

**GRANT F. LANGLEY**  
City Attorney

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



THOMAS O. GARTNER  
BRUCE D. 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  
HEIOI WICK SPDERL  
KURT A. BEHLING  
GREGG C. HAGOPIAN  
ELLEN H. TANGEN  
MELAMIE R. SWANK  
JAY A. UNORA  
DONALD L. SCHRIEFER  
EDWARD M. EHRlich  
LEDNARD A. TDKUS  
VINCENT J. BOBOT  
MIRIAM R. HORWITZ  
MARYNELL REGAN  
G. O'SULLIVAN-CROWLEY  
KATHRYN Z. BLOCK  
MEGAN T. CRUMP  
ELOISA OE LEÓN  
ADAM B. STEPHENS  
KEVIN P. SULLIVAN  
BETH CONRADSON CLEARY  
THOMAS D. MILLER  
HEIOI E. GALVÁN  
Assistant City Attorneys

May 19, 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 David Ziebell  
C.I. File No. 07-S-149-5; EC 2458

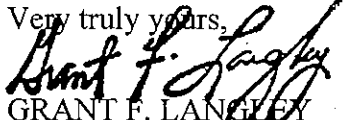
Dear Council Members:

Returned herewith is a document filed by Attorney Jonathan Cermele for attorney's fees for representing Police Officer David Ziebell. The claim is in the amount of \$1,087.00 including \$9.00 in disbursements for 9.80 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 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

  
Assistant City Attorney

JAS:amp  
Enc.

1032-2007-1253:124858v1

OFFICE OF THE CITY ATTORNEY

Milwaukee City Hall Suite 800 • 200 East Wells Street • Milwaukee, Wisconsin 53202-3551 • Telephone: 414.286.2601 • TDD: 414.286.2D25 • Fax: 414.286.8550

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

MAY 2, 2007

TO: P.O. David ZIEBELL  
DISTRICT: FOUR

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 MARCH 11, 2007
- 2) A citizen complaint made by Julius A. STOVER

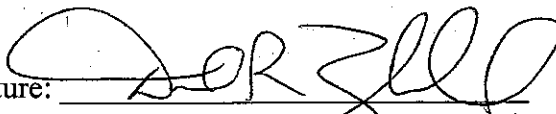
Is this information correct?

YES  NO

Did you receive legal representation  
in this matter?

YES  NO


Your signature: \_\_\_\_\_



Print your name: \_\_\_\_\_

DAVID R. ZIEBELL

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: lrc

# 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

April 23, 2007

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

CITY OF MILWAUKEE  
2007 APR 25 PM 3:00  
RONALD D. LEONHARDT  
CITY CLERK

**RE: MPD Criminal Investigation: Officer-Involved Shooting**  
**Regarding: PO David Ziebell**  
**Date of Incident: March 11, 2007**  
**Location of Incident: North 64<sup>th</sup> Street and West Carmen Avenue**

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

Officer Ziebell 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" apply<sup>1</sup>.

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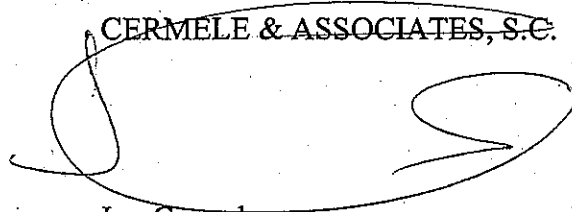
<sup>1</sup> The officer was not convicted of a crime, terminated for cause, resigned prior to incurring the fees associated with this claim, demoted, or suspended without pay for more than 10 days. *See 895.35(2)(b), STATS.*

The incident resulted in the District Attorney's Office conducting a criminal investigation into the shooting of Julius A. Stover, 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 John Chisholm's letter dated April 17, 2007 confirming that Officer Ziebell'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 company name. The signature is enclosed within a large, hand-drawn oval.

Jon Cermele

/kjs  
Enclosures  
OFFICER ZIEBELL

# CERMELE & ASSOCIATES, S.C.

ATTORNEYS AT LAW

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

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

April 23, 2007

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

RE: MPD Criminal Investigation re: Officer-Involved Shooting  
Regarding: PO David Ziebell  
Date of Incident: March 11, 2007  
Location of Incident: North 64th Street and West Carmen Avenue  
Professional services

|  | <u>Hours</u> |
|--|--------------|
| 3/11/2007 Telephone call from MPD regarding officer-involved shooting;<br>open file; travel to scene; several telephone calls to and from PO<br>Ziebell; meeting with CIB; travel to CIB; meeting with PO<br>Ziebell; attend PO Ziebell's statement to CIB and DA; return<br>travel; memo to file. | 6.10         |
| 4/5/2007 Review file; Fax to DA Chisholm.  | 0.30         |
| 4/6/2007 Meeting with DA's investigator.   | 0.20         |
| 4/9/2007 Telephone call to client.   | 0.20         |
| 4/10/2007 Fax to DA Chisholm; telephone call to and from DA's Chief<br>Investigator; telephone call from IAD.  | 0.50         |
| 4/11/2007 Telephone call from DA Chief Investigator.   | 0.10         |
| 4/12/2007 Review file; travel; meeting with client; meeting with IAD; return<br>travel; memo to file.  | 1.90         |

