

# Handbook for County Sheriffs of Oklahoma 2015



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## Introduction

# How to Use This Handbook

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This is the second edition of the Handbook for County Sheriffs of Oklahoma.

This handbook has been prepared for use primarily by County Sheriffs, their deputies, and other employees in the County Sheriff's office to aid them in performing their duties. It is intended as a guide to the responsibilities, duties, procedures, and statutory mandates for that office. This handbook is not meant to be all inclusive and complete, but should include sufficient references and other sources to help supplement the information that is provided.

This handbook has been prepared solely as a guide and source of reference for use in day-to-day job activities. It is not intended to be, nor should it be used as, a supplement to, or replacement for, Oklahoma State Statutes, opinions of the State Attorney General, and/or policies and procedures issued by the appropriate state agencies (State Auditor and Inspector, State Department of Transportation, Oklahoma Tax Commission, and others).

Every effort has been made to incorporate the latest statutes, opinions, and interpretations. In every instance where a statement in this handbook disagrees with an Attorney General opinion, an interpretation of the statutes by a responsible state agency or a District Attorney, and/or procedure or policy issued by an appropriate state agency, those opinions, interpretations, procedures, and policies will take precedence over the handbook.

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## Technology

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### ***Internet Document***

The *Handbook for County Sheriffs of Oklahoma* is available as an internet document and can be accessed through the County Training Program website:

<http://www.agecon.okstate.edu/ctp> under the “Handbook” heading on the left-hand side of the website. You can download the document onto your computer, copy parts of the document, and print the document. The printed copy will not have the interactive capabilities of the online copy.

The interactive capability of the online document allows you to link from one spot to another in the document. For example, you can click on a heading entry in the Table of Contents, and you will be linked directly to that heading in the handbook.

The statute references on the right-hand side of the pages are now linked to the web. You can click on the statute references (in green), and you will be linked directly to a complete version of that statute on the OSCN website. If you do not have web access, these links will not work.

Any form identified in this document are shown in blue and clicking on that text will link you to the actual form on the internet. Any word or groups of words in the text that appear in blue or green on your screen will link to something related to them.

You can use the “search” feature on the webpage as an index to search for particular items that you wish to reference. You can also page through the handbook just as you would a printed copy. The handbook appears on the screen exactly as it will appear when printed.

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## Organization

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The first section of the *Handbook for County Sheriffs of Oklahoma* covers county government in Oklahoma, and the five chapters apply to all county officers and

employees. These chapters are intended to provide general information about how county government operates in Oklahoma and help members of the County Sheriffs' offices understand how they affect and are affected by other county entities and procedures.

The remaining chapters describe the various duties and responsibilities for the County Sheriff's office.

In Appendix A is a guide to using the statutes.

Appendix B contains a list of related sources and their addresses and phone numbers. Throughout the handbook, we have referenced these sources and the materials and publications they provide. The data in Appendix B is provided for your convenience if you should need to contact any of these agencies.

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## **Statute and Other References**

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Statute references, Attorney General opinions, and other legal references that apply to material in the text of this handbook are printed in a column at the far right-hand side of the page in green. Each reference is situated so that it appears at the beginning of the material to which it applies.

If you click on one of these references while using the online version, you will be linked directly to that reference located on the web. In other words, if you click on a statute reference, you will be linked to the complete text of that statute.

*Article* references are from the *Constitution of the State of Oklahoma*. Oklahoma Statute (O.S.) references are from the Oklahoma Statutes.

This handbook is not intended to be a legal source to replace the *Oklahoma State Statutes*. In many cases the statutes are paraphrased or interpreted in simpler language. For exact and complete statutory information, the reader should refer to the actual statute.

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## **Procedures**

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This handbook includes some procedural information for accomplishing the duties of the County Sheriff's office. Many times procedures will vary from one county to another. This handbook is not meant to mandate procedures, but could often prove useful to see how certain tasks are performed.

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## **Forms and Computerized Forms**

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Since the purchasing forms are available on line, and because many counties now develop their own computerized forms, samples of forms are not included in this version of the handbook. Please refer to the appropriate website for examples of the forms mentioned in the handbook.

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## **Questions and Comments**

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We have made every attempt to provide as complete and accurate a handbook as possible. If you have any questions, comments, or suggestions, please contact the County Training Program at Oklahoma State University, 405-744-6160, FAX 405-744-8210, email [ctp@okstate.edu](mailto:ctp@okstate.edu). Visit our website at <http://agecon.okstate.edu/ctp> for more information on the County Training Program.

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## Chapter One

# County Government in Oklahoma

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(left) Payne County Commissioner Chris Reding (District 2) and Payne County Sheriff R.B. Hauf, talk in Sheriff's Hauf's office at the courthouse.

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## The County Government System in Oklahoma

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The 77 counties in Oklahoma serve as extensions or subdivisions of the State of Oklahoma. All counties receive their administrative powers from the state. The Oklahoma Constitution and the Oklahoma Statutes mandate and define all of the duties and responsibilities of all county offices.

Some county officers are elected and others are appointed. Unlike municipal governments, county governments do not make new laws or ordinances. The Oklahoma State Legislature enacts the laws that govern county government and that county governments enforce.

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## **Powers and Duties of County Government**

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Oklahoma law states that “each organized county within the state shall be a body corporate and politic and as such shall be empowered for the following purposes:

- To sue and be sued
- To purchase and hold real and personal estate for the use of the county and lands sold for taxes as provided by law
- To sell and convey any real or personal estate owned by the county, and make such order respecting the same as may be deemed conducive to the interests of the inhabitants
- To execute leases of real property owned by the county to nonprofit corporations organized for the general purpose of historical preservation
- To make all contracts and do all other acts in relation to the property and concerns of the county necessary to the exercise of corporate or administrative power
- To exercise such other and further powers as may be especially provided for by law

County governments in Oklahoma have the following primary responsibilities:

- Maintaining the peace
- Protecting health and property
- Enhancing economic opportunity

Within these broad categories, county officers perform several functions:

- Enforcing the laws
- Building and maintaining county roads

- Maintaining official records
- Collecting, maintaining, and disbursing county revenues
- Helping to ensure the physical health and well-being of county citizens

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## Duties of County Government

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### *Elected County Officers*

Oklahoma law stipulates that each county must have seven county offices, each one headed by an elected county officer. Five of these offices were established in the Oklahoma Constitution in 1907.

Oklahoma Constitution  
Article 17 § 2

The following officers are elected by the eligible voters in the county at a general election:

- County Commissioners  
Three in each county; one elected by the voters in each of the three districts
- County Clerk
- County Assessor  
Created by Oklahoma Statute in 1911; replaced town, city, and township assessors whose offices were abolished that same year
- County Treasurer
- County Court Clerk
- County Sheriff
- District Attorney

68 O.S. § 2814

19 O.S. § 215.1

An Oklahoma Statute in 1967 created the office and 27 districts and replaced County Attorneys. Voters from one or more counties within a district select a District Attorney to represent that district.

Each elected officer serves a four-year term in office. The officer's terms are staggered so that every two (even-numbered) years, the November general election includes ballots for only certain county officers.

- The District 1 and District 3 County Commissioners plus the County Treasurer and the County Assessor are elected in one election.
- The District 2 County Commissioner plus the County Clerk, the Court Clerk, the County Sheriff, and the District Attorney are elected in one election.

**OSU Extension Fact Sheet No. 802, *Duties and Responsibilities of Elected County Officials*, contains a table showing the schedule of election years for elected county officers and detailed descriptions of those officer's duties and responsibilities. Available from the [Oklahoma Cooperative Extension Service](#) at OSU.**

### **County Commissioners**

One County Commissioner is elected from each of three districts within the county. These districts must, by law, be approximately equal in population.

County Commissioners serve on the Board of County Commissioners and act as the principal administrators of the county. Their duties are identified in the statutes and they include the following activities:

- Selling or purchasing public land or buildings for the county
- Auditing the accounts of other county officers

- Approving the purchase of operating supplies, equipment, and services contracted for the county
- Supervising county road and bridge construction and maintenance 19 O.S. § 339(A)(3)
- Developing personnel policies, designating holidays, and approving salaries for county employees 19 O.S. § 339(A)(9)
- Approving payment of the county payroll 19 O.S. § 326
- Auditing and approving tort claims against the county 19 O.S. § 153  
51 O.S. § 158
- Receiving and approving bids for major purchases or construction projects 68 O.S. § 3002
- Preparing the county budget in conjunction with other county officers Oklahoma Constitution  
Article 10 §9-D
- Monitoring the county solid waste program
- Calling county elections for various purposes
- Reapportioning commissioner districts in accordance with Census Bureau criteria 19 O.S. § 321(B)
- Purchasing surety bonds (blanket bonds) to cover all county officers and employees 19 O.S. § 167
- The Board of County Commissioners holds a regular monthly meeting at the county seat. All meetings of this board are open to the public except for executive sessions, which can be closed sessions under certain circumstances as defined by the statutes. 19 O.S. § 622  
19 O.S. § 326  
25 O.S. § 307(F)

### County Clerk

The County Clerk is the principal record keeper of the county. All legal instruments, including plat maps, deeds, mortgages, oil and gas leases, liens, and military discharge papers that are filed with the county by private citizens and public officials are preserved by the County Clerk. Other duties of the County Clerk include the following activities:

19 O.S. §§ 250, 284, 286

- Serving as secretary for the Board of County Commissioners and other county boards such as the County Excise Board 19 O.S. §§ 243, 244  
68 O.S. §§ 2861(E),  
3005.1(A)
- Recording all appropriations and expenditures for each county office or department 19 O.S. §§ 245, 250  
19 O.S. § 347
- Preparing warrants or checks for paying county bills and payroll 62 O.S. § 471
- Purchasing or leasing and maintaining all county supplies and equipment 19 O.S. § 1501
- Acting as the registrar of deeds

### **County Assessor**

The County Assessor assesses all property for ad valorem taxation and submits the value of each property to the County Equalization Board and later to the State Board of Equalization for approval.

68 O.S. §§ 2814, 2815  
68 O.S. § 2817

After receiving the certified millage rates from the County Excise Board, the County Assessor prepares the tax roll, which shows the taxes due on each county property and forwards the roll to the County Treasurer for tax collection.

The County Assessor also performs the following duties:

- Preparing and maintaining permanent records of all real and personal property including cadastral maps 68 O.S. §§ 2827, 2840
- Implementing the four -year visual inspection program for all real property 68 O.S. § 2820  
68 O.S. § 2823
- Auditing any property for which the estimated fair cash value differs from the value submitted by the taxpayer
- Receiving and reviewing all applications for exemptions 68 O.S. § 2836
- Serving as a member of the Board of Tax Roll Corrections 68 O.S. § 2871

## County Treasurer

The County Treasurer is the chief financial officer for the county and administers all county monies. The County Treasurer receives, deposits, and maintains records for all county monies; redeems county warrants; apportions taxes to various accounts and to local public entities such as schools and cities; keeps records of all payments and expenditures made by the county; and presents county records and financial statements to the State Auditor and Inspector for audit.

19 O.S. §§ 623, 624, 625

The County Treasurer also receives the annual tax roll and tax roll warrant, prepares the ad valorem tax statements, and mails the statements to the property owners. The County Treasurer collects all county ad valorem taxes, issues delinquent personal and real property tax notices, and initiates and supervises tax sales on real property for nonpayment of taxes.

68 O.S. § 2869

## County Court Clerk

The Court Clerk's primary responsibilities are to record, file, and maintain District Court proceedings and maintain books useful for locating past court proceedings. The Court Clerk keeps summaries of court actions in an appearance docket; maintains case files; collects fines, fees, and forfeitures; and distributes or expends collected monies as provided by law. The Court Clerk also issues legal warrants, court orders (as given by a judge), passports, and marriage (as authorized by a judge), beer, pool hall, and other county licenses.

12 O.S. §§ 22, 24, 27, 28, 29, 35.1  
28 O.S. § 31

## County Sheriff

The County Sheriff is the chief law officer responsible for preserving the peace and protecting life and property in the county. The County Sheriff apprehends persons charged with criminal activity; operates the county jail; serves warrants and process papers of the District Court and other lawful authorities; handles various nuisances or dangers to the public; and handles safety matters. The County Sheriff may also assist the state in handling state prisoners. Please refer to Chapter Seven, Duties of the County Sheriff: General, for detailed information on the duties of the County Sheriff's office.

19 O.S. §§ 513, 514, 516, 526,  
545

## County Budget Boards

Counties that have resolved to operate under the County Budget Act have Budget Boards composed of the eight elected county officers listed above. The Budget Board reviews the annual estimate of needs of each county department, revises these estimates if advisable, proposes a budget, conducts public hearings, and adopts a budget. The Budget Board also authorizes transfers of certain funds from one county budget account to another and may make supplemental appropriations to the budget.

19 O.S. §§ 1403, 1407

## District Attorney

The District Attorney is the chief prosecutor within each of 27 districts in Oklahoma. Most District Attorneys serve more than one county. The District Attorney performs the following duties and may be assisted by one or more Assistant District Attorneys.

19 O.S. §§ 215.1, 215.4

- Serves as criminal prosecutor in district court
- Assists a grand jury with legal advice, witness examination, and indictments
- Provides witness and victim assistance
- Represents the county in all civil actions or proceedings in which the county is a party
- Serves as the principal legal counsel for county government to give opinion and advice to the Board of County Commissioners and other civil officers of the county when requested by such officers and boards, on all matters in which the county is interested, or relating to the duties of the boards or officers in the county.

The County Sheriff, County Treasurer, or County Assessor has the authority to employ a general counsel, either in-house as a staff attorney or through an outside law firm, to advise or represent that officer and office in performing the official duties of that office. The Board of County Commissioners must approve all contracts for outside counsel. Any general counsel employed must be compensated from the funds of the employing county office.

19 O.S. § 527

In any proceeding in which a county officer brings an action against another county officer, the district attorney shall not represent either county officer in the action. If the District Attorney and the Board of County Commissioners agree, the county may hire outside counsel at the expense of the county.

19 O.S. § 215.25(H)  
19 O.S. § 215.37M(B)

### ***Non-Elected County Officers and Boards***

County governments in Oklahoma are managed by both elected and non-elected officers. The following list includes officers and board members that might serve the county by appointment:

- County Engineer
- County Extension Office professionals
- Superintendent of Health
- County Medical Examiner
- County Safety Director
- Safety Coordinators
- County Board of Equalization members
- County Excise Board members
- Board of Tax Roll Corrections members
- County Emergency Management Director (Formerly the County Civil Defense Director)
- County Board of Public Welfare members
- County Election Board members
- County Free Fair Board members (elected within each County Commissioner's district)

## County Engineer

The County Engineer oversees county highway programs and may assist with maintenance and construction projects. The County Engineer also keeps records of county roadwork costs.

69 O.S. § 624  
69 O.S. §§ 625, 626

Counties may hire either a full-time or part-time engineer or may enter into a contract with an engineering consultant. Several counties may share the services of one engineer. In some cases, the State Department of Transportation may provide engineering services.

Counties may now join with other counties located within their Association of County Commissioners of Oklahoma (ACCO) districts to form Circuit Engineering Districts. Counties within these Circuit Engineering Districts may share an engineer hired by, or under contract to, a district.

69 O.S. § 687.1

## County Extension Office Personnel

The Oklahoma Cooperative Extension Service (OCES) maintains the County Extension Office and hires, with the approval of the Board of County Commissioners, the County Extension Director. Through the County Extension Office staff, OCES provides educational resources and programs organized into four major areas:

70 O.S. § 3418

- Agriculture
- Family Life, Nutrition, and Health
- 4-H and Youth Development
- Rural Development

## County Board of Health/Superintendent of Health

The County Board of Health consists of five members, two appointed by the State Commissioner of Health, two by the County Commissioners, and one by the district court. This Board establishes and maintains a county health department, a district health department, or a cooperative health department.

63 O.S. §§ 1-201, 1-206

Two or more boards of health may form a health district. County boards of health and/or health districts may join cities, towns, and schools to form cooperative departments of health. The primary purposes of these entities include preventing and controlling disease and other health dangers, educating the public, providing preventive services, keeping vital records, and assisting the State Commissioner of Health. Financing is achieved by county mill levy, state funds, user fees, and sometimes an earmarked sales tax.

For any county without a health department and which does not participate in a district health department, the State Commissioner of Health appoints a county superintendent of health.

### **County Medical Examiner**

The Oklahoma Chief Medical Examiner appoints medical examiners for each county to investigate the cause and manner of deaths within the county and to make written reports.

63 O.S. § 937

### **County Safety Director**

The Board of County Commissioner must appoint a county Safety Director to coordinate all county safety programs. This individual must ensure that safety classes on subjects related to that office are provided at least quarterly for all county employees.

40 O.S. § 403(E)

### **Safety Coordinators**

Each county officer may also appoint a Safety Coordinator to coordinate safety programs for employees in that office. The Safety Coordinators report to the County Safety Director.

40 O.S. § 403(E)

[ACCO](#) publishes the ACCO Fire and Safety Manual, which contains additional information about safety in county offices.

## County Board of Equalization Members

The primary duty of the three members of the County Board of Equalization is to ensure equalization of property taxes. The County Board of Equalization hears protests, reviews property tax assessment records, reviews homestead exemption applications, and corrects errors. The board members may raise or lower appraised values of properties, add omitted property to the tax roll, declare certain property non-taxable, and make other tax-related decisions.

68 O.S. § 2861  
68 O.S. § 2862  
68 O.S. § 2863  
68 O.S. § 2864

Members of the County Board of Equalization also serve on the County Excise Board. The Board of County Commissioners, the Commissioners of the Oklahoma Tax Commission, and a district judge, or a majority of district judges, each appoints one member of the County Board of Equalization. The County Clerk serves as secretary to this board.

68 O.S. § 2861(E)

## County Excise Board Members

The County Excise Board, composed of the members of the County Board of Equalization, oversees and reviews all county, school district, and city budgets to determine if they are legally and adequately funded within the revenues available. This board also performs the following functions:

68 O.S. § 3005.1

68 O.S. §§ 3006, 3007

- Reviews and approves the county budget
- Fixes the tax levy or millage rate
- Gives public notice that the budget and tax levies are open to public discussion

The County Excise Board meets at the county seat on the first Monday of July each year to organize and elect a chairman and vice-chairman to perform excise duties for that fiscal year. The County Clerk serves as secretary to the County Excise Board.

68 O.S. § 3006

Each member of the County Excise Board shall attend and successfully complete a course of instruction consisting of six hours within 18 months plus three hours of CEU instruction every four years.

### **Board of Tax Roll Corrections Members**

Members of the Board of Tax Roll Corrections include the Chairman of the Board of County Commissioners as chairman, the Chairman of the Equalization Board as vice-chairman, and the County Assessor as a member. The County Clerk serves as secretary, but is a non-voting member.

68 O.S. § 2871

This board investigates reports of errors in the certified tax rolls and corrects these errors when warranted. Such corrections might include mathematical errors or missing information such as a homestead exemption.

### **County Emergency Management Director**

The County Emergency Management Director, formerly called the County Civil Defense Director, manages the County Emergency Management Program, which is a coordinated effort of local, state, and federal governments to maintain procedures and resources sufficient to meet emergency situations ranging from natural disasters to enemy attacks.

63 O.S. §§ 683.11, 683.12

The County Emergency Management Director also works with the county's Local Emergency Planning Committee (LEPC). These committees are responsible for helping to facilitate communications between facilities that handle hazardous materials and their respective communities. This activity is mandated by the Risk Management Program provisions of the federal Clean Air Act Amendments of 1990.

### **The County Board of Public Welfare Members**

The State Welfare Commission appoints members to the County Board of Public Welfare, which administers state and federal assistance programs for needy persons such as disabled or handicapped adults and children and dependent children.

56 O.S. § 163

### **County Election Board Members**

The State Election Board appoints two members, two alternates, and a County Election Board Secretary to the County Election Board, and these individuals are responsible for ensuring that all of the steps necessary to organize, administer, and hold official elections are performed correctly. These steps include printing,

26 O.S.  
§§ 2-110, 2-111,  
2-111.1, 2-111.2,  
2-117

distributing, collecting, and counting ballots, and delivering them to the State Election Board. The County Election Board appoints a secretary, an election judge, clerk, and inspector in each precinct.

26 O.S.  
§§ 2-124, 2-125, 2-126

### **County Free Fair Board Members**

The nine members of the County Free Fair Board are generally elected by written secret ballot at a mass meeting in February called by the Board of County Commissioners. Three members are elected annually, one from each County Commissioner's district. These members manage the fairground facilities and conduct the county free fair, junior livestock show, and other events.

### **Other Non-Elected Officers**

Other non-elected county officers may serve with other county organizations, which might include the following groups:

- County Law Library Board of Trustees
- City-County Park and Recreation Commission
- Land Use Planning Commission
- County Hospital Board of Control

## Chapter Two

# Sources of County Revenue

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This chapter explains the sources of revenue for counties in Oklahoma and discusses the various revenue funds that counties can operate.

