

Commonwealth of Massachusetts

MIDDLESEX, ss

Woburn District Court  
Docket No: 2153 IN 0001

INQUEST  
INTO THE DEATH OF  
THOMAS P. CELONA

FORMAL WRITTEN REPORT

**A. Inquest Procedure and Background**

Thomas P. Celona (Celona) passed away on November 2, 2020 at 9:01 p.m. at the age of 35 in Winchester, Massachusetts. The circumstances of his death are the subject of this inquest. An inquest is a quasi-judicial proceeding whose purpose is to establish how a person died<sup>1</sup> or “when, where, and by what means” a person died and “all material circumstances attending the death.” G.L. c. 38, §10. Celona’s death was the subject of State Police and Winchester Detective Bureau investigations. They classified the death as an on-duty police shooting. On June 4, 2021, the District Attorney for Middlesex County, Marian T. Ryan, requested the District Court, Woburn Division, to conduct an inquest into the death under the provisions of M.G.L. c. 38, sec. 8. The Chief Justice of the District Court, the Honorable Paul Dawley, by order dated June 10, 2021, assigned Hon. Peter F. Doyle (the court) for purposes of conducting an inquest to determine if the on-duty police shooting involved an unlawful act or instead was justified.

The unique character of the inquest procedure focuses on the investigatory role of the judge. Inquests are not adversarial, and it is the judge who must control the procedure and ensure

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<sup>1</sup> *The Inquest and the Virtues of Soft Adjudication*, Paul MacMahon, Yale Law and Policy Review, 2014.

that all relevant information is produced. There are no procedural rules of court applicable to the conduct of inquests; the rules of criminal and civil procedure do not apply. To conduct a thorough investigation and properly serve the lawful investigative purpose of the inquest, the court permitted the presentation of some evidence that would not be admissible in a criminal trial. In its findings, however, the court considered only evidence that it determined to be inherently reliable. Following the guidance of Standard 4.00 of the Standards of Judicial Practice, Inquest Proceedings (revised January 2, 2009) (Standards), the court applied a preponderance of the credible evidence standard.

The court was assisted by Deputy General Counsel Kristen Stone from the Administrative Office of the District Court and Julie Veno, Assistant Clerk Magistrate of the Woburn District Court. The court conducted preliminary hearings (by Zoom on the record) on July 21, and October 6, 2021 with Assistant District Attorney Christopher M. Tarrant, who appeared for the Commonwealth; Attorney Kenneth H. Anderson, who appeared for Officer Jeffrey LaTores (LaTores) of the Winchester Police Department and the target of the inquest; and Attorney Debbie Dewitt, who appeared for the Celona family. The purpose of these preliminary hearings was to discuss the procedures to be followed at the inquest, any potential issues, scheduling, and arranging for a view.

**B. The View**

On Monday, October 18, 2021 the court conducted a view at the Parkview Condominium Complex (Parkview) located at 200 Swanton Street in Winchester, Massachusetts. The purpose of the view was to assist the court in understanding the evidence to be presented. Parkview, the largest residential complex in Winchester, is a seven-story concrete condo/apartment building with approximately 318 one and two-bedroom condo units, which are individually owned and

often sub-leased to tenants/renters. The building can be accessed by an east and west lobby entrance which has a locked interior glass door requiring a key to enter. Once inside, one can utilize the east or west elevators or interior stairwells. Access to the complex and its resident parking lots is restricted by a gate arm, which requires an electronic key card to lift. The building has a unique 'half-moon'/semi-circular curved design, resulting in floors and hallways that are in a continuous curve as one walks down them. Unlike a straight hallway, vision down the hallway is restricted due to this curved design.

To gain access to the individual condo units, one would turn left from the eastbound main hallway, down a short corridor which typically leads to two apartments, one on the left and one on the right at the end of the corridor. The main hallways and corridors have dark colored carpeting and are dimly lit at night. During the day, the hallways and corridors receive some natural daylight through opaque multi-colored glass panels which are imbedded in the exterior concrete wall of the building. Each unit has a balcony that looks over an interior center courtyard which contains small ponds and exterior walkways. The building was constructed in 1966.

