

FPC Informational Memorandum: Open Carry of Firearms

On April 20, 2009, Attorney General J.B. Van Hollen issued an advisory memorandum regarding the open carry of firearms and Wisconsin's Disorderly Conduct statute.

In response to the memorandum from the Attorney General, and after consultation with the Fire and Police Commission and the Office of the City Attorney, the Milwaukee Police Department issued Training Bulletin 2009-02. The bulletin stresses the fact that while the Attorney General's opinion states that "the Wisconsin Department of Justice ... believes that the mere open carrying of a firearm by a person, absent additional facts and circumstances, should not result in a disorderly conduct charge from a prosecutor" the primary concerns of law enforcement continue to be citizen and officer safety.

MPD Training Bulletin 2009-02 clearly states that department members are "by no means restricted from their responsibility to stop, investigate and determine whether a person openly carrying a firearm is doing so legally." Numerous Wisconsin statutes limit where and by whom and the manner in which firearms may be openly carried in public. For example, firearms cannot be possessed by felons (sec. 941.29) or openly carried by minors (sec. 948.60) or in public buildings (sec. 941.235) or where alcohol is sold and consumed (sec. 941.237) or on public property within 1000 feet of a school (sec. 948.605). These laws remain in full force and effect and will continue to be enforced by the Milwaukee Police Department. Field interviews of those individuals who choose to openly carry firearms may be conducted for this purpose by members of the Milwaukee Police Department, and a person stopped and questioned may be required to temporarily relinquish possession of the firearm for officer safety until the interview is completed.

All Milwaukee Police Department members have been reminded of the need to utilize legally acceptable practices, professional communications and tactically sound approach considerations in performing their duties. If and when an officer believes that the totality of circumstances surrounding the open carry of a firearm rises to the level of disorderly conduct based upon articulable facts, an arrest may be made. Once again, citizen and officer safety are and will continue to be the primary considerations of Milwaukee Police Department.

(5/29/09)