

Memorandum

TO: ALL DEPARTMENT PERSONNEL

FROM: Anthony Mata
Chief of Police

SUBJECT: SEE BELOW

DATE: May 12, 2022

APPROVED

Memo# 2022-016

SUBJECT: DUTY MANUAL REVISIONS: CARRYING OF CONCEALED WEAPONS BY OFF-DUTY OR RETIRED OFFICERS

BACKGROUND

The State of California prohibits a person from carrying a concealed firearm in public.¹ However, an exemption to this prohibition is made for active full-time and honorably retired police officers.² Active full-time officers can legally possess a concealed firearm when off-duty without any Carry a Concealed Weapon (CCW) endorsement.³ Honorably retired officers and active Level I Reserve officers are required to have a CCW endorsement on their Department-issued identification cards to legally carry a concealed weapon. Active Level I Reserve officers shall refer to the SJPd Reserve Unit Procedures Manual section A 602 for guidance.

“Honorably retired” refers to an active, full-time officer who has qualified for, and accepted, a service or disability retirement⁴, or a retired Level I Reserve officer with at least 15 years of service.⁵ For the purposes of carrying a concealed and loaded firearm, officers who resign, are terminated, or accept a service retirement in lieu of termination are not considered honorably retired.⁶ An officer who separates from City service may apply for a retired identification card with CCW endorsement when they have qualified for and accepted a service or disability retirement.

The Department may deny or revoke a retired officer’s privilege to carry a concealed firearm at any time.⁷ When a CCW endorsement has been denied or revoked, a retired officer may make a timely request to have a hearing to determine whether there was good cause for such denial or revocation.⁸

¹ CA Penal Code § 25400

² CA Penal Code § 25450(a)

³ CA Penal Code § 25900(a)

⁴ CA Penal Code § 16690

⁵ CA Penal Code § 26300(c); SJPd Duty Manual Section A 2934

⁶ Gore v. Yolo County District Attorney’s Office (2013) 213 Cal.App.4th 1487; CA Penal Code § 16690

⁷ CA Penal Code § 25470

⁸ CA Penal Code § 26315

Federally enacted in 2004, the Law Enforcement Officers Safety Act (LEOSA) allows "qualified law enforcement officers" and "qualified retired or separated law enforcement officers" to carry a concealed and loaded firearm in any jurisdiction in the United States, regardless of state or local laws, with certain exceptions.⁹ However, LEOSA does not obligate an agency to provide a retired officer a Department identification card with CCW endorsement.¹⁰ An honorably retired officer may be issued a retiree identification card with the CCW endorsement only if they qualify under state law.

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike through~~ form.

C1447 CARRYING EQUIPMENT OFF DUTY:

Revised 05-12-22

~~When off duty, officers will carry or have in their immediate possession their issued identification card. Officers may carry Firearms or, Department-issued chemical agents, or Electronic Control Weapons devices may be carried by officers when off-duty at their discretion. Whenever an officer carries a firearm, or Department-issued chemical agent device, or Electronic Control Weapon, the Department badge and Department-issued identification card must also be carried. Absent taking enforcement action as a peace officer or in self-defense. When wearing an off-duty weapon, officers will avoid intentionally exposing their weapon to public view.~~

C1447.1 CARRY CONCEALED WEAPON (CCW) ELIGIBILITY:

Added 05-12-22

Qualified active Reserve officers and honorably retired officers are eligible to receive a Carry Concealed Weapon (CCW) endorsement

Active Reserve officers must adhere to the guidelines specified in SJPd Reserve Unit Procedures Manual section A 602 to qualify for a CCW endorsement.

Honorably retired full-time officers must have qualified for and accepted a service or disability retirement to be eligible for a CCW endorsement. An officer who separates from City service may apply for a retired identification card with CCW endorsement when they have qualified for and accepted a service or disability retirement.

Honorably retired Level 1 Reserve officers must have served an aggregate of 15 years to be eligible.

⁹ 18 USC § 926B and USC § 926C

¹⁰ Johnson v New York State Dept. of Correctional Services, 709 F.Supp.2d 178 (N.D.N.Y. 2010)

C1447.2 **RETIRED OFFICERS NOT ELIGIBLE TO CARRY CONCEALED WEAPON:**

Added 05-12-22

Officers who retired because of a psychological disability are not eligible for a Carry Concealed Weapon (CCW) endorsement (CA Penal Code section 26305(a)). Retired officers may have their CCW endorsement revoked or denied if:

- 1) they violated any departmental rule, or state or federal law that, if violated by an officer on active duty, would result in that officer's arrest, suspension, or removal from the agency, or
- 2) they engaged in conduct that compromises public safety.

An identification certificate authorizing an officer to carry a concealed and loaded firearm or an endorsement may be permanently revoked or denied only upon a showing of good cause. Good cause shall be determined at a hearing before a three-member hearing board as specified in CA Penal Code section 26320.

C1447.3 **DENIAL OR REVOCATION OF CARRY CONCEALED WEAPON ENDORSEMENT FOR RETIREES**

Added 05-12-22

If a CCW endorsement has been denied, the retired officer shall have 15 calendar days from the date of denial to request a hearing for a showing of good cause. Such request should be made to the Chief Executive Officer. Failure to submit a timely request for a hearing shall be deemed a waiver of such right.

If a CCW endorsement has been temporarily revoked, such revocation shall be effective upon personal service or upon receipt of a notice that was sent by first-class mail, postage prepaid, return receipt requested, to the retiree's last known place of residence. Proof of service shall be in accordance with SJMC section 1.04.150. The retiree shall have 15 days to respond to the notification and request a hearing to determine if the temporary revocation should become permanent.

Such request should be made to the Chief Executive Officer. Failure to respond to the notice of hearing in a timely manner shall forfeit the retired officer's right to a hearing. The retiree identification card with CCW endorsement shall be immediately returned to the Permits Unit when such endorsement has been permanently revoked.

If a hearing is requested, good cause for denial or permanent revocation shall be determined at such hearing. The hearing shall be held no later than 120 calendar days after the request by the retired officer has been received. Such hearing shall be held before a three-member hearing board. One member of the board shall be selected by the Department and one member shall be selected by the retired officer or their employee organization. The third member shall be selected jointly by the Department and the retired officer or their employee organization. Any decision by the board shall be binding on the Department and the retired officer.

A retiree may waive the right to a hearing and immediately return their identification card with CCW endorsement to the Permits Unit.

C 1447.4 **REQUIREMENTS FOR CARRYING OF CONCEALED FIREARMS BY RESERVE OR RETIRED OFFICERS:**

Added 05-12-22

Active Reserve officers and honorably retired officers will carry or have in their immediate possession their current Department-issued Reserve or retiree identification card with CCW endorsement when carrying a concealed firearm. Such officers are also required to carry or have in their immediate possession proof of their annual Department-approved range qualification. Absent taking enforcement action as a peace officer or in self-defense, Reserves and honorably retired officers will avoid intentionally exposing their weapon to public view.

S 1119 **REQUIREMENTS WHEN OFF DUTY:**

Revised 05-12-22

When off duty, officers will carry or have in their immediate possession their Department-issued identification card. ~~Officers may carry firearms, Department issued chemical agents, or Electronic Control Weapons when off duty at their discretion. Whenever officers carry a firearm or Electronic Control Weapon, they must carry their badge and Department issued identification.~~

ORDER

Effective immediately, all Department personnel shall adhere to the above amended and revised Duty Manual sections.



Anthony Mata
Chief of Police

AM:SD:CM