

GRANT F. LANGLEY
City Attorney

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



THOMAS O. GARTNER
BRUCE D. SCHRIMPF
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
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
HEIDI E. GALVÁN
JARELY M. RUIZ
ROBIN A. PEDERSON
Assistant City Attorneys

December 29, 2008

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 Officer Gary L. Post
C.I. File No. 07-S-50 (6); EC No. 2434

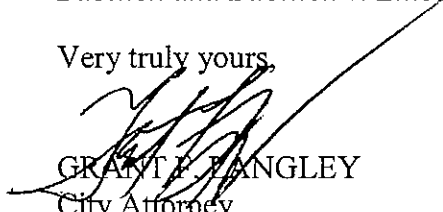
Dear Council Members:

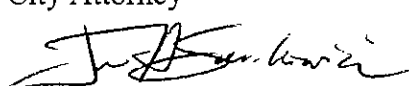
Returned herewith is a document filed by Attorney Jonathan Cermele for attorney's fees for representing Police Officer Gary L. Post. The claim is in the amount of \$899.00 including \$8.00 in disbursements for 8.10 hours of service billed at the rate of \$110.00 per hour. We ask that this matter be introduced 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 police officer 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


JAN A. SMOKOWICZ
Assistant City Attorney
JAS
Enc

2276

OFFICE OF THE CITY ATTORNEY

Milwaukee City Hall Suite 800 • 200 East Wells Street • Milwaukee, Wisconsin 53202-3551 Telephone: 414.286.2601 • TDO: 414.286.2025 • Fax: 414.286.8550

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 PO Gary Post
Regarding: Officer-Involved Shooting
Date of Incident: October 23, 2006
Location of Incident: 900 North 35th Street

REC'D - 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 Post is considered a "protective services officer" under the statute. He has incurred the fees compiled in this claim as a direct result of his being investigated for actions taken within his official capacity, and in the performance of his duties, in connection with the use of deadly force. None of the "exceptions" apply¹.

¹ The officer was 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.

COPY

The incident resulted in the District Attorney's Office conducting a criminal investigation into the shooting of Mr. Larry T. Ellis, under Chapter 979, STATS. That investigation qualifies as a "proceeding" which mandates payment under 895.35(2), STATS.

Attached is a copy of District Attorney Chisholm's letter dated January 26, 2007 confirming that Officer Post's actions were privileged and in self-defense.

Sincerely,

CERMELE & ASSOCIATES, S.C.



Jon Cermele

/kjs
Enclosures
POST

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 08, 2007

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

RE: MPD Criminal Investigation re: Office-Involved Shooting
Regarding: PO Gary Post
Date of Incident: October 23, 2006
Location of Incident: 900 North 35th Street
Professional services

	<u>Hours</u>
10/23/2006 Telephone call from MPD regarding Officer-Involved Shooting; travel to scene; meeting with responding officers; meeting with CIB; travel to PAB; meeting with PO Post; attend PO Post's statement to CIB and DA; return travel; open file; memo to file.	5.20
10/24/2006 Telephone call to CIB.	0.30
11/8/2006 Telephone call from Cermele; draft correspondence to DA regarding status.	0.30
11/14/2006 Detailed telephone call from client; telephone call to and from DDA Donohoo; schedule office conference with client; office conference with client; memo to file.	1.40
11/28/2006 Receive and review correspondence from DDA Donohoo.	0.20
1/20/2007 Discussion with DA Chisholm.	0.20
1/26/2007 Receive and review written confirmation from DA that client's actions were privileged and in self-defense; correspondence to client regarding same; close file.	0.50

Mr. Ronald Leonhardt

Page 2

	<u>Hours</u>	<u>Amount</u>
For professional services rendered	8.10	\$891.00
Additional charges:		
10/23/2006 Parking		8.00
Total costs		<u>\$8.00</u>
Total amount of this bill		<u>\$899.00</u>
Balance due		<u><u>\$899.00</u></u>

(Rate: \$110.00 per hour)

RECEIVED

JAN 30 2007

OFFICE OF DISTRICT ATTORNEY

CERMELE & ASSOCIATES, S.C.

