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KIMBERLEY DRISCOLL

Lieutenant Governor

TERRENCE M. REIDY

Secretary

Firearm Control Advisory Board Meeting

Friday, December 6, 2024

200 Arlington Street, Chelsea, Massachusetts 02150

Open Session Minutes

Members in Attendance:

Michaela Dunne- Statutory FRB Director Appointment (Chairperson)

Chief Ronald Glidden (Ret.)- Massachusetts Chief of Police Association Representative

Det. Lt. Nuno Medeiros- Massachusetts State Police Armorer

Robert A. Cerasoli- Speaker of the House Appointee

Ryan Mingo- Office of the Attorney General Representative

James (Jim) Wallace- Gun Owners Action League Representative

Judge (Ret.) Michael Fabbri- President of the Senate Appointee

Others in Attendance:

John Melander- Deputy General Counsel for EOPPS (Board Counsel)

Jamison Gagnon – Commissioner of DCJIS

Peter Geraghty -Deputy General Counsel

Aimee Conway -Assistant General Counsel

Victoria Carroll- Firearm Case Coordinator

Trooper Christopher Call – Massachusetts State Police

Board Business:

The Board Meeting was called to order at 10:08AM by Chairperson Michaela Dunne.

Introductions of Final Board Members and Swearing In:

Prior to the beginning of the meeting, Board Counsel, John Melander swore in the board members who were either not present or not sworn at the previous meeting. This included Judge Michael Fabbri, Jim Wallace, and Chief Ronald Glidden. Undersecretary Kerry Collins served as witness. Attorney Melander read the oath from a prepared form. The Board members signed the appropriate form memorializing and confirming the oath. Those signed forms were collected by DCJIS. When the meeting began, Judge Fabbri was introduced as the final Board member.

Discussion of State's Conflict of Interest Training for non-state/special state Employees:

The second matter on the agenda was a discussion of the State's Conflict of interest training for non-state/special employees. Attorney Melander explained to Judge Fabbri and Jim Wallace that the State Ethics Commission made a presentation to the Board at the November 8, 2024, meeting. Attorney Melander provided a brief overview of the training. He also advised that Board members who are not state/special employees are required to complete an online training regarding the State's Conflict of Interest. Board members who are state employees have already completed the training and are not required to take the training again. A link to the training will be sent to all non-state employees so that it can be completed before the next meeting. Attorney Melander also explained to the Board members who were not present at the November Board meeting will need to review the Open Meeting Law materials that were provided to all Board members and sign the appropriate acknowledgement form.

Discussion of Current Firearms Rosters (including the roster status of rifles and guns):

The third matter on the agenda was a discussion of the current firearm rosters. Chairperson Dunne began the discussion by explaining that the new definition of a firearm includes handguns as well as rifles and shotguns. Given the new definition, the Board needs to determine whether the statute requires that rifles and shotguns be included on the current firearms roster, a new roster for rifles and shotguns, or no roster. Board members and Attorney Melander acknowledged that the plain language of the new law appears to indicate that rifles and shotguns must be included on a roster. However, members discussed that the law also references testing pursuant to G.L. c. 140, § 123. Thus far, the testing referenced in G.L. c. 140, § 123, has been limited to handguns. Chairperson Dunne proposed the creation of a subcommittee to consider the issue and make a recommendation to the full Board. The purpose of the subcommittee would be to form an opinion as to whether the law requires rifles and shotguns to be included on a roster and if so, to assess whether the testing procedure outlined in G.L. c. 140, § 123 is appropriate for or adaptable to rifles and shotguns.

Chief Glidden pointed out that the testing language in G.L. c. 140, §123 has not change and the language was specifically intended for testing handguns. Rifles and shotguns would not be able to pass the tests outlined in G. L.c. 140, § 123. Chief Glidden also stated that the testing language was designed to give manufacturers guidance regarding how to test handguns. The Gun Control Advisory Board wrote 501 CMR 7.00 to provide detailed instructions for how manufacturers could comply with the requirements of G. L. c. 140, §123. The CMR was written for handguns, not rifles and shotguns. The language of G.L. c. 140, § 123 and the guidance in 501 CMR 7.00 cannot be adapted to rifles and shotguns.

