

**Subject:** [ccw-talk] RE: OSC Klein v Leis  
**From:** Joe Eaton <xxxxxx@xxxxxxxxxxx.com>  
**Date:** Fri, 3 Oct 2003 10:04:55 -0500 (CDT)  
**To:** "Fassler, Bruce E" <brucef@ci.middletown.oh.us>  
**CC:** ccw-talk@lists.ofcc.net

Mr. Fassler,

Thank you for your prompt response and thank you for referring me to Section 644.17 which defines the restrictions on firearm carry in or near a parade. Who should I contact to know when and where parade permits have been grant so I do not unintentionally come in violation of Section 644.17?

Thanks again for service as Prosecutor to the City of Middletown.

Joe Eaton

-- Section 644.17

644.17 DANGEROUS WEAPONS.

(a) No person participating in, present at, or within 500 feet of, a parade, and while in a public place, shall possess a firearm or dangerous weapon of any kind.

(b) As used in this section, "dangerous weapon" means any device designed or capable of being used to inflict serious injury upon a person or property, including, but not limited to, firearms, knives of any kind having a blade in excess of three inches in length, razors and razor blades, metallic knuckles, clubs, blackjacks and night sticks, mace, dynamite cartridges, bombs, grenades, mines and other powerful explosives and loaded canes. As used in this section, "club" includes any metal pipe or rod of any thickness and any wooden instrument or device thicker than one inch or wider than three-fourths of an inch.

(c) This section shall not apply to the following persons while acting lawfully and within the scope of their duties and authority:

- (1) Law enforcement officers;
  - (2) Officers and soldiers of the Armed Forces, militia and National Guard;
- and
- (3) Students of military science, in an accredited program, who are participating in a parade.

(d) Whoever violates this section is guilty of a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. (Ord. 080-98. Passed 6-3-80.)

On Fri, 3 Oct 2003, Fassler, Bruce E wrote:

Middletown is a "home rule" city which means our ordinances are enforced in Middletown. The ordinance which governs this is section 644.17. You can pull it up on our web site at ci.middletown.oh.us under the city section.

-----Original Message-----

From: Joe Eaton [mailto:joeaton@xxxxxxxxxxx.com]  
Sent: Tuesday, September 30, 2003 3:42 PM  
To: brucef@ci.middletown.oh.us  
Subject: OSC Klein v Leis

Mr. Fassler - Prosecutor City of Middletown

On Wednesday, September 24th, 2003 the Ohio Supreme Court ruled in Klein v. Leis indicating Ohio Revised Code 2923.12 and 2923.16 (prohibits carrying concealed firearms) are constitutional.

However, the court stated that the fundamental right to bear arms for defense and security, protected by the Ohio Constitution, Article I, Section 4 is protected by a citizens ability to carry a firearm openly in the State of Ohio.

For instance, a citizen can exercise his rights under the Ohio Constitution by carrying a loaded firearm in an openly visible holster, but he may not conceal his firearm.

So long as this citizen is not breaking any other laws that prohibit possession of a firearm, his actions are constitutionally protected.

Based upon this ruling, there are some questions that I would appreciate your answers to:

- 1) Would any person or I be arrested for walking through town with an openly visible firearm holstered on the belt?
- 2) Are there any local ordinances that prohibit this that would be enforced? If so, please cite these ordinances.
- 3) Is there any situation in which a citizen, not otherwise in violation of any law, would be arrested for carrying openly, since this has been deemed by the Supreme Court of Ohio to be the proper way to exercise the fundamental right of bearing arms?

I would appreciate a written response, via USPS, Email ([j.eaton@xxxxxxxxxxx.com](mailto:j.eaton@xxxxxxxxxxx.com)) or a facsimile sent to my attention at (810)277-2472. You may also contact me by phone at either number isted below.

Sincerely,  
Joe Eaton  
317 Melanie Drive  
Franklin Ohio 45005  
Home: xxx-xxx-xxxx  
Work: xxx-xxx-xxxx

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Ohioans For Concealed Carry's ccw-talk Discussion List

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