

# Correctional Deputies Ability to Carry a Concealed Firearm Off-Duty: *What You Need To Know*

## What is LEOSA?

The Law Enforcement Officer Safety Act of 2004 (18 USCA §926) permits qualified law enforcement officers with proper identification to carry a concealed firearm nationwide, regardless of state laws (with some exceptions)<sup>1</sup>. Thus, those who meet the requirements under LEOSA do not need a state-issued concealed carry permit (CCW) to carry a concealed firearm.

## What are the requirements?

To be a “qualified law enforcement officer” under LEOSA, seven requirements must be met. The first three requirements are as follows:

1. Be an **employee** of a government agency who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for any violation of law;

2. Have the statutory **power of arrest**; and
3. Be **authorized by the agency to carry a firearm**.

## Do Armed Correctional Deputies (ACDs) Qualify?

Yes. The Sheriff has authorized Correctional Deputies who have met the Department’s firearms qualification requirements to carry firearms while assigned to specific duties (e.g. transportation unit, med-car, permitter checks). This authority is granted by section 830.1(c) PC and qualifies ACDs to hold peace officer status under the Penal Code.

Therefore, ACDs who have undergone the training and qualifications set forth by the Department will satisfy the first three LEOSA requirements and be authorized to carry a concealed firearm without a CCW.

## What other requirements must I meet to be protected by LEOSA?

First, you cannot be the subject of any disciplinary action by the agency. Although courts have not defined what constitutes “disciplinary action”, legislative history and advisory texts infer that it includes suspension of peace officer powers and/or revocation of Department ID or badge.

Second, you must meet your agency’s firearms qualification requirements with the weapon you

<sup>1</sup> LEOSA does not supersede any State law that: (1) permits private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or (2) prohibits or restricts the possession of firearms on government property.

are carrying. This means staying compliant with all your Department's minimum standards for firearms qualifications.

Third, you must not be under the influence of alcohol or any other intoxicating substances while carrying a firearm. Meaning – if you are carrying concealed while drinking and come into contact with law enforcement, not only do you forfeit LEOSA protections, but you will also be subject to all relevant crimes pertaining to carrying a concealed weapon while intoxicated.

Fourth, you must not otherwise be prohibited from carrying a firearm under federal law. Including: being charged with a felony; being subject to a Domestic Violence Restraining Order or prior DV convictions; receiving, possessing, or storing stolen firearms; or knowingly selling or giving a firearm or ammunition to anyone who falls within the above categories.

### **Proof of Qualifying Status on Photo ID:**

While carrying a concealed firearm, you must also have photo identification issued by your agency that states you are a peace officer with LEOSA protections. Otherwise, you could be subject to arrest.

*Note: Your agency is not required to issue you a LEOSA compliant ID and it is your responsibility to request one once you meet the specified requirements.*

### **Do State law restrictions apply to LEOSA?**

Generally, no. LEOSA supersedes California state law – meaning, the restrictions on where a

person is allowed to carry a concealed firearm under the Penal Code do not apply to an ACD with proper identification.

For example: §26230 PC (SB2) lists various locations that carrying a concealed weapon is prohibited, even to those with a valid CCW. However, because LEOSA supersedes California state law, none of those restrictions apply to an ACD with proper LEOSA identification.

But there are exceptions! LEOSA does not supersede state laws that allow a private person or entity to prohibit the possession of concealed firearms on their property or government property. Thus, an ACD with a LEOSA compliant ID is still prohibited from entering private property with posted restrictions and government buildings while carrying a concealed firearm.

For example: Private entities, including large venues such as Dodger Stadium, Crypto Arena, Disneyland, Universal Studios, as well as small private businesses such as a bar or restaurant are allowed to prohibit the carrying of concealed weapons on their property. Meaning – even with LEOSA compliant identification there are no protections from criminal penalties for carrying a weapon onto private property when the owner has made clear that carrying a concealed weapon is prohibited

### **Do Correctional Deputies Qualify?**

No. Although both CDs and ACDs supervise the incarceration of inmates which includes investigating, detecting, and preventing further crimes in a correctional facility and can

arrest/charge a person with a crime with the requisite probable cause, CDs are not permitted to carry firearms. Thus, because the third requirement is not met, Correctional Deputies do not qualify to carry concealed under LEOSA.

### **Does that mean CDs cannot carry a concealed firearm?**

No. CDs can still apply for a CCW permit and carry a concealed firearm once the permit has been issued.

However, there are no LEOSA protections for Reserve Officers carrying with only a CCW. Therefore, if carrying with only a CCW, you must abide by California state law including the restrictions outlined in § 26230 PC<sup>2</sup>.

Currently, carrying a concealed firearm is prohibited – even with a valid CCW – in the following areas: bars and restaurants that serve alcohol, playgrounds, youth centers, parks, athletic facilities, most property controlled by Department of Parks and Recreation or Department of Fish and Wildlife, casinos, stadiums/arenas, public libraries, amusement parks, zoos, and museums; parking areas and similar areas connected to those places or to other sensitive places listed in the statute. (See Penal Code sections 26230(a)(9), (11), (12), (13), (15), (16), (17), (19), and (20)).

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<sup>2</sup>As of the recent Ninth Circuit decision in *Wolford v. Lopez*, the State of California cannot prohibit CCW holders from carrying a concealed firearm in the following areas: hospitals, public transit, gatherings that require a permit, places of worship, financial institutions, and parking lots connected to those areas. (See Penal Code sections 26230(a)(7), (8), (10), (22), (23), and (26)).

### **Bottom Line:**

ACDs who have been issued LEOSA compliant identification from their agency, can carry a concealed firearm with full LEOSA protections so long as the above requirements are met.

Additionally, LEOSA supersedes California state law; but ACDs carrying under LEOSA must use their best judgment when entering private property with gun restrictions.

Although CDs do not qualify under LEOSA, they may still carry a concealed weapon if they have been issued a valid CCW. However, even with a valid CCW, they must follow California conceal carry laws including the restrictions in §26230 PC.

### **Stay Safe and Informed!**