



PAWNEE COUNTY SHERIFF'S OFFICE  
SHERIFF DARRIN VARNELL

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|---|------------------------|
| Policy # <u>DISCHARGING OF FIREARMS BY SHERIFF PERSONNEL</u>  | Related Policies:      |
| <i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by The Pawnee County Sheriff's Office for non-judicial administrative action in accordance with the laws governing employee discipline.</i> |                        |
| <b>Applicable Oklahoma Statutes:</b>  |                        |
| CALEA Standard:   |                        |
| Date Implemented:08/22/2022   | Review Date:08/22/2022 |

**Policy:**

**The most serious act in which a Sheriff deputy can engage is the use of deadly force. The authority to carry and use firearms in the course of public service also carries with it the highest level of responsibility. Respect for human life requires that Sheriff Deputies exhaust all other reasonable means before resorting to the use of firearms and then only when a deputy reasonably believes that such use of firearms is necessary to protect the deputy or another from the risk of serious physical harm or loss of life.**

**In considering the use of firearms, understand that you are responsible for your acts and that you may be required to justify your acts in a court of law. The Office of the District 10 Attorney will determine the legality of actions taken. You are not required to retreat in lieu of the justifiable use of deadly physical force.**

The safety of innocent persons is of paramount importance. Where there is substantial risk to the safety or life of an innocent citizen, the safety of the citizen should take precedence over the apprehension of the suspect.

Deputies should attempt to use non-confrontational verbal skills, empathy and/or active listening to stabilize a person in crisis or when confronted with a situation where control is required to effect an arrest or protect the public's safety. The suspect should be allowed to comply before force is used unless this causes unnecessary danger to the deputy or others. De-escalation may also incorporate the use of additional time, distance, and resources as well as persuasion, command presence, repositioning, and warnings, to reduce the intensity of a potentially violent situation to decrease the potential need to use force.

Sheriff Deputies **may not** use deadly force merely to prevent escape in misdemeanor cases. The use of deadly force to prevent escape of felony suspects is constitutionally unreasonable except where the escape presents an immediate risk of death or serious physical harm to another.

Where the suspect poses no immediate threat of death or serious physical harm to

others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so. If a deputy uses unnecessary and/or excessive force, or acts wantonly and maliciously, he could be found guilty of assault, even of culpable homicide if he kills the person he is attempting to arrest.

At such time as a Sheriff deputy perceives what he interprets to be a threat of loss of life or serious physical harm to himself or others at the hands of another, he has the authority to display a firearm, **with finger outside the trigger guard** and have it ready for self-defense. **The finger is only to be placed on the trigger when on target and ready to engage a threat.**

A deputy has a duty to intervene to stop, prevent and report the use of excessive force by another deputy when it safe and reasonable to do so.

Self-Defense: A Sheriff deputy is authorized to use that force reasonably necessary to protect himself or others from death or serious physical harm at the hands of another.

- There must be an apprehension of real or immediate danger based on an overt and/or constructive act by another.

Warning Shots: Deputies shall never only use warning shots.

Felonies: When all other reasonable means at the deputy's disposal have failed, the use of firearms is authorized, only under the following circumstances, as a last resort to apprehend a fleeing felon:

- The deputy has probable cause to believe the suspect has committed or is committing a felony, and
- The suspect presents an immediate risk of death or serious physical harm, either to the deputy or another person if not immediately apprehended.
- If possible, the deputy will give verbal warning before using the firearm.

All Other Felonies and Misdemeanors: In all other felonies or misdemeanors, Sheriff personnel will not fire shots even if the perpetrator attempts or succeeds in his attempt to flee.

Juveniles: A Sheriff deputy will not discharge a firearm at a person known to be or suspected of being a juvenile (person less than 18 years of age) except under circumstances which come within the provisions of the self-defense policy.

**Moving Vehicles: Deputies shall not discharge their firearms at a moving vehicle or its occupants unless the occupants are using deadly physical force against the deputy or another person present, by means other than the vehicle.**

Shots Fired at Animals: A deputy may, when reasonable, use their firearm to prevent an undomesticated wild animal from inhumane suffering or to protect themselves and others from a dangerous animal. If possible, use one of the following alternative solutions:

- In some instances, local veterinarians may respond.
- The use of chemical irritant is effective on many animals.
- Loud noise, such as a siren.

**Information:**

The Sheriff has authorized a comprehensive review of critical firearm discharges by agency employees. A Critical Firearm discharge is defined as:

All shots fired by agency employees with the exception of:

- Beanbag Rounds.
- TASER cartridges.
- 40mm foam rounds.
- At animals.
- While hunting.
- Training accidents when proper safety procedures were followed.

The review will begin at the Sheriff direction. If a criminal investigation is warranted, the review will commence after the completion of any criminal investigation or court proceedings into the matter.

To facilitate this process, the Sheriff has the discretion to call for an outside investigation to be conducted by the Oklahoma State Bureau of Investigation.

