

Topic: Open carrying of firearms

Reference: Article 1, section 24 of the Washington State Constitution
RCW 9.41.270 and 9.41.300

I. Background

The right to bear arms is guaranteed under the United States and Washington State constitutions. The State Legislature recognizing this right created laws governing individual freedoms pertaining to personal conduct involving the carrying of firearms and other weapons.

Washington State is an "open carry" state for firearms. This means there is a presumption that carrying a handgun in an exposed holster, for instance, is legal except where it is specifically prohibited by law.

RCW 9.41.300 reads in part . . .

- (1) It is unlawful for any person to enter the following places when he or she knowingly possesses or knowingly has under his or her control a weapon:
 - (a) . . . restricted access areas of a jail or of a law enforcement facility
 - (b) . . . areas of any building which are used in conjunction with court proceedings...
 - (c) . . . restricted access areas of a public mental health facility...
 - (d) . . . portions of an establishment classified by the state liquor control board as off-limits to persons under twenty-one years of age...
 - (e) . . . restricted areas of a commercial service airport...
- (2) Cities, towns, counties, and other municipalities may enact laws and ordinances:
 - (a) Restricting the discharge of firearms in any portion of their respective jurisdictions where there is a reasonable likelihood that humans, domestic animals or property will be jeopardized. Such laws and ordinances shall not abridge the right of the individual guaranteed by Article 1, section 24 of the state Constitution to bear arms in defense of self or others...
 - (b) Restricting the possession of firearms in any stadium or convention center, operated by a city, town, county, or other municipality, exceptions noted.

RCW 9.41.270 reads in part . . .

- (1) It shall be unlawful for any person to carry, exhibit, display, or draw any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, or any other weapon apparently capable of producing bodily harm, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons.

RCW 9.41.280 reads in part . . .

(1) It is unlawful for a person to carry onto, or to possess on, public or private elementary or secondary school premises, school-provided transportation, or areas of facilities while being used exclusively by public or private schools:

(a) Any firearm . . .

While there are some exceptions that apply to the cited sections of the RCW for properly licensed and open carry weapons, there are also conditions which prohibit or restrict the presence of weapons without exception. RCW sections, 9.41.270, 9.41.280 and 9.41.300 should be consulted for the exact conditions of prohibitions, restrictions and exceptions relating to firearms possession.

II. Policy

It is the policy of the Department that officers conduct safe and focused investigations of complaints involving weapons that are openly carried. In conducting these investigations, officers shall recognize both the right of individuals to openly carry weapons (as permitted by the Constitution and the law) and the public's right to feel safe.

III. Procedures

A. Assessment of open carry situations

1. Officers evaluate the facts, including witness information, as they pertain to the manner, circumstance, time and place of the conduct in question.
2. Officers shall use safe tactics when making contact with individuals who are openly carrying weapons to assure that neither they nor the public are in jeopardy.
3. Officers shall investigate the circumstances to determine the following:
 - a. Whether a reasonable person would believe that the subject displayed, carried, exhibited or drew a weapon in a manner that manifested intent to intimidate another person or that warranted alarm for another person's safety. [RCW 9.41.270]
 - b. Whether the time, place or circumstances of the presence of the weapon constitutes a violation. [RCW 9.41.280, RCW 9.41.300]
4. Officers should give priority to the interest of public safety when determining an appropriate course of action.

B. Reporting requirements

1. Clear violations of RCW 9.41.270, RCW 9.41.280, and RCW 9.41.300 are handled in the same manner as other violations.
2. In situations where an officer believes there is a potential violation present, but where more intensive investigation or a prosecutorial opinion is required to make that determination, the incident is to be documented for follow-up, without immediate

enforcement action.

3. In situations where it is clear to an officer that no violation is present, no documentation is required.

By

William W. Wilson, Lieutenant