

GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
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VINCENT D. MOSCHELLA
Deputy City Attorneys



THOMAS O. GARTNER
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PATRICIA A. FRICKER
HEDI WICK SPOERL
KURT A. BEHLING
GREGG C. HAGOPIAN
ELLEN H. TANGEN
MELANIE R. SWANK
JAY A. UNORA
DONALD L. SCHRIFER
EDWARD M. EHRlich
LEONARDO A. TOKUS
VINCENT J. BOBOT
MIRIAM R. HORWITZ
MARYNELL REGAN
G. O'SULLIVAN-CROWLEY
KATHRYN Z. BLOCK
MEGAN T. CRUMP
ELOISA DE LEÓN
ADAM B. STEPHENS
KEVIN P. SULLIVAN
BETH CONRADSON CLEARY
THOMAS D. MILLER
HEIOI E. GALVÁN
Assistant City Attorneys

March 17, 2008

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

Re: Communication from Attorney Laurie A. Eggert for legal fees for
Police Officers Michael Pelnar and Nat Tharpe
C.I. File No. 07-S-50 (5); EC 2433

Dear Council Members:

Returned herewith is a document filed by Attorney Laurie A. Eggert for attorney's fees for representing Police Officers Michael Pelnar and Nat Tharpe. The claim is in the amount of \$957.00 for 8.70 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 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.

1032-2007-572:12473lv1

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

February 23, 2007

TO: P.O. MICHAEL PELNAR
DISTRICT: SEVEN

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

RECEIVED
07 MAR -5 PM 1:53
MILWAUKEE POLICE
PROFESSIONAL AFFAIRS
DIVISION

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

- 1) A police shooting incident occurring on NOVEMBER 8, 2006

Is this information correct?

YES NO

Did you receive legal representation in this matter?

YES NO

Your signature: *P.O. Pelnar*

Print your name: P.O. Michael Pelnar

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

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

February 23, 2007

TO: P.O. NAT THARPE
DISTRICT: SEVEN

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

RECEIVED
07 MAR -5 PM 1:53
MILWAUKEE POLICE
INTERNAL AFFAIRS
DIVISION

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

- 1) A police shooting incident occurring on NOVEMBER 8, 2006

Is this information correct? YES NO

Did you receive legal representation in this matter? YES NO

Your signature: Nat Tharpe
Print your name: NAT THARPE

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

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

February 8, 2007

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

RE: MPD Criminal Investigation: Officer-Involved Shooting
Regarding: PO's Michael Pelnar and Nat Thorpe
Date of Incident: November 8, 2006
Location of Incident: 2931 North 17th Street

MILWAUKEE
2007 FEB 13 AM 8:04
MILWAUKEE CITY CLERK

Dear Mr. Leonhardt:

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.

Officer's Pelnar and Thorpe are considered "protective services officer" under the statute. They have incurred the fees compiled in this claim as a direct result of their 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" apply¹.

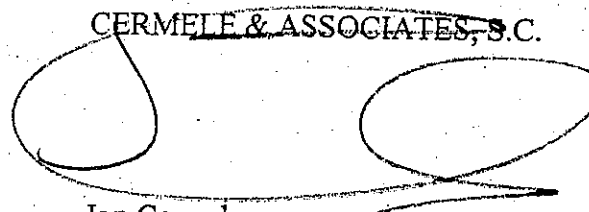
¹ The officers were not convicted of a crime, terminated for cause, resigned prior to incurring the fees associated with this claim, demoted, or suspended without pay for more than 10 days. See 895.35(2)(b), STATS.

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

Attached is a copy of Chief Deputy District Attorney Reddin's letter dated January 22, 2007 confirming that Officer Pelnar's actions were privileged and in self-defense.

Sincerely,

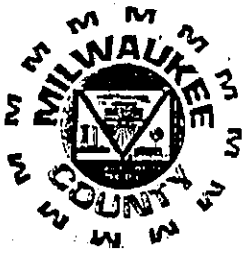
CERMELE & ASSOCIATES, S.C.

A handwritten signature in black ink, appearing to read "Jon Cermele", is written over the typed name and extends upwards into the company name.

Jon Cermele

/kjs
Enclosures
PELNAR and THORPE

OFFICE OF DISTRICT ATTORNEY



Milwaukee County

JOHN T. CHISHOLM - District Attorney

January 22, 2007

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

Re: Death of Marvin Shackleford

Dear Chief Hegerty:

On November 8, 2006, Marvin Shackleford was shot and killed by City of Milwaukee Police officer Michael Pelnar at 2931 N. 17th Street. Pelnar fired his service weapon at Shackleford after Shackleford brought a 9-shot .22 caliber handgun to bear on Pelnar. Shackleford then fired at Pelnar numerous times, fortunately missing him.

After reviewing the facts of this case I have concluded that Pelnar's use of deadly force was privileged as an act of self-defense as that concept is defined in section 939.48 of the Wisconsin Statutes.

