



City of Cambridge
Police Department
Office of the Commissioner

TELEPHONE
(617) 349-3300

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Perry L. Anderson, Jr.
Police Commissioner

Robert W. Healy
City Manager

September 28, 1995

Mr. Robert W. Healy
City Manager

Walter Boyle
Superintendent

Subject: City Council Order #36, dated 5/22/95

Harold Murphy
Superintendent

Sir:

David Degou
Deputy Superintendent

A position paper of current laws governing the use of firearms, penalties for infractions of those laws, and what regulations a municipality under the current state and federal Constitutions can possibly enact to regulate use or possession of firearms was originally submitted on February 21, 1995. Enclosed is a copy.

Yvonne Hall
Deputy Superintendent

Thomas O'Connor
Deputy Superintendent

Currently there are four (4) businesses in Cambridge licensed to sell firearms. The licenses run for a three year period (the first expires in May, 1996 and the last in August, 1997). These businesses are monitored for compliance with state laws governing the sale of firearms by the Department of Public Safety under the Massachusetts Executive Office of Public Safety.

Gloria Pimentel
Deputy Superintendent

Lt. Ronald Ellis
Quality Control

Neither an accurate nor an estimated figure of the number of firearms legally owned by residents, commercial businesses, and others in the City is possible. There is no legal requirement, under any statute, which mandates the number of firearms owned by any individual, etc., be registered with the police department upon the issuance of either a license to carry a firearm or a firearms identification card.

Mr. Raymond Santilli
Planning, Budget & Personnel

Mr. Frank Pasquarello
Aide to the Commissioner

Currently there are approximately 750 active licenses to carry firearms and 6,300 firearms identification cards. Licenses to carry expire after five (5) years. Firearms identification cards have no expiration but can be suspended and/or revoked depending on specific circumstances.

for Perry L. Anderson, Jr.
Police Commissioner

Sandy Coppola, Secretary
(617) 349-3377

Superintendent Walter L. Boyle
Superintendent Walter L. Boyle
Acting Police Commissioner

RECEIVED
SEP 28 PM 12:00
OFFICE OF THE CITY MANAGER



ADDRESS ALL COMMUNICATIONS TO
5 WESTERN AVENUE, CAMBRIDGE, MASSACHUSETTS 02139





City of Cambridge
Police Department
Office of the Commissioner

TELEPHONE
(617) 349-3300

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Perry L. Anderson, Jr.
Police Commissioner

Robert W. Healy
City Manager

May 17, 1995

Walter Boyle
Superintendent

Harold Murphy
Superintendent

Mr. Robert W. Healy
City Manager
City of Cambridge
Cambridge, Mass.

David Degou
Deputy Superintendent

Subject: Proposed Ordinance - Firearms Registration

Sir:

Michael Giacoppo
Deputy Superintendent

I am writing in full support of the proposed municipal ordinance requiring the registration of firearms in the City.

Yvonne Hall
Deputy Superintendent

Gloria Pimentel
Deputy Superintendent

There are many reasons as to why Cambridge has a very low incidence of firearms violence. The stringency imposed on registration requirements and enforcement of the state firearms laws, the existence of few firearms stores in the Cambridge vicinity, and the wide array of social and human service programs which the City provides are a few of the factors which have kept firearms violence at a minimum.

Lt. Thomas O'Connor
Quality Control Detail

Mr. Raymond Santilli
Planning, Budget & Personnel

Given the accessibility of firearms in general and the difficulties other municipalities are faced with, it is opportune that Cambridge continue to set an example regarding municipal responsibilities and firearms.

Mr. Frank Pasquarello
Aide to the Commissioner

A municipal ordinance requiring the registration of all legally obtained firearms maintained within Cambridge is both feasible and possible. The public health and community safety aspects of firearms violence are intertwined and co-dependent on one another. Ventures which bring together law enforcement, medical, social services, educational, and political communities often have substantive viability.

Sandy Coppola, *Secretary*
(617) 349-3377

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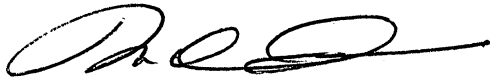


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The only concern I have is that the proposed ordinance not place unreasonable burden on the Police Department regarding the enforcement of the ordinance or maintaining registration records.

I am available to discuss this matter with you or any other interested concern.

A handwritten signature in dark ink, appearing to read 'Perry L. Anderson, Jr.', with a stylized, flowing script.

