directly at Officer Harris.

Very truly yours,



Thomas L. Potter
Assistant District Attorney

CC:

Attorney Jonathan Cermele
Eggert & Cermele, SC
1840 N Farwell Avenue ~ # 303
Milwaukee, WI 53202-1716

CERMELE & ASSOCIATES, S.C.

ATTORNEYS AT LAW

JONATHAN CERMELE
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November 27, 2006

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

RE: MPD Criminal Investigation re: Shooting
Regarding: PO's Adrian Harris and Pernell Reynolds
Date of Incident: September 30, 2006
Location of Incident:
Professional services

	<u>Hours</u>
9/30/2006 Telephone call from MPA regarding officer-involved shooting; travel; meeting with PO Reynolds; meeting with CIB; view scene; travel to PAB; meeting with CIB detectives and captains; meeting with PO Reynolds; detailed meeting with PO Harris; re-schedule statement to CIB; return travel; open file; memos to file; telephone call from CIB; telephone call to ADA Potter; schedule date and time for statement to CIB and DA.	6.00
10/1/2006 Telephone call to and from PO Harris; schedule office conference; office conference with PO Harris; prepare for statement to CIB and DA.	1.80
10/2/2006 Review file; travel to DA's office; meeting with PO Reynolds and PO Harris; attend Statement to CIB and DA; return travel; memo to file.	3.20
10/3/2006 Organize file.	0.40
10/10/2006 Telephone call from PO Reynolds; telephone call from PO Harris; telephone call to and from ADA Potter; Fax to ADA Potter; telephone call to clients.	0.60

	<u>Hours</u>
10/20/2006 Telephone call from ADA Potter; correspondence to clients.	0.40
10/30/2006 Receive and review e-mail from ADA Potter; e-mail in response; telephone call from PO Harris; receive and review Fax correspondence from ADA Potter regarding preliminary determination that PO Harris' use of deadly force was privileged and in self-defense, and that no charges would issue; telephone call to clients; correspondence to clients; close file.	0.60
10/31/2006 E-mail from ADA Potter.	0.10
11/1/2006 E-mail to ADA Potter.	0.20
11/3/2006 E-mail from ADA Potter; e-mail in response.	0.20
11/9/2006 Receive and review correspondence from DA confirming use of deadly force was justified and in self-defense; telephone call to client regarding same; correspondence to clients regarding same; close file.	0.50

	<u>Amount</u>
For professional services rendered	14.00
Additional charges:	\$1,540.00
9/30/2006 Parking	12.00
10/2/2006 Parking	8.00
Total costs	<u>\$20.00</u>
Total amount of this bill	<u>\$1,560.00</u>
Balance due	<u><u>\$1,560.00</u></u>

Mr. Ronald Leonhardt

Page 3

(Rate: \$110.00 per hour)