

## The Law

Open Carry is allowed under the following California Penal Codes:

- 12025(f) Firearms carried openly in belt holsters are not concealed within the meaning of this section.
- 12031(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to this section constitutes probable cause for arrest for violation of this section.

## Why Open Carry?

- Unloaded Open Carry is the only means of self defense allowed to most "common" folk in urban areas. Concealed Carry Permits are nearly impossible to obtain for common people.
- To exercise one's 2nd Amendment right and to bring guns out of the closet and back into a positive light. All the media shows is the negative side. Hundreds of thousands of innocent lives are saved every year with the defensive use of firearms.
- Open Carry is most ideal for self defense purposed. Police officers keep their guns as close and easily accessible as possible.
- It offers an educational opportunity for everyone on the 2nd, 4th 5th, and 9th Amendments to the Constitution.
- To lawfully protest the non-constitutional gun laws currently enacted in the State of California.
- It helps defeat the myth that only the "bad guys" or police carry firearms. It reminds everyone that the 2nd Amendment allows us all the right to bear arms.

LIFESAVER



EASY VICTIM?

ARMED CITIZEN?



KEEP CRIMINALS GUESSING

# BE PREPARED AT ALL TIMES

## HOW MUCH IS A LIFE WORTH?

By Law a bank guard can carry a gun to protect his employers money.

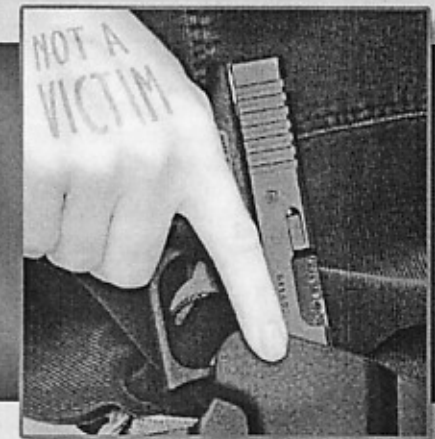
But a parent here can't be legally armed to protect their children outside of home.



SAVE LIVES: SUPPORT CONCEALED CARRY REFORM

## Important Court Decisions that affect us all

- In 2005 the Supreme Court ruled that Jessica Gonzalez did not have a constitutional right to police protection even in the presence of a restraining order. *Castle Rock v. Gonzalez* 545 U.S. 748 (2005)
- There seems to us no doubt, on the basis of both text and history, that the Second Amendment conferred an individual right to keep and bear arms" *District of Columbia v. Heller* 554 U.S. (2008)
- Three rape victims sued the District of Columbia because of negligence on the part of the police. Two of three female roommates were upstairs when they heard men break in and attack the third. After repeated calls to the police over half an hour, the roommate's screams stopped, and they assumed the police had arrived. They went downstairs and were held captive, raped, robbed, beaten, and forced to commit sexual acts upon one another and to submit to the attackers' sexual demands for 14 hours. The police had lost track of the repeated calls for assistance. DC's highest court ruled that the police do not have a legal responsibility to provide personal protection to individuals, and absolved the police and the city of any liability  
*Warren v. District of Columbia* 444 A.2d. 1, D.C. Ct. of Ap. 1981
- "There is no Constitutional right to be protected by the state against being murdered by criminals or madmen..." *Bowers v. DeVito*, Seventh Circuit, 1982