Perry L. Anderson, Jr.
Police Commissioner

PLA:smc

cc: Mr. John O'Brien
Commissioner, Health and Hospitals



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Police Department
Office of the Commissioner

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(617) 349-3300

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Perry L. Anderson, Jr.
Police Commissioner

Robert W. Healy
City Manager

February 21, 1995

Walter Boyle
Superintendent

Mr. Robert W. Healy
City Manager
City of Cambridge

Harold Murphy
Superintendent

Subject: City Council Order # 37, dated 1/23/95

David Degou
Deputy Superintendent

Sir:

Michael Giacoppo
Deputy Superintendent

Attached please find a position paper prepared by Deputy Superintendent Michael Giacoppo responding to a City Council request seeking a synopsis of current laws governing the use of firearms, penalties for infractions of those laws, and what regulations a municipality under the current state and federal Constitutions can possibly enact to regulate use or possession of firearms.

Yvonne Hall
Deputy Superintendent

Gloria Pimentel
Deputy Superintendent

Lt. Thomas O'Connor
Quality Control Detail

Supt. Harold F. Murphy, Jr.
Superintendent Harold F. Murphy, Jr.
Acting Police Commissioner

Mr. Raymond Santilli
Planning, Budget & Personnel

HFM:smc

cc: All Command Staff
Police Academy

Mr. Frank Pasquarello
Aide to the Commissioner

Sandy Coppola, Secretary
(617) 349-3377

RECEIVED
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ADDRESS ALL COMMUNICATIONS TO
5 WESTERN AVENUE, CAMBRIDGE, MASSACHUSETTS 02139



TO: Commissioner Perry L. Anderson Jr.

FROM: Deputy Supt. Michael Giacoppo

DATE: February 7, 1995

SUBJECT: Reference to Assignment # 843

Sir,

The following is a synopsis of firearms statutes as concerns City Council Order # 37 dated 1/23/95.

Current Statutes concerning Massachusetts' firearm offenses.

1. Mass. General Law Chapter 269.10 refers to the "Unlawful Carrying of a Firearm (loaded or unloaded)". This involves the unlicensed carrying in public of a firearm. This is a felony that is punishable by up to five (5) years in State prison or a one (1) year Mandatory sentence in the House of Correction. This one year mandatory sentence is known as the "Bartley-Fox Amendment". Some proponents claim that our law is one of the nation's strictest.
2. Commission of a Felony while Armed (with a gun) is punishable by a Mandatory sentence of two & half (2 1/2) years either in the House of Correction or the State Prison. This sentence is mandatory and cannot be suspended (nor paroled) for less than the 2 1/2 years. Additionally the Judge may incarcerate up to Five (5) years in State Prison. (MGL c. 265.18B)
3. Obtaining a Firearm or Ammunition Unlawfully (MGL c.140.128B) provides for punishment for acquisition from unauthorized (unlicensed) persons. This is a fine of \$ 100.00 for a first offense.
4. Possession of a Firearm with Defaced Serial Numbers (MGL C.269.11B) when coupled with a felony or attempt is punishable by Five (5) years in State Prison but with a Mandatory 2 1/2 years minimum.
5. Trafficking in Firearms (NEW LEGISLATION MGL c. 269.10E) prohibits the distribution/sale of certain quantities of guns as follows:
 - a. Selling three (3) or more guns is punishable by ten (10) years in State Prison with a mandatory minimum sentence of three (3) years. A fine of up to \$ 50,000. may be included.
 - b. Selling ten (10) or more guns but less than twenty (20) also has the ten year sentence but involves a mandatory minimum sentence of Five (5) years with a possible fine of \$100,000.
 - c. Selling twenty (20) or more guns has a mandatory minimum sentence of ten (10) years with a possible sentence imposition of Life imprisonment and a fine of \$ 150,0