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## County Funds

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The graph in [Figure 2-1](#) shows the average county revenue sources for FY 2004. This graph depicts the average revenue sources for all 77 counties in Oklahoma. Not all counties receive revenue from all of the items included in the graph. For example, not all counties have a county sales tax.

### ***The County General Fund***

The Oklahoma Constitution and the Oklahoma Statutes authorize counties to create a County General Fund, which is the county's primary source of operating revenue.

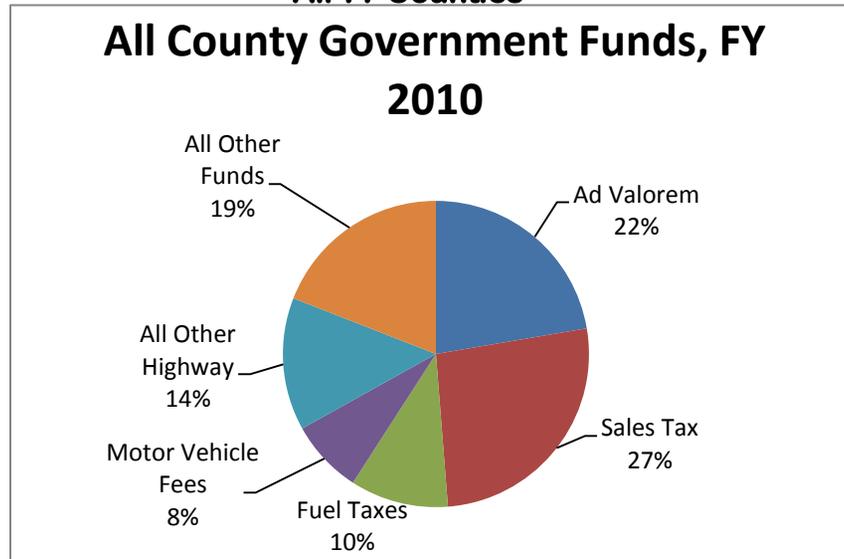
The County General Fund is typically used to pay most county employees' salaries plus many expenses for county maintenance and operation. It also provides revenue for various budget accounts and accounts that support special services and programs. [Table 2-1](#) shows some options for revenue amounts that could be apportioned to budget accounts that support special services as established by the statutes.

The Board of County Commissioners must review and approve all expenditures made from the County General Fund.

Oklahoma Constitution  
Article 10, § 9

62 O.S. § 331  
68 O.S. §§ 3009, 3011

**Figure 2-1. County Government Revenue Sources for Counties, FY 2010**  
**All 77 Counties**



Statewide	FY 2010
Ad Valorem	242,580,791
Sales Tax	287,197,922
Fuel Taxes	112,752,833
Motor Vehicle Fees	84,703,973
All Other Highway	152,251,885
All Other Funds	207,295,837

Sources of revenue include all revenues to General, County Highway, and Special Revenue funds. The percent of revenue by source was calculated for each of the seventy-seven counties. Then the average of the seventy-seven counties was computed based on the statistics of the individual counties.

Source: The data for this graph comes from the *Abstract of the General Fund for Counties in Oklahoma* published by the Oklahoma Cooperative Extension Service at Oklahoma State University, available at <http://www.rd.okstate.edu/RDPublications.htm#D>.



**This graph shows a general average of all 77 counties in Oklahoma. Not all counties receive revenue from all of the sources shown. For example, not all counties have a sales tax.**

**Figure 2-1. Average County General Fund Revenue FY 2010**

**Table 2-1. County General Fund Budget  
Accounts and Regulations for Special Services**

62 O.S. § 331

<b>Budget Account</b>	<b>Regulated Amount of Deposit</b>
Crippled Children – Removed	Oklahoma Supreme Court – State v Malibie 1981 OK 18 630 P.2d 310 – declared unconstitutional
County Audit	Mandatory to provide one-tenth mill
Governmental	Optional with the Board of County Commissioners
Tick Eradication	Optional with the Board of County Commissioners
Highway Levy for road and bridge construction and maintenance	Optional with the Board of County Commissioners
Free Fair	Optional within the limit of the applicable statute under which the free fair is organized
Free Fair Improvement	Optional within the net proceeds of one mill
Free Fair Additional Improvement	Optional within the net proceeds of one mill
Library	Optional within the net proceeds of one-half mill
Public Health	Optional within the net proceeds of one mill (when coordinated by the State Department of Public Health)
Bovine T.B.	Optional within the limit of \$5,000.00
Farm and Home Demonstration	Variable with the size of the county (optional within statutory limitations)

The primary revenue source for the County General Fund is usually the county's ad valorem tax collected on real, personal (if applicable), and public service property. Smaller amounts of revenue can come from other sources:

62 O.S. § 331

### **Ad Valorem Tax Collections**

Ad valorem means "according to value" or "in proportion to value." Most people use the terms ad valorem and property tax interchangeably. Property tax is an ad valorem tax because the amount of tax is directly proportional to the taxable value of the property.

Property taxes are measured in mills. A mill is a one-thousandth of one dollar tax for every \$1,000.00 of taxable value. Taxable value (assessed value) is equal to the fair cash value multiplied by the assessment percentage or ratio.

The County Excise Board can lawfully set the levy not to exceed 15 mills (five of which is apportioned for school district purposes). They can then apportion the anticipated revenue among the county, cities, towns, and school districts.



**The Oklahoma Constitution limits the real property applied assessment percentage to between 11 and 13.5% of fair cash value and the personal property applied assessment percentage to between ten and 15% of fair cash value. These amounts can be changed by a county-wide vote of the people.**

Oklahoma Constitution  
Article 10, § 8

Ad valorem taxes are collected on two types of property: real property and personal property.

68 O.S. § 2806  
68 O.S., § 2807

### ***Real Property***

Real property consists of land or a combination of land and building improvements. The County Assessor determines the fair cash value according to how this real estate is being used. Any change in the property during the year, such as new construction or the removal of a building, results in a reassessment. The assessor must visually inspect each piece of real property at least every four years.

68 O.S. § 2806

## **Personal Property**

Personal property includes individual personal property and business personal property.

68 O.S. § 2807

Individual personal property includes such things as clothing, furniture, tools, jewelry, silverware, sporting equipment, pianos, grain loaders, saddles, and other items.

Business personal property includes commercial, business, and professional equipment such as furniture, machinery, merchandise inventories, merchandise on consignment, and merchandise on leased land.



**Counties can elect to abolish household personal property taxes.**

**For counties that have passed the county option to abolish household personal property and livestock in support of the family, the constitutional 10-mill limitation is increased to compensate for the loss in the tax base and make the tax base revenue neutral in tax collections in the year in which it was passed by a vote of the people.**

Oklahoma Constitution  
Article 10, § 8A

Oklahoma Constitution  
Article 10, § 8A

Table 2-2 shows the ad valorem taxation process and the responsibilities of the various county offices in that process.

Table 2-3 shows a hypothetical computation of the property tax due on an 80,000 house in a county where the assessment ratio is 12% and the levy is 80 mills.

The *Oklahoma Ad Valorem Mill Levies, Fiscal Year 2006*, published by the [Oklahoma Cooperative Extension Service](#) at OSU, contains a statewide, comprehensive listing, by county, of statewide local government millages.

This document is available at  
<http://www.rd.okstate.edu/RDPublications.htm#D>.

**Table 2-2. County Ad Valorem Taxation Process**

Office or Board	Activity
County Assessor	Appraises real property and accepts renditions on personal property Appraised value = fair cash value according to use
	Applies assessment ratio to appraised value Appraised value x assessment ratio = gross assessed valuation
	Applies applicable exemptions to determine net assessed valuation. Gross assessed valuation – exemptions = net assessed (or taxable) valuation
	Prepares a summary of the assessment rolls (an abstract of all valuations of taxable property in the county)
	Certifies and presents this summary to the County Excise/Equalization Board and the Oklahoma Tax Commission
County Excise Board	Receives and reviews the County Assessor’s summary, which shows the county’s tax base Later receives certified values from State Board of Equalization (county’s total taxable valuation)
	Receives and reviews estimates of needs from each department of county government
	Determines exact tax levy and certifies the levies to the County Assessor  Levy (up to constitutional limitation) = tax revenues needed x 1000 taxable valuation

**Table 2-2. County Ad Valorem Taxation Process (Continued)**

Office or Board	Activity
County Assessor	Applies the levy to each entry on the assessment rolls Mill rate x taxable valuation = tax 1000
	Prepares the tax rolls
	Certifies the tax rolls to the County Treasurer and [ at the same time files a true and correct abstract of the tax rolls with the county clerk. The county clerk directs the county treasurer to collect the amount contained in the abstract. <span style="color: green;">68 O.S. §§ 2869, 3014</span>
County Treasurer	Prepares and mails tax statements
	Receives tax payments
	Issues delinquent tax notices and warrants on personal property
	Initiates and supervises tax sales on real property for nonpayment of taxes

**Table 2-3. Property Tax Calculation**

Fair cash value of a home	\$80,000.00
Times the assessment ratio	x .12
Equals assessed value	\$9,600.00
Less homestead exemption	<1,000.00>
Equals net assessed value	\$8,600.00
Times the tax rate (80 mills) or 80/1000 = 0.080	x 0.080
Equals tax due	\$688.00

**Other Ad Valorem Funded Budgets**

The Oklahoma Constitution authorizes the ad valorem taxation for political subdivision of State. All ad valorem funded budgets must be submitted to the County Excise Board for certification of the ad valorem tax rate or levy. The county treasurer collections all ad valorem taxes for the county and apportions the revenue to each authorized entity. Those most common entities are counties, cities and schools, other examples are:

- County Health Department
- County Building
- Emergency Medical Services
- Solid Waste Management District - three mills (Assessor HB)
- County Industrial Development Fund – five mills
- Cooperative Library – one to four mills

Oklahoma Constitution  
Article 10, § 9A  
63 O.S. § 1-223

Oklahoma Constitution  
Article 10, § 10

Oklahoma Constitution  
Article 10, § 9Ca

- County Sinking Fund

Refer to Chapter 9, General Description of Ad Valorem Taxation, in the *Handbook for County Assessors of Oklahoma* for a list of all levies with their legal citations.

### **Exemptions to Ad Valorem Taxation**

The Oklahoma Statutes provide for tax exemptions for governmental, educational, religious, and charitable institutions.

68 O.S. § 2887

They also provide for other exemptions such as the homestead exemption.

### **Homestead Exemption**

Persons who own homes in the county are eligible for a homestead exemption provided the home is their actual permanent residence and they are citizens of Oklahoma.

A homestead is exempt from ad valorem taxation up to \$1,000 of the assessed value. (The property's taxable valuation less \$1,000)

68 O.S. §§ 2888, 2889

Persons who purchased homes during the past year are eligible for a homestead exemption if the following two criteria apply:

- The persons were actually living on the property on January 1 of the current taxable year.
- The deed or other evidence of ownership has been or will be filed for record in the County Clerk's office prior to February 1 in the year in which the owner first applies for the homestead exemption.

68 O.S. § 2889

Property owners are not entitled to homestead exemption if any of the following criteria apply:

- The owner is not actually residing on the property on January 1 of the taxable year.
- The property is rented.

- The deed or other conveyance of title is not on record in the County Clerk's office prior to February 1 of the year in which the owner first applies for the homestead exemption.
- The title to the property is in probate (except for the surviving spouse or minor children living on the property).

### **Additional Homestead Exemption**

An additional homestead exemption is an additional exemption allowed to any homeowner who meets the following conditions:

68 O.S. § 2890

- The homeowner is eligible for a homestead exemption.
- Application for additional homestead must be made annually on or before March 15.
- The homeowner's gross household income is twenty thousand (\$20,000) or less for the preceding calendar year.

### **Ad Valorem Tax Refunds or Credits**

A head of household can qualify for a refund or credit of ad valorem tax payments if the following conditions apply:

68 O.S. § 2906

- The person is totally disabled or is 65 years of age or older.
- The person's gross household income is \$12,000 or less.
- The person has been living in the state during the entire preceding year.
- The person has been honorably discharged from active service in any branch of the Armed Forces of the United States or Oklahoma National Guard, and has been certified by the United States Department of Veterans Affairs or its successor to have a 100% permanent disability sustained through military action or accident or resulting from disease contracted while in such active service, or is the surviving spouse of the person.

Oklahoma Constitution  
Article 10, Section 8E

## Fees and Collections

Fees and collections are another source of revenue for the County General Fund. They are revenue sources generated by a political subdivision. Fees are charged for services provided. The majority of the services and accompanying fees are established by the legislature. Collections are the revenues obtained from the fees.

28 O.S. § 43

For example, the County Clerk collects a fee for recording deeds and other legal documents, and the treasurer collects fees associated with the collection of delinquent taxes.

28 O.S. § 32

## County Sales Tax

County sales tax revenues can also be placed in the County General Fund. Any county with a population of 300,000 or less may levy up to a two-percent county sales tax. Counties with populations larger than 300,000 may levy a restricted tax of one-half of one percent or one percent to finance certain facilities.

68 O.S. § 1370  
68 O.S. § 1370.1  
68 O.S. § 1370.2  
68 O.S. § 1370.3  
68 O.S. § 1370.4  
68 O.S. § 1370.5  
68 O.S. § 1370.6



**County sales tax revenues can also be kept in a separate cash fund (revolving fund) that has been specifically set up for that purpose.**

A.G. Opinions 04-32, 05-23, 07-22

To institute a county sales tax, the Board of County Commissioners must call an election or an initiative petition must be completed. In either case, an election is held to perform the following activities:

A.G. Opinion 96-70

- Implement the tax
- Set the tax levy
- Set the duration of the tax which may be for a specific or indefinite time period
- Set the use(s) for which the sales tax collections will be used

A simple majority of the eligible voters in the county is required to pass the sales tax.

68 O.S. § 1370

Sales tax revenues may be used for general operations, capital improvements, county roads, or other necessary uses as designated. Such uses must promote the safety, security, and the general wellbeing of the people of the county.

68 O.S., §§ 1354, 2701



**Incorporated cities and towns are allowed to levy a sales tax. Any municipal sales tax would be in addition to the 4.5% levied by the state and the maximum allowed for county government. The amount of a municipal sales tax must be approved by a majority vote of the registered voters at a general or special election.**

### **County Use Tax**

Counties can adopt a use tax after a sales tax is in place. Use tax is collected on mail and phone order and Internet purchases from merchants who have no physical presence in Oklahoma. Use Tax is set by the Board of County Commissioners and cannot exceed the sales tax for the county.

68 O.S. § 2705

OSU Extension Facts F-765, Use Tax for County Government contains additional information on use tax.

68 O.S. § 1411

### **State Transfer Payments**

The State of Oklahoma makes transfer payments to counties, cities, towns, and school districts, some of which are deposited into the County General Fund. Some state transfer payments may be deposited into various cash funds, which are discussed later in this chapter. State transfer payments are generated primarily from the following sources:

- County Bridge and Road Improvement Fund
- Motor fuel excise taxes
- Special fuel taxes
- Collections
- Forfeiture taxes

69 O.S. § 664

68 O.S.

§ 500.6(A)(4), (A)(5), (A)(6)

68 O.S. § 500.7

47 O.S. § 1104

- Motor vehicle license and registration fees
- Gross production tax

68 O.S. § 1004

In addition, school districts receive funds from the state rural electric co-op tax according to the number of miles of power lines within each district. Cities and towns receive funds from the state alcoholic beverage tax based on total area and population. Counties and municipalities with racetracks also receive monies from admission fees.

The Oklahoma Tax Commission makes transfer payments to the County Treasurer for counties and school districts. Cities and towns receive their shares directly from the Oklahoma Tax Commission.

Table 2-4 shows the sources and uses of state monies that are transferred to counties.

The **Oklahoma Tax Commission** booklet, *State Payments to Local Governments*, summarizes the monies returned to each political subdivision and provides statute references for tax authorization and apportionment.

### In-Lieu Taxes

In-lieu taxes, which are deposited into the County General Fund, are taxes that substitute for, or take the place of, ad valorem taxes. In lieu taxes come from the following sources:

68 O.S. §§ 5301  
47 O.S. § 1137.1

- Auto Tax Stamps
- Registration fees and taxes on aircraft
- Registration and licenses for vessels and motors
- Textile taxes
- Farm tractors and equipment

3 O.S. § 256  
63 O.S. § 4003  
68 O.S. § 2001  
68 O.S. § 5401  
68 O.S. § 5402  
68 O.S. § 5403  
68 O.S. § 5404

- New vehicle inventory

## Reimbursements

Counties may receive reimbursement revenues such as the following examples, which also go into the County General Fund.

68 O.S. §§ 5301

- All local jurisdictions (such as school districts or road districts) that benefit from ad valorem assessment pay a pro-rated share of the total visual inspection budget for the County Assessor’s program of visual inspection where county properties are visually inspected at least once every four years and revalued annually. This cost is included in the county budget, and the local jurisdictions reimburse their shares of the cost to the county.
- The county initially pays for certain expenses for the District Attorney, but the state, through the District Attorneys Council, reimburses the county for certain expenses that the county is not required to provide, such as maintenance, operation, and capital outlay. Counties must provide the District Attorney with office space, including heating, cooling, and maintenance of that space; a law library and necessary legal subscriptions; and funds for investigation, prosecution, or defense of any action where the county is a party.
- The county initially pays salaries and fringe benefits for each election board secretary, but the state, through funds appropriated by the state legislature, reimburses the county at a rate not to exceed 135%] of the specified salaries. The county files claims for this reimbursement with the Secretary of the State Election Board.
- The county may receive reimbursements for ad valorem exemptions such as additional homestead exemptions; exemptions granted for new or expanded manufacturing or research and development facilities; and state owned agricultural land for which no state agency is making an in-lieu ad valorem payment.

68 O.S. § 2820

68 O.S. § 2822

68 O.S. § 2823

68 O.S. § 2817

19 O.S. § 215.36

19 O.S. § 215.37

19 O.S. § 215.38

26 O.S. § 2-118

26 O.S. §§ 2-119, 2-121

62 O.S. §§ 193, 194

**Table 2-4. State Transfer Payment Sources and Uses**

Revenue Source/Tax Rate	Use		
	County Roads*	County Schools	County Government
Gasoline Excise Tax (\$.16/gallon)	32.75%		
Diesel Excise Tax (\$.13/gallon)	34.27%		
Special Fuel (\$.16/gallon) 68 O.S. §§ 500.6, 703, 704, 705, 706, 707.1, 707.2, 707.3	29.89%		
Gross Production Tax (oil) 7%Tax (But some exemptions exist and 1% for 48 months on horizontally drilled wells and varies with well depth.) 68 O.S. §§ 1001, 1004	11.427**	7.14	
Gross Production Tax (natural gas)7% Tax (same as above) 68 O.S. §§ 1001, 1004	7.147	7.14	
Motor Vehicle Licenses 47 O.S. § 1104	13.45%	36.20%	0.83%
Rural Electric Co-op Tax 68 O.S. § 1803, 1806		95%	
Counties with racetracks: Admission Fee Tax 3A O.S. § 207			50%
Gross Production Tax (asphalt or ores) ¾ of 1% of value 68 O.S. § 1001	7.14%	7.14%	

\*Percentages for county roads include County Bridge and Road Improvement Fund.

\*\* 4.28% to County Bridge and Road Improvement Fund of the State Treasury

## **Cash Funds**

Special revenue funds, or cash funds, are created by statute and must be accounted for separately. Accounts within a cash fund are not subject to fiscal year limitations, which means that any cash surplus in an account at the end of a fiscal year remains with that account at the beginning of the new fiscal year. The Statutes may reference cash funds as revolving funds. Cash fund revenues come from many sources including the following three sources:

- Excise taxes that the State of Oklahoma collects and distributes to counties
- State of Oklahoma contributions from its General Revenue Fund 68 O.S. § 1370 (E)
- Local collections of monies 68 O.S. § 2829.1

Cash funds differ from the County General Fund in one important way. County General Funds can be apportioned by the County Excise Board according to anticipated receipts. Revenue in cash funds must be actually collected before it can be disbursed. The following are some examples of county cash funds: 63 O.S. § 683.17  
22 § 991a 4.1  
22 O.S. § 1334 (A~J)

- County Sales Tax Fund 69 O.S. § 1503
- County Assessor’s Fee Revolving Fund 22 O.S. § 1334 (A~J)
- Emergency Management Fund 21 O.S. §1761.1
- County Community Service Sentencing Program (CSSP) Fund 82 O.S. §§ 1601
- County Commissioners’ Litter Reward Fund 82 O.S. §§ 1602
- County Highway Fund 27A O.S. §§ 1-3-101
- County Commissioners’ Flood Plain Cash Fund 27A O.S. §§ 2-4-302
- County Clerk’s Lien Fee Fund
- Court Clerk Revolving Fund
- County Fair Board Free Fair Fund 19 O.S. § 265
- Court Clerk’s Child Abuse Prevention Fund 19 O.S. § 220
- District Attorney’s Bogus Check Restitution Fund 2 O.S. § 15-59
- County Sheriff’s Training Fund 28 O.S. § 86.1
- County Sheriff’s Commissary Account 22 O.S. § 991f-1.1 (E)
- County Sheriff’s Service Fee Fund 22 O.S. § 1325
- County Sheriff’s Service Fee Fund 19 O.S. § 514.2
- County Sheriff’s Service Fee Fund 19 O.S. § 514.1

- County Sheriff's Prisoners' Board Fund
- County Treasurer's Resale Property Fund
- County Treasurer's Mortgage Certification Fee Fund
- Preservation Fee Fund (Effective July 1, 2001)
- Copy Fee Fund
- County Lodging Tax Revolving Fund
- Free Fair Building Fund (authorization to invest monies)

19 O.S. § 180.43 (A)  
 68 O.S. § 2913  
 68 O.S. § 1904  
 28 O.S. § 32  
 51 O.S. § 24A.5 (3)  
 68 O.S. § 1370.9  
 2 O.S., § 15-13

Some special cash funds are established periodically as the need arises for federal and state grant programs such as the following examples:

1. Home rehabilitation grant fund
2. Rural water district fund Fire district fund
3. Special road/bridge repair fund

These special funds are usually set up for the life of the grant program or the special construction project. At the end of the project, the fund is closed. For example, after a storm-related disaster, Federal Emergency Management Agency (FEMA) funds might be deposited into a special account for replacing washed-out bridges. The fund is active only until the project is finished.

