



CLEVELAND DIVISION OF POLICE DIVISIONAL NOTICE



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SUBJECT: <p style="text-align: center; font-size: 1.2em;">OPEN CARRY OF FIREARMS IN PUBLIC</p>		NO. PAGES: <p style="text-align: center; font-size: 1.2em;">1 of 2</p>
CLASSIFICATION:	CHIEF OF POLICE: <p style="text-align: center; font-size: 1.2em;"><i>Calvin D. Williams, Chief</i></p>	

Citizens, unless under a disability described in Ohio Revised Code (ORC) 2923.13 or otherwise legally prohibited from possession of a firearm, may openly carry firearms in public places unless there is a specific prohibition against carrying a firearm in that place under State law (e.g. police station, school safety zone, courthouse, etc).

The Ohio Supreme Court in *Cleveland v. State of Ohio*, 2010-Ohio-6318, held that Ohio cities are barred from enforcing municipal gun ordinances that conflict with statutes passed by the State of Ohio that regulate guns. This curtailment of a city’s home rule powers to regulate guns applies to the **"ownership, possession, purchase, other acquisition, transport, storage, carrying, sale, or other transfer of firearms, their components, and their ammunition"**. Only State of Ohio and federal laws may regulate these areas.

Local municipal laws may only regulate the discharge of firearms and, if any, other areas that do not fall within the prohibited areas listed above. Therefore, officers should not charge individuals with violations of Cleveland Codified Ordinances (CCO) as they pertain to firearms, simply for openly carrying a firearm.

“Firearm’ means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. ‘Firearm’ includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.” ORC 2923.11(1).



Open carry in a motor vehicle is regulated by ORC 2923.16.

Expect citizens to call the police when they see someone openly carrying a firearm. The fact that someone has called 911 or flagged down an officer to report someone with a firearm in public is not by itself enough to support an investigative stop or detention. In such situations, an officer must observe the subject and evaluate the totality of circumstances to determine whether reasonable suspicion exists to justify detaining the individual for further investigation. The detained person must only be detained long enough to confirm or dispel the reasonable suspicion.

Open carry of a firearm by itself does not support a charge of Disorderly Conduct or Inducing Panic. There must be additional facts to support these offenses. If someone is



lawfully carrying a firearm, **and doing nothing else illegal**, the fact that it causes alarm to others **does not** support this charge.

When an officer encounters a person openly carrying a firearm, and no other criminal activity is observed or suspected, the officer may ask the person questions in a casual manner. Ensure the encounter is obviously consensual by informing the person they are free to leave and officers are not positioned in a manner that blocks the person's path. Citizens may ignore requests for information during a consensual encounter (i.e. they **do not** have to answer any questions).



Private businesses and private property owners may prohibit all firearms on their property. They may post signs prohibiting firearms or they may order a person to leave for such behavior. Criminal Trespass (CCO 623.04) is the appropriate charge if a person is on private property in violation of such a prohibition.

In addition, members should be aware that some groups are **actively seeking** challenges by law enforcement for open carry of a firearm. This has occurred in the City of Cleveland on multiple occasions. These groups normally record the law enforcement encounter. The recording can be overt, covert, or a combination. These situations should be handled on a case-by-case basis. Members that suspect this activity is occurring should immediately notify the Communications Control Section and provide as much detail as possible (i.e. person's description, firearm description, descriptions of anyone recording nearby, and descriptions of autos in the area). Members should then notify their immediate supervisor and, based on operational needs, continue to monitor the person open carrying a firearm.

Members are reminded that CCO 627.10(a) provides that:

*No person shall knowingly carry, have in his or her possession or ready at hand any **handgun, BB gun, pellet gun, dangerous ordnance, shotgun, rifle, knife having a blade two and one-half (2-1/2) inches in length or longer, brass knuckles, cestus, billy, karate stick, blackjack, sword or saber** while at or about a public place.*

As stated above, members shall not enforce CCO 627.10(a) as it relates to firearms, but shall continue to enforce CCO 627.10(a) as it relates to the other weapons (i.e. non-firearms) listed in CCO 627.10(a).

If further clarification is needed, supervisors may contact the Law Department (Safety Section) at (216) 664-2800.

CDW/jeh

Policy & Procedures Unit