Very truly yours,

[Handwritten signature of Jon N. Reddin]

Jon N. Reddin
Chief Deputy District Attorney

JNR:jr

cc/ John Chisholm

- List of names: Jon N. Reddin, James J. Martin, Patrick J. Kennay, Lovell Johnson, Jr., Kent L. Lovem, Thomas A. Schulz, Alexander G. Skonot, William J. Molitor, Donald S. Jackson, Gary G. Shelton, Gary G. Mehlhorn, David Robles, Peg Tarrant, Douglas J. Simpson, Cynthia D. Brown, Norman A. Bohn, Stephanie Gharia Rahmeti, Carol E. Janicek, Steven H. Glamm, Mary Anne Smith, Mark S. Williams, Linda Johnson, John M. Sipek, Thomas L. Popper, David Felsa, Rayann Chandler Scychinska, Carole Manchester, Kenneth R. Berg, Warren D. Zier, Timothy J. Cotter, Curt Derry Clowley, Steven V. Liska, Brad Verpan, Paul Tilla, Megan S. Felt, Phyllis M. DeCarvalho, Dennis P. Murphy, Frank A. Arafel, Thomas J. McAdams, Bruce J. Landgraf, Dora J. Gings, David M. Laman, Janet C. Prossalawicz, DeAnn L. Heard, Patricia A. McGowan, Irene E. Partum, Karen A. Losel, Nancy Stenholm, Ronald S. Deque, Lori S. Koehn, Karne O'Byrne, Maria Correy, James W. Fison, Kurt D. Dentley, James C. Griffin, William P. Pigg, Audrey Skowronski, Joanne L. Hardie, Christopher A. Ureget, Megan P. Carmody, Laura A. Grivetto, Shawn Pompe, Kevin R. Shamin, Jennifer Marfaca, Don D. Zingiber, Karen A. Vasopalec, Rebecca P. Doherty, Mark A. Sanders, Paul C. Deaton, David T. Malone, Kelly L. Hodge, Jeffrey J. Ansboung, Rachael Johnson, Paul Trabasso, Bruce W. Becker, Michael T. Mahoney, Mary M. Sawinski, Kathryn K. Samor, Jenette Corbett, Jeffrey R. Grapp, Doree Massa, Daniel J. Galtier, Sara D. Soulen, T. Christopher Dee, Lisa P. Fricker, Tiffany J. Harris, Daniel R. Humble, Jacob O. Carr, Jay Hammond, Trevor A. Steh, Andrew J. Meier, Heidi B. Gruen, Nancy A. Nott, Elizabeth Mueller, Megan J. Paulson, Grant L. Huebner, Stephen Edward Norton, Christine M. Quinn, Michelle Ackerman Hesse, Adam J. Levin, Jennifer K. Rhodes, Claire Storking, Zach Whitney, Rebecca A. Kiefer, Matthew J. Forberon, Kathryn L. Childs, Caryn Hering, Gilbert Ufer, Jenna Hansen, Anthony White, Anghel Agosta, Julie Drecht, Nicole Dondlinger, Erin Kasper, Lucy Korfmont, William Anthony Ball, Jr., Erin Dineen, Maureen A. Drakos, Monica J. Awe, Michael J. Lonald, Paul M. Hauer, Sara Beth Lawie, Lauren A. Blumenthal, Aaron E. Hall, Rory Kinnally, Jenn Spee, Larice Pincus, David M. Stegall, Amanda Kuzewski

CERMELE & ASSOCIATES, S.C.

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(414) 276-8750
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February 08, 2007

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

RE: MPD Criminal Investigation re: Officer-Involved Shooting
Regarding: PO's Michael Pelnar and Nat Thorpe
Date of Incident: November 8, 2006
Location of Incident: 2931 North 17th Street
Professional services

	<u>Hours</u>
11/8/2006 Several telephone calls from and to MPD and Cermele regarding shooting; travel to PAB; interview PO Pelnar and partner; provide them for statements to CIB and DDA Reddin; return travel; open file; memo to file.	4.50
11/9/2006 Correspondence to clients regarding status and procedure.	0.30
11/28/2006 Telephone call to Reddin regarding status; correspondence to clients.	0.30
12/18/2006 Telephone call from client; calendar PI-21.	0.20
1/10/2007 Telephone call from client.	0.10
1/11/2007 Telephone call from MPD confirming PI-21; travel to Academy; meeting with client; attend PI-21; return travel.	1.80
1/12/2007 Telephone call to DDA Reddin regarding status.	0.10
1/15/2007 Telephone call from client.	0.10

Mr. Ronald Leonhardt

Page 2

	<u>Hours</u>
1/16/2007 Telephone call to DDA Reddin.	0.10
1/17/2007 Telephone call from DDA Reddin; correspondence to client regarding status.	0.20
1/18/2007 Telephone call from and to client; telephone call to and from Dep. Chief O'Keefe; telephone call to DA Chisholm; memo to file.	0.50
1/31/2007 Telephone call from and to client; telephone call to and from DA Reddin; receive and review correspondence from same concluding client's use of deadly force was privileged and in self-defense; correspondence to client; close file.	0.50

	<u>Amount</u>
For professional services rendered	8.70 \$957.00
Balance due	<u>\$957.00</u>

(Rate: \$110.00 per hour)