### Cash Fund Appropriations

Revenue for Cash Fund accounts are deposited with the County Treasurer upon receipt. Some funds are deposited electronically directly into the county bank account. The County Treasurer will create a miscellaneous receipt upon deposit of any funds.

68 O.S., § 331



County sales tax revenues can also be kept in a separate cash fund that has been specifically set up for that purpose.

At the end of the month the County Treasurer will apportion the revenues received into the proper Cash Fund. Upon completion of the apportionment of funds the Cash

appropriation process can begin by completing the [SA&I Form No. 308, Cash Fund Estimate of Needs and Request for Appropriation](#):

- Part One: Certification of Funds available is completed by the County Treasurer.
- Part Two: Creates the Estimate of Need showing appropriation account in which the revenue is to be appropriated. This is completed by the Officer, BOC or County Clerk. The completed estimate of needs to presented to the Board of County Commissioners and approved in an open meeting.
- Part Three: The Excise Board will revenue the request to determine that the funds are available and that the funds are allocated according to law. Upon approval, the form is returned to the County Clerk.

This step may be approved by a Budget Board in those counties that have adopted the County Budget Act.

Upon receipt of the completed SA&I Form No. 308, the County Clerk will post to the appropriation ledger. The revenue is now available for the county officer governing the cash fund to expend funds.

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## **Capital Projects Funds**

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Money used to acquire or construct major capital facilities is maintained in a capital project fund. For example, money from a road bond issue is recorded in a capital project fund along with expenditures for the road improvement project.

### ***Debt Service Funds***

To ensure the adequate accumulation of principal and interest to retire a debt, accounting is maintained through a debt service fund called a sinking fund. Debt issues are typically designed so that the size of the debt service payments (both principal and interest) is very similar from one year to the next. Therefore, the ad valorem tax levy collected and placed in the sinking fund is about the same from year

to year. The exact mill levy each year depends on the debt service payment and the taxable valuation.

### **Special Assessment Funds**

Sometimes public improvement districts are established in which the property owners who receive a direct benefit from the improvement pay a proportional share of the expense. The money paid to finance such projects is recorded in a special assessment fund.

### **Audit Funds**

The following funds are classified as audit funds by the Office of the State Auditor and Inspector:

#### ***Proprietary Funds***

Proprietary funds follow the accrual basis of accounting. Revenues are recognized in the accounting period in which they are earned and become measurable. Expenses are recognized in the period in which they are incurred.

#### ***Enterprise Funds***

When a county intends to finance the provision of goods or services through user fees or charges, an enterprise fund is used to account for the revenues earned, expenses (including depreciation), and net income from the function. The Oklahoma County parking garage is an example of an enterprise fund project.

#### ***Internal Service Funds***

Some functions within county government are to provide goods and services to multiple individual departments from a centralized source. For example, a county may have a central source for office supplies for all county offices. Revenue and expenditures for such functions are accounted for in internal service funds.

### ***Fiduciary Funds***

Fiduciary fund revenues and expenditures are recognized on the basis consistent with the fund's accounting measurement objective as explained in the examples of fiduciary funds below.

### **Trust and Agency Funds**

Trust and agency funds account for assets held by the county in a trustee capacity or as an agent for individuals, private organizations, other governmental units, or other funds. Such funds include expendable trust, nonexpendable trust, pension trust, and agency funds. For example, a self-administered retirement fund for employees would be a trust and agency fund.

60 O.S. § 176

- Expendable trust funds are handled in the same way as governmental funds.
- Nonexpendable trust funds and pension trust funds are handled in essentially the same way as proprietary funds. They are accounted for on the accrual basis.
- Agency funds are purely custodial and do not involve measuring changes in financial position. These funds assets and liabilities are accounted for on the accrual basis.

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## **Other Sources of County Revenue**

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### ***Funds for County Road and Bridge Construction and Maintenance***

Both the federal government and the state provide funds to counties to assist in county road and bridge construction and maintenance.

### **County Bridge and Road Improvement Fund**

The County Bridge and Road Improvement Fund receives a portion of the motor fuel excise tax and gross production taxes. [The Oklahoma Department of Transportation \(ODOT\)](#) divides the monies among all of the counties based on various formulas.

69 O.S. § 302.1  
60 O.S. § 659-686  
A.G. Opinion 05-06

These formulas take into account county population, miles of county roads, and county land area.

### **County Improvements for Roads and Bridges Fund**

Effective July 1, 2007, the CIRB program created the County Improvements for Roads and Bridges fund. The Transportation Commission administers the fund. Its purpose is to construct or reconstruct county roads or bridges that are of the highest priority. The program is funded by a portion of vehicle license and registration fees.

47 O.S. § 1104 (L)  
69 O.S. § 507

### **Other Funds**

Other funds for road and bridge construction and maintenance include federal Surface Transportation Program funds and Bridge Replacement funds. For more information, refer to “Financing for Bridge and Road Construction and Maintenance” in Chapter Fourteen of Handbook for County Commissioners of Oklahoma, “Duties of the County Commissioner: Roads and Bridges.”

## Chapter Three

# The County Budget Process

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## Budget Preparation

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County officers, the County Excise Board, and sometimes County Budget Boards are required by law to perform several very important functions in the process of budget preparation and review.

This chapter discusses the purpose of budgets in general, the elected officials' roles in the annual budget process, and the County Excise Board's and County Budget Board's responsibilities and authorities in budget review and approval. It also addresses, in particular, the County General Fund. Other funds, such as the Highway Fund, are budgeted and appropriated monthly, rather than annually.

To ensure fiscal responsibility and accountability of public officials to the law and the people that they serve; Oklahoma State law requires all units of local government, including school districts, to prepare an annual financial statement and estimate of needs [ for certain funds, especially the General Fund. ] These documents must be available for inspection by state and county review boards and the general public. The county fiscal year in Oklahoma is July 1 through June 30.

68 O.S. § 3002, 3004

The governing board is responsible for ensuring that each county officer files with them a financial statement (county officers annual report form, Office of the State Auditor and Inspector (SA&I) Form No. 1161 or SA&I Form No. 1162)

that shows revenues and expenses for the past year and an estimate of expenditures and revenues for the next fiscal year. This information must be entered on the SA&I Form No. 2631R97, Estimate of Needs and Financial Statement. The Board then uses that information to report an itemized statement of estimated need to the County Excise Board. In counties with a Budget Board, the key difference is that the Budget Board submits the proposed budget to the County Excise Board.

**OSU Extension Facts F-886, County Budget Process contains information on the budget process in counties in Oklahoma.**

### ***The Purpose of a Budget***

Preparing a well-researched and carefully planned budget should help the money manager perform two important tasks:

- This step reveals how effectively money has been spent and how efficiently programs and projects have been administered.  
Proposing expenditures on the basis of revenues anticipated during the coming year
- This step shows how to efficiently continue or increase past expenditures, and how to prioritize spending for the next fiscal year.

### ***Forms Related to the Budget Process***

The County Clerk purchases all forms related to the county budget process. The County Clerk distributes these forms to county offices upon request.

68 O.S. § 3002, 3004

The following forms are the primary forms used in the county budget process:

- County officers annual report form, [SA&I Form No. 1161](#) and [SA&I Form No. 1162](#)
- *Cash Fund Estimate of Needs and Request for Appropriation*, [SA&I Form No. 308](#)
- Certificate of Levy, [SA&I Form No. 2633](#)
- *Estimate of Needs and Financial Statement*, SA&I Form No. 2631R97
- *Officer's Request for Supplemental Appropriation*, [SA&I Form No. 388](#)
- *Supplemental Appropriation*, [SA&I Form No. 150](#)
- *Transfer of Appropriations*, [SA&I Form No. 237](#)

### ***Budget Submissions***

In most counties the County Excise Board is responsible for approving the budget and appropriations. In most counties, the County Excise Board revises the budget if needed. Some counties, however, have elected to have a County Budget Board, which is largely responsible for budget revisions. [Table 3-1](#) summarizes the differences between the two county budget systems.

**Table 3-1. Differences Between the Two County Budget Systems:  
Commissioner/Excise Board System and Budget Board System**

<b>Activity</b>	<b>Commissioner/Excise Board</b>	<b>Budget Board</b>
Estimates available funds and needs for county	County Excise Board by July 1	County Excise Board by a date set by the Budget Board
Holds Budget Conference	County Excise Board	Budget Board
Submits budget	Board of County Commissioners to County Excise Board by August 17	Budget Board to County Excise board by July 1
Makes temporary appropriations	County Excise Board	Not necessary

**Table 3-1. Differences Between the Two County Budget Systems:  
Commissioner/Excise Board System and Budget Board System (Continued)**

<b>Activity</b>	<b>Commissioner/Excise Board</b>	<b>Budget Board</b>
Handles inadequate provision for mandatory functions	County Excise Board provides an estimate of needs unless the officer in charge submits it	County Excise Board returns the budget to the Budget Board, which must respond within 15 days
Trims requests: Amounts that exceed lawful amount Ad valorem budget revenues that exceed appropriation amount	County Excise Board  County Excise Board/Board of County Commissioners	County Excise Board  County Excise Board returns budget to the Budget Board, which must respond within 15 days
Approves balanced, lawful budget	County Excise Board	County Excise Board
Amends budget and supplements	Authorized by the County Excise Board	Authorized by the Budget Board
Approves budget transfers	Board of County Commissioners, which also notifies the County Excise Board	Budget Board

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## County Budgets in Counties Where County Excise Boards are Responsible for the Budget

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Most counties use the Commissioner/Excise Board Budget Method. The Board of County Commissioners prepares and submits Estimates of Needs for the county to the County Excise Board. The County Assessor must also submit an Estimate of Needs for the visual inspection program to the County Excise Board. [Table 3-2](#) shows the fiscal timetable for counties that use the Commissioner/Excise Board Budget Method.

68 O.S. § 2822

### *The County Excise Board*

Each county has one County Excise Board, which is an agency of the state, created by law, as part of a system of checks and balances required by the Oklahoma Constitution. This board is composed of members of the County Board of Equalization. These members are appointed in the following manner:

68 O.S. § 2861  
68 O.S. § 3005.1

- One member by the Oklahoma Tax Commission  
As a matter of practice, the Oklahoma Tax Commission typically seeks the advice of the county's state senator.
- One member by the Board of County Commissioners
- One member by the District Judge or a majority of the District Judges in all judicial districts with more than one District Judge

The County Clerk serves as secretary to the County Excise Board.

The tenure of the County Excise Board must be coterminous with that of the County Commissioners in Districts 1 and 3, and must follow other requirements set forth in the statutes. The County Excise Board must perform the following functions:

68 O.S. §§ 2861, 3005.1(A)

**Table 3-2. Fiscal Timetable for Counties Using the Commissioner/Excise Board Budget Method**

Date	Activity	Statute Reference
January 1	The County Assessor lists, appraises, and assesses all property for ad valorem taxation, based on the estimated fair cash value on January 1.	68 O.S. § 2831
January 1 to March 15	The County Assessor accepts personal property renditions from individuals and businesses, homestead exemption applications, and manufacturer's exemption applications.	68 O.S. §§ 2832 68 O.S. §§ 2892, 2902
January 1 to the 4th Monday in April	The County Assessor sends notices to those whose exemptions are denied and to anyone whose property value is being increased from the previous year.	68 O.S. §§ 2832 68 O.S. §§ 2892, § 2902
While the Board of Equalization is in session	The County Assessor begins preparing the assessment role: the taxable value of property is recorded, the assessment ratio is applied to derive the assessed value, and exemptions are deducted from the assessed value to compute the net taxable value.	68 O.S. § 2842
Before April 30	The County Assessor prepares an exemption reimbursement form to be signed by the Board of County Commissioners and sent to the Oklahoma Tax Commission (OTC). The exemption reimbursement form shows the amounts of additional homestead and manufacturer's exemptions that were granted during the previous assessment year. If the OTC approves these exemptions, the State reimburses all or a portion of the taxes lost due to these exemptions.  The claims must be approved or disapproved by June 15 each year.	62 O.S. § 193

**Table 3-2. Fiscal Timetable for Counties Using  
the Commissioner/Excise Board Budget Method (Continued)**

Date	Activity	Statute Reference
Within 20 days of notice of increase in valuation	Taxpayers may file any complaints regarding assessed value or denial of exemption. The County Assessor holds an informal hearing with the taxpayer and makes a decision within five working days. If the taxpayer is still dissatisfied, the taxpayer must file an appeal with the County Board of Equalization within ten working days of the date the notice is mailed or delivered.	68 O.S. §§ 2876 68 O.S. §§ 2877
April 1 to May 31	The County Board of Equalization in counties with total assessed valuation of less than one billion dollars hears taxpayers' protests and makes their decisions.	68 O.S. §§ 2863, 2864
Within 10 days of adjournment of the County Board of Equalization	If desired, the County Assessor or the taxpayer may appeal any decision of the County Board of Equalization in district court.	68 O.S. § 2880.1 68 O.S. § 2902
By June 15	The County Assessor must file the annual abstract of assessment with the OTC.	68 O.S. § 2867
Within 10 days of receiving certification	The County Assessor files an abstract of assessment with the County Excise Board ("Report to Excise Board").	68 O.S. § 2867 A.G. Opinion 05-17



**Table 3-2. Fiscal Timetable for Counties Using  
the Commissioner/Excise Board Budget Method (Continued)**

<b>Date</b>	<b>Activity</b>	<b>Statute Reference</b>
On or prior to July 31	The State Board of Equalization shall cause the assessed valuations of any railroad, air carrier or public service corporation to be certified by the State Auditor and Inspector to the county assessors of each county in which any portion of the property may be located.	68 O.S. § 2860
By July 1	The County Excise Board holds a budget planning conference with each county officer to discuss personnel needs and shall provide, prior to the meeting, a tentative estimate of available revenues for the new fiscal year.	19 O.S. § 180.65(E)
On or prior to July 25	County Excise Board apportions the millage as authorized by the Oklahoma Constitution	Oklahoma Constitution Article 10 § 9 68 O.S. § 315
On or prior to July 31	The State Board of Equalization shall cause the assessed valuations of any railroad, air carrier or public service corporation to be certified by the State Auditor and Inspector to the county assessors of each county in which any portion of the property may be located.	68 O.S. § 2860
By August 17	The Board of County Commissioners files the financial statements and estimates with the County Excise Board using a uniform, authorized bookkeeping system.  The budget, the financial statement, and the estimate of needs must be published in a legally qualified newspaper.	68 O.S. § 3002 74 O.S. § 214



- Require adequate and accurate reporting of finances and expenditures for all budget and supplemental purposes from all county entities
- Provide each county officer with adequate funds for the performance of mandatory constitutional and statutory governmental functions within the financial means available
- Perform other duties as defined in the statutes

68 O.S. §§ 3007, 3014

The County Excise Board meets at the county seat on the first Monday in July each year, or on a date determined by County Excise Board members. The board organizes and elects, for the upcoming fiscal year, one of its members as chairman and another member as vice-chairman to perform certain duties as required by law.

68 O.S. §§ 3006, 3007

### ***Abstract of Assessed Valuations***

Within ten days after receiving the certificates of assessment of centrally assessed properties (all the railroads, air carriers, and public service corporations), and the equalized value of real and personal property of the county, the County Assessor prepares and files an Abstract of Assessed Valuations for the county and each municipal subdivision within the county with the County Excise Board. These values are used in preparing the county budgets.

### ***Who Submits Budgets***

The following entities should prepare and submit budget estimates to the County Excise Board on SA&I-prescribed forms:

68 O.S. § 2867

- The Board of County Commissioners (except in counties with budget boards)

68 O.S. § 3002

- The governing body of each city and town (except Municipal Budget Act cities)
- The board of education of each school district
- Any training entity requiring a levy(library, health, EMS, and others)  
See Extension Fact Sheet [AGEC-795](#).

11 O.S. §§ 17-201, 17-202,  
17-203, 17-204, 17-205,  
17-206, 17-207, 17-208,  
17-209, 17-210, 17-211,  
17-212, 17-213, 17-214,  
17-215, 17-216  
68 O.S. § 3002

### ***Budget Planning Conference***

The County Excise Board holds a budget planning conference with each principal officer and department head before July 1 to discuss personnel needs for the next fiscal year. Prior to this meeting, the board provides the principal officers with an estimate of probable revenues for the next fiscal year.

19 O.S. § 180.65(G)

### ***County Officers Annual Report***

Following the budget planning conference, each county officer prepares the county officer's annual report on [SA&I Form No. 1161](#) or [SA&I Form No. 1162](#), as appropriate. The county officers' annual report forms are provided by the County Clerk. This report is actually two reports: a financial report of earnings and expenditures and an estimate of needs. This report must be submitted to the Board of County Commissioners (through the County Clerk acting as the secretary to the Board) by the first Monday in July and includes the following information:

19 O.S. § 345

- Earnings of the previous fiscal year
- Expenditures of the previous fiscal year
- An estimate of needs for the upcoming fiscal year

68 O.S. § 3004

The estimate of earnings and the report of prior expenditures show the income received along with the costs of operating the office in the outgoing fiscal year. The estimate of needs is an itemized statement of the revenue needed to operate the office during the upcoming fiscal year.

## ***Role of Board of County Commissioners***

On the first Monday in July, the Board of County Commissioners is required by law to meet to begin the following processes:

- Review the county officers' annual reports
- Prepare the county's financial statement for the fiscal year ended June 30
- Prepare the county's annual estimate of needs for the next fiscal year ending June 30

19 O.S. § 345  
68 O.S. §§ 3002, 3004  
68 O.S. § 3003

## ***County's Annual Budget Report***

The county's annual financial statement and annual estimate of needs prepared on SA&I Form No. 2631R97 by the Board of County Commissioners constitute the county's annual budget report (except in counties with budget boards.)

68 O.S. §§ 3002, 3004

The financial statement should show a list of county monies received and disbursed during the previous fiscal year.

The itemized estimated budget for the next fiscal year should include the following information:

68 O.S. § 3002

The probable expenses of all elected officers and their departments for the coming year

The amount required by law for any sinking fund

Probable income from sources other than ad valorem taxes



**The statutes do specifically prohibit the Board of County Commissioners from including any revenue from nonrecurring sources in this income estimate.**

68 O.S. § 3003

## Publication of Financial Statement and Budget

When it is completed, the Board of County Commissioners must have printed a full and accurate statement of the assessments, receipts, and expenditures of the preceding year. The notice must be published in at least one newspaper in the county, or posted at the courthouse and at a public place in each precinct in the county.

68 O.S. § 3002  
19 O.S. § 345

Each financial statement and estimate of needs must be published in one issue in some legally qualified newspaper. An affidavit showing the publication must be attached when the financial statements and estimates are filed with the County Excise Board.

68 O.S. § 3002

## Presentation of Financial Statement and Budget to the County Excise Board

By August 17, the Board of County Commissioners must submit the completed financial statement and estimated budget to the County Excise Board and sign the statement of certification, which certifies that the documents are filed in the County Clerk's office. Usually the County Clerk, serving as secretary to the County Excise Board, files the documents with the Office of the SA&I office and signs the certificate.

68 O.S. § 3002  
68 O.S. § 3008



**Municipalities that have opted to prepare a budget pursuant to the Municipal Budget Act do not file their budgets with the county, but file them with the Office of the SA&I. However, the sinking fund schedule must be submitted to the County Excise Board.**

11 O.S. § 17-209(D)  
11 O.S. § 17-208

## Review and Approval of the County Budget

In approving the county budget, the County Excise Board should follow certain procedures:<sup>2-21</sup>

68 O.S. § 3007

- Examine the financial statements of the county officers to determine the true fiscal condition of each fund and the accounts within each

fund as of June 30 and request additional information when necessary

- Examine the estimates of need for the following criteria:
- Determine if a request is lawful and adequate.
- Provide for mandatory items that are not included.
- Compute the total revenues available to each fund.
- Revise the budget in whole or part through the following steps when the total estimate of needs exceeds the total revenues available:
- Reduce items for functions authorized but not required by constitutional law or statutory law.
- If necessary, then reduce items for functions required by statutory law.
- If necessary, then reduce items for functions required by constitutional law.

