

RED ALERT

FOR IMMEDIATE ATTENTION



Chiefs,

Please see the following message from FPCA General Counsel David Marsey.

This Red Alert conveys a very important appellate opinion that was entered today that holds Florida's open carry statute is unconstitutional, therefore, Section 790.053, Florida Statutes, is now unenforceable. Although this decision is still being reviewed, it holds that the statute violates the Second Amendment under the guidance previously provided by the US Supreme Court in *District of Columbia v. Heller*. Although this decision was reached by the First District Court of Appeal, it applies to all trial courts statewide *unless or until*, another District Court finds the statute constitutional. Should that occur, the decision would remain binding in the First District but would no longer be binding on the rest of the state. Should another District enter a contradictory opinion, it would be up to the Florida Supreme Court to resolve the conflict.

Nothing in this opinion invalidates any other Florida Statute, such as the statute prohibiting the possession of firearms in certain places, nor does it adversely impact a private property owner's ability to prohibit open carry on their property.

Moving forward, I strongly recommend each agency confer with their general counsel to evaluate policies, procedures, and training moving forward. In the short term, I also recommend that agencies immediately discontinue enforcing this now-unconstitutional statute. Any arrests made pursuant to this statute after the entry of this opinion may expose the officer or agency to civil liability.

David Marsey, FPCA General Counsel

Thank you,
Cookie

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