Attorney Melander then inquired specifically about rifles and shotguns and what it is that would make it problematic to perform the drop test or melting test. Chief Glidden explained that most handguns have a manual safety and internal safety, so if you drop a handgun, it shouldn't go off. In contrast, rifles and shotguns do not have an internal safety. As such, if a rifle or shotgun is dropped it will go off. Attorney Melander posed a question about whether the purpose of testing is to ensure that both handguns and long guns have appropriate safety mechanisms. Chief Glidden explained that handguns are more susceptible to being dropped. Rifles and shotguns are not. Lieutenant Medeiros pointed out that generally a person either has both hands on a long gun or uses some sort of sling to help carry long guns. Handguns are often held with one hand. As a result, handguns are significantly more likely to be dropped and risk accidental discharge as opposed to long guns. Chief Glidden reiterated that long guns will not pass the testing procedures outlined in G.L. c. 140, § 123. If those procedure are applied to long guns, manufacturers will have to find a way for rifles and shotguns to pass the tests or stop selling rifles and shotguns in Massachusetts. Lieutenant Medeiros suggested that Massachusetts is a small retail population so manufacturers would likely stop selling rifles and shotguns in Massachusetts as opposed to developing new mechanisms to comply with the testing procedures.

Judge Fabbri questioned whether there is anything in the legislative record to indicate the intent of the legislature with respect to including rifles and shotguns on a roster and thus, subjecting them to the testing procedures outlined in section 123. Chief Glidden suggested that the legislature may not have considered testing requirements when devising the new definition of firearm. Judge Fabbri noted that the inclusion of certain definitions in the law indicates that the legislature made a conscious decision to maintain a separate definition of rifles and shotguns. Judge Fabbri suggested that a review of how the definition of firearms evolved may be helpful in assessing the legislative intent. Jim Wallace suggested that the best way to address these issues may be to ask the legislature to remove the word firearm from the law as it applies to testing and use the word handgun in its place.

Chief Glidden inquired whether the Board could begin accepting testing reports for handguns while continuing to work through the issues related to rifles and shotguns. Chairperson Dunne made a motion to begin accepting testing reports from independent laboratories regarding testing of handguns pursuant to G.L. c. 140, § 123. Robert Cerasoli seconded the motion. The motion carried unanimously (7-0).

Chairperson Dunne stated that the Board also needs to consider that the legislative intent may have been to include rifles and shotguns on a roster and that testing procedures may need to be improved so that they apply to rifles and shotguns because long guns would not pass the current tests. Robert Cerasoli asked if the Board could create a new test for long guns or if the Board needed to go to the legislature and as their intent. Attorney Melander indicated that the Board could modify the CMR to require other tests that are more relevant to today's firearms, however, the law regarding rosters is married to G.L. c. 140, § 123. The law says that the roster must be compliant with G.L. c. 140, § 123. The Board could add more tests or tweak some of the current tests, but absent a legislative amendment to G. L.c. 140, § 123 the Board must follow its requirements.

Attorney Melander stated that his experience with large pieces of legislation over the years is that the legislature does not have an appetite for making changes until some appreciable amount of time has passed. The best idea may be to slowly compile a list of issues and present to the legislature. Judge Fabbri asked if it might be prudent to take the current CMR testing regimen to manufacturers and ask how or if it would apply to rifles and shotguns. Jim Wallace suggested reaching out to the National Shooting Sports Foundation and their manufacturers provide information about if and how the current testing procedures could be applied to rifles and shotguns. Per Jim Wallace, the bottom line is that the current testing is not functionally possible for rifles and shotguns. Attorney Mingo stated that if there isn't a means of implementing the law as currently written, the Board might consider implementing the law as it applies to handguns and asking the legislature to amend the law so that it is functionally possible for rifles and shotguns. Judge Fabbri suggested that simply implementing the law as it applies to handguns may be ignoring the Board's purpose to advise.

