







THE BIG PICTURE (II)

- "Like most rights, the right secured by the Second Amendment is not unlimited."
 - Heller
- "It would be mockery to say that the Constitution intended to guarantee ... the right to practice dropping bombs from a flying machine, to operate a cannon throwing missiles perhaps for a hundred miles or more, or to practice in the use of deadly gases."
 - Kerner
- Federal and state law regulate firearms extensively, including defining
 - Prohibited places
 - Prohibited people
 - Prohibited weapons
 - And more

PREEMPTION OF LOCAL REGULATION

- "[T]he regulation of firearms is properly an issue of general, statewide concern, and ... the entire field of regulation of firearms is preempted from regulation by local governments," with certain exceptions
 - G.S. 14-409.40
- "It is the intent of the General Assembly to prescribe a uniform system for the regulation of legally carrying a concealed handgun. To insure uniformity, no political subdivisions ... of the State nor any county [or] city ... may enact ordinances, rules, or regulations concerning legally carrying a concealed handgun," with certain exceptions
 - G.S. 14-415.23
- "A person adversely affected by any ordinance, rule, or regulation promulgated or caused to be enforced by any unit of local government in violation of this section may bring an action for declaratory and injunctive relief and for actual damages The court shall award the prevailing party ... reasonable attorneys' fees and court costs."
 - G.S. 14-409.40(h); G.S. 14-415.23(e)

CONCEALED CARRY: LOCAL GOVERNMENT BUILDINGS AND APPURTENANT PREMISES

- "A unit of local government may adopt an ordinance to permit the posting of a prohibition against carrying a concealed handgun ... on local government buildings and their appurtenant premises."
 - G.S. 14-415.23(a)
- Must be by ordinance, not policy
- Questions arise concerning
 - Leased space
 - The meaning of "appurtenant premises"
 - Having different rules for different buildings
 - Having different rules for different people

CONCEALED CARRY: RECREATIONAL FACILITIES

- Before 2011, law allowed local governments to prohibit concealed carry in **parks**
- Between 2011 and 2013, law allowed local governments to prohibit concealed carry in **playgrounds, athletic fields, swimming pools, and athletic facilities**
- Since 2013, local governments "may adopt an ordinance to prohibit... the carrying of a concealed handgun on municipal and county **recreational facilities** that are specifically identified"
 - G.S. 14-415.23(b)
- Recreational facilities include only
 - Athletic fields and appurtenant premises during scheduled, organized athletic events
 - Swimming pools and appurtenant premises
 - Facilities used for athletic events, such as a gymnasium
- Are your ordinances up to date?

ADMINISTERING CONCEALED CARRY LIMITATIONS

- Use "conspicuous" and specific signs



- Confront violators carefully

OPEN CARRY

- Open carry is generally allowed under Kerner
- But local governments may
 - "regulate the display of firearms on the public roads, sidewalks, alleys, or other public property"
 - G.S. 153A-129 (quoted provision for counties); G.S. 160A-189 (very similar provision for cities)
 - "prohibit[] the possession of firearms in public-owned buildings, on the grounds or parking areas of those buildings, or in public parks or recreation areas"
 - G.S. 14-409.40(f)

REGULATING THE DISCHARGE OF FIREARMS

- Local governments may "by ordinance **regulate, restrict, or prohibit** the discharge of firearms at any time or place" except for self-defense or pursuant to an officer's directions (or for hunting, in the case of counties)
 - G.S. 153A-129 (quoted provision for counties); G.S. 160A-189 (very similar provision for cities)
- Local governments take various approaches
 - No regulation
 - Prohibition
 - Restrictions
 - Distance-based
 - Noise-based
 - Regulation of gun stores and firing ranges

FIREARMS AND EMPLOYEES

- "A county or municipality may regulate the transport, carrying, or possession of firearms by employees of the local unit of government in the course of their employment with that local unit of government."
 - G.S. 14-409.40(e)
- Can a local government treat some employees differently than others?
- Can a local government stop an employee from leaving his or her handgun locked in a vehicle?
- What liability considerations arise when regulating employees' firearm access?

QUESTIONS?


