



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • TEL. 876-6800

LAW DEPARTMENT

PHILIP M. CRONIN
CITY SOLICITOR

EDWARD D. MCCARTHY
ROWENA E. TAYLOR
ASSISTANT CITY SOLICITORS

JOHN A. SERINO
LEGISLATIVE AGENT

October 1, 1973

Mr. John H. Corcoran
City Manager
City Hall
Cambridge, Massachusetts

Dear Mr. Corcoran:

At the request of the City Council, you have asked my opinion of the legality of community supervision of the Police Department to the extent called for in the "Point Three" referendum approved by Cambridgeport and Riverside residents.

The three proposals involved are substantially as follows:

1. Power to veto the assignment of any officer to the neighborhood district.
2. The setting up of a full time C.O.P. program to work in cooperation with the Police Department.
3. This proposal contemplates a Community Resident Board with power to propose and implement changes in police policy and procedure, monitor police work and hold hearings regarding alleged excessive force used by a police officer with the power to have the officer removed from his assignment and to recommend any other appropriate action.

Proposal 2 presents no problem in that it deals with policy matters which are a proper concern of the neighborhood.

Proposals 1 and 3 however are contrary to existing laws relating to the powers of Chiefs of Police and to some extent run counter to civil service hearing requirements.

Mr. John H. Corcoran
City Manager

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October 1, 1973

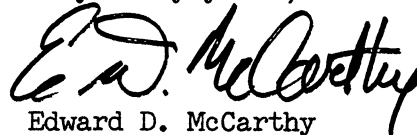
The Supreme Judicial Court of Massachusetts in the case of Chief of Police of Dracut v. Town of Dracut, 357 Mass. 492, a case wherein the Selectmen of the Town by contracting with the Police attempted to take over some of the authority given to the Chief by General Laws, Chapter 41, Section 97A, said in part;

"The paramount concern of the chief in assigning his officers to their respective duties must be the interest and safety of the public, and to some degree, the safety of the officers themselves, not the personal preference of each officer. In making assignments the chief must exercise his own discretion and judgment as to the number, qualifications and identity of officers needed for particular situations at any given time . . . To deprive the chief of his authority to assign his officers to their respective duties and to substitute therefore the disputed provisions of the agreement would be totally subversive of the discipline and efficiency which is indispensable to a public law enforcement agency."

The Civil Service laws provide that before an officer may be transferred, lowered in rank etc., he must be given a hearing before the "appointing authority" namely, the Chief.

While the Chief should be encouraged to work with the Community; it would not be lawful for him to delegate his duties and responsibilities as called for in proposals 1 and 2.

Very truly yours,



Edward D. McCarthy
Acting City Solicitor

EDMcC:jm

cc: Mr. James F. Reagan
Chief of Police



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EXECUTIVE DEPARTMENT

JOHN H. CORCORAN

City Manager

JAMES L. FARRELL

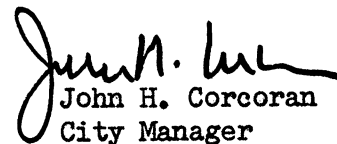
Assistant City Manager

November 5, 1973

To the Honorable, the City Council,

With reference to City Council order of August 6, 1973, I transmit herewith self-explanatory communication from Edward D. McCarthy, Acting City Solicitor relative to community supervision of the Police Department to the extent called for in the "Point Three" referendum approved by Cambridgeport and Riverside residents.

Very truly yours,


John H. Corcoran
City Manager

JHC/m

430
Agenda # 14

City Solicitor's opinion of the legality
of community supervision of the Police
Dept. to the extent called for in the
"Point Three" referendum.

In City Council

November 5, 1973

11/5/73

Placed on file

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