**Procedure:**

A. Shots Fired

1. Report all shots fired by Sheriff personnel to an on-duty supervisor immediately regardless of the circumstances. Personnel having knowledge of a shot fired by another deputy will report the incident to an on-duty supervisor immediately. This includes:
  - a. Shots fired at or taking effect against an individual.
  - b. Warning shots.
  - c. Shots fired at animals.
  - d. Accidental discharges.
  - e. Shots fired from any firearm by off-duty personnel except:
    - 1) Target or competition shooting.
    - 2) Hunting.
    - 3) Military service.
2. Personnel are not required to report shots fired while participating in department authorized firearms training.
3. The investigating supervisor will notify the Undersheriff.
4. The Undersheriff will notify the Sheriff

B. Shots Fired at Individuals:

1. The investigating supervisor will:
  - a. Ensure protection of the scene.
  - b. Notify the Undersheriff
    - 1) The Undersheriff will notify the Criminal Investigator
    - 2) The Undersheriff will notify the Sheriff
  - c. No one will take the deputy(s') pistol, Body Worn Camera (BWC), or gun belt at the scene. The deputy(s') pistol will remain in his holster and the deputy will wear his gun belt and BWC until possession is transferred to OSBI or District 10 District Attorney's Office.
    - 1) Under no circumstances will the deputy(s') pistol be examined or unloaded. If safety is an issue, a supervisor will be immediately contacted for instructions.
    - 2) If a deputy(s) is transported to the hospital for treatment, a supervisor will respond and take possession of the deputy(s') pistol, gun belt and BWC. That supervisor will document the date, time, location, and from whom the deputy(s') equipment was obtained and contact the Undersheriff.
    - 3) A supervisor will be assigned to take control of the deputy(s) involved in a shots fired that take effect. They will remain at the scene. At the direction of the Criminal Investigator, a district supervisor(s) will transport the involved deputy(s) to the Pawnee County Sheriff's Office and wait for further instructions from the Sheriff or Undersheriff.
      - a) No one will be permitted access to the deputy(s') pistol, gun belt or BWC without the approval/consent of the Sheriff or Undersheriff.
      - b) When multiple Deputies are involved, a separate supervisor will be assigned to each deputy. If there is a need, outside state agencies may be contacted.
  - d. Locate witnesses to the incident. If possible, separate the witnesses and have them held at or near the scene until they have contacted the criminal investigator. Conduct a preliminary fact-finding investigation at the scene.
    - 1) Do not publicly comment about the propriety of the action taken.
  - e. Brief the Criminal investigator.
2. Investigators will:
  - a. Conduct an investigation and report per their standard operating

procedure (SOP). All investigations will include, to the extent possible, appropriate crime scene analysis, review of the BWC(s), gunshot residue tests, and ballistic tests including bullet trajectory tests.

- 1) Investigators will ensure, to the extent possible, that the investigation accounts for all shots and the locations of all Deputies who discharged their firearms.
  - 2) Coordinate with state agencies to assist with or take over the investigation.
  - 3) Brief the Undersheriff
3. The Criminal investigator shall respond to the scene and coordinate the activities of the field personnel at the scene.
  4. The Undersheriff will respond and coordinate department policy.
- C. Shots Fired at Animals
1. Notify on duty supervisor
    - a. The on-duty supervisor will notify the Undersheriff.
  2. If the shots take effect, and the animal is known or suspected of having bit a human, notify the Oklahoma Department.
  3. If the animal is not suspected of biting a human:
    - a. Notify Oklahoma Department of Transportation (ODOT) to pick up the dead animal if located on a highway.
    - b. Notify the County Commissioner District to pick up the dead animal if located on a county roadway.
    - c. Notify the Oklahoma Turnpike Authority if the dead animal is located on the Turnpike.
- D. Personnel Injured by Department Authorized Firearms During Training Exercises
1. The Training Officer will immediately notify the Undersheriff.
    - a. The Undersheriff will notify the Sheriff and the other personnel
      - 1) The Undersheriff will then contact the Office of the District Attorney and request outside investigation.
  2. The Chief Deputy will investigate all firearms related, non-serious harm injuries:
    - a. That occurs during firearms training.
    - b. Where all safety rules and procedures have been followed.  
Example: A person is struck and injured by a piece of lead that has blown back from a target.
    - c. The Chief Deputy will immediately notify the Undersheriff for

Situational Occurrences of injuries which require medical attention at a hospital.

3. Life threatening or serious injuries, injuries due to intentional acts, or injuries that occur as a result of violations of safety rules and/or procedures:
    - a. Notify the Office of the District Attorney
    - b. Notify General Legal Council
    - c. Notify the Office of the County Commissioners
    - d. Notify ACCO
    - e. Request outside investigation
- E. Unintentional Discharge
1. Unintentional discharges which are the proximate result of an deputy's conduct , it shall be investigated for policy violations