The County Excise Board does not have the authority to deny an appropriation for a lawful purpose if the revenue and income are available.

Neel v Board of County  
Com'rs of Cherokee  
County, Okla., 617-P2d  
201 (1980)



**The County Clerk files all budgets with the Office of the SA&I.**

The County Excise Board fixes the time and place for public hearings regarding budgets. The hearing notice must be given by one publication of general circulation. Any taxpayer may appear for or against any part of statements of estimated needs for the current fiscal year. The County Excise Board has the

68 O.S. § 3012  
68 O.S. § 3013

power to call in the official or person in charge for examination concerning estimated needs.

### **Publication of Approved Budget**

The County Clerk must publish a notice one time in a newspaper of general circulation in the county that the approved budget is completed and is on file, for inspection by any citizen, at the County Clerk's office.

68 O.S. § 3006  
68 O.S. § 3022

### ***Transfer of Appropriations***

The County Clerk receives requests for transfers of appropriations as secretary to the Board of County Commissioners. If the Board of County Commissioners makes any transfers of appropriations, the County Clerk makes the proper entries in the appropriation ledger and then notifies the County Excise Board in writing.

A transfer of appropriations occurs when monies are transferred from an account with a surplus to another account that needs additional revenues. If monies are transferred within a fund, a transfer of appropriations neither increases nor decreases the fund's balance.

62 O.S. § 461

A transfer of appropriations may occur between budget accounts in the County General Fund. For example, a transfer of appropriations within the County General Fund may be made from the nonexpended and nonencumbered balance of the appropriation of a county office with less urgent needs to the account of a county office with immediate urgent needs.

AG Opinion No. 85-20

County officers make requests to the Board of County Commissioners for a transfer of appropriation on [SA&I Form No. 237](#) entitled *Transfer of Appropriations*. The following information must be provided when requesting a transfer of appropriation:

- The additional needs that require a transfer of appropriation

- Reason for the additional needs
- Detailed list of items
- Detailed list of items proposed to be canceled in the account from which the transfer is made
- Written consent of the county officer in charge of the account from which the transfer is made

A transfer of appropriations requires the approval of the Board of County Commissioners, which permits both the transfer and the cancellation or reduction of the appropriation in the original account.



**An appropriations account must have at least \$1.00 in it before any monies can be transferred into it. Monies cannot be transferred into a zero-balance account.**

### ***Supplemental and Additional Appropriations***

All requests for supplemental or additional appropriations are filed with the County Clerk as secretary to the County Excise Board. Requests are made on [SA&I Form No. 388](#), *Officer's Request for Supplemental Appropriations*. The governing board would have prepared and completed [SA&I Form No. 150](#), *Supplemental Estimate*. These requests must include specific information:

68 O.S. § 3021  
68 O.S. § 3007

- Date of request
- Statement of amount and purpose
- A financial statement, [ as of the close of the preceding month, ] which indicates the following items:
- Current expense

- Amount of cash unexpended
- Amount of taxes in process of collection
- Amount of uncollected portion of estimated income other than ad valorem tax for current fiscal year
- Amount of warrants outstanding and interest earned and accruing
- Amount of expended balance of fund
- Surplus or deficit in revenue, if any

If sufficient “surplus” revenue is shown, the County Excise Board may approve the supplemental and additional appropriation. If the revenue is insufficient, the County Excise Board may revoke or cancel any previous appropriation and replace it with a supplemental and additional appropriation required for the good of the public.

### **Temporary Transfers**

If at any time during the budget year it appears to the county treasurer that there is temporarily insufficient money in a particular fund to meet the requirements of appropriation in the fund, the County Excise Board, upon request of the County treasurer, upon notification to the county commissioners, may temporarily transfer money from one fund to any other fund with the permission of the county officer in charge of the fund that the money will be temporarily transferred from. No transfer shall be made from the debt service fund to any other fund except as may be permitted by the terms of the bond issue or applicable law. Any funds temporarily transferred shall be repaid to the original fund from which they were transferred within the fiscal year that the funds were transferred.

68 O.S. § 3021 (P)

### **Temporary Appropriations**

From July 1 each year until the time the various county budgets are approved, County Excise Boards can appropriate the amount of available funds estimated for the fiscal year for temporary appropriations.

68 O.S. § 3020

If the County Excise Board approves a temporary appropriation, that appropriation must be merged into the annual appropriation and any warrants drawn against the temporary appropriation must be charged against the final approved annual appropriation for the current fiscal year, including capital outlay items.

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## **City or Town Budgets in Counties Where County Excise Boards are Responsible for the Budget**

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The governing body of each city and town must prepare a financial statement that shows the true fiscal condition of all its accounts and funds as of June 30.

68 O.S. § 3002

This body should also prepare an itemized statement of estimated needs and probable income from sources other than ad valorem taxes for the new fiscal year. The financial statement and estimate of needs must be supported by schedules or exhibits that show, by categories, the amount of all receipts and disbursements.

### ***Statement of Estimate of Needs***

The statement of estimate of needs must be itemized to show, by classes, the following information:

- The amounts necessary for the current expenses of the city or town for each officer and department
- The amount required by law to be provided for any sinking funds (debt purposes)
- The probable income that will be received from all sources other than ad valorem taxes

The financial statement and estimate of needs must be published in a legally qualified newspaper within the county. Financial statements and estimates of need for towns must be filed with the County Excise Board on or before August 22. Statements and estimates for cities must be filed with the board on or before August 27.

Revenue received during the past fiscal year from any nonrecurring source, such as the sale of land, gifts, windfalls, forfeitures, and federal aid allotments are not to be included in the estimate of probable income.

68 O.S. § 3003

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## School District Budgets in Counties Where County Excise Boards are Responsible for the Budget

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The Board of Education of each independent school district must meet on the first Monday in July of each year, and the Board of Education of each dependent school district must meet on the second Tuesday in July of each year to prepare a financial statement for the previous year ending June 30.

The financial statement shows a list of monies received and disbursed during the previous fiscal year. In addition to the financial statement, an estimate of needs should be prepared that includes the following information:

- The current expenses of the school system
- The amount required by law for any sinking fund
- Probable income from sources other than ad valorem taxes (Revenue from non-recurrent sources are not included.)

The financial statement and estimates of all school boards must be filed with the County Excise Board (or the County Clerk) on or before a date specified in the statutes.

68 O.S. § 3002

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## County Budgets in Counties With County Budget Boards

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Table 3-3 shows the fiscal timetable for counties with Budget Boards. The initial activities by the County Assessor in preparing the abstract of valuations are the same as in counties that use the Commissioner/Excise Board budget method.

19 O.S. § 1407

**Table 3-3. Fiscal Timetable for Counties Using the Budget Board Budget Method**

Date	Activity	Statute Reference
January 1	The County Assessor lists, appraises, and assesses all property for ad valorem taxation, based on the estimated fair cash value on January 1.	68 O.S. § 2831
January 1 to March 15	<p>The County Assessor accepts personal property renditions from individuals and businesses, homestead exemption applications, and manufacturer’s exemption applications.</p>  <p><b>Homestead exemption applications are accepted all year. They must be filed by March 15 to apply to the current year.</b></p>	68 O.S. § 2832 68 O.S. §§ 2892, 2902
January 1 to the 4th Monday in April	The County Assessor sends notices to those whose exemptions are denied and to anyone whose property value is being increased from the previous year.	68 O.S. § 2832 68 O.S. §§ 2892, 2902
While the Board of Equalization is in session	<p>The County Assessor begins preparing the assessment role: the taxable value of property is recorded, the assessment ratio is applied to derive the assessed value, and exemptions are deducted from the assessed value to compute the net taxable value.</p> <p>The County Assessor delivers the assessment role to the County Board of Equalization.</p>	68 O.S. § 2842

**Table 3-3. Fiscal Timetable for Counties Using the Budget Board Budget Method (Continued)**

Date	Activity	Statute Reference
While the Board of Equalization is in session	<p>The County Assessor begins preparing the assessment role: the taxable value of property is recorded, the assessment ratio is applied to derive the assessed value, and exemptions are deducted from the assessed value to compute the net taxable value.</p> <p>The County Assessor delivers the assessment role to the County Board of Equalization.</p>	68 O.S. § 2842
Before April 30	<p>The County Assessor prepares exemption reimbursement forms to be signed by the Board of County Commissioners and sent to the Oklahoma Tax Commission. The exemption reimbursement forms show the amounts of additional homestead and manufacturer's exemptions that were granted during the previous assessment year. If the OTC approves these exemptions, the State reimburses all or a portion of the taxes lost due to these exemptions.</p> <p>The claims must be approved or disapproved by June 15 each year.</p>	62 O.S. § 193
Within 20 days of notice of increase in valuation	Taxpayers may file any complaints regarding assessed value or denial of exemption. The County Assessor holds an informal hearing with the taxpayer and makes a decision within five days. If the taxpayer is still dissatisfied, the taxpayer must file an appeal with the County Board of Equalization within 10 days.	68 O.S §§ 2876, 2877

**Table 3-3. Fiscal Timetable for Counties Using the Budget Board Budget Method (Continued)**

<b>Date</b>	<b>Activity</b>	<b>Statute Reference</b>
April 1 to May 31	The County Board of Equalization in counties with total assessed valuation less than one billion dollars hears taxpayers' protests and makes its decisions. In counties greater than one billion dollar valuation, sessions begin the 4th Monday in January and, if necessary, may extend beyond May 31.	68 O.S. 2863
On or before a date set by the Budget Board	The County Excise Board provides a tentative estimate of anticipated revenues, from all sources, classified by funds.	19 O.S. § 1411
On or before a date set by the Budget Board	Each county officer and department head prepares a record of earnings and costs for the past year and an estimate of needs for the new fiscal year and meets with the Budget Board. The report shows amounts for personnel, maintenance and operation, capital outlay, and other appropriate items. The County Assessor prepares the estimate of needs for visual inspection. The Budget Board must notify taxing entities	68 O.S. § 3004 19 O.S. § 1411  68 O.S. § 2822
By June 1	The Budget Board completes a budget for each fund.	19 O.S. §§ 1410, 1417
By June 10	The Budget Board must give public notice of a budget hearing.	19 O.S. § 1412
By June 15	The Budget Board must hold a public hearing on the proposed budget.	19 O.S. § 1412
June 15	The County Assessor must file the annual abstract of assessment with the OTC.	68 O.S. § 2867
By June 23	The Budget Board adopts the budget.	19 O.S. § 1413

**Table 3-3. Fiscal Timetable for Counties Using the Budget Board Budget Method (Continued)**

<b>Date</b>	<b>Activity</b>	<b>Statute Reference</b>
On or before July 31	The State Board of Equalization certifies the valuation of locally assessed property and the valuation of centrally assessed property to the County Assessor.	68 O.S. § 2860
By July 1	The Budget Board files the approved budget with the County Excise Board, the County Clerk, and the Office of the SA&I.	19 O.S. §§ 1413, 1414
Within 15 days	The County Excise Board computes appropriations and levies taxes The County Clerk, as secretary to the County Excise Board, certifies the approved budget to the Budget Board, the County Treasurer and the Office of the SA&I.  After filing the budget with the Office of the SA&I, any taxpayer may file protests against any alleged illegality of the budget.	19 O.S. § 1414  19 O.S. § 1415
On or before October 1	The County Assessor delivers the tax roll to the County Treasurer and delivers the tax roll abstract to the County Clerk.	68 O.S. §§ 2869, 3014
	The county clerk directs the county treasurer to collect the amount contained in the abstract.	68 O.S. §§ 2869, 3014
November 1	The County Treasurer mails tax statements (thirty (30) days after receiving the tax roll) to property owners and collects the taxes.	68 O.S. §§ 2869, 2915, 3014
Before January 1	Taxpayers must pay at least one-half of each property's ad valorem tax levy.	68 O.S. § 2913
Before April 1	Taxpayers must pay the second half of each property's ad valorem tax levy.	68 O.S. § 2913

The primary difference between the two methods is that the Budget Board, not the Board of County Commissioners, considers the estimates of needs and prepares the proposed budget to present to the County Excise Board. The budget is also completed and approved much earlier in a Budget Board county.

### ***The County Budget Board***

A County Budget Board is established once the Board of County Commissioners votes to have the budget procedures come under the County Budget Act. The Budget Board consists of each elected county officer and should be structured in the following manner:

- The chairman is the chairman of the Board of County Commissioners.
- The vice-chairman is elected by the County Budget Board members and serves in the chairman's absence.
- The secretary is the County Clerk.

19 O.S. §§ 1401, 1402,  
1403, 1404, 1405,  
1406, 1407, 1408,  
1409, 1410, 1411,  
1412, 1413, 1414,  
1415, 1416, 1417,

If a vacancy occurs, the chief deputy may fulfill the Budget Board position until such time that the office vacancy is filled in the manner prescribed by law.

19 O.S. § 180.1  
AG Opinion 96-15

### ***The County Budget Act***

The County Budget Act allows the elected county officials to work as a unit in preparing the county budget. The County Budget Act is structured to accomplish the following responsibilities:

- Establish a budget procedure for county governments
- Establish uniform fiscal procedures for the preparation, adoption, execution, and control of budgets
- Enable a county to make financial plans for both current and capital expenditures

19 O.S. §§ 1401-1421

- Make the financial condition and needs of the county available to the public and to investors
- Assist a county with governmental accounting, auditing and financial reporting standards

19 O.S. § 1403

Once a county elects to come under the County Budget Act, this act takes precedence over any other state laws applicable to the county budget. Any action of the Board of County Commissioners to implement or repeal the application of this act must be effective at the beginning or the end of a budget year.

### ***Meetings***

The following rules apply to County Budget Board meetings:

19 O.S. § 1407

- The County Budget Board must hold regular meetings on dates set by that board.
- The chairman or any two budget board members can call special meetings.
- A quorum comprises a majority of all members of the County Budget Board in office and is required to transact business.
- Any official action in adopting or revising the county budget requires a majority vote of all members of the County Budget Board.

### ***Report of Estimated Revenues and Expenses***

Each county officer, department head and commission must submit a report of estimated revenues and expenditures on a form provided by the County Budget Board. The information must be reported in the following manner:

19 O.S. § 1411(B)

- Actual revenues and expenditures during the preceding fiscal year

19 O.S. § 1410

- Budget estimates for the current fiscal year
- Actual revenues and expenditures for a period of six to nine months for the current fiscal year
- Estimated actual revenues and expenditures for the current fiscal year
- Estimated revenues and proposed expenditures for the new budget year

Prior to submitting this report, each county officer and department head must meet with the County Budget Board to discuss their needs.

### ***Budget Preparation***

The County Budget Board must prepare a budget for budgeted county funds 30 days prior to the beginning of the fiscal year. These budgets provide a complete financial plan for the upcoming budget year.

19 O.S. § 1408

The Office of the SA&I prescribes the budget format, and it must include the following information:

19 O.S. § 1408

- Revenues and expenditures for the preceding fiscal year
- Estimated revenues and expenditures for the current fiscal year
- Estimated revenues and expenditures for the new budget year

19 O.S. § 1410

The following procedures must be followed when reporting the estimates of revenues and expenditures:

- The estimate of revenues must include the probable income by source that the county is empowered to collect or receive at the time the budget is adopted.

- The estimate of revenues must be based on past and anticipated receipts.
- Revenues from the ad valorem tax must be budgeted within the amount estimated by the County Excise Board as being available for appropriation.
- Expenditures must be budgeted within the estimated revenues for each fund.
- Miscellaneous expenditures cannot exceed 10 percent of the estimated revenues for a fund.
- Interfund transfers must show the funds to which and from which the transfers are made.

Three basic events occur before and during the budget preparation process:

- Anticipated revenues by source and fund are provided by the County Excise Board.
- The County Budget Board reviews budget requests of each county officer and department head.
- The County Budget Board revises budget requests when justifiable and then finalizes the proposed budget.

19 O.S. § 1411A

19 O.S. § 1411C

19 O.S. § 1411C

The County Budget Board sets the date for receiving the County Excise Board's report of anticipated revenues.

### ***Classifying Revenues and Expenditures***

Revenues must be classified by sources. Expenditures are reported by functions within each fund. The Office of the SA&I prescribes the accounting system used to classify revenues and expenditures. Functions for reporting expenditures are classified according to the following categories:

19 O.S. § 1417

- Salaries and wages (Personnel Services)
- Employee benefits
- Operating expenses (M & O)
- Other charges from money channeled through the county (such as flood relief payments)
- Capital outlays
- Debt service

### ***Public Hearings and Protests***

The County Budget Board must hold a public hearing on the proposed budget no later than 15 days before the new fiscal year. The date, time, and location of the hearing plus the proposed budget summaries must be published in a newspaper with a general circulation within the county at least five days before the hearing. Any person can present comments, questions, or criticisms at the public hearing.

19 O.S. § 1412

Once a budget is adopted, it is filed with the County Excise Board and the Office of the SA&I. An affidavit that shows proof of publication must be affixed to the budget when it is filed. From the day the adopted budget is filed with the Office of the SA&I, a taxpayer has fifteen days to file a protest.

19 O.S. § 1415

### ***Budget Adoption***

After the public hearings and at least seven days before the new fiscal year, the County Budget Board must adopt a budget for each fund. When adopting a budget, the County Budget Board has the following responsibilities:

19 O.S. § 1413

- To add or delete items in each budget if necessary

- To ensure that expenditures do not exceed the estimated revenues in any fund

19 O.S. § 1413(A)  
19 O.S. § 1416

The adopted budget must be filed, along with the affidavit and proof of publication, with the County Excise Board, the County Clerk, and the Office of the SA&I on or before the first day of the budget year. When the adopted budget is filed, the following criteria take effect:

19 O.S. § 1413(B)

19 O.S. § 1413(C)

- The budget is in effect the first day of the new fiscal year.
- The budget constitutes an appropriation for each fund subject to the final approval of the County Excise Board.

### ***County Excise Board's Role***

In counties under the County Budget Act, the County Excise Board has the following duties and powers:

- To provide estimates of anticipated revenues on or before the date set by the County Budget Board
- To examine the adopted budget
- To strike unlawful items from the adopted budget and reduce unlawful amounts to authorized levels
- To return the adopted budget to the County Budget Board if mandatory items or amounts are not provided, or if appropriations from ad valorem tax revenues exceed the revenues available.
- To approve the adopted budget if it is within the income and revenues available
- To compute levies

19 O.S. § 1415

19 O.S. § 1414(A)

19 O.S. § 1414(A) (B)

- To certify the approved budget to the County Budget Board, the County Treasurer, and the State Auditor and Inspector

19 O.S. § 1414(C)

The County Budget Board has 15 days from the return of a budget to revise and resubmit it to the County Excise Board. Copies of the certified budget are filed with the County Clerk and the Office of the SA&I.

19 O.S. § 1414(A)

### ***Amended Budget***

The County Budget Board can amend budgets to allow for the following items:

- Supplemental appropriations
- Transfer of appropriations
- Transfer of special fund balance

19 O.S. § 1420

19 O.S. § 1418

19 O.S. § 1419

Amendments for supplemental appropriations must be adopted by an official action of the County Budget Board. Copies of the supplemental appropriation must be filed with the County Clerk, the County Excise Board, and the Office of the SA&I.

19 O.S. §§ 1419, 1420(C)

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## **Receiving Assistance and Audits**

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### ***Office of the State Auditor and Inspector***

Personnel at SA&I can advise county officers on procedural and technical matters that relate to accounting and budget procedures. County officers may also seek legal and technical assistance from their district attorney.

74 O.S. § 212.1

The SA&I must perform an audit every two years of all of the books, records, and accounts of all of the officers of each county. The SA&I must file a copy of all audits with the Governor, the District Attorney, and the County Clerk.

The SA&I must transmit a copy of the letter of transmittal of each audit report to every legal newspaper published in the county where the audit report is filed with the County Clerk.

19 O.S. § 171  
19 O.S. § 174  
19 O.S. § 174.1

The Office of the SA&I may also require an audit of the books and records or any county official or custodian of any of the funds of the county after the death, resignation, or removal of office of any county official.

### ***The District Attorney***

The County Excise Board may require the district attorney to attend any of its sessions when passing upon the validity or invalidity of items of appropriation. This board may also request the district attorney's opinion in writing.

68 O.S. § 3008

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## **Understanding County Finances**

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Two extension fact sheets are included in Appendix B, which should be of interest to county officers regarding county finances. OSU Extension Facts F-901 discusses Financial Analysis for County Government. OSU Extension Facts F-902 is titled Comparison of County Government Finances and compares assessed values in counties.

Another publication of interest published by the [Oklahoma Cooperative Extension Service at OSU](#) is the *Abstract of County Government General, Highway, and Special Revenue Funds in Oklahoma*.

