

DEPARTMENT GENERAL ORDER 04-17

OFFICE of the CHIEF OF POLICE
REPLACES/AMENDS: NONE

DATE: June 4, 2004

CONCEALED CARRY WEAPONS

I. PURPOSE.

The Clayton Police Department shall, as a matter of policy, ensure the rights of those citizens, who in accordance with the statutes of Missouri or another state, elect to obtain an official state endorsement to carry a concealed weapon. To effectively police the law (RSMo 571.101-571.121) while serving the interests of all citizens, including those with conflicting viewpoints on this issue, the following guidelines will establish protocols on how department personnel should conduct investigative and enforcement activities.

II. DEFINITIONS.

Concealed Firearm – An automatic pistol or revolver, of any type, concealed in some manner on the bearer's person, in a container or bag in their personal possession, or in a vehicle within their immediate control.

Lawful Possession of a Firearm in a Vehicle– A firearm is lawfully possessed if the following criteria are met:

- a. The person in possession is 21 years of age.
- b. The person in possession shall not be intoxicated or under the influence of drugs.
- c. The firearm shall not be stolen.
- d. The firearm serial number shall not be defaced.
- e. The person in possession of the weapon can demonstrate proof of ownership.
- f. The person in possession of a concealed firearm has not been convicted of a dangerous felony.
- g. The person is not currently adjudged to be mentally incompetent.

III. GENERAL.

Pursuant to current state statute and court decisions, carry concealed endorsements are authorized to be issued by sheriff's departments and certain police departments to those applicants twenty-three (23) years of age or older who satisfy the requirements to carry a concealed firearm on their person.

In addition, citizens of the state of Missouri, and citizens from other states of this union that are twenty-one (21) years of age or older may carry a loaded firearm in the passenger compartment of a vehicle, as long as such person is **in lawful possession of the firearm**. The carrying of a weapon in a vehicle does not require a permit, license, or endorsement.

Any person issued a concealed carry endorsement shall carry the concealed carry endorsement at all times the individual is carrying a concealed firearm and shall display the permit upon the request of any peace officer. Failure to comply shall not be a criminal violation, but the endorsement holder may be issued a municipal citation for an amount not to exceed thirty-five dollars.

Carry concealed endorsements are valid for three years from the date of issuance or renewal. As a person has a six-month grace period to renew his/her permit, a permit or endorsement will be considered valid for a full six months from the date of expiration.

An individual's status as holder of a concealed carry endorsement shall not be public information. Any person who discloses this information shall be guilty of a misdemeanor.

A. Non-Sworn Employee Rights and Duties

1. Any non-sworn employee has the right to obtain a concealed carry endorsement in accordance with the requirements of the statute.
2. A non-sworn employee who obtains a concealed carry permit or Endorsement will submit a copy of the permit or endorsement to the Commander of the Investigations and Support Bureau for inclusion into the employee's personnel file.
3. A non-sworn employee holding a concealed carry permit who is involved in any incident related to a concealed weapon shall report the incident to the Chief of Police via the chain of command as soon as practical.
4. No full-time, part-time, seasonal, or contract non-sworn department employee shall carry a concealed firearm while such persons are performing official duties on behalf of the police department and/or the City of Clayton.

5. Non-sworn employees with a concealed weapons permit must obtain written permission from the Chief of Police prior to the civilian employee being able to carry their weapon into police headquarters to temporarily store same in a secure area. Should official permission be granted, under no circumstance will a civilian be permitted to carry a weapon on their person beyond conveying it from the entrance of the building to their work station, at which time it shall be secured for the full length of their shift of duty. At the end of the work day, the weapon may be removed and carried back out of the building.
6. Civilian, non-sworn employees who are found to have violated the concealed carry law or the department policy and procedures contained in this order and elsewhere may be subject to disciplinary action, up to and including dismissal.

B. Legal Concealed Carry Without an Endorsement

The following professions shall be allowed to lawfully carry a concealed weapon in the execution of their duties. No Missouri concealed carry firearms endorsement will be required.

1. All state, county, and municipal peace officers possessing the duty and power of arrest for violation of the general criminal laws of the state or for violations of ordinances of counties or municipalities of the state, whether such officers are within or outside their jurisdictions or on or off duty.
2. Wardens, superintendents and keepers of prisons, penitentiaries, jails, and other institutions for the detention of persons accused or convicted of crime.
3. Members of the armed forces or national guard while performing their official duty.
4. State and federal judges.
5. Process Servers (civil and criminal).
6. Federal probation officer.
7. Any state probation and parole officer.
8. Any coroner, medical examiner, or deputy coroner or assistant medical examiner.