On the third floor there is a main, curved hallway and then a short corridor that leads to only two units including unit 326 where Celona lived. The death took place in the area by apartment 325 and 326. Unit 326 is on the right side of the short corridor directly across from unit 325. The distance between the doors to unit 325 and 326 is 41 inches. The width of the corridor where it meets the hallway is 44 inches. The corridor length is approximately thirteen feet. This narrow setting played a significant factor as the events unfolded on November 2, 2020.

Unit 326 consists of a bathroom straight ahead as one enters the apartment; a bedroom to the right; and a combined kitchen/living room to the left. Sliding glass doors separate the living area from a small balcony. It is possible to get to an adjoining balcony with little effort by going over

or under a wood divider. Celona had done that twice previously with permission from the owner of unit 325 when he forgot his key. Using a chair, he simply climbed over the divider from the balcony at 325 to his own balcony. The bedroom has windows located by the ceiling that open to the long, curved hallway. It is approximately twenty-nine feet from the sliders to the unit entrance. The kitchen island is thirty by fifty inches. The distance from the island to the sliders is fifteen feet.

### **C. The Hearing**

In accordance with the statutory mandate, the court conducted a hearing to determine the circumstances surrounding the death of Celona and whether an unlawful act caused Celona's death. The hearing commenced on October 18, 2021 and concluded on October 19, 2021.

Twelve witnesses testified. Thirty-two exhibits were admitted into evidence. The court followed the procedures set forth in G.L. c. 38, §§ 8 and 12, and in *Kennedy v. Justices of District Court of Dukes County*, 356 Mass. 367, 378 (1969). The court also utilized the Standards as a guide.

Under the *Kennedy* procedures, the public was excluded from the hearings. The father (Paul), mother (Alyce) and brother (James) of Celona were all permitted to attend the hearing.

Witnesses were sequestered.

#### **1. The First Encounters with Celona on November 2, 2020.**

George Eliopoulos (**Eliopoulos**) was working at his family owned take out restaurant, Andrea's Pizza (Andrea's), on the evening of November 2, 2020. Andrea's is a short walk to Parkview and often serves some of its residents. At approximately 5 p.m., Celona entered Andrea's without wearing a mask in violation of the restaurant's posted mandate requiring all patrons to wear a mask due to Covid-19. This was the third time Eliopoulos had served Celona at Andrea's, and each time Celona was not wearing a mask. Celona had indicated to Eliopoulos on

prior occasions that he lived just across the street at Parkview. Eliopoulos, frustrated by this third encounter, said to Celona, “Buddy, I told you, you need to wear a mask!” In response, Celona took three, big deep-breaths and his hand started shaking. Celona was visibly agitated but said nothing in response. Celona was given a mask and asked to wait outside while his steak tip dinner was prepared. Once his meal was ready, Celona left Andrea’s without further incident. When Eliopoulos later learned that someone had been shot and killed at Parkview by Winchester Police, Eliopoulos told co-workers, “I bet you it’s that kid,” referring to Celona. His words proved to be prophetic.

Susan Dunn (**Dunn**) lives in apartment 325 directly across the small corridor that separates the two apartments (325 and 326) (exhibit 8). Although she only knew him for less than a year, of all the residents, she knew Celona the best and had dinner with him in her apartment twice. She described her relationship with “Tommy” as “acquaintance and friendly neighbor.” She testified he kept a neat apartment. She said the banging she heard on November 2, 2020 was not unusual and had happened before. She never spoke to Celona about it because she did not like confrontation. She said Celona had not been himself for about two to three weeks and that he appeared to be “on something” on November 2. She testified that the person she saw that day was not the Tommy she knew. Just before 8 p.m., she saw Celona leave his apartment with knives and blood on his hands and return about 7 minutes later with another man, later identified as the occupant of unit 313.