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## Chapter Four

# The County Accounting System

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## Generally Accepted Accounting Principles

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Oklahoma follows the generally accepted accounting principles recommended by the National Council on Governmental Accounting (NCGA), which has developed a body of concepts and practices for accounting procedures for state and local governments. NCGA comprises governmental accountants and finance officers and is affiliated with the [Governmental Finance Officers Association \(GFOA\)](#).

Statement 1 of *Governmental Accounting, Auditing, and Financial Reporting* outlines these accounting principles and lists the following elements as the basic components of governmental financial reporting:

- Use of fund accounting
- Emphasis on financial flows  
(Incoming revenues and outgoing expenditures with remaining cash balances)
- Demonstration of compliance with legal requirements

This chapter briefly explains the county accounting system for counties in Oklahoma and discusses various funds and accounts that affect county office finances.

## ***Fund Accounting***

The accounting systems in counties in Oklahoma are organized and operated on a fund basis. A fund is defined as a fiscal and accounting entity with a self-balancing set of accounts. Each account within a fund records a more narrowly defined activity that fits within the broader goals of the fund. For example, the County General Fund includes accounts for County Clerk, Court Clerk, County Sheriff, and other county offices expenditures.

For accounting and financial management, each county has a combination of several distinctly different fiscal and accounting entities or funds. Each fund has a separate set of accounts and functions that are independent of other funds and accounts. The accounting process in Oklahoma counties uses three broad categories of funds.

- **Governmental Funds**

This category is the most frequently used fund category in county government. Governmental funds focus on the revenues, expenditures, and ending balances for most county functions. An example is the [County General Fund](#), which is described in Chapter Two, *Sources of Revenue*, in this handbook.

Governmental fund revenues and expenditures are recognized on the modified accrual basis. Revenues are recognized in the accounting period in which they become available and measurable. Expenditures are recognized in the period in which the money is encumbered (obligated). However, in the case of unmatured interest on long-term debt, such expenses should be recognized when they are due.

- **Proprietary Funds**

Any activity that is operated similar to funds in the private sector is accounted for through a proprietary fund. The main purpose of these

funds is to determine net income, financial position, and changes in financial position. An example is a county property rental fund in the private sector.

- **Fiduciary Funds**

Fiduciary funds account for assets held by the county in a trustee capacity for individuals, private organizations, other governmental units, or other funds. Examples of fiduciary funds are county employee pension funds and protest tax trust funds.

### **Budget Account**

A budget account is a category within the County General Fund and is made up of items of appropriation. A budget account is also called a governmental budget account or an appropriation account. Items of appropriation include salaries, travel, maintenance and operations, computer operations, and capital outlays.

62 O.S. § 331  
68 O.S. §§ 3010, 3011

Each county office has a budget account within the County General Fund, and monies are appropriated into each account for the purpose of carrying out the regular duties of that office.

### **Estimate of Probable Income**

An estimate of probable income is income for the County General Fund that is expected to be received in the new fiscal year from recurring sources.

The County Excise Board provides the county officers with an estimate of probable income each year [ at, or ] prior to, the budget planning conference. This information helps county officers in preparing the estimate of needs for their respective offices.

19 O.S. § 180.65(E)

## Transfer of Appropriations

A transfer of appropriations typically occurs when monies are transferred within a fund from an account with a surplus to another account that needs additional revenues. Monies can be transferred within a fund and sometimes transferred from one fund to another fund. Thus, a transfer of appropriation within a fund neither increases nor decreases the fund's balance. (Counties with a Budget Board, have always had the authority to transfer money from one fund to another to some extent.)

62 O.S. §§ 461  
19 O.S. §§ 1410, 1418

Please refer to [Transfer of Appropriations](#) in Chapter Three, The County Budget Process for a detailed explanation.

## Transfer of Special Fund Balance

A transfer of special fund balance occurs when monies are transferred to the County General Fund from a special fund that is no longer needed. The laws that govern the special fund must be followed before the fund can be discontinued.

19 O.S. § 1419  
62 O.S. §§ 333, 445

## Warrants

A warrant is a claim against an appropriation account for payment of salaries, an item purchased, a service provided, or basically any expense incurred by the county. The County Clerk prepares all warrants, which are then approved by the governing board and signed by the chairman of that board.

19 O.S. § 347  
62 O.S. §§ 471, 475

The County Clerk delivers a signed warrant to the County Treasurer for registration and then sends the warrant to the employee or vendor to whom the payment is due. Each warrant includes the department, fund, and account to be charged for the expenditure.

Banks that handle the county's monies notify the County Treasurer when a vendor has claimed a warrant. When money is available in a specific account, the County Treasurer redeems the warrant by writing a County Treasurer's

Check to the bank. All warrants must be redeemed by a check signed by the County Treasurer.

Some counties now use checks. A warrant serves as a check.

62 O.S. § 471(B)

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## **County Bank Accounts**

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All monies received in the County Treasurer's office must be deposited into accounts in banks designated as county depositories by the Board of County Commissioners. County depositories may include banks, trust companies, credit unions, and savings and loan associations within Oklahoma. The two basic checking accounts are the Official Depository Account and the General Account. Multiple banks are typically used.

19 O.S. § 121

### ***Official Depository Account***

The Official Depository Account is a trust or agency account maintained by the County Treasurer. All county officers must deposit with the County Treasurer all monies received by virtue of their offices. The County Treasurer is then responsible for depositing this money into the Official Depository Account and crediting each county officer's depository account for the amount deposited.

19 O.S. § 681

19 O.S. § 682

All withdrawals from the Official Depository Account must be made on the official voucher of the county officer who made the deposit.

### ***The General Account***

Various monies collected by county officers and placed in the Official Depository Account must be transferred to the appropriate funds at the close of each month (on or before the second Monday following the close of the calendar month). This money is transferred using a county officer's official voucher. Monies accruing to a fund maintained by the county are transferred to the county's General Account.

19 O.S. § 684

The General Account is the county's principal checking account and contains all funds other than those in the Official Depository Account.



The county General Account is not the same as the **County General Fund** described in Chapter Two, *Sources of Revenue*. The County General Fund is one of several funds contained in the General Account.

## Chapter Five

# Governmental Tort Claims Act

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(l to r) Rob McAlister, Payne County Deputy Sheriff, Bob Tillman, Deputy Sheriff, Courthouse Security, and Bryce Woods, Supervisor Courthouse Security, at the Payne County Courthouse security checkpoint.

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## The Tort Claims Act in Oklahoma

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The original tort claim statute was passed in 1978 under the title, Political Subdivision Tort Claims Act, and numerous revisions have been made since then. This discussion covers only the latest form of those statutes and only those portions of the statutes that apply to county government.

The Governmental Tort Claims Act allows Oklahoma citizens to file claims and bring suits against state and county entities. In the Governmental Tort Claims Act, the State of Oklahoma waives its sovereign immunity and the sovereign immunity of political subdivisions of the state, including counties.

51 O.S. §§ 151, 152,  
153, 154, 155, 156,  
157, 158, 159, 160,  
161, 162, 163, 164,  
165, 166, 167, 168,  
169, 170  
as amended

A tort is defined as a legal wrong, independent of contract that involves the violation of a duty that results in a loss to any person, association, or corporation caused by an act by public officials within the scope of their employment.

Tort claims are claims brought by citizens against the county for damages. For example, if a person breaks a leg because of county roadwork, that individual might bring a claim against the county.

Tort Claims are filed with the County Clerk, who then presents them to the Board of County Commissioners.

A tort claim is not a lawsuit. The Board of County Commissioners must listen to tort claims, and in cooperation with their insurance provider or adjustor, determine whether they are justified. They must then deny the claim or award damages to the claimant. If the claimant's claim is denied, the claimant has the option to file a lawsuit. In some counties, the safety committee considers claims.

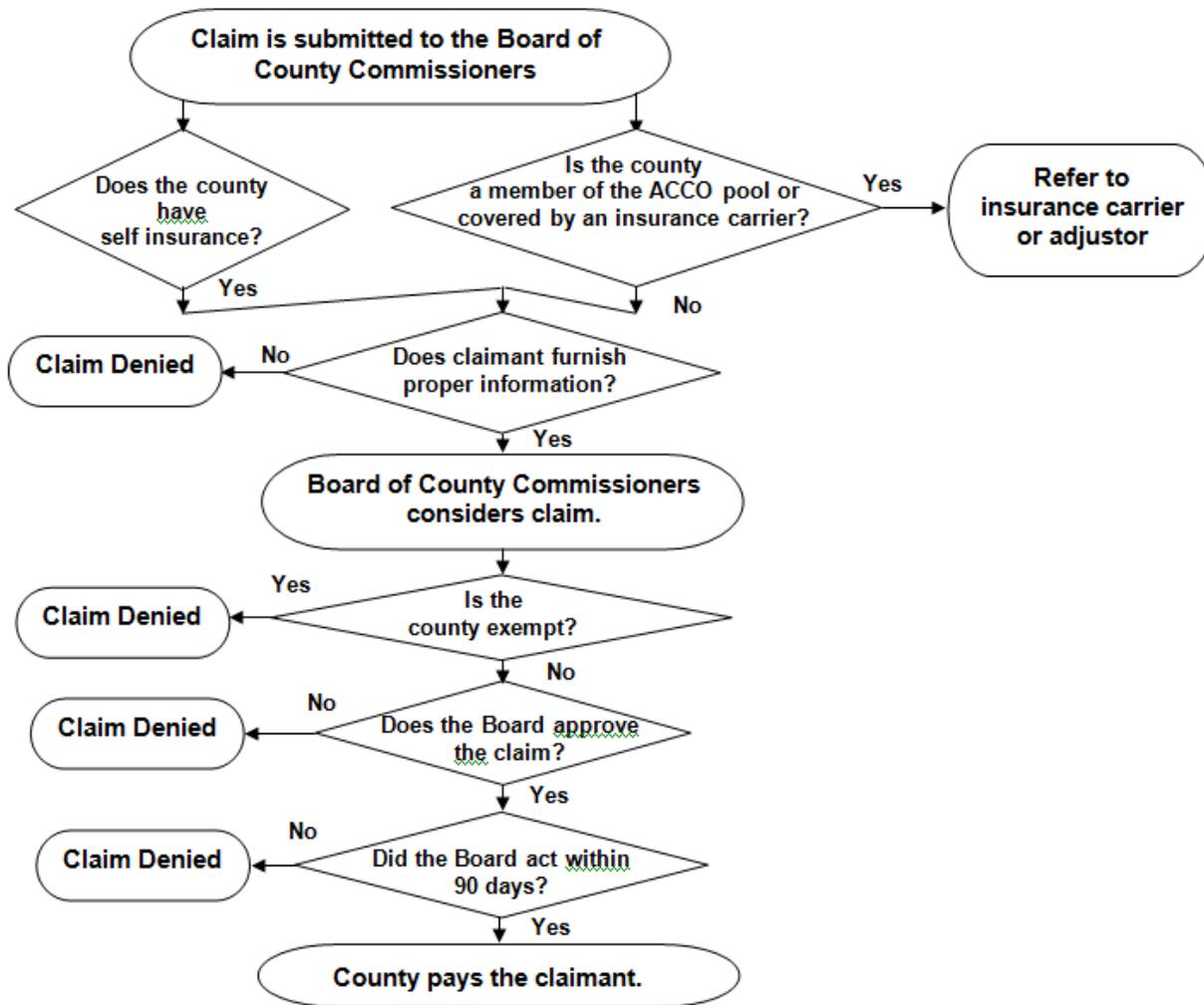
Figure 5-1 shows the steps in the tort claims process.

### ***Liability Insurance***

The county may secure liability insurance in any of the following ways:

51 O.S. § 169

- The county may insure itself against any and all liabilities it might incur for death, injury, or disability of any person or damage to property, real or personal.
- The county may insure any employee for liability from acts or omissions within the scope of their employment.
- The county may insure against the expense of defending a claim against the county.



**Figure 5-1. The Tort Claim Process**

The county may insure itself or its employees against any loss, damage, or liability as defined in the statutes. Any insurance secured by the county is considered a proper expenditure of county funds and may be provided in one or more of the following ways:

- Self-insurance
- Insurance from any authorized insurer
- Any other insurance secured in accordance with other methods provided by law

Two or more counties, by interlocal agreement, may jointly secure insurance by any of the methods stated above.

### ***Filing Claims***

All county officials should be aware that any person could file a claim against the county or its employees under the Governmental Tort Claims Act.

### **Definitions**

The following definitions explain some of the terminology in the act:

- Action - a court proceeding in which one-party brings a suit against another party
- Agency - any board, commission, committee, department, or other entity designated to act for the county
- Claim - any written demand presented by a claimant, in accordance with the Governmental Tort Claims Act, to recover money from the county as compensation for an act or omission of the county or its employees that has caused damage to the claimant.

- Claimant - a person or authorized representative who files a claim under this act. Only the following may be claimants and all claims for one occurrence or accident must be aggregated as one claim:
  - \* Any person holding an interest in real or personal property who suffers a loss
  - \* The individual actually involved in the accident or occurrence
  - \* An administrator or personal representative in the case of death
- County - a political subdivision of the state
- Employee - any person authorized to act in behalf of the county whether acting on a temporary or permanent basis, with or without pay, or on a full or part-time basis. Independent contractors or employees of independent contractors while acting in the capacity of an independent contractor are not included.
- Loss - death or injury to the body or rights of a person; damage to real or personal property
- Scope of employment - performance by an employee acting in good faith within the duties of his office or tasks assigned by a competent authority but not including corruption or fraud

### **Written Claim Procedures**

Any person with a claim against the county must file a written claim with the County Clerk of the county in which the accident or occurrence happened within one year after the loss. If the person is incapacitated and unable to present the claim, the time is extended up to an additional ninety days. When the claim is for death resulting from the accident or occurrence, the personal representative may present notice within one year after the loss.

51 O.S. § 156  
51 O.S. § 157

- Written notice of the claim must state the following information:
  - \* The date, time, and place of the accident or occurrence
  - \* The circumstances of the loss
  - \* The compensation sought for the loss
  - \* The name, address, and phone number of the claimant or the authorized agent

Failure to supply any of this information will not invalidate the claim, however, unless the claimant refuses to furnish it.

Any claims not filed within one year of the loss cannot be submitted. Denial is automatic at the end of one year unless a settlement is reached earlier. No court action can begin until the claim has been denied in part or in full, but must begin within 180 days of the claim denial.

51 O.S. § 157

### ***Determining Liability***

#### **Extent of Liability**

The following amounts are the county's total liability for a single accident or occurrence:

51 O.S. § 154

- Twenty-five thousand dollars for any claim, or any claimant with more than one claim for loss of property
- One hundred twenty-five thousand dollars for any claim for any other loss



**For counties with populations of 300,000 or more, the maximum liability is \$175,000.00.**

- One million dollars for any number of claims

### **Additional Claims**

The *Oklahoma Statutes* prevent claimants from filing for extra "punishment" damages. Claimants cannot file a claim or bring action that includes a request for punitive damages (additional payment to act as a punishment to the county or county employee), nor can they file a claim asking for exemplary damages (additional payment or judgment to warn others not to commit similar acts).

51 O.S. § 154(C)

Sometimes claimants will file claims that bring action against other parties in addition to the county. In situations where the claim includes the county as one party in a claim against several parties, the Statutes provide that the county is only liable for that percentage of total damages that corresponds to its percentage of total negligence.

51 O.S. § 154(G)

### **Exemptions from Liability**

The county is not liable for loss if a claim results from certain actions as described in the statutes. The following situations are a partial list of exempted claim actions that apply to counties.

51 O.S. § 155

- Claims for loss resulting from legislative functions
- Claims for loss resulting from judicial, quasi-judicial, or prosecutorial functions
- Claims for loss resulting from execution or enforcement of a lawful court order
- Claims for loss resulting from adoption, or enforcement of, or failure to adopt or enforce a law
- Claims for loss resulting from performance or the failure to perform an act or service which is at the discretion of the county or its employees

- Claims for loss resulting from civil disobedience, riot, insurrection, or rebellion or the failure to provide law enforcement or fire protection
- Any claim based on the theory of attractive nuisance
- Claims for loss resulting from snow or ice conditions or temporary or natural conditions on any public way or place due to weather conditions, unless caused by negligence on the part of the county
- Claims for loss resulting from entry upon property where the entry is expressed or implied by law
- Claims for loss resulting from natural conditions of state, county, or other political subdivision property
- Claims for loss resulting from assessment or collection of taxes, special assessments, license or registration fees, or other fees imposed by law
- Claims for loss resulting from licensing powers or functions
- Claims for loss resulting from inspection powers or functions, including failure to make an inspection or making an inadequate inspection of any property, real or personal, to determine whether the property complies with the law or contains a hazard to health or safety
- Any claim covered by any worker's compensation act or any employer's liability act
- Claims for loss resulting from the absence, condition, location, or malfunction of a traffic sign or signal unless it is not corrected by the county within a reasonable time after knowledge of the situation, or has existed long enough that the county should have knowledge



**The county is not liable if it initially fails to place a sign or signal if the decision to do so is a discretionary act by the county.**

- Claims that are limited or barred by other law
- Claims for loss resulting from misrepresentation, if unintentional
- Claims for loss resulting from an act of omission by an independent contractor or its employees, subcontractors or suppliers
- Claims for loss resulting from theft by a third person of money in the custody of a county employee unless the employee was negligent or committed a wrongful act or omission
- Claims for loss resulting from interscholastic or other athletic contests sponsored or conducted by or on state or county property
- Claims for loss resulting from participation approved by a local board of education and held within a building or on the grounds of the school district before or after normal school hours or on weekends
- Claims for loss resulting from any court ordered or administratively approved work release program
- Claims for loss resulting from activities of the National Guard, the militia, or other military organization when on duty under the lawful orders of competent authority
- Claims for loss resulting from providing, equipping, operating, or maintaining a prison, jail, or correctional facility, including injuries resulting from parole or escape of a prisoner or by one prisoner to another prisoner

- Claims based on loss from providing, equipping, operating, or maintaining any juvenile detention facility, or injuries that result from a juvenile detainee's escape, or injury by a juvenile detainee to any other juvenile detainee
- Claims based on a manufacturer's product liability or warranty, either expressed or implied
- Claims or actions based on the theory of indemnification or subrogation
- Claims based on an act or omission of an employee in the placement of children
- Claims for loss resulting from acts or omissions done in conformance with current recognized standards
- Claims for loss resulting from maintenance of the state highway system unless the claimant proves negligence
- Claims for loss resulting from any confirmation of the existence or nonexistence of any effective financing statement on file in the Office of the Secretary of State made in good faith by an employee of that office
- Claims for loss resulting from any court-ordered community sentence

### ***Settling Claims***

If the county is not exempt from liability, the Board of County Commissioners must hear the claim and decide whether to award the claimant any damages. If the county participates in a self insurance program or has coverage through an insurance carrier, the claim should be considered in cooperation with the insurance carrier or adjustor, and the settlement of the claim should be referred to the insurance carrier or adjustor.

## **Claim Denial**

A claim is considered to be denied if the county fails to approve the entire claim within 90 days, unless the county denies the claim or reaches a settlement before ninety days.

51 O.S. § 157

If the claim is deemed denied in 90 days or less, the county must notify the claimant within five days of the claim denial.

When claimants' claims are denied, they have the option to file a lawsuit against the county. Claimants have 180 days after claim denial to take court action.

51 O.S. § 157(B)

## **Claim Settlement**

The county, after conferring with authorized legal counsel, can settle or defend against a claim or suit subject to prescribed procedural requirements. The county can also appropriate money to settle the claim.

51 O.S., § 158

## **Employee Defense**

Prior to 1985, the statutes required that the county defend, save harmless, and indemnify employees against tort claims, but these statutes have been repealed. Instead, the law now provides that suits brought under the Governmental Tort Claims Act must name the county as the defendant, and under no circumstances will any employee who was acting within the scope of his or her employment be named as the defendant.

Additional amendments effective July 1, 1986 further require the county to defend employees when liability is sought for any violation of property rights or any rights, privileges, or immunities secured by the Constitution or laws of the United States as long as the employee was acting within the scope of his or her employment.

51 O.S. §§ 162, 163(C)

When a judgment or settlement is entered in any court of the United States, the State of Oklahoma, or any other state for violation of property rights or any rights,

privileges or immunities secured by the constitution or laws of the United States, payment must be made by the county up to the limits set by the law.

### **County's Right to Recover Monies**

The county has the right to recover from the employee the amount spent by the county in the defense, settlement, or judgment if it is shown that the employee's conduct that caused the action was fraudulent or corrupt or if the employee fails to cooperate in the action.

51 O.S. § 162(C)

### **Settlement and Payment**

The county may, after conferring with authorized legal counsel, either settle the claim or defend against any suit that might be brought. In the event a settlement is reached which exceeds \$10,000 and an applicable contract or insurance policy will not pay the payment required, the settlement must be approved by the District Court and entered as a judgment. If the county is covered by a contract or insurance policy, the terms of the contract or policy will govern the rights and obligations of the county concerning investigation, settlement, payment, and defense of the claims or suit. The insurer, however, cannot enter into a settlement that exceeds the amount of the insurance without approval of the county.