Mr. Ronald Leonhardt

Page 2

|  | <u>Hours</u> |
|--|--------------|
| 4/19/2007 Receive and review Fax from DA Chisholm confirming that PO Ziebell's use of deadly force was privileged and in self-defense; telephone call to client regarding same; correspondence to client regarding same; close file. | 0.50         |

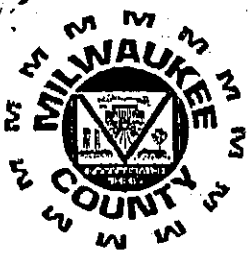
|                                    | <u>Amount</u> |
|------------------------------------|---------------|
| For professional services rendered | 9.80          |
| Additional charges:                |               |
| 3/11/2007 Parking                  | 9.00          |

|             |               |
|-------------|---------------|
| Total costs | <u>\$9.00</u> |
|-------------|---------------|

|                           |                   |
|---------------------------|-------------------|
| Total amount of this bill | <u>\$1,087.00</u> |
|---------------------------|-------------------|

|             |                          |
|-------------|--------------------------|
| Balance due | <u><u>\$1,087.00</u></u> |
|-------------|--------------------------|

(Rate: \$110.00 per hour)



OFFICE OF DISTRICT ATTORNEY

Milwaukee County

JOHN T. CHISHOLM • District Attorney

Jon N. Reddin
James J. Martin
Patrick J. Kenney
Lovell Johnson, Jr.
Kent L. Lovren
Thomas A. Bonitz
Alexander G. Skonarz
William J. Mottor
Donald B. Jackson
Dale B. Shelton
Gary D. Monkon
David Robles

Peg Terrant
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Norman A. Gahn
Stephanie Charles Rindson
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Irene E. Pordum
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Lori B. Komorum
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Kiana Downey
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Kurt B. Derkshy
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William F. Papp
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Rechael Blencol
Paul Wablach
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Kathryn K. Samer
Jeanette Corbett
Jeffrey P. Gropp
David Meas
Dennis J. Gabler
Sara P. Boulton
T. Christopher Dee
Lisa P. Fricter
Tiffany J. Hams
Doreen R. Humble
Jacob D. Corr
Joy Hammond
Trevor A. Sisk
Andrew J. Heier
Holly E. Gaven
Nancy A. Nish
Christina A. Mustor
Megan J. Paulson
Grant I. Hubner
Stephen Edward Notten
Christina M. Cullen
Michelle Ackerman Hayes
Adam J. Levin
Jennifer K. Rhoads
Claire Staring
Zach Whitney
Audrecca A. Ketter
Matthew J. Thronson
Kathryn L. Chidc
Caren Halvic
Gilbert Uffer
Jenna Moran
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Antoni Apocin
Julia Orsault
Nirvan Donofinger
Erin Karshan
Luov Kronhorst
William Anthony Bell, Jr.
Erin Dineen
Maureen A. Prackatt
Monica J. Awa
Michael J. Linnald
Paul M. Fleumer
Sara Beth Lewis
Lauran A. Dunsmithal
Aaron E. Hill
Flory Kennally
Jenni Speck
Larissa Hinson
David N. Stappal
Amanda Kiriowski

April 17, 2007

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

RE: Milwaukee Police Officer David Ziebell, Employee No. 009137

Dear Chief Hegerty:

I reviewed the investigation related to the use of force by City of Milwaukee Police Officer David Ziebell. My investigation shows that on March 11, 2007, Officer Ziebell responded with other officers after a 911 report that numerous gunshots had been fired in the area of N. 64th St. and W. Carmen Ave., in the City of Milwaukee. Officer Ziebell was the first to arrive at the scene and armed himself with a shotgun.

Officer Ziebell was in full police uniform, and came into contact with a suspect on the front steps of a multi-unit apartment complex. He ordered that individual to put his hands up. The suspect failed to comply with Officer Ziebell's commands and removed a 9mm semi-auto pistol with a large capacity magazine from his waistband, and turned toward Officer Ziebell. At that time, Officer Ziebell fired one round from his police issued 12-gauge Remington Model 870 Police Magnum shotgun, striking the suspect in the lower torso, resulting in a serious but non-lethal injury.


The suspect was conveyed for medical treatment and later identified as Julius A. Stover, date of birth 04-22-1985. Stover is charged in Milwaukee County Circuit Court Case Number 2007CF001009 with the amended offense of Carrying a Concealed Weapon, which remains open and pending.

The above incident was independently observed by a citizen witness. The witness had a vantage point that allowed a clear view of the encounter, and despite a degree of apparent intoxication, the witness made observations that can be independently corroborated. In addition, numerous 9mm rounds and 7.62x39 rounds were recovered on scene, indicating a previous gunfight. The 9mm recovered from Stover was matched to the other casings at scene, but I wish to continue investigating the circumstances of that shooting and have not drawn a definitive conclusion as to that incident.

Based upon my personal review and information gathered through investigation of this incident, I am satisfied that Officer David Ziebell committed no crime and his actions were privileged by

self-defense under 939.48, Stats. I respectfully request that Officer Ziebell be allowed to return to full duty.

Very truly yours,



John Chisholm  
District Attorney

JC:ss  
cc\Deputy Chief Brian O'Keefe  
Atty. Jon Cermele