Thomas Card (**Card**), a martial arts instructor (black belt), lives in unit 313 at Parkview, about 7 corridors down from Celona. At approximately 8 p.m., Card heard a knock at his door.<sup>2</sup> Without looking through his peep hole, Card opened the door and saw a gentleman that he did not know (later identified to be Celona) with a long kitchen knife in each hand. Both hands were bleeding. Card asked Celona to step back and put the knives in his pocket. Celona complied. Celona indicated to Card that a black man broke into his apartment and stole some things including a stereo and that the man fled upstairs. Card agreed to accompany Celona back to his apartment but before doing so he placed a wooden stick in his sleeve to protect his arteries.

As Card and Celona were walking down the hall, Celona kept removing the knives. Card, keeping a safe distance of six feet behind Celona, kept reminding Celona to put the knives away. Upon arrival at unit 326, Card did not observe any signs of a forced entry. The interior of the apartment was dark, and Card began turning lights on. Directly across from the entrance to the apartment is a bathroom. To the right of the bathroom, he observed the bedroom. To the left of the bathroom is a short hall that leads to a kitchen and living area. Card noticed that the apartment was “trashed.” There were things all over the floor including a meal. Dunn, watching through her peep hole was petrified that Celona was going to hurt Card with a knife. Card contacted Parkview security and shortly thereafter security guard William Gaffney (**Gaffney**) arrived.

Gaffney had been contacted just earlier from a person who identified himself as Frank Thomas from unit 326. The caller stated that two black guys had broken into his house. Gaffney

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<sup>2</sup> Card testified that he was made aware or believed that Celona had knocked on each apartment door between his apartment and Celona’s and there was blood on the doors to support this. Card was the only one to answer the door. No other evidence was offered about blood on other doors.

believed that he was in fact speaking to Celona, but the caller ID only provided a number, not a name. Gaffney met Celona at the unit and did not detect any signs of a forced entry, but noticed that the inside of the apartment was “ransacked.” Gaffney observed Celona to be calm on the outside, but he looked like he was “on something, his eyes were bugging out of his head and he was slurring his words.” Gaffney never stepped inside the apartment. Celona told Gaffney he did not want the police involved. Celona went back into his unit.

Card then described to Gaffney his interaction with Celona. Dunn popped her head out of her apartment directly across from Celona’s and told Gaffney and Card that there was no one else here and that Celona had been in there all night making a lot of noise and told them, he’s not right, she can’t live like this anymore and that she has been dealing with this for weeks and you have to do something. When Celona came out of his unit as Gaffney and Dunn were conversing, Dunn told Celona he should call the police. Celona snapped at Dunn telling her he was not calling the police and she should “go back in your house.” Dunn characterized his tone and statement as “unusual” and out of character for him.

Card tried to settle Celona down and offered to call the police, but Celona said not to call. Card and Gaffney left Celona in his apartment and discussed the situation. Gaffney believed that Celona just needed to “sleep it off.” After Gaffney and Card left, the banging continued in Celona’s unit prompting Dunn to call Gaffney again in the security office and asking him to do something and adding, “you cannot leave me up here alone!” Gaffney then contacted the Winchester Police Department. In the 911 recording he indicated that a person who identified himself as Frank Thomas from unit 326 reported that two black men broke into his apartment. He stated that the male party was “intoxicated” or “on something” and that his hands were cut.

## **2. Winchester Police Response.**

Sergeant Ryan Mawn of the Winchester Police Department was dispatched to Parkview along with officers Jeffrey LaTores (LaTores) and Drew Riccio (Riccio) for a possible breaking and entering into apartment 326. All three arrived approximately at the same time. Because the area was in Riccio's sector he took the lead. Riccio has been a member of NEMLEC<sup>3</sup> for the last five years and has received training in SWAT, tactical operations, riots, security, and special searches. He attends special training once a month with NEMLEC. Riccio spoke to Gaffney, who had contacted the police. Gaffney informed Riccio that a Frank Thomas from unit 326 reported that two black males broke into his apartment. Gaffney had gone to unit 326 and spoke with Celona (there was no Frank Thomas) who had two knives on him. Riccio was not sure what to expect when he went to unit 326 as the situation was confusing.