51 O.S. § 158

### **Payment Limitations**

The county is not responsible, under any circumstances, to pay or indemnify any county employee for any punitive or exemplary damages, nor to pay for any defense, judgment, settlement, costs, or fees that are paid or covered by any applicable policy or contract of insurance.

In any civil rights judgment, the county can only pay or indemnify the percentage of fees and costs in the total award that the percentage of the award of actual damages bears to the total judgment awarded. The county can only indemnify its employees for actual damages, fees, and costs.

51 O.S. § 162 (D)

**CAUTION:** County Officials should use the information in this chapter as a guide only. Please refer to the Oklahoma Statutes for more detailed explanations. County officers should also consult their District Attorney for more details on tort claims and for legal advice and assistance.

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## Chapter Six

# Office of the County Sheriff

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Payne County Undersheriff, Garry McKinnis, in his office at the Payne County courthouse.

The office of County Sheriff in the State of Oklahoma was created in the Oklahoma Constitution and has all of the rights and authorities of a constitutionally established office. Because of its origin, the office of County Sheriff is referred to as a

Oklahoma Constitution  
Article 17 § 2

constitutional office rather than a statutory office, and a County Sheriff is referred to as a constitutional officer.

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## Filing as a Candidate for County Sheriff

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### **Requirements**

To file for the Office of County Sheriff in an Oklahoma county, candidates must meet the following requirements:

19 O.S. § 510

- Candidates must have been a resident of the State of Oklahoma for two years and a registered voter with the party for which the candidate seeks election for six months preceding the first day of the filing period.
- Candidates must be at least 25 years of age preceding the filing date and possess at least a high school education.
- Candidates must be members and registered voters of the political party under which they are filing, or be registered to vote as an independent if filing as an independent candidate, for six months immediately preceding the first day of the election filing period.
- In counties with populations of 500,000 or more, the candidate for County Sheriff must be a current certified peace officer in good standing.
- Candidates cannot file for any other county office when filing as a candidate for County Sheriff.

19 O.S. § 510  
26 O.S. § 5-105

19 O.S. § 510

26 O.S. § 5-106



**County officers are eligible to file as a candidate for another county office or state office without resigning their current positions.**

19 O.S. § 131(D)

- Persons cannot file as a candidate for County Sheriff for 15 years after the following actions:
- Receiving a conviction of a misdemeanor involving embezzlement
- Receiving a conviction of a felony
- Having entered a plea of guilty or nolo contendere to either of the above
- Awaiting an appeal of a guilty plea or conviction for either of the above

26 O.S. § 5-105(a)

### ***Declaration of Candidacy Form***

Candidates must personally sign and file a Declaration of Candidacy form (available from the county election board secretary) which contains an oath that they are qualified to be candidates and to hold office.

26 O.S. § 5-101  
 26 O.S. § 5-103  
 26 O.S. § 5-111  
 26 O.S. § 5-111.1

### ***Statement of Financial Interests***

All candidates for County Sheriff must file a notarized statement of financial interests with the county election board.

19 O.S. § 138.17  
 Oklahoma Constitution  
 Article 29, Section 3

## **Filling the Office of County Sheriff**

### ***Term of Office***

The County Sheriff's term of office is four years and begins on the first business day in January following the election the preceding November.

19 O.S. § 131(A)

However, if the office becomes vacant before the preceding County Sheriff's term expires, the newly elected, or appointed, County Sheriff assumes office immediately. The following list includes some of the reasons a County Sheriff might vacate an office before the term expires:

- Death or resignation

- Removal from office or failure to qualify as required by law
- Final judgment against the County Sheriff for breach of the official bond
- Change of residency to outside the county
- Conviction in state or federal court of any felony or violation of their oath/affirmation
- A guilty or nolo contendere plea entered in a state or federal court for any felony or violation of their oath/affirmation

51 O.S. § 8  
51 O.S. § 9

### ***Conditions of Office***

County Sheriffs must abide by the following conditions of office:

- County Sheriffs cannot hold another political office in Oklahoma or in the United States, or serve as a deputy in another political office.
- County Sheriffs must carry out their duties in a conscientious, appropriate, and professional manner.

Oklahoma  
Constitution  
Article 2 § 11  
51 O.S. § 6(A)  
5 O.S. § 1

**WARNING: Any County Sheriff who willfully fails or refuses to perform the duties of the office according to the law, is guilty of a misdemeanor.**

21 O.S. § 345

- Within 12 months of taking office, all newly elected or appointed sheriffs must complete a sheriff's administration school developed by the Oklahoma Sheriff's Association and approved by the Council on Law Enforcement Education and Training (CLEET). Failure to complete the school within the specified period prevents the new sheriff from obtaining CLEET certification. New sheriffs with prior CLEET certification, who fail to attend the school, will have their CLEET certification revoked.

19 O.S. § 510

See "[Training](#)" in Chapter Ten, "Duties of the County Sheriff: Personnel and Salaries" for more information on CLEET Training requirements and other training opportunities for County Sheriffs and deputy sheriffs.

## ***Vacancies***

### **In Counties with Populations up to 600,000**

When the office of County Sheriff in counties with populations up to and including 600,000 becomes vacant for any reason, the Board of County Commissioners must appoint an individual to fill the vacancy.

51 O.S. § 10(b)

If a County Sheriff vacates the office before the filing period for the next general election, and the current term does not end in the year following that election, the Board of County Commissioners must call a special election at the time the appointment is made. The dates for the special election are the same as the next succeeding filing period, primary election, runoff primary election, and general election for county officers. The appointee can be a candidate in the special election if otherwise qualified.

The undersheriff or the first or chief deputy or assistant carries on the duties of the office after the death, removal or resignation of the County Sheriff, until a successor is appointed or elected.

If a County Sheriff vacates the office within 30 days prior to a scheduled general election, no appointment needs to be made.

51 O.S. § 11

### **In Counties with Populations Above 600,000**

If a County Sheriff in a county with a population above 600,000 vacates the office, the vacancy is filled at a special election called by the Governor within thirty days after the vacancy occurs. If the vacancy occurs after March 1 of any even-numbered year and the term of office expires the following year, no special election is called. The Governor can appoint an individual to serve in the interim period, and that appointee can be a candidate in the special election.

26 O.S. § 12-111

## ***Resignations***

If a County Sheriff resigns, a written resignation must be filed with the County Clerk. This resignation is effective on the date it is filed unless some other time is specified.

51 O.S. § 9(1)  
51 O.S. § 9(4)

## ***Removal***

The removal of a County Sheriff or any other county official requires a civil and/or legal process.

22 O.S. § 1181, 1182,  
1183, 1184, 1185, 1186,  
1187, 1188, 1189, 1190,  
1191, 1192, 1193, 1194,  
1195, 1196

## ***Retiring Sheriffs and Deputies Firearms and Badges***

### **Firearms and Badges**

Sheriffs and their deputies, retiring under the provisions of the Oklahoma Statutes, or reserve deputies, may retain their status as peace officers of the State of Oklahoma, retired, may retain the right to keep their county-issued firearms and badges, and may bear firearms as provided the statutes.

51 O.S. § 91  
19 O.S. § 553  
19 O.S. § 554  
19 O.S. § 555  
74 O.S. § 901

The retiring officer must request in writing to the Board of County Commissioners of the county in which the officer is retiring for permission to keep and bear arms. The Board may grant the request, and the County Sheriff of the county may issue a commission except in the following cases:

- When the retiring officer has been convicted of a felony involving moral turpitude
- Where the officer is mentally or physically incapacitated and could not perform duties if recalled
- When good cause is shown that granting approval of the request would be detrimental to the public health, safety, and welfare

Please refer to The Oklahoma Statutes, Title 21, Sections 1289.8, and 1290.3 through 1290.26 for complete information on the procedure to follow for retired County Sheriffs and deputies to apply to carry concealed weapons.

### ***Deceased Sheriffs' and Deputies' Firearms and Badges***

Upon the death of a sheriff, deputy, or reserve deputy, the surviving spouse or next of kin may request to retain the badge and firearm of the deceased spouse. The County Sheriff's office may grant the request in accordance with established policy, if any, subject to the conditions listed above.

19 O.S. § 518

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## **Assuming the Office of County Sheriff**

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### ***The Oath or Affirmation***

After election and before assuming office, the County Sheriff must sign and affirm an oath of office/loyalty oath similar to the sample oath/affirmation shown in [Figure 6-1](#). The District Judge usually administers the oath of office to the County Sheriff on the first working day in January. The signed oath is filed with the County Clerk.

Oklahoma Constitution  
Article 15 § 1  
51 O.S. § 36.2A

OATH/AFFIRMATION

I do solemnly swear (or affirm) that I will support the Constitution and the laws of the United States of America and the Constitution and the laws of the State of Oklahoma, and that I will faithfully discharge, according to the best of my ability, the duties of my office or employment during such time as I am

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(Here put name of office, or, if an employee, insert "An Employee Of \_\_\_\_\_" followed by the complete designation of the employing officer, agency, authority, commission, department or institution.)

\_\_\_\_\_  
Affiant

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, or other officer authorized  
to administer oaths or affirmations

**Figure 6-1. Sample Oath/Affirmation for County Officers**

## ***Uniforms***

The Board of County Commissioners may furnish distinctive uniforms for all County Sheriffs and deputy sheriffs, whose duty is to preserve and enforce public peace. When uniforms are furnished, the County Sheriffs and deputy sheriffs are required to wear the uniforms while on duty.

22 O.S. § 37

## ***Delivery of Jail and Other County Property***

Whenever a new County Sheriff takes office, the former County Sheriff, upon demand, must deliver to the new County Sheriff the jail and other property of the county, and all prisoners in the jail, and all writs, processes, orders, and other papers that belong to the County Sheriff's office, are in the former County Sheriff's possession, or in the possession of the former County Sheriff's undersheriff or deputies. The new County Sheriff must provide the former County Sheriff with a receipt for all delivered items.

19 O.S. § 517



**County Sheriffs, undersheriffs, and deputies may execute and return all writs and processes that they have begun to execute by service, levy, or collection of money that are in their hands at the end of their term or their removal from office.**

19 O.S. § 518

## ***The Blanket Bond***

Upon assuming office, the County Sheriff should ensure that the Board of County Commissioners has purchased a sufficient surety contract, or blanket bond, on behalf of the County Sheriff and all employees in the County Sheriff's office, including reserve force deputies. This bond is like an insurance policy, which protects the county from any misconduct or wrongdoing committed by the County Sheriff or any deputies while performing their duties. This bond covers the county up to the insurance limit of the bond, and is in force throughout the terms of office. A copy of this bond should be kept on file in the County Sheriff's office.

19 O.S. § 167

The law does not specify a minimum amount for the office bond. A memo from the District Attorney’s Training Coordinating Council, July 2, 1979, suggests, “The bond for all county employees should be set at approximately \$2,500. An extra amount should be added relative to those specific county officers required by other laws to carry higher amounts.”

However, the County Sheriff or the Board of County Commissioners should ensure that the bond for each employee is adequate to cover the financial responsibilities. The County Sheriff may request the advice of the county’s district attorney if unsure about the necessary amount of the blanket bond. The county is responsible for appropriating the funds for any additional bond.

No other bond is acceptable as surety for any elected or appointed officer or employee unless the blanket bond is provided for as a specified item in an all-risk insurance policy purchased by the county.



**After the death, resignation, or removal of any sheriff, any default or misconduct by a deputy sheriff or jailer appointed by that sheriff is considered a breach of that sheriff’s bond.**

19 O.S. § 519

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## Serving as County Sheriff

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### *Tort Claims*

Any action for default or misconduct of any County Sheriff, undersheriff, jailer, or any deputy, may be prosecuted against the executors or administrators of that County Sheriff. Refer to [Chapter Five, “Governmental Tort Claims Act.”](#)

19 O.S. § 520

## **Grievance Procedures**

The County Sheriff is authorized to adopt a grievance procedure for receiving and disposing of all grievances by prisoners that arise while a prisoner is within the custody of the County Sheriff. the grievance procedure is the exclusive internal administrative remedy for complaints and grievances. Nothing in the procedure may modify the requirements of the Governmental Tort Claims Act addressed above.

57 O.S. § 566.3

All reports, investigations, and other papers are considered confidential and not subject to release under the Open Records Act. All written responses to the grievance of the prisoner must be furnished to the prisoner as provided in the grievance procedure.

The grievances may include, but are not limited to, claims seeking monetary damages of any other form of relief.

### ***Service of Writs on the County Sheriff***

Every paper required by law to be served on the County Sheriff, may be served on him in person, or left at his office during his business hours.

19 O.S. § 521

### ***Office Organization***

When first organizing the office, the County Sheriff should take the following factors into consideration:

- Number of deputies and their abilities
- Funds available for deputies
- County size and office workload
- Type of management structure preferred

Newly elected or appointed County Sheriffs may find it helpful to take advantage of existing organizational structures and knowledgeable personnel. Changes should be

made only as necessary until the County Sheriff becomes more familiar with the office.

## **Office Locations**

### **Office at County Seat**

The County Sheriff must maintain an office and keep all records at the county seat. The Board of County Commissioners must provide office space, record storage, and supplies at the county seat for the County Sheriff. They must also provide an official seal to all the County Sheriff. See “[The County Seal](#)” in this chapter.

19 O.S. § 133  
19 O.S. § 447

A County Sheriff can establish an additional office or offices at any location within the county. The additional office can only receive documents for the sole purpose of collecting them and delivering them to the main county seat office. Any document delivered to the additional county office for filing or recording is not considered filed or recorded until it is delivered and recorded at the main county seat office.

19 O.S. § 133

A county employee who is employed at an additional office by the County Sheriff may perform duties on behalf of another county officer if specifically authorized by each county officer for whom the employee is performing duties.

### **Provision for Jail and Offices**

In any county where there is no jail erected by the county, or where the jail erected does not have sufficient capacity, the Board of County Commissioners must provide for a jail and offices for the County Sheriff in a suitable building or buildings. If the Board of County Commissioners neglects to provide the jail or office space, the court may order the County Sheriff to make the necessary provision. The expenses incurred in carrying the order into effect, when certified by the court, are county charges.

19 O.S. 401§

## ***Hours and Holidays***

All county offices within each county should be open during the same hours as determined by mutual agreement among the county officers. Office hours must be posted in a prominent place easily seen by the public. The Board of County Commissioners and members of the County Excise Board designate county holidays.

19 O.S. § 136

19 O.S. § 350

## ***Office Personnel***

### **Personnel Policies**

The Board of County Commissioners, with the majority vote of all county officers, establishes personnel policies for all county employees.

19 O.S. § 339(A)(9)

### **Deputies**

Personnel who report to the County Sheriff normally hold the title of Deputy County Sheriff. In practice, the titles of Chief Deputy, First Deputy, or Undersheriff; Second Deputy; and Third Deputy or Deputy Assistant are used. These titles generally imply a hierarchy of experience and responsibility.

19 O.S. § 180.65(C)

19 O.S. § 180.81

The numerical rank of any deputy must be designated with the County Sheriff's signature and filed with the County Clerk. Refer to "[Deputies and Assistants](#)" in Chapter Ten, "Duties of the County Sheriff: Personnel and Salaries," for more information.

### **Employee Salaries, and Benefits**

Refer to "[Wages and Salaries](#)" in Chapter Ten, "Duties of the County Sheriff: Personnel and Salaries," for information on personnel, salaries, and benefits and the County Sheriff's responsibilities for county payroll.

### ***Travel Allowance***

In lieu of reimbursement for traveling expenses within their county, each County Sheriff may receive other travel compensation. Refer to “[Travel Allowance](#)” in Chapter Ten, Duties of the County Sheriff: Personnel and Salaries.

19 O.S. § 165  
19 O.S. § 166

### ***Training Expenses Before Taking Office***

All newly elected County Sheriffs will be reimbursed by their respective counties for any approved training provided before the County Sheriff takes office. These training expenses are reimbursed in January when the County Sheriff takes office.

19 O.S. § 165  
19 O.S. § 166

### ***The County Seal***

The County Sheriff must obtain a seal, which has been designated as the official County Seal by the Board of County Commissioners. The County Sheriff cannot use any other seal in conducting the official business of the County Sheriff’s office. The County Sheriff can elect to use either a manual stamp or an electric seal. No mandates specify which documents need to have the seal applied. A document is not really considered official unless it bears the official seal.

19 O.S. § 325

No mandates dictate the wording on the seal. While designs and logos are arbitrary, the official seal’s wording should reflect the State of Oklahoma and should include the name of the county and the words “official seal”.

62 O.S. § 603

The County Sheriff may use a facsimile seal that is printed, engraved, stamped, or created in some other facsimile method. The facsimile seal has the same legal effect as the seal’s impression.

## ***The Oklahoma Statutes***

### **Statute Books**

75 O.S. § 18

Upon assuming office, the incoming County Sheriff should take possession of the Oklahoma Statutes, Session Laws, and Yearly Supplements from the outgoing County Sheriff.

If any of these books are missing, the County Sheriff requests that the County Clerk requisition a new set.

### **On-line Statutes**

19 O.S. § 339(A)(9)

The Oklahoma Statutes are also available on line at the [Oklahoma Supreme Court Network](http://OSCN.net) website (<http://OSCN.net> under “Legal Research”: “All Oklahoma Legal Materials”: “Oklahoma Statutes Citationized.”

### **Supplements and Updates**

Each year, by the first Monday in February next succeeding the time when any regular session of the Legislature is held, the statutes should be updated. The County Clerk requisitions copies of the current Supplement to the Oklahoma Statutes, which is the annual update, as required, and distributes them to the county officers. A new set of statutes should be distributed every ten years.

75 O.S. § 14(A)(5)  
75 O.S. § 17  
75 O.S. § 18  
75 O.S. § 19  
75 O.S. § 20

### **Statute Conflicts**

When referencing statutes, be aware that more than one statute might contain provisions for identical or similar subjects. If any of these provisions conflict or contradict each other, the most recent statute prevails.

75 O.S. § 22

## ***Inventory Procedures***

### **Inventories**

The County Sheriff must maintain a continuous inventory of all working tools, apparatus, machinery, and equipment that belong to the county. The inventory, by

19 O.S. § 178.1  
19 O.S. § 178.2

law, must contain all items that cost \$500.00 or more, but the County Sheriff may also want to keep a record of other items in the office that cost less.

Inventories must be taken at the following times:

- Upon assuming office, the County Sheriff should perform an inventory of all office equipment and ensure that all equipment that is recorded as assigned to that office is present.
- Prior to a County Sheriff leaving office, inventories should be performed in preparation for an SA&I exit audit.
- Annually as scheduled by the Board of County Commissioners

For more information, refer to the inventory chapter in the *Purchasing Handbook for Oklahoma Counties* available on the Handbooks for County Officers of Oklahoma CD or online at <http://agecon.okstate.edu/ctp/> under Handbooks.

### **Inventory Records**

The County Sheriff must file a copy of the inventory in the County Clerk's office. The County Clerk serves as custodian and repository of all county inventory records, files, and reports.

19 O.S. § 178.2

The County Sheriff is authorized to destroy all inventory records, files, and reports of any county inventory item that has been disposed of for three years or more providing that a full audit of the inventory account has been made by the Office of the SA&I.

### ***Purchasing Procedures***

For details regarding purchasing procedures, refer to the *Purchasing Handbook for Oklahoma Counties* available on the Handbooks for County Officers of Oklahoma CD or online at <http://agecon.okstate.edu/ctp> under Handbooks.

## ***Signature Filings with the Secretary of State***

### **County Officers' Signature List**

Each January, the County Sheriff must sign the Recurring Signature List for County Officers for the County Clerk. On the fourth Monday of January each year, the County Clerk must prepare, notarize and certify, and file this list of all county officers, including those elected at the last general election, with the Secretary of State's office.

19 O.S. § 257

If any new County Sheriff takes office during the year, that person must complete the Public Officials Certificate of Manual Signature form for the County Clerk to send to the Secretary of State's office.

### **Facsimile Signatures**

If the County Sheriff uses some method of reproducing the signature such as a stamp, engraving, or imprinting, a facsimile must be filed with the Secretary of State. When using a facsimile signature, a copy of the County Sheriff's manual signature must also be on file in the Secretary of State's office.

62 O.S. § 602

62 O.S. § 603

The County Sheriff can use a facsimile signature to execute or cause to be executed any public security, or any certificate, provided that at least one of the signatures required is manual.

**WARNING! Intent to defraud by use of a facsimile signature or facsimile seal on public securities is a felony.**

21 O.S. § 9

62 O.S. § 604

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## Chapter Seven

# Duties of the County Sheriff: General

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Bill Winchester, former Garfield County Sheriff, explains the duties of the County Sheriff's office for the County Government video produced by the County Training Program.

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## Defining the County Sheriff's Responsibilities

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County Sheriffs must give personal attention to the duties of their office.

**WARNING: Any County Sheriff who willfully fails or refuses to perform the duties of the office according to the law, is guilty of a misdemeanor.**

21 O.S. § 345  
21 O.S. § 346

The duties of the County Sheriff, assisted by the undersheriffs and deputies, are discussed under the following headings.

