

GRANT F. LANGLEY
City Attorney

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



THOMAS O. GARTNER
BRUCE O. SCHRIMPF
ROXANE L. CRAWFORD
SUSAN D. BICKERT
STUART S. MUKAMAL
THOMAS J. BEAMISH
MAURITA F. HOUREN
JOHN J. HEINEN
DAVID J. STANOSZ
SUSAN E. LAPPEN
JAN A. SMOKOWICZ
PATRICIA A. FRICKER
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
KATHRYN Z. BLOCK
MEGAN T. CRUMP
ELOISA DE LEÓN
ADAM B. STEPHENS
KEVIN P. SULLIVAN
BETH CONRADSON CLEARY
THOMAS O. MILLER
HEIDI E. GALVÁN
Assistant City Attorneys

January 5, 2009

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

Re: Communication from Attorney Jonathan Cermele, Cermele & Associates,
S.C for legal fees for Police Officers Adam Zieger and Daniel Robinson
EC: 2604; CA: 1032-2008-2037.012

Dear Council Members:

Returned herewith is a document filed by Attorney Jonathan Cermele for attorney's fees for representing Police Officers Adam Zieger and Daniel Robinson. The claim is in the amount of \$1,032.00 including \$9.00 in disbursements for 9.30 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).

Very truly yours,


GRANT F. LANGLEY
City Attorney


Assistant City Attorney

JAS:amp
Enc.

1032-2008-2037.012:124858v1

OFFICE OF THE CITY ATTORNEY

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

November 11, 2008

TO: P.O. ADAM ZIEGER
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) An incident occurring on: February 12, 2008
- 2) A citizen complaint made by: N/A
- 3) A police shooting incident occurring at: 28th and Chambers

Is this information correct?

YES NO

Did you receive legal representation
in this matter?

YES NO

Your signature: _____



Print your name: _____

P.O. ADAM ZIEGER

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

DENITA R. BALL
Deputy Inspector of Police
Professional Performance Division

DRB: kjs

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

September 3, 2008

TO: P.O. DANIEL ROBINSON
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) An incident occurring on: February 12, 2008
- 2) A citizen complaint made by:
- 3) A police shooting incident occurring at: 28TH & CHAMBERS

Is this information correct?

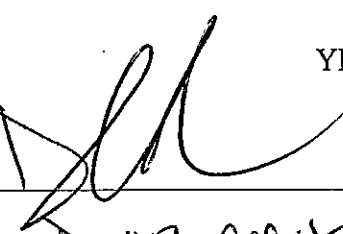
YES NO

Did you receive legal representation
in this matter?

YES NO

Your signature: _____

Print your name: _____


DANIEL ROBINSON

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

KURT R. LEIBOLD
Acting Captain of Police
Professional Performance Division

KRL: kjs

GRANT F. LANGLEY
City Attorney

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LINDA ULISS BURKE
VINCENT D. MOSCHELLA
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ADAM B. STEPHENS
KEVIN P. SULLIVAN
BETH CONRADSON CLEARY
THOMAS D. MILLER
HEIDI E. GALVÁN
Assistant City Attorneys

June 25, 2008

Acting Captain Kurt Leibold
Milwaukee Police Department
Professional Performance Division
6680 North Teutonia Avenue, Rm. 325
Milwaukee, WI 53209

Re: Communication from Cermele & Associates, S.C.
EC: 2604; Our File No. 1032-2008-2037.012

Dear Captain Leibold:

Enclosed please find a claim filed by attorney Jonathan Cermele for Attorney's fees incurred during his representation of Police Officers Adam Zieger and Daniel Robinson.

Please determine whether this officer was in fact involved in the matter described in Mr. Cermele's claim, and have this officer verify Mr. Cermele's representation. Please return the claims and verification forms to our office at your earliest convenience to Angelique M. Pettigrew, Paralegal.

Thank you for your anticipated cooperation in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jan A. Smokowicz".

JAN A. SMOKOWICZ
Assistant City Attorney

JAS:amp
Enclosure

1032-2008-2037.012:12978

CERMELE & ASSOCIATES, S.C.

- ATTORNEYS AT LAW -
WWW.CERMELELAW.COM

JONATHAN CERMELE
MATTHEW L. GRANITZ
CHELSIE ALLAN

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

LAURIE A. EGGERT
- OF COUNSEL -

June 12, 2008

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

**RE: MPD Criminal Investigation of PO's Adam Zieger and Daniel Robinson
Allegations Regarding Officer-Involved Shooting
Date of Incident: February 12, 2008
Location of Incident: 28th Street and Chambers Street**

Dear Mr. Leonhardt:

Pursuant to Article 58 of the 2007-2009 Collective Bargaining Agreement between the City and the Milwaukee Police Association, the City should request that this claim be placed on the Common Council Committee agenda within 180 days of its receipt.