LaTores had informed Mawn and Riccio that he had had two prior encounters with Celona and that on both prior incidents Celona had been carrying "edged weapons."<sup>4</sup> On Friday December 27, 2019, LaTores responded to unit 326 at the Parkview because Celona had wielded a hatchet at another resident with whom Celona had a confrontation (exhibit 30). Celona was arrested and the hatchet was confiscated. Celona's car was towed, and during an inventory search of the vehicle the police found numerous kitchen knives on the floorboards next to the driver's

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<sup>3</sup> Northeastern Massachusetts Law Enforcement Council is a consortium of 63 police departments in Middlesex, Essex, and Suffolk County and 2 County Sheriff's Departments. Members of NEMLEC share resources and personnel to provide supplemental services and mutual aid when special circumstances arise.

<sup>4</sup> An edged weapon is any bladed weapon that can be used to stab, cut, hack, or slash. It would include knives and hatchets.



seat. LaTores was concerned that someone would keep large knives within easy grasp of the car's driver.

On October 14, 2020, LaTores assisted another officer who was dispatched to Forest St. in Winchester because a male was randomly knocking on doors (Exhibit 31). LaTores responded, encountered Celona and discovered a Cuisinart kitchen knife 7 to 10" in length in the front pocket of Celona's sweatshirt. Because of Celona's confused state and bizarre behavior, he was hospitalized at Winchester Hospital. He left that hospital the next day against medical advice (AMA). Celona fully complied with the officers on this occasion.

Because of these two incidents, all three officers were on high alert that edged weapons could be an issue. The officers were still unsure whether multiple people were involved and if there was ongoing criminal activity or a past breaking and entering. Based on all the information the officers were receiving they were unsure if this was really a break or if it was a fake call. Riccio informed Mawn and LaTores that he would lead the way to and into unit 326. The three proceeded to the apartment. Riccio told LaTores that he, Riccio, would use his taser if necessary and that LaTores would be his "lethal cover."<sup>5</sup> Riccio stayed to the front left of LaTores because LaTores would have his gun in his right hand.

As they approached from the long hallway, they observed fresh blood on the short narrow corridor leading to units 325 and 326. Riccio knocked on the door to 326 and called out

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<sup>5</sup> Because a taser is considered non-lethal force it would be ineffective against a subject utilizing deadly force. When multiple officers are on scene, if one officer is prepared to use a taser, the second officer must protect him if deadly force is used against them. The lethal or contact cover officer must be prepared to combat lethal force with lethal force (a firearm) because of the vulnerable position of the officer with the taser. A taser has two cartridges each of which has two prongs. Once the two cartridges are used, the taser can no longer be used.

to “Frank” to open the door, “its Winchester police, we need to speak to you.” Riccio did this several times before Dunn opened her door in unit 325 and informed the police that his name was “Thomas.” She also told “Tommy” to open the door thinking that if he heard her voice rather than that of the police, he may feel more comfortable and open his door. She then closed her door. She knew that Celona’s behavior had gotten much worse recently and feared, “I could get killed or someone could get killed.” Celona did not open the door or respond.

Riccio called about six times for “Thomas” (Celona) to come to the door. The police could hear disturbing noises coming from inside the apartment. It sounded as if furniture was being thrown about by multiple people. The police were unsure if one or up to three people were inside brawling or fighting. This caused the police to fear that someone inside might be in danger and being hurt. LaTores feared that somebody did break into the house and that the resident needed assistance. Ultimately Mawn told Riccio he could breach the door which he did by giving it 10-12 “donkey kicks.” During the kicking the police kept yelling “open the door.” Sounds from inside grew more “hectic and chaotic.” The police were finally able to open the door but only part way because it appeared to have been barricaded from behind. LaTores requested another unit and Mawn requested that the fire department be available or “staged” downstairs.