### ***County Peace and Security***

The County Sheriff has the following responsibilities regarding county peace and security. Please refer to [Chapter Thirteen, Duties and Responsibilities, Crimes and Punishment](#) for more information.

- Keep and preserve the peace of their respective counties.



**The sheriff, undersheriffs and deputies may call to their aid any person or persons of the county that they deem necessary to keep and preserve the peace.**

**Commissioned police officers of any municipality’s regular police department may serve as law enforcement officers and may be deputized for the County Sheriff’s office upon request of a County Sheriff or designee.**

11 O.S. § 34-103(B)(C)

- Quiet and suppress all affrays, riots, and unlawful assemblies and insurrections.
- Apprehend or secure any person for felony or breach of the peace.
- Coordinate and administer courthouse security.

19 O.S. § 516(B)



**Any County Sheriff, deputy sheriff, or other subordinate of the County Sheriff’s office who commits any of the following actions is guilty of a felony offense:**

- Willfully or carelessly allows any person lawfully in custody to escape or go at large, except as may be permitted by law

- **Receives any gratuity or reward, or any security or promise of one, to procure, assist, connive at, or permit any prisoner in custody to escape, whether such escape is attempted or not**
- **Commits any unlawful act that tends to hinder justice**

### **Assistance Requested by the County Sheriff**

When a County Sheriff believes that resistance may be met when executing process, the County Sheriff may (in the manner provided by law) command as many male inhabitants in the county as needed, or call any military company in the county, armed and equipped, to assist in overcoming resistance, and if necessary, in seizing, arresting, and confining the resisters and any aiders and abettors. Any person commanded by the County Sheriff to assist in executing a process who, without lawful cause, refuses to obey the commands, is guilty of a misdemeanor.

22 O.S. § 91  
22 O.S. § 93

The County Sheriff must certify to the court from which the process is issued, the names of the resisters and their aiders and abettors.

22 O.S. § 92

### **Assistance Directed by the Governor**

If it appears to the Governor of Oklahoma that the power of the county is not sufficient to enable the County Sheriff to execute process, or to suppress riots and to preserve the peace, the Governor must, when requested by the County Sheriff or the judge of any court of record of the county, order a force from any other county or counties as is necessary to assist in whatever situation has arisen.

All persons so ordered or summoned by the Governor or acting Governor are required to go to the county as instructed and assist. Any such persons who, without lawful cause, refuse or neglect to obey the Governor's command, are guilty of a misdemeanor.

22 O.S. § 94

In addition, when the civil power of the county is not deemed sufficient, the Governor is responsible for furnishing a military force sufficient to execute the laws and to prevent resistance, to suppress riots, execute process, and preserve the peace

22 O.S. § 95

## ***Public Safety***

Refer to [Chapter Sixteen, Duties of the County Sheriff: Public Safety](#), for information on the County Sheriff's duties and responsibilities for public safety.

## ***Oklahoma Temporary Motorist Liability Plan***

The Oklahoma Association of County Sheriffs serves as the Plan Administrator of the Oklahoma Temporary Motorist Liability Plan.

47 O.S. § 7-626

The daily cost of temporary insurance coverage must be paid to the County Sheriff's office and the fine and fees associated with the traffic ticket must be paid to the County Court Clerk. The County Sheriff's office shall not waive premium dues for any defendant.

The County Sheriff's office must remit all proceeds from the daily cost of insurance to the Plan on the first business day of each month to the Plan Administrator. The Plan Administrator remits the total statewide monthly premium to the appropriate insurance carrier within 60 days of the premium being earned.

## ***Failure to Comply with the Compulsory Insurance Law***

Within three days, the law enforcement agency that has issued a citation for failure to comply with the Compulsory Insurance Law and has seized the license plate from that vehicle must deposit the license plate and deliver a copy of the citation to the County Sheriff's office in the county where the violation occurred.

47 O.S. § 7-606

The County Sheriff's office must provide the plan administrator with the seized license plate number.

The vehicle owner or operator may retrieve the license plate from the County Sheriff's office upon providing the following items:

- Certification of compliance with the Compulsory Insurance Law

- Payment in full of an administrative fee of \$125.00 to the County Sheriff's office, which the County Sheriff transfers to the Plan Administrator

The County Sheriff office receives \$20.00 to defray any expenses involved in storing the license plate.

- Payment in full of the citation to the County Court Clerk

The County Sheriff's office may dispose of any unclaimed license plate after 90 days.

### ***The County Jail***

The County Sheriff has charge and custody of the county jail and all of the prisoners in the jail, must keep the jail by himself, or by his deputy or jailer, and is liable for all acts concerning the county jail unless an outside entity has been contracted to have charge and custody of the county jail.

19 O.S. § 513

In any county where there is no courthouse or jail erected by the county, or where the jail does not have sufficient capacity, the Board of County Commissioners has the responsibility to provide for a court room, jail, and office space for the County Sheriff. If the Board neglects this responsibility, the court may order the County Sheriff to make necessary provisions, and the expenses incurred in carrying the order into effect, when certified by the court, is a county charge.

19 O.S. § 401

Refer to [Chapter Eleven, Duties of the County Sheriff: Jail Maintenance](#), for more information about the County Sheriff's responsibilities regarding the county jail.

### ***District or Other Courts***

#### **Court Adjournment**

12 O.S. § 55

If the judge of a court fails to attend at the time and place appointed for holding the court, the County Sheriff has the power to adjourn the court, from day to day, until the regular or assigned judge attends or a judge pro tempore is selected. If the judge is not present in the court, or a judge is not assigned or a judge pro tempore is not selected within two days after the first day of the term, then the court shall stand

adjourned for the term. The County Sheriff must exercise the powers and duties conferred and imposed by the Oklahoma Statutes.

### **Jury Room**

If the Board of County Commissioners neglects to provide a room for the jury's use upon their retirement for deliberation, the court may order the sheriff to do so, and the expenses incurred by in carrying out the order when certified by the court, are county charges.

22 O.S. § 891

### ***Councils, Commissions, Boards, and Committees***

#### **Council on Law Enforcement Education and Training**

The Council is composed of thirteen members:

One member is appointed by the Board of Directors of the Oklahoma Sheriffs' and Peace Officers Association and is a sheriff of a county with a population under 50,000, as determined by the latest Federal Decennial Census.

70 O.S. § 3311

One member is appointed by the Board of Directors of the Oklahoma Sheriffs' Association who is a sheriff of a county with a population of 100,000 or more, as determined by the latest Federal Decennial Census.

#### **Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission**

Four of the members of this commission must represent the lay citizenry, one member must be a district attorney, one member must be a County Sheriff, and one member must be a chief of police; provided that the County Sheriff and police chief members have successfully completed an approved course of instruction for peace officers as required by law.

63 O.S. § 686.6

#### **Oklahoma Integrated Justice Information Systems Steering Committee**

The Executive Director of the Oklahoma Sheriff's Association, or a designee, serves on the Oklahoma Integrated Justice Information Systems (OIJIS) Steering Committee,

57 O.S. § 508.2c

which serves as an advisory board to the Oklahoma Legislature regarding issues pertinent to the strategic planning, development, funding, implementation, and operations of the justice information systems of the state.

### **Domestic Violence Fatality Review Board**

22 O.S. § 1602

A County Sheriff selected from a list of three names submitted by the executive board of the Oklahoma Sheriffs' Association serves on the Domestic Violence Fatality Review Board, which is composed of eighteen members, or their designees.

### **Children and Juveniles**

The County Sheriff has certain duties and responsibilities related to searching for missing children, cooperating with boards of education for fingerprinting minors, working with the Office of Juvenile Affairs regarding transportation, records transfer, and other items. Refer to [Chapter Eighteen, Duties of the County Sheriff: Children and Juveniles](#) for more information.

O.S. 10 and 10A

### **Process and Writ Service**

The County Sheriff must serve and execute all process, writs, precepts, and other orders issued or made by lawful authorities in civil and criminal cases that are directed to the County Sheriff and serve the several courts of record held in the county:

19 O.S. § 514  
19 O.S. § 545

- All work issued out of district courts
- Municipal courts as requested

Refer to [Chapter Twelve, Duties of the County Sheriff: Process, Writ, Warrant, and Other Service](#), for more information.

11 O.S. § 27-113

### **Administering Oaths**

County Sheriffs and their deputies may administer oaths in cases where they are authorized by law to select commissioners or appraisers, or to impanel juries for the

51 O.S. § 21

view or appraisal of property, or when directed as an official duty to have property appraised, or to take the answers of garnishees, or are authorized to take delivery bonds.

## ***Elections***

### **Serving Notice on Candidacy Petition**

Any candidate (petitioner), may contest the candidacy of any other candidate for the same office (contestee), by filing a written petition with the secretary of the election board with whom the candidate filed the declaration of candidacy. In the event only one candidate files for an office, a petition contesting the candidacy may be filed by any registered voter who is eligible to vote for the candidate.

26 O.S. § 5-118  
26 O.S. § 5-119  
26 O.S. § 5-120  
26 O.S. § 5-121  
26 O.S. § 5-122  
26 O.S. § 5-123  
26 O.S. § 5-124  
26 O.S. § 5-125

Service must be made by the County Sheriff of the county of residence of the contestee as to all offices, except that of County Sheriff, in which case the County Clerk of the appropriate county serves the notice. The certificate of returns of the County Sheriff or County Clerk, which shows the inability to make the service within the required time, is deemed sufficient proof of the absence of the contestee, or the inability to serve the petition and notice. When personal service is impossible within the required time, the petitioner is responsible for serving the copies to the secretary of the appropriate election board.

### **Overseeing Vote Counting**

If on election night the uncounted ballot cards in a precinct in a county using voting devices exceed two percent of the total number of persons voting in the precinct, if the voting device has malfunctioned in such a way that no totals appear on the printout, or if the printout is illegible, the county election board is authorized to open the transfer case and recount the ballots on a preassigned voting device in public view and in the presence of a representative of the County Sheriff's office. When the recount is completed, the transfer case must be resealed by members of the county election board.

26 O.S. § 7-134.1

### **Providing Security for Ballot Boxes**

The County Sheriff in each county must provide security for the ballot boxes or transfer cases from the time the ballot boxes or transfer cases are stored by the county election board following an election until the election results have been certified or, in the event a recount contest is filed, until the ballot boxes or transfer cases are delivered to the district courtroom.

26 O.S. § 8-110

### **Recounts**

If a candidate or individual authorized to request a recount requests a recount of the ballots cast in an election, that person must cause to be served upon the opposing candidate or candidates, a true copy of the petition and a true copy of the order. Service must be made in person where possible, within 24 hours after the filing of the original petition of contest. Service must be made by the County Sheriff of the county as to all offices, except that of County Sheriff, in which case the County Clerk must serve the petition. The certificate of returns of the County Sheriff or County Clerk, which shows the inability to make the service within the required time, is deemed sufficient proof of the absence of the contestee, or the inability to serve the petition and notice.

26 O.S. § 8-111

Where personal service is impossible, within the required time, the contestant has the duty to serve the true copies to the secretary of the appropriate election board.

### ***Cities and Towns***

The County Sheriff must act as a moderator of a town meeting called by the Board of County Commissioners when a municipality located in the county or the governing body of the municipality fails to hold a biennial meeting on the first Tuesday in April in an odd-numbered year to elect officers, or when a municipality fails to call a special election or town meeting to fill a vacancy in the governing body

11 O.S. § 8-109  
11 O.S. § 16-305

The County Sheriff or deputy who is moderating a meeting is authorized to appoint a registered voter of the municipality to take the minutes of the meeting.

### ***Building Inspection***

The County Sheriff must annually inspect all county buildings and make a report to the Board of County Commissioners

19 O.S. § 526

### ***Working Prisoners on County Highways***

The Board of County Commissioners of any county has the authority to work any prisoners confined in the county jail, either as punishment for crime or in lieu of payment of fine and costs, upon public highways in the county, and to employ guards and other assistants as may be required. The County Sheriff, on the order of the Board of County Commissioners, must deliver the prisoners to any person authorized to receive them for work on public highways.

69 O.S. § 613

Any person in this state convicted of a crime who, as a result of such conviction, is confined as a prisoner in a county jail of any county may, at the discretion of the Board of County Commissioners, be required by the Board to perform road work on the public highways of the county and upon the streets of any municipality located in the county.

69 O.S. § 615

When the prisoner performs the road work in a satisfactory manner, under the supervision of any road supervisor of the county or municipality having jurisdiction over the person, the prisoner is entitled to two day's credit on his time in the jail for each day consisting of eight hours of road work performed by the person.

Any road supervisor having under his supervision any prisoner or prisoners for the purpose of performing road work, must be deputized as a deputy sheriff or special police officer with full authority of law as a deputy sheriff or police officer and is responsible under the law in the same manner as other officers are responsible for safekeeping of prisoners and is subject to the same penalties.

### ***Animal Control***

The County Sheriff must perform the following duties regarding animal control.

- Enforce statutory laws regarding large dogs in counties with populations over 200,000. Refer to “[Dogs in Counties with Populations over 200,000](#)” in Chapter Twenty, Duties of the County Sheriff: Animal Control and Regulation.
- Register dangerous dogs in the county. Refer to “[Dangerous Dogs](#)” in Chapter Twenty, Duties of the County Sheriff: Animal Control and Regulation.
- Take reports on stray and trespassing animals and perform certain related duties as described by statute. Refer to [Chapter Twenty, Duties of the County Sheriff: Animal Control and Regulation](#).
- Ensure proper use of permits for the transport of livestock or slaughtered livestock and enforce penalties for violations of the laws regarding transport. Refer to “[Motor Vehicle Carriers of Livestock](#)” in Chapter Twenty, Duties of the County Sheriff: Animal Control and Regulation.

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## Purchasing

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All county officers, including the County Sheriff, must follow the Oklahoma Purchasing Act when using any monies that belong to the county.

**WARNING: Any county officer found guilty of embezzlement or other misuse of county monies must be sentenced to imprisonment for a term of not less than three years nor more than 21 years and pay a fine equal to triple the amount in money or other property that was embezzled.**

See “[Purchasing](#)” in Chapter Eight, Duties of the County Sheriff: Finances and Fees, for additional information on purchasing duties and responsibilities.

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## Obtaining Legal Advice

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### ***Bills, Laws, and Regulations as Legal References***

OSU Extension Facts No. 884, Bills, Laws and Regulations as Legal References, provides guidelines to help reference Oklahoma statutes and regulations. Because of the technical nature of these documents however, it is important that that the County Sheriff seek legal advice for proper interpretation.

### ***The District Attorney***

When seeking legal opinions or advice about the official business of their offices, County Sheriffs should request assistance from their District Attorneys (or an assistant) who is their authorized legal counsel.

19 O.S. § 215.5

The District Attorney also represents County Sheriffs in court for any civil actions brought against them in their official capacity as County Sheriffs.

19 O.S. § 215.4

To save time and prevent misunderstandings, the County Sheriff should present questions in writing to the District Attorney's office and keep written records of all responses and communications. The County Sheriff should be sure that his or her understanding of the opinions agrees with the District Attorney's intended interpretation.



**Upon the recommendation of the Attorney General, the County Sheriff has the authority to employ an attorney to represent the County Sheriff or the office of the County Sheriff in the performance of the official duties of the office. This authority is limited to those situations or cases where the District Attorney of the same county as the County Sheriff has been disqualified or removed from the case.**

**The fees for employing an attorney may be paid from unrestricted funds within the County Sheriff's budget, or the County Sheriff may request that**

the budget authority of the county appropriate funds from the county general fund, if available.

### ***General Counsel***

The County Sheriff has the authority to employ a general counsel, either in-house as a staff attorney or through an outside law firm, to advise or represent that officer and the office in the performance of the official duties of that office. The Board of County Commissioners must approve all contracts for outside counsel. The general counsel employed must be compensated from the funds of the employing county office.

19 O.S. § 527

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## **Holding Open Meetings**

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In 1977, Oklahoma passed the Open Meeting Law, which prohibits the members of any public body (including county officers) to meet informally to decide a course of action or vote on any matter, even by telephone or other electronic means. All meetings must be held at specified times and places that are convenient to the public and must be open to the public. All meetings must be publicized by advance notice and specify the time, place, and subject matter to be considered.

25 O.S. §§ 301,  
302, 303, 304, 305,  
306, 307, 308, 309,  
310, 311, 312, 313

**WARNING: Any violation of the Open Meeting Law is a misdemeanor, punishable by a fine or imprisonment.**

25 O.S. § 314

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## **Open Records Act**

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Refer to “[Open Records Act](#)” in Chapter Nine: Duties of the County Sheriff, Records and Record Keeping for information, regarding the act.

25 O.S. §§ 301-313

**WARNING: Any violation of the Open Records Act is a misdemeanor, punishable by a fine or imprisonment.**

25 O.S. § 314

## Chapter Eight

# Duties of the County Sheriff: Finances and Fees

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Linda Farley, Purchasing Agent for the Payne County Sheriff's Department, works on a purchase order.

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## Handling County Monies

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### *Daily Deposits and Receipts*

Any monies received into the County Sheriff's office that are associated with the District Court must be delivered to the Court Clerk each day. Any other monies belonging to the county received into the County Sheriff's office must be delivered to

28 O.S. § 105

the County Treasurer each day (in a time frame scheduled by the County Treasurer) for deposit into the Official Depository Account.

Receipts should be issued for any monies received.

### ***Settling Monthly Accounts***

The County Sheriff must prepare a monthly report ([SA&I Form No. 140](#)) of all monies received into the office during the month and deposited into the Official Depository Account. This report must be delivered to the County Clerk (on or before the second Monday following the close of the calendar month) who will present it to the Board of County Commissioners for approval. The County Sheriff must close out the Official Depository Account each month by writing County Sheriff's vouchers to transfer the monies into the appropriate funds. These vouchers are delivered to the County Treasurer for registration and preparation of miscellaneous receipts to make the fund transfers.

19 O.S. § 441  
19 O.S. § 684

**WARNING: The County Sheriff's salary will be withheld until the monthly reports are filed and approved by the Board of County Commissioners.**

19 O.S. § 153

Please refer to "[County Bank Accounts](#)" in Chapter Four, "The County Accounting System," for more information about county accounts.

### ***Protecting County Monies***

The County Sheriff, along with other county officials, is accountable to the Board of County Commissioners for money belonging to the county. The Board of County Commissioners will bring suit against any officer who neglects to render true accounts or deposit funds according to the law. The officer must pay the county a penalty of 20% on the amount of monies due to the county.

19 O.S. § 641

**WARNING: Any County Sheriff found guilty of embezzlement or other misuse of county monies will be sentenced to imprisonment for a term of not less than three years nor more than 21 years and pay a fine equal to triple the amount in money or other property that was embezzled.**

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## Entering into Private Contracts

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County Sheriffs may enter into a private contract that requires the contractor to attempt to locate and notify persons of their outstanding misdemeanor warrants. The contractor is authorized to accept payment on the following misdemeanor warrants:

19 O.S. § 514.4  
74 O.S. § 85.41

- Any misdemeanor warrant issued or relating to any proceeding pursuant to the State and Municipal Traffic Bail Bond Procedure Act
- Any misdemeanor warrant issued that allows a defendant to resolve the matter by payment in lieu of a personal appearance in court.

The provisions of any contract entered into by a County Sheriff must be administered by the Oklahoma Sheriffs' Association. The County Sheriff of any county in Oklahoma may assign the contract to the Oklahoma Sheriffs' Association administering the provisions of the contract.

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## Obtaining Grants

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County Sheriffs may apply for any law enforcement grants that would help fund the office of the County Sheriff. The funds from such grants go directly into the County Sheriff's general revenue fund for the operation of the County Sheriff's office.

19 O.S. § 529

The Drug Eradication and Enforcement Plan Revolving Fund exists in the State Treasury as a revolving fund. All monies in this fund are to be used to provide grants to district attorneys' offices, County Sheriffs' offices and municipal police departments. The grants can be used to eradicate illegal drugs and enforce drug laws. The permitted use of these grants includes, but is not limited to, the following purposes:

63 O.S. § 2-512

- Purchasing equipment

- Purchasing drug-sniffing dogs
- Matching federal grants or funds
- Funding advanced training programs
- Funding drug education and awareness programs
- Funding drug courts

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## County Sheriff Accounts

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### ***County Sheriff's Service Fee Account***

The County Sheriff's Service Fee Account is a cash account in the County Sheriff's office for use by the County Sheriff in the lawful operation of that office.

19 O.S. § 514.1

### ***County Sheriff's Commissary Account***

The Sheriff's Commissary Account is a cash account in the County Sheriff's office. Monies from the account are used to help operate, or contract for the operation of, a commissary for the benefit of persons lawfully confined in the county jail under the custody of the county sheriff.

19 O.S. § 514.2

The County Sheriff is also permitted to use these funds to improve or provide jail services. The County Sheriff is permitted to use any surplus monies in the Sheriff's Commissary Account for administering expenses for training equipment, travel, or for capital expenditures. The claims for expenses must be filed with, and allowed by, the Board of County Commissioners in the same manner as other claims.