Jim Wallace questioned whether the inclusion of the word "use" in the statute means that individuals cannot currently use rifle and shotguns. Chief Glidden pointed out the G.L. c. 140, § 12 only applies to gun dealers. Attorney Melander then re-read G.L. c. 140, § 131 ¾. Chairperson Dunne offered that there is nothing in the statute that dictates how firearms should be tested. She questioned whether manufacturers could submit an affidavit stating that rifles and shotguns have a specific melting point and thus meet the statutory testing requirements. Judge Fabbri stated that the language of the law makes it clear that the legislature did not intend to ban everything. Requiring testing of long guns pursuant to G.L. c. 140, § 123 may be contrary to that intent. Attorney Melander then reminded the board that their purpose is to analyze and interpret the law to determine its practical implications and make suggestions regarding a path forward. Attorney Melander asked if Board members would be open to the creation of a subcommittee. Chairperson Dunne suggested that a subcommittee could meet separately from the full board to discuss the issue and help frame the discussion for the next meeting. Robert Cerasoli made a motion to establish a subcommittee. Lieutenant Mederios seconded the motion. The motion carried unanimously (7-0). Chairperson Dunne appointed Judge Fabbri, Attorney Mingo, and Chief Glidden to the subcommittee. Chief Glidden volunteered to reach out to testing labs to see if they can test long guns. Jim Wallace volunteered to reach out to the National Shooting Sports Foundation.

Robert Cerasoli made a motion to affirm the guidance that was sent out regarding long guns until such a time the Board recommends, and the secretary approves, otherwise. Jim Wallace seconded the motion. The motion carried unanimously (7-0). To close the discussion, Chairperson Dunne reminded Board members that they also need to consider frames and receivers. Judge Fabbri stated that 90% of what is in G.L. c. 140, § 123 and 501 CMR 7.00 does not apply to frames or receivers.

Discussion about the Creation of a Roster of Prohibited "Assault-Style Firearms":

The fourth matter on the agenda was a discussion of the creation of a roster of prohibited assault-style weapons. Chairperson Dunne began the discussion by noting that this will be a list of banned assault-style weapons that cannot be owned or sold. Judge Fabbri stated that the Board could start with the specific weapons listed in the statute and add additional weapons over time. Chief Glidden

suggested that a couple Board members could create a draft for consideration by the Board at the full next meeting. Jim Wallace stated that creating a basic roster with the intent to amend it later is problematic because people will review the initial roster, rely on the roster in purchasing weapons, and then get upset if the weapon they purchased is later added to the roster. Chief Glidden stated that the ban list should be very clear without the need for caveats. There was disagreement as to whether the roster should include the weapons listed in the statute. Chief Glidden suggested that the Board pick a cutoff date and create a list of guns manufactured after that date that have two or more features. Chairperson Dunne suggested that the roster might be an opportunity to provide clarity with respect to the relevance of specific dates. Chief Glidden pointed out that the roster will need to include language making it clear that the roster is not all inclusive and will require amendments. The Board discussed whether it would be prudent to create another subcommittee pertaining to a roster for assault-style firearms. Ultimately, it was determined that the discussion would continue at the next full Board meeting.

Update on CMR and Next Steps:

The fifth matter on the agenda was a discussion of updates to the 501 CMR 7.00 and any next steps. The Board will address amendments to the CMR at future meetings.

Chairperson Dunne reiterated that the Board will begin accepting lab testing reports for approval at the next meeting.

Robert Cerasoli made a motion to approve the minutes from the November 8, 2024, meeting. Attorney Mingo seconded the motion. The motion carried unanimously (7-0) and the minutes from November 8, 2024, were approved.

Next Meeting:

The sixth matter on the agenda was to discuss future meeting dates. The Board agreed that the next full Board meeting will be on Friday, January 17, 2025, at 10AM in Chelsea, Massachusetts. The Board selected Friday, February 14, 2025, at 10AM as the date and time for the subsequent Board meeting. A subcommittee meeting was scheduled for Monday, December 16, 2024, at 2pm. The subcommittee meeting will be held virtually.

Topics for discussion at the next meeting will include continued discussion of long gun roster and assault-style weapons rosters as well as approval of lab testing reports.

Non-Agenda Discussions:

The final item on the agenda was a discussion of any non-agenda items that could not reasonably be anticipated in advance of the meeting. There were no such items for discussion.

Detective Lieutenant Nuno Medeiros reported that he is retiring in December and will no longer be a part of the Board. Lieutenant Medeiros reported that Lieutenant David LaHair will be taking his place on the Board.

No members of the public attended the meeting, so there were no public comments.

Robert Cerasoli made a motion to adjourn the meeting. The motion carried unanimously (7-0).

The Board Meeting was adjourned 11:49AM.