Jon N. Redden
James J. Martin
Patrick J. Kenney
Covell Johnson, Jr.
Kent L. Lovett
Thomas A. Schut
Alexander G. Skanarz
William J. Molitor
Donald S. Jackson
Gale G. Shelton
Gary D. Mankon
David Robles

Peg Torran
Douglas J. Simpson
Cynthia G. Brown
Norman A. Gahn
Stephanie Gihens Roins
Carol E. Janick
Steven H. Glamm
Mary Anne Smith
Mark S. Williams
Linda Johnson
John M. Stoiber
Thomas L. Poner
David Feiss
Rayann Chandier Szychi
Carole Manchester
Kenneth R. Berg
Warren D. Zier
Timothy J. Cotter
Carol Berry Crowley
Steven V. Licata
Brad Vorpahl
Paul Tiffin
Miriam S. Falk
Phyllis M. DeCarvalho
Dennis P. Murphy
Phillip A. Arieff
Thomas J. McAdams
Bruce J. Landgraf
Denis J. Singel
David M. Letman
Janet C. Protasiewicz
DeAnn L. Heard
Patricia A. McGowan
Irene E. Panhum
Karen A. Loebel
Nancy Eltenheim
Ronald S. Dague
Lori S. Kambium
Karne O'Byrne
Maria Dorsey
James W. Fnsch
Kun B. Benkley
James C. Griffin
William P. Pipp
Audrey Skwierawski
John L. Hardtke
Christopher A. Luegt
Megan P. Cairnody
Laura A. Criveo
Shawn Pompe
Kevin R. Shomin
Jennifer Marlock
Beth D. Zirgbet
Karen A. Vespalec
Rebecca F. Daltel
Mark A. Sanders
Paul C. Dedinsky
David T. Malone
Kelly L. Neuge
Jeffrey J. Allennberg
Rachael Stencet
Pati Wapolsch
Bruce W. Becker
Michael T. Mahoney
Mary M. Sowinski
Kathryn K. Samer
Jeanette Corbett
Jeffrey P. Greipp
David Maas
Daniel J. Gabler
Sara P. Soutten
T. Christopher Dee
Lisa P. Fricker
Tiffany J. Harris
Daniel R. Humble
Jacob D. Corr
Joy Hammond
Trevor A. Sisk
Andrew J. Maier
Heidi E. Galvan
Nancy A. Moet
Elisabeth Mueller
Megan J. Paulson
Grant L. Huebner
Stephan Eduard Nollen
Christine M. Quinn
Michelle Ackerman Havas
Adam J. Levin
Jennifer K. Rhodes
Claire Starling
Zach Whitney
Rebecca A. Kiefer
Matthew J. Torbenonson
Kathryn L. Chids
Carah Helwig
Gilben Urler
Jenna Merien
Anthony White
Antoni Apollo
Julia Dnscoil
Nicole Dondlinger
Enn Karshen
Lucy Krontorst
William Anthony Bell, Jr
Elin Dineen
Maureen A. Bracken
Monica J. Awe
Mcrae J. Lonski
Paul M. Hauer
Sara Beth Lewis
Lauren A. Blumenthal
Aaron E. Hall
Ferry Kinnally
Jenna Spies
Latrice Pinson
Davi M. Stegat
Amenda Kinkewski



Milwaukee County

JOHN T. CHISHOLM • District Attorney

January 26, 2007

Chief Nannette Hegerty
Milwaukee Police Department
951 N. James Lovell St., Room 705A
Milwaukee, WI 53233

RE: Milwaukee Police Officer Gary Post, Employee No. 008864

Dear Chief Hegerty:

On October 23, 2006, Milwaukee Police Officer Gary Post shot and killed citizen Larry T. Ellis (d.o.b. 12-11-1980) after Ellis charged at him with a knife and ignored commands to drop the knife, in the area of 966 N. 35th Street in Milwaukee.

Former Chief Deputy District Attorney Robert Donohoo and I conducted a thorough investigation of this matter, and I have concluded my review as it relates to the actions of Officer Post. I am satisfied that Officer Post committed no crime and his actions were privileged by self-defense under 939.48, Stats.

I have communicated my findings to the family of Larry T. Ellis through Chicago attorney Steve Muslin and the decedent's mother, Ms. Beryldene Williams.

This office is continuing to examine the circumstances under which the decedent, Larry T. Ellis, was released from mental health custody. The ongoing investigation, while substantive in nature, has no bearing on the actions taken by Officer Post.

By this letter, I respectfully request that Officer Post be allowed to returned to full duty.

Very truly yours,

John Chisholm
District Attorney

JC:ss

cc Deputy Chief Brian O'Keefe

Atty. Jon Cermele

Atty. Steve Muslin

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

February 23, 2007

TO: P.O. GARY POST
DISTRICT: THREE

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 the following situation:

- 1) A police shooting incident occurring on OCTOBER 23, 2006

Is this information correct?

YES NO

Did you receive legal representation
in this matter?

YES NO

Your signature: _____

P.O. Gary L. Post

Print your name: _____

Gary L. Post

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
INTERNAL AFFAIRS
DIVISION

07 FEB 29 PM 1:53

RECEIVED