**GRANT F. LANGLEY**City Attorney

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



THOMAS O. GARTNER

**BRUCE D. SCHRIMPF** 

STUART S. MUKAMAL

THOMAS J. BEAMISH

**MAURITA F. HOUREN** 

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 VINCENT J. BOBOT MIRIAM R. HORWITZ

MARYNELL REGAN G. O'SULLIVAN-CROWLEY

MEGAN T. CRUMP ELOISA DE LEÓN ADAM B. STEPHENS

KEVIN P. SULLIVAN BETH CONRADSON CLEARY

THOMAS D. MILLER

Assistant City Attorneys

KATHRYN M. ZALEWSKI

JOHN J. HEINEN MICHAEL G. TOBIN DAVID J. STANOSZ SUSAN E. LAPPEN JAN A. SMOKOWICZ PATRICIA A. FRICKER

ROXANE L. CRAWFORD SUSAN D. BICKERT

February 8, 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 Martinez Moore and Teresa Cruz

C.I. File No. 06-S-257; EC 2360

Dear Council Members:

Returned herewith is a document filed by Attorney Laurie A. Eggert for attorney's fees for representing Police Officers Martinez Moore and Teresa Cruz. The claim is in the amount of \$1,116.00 including \$16.00 in disbursements for 10.00 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.

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. Wis. Stat. § 895.35, *Bablitch and Bablitch v. Lincoln County*, 82 Wis. 2d 574 (1978).

GRANT F. LA City Attorney

JAN A. SMOKOWICZ Assistant City Attorney

JAS:amp Enc.

1032-2006-2374:1248581v1

## MILWAUKEE POLICE DEPARTMENT

#### **MEMORANDUM**

**September 12, 2006** 

TO: P.O. MARTINEZ MOORE DISTRICT: FOUR

**RE:** Receipt of Legal Services from Law Firm of Attorney Laurie Eggert

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 N/A
- 2) A citizen's complaint made by POLICE INVOLVED SHOOTING
- 3) A police shooting incident occurring on MARCH 17, 2006

Is this information correct?

YES\_\_\_NO\_\_

Did you receive legal representation in this matter?

YES NO\_

Your signature:

Print your name:

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

MARY K. HOERIG

Deputy Inspector

Professional Performance Division

MKH:kjs

### MILWAUKEE POLICE DEPARTMENT

SIGNED BY MEMBER

**MEMORANDUM** 

**September 12, 2006** 

TO: P.O. TERESA CRUZ DISTRICT: FOUR

**RE:** Receipt of Legal Services from Law Firm of Attorney Laurie Eggert

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 N/A
- 2) A citizen's complaint made by POLICE INVOLVED SHOOTING
- 3) A police shooting incident occurring on MARCH 17, 2006

Is this information correct?

YES X NO\_\_\_

Did you receive legal representation in this matter?

the Police Academy (Room 325) as soon as possible.

YES NO

Your signature:

Print your name: 10/059

Upon completion, please return this memorandum to the Professional Performance Division at

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

1840 NORTH FARWELL AVENUE
SUITE 303
MILWAUKEE, WISCONSIN 53202
(414) 276-8750
FAX (414) 226-8906

August 17, 2006

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

RE: MPD Criminal Investigation of PO's Martinez Moore and Teresa Cruz

Regarding: Officer-Involved Shooting Date of Incident: March 17, 2006

Location of Incident: 5469 North 51st Boulevard

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;

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.

MECETYFT 2636 AUG 29 PN 3: 25 Officers Moore and Cruz are considered a "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" to mandatory payment under §895.35(2) STATS., apply.<sup>1</sup>

The incident resulted in the District Attorney's Office conducting a criminal investigation into the death of Mr. Stacy Middleton, 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

JC/kjs
Attachment
MOORE and CRUZ

<sup>&</sup>lt;sup>1</sup> 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), STA TS.



# Milwaukee County

E. MICHAEL McCANN - District Attorney

Jon N. Readin Patrick J. Kenney Level Johnson Jr. Jaihes J. Martin

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Mark S. Victory

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Andrey Skwindowski Joanno L. Hardike John T. Chisholm

Jenniter Avper

Mark A. Saraters

Part O. Dedinsky Baski T. Masine Kolg L. Hertge It theor J. Attending Bertger Stepper

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والمعزورة المراجع ومروراتها

Bavel Muell Jenemy L. Roson Barrer J. Galber Sara P. Scallen

Thomas A. Smoot Alexandro G. Star-William J. Bitman District G. Sheeter Care G. Sheeter Terri Vidonan San C. Mattheor Earn Fot Es.

May 25, 2005

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

RE: Officer Martinez Moore

## Dear Chief Hegerty:

On Friday, March 17, 2006, our office responded to the residence at 5469 North 51st Blvd. after Stacy Von Middleton had been fatally shot by MPD Officer Martinez Moore.

Our investigation found that Officer Moore had been dispatched to that location and encountered Mr. Von Middleton in his living room holding two military-style knives to his own throat. Von Middleton was intoxicated (.24 BAC) and extremely despondent. Mr. Von Middleton refused repeated demands that he drop the knives, but instead stood up and, from an original distance of about ten feet away, started to approach Officer Moore while still holding the knives. Officer Moore then fired two shots at Von Middleton, with one bullet striking him in the abdomen.

All officers involved cooperated fully with our investigation and Mr. Von Middleton's family has decided, ultimately, not to request an inquest.

Our conclusion is that Officer Moore's use of force was privileged, given that the person he shot was advancing on him in close quarters while holding two large knives.

Very truly yours,

Thomas L. Potter Assistant District Attorney

CC:

1468 R123

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

JONATHAN CERMELE LAURIE A. EGGERT RACHEL L. PINGS MATTHEW L. GRANITZ 1840 NORTH FARWELL AVENUE SUITE 303 MILWAUKEE, WISCONSIN 53202 (414)276-8750 FAX (414)276-8906

## August 18, 2006

Mr. Ronald D. 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 Martinez Moore and Teresa Cruz

Date of Incident: March 17, 2006

Location of Incident: 5469 North 51st Boulevard

Professional services

			Hours
•	3/17/2006	Telephone call from MPD regarding officer involved shooting; open file; numerous telephone calls to and from various witnesses, etc.; travel to PAB; meeting with CIB; meeting with PO Cruz; meeting with PO Moore; memo to file; attend PO Moore's statement to CIB; attend PO Cruz's statement to CIB; return travel.	5.70
	3/20/2006	Telephone calls to and from clients; review file; telephone call to ADA Potter; travel; meeting with clients; attend clients' statements to DA; return travel.	2.60
	4/25/2006	Review file; telephone call to ADA Potter; correspondence to clients; telephone call to and from Dep. Chief O'Keefe.	0.50
	5/23/2006	Review file; telephone call to and from ADA.	0.40
		Telephone call to and from ADA confirming DA's decision not to go forward with inquest; telephone call to PO Moore regarding same.	0.40

Mr. Rohald D. Leonhardt	Page	2
5/26/2006 Receive and review correspondence from DA confirming that there would be no inquest and concluding that the Officers' use of force was privileged and in self-defense; close file.	<u>Но</u>	<u>urs</u> 40
For professional services rendered Additional charges:	Amou \$1,100.0	
3/17/2006 Parking		0
3/20/2006 Parking	8.0	0
Total costs	\$16.00	- )
Total amount of this bill	\$1,116.00	-
Balance due	\$1,116.00	•

(Rate: \$110.00 per hour)