



Unloaded Open Carry (UOC) Movement

441.1 POLICY

The Livermore Police Department recognizes an individual's right to possess and bear firearms; however, the safety of the public, as well as our officer's personal safety is our highest priority when dealing with individuals who choose to exert this constitutional right. It is our policy to balance officer safety and the safety of others while conducting ourselves in a professional and safe manner. In addition, we will abide by the law and case decisions in an effort to curtail our exposure to criminal or civil litigation.

Policy Enacted: December 23, 2009

441.1.1 ACCREDITATION STANDARDS

This policy pertains to the following CALEA Standards:

441.1.2 PURPOSE

There is an emerging trend throughout the United States and more specifically the San Francisco Bay Area where individuals choose to openly carry upon their person an unloaded, non-concealed, holstered firearm while in public. Many see this as a constitutional right, while some do this solely to provoke a confrontation with law enforcement officers. Many of these individuals belong to or support the beliefs of the organization referred to as the "Unloaded Open Carry Movement (UOC)." The UOC movement involves citizens exercising their right to carry unloaded firearms in plain view. The purpose of this policy is to assist officers confronted with these types of situations.

441.2 PROCEDURE

441.2.1 OPERATIONAL CONSIDERATIONS

You can expect the following when dealing with an individual that is sympathetic to the UOC cause:

- Carrying holstered firearms "" not concealed
- Will not identify themselves (officer may ask for identification)
- Will know the law regarding carrying firearms
- You will not be able to persuade the citizens to leave or put their firearms away
- You may be recorded on video and/or audio and end up on a video hosting site such as "YouTube"
- These followers perceive themselves as law abiding people exercising their rights

You must keep in mind that followers of the UOC may want to provoke an incident with you to potentially take civil action against police officers and the City of Livermore for violation of their constitutional rights. Tactics of this group consists of video recorders, audio recorders, and cameras and in some documented cases, having their attorney present during encounters with law enforcement. The UOC follower most likely will not produce identification, if requested. It is their stance that they are complying with all laws and are not compelled to identify themselves. In short, there is no law that requires them to identify themselves (148 PC does not apply under this set of circumstances).

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441.2.2 CONTACT WITH "OPEN CARRY" SUBJECT(S)

Using reasonable, accepted officer safety tactics the following guidelines should be used:

- We CAN inspect the weapon to ensure it is NOT loaded. They must comply! If not, arrest for 12031(e) PC.
- If the serial number is in plain view you MAY conduct a records check. You may not disassemble the weapon to locate a serial number. You may not delay the person while waiting for the records check. Officers shall record the serial number, and if practical, conduct the records check at the conclusion of the contact. You can arrest if 537(e) or 12090 PC if applicable. You CANNOT search for the serial number (People v DeLong (1970) 11 Cal.App.3d 786).
- We can arrest if within 1000 feet of school if it is reasonable that the subject knows or should have known they are within 1000 feet (See 626.9 PC). This situation is now a reasonable lawful detention to further identify the person as there may be a crime that has occurred. Use your discretion and take appropriate investigative steps.
- Absent any other reasonable suspicious or articulable facts, we CANNOT arrest for failure to provide identification.
- Once the firearm is determined to be unloaded (see People v. Clark for the latest definition of "loaded"), there is no further law enforcement action warranted.
- This contact should be a brief, unobtrusive interaction as officers only have the legal right to detain the individual for the purpose of firearm inspection.

441.2.3 DISPATCH RESPONSIBILITY

Upon receiving a phone call regarding people openly carrying firearms, Public Safety Dispatchers (PSD) will obtain as much information as possible about the demeanor, behavior, and activities of the people carrying the firearms to assist officers in determining if this is an "open carry" situation. PSD's will confirm no brandishing, assault, or other unlawful activity occurred or is in progress. They will confirm whether or not the firearms are concealed and the location of the firearms. PSD's should obtain the following information:

- Contact information for the reporting party.
- Subject description such as gender, race, age, hair, height, weight, clothing.
- Does the caller have any safety concerns.

Unless there is a crime in progress, the patrol supervisor shall be notified prior to the call being dispatched. The patrol supervisor will evaluate the information received and coordinate a proper level of patrol response.