9. Any corporate security officer meeting the definition and fulfilling the requirements of the regulations established under RSMo 84.340.

IV. RESTRICTED LOCATIONS FOR CONCEALED CARRY.

The statute prohibits civilians from carrying concealed weapons in various locations. These include:

1. Any police department, sheriff's office, or highway patrol station, without the consent of the chief or sheriff.
2. Within 25 feet of any polling place on election day.
3. Any adult or juvenile detention facility.
4. Any correctional facility.
5. Any courthouse or courtroom.
6. Any meeting of a governing body of a unit of local government (except for elected officials themselves).
7. Airport facilities where access is controlled by the inspection of persons and property.
8. Bars, without the consent of the owner or manager. This provision does not apply to bona fide restaurants that have dining facilities for not less than 50 persons, and that receives at least fifty-one percent of its gross annual income from the dining facilities by sale of food.
9. Any place where carrying a weapon is prohibited by federal law.
10. Schools, including colleges, without the consent of school officials. This will include any building, parking lot, or athletic field owned by the school
11. Child care facilities, without the consent of the manager.
12. Gaming or riverboat gambling operations, without the consent of the owner or manager.
13. Any gated area of an amusement park.
14. Churches, without the consent of the minister or council that that exercises control over the place of worship.
15. Any sports arena with a seating capacity of 5,000 or more.
16. Any hospital accessible to the public.
17. Any private property whose owner has posted the premises as being off-limits to concealed firearms by means of one or more signs displayed in a conspicuous place. The signs must be a minimum of eleven inches by fourteen inches, with one-inch lettering.
18. Any state, county, or municipal government-owned building, or a portion of a building occupied by a governmental unit, upon the adoption of a law or ordinance prohibiting the carrying of concealed weapons within the governmental facilities. Signs announcing the prohibition must be posted in a conspicuous place and meet the legal standards related to size and lettering.

Possession of a firearm within a vehicle on any of the above premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

V. CONTACTS WITH PERSONS CARRYING CONCEALED WEAPON.

Officers must remain cognizant of the rights of citizens issued permits to carry concealed weapons in accordance with the 2nd Amendment of the U.S. Constitution. However, officers must also remain alert to the potential threat these weapons pose to their personal safety.

A. Permit Required

A person must carry a concealed weapon certificate of endorsement at all times when in possession of a firearm.

B. Refusal to Leave Premises

It is not a criminal offense for a person with a concealed carry permit to enter one of the prohibited areas listed in Section IV of this order as long as the person consents to leave the premises when asked by the owner or management. In the event where the weapon holder refuses to leave, a police officer called to the scene may issue the violator a citation for violation of Section 17.31.7 of the Code of Ordinances for the City of Clayton. The fine for an initial offense may not exceed one hundred dollars.

If a second violation occurs within six months of the first, the violator shall be fined in an amount not exceed two hundred dollars.

If a third citation for a similar violation is issued within one year of the first citation, such person shall be fined an amount not to exceed five hundred dollars and shall have his/her concealed carry endorsement revoked for a period of three years.

Note: The offense discussed above is not a crime and no arrest shall be made, nor the weapon seized.

C. Arrest, Seizure, and Disposition of Weapons

After the issuance of a citation on private property, the officer will again ask the violator to leave the premises. Should the weapon holder refuse, the officer will call for an assist unit and upon their arrival, place the violator under arrest for "Failure to Comply." The weapon shall be seized and the violator transported to this department and processed.

In those instances where a carry concealed endorsement holder is taken into custody on a charge unrelated to the weapon, the arresting officers will seize the weapon, and return both the firearm and the owner back to this agency for processing.

The arresting officers will unload the weapon and run a check on the firearm's serial number through NCIC. The weapon will then be secured in a gun locker.

Should the violator be released from the department upon completion of processing, the officers will complete a property release form and return the weapon and ammunition back to its owner in separate containers. At the time of the release, the firearm's owner shall be instructed not to reload the weapon within police headquarters or on department property.

If the arrestee is to be lodged at the St. Louis County Justice Center or released to another agency on an outstanding charge, the weapon will be properly packaged as property and placed in the evidence vault. Once the owner has been released by the other agency, he/she can return to this command and retrieve the weapon upon proof of identification and ownership. Weapons will never be transported to other law enforcement agencies or to the St. Louis County Justice Center.