The lights were off in the apartment. Riccio entered on the left with LaTores to his right and Mawn in the rear. They walked approximately five feet into the kitchen area by the island. The area was completely cluttered: “It looked like a tornado had gone through the apartment.” Riccio was utilizing his flashlight and a small LED light on his taser. It was difficult to see in the apartment. Just prior to entering the apartment, LaTores removed his firearm from his holster. He pointed the weapon at the ground.

The police noticed Celona kneeling or crouched at the farthest end of the living room by the glass, sliding doors. Celona was stabbing at the glass doors with long kitchen knives and breaking glass in the process. Celona was given multiple orders by all three officers to drop the knives. He brandished a knife in each hand. Celona just stared at the officers and continued stabbing the glass. He was “looking through us.” The officers pleaded with him to put the knives down. The officers and Celona were approximately 18 feet apart. Celona said nothing and refused to put the knives down. Fearing that he could hurt the officers, himself, or another resident, Riccio decided to fire a taser at Celona. Riccio yelled “taser” three times and deployed a single cartridge containing two probes. The taser made impact and Celona grunted in response but did not release the knives.<sup>6</sup> The officers continued to tell him to drop the knives. A taser charge lasts for five seconds and then wears off. Ricco re-energized the probes which had some effect but did not incapacitate him. Celona then began to stand. LaTores quickly realized that unlike his prior two encounters with Celona when he was composed and a little confused, this time Celona was threatening the police in a menacing way. He was much more violent and irrational.

As he rose, Celona grabbed a blanket/comforter that was on the floor near him and held it up “matador style” at neck level with his hands and arms outstretched to prevent being hit by another taser. Celona still had a large knife in his left hand as he held the blanket as a shield. The officers were unsure if he had pulled any of the prongs out or if he still had a knife in his right

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<sup>6</sup> Medical records from Winchester Hospital where Celona was taken for the gunshot wound confirmed, “there is a taser dart seen in the right flank.”

hand.<sup>7</sup> Celona began moving toward the officers. The officers continuously told Celona to put down the knives. He said nothing in response. The officers slowly began to back up toward the door to exit the apartment. LaTores told Riccio to hit Celona with another taser. The second probe was completely ineffective. Because the second taser was unsuccessful in subduing Celona, the officers continued to back up. Riccio's taser was now useless having fired the maximum number of cartridges (two) so LaTores took out his taser and told Mawn to give it to Riccio to use.<sup>8</sup> As he was handing the taser to Mawn, the officers continued to back up and Celona continued to advance. Celona continued to "move in" on the officers. LaTores moved Riccio and Mawn with his body to the exit telling them, "back up, back up, we gotta get out." Mawn tripped over a stool by the door at which point LaTores started to get fearful for his life and safety and that of his two other officers. Gaffney, who was in the long hallway, heard an officer state, "I don't want to shoot you." Celona was now within 6-8 feet. All three officers were in the "choke point" of the narrow corridor between the two units. LaTores pictured his five children and envisioned Dunn coming out of her apartment again and being stabbed. The officers were screaming for Celona to drop the knives. Though he did not want to fire his weapon, his brain and training told LaTores he had to for everyone's safety. He then fired one shot into the

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<sup>7</sup> Celona left one of the knives by the sliding glass door. (Exhibit 8).

<sup>8</sup> All Winchester police officers are trained in the use of the taser but not all officers carry them because there is a shortage. Riccio and LaTores each carried a taser but Mawn did not. This was the first taser deployment by the Winchester Police Department.

chest of Celona who fell forward in the threshold to his apartment.<sup>9</sup> This entire encounter lasted less than ten minutes.

Celona was pulled from the threshold into the corridor and away from any knives. He was handcuffed and police began life saving measures. Handcuffing is standard procedure because fire and ambulance are not allowed in until the police have fully secured the area. Riccio heard Celona take one single agonal breath.

Hyden Meiler (**Meiler**), a Winchester police officer and experienced combat medic, responded to the scene. He passed LaTores in the hallway and observed that he appeared distressed. Concerned, he asked LaTores if he was okay. Meiler then went to unit 326 where he performed life saving measures on Celona. He made every effort to save Celona's life.