6. Carrying a Rifle or Shotgun loaded in public (MGL c. 269.12D) provides for arrest and punishment of licensed persons who violate this statute. A fine of \$ 50.00 up to \$ 500.00 is possible. This is directed at persons who are "hunting" and carry loaded weapons on public ways.
7. Carrying a Gun on Campus (MGL c. 269.10J) prohibits anyone regardless of license status (except police officers) from carrying guns on a campus (Elementary, Secondary or University Schools) without written approval from the official in charge of the campus. Penalties involve up to one (1) year in jail and or a \$ 1,000.00 fine.
8. Trespassing with a Firearm (MGL c. 266.121) relates to the unauthorized entry on to private property with a firearm and is punishable by up to two (2) months in jail and or a \$ 200.00 fine.
9. Discharging a Firearm within 500 feet of a Dwelling or other Building (MGL c. 269.12E) is punishable by up to three (3) months in jail and or a fine of \$ 50.00 to \$ 100.00.
10. Carrying Loaded Shotgun or Rifle in a Motor Vehicle (MGL c. 131.63) is punishable by up to two (2) months in jail and or a \$ 50.00 to \$ 100.00 fine.
11. Carrying a Firearm in a Vehicle (MGL c. 140.131C) prohibits the carrying of a firearm in a vehicle unless it is under the direct control of the licensee. This typically involves a situation where someone leaves a legal firearm unattended in their vehicle. Penalties include a \$ 100.00 fine and revocation of firearm permits.
12. Negligent Use of a Weapon that causes Bodily Injury (MGL c. 131.60). This relates to injuries caused by the careless or negligent handling of a legal gun in which injury occurs. Punishment includes up to six (6) months in jail and or a fine of \$ 100.00 to \$ 500.00 along with firearm permit revocation.
13. Negligent Use of a Weapon that Causes Damage to Property (MGL c. 131.61). Similar to previous statute where a licensed person carelessly causes damage by firearm to the property of another. Penalty up to two (2) months in jail and or \$ 50.00 to \$ 100.00 fine.
14. Selling or Furnishing a Firearm or Ammunition to a Minor (MGL c. 140.130). This involves situations where legal firearms are regulated from being directly sold or furnished (e.g. to a student in a target shooting class) without certain requirements being met such as the obtaining of a Firearms Identification Card (FID Card) by a minor and with express parental authorization. Penalties include revocation of license to sell for ten (10) years and a fine of \$ 500.00 to \$ 1,000.00.
15. Possession of Ammunition (MGL c. 140.129C) restricts the actual possession of ammunition by unlicensed persons. First offense penalties include up to one (1) year in jail and a \$ 500.00 fine. Subsequent offenses are punished by up to two (2) years in jail and a \$ 1,000.00 fine.

16. Possession of a Stolen Firearm (MGL c. 266.30) is a felony punishable by up to five (5) years in State prison and or a \$ 1,000.00 fine.

17. Discharging a Firearm With City Limits (Cambridge City Ord. 9.16.010) This ordinance provides for a \$ 50.00 fine.

Commentary: The low incidence of gun related violence in the City of Cambridge overwhelmingly involves the use of illegally possessed firearms. In fact it is a very rare occasion indeed to note a crime being committed by persons properly licensed and lawfully in possession of firearms. The indisputable fact remains that in almost every instance where a gun is used the weapon is most likely stolen. Persons who have gun permits have not been linked to the typical street based firearm violence that occurs sporadically in our city. The problem that we confront is that the probability of a gun episode occurring involving an illegal versus a legal firearm is astronomically in favor of it being an illegal firearm.

The question that is proffered by the City Council as to what legislation can be proposed to impact gun violence presents a dilemma of sorts. First of all it is doubtful that any city ordinance (Home Rule Legislation) can provide for penalties more severe than already exists at the State Level (under State Law 269.10). Currently anyone in simple possession of an illegal firearm must spend at least one (1) year in jail. As we are aware most defendants are usually additionally charged with using the firearm in a crime so that increased penalties come into play. City Ordinances typically have only monetary penalties and thus can never compete with felony based statutory punishments. Our State Law (269.10) prohibiting illegal possession of firearms is sufficient. Besides City Ordinance 9.16.010 the City thru the Police Department has the authority to license and thus restrict those individuals who are to carry in public or simply possess in their homes, a firearm. Improper persons for license purposes, such as those involved in domestic problems, have immediate suspension mechanisms working against them. Unless the City Council were to embark on a total ban on firearms there is not much in the way of dramatic legislation that is possible at the municipal level. I know of only one other municipality (Morton Grove, Illinois) that passed this type of legislation (total ban) which incidently met enormous Second Amendment constitutional challenges. Although little has been accomplished at the local level the experience of recent years has shown the enactment of numerous initiatives at the State level. However, much of that legislation was aimed at banning the so called "assault weapons" which fortunately has not been a problem in our city. I must point out that the City of Boston recently enacted home rule legislation prohibiting certain assault weapons and the sale of any gun to a person under twenty-one (21) years of age. Under Chapter 491 of the Acts of 1993 this Boston Home Rule petition was approved which prevents licensed persons (under age 21) from legally obtaining firearms in the City of Boston (\$1,000. fine). Someone who is twenty (20) years old and has a permit may lawfully obtain a firearm elsewhere and bring it back to Boston without violating the law. In essence this law addresses gun control in only a very superficial manner.