The weapon should be listed in the property section of the booking sheet. A description of the weapon and the details of its seizure will be documented in the body of the incident report. In the event the weapon is seized as evidence, current evidentiary procedures will be followed. A copy of the evidence sheet will then be placed into the report file.

If an officer arrests a person that has a valid concealed carry endorsement for any arrest warrant, dishonorable military discharge, commitment papers to a prison or mental institution, or serves such a person a full order of protection, the officer shall require the person to surrender his/her endorsement. If the endorsement is on the person's Missouri operator's license or identification card, the officer shall provide the endorsement holder a receipt obtained from the Missouri Department of Revenue. The department shall then transmit the driver's license or non-driver's license to the circuit court of the county issuing the order, warrant, discharge, or commitment.

An officer may not require a valid concealed carry endorsement holder to surrender such endorsement without an arrest warrant, dishonorable military discharge, commitment papers to a prison or mental institution, or a full order of protection.

When a CIT (Crisis Intervention Team) officer has contact with an individual involved in a mental health crisis and that individual possesses a concealed carry endorsement, the information shall be contained in the incident report. The CIT officer will also contact St. Louis County PD to explore the potential revocation of the endorsement.

VI. SUSPENSIONS/REVOCATIONS.

A concealed carry endorsement shall be suspended or revoked if the concealed carry endorsement holder becomes ineligible for the endorsement for one of the following reasons:

1. Upon issuance of a valid full order of protection or any arrest warrant.
2. The holder pleads guilty to, enters a plea of nolo contendere, or is convicted of a felony.
3. The holder is currently charged with a felony.
4. The holder is convicted of a misdemeanor involving an explosive weapon, firearm, firearm silencer, or gas gun.
5. The holder pleads guilty to, enters a plea of nolo contendere, or is convicted of one or more misdemeanor crimes involving violence.
6. The holder is convicted of two or more misdemeanor offenses involving driving under the influence of intoxicating liquid or drugs or the possession or abuse of a controlled substance.
7. The holder is discharged under dishonorable conditions from the U.S. Armed Forces.
8. The holder engages in a pattern of behavior, documented via public record, that leads the Chief of Police to have a reasonable belief that the holder presents a danger to himself or others.
9. The holder is adjudged mentally incompetent.

VII. WEAPONS CARRIED IN VEHICLES.

To reiterate, under current state law, all persons twenty-one years of age or older, who lawfully possess a firearm, may carry the weapon in their vehicle. The weapon can be carried in any portion of the vehicle or on their person. A concealed carry endorsement is not required under such circumstances.

A. Vehicle Stops

All officers should exercise caution when stopping/approaching vehicles.

Officers should routinely ask if the driver or passengers have a concealed weapon on their person or in the vehicle as permitted by statute. If the response is positive, the officer shall call for an assist unit, ask for the firearm's location and instruct the vehicle operator and passengers not to touch the weapon for any reason. Those occupants in the vehicle who may have access to the firearm should be informed to place both hands in the open where they can be observed during the entire traffic stop. Anyone who refuses to comply should be removed from the vehicle and closely monitored. Generally, the only time an officer would need to see or touch the firearm is if the violator is arrested for an offense, or the officer has reason to believe that he/she is in danger if the vehicle occupant(s) remains armed.

Should the initiating officer decide to disarm the occupants even though an arrest is not going to be made, upon arrival of a back-up unit, the officer will retrieve the weapon, check the validity of the holder's endorsement as applicable, and run a check on the serial number. If no theft is reported, the officer will then secure the firearm in a location to ensure control (e.g. vehicle trunk, tool box, etc.). The motorist will be informed that upon the officer's departure, the lawful owner or permit holder may retrieve the firearm. Under no circumstance shall an officer return a loaded firearm to a motorist while in the officer's presence.

A person who does not possess a valid concealed carry endorsement/permit may be arrested if the individual steps out of his/her vehicle with a concealed weapon on their person. Officers should inform individuals accordingly before asking them to step out of their vehicles.

If an officer initiates a full custody arrest and the suspect lawfully possesses a firearm in the vehicle, or a concealed carry endorsement, the officer shall seize the weapon and return same to this department along with the suspect. The procedures in Section V, paragraph C will be followed.

BY ORDER OF:

THOMAS J. BYRNE
Chief of Police

TJB:dld