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 or more working days. §895.35(2), STATS.

Officer's Zieger and Robinson 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" apply.¹

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

Thank you.

Sincerely,

CERMELE & ASSOCIATES, S.C.

Jon Cermele

/kjs
Attachment
ZIEGER and ROBINSON

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), STATS.

CERMELE & ASSOCIATES, S.C.

- ATTORNEYS AT LAW -

WWW.CERMELELAW.COM

JONATHAN CERMELE
MATTHEW L. GRANITZ
CHELSIE ALLAN

Laurie A. Eggert

- Of Counsel -

6310 WEST BLUEMOUND ROAD
SUITE 200

MILWAUKEE, WISCONSIN 53213
(414) 276-8750

FAX (414) 276-8906

June 12, 2008

Mr. Ronald Leonhardt
Milwaukee City Clerk
City Hall, Room 205
200 East Wells Street
Milwaukee WI 53202

RE: MPD Criminal Investigation of Officer-Involved Shooting
Allegations Regarding PO's Adam Zieger and Daniel Robinson
Date of Incident: February 12, 2008
Location of Incident: 28th Street and Chambers Street
Professional services

	<u>Hours</u>
2/12/2008 Telephone call from PO Robinson regarding officer-involved shooting; telephone call to and from PO Zieger regarding same; telephone call to and from various MPD personnel regarding same; open file; direction to Granitz regarding same.	0.80
Several telephone calls to and from Cermele regarding officer-involved shooting; telephone call to PO Zieger; telephone call to PO Robinson; travel; meeting with PO's Zieger and Robinson; appear at statements to DA of both PO's Zieger and Robinson; open file.	6.00
2/13/2008 Intra-office conference with Granitz regarding facts, status, etc.	0.30
Intra-office conference with Cermele regarding incident and statements of PO Zieger and PO Robinson to DA.	0.30
2/14/2008 Correspondence to PO's Zieger and Robinson regarding officer-involved shooting process.	0.20
3/5/2008 Calendar follow-up with DA's office.	0.10

	<u>Hours</u>
3/24/2008 Telephone call from PO Robinson seeking status update; memo to file; calendar follow-up with DA's office.	0.30
3/25/2008 Review file; fax to DA.	0.40
4/3/2008 E-mail to DA.	0.10
4/4/2008 Several e-mails to and from DA.	0.30
4/22/2008 Receive and review DA's clearance letter; telephone call to clients; correspondence to clients; close file.	0.50

	<u>Amount</u>
For professional services rendered	9.30
Additional charges:	\$1,023.00
2/12/2008 Parking	9.00
Total costs	<u>\$9.00</u>
Total amount of this bill	<u>\$1,032.00</u>
Balance due	<u><u>\$1,032.00</u></u>



OFFICE OF DISTRICT ATTORNEY

RECEIVED

APR 22 2008

GERMELE ASSOCIATES

Milwaukee County

JOHN T. CHISHOLM • District Attorney

Jon N. Reddin
 James J. Martin
 Patrick J. Kenney
 Lovell Johnson, Jr.
 Kent L. Lovern
 Thomas A. Schulz
 Alexander G. Sklenarz
 William J. Mollor
 Donald S. Jackson
 Gale G. Shelton
 Gary D. Mahkorn
 David Robles

Oeg Tarrant
 Douglas J. Simoson
 Cynthia G. Brown
 Norman A. Gahn
 Stephanie Gineris Rothstein
 Carol E. Janick
 Steven H. Glamm
 Mark S. Williams
 Linda Johnson
 John M. Stoiber
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 Carole Manchester
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 Chyllis M. DeCarvalho
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 T. Christopher Dee
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 Stechan Eduard Nollen
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 Jenna Merten
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 Megan M. Williamson
 Dewey B. Martin
 Sarah Eberle
 Jennifer J. Kooq

April 17, 2008

Chief Edward Flynn
 Milwaukee Police Department
 749 W. State St., Rm. 716
 Milwaukee, WI 53233

RE: Officer Adam Zieger, Payroll #70624, P.S. ID 016283, and
 Officer Daniel Robinson, Payroll #71406, P.S. ID 017112

Dear Chief Flynn:

I have investigated the February 12, 2008 shooting death of Nicholas S. Hunter, involving the above-named officers, and wish to report my findings.

