

**Report on the Death of
David J. Woodman**

**Appointed by Boston Police Commissioner
Edward Davis**

Submitted by:

Donald K. Stern

Barry W. Mawn

Nancy J. McGillivray

Jennifer L. Stewart

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Acknowledgements

The death of David J. Woodman raised questions as to how the Boston Police Department had acted and whether there were any changes in policy or training that should be considered. Commissioner Edward Davis asked me to independently examine those issues. I enlisted the invaluable assistance of two former law enforcement colleagues, Barry Mawn (whom I worked with when he was the Special Agent in Charge of the Boston FBI office), and Nancy McGillivray (whom I also worked with when she was U.S. Marshal for the District of Massachusetts). They are both consummate professionals, with deep backgrounds in law enforcement and strong backbones. I know that they, like me, consider any effort to improve law enforcement to be a public service. But I also know that they were influenced to help, at least in part, because of our friendship. I am very grateful and appreciative to them.

I also want to thank Jennifer Stewart, a very talented lawyer at Cooley Godward Kronish. Jennifer was the chief architect of this effort. She made sure that we had all the necessary materials, followed up with the Department, drafted the lion's share of this report, and helped us focus on the key issues. Her intelligence, clear writing, and energy made the rest of us look good. I also want to thank another person at Cooley, Stacy Walsh, who provided great secretarial and administrative support.

This effort was done on a pro bono basis. For Jennifer and me, that means that we owe a special debt to our law firm, Cooley Godward Kronish, for its support. Cooley is a national firm, but relatively new to Boston. However, Cooley's commitment to pro bono work is long standing. This is just another example of that commitment.

I should also thank the Commissioner for his willingness to undertake this review and the Boston Police Department for their efforts. I also want to thank District Attorney Daniel Conley for his cooperation and support.

Finally, I am mindful that our effort was triggered by a tragic event – the untimely death of David Woodman. As parents ourselves, we can only imagine the trauma and grief suffered by his family. I do not expect that the Woodman family, or for that matter the Boston Police Department, will agree with all of our findings. But, I hope that they, and the public, will find some comfort in our good faith effort to grapple with these issues.

*Donald K. Stern
Cooley Godward Kronish LLP
Boston, Massachusetts
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I. INTRODUCTION AND SUMMARY OF FINDINGS

David J. Woodman died on June 29, 2008, 11 days after his arrest by the Boston Police Department. Mr. Woodman was arrested in the early morning hours of June 18, 2008, while he was walking home from Boston Billiards with friends following the Celtic's championship game. During the arrest, Mr. Woodman experienced a cardiac arrhythmic event and was rushed to Beth Israel Deaconess Medical Center. Mr. Woodman never left the hospital. After another cardiac episode on June 29, he passed away at the age of 22.

This was the most recent of the tragic deaths following Boston sports victories. The first was on February 1, 2004, following the Patriots' Super Bowl win. A 21 year-old Northeastern University student, James Grabowski, was struck down by a drunk driver. Then, on October 21, 2004, after the Red Sox beat the Yankees, Victoria Snelgrove, a 21 year-old student at Emerson College, was killed by a projectile fired from a "less lethal" weapon by the Boston Police.

The Boston Police Department learned many valuable lessons from these earlier tragedies. The planning and handling of large crowds, even in the unique context of sports celebrations, have significantly improved. And, the entire community now has a heightened awareness of the importance of clear direction and training in such situations. So, the inevitable public reaction to the death of David Woodman was – how could this have happened yet again?

We believe that, by and large, the police officers acted reasonably and in no way anticipated or could have predicted the outcome. Still, things could have been handled differently. And, there is certainly room for improvement and important lessons to be learned. Most importantly, there was a breakdown of accountability at the scene that, while likely not contributing to Mr. Woodman's death, is regrettable and makes it difficult to precisely re-create what happened. Indeed, there were several circumstances that accumulated to create a cloud of suspicion over this tragic event. We hope that this report will ease public concern about the Department's actions. However, we recognize that because there are various gaps in accountability, some questions may linger.

In summary, we conclude:

1. The advance police planning for the post-Celtics celebration was adequate and reflected an improved level of planning over prior events.
2. There was an effort to communicate to the public that there would be a strong police presence that night and that there would be an aggressive effort to control crowds.
3. It is less clear, however, what the "rules of engagement" would be for any public drinking or open containers. The prepared written plan does not address this issue, and, in any event, no guidance was given to officers as to how to handle such situations that night.

4. This meant that police officers would, in effect, rely upon their general understanding of the law and their training. With that in mind, the stopping and eventual arrest of David Woodman was justified and reasonable, even if not required. Put another way, the police would be expected in such circumstances to use their discretion as to whether to make a stop and arrest. Certainly, that discretion could have been exercised differently. But, judging the stop and arrest by the facts and circumstances known at the time, it was not unreasonable.
5. What happened after the arrest is far less clear and, at the same time, more problematic. This is not to suggest, however, that the arrest itself, or, for that matter, any of the events that followed the arrest, resulted in David Woodman's death. The Medical Examiner concluded that Mr. Woodman's death was caused by a cardiac arrhythmic event "due to the patient's abnormal heart," and "the initial event on 6/18/08 did not cause the subsequent event." We are not in a position to dispute that conclusion.
6. What we can say, however, is that the events that unfolded make it harder to determine with precision all of the facts. Moreover, the totality of events created an aura of uncertainty and confusion which was unnecessary and raised questions, even where none should have existed.
7. The first such failure was the handling of the arrest scene itself. We conclude that there was inadequate supervision and an inappropriate diffusion of responsibility. This means that it is difficult to identify the particular officers with responsibility for overseeing Mr. Woodman after he was placed under arrest until he exhibited medical problems. It is likely, of course, that Mr. Woodman was being adequately watched during this time. But, since there was no fixed responsibility and accountability, it is hard to say so with certainty. Again, we do not believe that this resulted in or led to Mr. Woodman's death. But, at the very least, it was a breakdown of police procedure and has added to the family's and the public's skepticism as to what transpired that evening.
8. While it is clear that Mr. Woodman was never abandoned, and a number of police officers remained at the scene throughout the incident, it is not at all clear which officer took on the responsibility after Mr. Woodman was arrested to monitor his condition. It is likely that his distress was observed and attended to as soon as it happened. But, it is difficult to demonstrate that with certainty. Thus, we conclude that there was a failure by supervisory personnel to control and manage the arrest scene.
9. The second problem involves the difficulty in identifying the arresting officer. Even though one police officer identified himself and another officer as the arresting officers during an Internal Affairs Department ("IAD") interview, the officer still indicated that at a certain point it became a group arrest. IAD interviews of other police officers on the scene, and statements made by Sergeant James Blake the night of the arrest, also suggest that the arrest was somehow a "joint decision" by a number of police officers. This gap leads to the question of who took ownership that night of the responsibilities typically assigned to the arresting officer.