### **3. Civilian Witnesses on scene at the time of the shooting**

**Dunn** at one point that night removed the welcome sign from her door so that she could clearly see through her peep hole directly at Celona's door and unit. She was crying and fearful that Celona would cut up his body or jump from the balcony. She could hear him breaking the glass on the sliding door. She heard the police repeatedly say, "put the knives" down and then, "tase him, tase him!" Then, "do it again!" She never heard Celona respond to the officers and could smell the gunpowder from the single shot.

Kevin Lowry (**Lowry**) from Unit 321 was so concerned by the voices and noises he heard that night that he called 911. He heard the police two or three times ask Celona to put the knives down. Heather Derby (**Derby**) from unit 324 heard loud banging in the building and a lot of

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<sup>9</sup> Police are trained to aim for center mass (chest/torso) to increase the likelihood of stopping an attack. Firing at a limb substantially increases the risk of a miss which represents a significant danger to innocent bystanders/civilians.

shouting just after 8 p.m. She was so concerned by what she heard that she and her son went into a closet for safety. She heard the police yell put down the knife multiple times. She heard a single pop.

Linda Copeland (**Copeland**) lives in unit 327 directly to the right of Celona's unit. She shares a 12-inch concrete wall with Celona's unit, though they do not share the same corridor. To access her unit, one would have to walk farther down the long-curved hallway and take a left in the very next corridor. She met Celona when he first moved in. She endured seven months of episodes involving Celona. She recounted a prior episode in Celona's unit where a young female and Celona were involved in an altercation that went from an argument to being physical with things being turned over in the apartment. Copeland feared for the female's safety. On November 2, 2020, she recalled hearing a lot of screaming, yelling and commotion. She characterized the police actions toward Celona as non-aggressive and heard them begging Celona to calm down and put the knives down. She characterized the police as being very calm, kind and that they treated him as best as they could.

#### **4. State Police Investigation**

Detective Lieutenant William Donoghue (Donoghue) from the Massachusetts State Police is the head of homicide for the Middlesex County District Attorney's Office. He was asked to respond to Parkview for an officer involved shooting and conducted a full investigation consisting of: 1) inspecting unit 326 and the surrounding area; 2) taking photographs of the scene (Exhibits 2, 3, 4A, 4B, 4C, 4D, 4E, 6, 7, 8, 9, 11, 12, 13, 14, 16A, 16B, 16C) and 3) conducting interviews with witnesses including Winchester officers Mawn, Riccio, and LaTores. All three officers gave recorded interviews, and none asserted their Fifth Amendment rights. The photographs supported the testimony and interviews of the Winchester officers.

## 5. The Medical Examiner

Dr. Richard Atkinson ([Atkinson](#)) from The Office of the Chief Medical Examiner performed the autopsy. He ruled the manner of death to be a homicide. The cause of death was a single gunshot wound to the chest. The bullet entered front to back and traveled slightly right to left. There was no exit wound. The bullet was lodged in muscle tissue of the left back after passing through Celona's heart. An examination of the body revealed: no soot (burnt gunpowder) around the wound indicating that the fatal shot was fired from more than six inches; no stippling (larger particles or specks) indicating the shot was most likely not fired within three feet; 20 needle puncture marks indicating recent use of substances by injection; and no injuries or markings from a taser prong.

Significantly, the toxicology indicated the presence of multiple drugs including four different benzodiazepines, gabapentin (most likely prescribed) and the following illicit drugs: amphetamine, MDMA(Ecstasy/Molly), and cocaine. The amount of cocaine in the toxicology report was much higher than what Atkinson typically sees. The three illicit drugs can all be used intravenously, are stimulants and can cause hallucinations.

## 6. Medical Records

Medical records (exhibit 32) show that Celona had been diagnosed with depression and ADD (attention deficit disorder). He was prescribed medications for those conditions. Unfortunately, it appears he abused those medications and often combined them with illegal drugs. On [December 8, 2019](#) at 11:54 p.m. Celona went to the Winchester Hospital emergency department (ED) to refill his prescriptions for Gabapentin, Adderall, and Klonopin claiming that his car with his medications had been stolen. "The patient was manic when he arrived stating, 'I've had a hard weekend.'" He was released to home care and told to contact his prescriber.