On February 12, 2008, City of Milwaukee Police Officers Daniel Robinson and Adam Zieger were on routine patrol in an unmarked squad car in the area of N. 28th St. and W. Chambers when they came upon an individual later identified as Nicholas Hunter, who was walking southbound on N. 28th St. in the roadway. Hunter's position blocked the flow of traffic for a distance of about 90-100 feet. As the officers approached Hunter, they had to veer into northbound lanes so as not to strike him. Based upon Hunter walking in the road, and the slippery travel conditions, the officers determined to conduct a field interview of Hunter. Officer Zieger, who was in full uniform with his badge displayed, then exited the vehicle to talk with Hunter, while Officer Robinson remained in the vehicle.

During Officer Zieger's brief encounter with Hunter, Hunter made no statements and began moving away from Officer Zieger, keeping his right hand in his jacket pocket the entire time and ignoring Officer Zieger's commands to stop and take his hand out of his pocket. Officer Robinson, observing Hunter's actions, then exited the vehicle to assist Officer Zieger. Officer Robinson was also dressed in full police uniform with his badge displayed. At about the time Officer Robinson was 3-4 feet away from Hunter, Hunter began pulling his right hand from his jacket pocket and produced a revolver and aimed it at Officer Robinson. Officer Robinson began backing away and something caused him to fall to the ground, while attempting to remove his gun. As Officer Zieger was attempting to pull his weapon out, Hunter then pointed the revolver at Officer Zieger.

Hunter ignored commands by officers to drop the weapon and to comply with their orders. An independent eye witness, who had been outside shoveling and watched the event

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April 17, 2008

RE: Nicholas S. Hunter

unfold, reported that Hunter began running away from officers but continued to look over his right shoulder and with his arm extended kept his weapon pointed at officers and fired two shots in their direction. Officer Zieger, who believed he had been shot at and feared for his safety, immediately began firing his weapon in Hunter's direction. Officer Robinson, who after hearing shots believed his partner was being shot at and feared for his safety and the safety of Officer Zieger, began firing his weapon at Hunter.

Hunter fell to the ground and on his back, his right hand still holding the revolver, and his body still moving as if to reposition himself to continue to fire at officers. Officer Robinson again fired at Hunter to stop his actions. Hunter then dropped the weapon and put his hands up as if to be surrendering.

Officers then approached Hunter with their guns drawn, commanding that Hunter not touch the revolver, which lay in close proximity to Hunter. Officer Zieger kicked the revolver an approximate two foot distance away from Hunter's reach. Officer Zieger placed Hunter in handcuffs, and Officer Robinson recovered the revolver. Officer Zieger radioed for assistance and an ambulance. Officer Robinson determined Hunter had been shot at least once in the right chest area, and described Hunter as having taken a gasp of air and not breathing regularly. Officer Robinson began to administer chest compressions when another squad arrived on scene and took over CPR efforts. Responding medical personnel monitored Hunter's heart rhythm using a defibrillator but determined it was not sustainable for life and stopped performing life-saving procedures. Hunter's condition was again assessed, at which time he was pronounced dead at the scene. An autopsy performed by the Milwaukee County Medical Examiner confirmed Hunter's cause of death to be a gunshot wound to the chest.

The gun recovered from Hunter was determined to be a Rossi model M68, 38 Special caliber revolver with three spent casing and two unfired cartridges. Police canvassed the surrounding area to identify witnesses and obtain statements. Independent witnesses who observed this incident, or portions of it, provided statements consistent with police accounts of the event. Witnesses confirmed that Hunter disobeyed officers' commands and was armed with a weapon which he pointed directly at officers. And while it may be impossible to determine the succession of shots fired by the three parties, an independent witness who observed the entire incident in close proximity indicated it was Hunter who first fired at officers.

This is corroborated in part by the identification by the Wisconsin Crime Lab of a spent .38 caliber round that penetrated the wall of the grocery store located to the west of officer Zieger. The round matched the gun recovered from Hunter, and my personal observation of the angles related to the bullet strike are consistent with the above witness observations.

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April 17, 2008

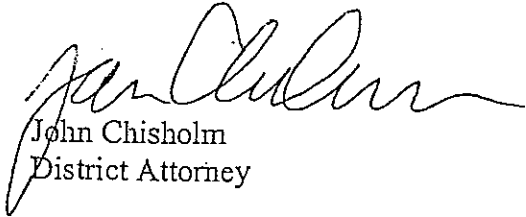
RE: Nicholas S. Hunter

Based upon all information gathered through investigation of this incident, I am satisfied that neither Officer Zieger nor Officer Robinson committed any crime, and I find their actions were privileged by self-defense under Wisconsin Statutes Section 939.48. I urge you to allow them to return to full duty.

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

Thank you.

Sincerely yours,



John Chisholm
District Attorney

JC:ss

cc: Deputy Chief Brian O'Keefe
Attorney Matthew Granitz