## Applicable Laws

- California Penal Code 626.9 - No open carry within 1000 feet of a K-12 school **FELONY OFFENSE** (i) Can't carry on a public or private University property without written permission from the University President or a designated representative.
- California Penal Code 626.95 - Unloaded Open Carry is legal upon the grounds of a playground, or public or private youth center, unless you are violating California Penal Code 417 (Brandishing), 12025 (Concealed Weapon), or PC 12031 (Loaded Firearm).
- California Penal Code 12025 Deals with **CONCEALED** firearms. Section (f) - Firearms carried openly in belt holsters are **NOT CONCEALED** within the meaning of this section. NOTE: Case Law (People v. Hale 1974) regards concealed magazine as equivalent of concealed firearm; it's an "essential component of the firearm". A full magazine in a belt holster on a belt should be the same as a firearm carried openly in a belt holster. A speed loader isn't part of a firearm; you can carry a speed loader concealed in your pocket without worry of prosecution.
- California Penal Code 12026(a) - Permits concealed or open carry in your residence or place of business.
- California Penal Code 12031 Can't carry a **LOADED** firearm in an incorporated city or in a prohibited area of unincorporated territory without a license to carry.
  - (e) Police are only allowed to check if your firearm is loaded **ONLY IF** in an incorporated city or prohibited area of an unincorporated territory.
  - (f) Prohibited area is defined as anywhere that discharging a firearm is illegal.
  - (g) For 12031, Loaded firearm defined as when there is an unexpended cartridge or shell in, or attached in any manner to the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof **ATTACHED TO THE FIREARM**.

**NOTE: CASE LAW** (People v. Clark, 1996) CA Court of Appeals states for a firearm to be loaded it must have ammunition "placed into a position from which it can be fired".

- (j) (1) You can carry a loaded firearm, if otherwise lawful, if you reasonably believe that you or another, or your property or another's property are in immediate, grave danger and carrying the weapon is necessary for the preservation of that person or property. "Immediate" means the brief interval before and after the local law enforcement agency, when reasonably possible, has been notified of the danger and before the arrival of assistance.

- (K) You can carry a loaded firearm while making or attempting to make a lawful arrest.

NOTE: For PC12031(e) to be a valid statute, open carry of unloaded firearms must be a legal action. If a full magazine of ammunition is openly carried in a holder on the belt, but not attached to the firearm in any way, the firearm is by definition unloaded as the ammunition is in no way attached to the firearm

- OPEN CARRY IN VEHICLES: CA Penal Code contains nothing making unloaded open carry in a vehicle illegal. PC 374(c) appears to make public roadways or highways "prohibited areas". (People v. Young) shows that only county ordinances make an area prohibited by law. PC629.9 also applies if you are open carrying while knowingly within 1000 feet of a school zone.

*The Dalai Lama*

*"If someone has a gun and is trying to kill you ... it would be reasonable to shoot back with your own gun."*

*(May 15, 2001, The Seattle Times)*

**Its Your Life...  
PROTECT IT  
Its Your Right!**

Federal Statutes: A commonly misapplied law is U.S.C. 12.1.44.926. Many Law Enforcement Officers wrongly see this as a requirement, as the only way to legally carry a firearm in a vehicle. This is only an entitlement clause providing an exemption from prosecution under State, County or Local firearms laws IF you CHOOSE TO carry in accordance with this section while traveling INTERSTATE. If you choose not to carry as explained in this section, you can only be prosecuted if you violate specific State, County or Local laws.

*Please do your own legal research before taking up open carry. The author of this brochure does not assume any liability for your actions. The contents of this brochure are merely the authors interpretation of the law. If you are unsure of the law please consult a qualified attorney. BASICALLY YOU AND YOU ALONE ARE RESPONSIBLE FOR YOUR ACTIONS.*

**NORTHERN CALIFORNIA OPEN CARRY**

**www.NorCalOC.com**



*Yes*

The carrying of unloaded  
& holstered firearms is

**LEGAL**

**DON'T BE A VICTIM**

In California you can legally carry a firearm in public if you are not prohibited from possessing or purchasing one.

The State of California has plenty of laws restricting open carry but with proper planning you can easily be ready to defend yourself and your family.

You will most likely encounter a Law Enforcement Officer sometime while carrying. We encourage you to be friendly, non-confrontational, prepared and steadfast in your resolve.

Most people, including Law Enforcement Officers are unaware of the **LAWFUL ACT OF OPEN CARRY**. We suggest carrying this brochure with you at all times while open carrying to inform anyone who may ask or any Law Enforcement Officer who is unaware of the right to Open Carry.