Celona's medical records indicate the presence of cocaine and amphetamines on his **December 10, 2019** hospitalization in Burlington at Beth Israel Lahey Health (Lahey). Celona was suspected of having a substance induced psychosis after barricading himself in a hotel room. (This conduct is eerily similar to his conduct on November 2, 2020). Notes indicate that the patient had been abusing drugs for many years "to self-medicate." On **October 10, 2020**, Celona was found by a bystander slumped over a park bench. He was treated at Winchester Hospital ED for a drug overdose from Percocet. He requested to leave the hospital after being stabilized refusing medical treatment or intervention. On **October 14, 2020**, Celona was again at the ED of Winchester Hospital admitting to oral opiate and cocaine use stating he has "been on a bender for multiple days." He again refused treatment and left AMA. On admission to Lahey on **October 15, 2020** for rib fractures, Celona reported current drug use to include, amphetamines, cocaine, and heroin. He again left AMA.

During the investigation on November 2, 2020, State Police discovered a glassine bag with a white powdered substance on Celona's counter. This leads the court to conclude for at least the last two years Celona was abusing controlled substances though his medical records indicate the drug abuse has gone on for many years. Puncture marks and bruising on Celona's arms (Exhibits 19 and 20) indicated that he was injecting substances in the days prior to his death. Given his history of drug use, his medical records, and the toxicology report, the court concludes that Celona was an active IV drug user prior to his death. The court finds that his polysubstance abuse contributed to his uncontrolled and psychotic behavior on November 2, 2020.



## 7. Use of Force

Charles M. DeChiara (DiChiara), a member of NEMLEC, has been with the Waltham Police Department for 25 years and has been a police officer for 33 years. He has an extensive record of training and instructing and is a qualified expert in use of force by police officers. He testified as an expert on this case without offering an opinion on the particular facts or circumstances of Celona's death. He does not know any of the Winchester officers personally. His testimony was consistent with the Winchester Police Department Use of Force Policy (Policy) dated 5/27/2016 (exhibit 10). The purpose of that Policy is to establish uniform guidelines for the lawful use of force by officers when necessary. The policy defines levels of force available and provides officers with a model of force describing possible responses to different situations.

The pertinent part of the policy and DiChiara's testimony centered on lethal force. An officer is authorized to use lethal force to defend himself or another from unlawful attack which he reasonably perceives as an imminent threat of death or serious bodily harm. Celona represented a level five lethal threat, the highest threat, under the use of force manual promulgated by the Policy. A reasonable officer's perception of Celona would be that he was assaultive and presenting a threat of bodily injury or death- the ultimate degree of danger- and that the subject was lethal. A reasonable officer's response to such a subject is the use of lethal or deadly force. The use of a handgun is a designated and appropriate response to such a threat. LaTores fully complied with that model and his actions were supported by the testimony of DiChiara. The use of force policy and the totality of the circumstances of November 2, 2020 support LaTores' decision to use deadly force.

Some of DiChiara's more pertinent testimony follows:

1. Police are trained to aim for center mass (chest/torso) because it is easier to hit the target. The police are not trained to aim for limbs because it is easier to miss and more likely they may hit a bystander.
2. Pepper spray is only appropriate for a level three actively resistant subject. It would not be an appropriate response against deadly force or in a confined space.
3. A bullet proof vest is ineffective against edged weapons. A stab or puncture with a knife will penetrate a tactical vest.<sup>10</sup>
4. The 21-foot rule applies to a subject with edged weapons. A person within 21 feet who possesses knives would be able to attack a police officer with a knife before the police officer would have time to draw his gun.
5. A **taser** is an electric charge weapon that is intended to incapacitate a subject without using deadly force. It can be used at a distance with prongs and wires or directly against a person, a dry stun.<sup>11</sup> It is considered a compliance weapon. It is not an appropriate tool when a subject is lethal. A taser may be ineffective due to a subject's indifference to pain, clothing, muscle mass or a barrier. (Celona succeeded in using the blanket as a barrier.)
6. Subjects should be handcuffed even after being shot because they still pose a danger.