Examples of State Legislation:

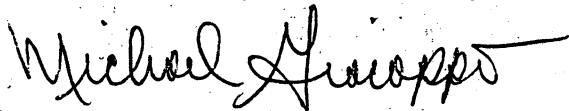
- California: The Roberti-Roos Assault Weapon Act (restricts sales)
The Friedman Bill restricts the sales of guns by unlicensed dealers
The Connolly Bill extends waiting period for gun purchase to 15 days
The Areias bill which mandates safety training for licensees
The Klehs Bill outlawing multi burst trigger activators.
- Florida: Bill requires child proof storage of firearms
Silver Bill requires background checks & waiting period
- Virginia: Bill required background checks and waiting period for assault weapon purchasers.
- Maryland: Bill requiring a seven (7) day waiting period for purchase of assault weapons
- Oregon: Bill to increase waiting period to 15 days and to require gun purchasers to be fingerprinted.
Multnomah County passed a bill banning assault weapons
- New Jersey: Bill banning certain types of assault weapons
- Connecticut: Bill requiring 14 day waiting period on purchase of all guns
Bill requiring child accident prevention measures such as trigger locks with all sales & kept gun inaccessible.
- Iowa: Bill mandating background checks, a Florida style child accident prevention law and banned exotic trigger mechanisms
- Rhode Island: Bill requiring a seven day waiting period
- Delaware: Bill enacting gun purchaser screening system (telephone background checks)
- Georgia: DeKalb County passed a 15 day waiting period for handguns
- Maine: Bill prohibiting the carrying of guns into liquor establishments
Bill requiring dealers to post child safety notices

Many cities & towns throughout the nation have enacted legislation banning or limiting assault type weapons. However, with the passage of the Brady Bill much of the recent legislation may have become moot as the Brady Bill addresses both waiting period, background checks and limits certain types of assault weapons.

Constitutional Possibilities: I have spoken to Deputy City Solicitor Don Dysdale who related that this matter should be researched for definitive legal opinions by his office on the issue of constitutionality. I agree that from a legal standpoint I am unable to offer the City what is in their best constitutional interests as concerns legislative initiatives. Mr. Dysdale states that his office is well versed in handling questions such as this.

Conclusion: The City can seek new ordinance legislation that restricts certain types of weapons and or imposes heavier restrictions on dealers & purchasers. Constitutionally an opinion on the question of a total ban on firearms is forthcoming from the Solicitor's Office. At a minimum the city would be well served to require that any licensee be required to complete a firearm safety course as a requisite to any licensing. A useful path of action would be to also lobby for increased penalties for current gun offenses (under MGL c. 269.10). Finally a child accident prevention ordinance measure would make a great deal of sense and would be enforceable. Since the police are the licensing authority any violation could result in permit revocation and weapons seizure.

Respectfully Submitted



Deputy Superintendent of Police



EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

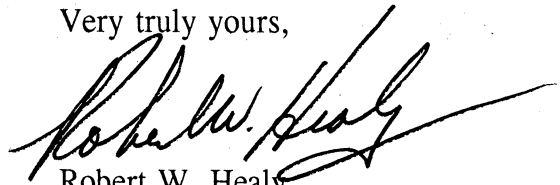
TEL 349-4300
FAX 349-4307

October 2, 1995

To The Honorable, The City Council:

In response to Awaiting Report Item No. 8, regarding a synopsis of the current laws governing the use of firearms in the Commonwealth, please find attached a report from Police Superintendent Walter L. Boyle.

Very truly yours,


Robert W. Healy
City Manager

RWH/mec
attachment

Consent Agenda #13

S-302

Awaiting Report item number
eight, regarding a synopsis of
the current laws governing the use
of firearms in the Commonwealth.

for original order
see 1995 City Manager
Requests # 22

In City Council October 2, 1995

Referred to the
Public Safety
Committee

Sent to Committee Chair 10/4/95

JWJ