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# The Commonwealth of Massachusetts

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## Press Release

### DA Morrissey requests reconsideration, Prepares legislation on school gun case

Norfolk District Attorney Michael W. Morrissey has petitioned the state's highest court to reconsider its Aug. 29 [decision](#) vacating the conviction of Jonathan Villagran on charges that he brought a loaded gun and drugs into Milton High School – where he was not a student.

The District Attorney's letter, dated Sept. 11, was received and [docketed at the SJC](#) on Sept. 15, 2017.

Also on Sept. 11, 2017, District Attorney Morrissey and senior prosecutors met at Morrissey's Canton headquarters with Milton state [Senator Walter Timilty](#) and members of his staff to explore avenues for legislative remedy. The language for a bill establishing security zones around Massachusetts schools was forwarded to Sen. Timilty today (September 18, 2017) to circulate among his colleagues.

On March 25, 2015, Villagran had entered the building first falsely claiming to be a student, then changed his story that instead he wanted to use a bathroom, and presenting an obviously fictitious name – alarming school officials. Milton police responded to the school and smelled a strong odor of marijuana, which was illegal at the time, coming from Villagran. A pat-frisk revealed a quantity of the drug. When the responding officer moved his backpack, she heard a clunking sound; a search of that bag revealed a loaded handgun and a bottle of alcohol.

The SJC decision vacated Villagran's convictions on the grounds that the search that revealed the gun was conducted in violation of his 4<sup>th</sup> Amendment rights.

"The 4<sup>th</sup> Amendment does not bar all searches, only unreasonable searches," District Attorney Morrissey said. "The SJC's ruling states explicitly that the court found these circumstances to be a 'close call.' As our petition elaborates, we believe there is room for additional analysis of the facts here. In light of the important repercussions to school safety, we believe that is warranted and hope the Supreme Judicial Court agrees."

Morrissey said that although such reconsideration is not without precedent, it is rare – so he is simultaneously working with legislators to craft new law recognizing the safety special considerations of school buildings. "We have met with Sen. Timilty and spoken with Milton state Rep. William Driscoll," Morrissey said. "We have found precedent in [existing law](#) for creating specific security expectations for sensitive locations such as Logan Airport. Schools can obviously be seen as sensitive locations."

As the SJC decision points out, school officials already have greater latitude to search on school grounds; the new legislation would recognize the special status of school buildings and allow officers similar latitude.

Morrissey said that the Milton legislative delegation, headed by Sen. Timilty, has expressed their strong support for a legislative solution and also suggested they would reach out to other legislators who also see the need for action on this issue.