All three officers who responded have had extensive training in the use of force and firearms including an annual shoot/don't shoot training conducted by the Middlesex Sheriff's

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<sup>10</sup> A bullet proof vest only covers the chest/torso area, which is not the only area where a stab wound could cause death. Atkinson testified that he has performed 10-15 autopsies on victims from fatal stab wounds and the stabbings occurred in all different locations of a deceased's body.

<sup>11</sup> A dry stun is when the officer places the stun gun directly against the body of a subject without firing a prong. Because Celona was wielding two knives, a dry stun was not an option.

Department. Based on their training, all three officers believed that the use of pepper spray was not viable because Celona possessed edged weapons and the area was too confined. The risk of incapacitating other officers by cross contamination was just too great and the pepper spray may not have had any effect on Celona given the drugs he had consumed and his mental state.<sup>12</sup> Riccio's use of the taser was appropriate as a first attempt to get compliance from Celona. Unfortunately, even two full deployments of taser cartridges failed to achieve compliance from Celona.

### **Conclusion**

Thomas Celona died from a gun-shot wound caused by a single bullet fired from the gun of Winchester police officer Jeffrey LaTores on November 2, 2020 at the Parkview Apartments, 200 Swanton Street, Unit 326, Winchester, Massachusetts. The circumstances of that shooting were the subject of State Police and Winchester Police investigations. The goal of this inquest was to determine if the fatal shooting of Celona by that on-duty Winchester police officer was the result of an unlawful act or legally justified. It is not the purpose of the inquest to resolve or facilitate a determination of civil negligence or a civil suit for monetary damages.<sup>13</sup> The court makes no recommendations as to possible prosecution. Ultimately, the decision whether to prosecute lies exclusively with the Middlesex County District Attorney (Standard 5:00). The District Attorney may make an independent decision to initiate a criminal prosecution by way of grand jury indictment or complaint.

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<sup>12</sup> The Winchester Police Department Guidelines entitled, "Handling the Mentally Ill" (Exhibit 15) were largely inapplicable in this encounter because Celona represented an immediate threat who was likely to cause harm to himself or others.

<sup>13</sup> The inquest and report should not address the issue of civil negligence per se. (Standard 4:01).

Prior to the arrival of the police, three separate civilians (Eliopoulos, Card, and Dunn) all describe Celona as being in a dangerous state. Card and Dunn feared for their own safety. This was not a situation where only law enforcement claimed a subject was lethal. All three of these witnesses independently recognized the danger that Celona posed.

A determination as to whether the actions of the involved police officer might constitute a criminal act must be considered in light of the applicable case law on the use of force by law enforcement. To be a lawful or justified use of deadly force, the actions of the officer must be objectively reasonable, given all the circumstances confronting the officer at the scene. As the United States Supreme Court has observed, “the reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments-in circumstances that are tense, uncertain, and rapidly evolving-about the amount of force that is necessary in a particular situation.” *Graham v. Connor*, 490 U.S. 386, 396-397 (1989).

The tragic death of Thomas P. Celona resulted from a lethal confluence of factors: a longstanding mental illness that had recently gone untreated; the mixing of prescribed and illicit drugs; the possession and threatened use of dangerous weapons; and a cramped, unforgiving locus. Applying the credible evidence to the applicable case law pertaining to the use of deadly force in defense of oneself or others, the court finds that when Winchester Officer Jeffrey LaTores fired his weapon, a reasonable law enforcement officer in the same position would reasonably believe that he and his fellow officers as well as others, were in imminent danger of being seriously injured or killed. No reasonable alternative existed, except for the use of deadly

force upon Celona. Therefore, the court finds that the fatal shooting of Thomas P. Celona on November 2, 2020 was justified and does not constitute a criminal act.

*/s/ Peter F. Doyle*  
Peter F. Doyle, Justice

Dated: November 2, 2021