

Orlando Gunman Attacks	Gay Nightclub, Leaving 50 Dead	
OPENLY CARRIED WEAPONS BANNED FROM CUMBERLAND CO LAND	Lee County lifts concealed weapons ban in public buildings	
To Milyan Lanck - inguine 2015 Ell for	Cherokee County allows employees to carry guns at wo	

THE BIG PICTURE (I)

- "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."
 - Second Amendment to the United States Constitution
- "A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed Nothing herein shall justify the practice of carrying concealed weapons, or prevent the General Assembly from enacting penal statutes against that
 - Article I, Section 30 of the North Carolina Constitution
- The Second Amendment protects "an individual right to keep and bear arms," independent of militia
 - District of Columbia v. Heller, 554 U.S. 570 (2008)
- The North Carolina Constitution protects a citizen's right to "carry a pistol off his own premises... openly, and for a lawful purpose"

 State v. Kerner; 181 N.C. 574 (1921)
- North Carolina allows concealed carry with a permit
 - G.S. 14-415.10 et seq.

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."
- 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 and 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
 - ${\mathord{\hspace{1pt}\text{--}\hspace{1pt}}}$ Having different rules for different people

CONCEALED CARRY: RECREATIONAL FACILITIES

- \bullet Before 2011, law allowed local governments to prohibit concealed carry in parks
- $\bullet\,$ 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 <u>Kerner</u>
- 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-baser
 - 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?
- $\bullet \ \ What \ liability \ considerations \ arise \ when \ regulating \ employees' \ firearm \ access?$

QUESTIONS?