19 O.S. § 180.43

The County Sheriff receives no compensation for operating the commissary. County Sheriffs must file an annual report no later than January 15 of each year on any commissary under their operation. The State Auditor and Inspector conducts an audit of the report in the same manner as other county public records.

### ***Inmate Trust Fund Checking Account***

19 O.S. § 531

County Sheriffs may establish a checking account to be designated the "Inmate Trust Fund Checking Account". This account is to be managed by the County Sheriff and maintained separately from regular county funds. The County Sheriff deposits all monies collected from inmates incarcerated in the county jail into this checking account. The County Sheriff may write checks for the following two purposes:

- To the Sheriff's Commissary Account for purchases made by inmates during their incarceration
- To the inmate from unencumbered balances due to inmates upon their discharge.

The County Sheriff may deduct monies from the amount collected from an inmate for the following reasons:

- An amount of \$8.00 or more as a medical payment on account for each medical services visit the inmate receives while incarcerated in the county jail, except as otherwise provided in the statutes.

Any offender injured during the commission of a felony or misdemeanor offense or treated for any other medical condition or illness while incarcerated is required to reimburse the County Sheriff the full amount paid for any medical care or treatment during the offender's incarceration in the county jail. The County Sheriff may deduct the costs of medical care and treatment, whether it results from the commission of a felony or misdemeanor offense or for emergency or routine medical services, from any money collected from the inmate's jail account at a rate of 8.00 or more per visit for medication or services dispensed.

If the funds collected from the inmate's jail account are insufficient to satisfy the actual or minimal payment on account for medical costs, the

County Sheriff may collect the remaining balance of the medical care and treatment by civil action.

- The County Sheriff may deduct an amount of ten cents per page from any monies collected from an inmate for copies made at the request of the inmate

The State Auditor and Inspector prescribes procedures for operating the Inmate Trust Fund Checking Account. Banking fees on the account may be paid out of the Sheriff Commissary Account or the County Sheriff's Service Fee Cash Fund. The checking account is subject to audit by the State Auditor and Inspector.

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## Purchasing

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### *Purchasing Procedures*

All County Sheriffs and Deputy County Sheriffs must follow the purchasing laws and procedures specified in the statutes for all purchases, including credit card purchases, made in performing their official duties.

All county purchasing is centralized in a single office and carried out by a single purchasing agent. The county purchasing agent's job is to act as the shopper for the county. The agent finds the most efficient products, places the orders, and makes all purchases paid for with county funds.

19 O.S. § 1500  
19 O.S. § 1501  
19 O.S. § 1502  
19 O.S. § 1503  
19 O.S. § 1504  
19 O.S. § 1505  
19 O.S. § 1506  
19 O.S. § 1507

19 O.S. § 178.3

**For details regarding purchasing procedures and inventory responsibilities, refer to the Purchasing Handbook for Oklahoma Counties available on the Handbooks for County Officers of Oklahoma CD or online at <http://agecon.okstate.edu/ctp> under "Handbooks" and [the Office of the State Auditor and Inspector \(SA&I\)](#) and to 19 O.S. §§ 1500-1507 and as supplemented.**

### ***Requesting Officers***

Upon assuming office, the County Sheriff may assign at least one, but not more than two people, to be Requesting Officers or individuals who can sign purchasing requisitions during any absence. This information must be filed with the County Clerk and entered into the Board of County Commissioners' minutes.

19 O.S. § 1501A)(4)  
19 O.S. § 257

### ***Receiving Officers***

The County Sheriff must designate two people to serve as Receiving Officers. A written designation of such employees shall be filed with the County Clerk and must be entered in the minutes of the Board of County Commissioners.

19 O.S. § 1503  
19 O.S. § 257

Receiving Officers determine that a valid purchase order exists for items received, that the items are in the condition requested, and then prepare a Receiving Report. Receiving Officers also maintain a record of all supplies, materials, and equipment received, disbursed, stored, and consumed by the department. Normally, one of the Receiving Officers is designated as the Inventory Office.

19 O.S. § 1504

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## **Credit Cards**

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Subject to the limitations and procedures provided by the statutes, any County Sheriff or Deputy County Sheriff may purchase materials, supplies, or services necessary for travel out of the county using one or more credit cards issued to the county for use by the County Sheriff's department.

19 O.S. § 1506

Purchases made with these credit cards are limited to actual expenses for travel out of the county by the County sheriff or deputies to perform their official duties, except that the credit cards may also be used to purchase fuel within the county on weekends, nights, or holidays when fuel cannot be obtained from the vendor to whom a bid for fuel purchases has been awarded.

### ***Defining Actual Expenses***

Actual expenses for travel means expenses for travel by public or private railroads, airplanes, buses, rental cars, or other public or private conveyances; fuel; oil; meals; lodging; parking fees; and telephone expenses.

### ***Requesting Credit Cards***

The County Sheriff may request the Board of County Commissioners of the county to apply for one or more credit cards for use by the County Sheriff's department. The application must be made in the name of the county, and any credit cards issued must be issued in the name of the county only. The Board of County Commissioners then issues the card or cards to the County Sheriff's office.

### ***Encumbering Funds and Paying Bills***

For each card issued to the county by an issuer, the county shall encumber sufficient funds each month to pay for the estimated charges to be made with the cards, including any annual or other fee owed for use of the cards. The funds for payment of credit card charges must be made from the annual county appropriation to the County Sheriff's department. Payment of the bill for charges incurred on any card must be made in a timely manner so that no interest charges or penalties accrue and so that the total payment amount corresponds to the balance of charges for purchases in addition to any applicable annual fee or service charge.

### ***County Sheriff Responsibilities***

The County Sheriff of each county issues cards when the cards are required for expenditures incurred in connection with travel outside the county. The County Sheriff remains responsible for proper use of all cards issued.

## **Maintaining Receipts**

All receipts for charges made by use of any card issued to a county must be returned to the Board of County Commissioners to facilitate accurate records of total monthly expenditures for which the county will be obligated.

## **Notification of Anticipated Expenditures**

On or before the 25th day of each month, the County Sheriff must notify the Board of County Commissioners of the anticipated credit card expenditures for the following month. When credit purchases are made, the County Sheriff or Deputy County sheriff must immediately and accurately document all expenditures on [SA&I Form No. 112, County Sheriff's Credit Card Expenditures](#), and [SA&I Form No. 1-4030, Receiving Report](#), attaching receipts and a written explanation of each expenditure as to the date, case number, or other identification number; area or location; reason for expenditure; and amount expended. The County Sheriff must approve all forms. The original form must be attached to the purchase order and be submitted to the Board of County Commissioners for final approval and payment. A copy of the form must be retained for the County Sheriff's records.

**CAUTION: A County Sheriff or Deputy County Sheriff may not receive any reimbursement for any expenses for which a credit card issued to the County Sheriff's office has been used.**

## ***Number of Credit Cards Limitations***

The number of credit cards issued and the amount of charges allowed for credit cards issued by counties are subject to the following limits:

19 O.S. § 1507

- For counties with a population of less than 50,000 persons, according to the latest Federal Decennial Census, no more than two cards can be issued. The aggregate amount of credit for all such cards issued must not exceed \$5,000.00

- For counties with a population of 50,000 to 100,000 persons, according to the latest Federal Decennial Census, no more than four cards can be issued. The aggregate amount of credit for all such cards issued must not exceed \$10,000.00
- For counties with a population of 100,000 to 450,000 persons, according to the latest Federal Decennial Census, no more than six cards can be issued. The aggregate amount of credit for all such cards issued must not exceed \$15,000.00
- For counties with a population in excess of 450,000 persons, according to the latest Federal Decennial Census, no more than 24 credit cards can be issued. The aggregate amount of credit for all these cards must not exceed \$60,000.00.

Refer to “County Sheriff Purchases by Credit Card” in the [Purchasing Handbook for Oklahoma Counties](#) for additional information on credit card procedures.

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## **Fees**

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All County Sheriffs who collect costs on executions in Oklahoma must pay the costs collected to the County Clerk Court or the justice for the court from which the execution was issued. The County Sheriff must obtain a receipt for all monies paid.

28 O.S. § 105

### ***Civil Cases***

In civil cases, the Court Clerk collects and deposits in the court fund certain fees associated with those cases. The following fees, however, are paid by the Court Clerk into the Sheriff's Service Fee Account of the County Sheriff in the county where service is made or attempted or where the sheriff's sale occurs:

28 O.S. § 152.1

- For serving or endeavoring to serve each writ, warrant, order, process, command, or notice for each person in one or more counties provided that if more than one person is served at the same address, one flat fee is charged.
- For sheriff's fees on court-ordered sales of real or personal property

Additional information and fee amounts can be found in the statutes shown above.

## ***Criminal Cases***

### **Costs**

28 O.S. §§ 153, 153.2

The Court Clerk collects costs in every criminal case for each offense of which the defendant is convicted. The following costs, plus \$10.00, are assessed and credited to the Sheriff's Service Fee Account in the county in which the conviction occurred. The monies are used to enhance or provide additional courthouse security.

- For each defendant convicted of exceeding the speed limit by at least one mile per hour but not more than ten miles per hour, whether charged individually or jointly with others
- For each defendant convicted of certain misdemeanor traffic violation, whether charged individually or jointly with others
- For each defendant convicted of a misdemeanor, other than for driving under the influence of alcohol or other intoxicating substance, or other specified offenses, whether charged individually or jointly with others
- For each defendant convicted of a felony, other than for driving under the influence of alcohol or other intoxicating substance, whether charged individually or jointly with others
- For each defendant convicted of the misdemeanor of driving under the influence of alcohol or other intoxicating substance, whether charged individually or jointly with others

- For each defendant convicted of the felony of driving under the influence of alcohol or other intoxicating substance, whether charged individually or conjointly with others

### **Warrant Service**

In criminal cases, the Court Clerk also assesses and collects a sheriff's fee for serving or endeavoring to serve each writ, warrant, order, process, command, or notice or pursuing any fugitive from justice for deposit into the Sheriff's Service Fee Account.

A Court Clerk issuing a misdemeanor warrant is entitled to 10% of this sheriff's service fee collected on a warrant referred to the contractor for the misdemeanor warrant notification program. The balance of the sheriff's service fee is deposited into the Sheriff's Service Fee Account of the sheriff in the county in which service is made or attempted. Otherwise, the sheriff's service fee, when collected, is deposited in its entirety into the Sheriff's Service Fee Account of the sheriff in the county in which service is made or attempted.

19 O.S. § 220  
19 O.S. § 514.4  
19 O.S. § 514.5  
28 O.S. § 153

### **State Violation**

In any criminal case in which a defendant is arrested for a violation of state law, \$5.00 of the costs charged in this case is paid to the Sheriff's Service Fee Account of the sheriff of the county in which the arrest was made. This fee is in addition to the fee authorized above and is to be used to defer the costs associated with arrests.

28 O.S. § 153.2

### ***Bond or Security Filing Fee***

The County Sheriff receives \$25.00 of the \$35.00 fee for the initial filing of any bond or security for the subsequent court appearance of the defendant. The monies are deposited into the Sheriffs Jail Fund or to a special revenue fund of the entity operating a jail.

28 O.S. §§ 153.3

### ***Children and Juvenile***

28 O.S. § 162

The Court Clerks collect costs in every children and juvenile case including a sheriff's fee for serving or endeavoring to serve all writs, warrants, orders, process, commands, or notices or pursuing any fugitive from justice, which is deposited into the Sheriff's Service Fee Account.

Prior to adjudication, parties in juvenile delinquency, child in need of supervision, minor in need of treatment, and deprived cases shall not be required to pay, advance, or post security for the issuance or service of process to obtain compulsory attendance of witnesses. These fees shall be deposited into the court fund, except the sheriff's fee, when collected, which is transferred to the general fund of the county in which service is made or attempted to be made.

### ***Posting Service***

28 O.S. § 152.2

In all applications filed with the district Court Clerk when posting of notices is required by statute, the Court Clerk must cause the notice to be posted, and pay a fee of twenty cents per mile of the local court fund to the person performing the service.

### ***Fingerprinting***

19 O.S. § 514.3

The County Sheriff may charge \$5.00 per card for fingerprinting individuals. This does not include fingerprinting individuals pursuant to the Oklahoma Self-Defense Act (see "[Fingerprinting of Minors](#)" in Chapter Eighteen, Duties of the County Sheriff: Children and Juveniles). All fees collected pursuant to this section are deposited into the Sheriff's Service Fee Account.

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## Chapter Nine

# Duties of the County Sheriff: Records and Record Keeping



Don Hewitt, McClain County Sheriff, explains recordkeeping responsibilities for the County Government Video produced by the County Training Program.

## Keeping County Records

County Sheriffs should establish an effective and efficient records management procedure within the County Sheriff's office to include the following procedures and records:

- Incident/offense reporting process

- Records Section Security
- Records Filing Systems
- General
- Juvenile law enforcement records and fingerprint records
- Arrest and booking information (inmate files)
- Criminal history records
- Warrants
- Towed vehicle reports and releases
- Civil papers
- Disclosure of law enforcement records

### ***Law Enforcement Records for Children and Juveniles***

Law enforcement records for children and juveniles means any contact, incident or similar reports, arrest records, disposition records, detention records, fingerprints, or photographs related to a child and include, but are not limited to, reports of investigations or inquiries conducted by a law enforcement agency to determine whether a child is, or may be subject to, the provisions of the statutes as a delinquent child or a child in need of supervision.

10A O.S § 2-6-101

Law enforcement records pertaining to juveniles must be maintained separately from records pertaining to adults.

10A O.S § 2-6-102

Except as specifically provided by state or federal laws, law enforcement juvenile records are confidential and shall not be open to the general public, inspected, or their contents disclosed.

## ***Open Records Act***

51 O.S §§ 24A.1-24A.20

According to the Oklahoma Open Records Act, all county officials, including the County Sheriff, must keep public records “open for public inspection (and copying and/or mechanical reproduction) for proper purposes, at proper times, and in a proper manner during all business hours of the day.”

The statutes state that the people of Oklahoma have an inherent right to know and be fully informed about their government at any level. The Oklahoma Open Records Act ensures and facilitates the people’s right to access and review government records so that they may exercise this right.

A public record includes, but is not limited to, any document, book, paper, photograph, microfilm, computer tape, disk, and record, sound recording, film recording, video record or other material regardless of physical form or characteristic, that is in the custody, control or possession of the County Sheriff.

**CAUTION: Certain records may not be subject to open search by the public because of confidential privacy created by state and federal statutes. Care must be taken when refusing permission for public review of any public record. For protection, the County Sheriff should obtain a written statement from the District Attorney or the State Auditor and Inspector that states that public review of a particular public record is not authorized. This action protects the County Sheriff from a possible act of commission or omission which might cause removal from office.**

**WARNING: If any County Sheriff purposefully violates any provision of the Oklahoma Open Records Act, that person can be charged with a misdemeanor and, if convicted, removed from office. Also, any person who is denied access to a public record can file a civil suit.**

## ***Access and Fees***

The County Sheriff can adopt reasonable procedures for inspection and copying of records. Reasonable applies to the need to protect the integrity and organization of the records themselves and the need for the office to perform its essential functions.

51 O.S., § 24A.3

The statutes allow for the County Sheriff to establish a reasonable copying fee. A reasonable search fee is appropriate only where the information is sought solely for commercial purposes or where the information requested would cause excessive disruption of the office's essential functions.

If not covered by other specific statutes, the fee for copying documents cannot exceed twenty-five cents per page for documents that are 8-1/2 by 14 or smaller, or a maximum of one dollar per copied page for a certified copy.

28 O.S. § 32

51 O.S., § 24A.5(3)

Any County Sheriff who establishes fees must post a written schedule of the fees at the principal office. The County Sheriff must also provide the County Clerk with a copy of the fee schedule.

County Sheriffs might also reference Attorney General Opinion No. 85-36 about electronically stored information, and Attorney General Opinion No. 86-69 about personnel files.

28 O.S. § 32  
AG Opinion 85-36  
AG Opinion 86-69

The Federal Privacy Act also impacts releasing information. The County Sheriff should seek the advice of the District Attorney in these matters.

## ***Record Destruction***

### **County Sheriff Records**

The County Sheriff has a specific duty to keep and maintain complete records of the receipt and disbursement of county funds as provided by law. No county records can be destroyed or discarded except as provided by law.

The Board of County Commissioners may establish a length of time for the county to keep departmental records and authorize the sheriff to properly dispose of or convert to microfilm or a similar medium all records not specifically addressed in other statutes. Such records shall be kept for a minimum of seven years.

19 O.S. § 517.1

### **County Sheriff's Deputy Commissions**

The County Clerk is authorized to destroy Sheriff's Deputy Commissions that have been in the County Clerk's office for five years.

19 O.S. § 155.2a

### **Penalties**

**WARNING: Any County Sheriff who steals, willfully destroys, mutilates, alters, falsifies, erases, obliterates, or unlawfully removes or hides any public record, is guilty of a felony offense and, if convicted, forfeits the office and serves up to five years in prison.**

19 O.S. § 531

21 O.S. § 461

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## Chapter Ten

# Duties of the County Sheriff: Personnel and Salaries

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Rhoda Anderson, Receptionist at the Payne County Sheriff's office, records data into the computer.

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## Personnel

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### *Personnel Policies*

The Board of County Commissioners, with the majority vote of all county officers, establishes personnel policies for all county employees.

19 O.S. § 339(A)(9)

## ***Deputies and Assistants***

Personnel who report to the County Sheriff normally hold the title of Deputy County Sheriff. In practice, the titles of Undersheriff, Chief Deputy, or First Deputy, Second Deputy, and Third Deputy or Deputy Assistant are used. These titles generally imply a hierarchy of experience and responsibility.

19 O.S. § 180.65(C)  
19 O.S. § 180.81

### **Undersheriff, First Deputy, or Chief Deputy**

The County Sheriff must appoint an Undersheriff or a First or Chief Deputy and record that appointment in the County Clerk's office. This person will fulfill the duties of the office during any absence of the County Sheriff, while still serving under the County Sheriff, or in the event of death, removal from office, or resignation of the County Sheriff, until a successor is designated.

19 O.S. § 180.65(B)  
19 O.S. § 180.81(B)



**Every appointment of an Undersheriff or a deputy sheriff, and every revocation of an appointment must be made in writing. The County Sheriff must maintain a list of every appointment and revocation, and the list must be made available to the public upon request.**

19 O.S. § 548

### **Additional Deputies**

The County Sheriff should have sufficient deputies to adequately perform the necessary duties of the office. If the County Sheriff determines that additional deputies are needed based on the office workload, proposals for increases in personnel must be made to the County Excise Board or the Budget Board, depending on the county. These boards will consider such requests based on the county budget and other county officials' needs. The Board of County Commissioners has the authority to recommend the total amount of funds to be used for the combined salaries in each of the county offices.

19 O.S. § 180.65(A)  
19 O.S. § 180.65(E)  
19 O.S. § 180.65(D)  
19 O.S. § 180.81

Subject to the approval of the County Excise Board, the County Sheriff must appoint any regular and special deputies that are essential to the performance of the duties of the office in an efficient manner. They must also fix their salaries and compensation.

19 O.S. § 162

To provide for parity among and between county offices, every county that has established a county budget board may, upon majority vote of the members of the Budget Board, institute equivalent employee job descriptions and related salary levels for all full-time employment positions for uniform application by each county officer. The Board of County Commissioners is responsible to ensure that these job descriptions and salary levels be established.

The County Sheriff must make requests annually for appropriation for payment of salaries, traveling expenses, supplies and equipment, and other needs for performing the official duties. The Board of County Commissioners and the County Excise Board must annually appropriate amounts that will enable the County Sheriff to hire and keep capable deputies, provide their instruction, provide sufficient supplies and equipment for the County Sheriff and his deputies, provide reimbursement for traveling expenses for the County Sheriff or deputies whose assignments require those expenditures, or provide a monthly travel allowance for the County Sheriff in lieu of reimbursed expenditures for travel within the state.

### **Sheriff's Responsibilities**

The County Sheriff shall be responsible for the official acts of the undersheriff and deputy sheriffs, and may revoke such appointments. However, for counties with a population of 500,000 or more persons, according to the latest Federal Decennial Census, with the exception of chief deputies and undersheriffs, all deputy sheriffs and detention officers shall serve a five-year probationary period during which the deputy sheriff or detention officer shall be considered an at-will employee. After the five-year probationary period, such deputy sheriff or detention officer shall not be discharged except for just cause. The County Sheriff or the undersheriff may in writing dispute certain persons to do particular acts.

19 O.S. § 547  
19 O.S. § 548

### **Reserve Force Deputies**

The County Sheriff may appoint as many reserve force deputy sheriffs as are necessary to preserve the peace and dignity of the county, subject to conditions in the statutes. The County Sheriff must maintain a list, and all persons who have been

19 O.S. § 547

appointed as reserve force deputy sheriffs and that list must be available to the public.



**Ensuring that the list of all reserve force deputy sheriffs is kept current is very important. The County Sheriff should check with the County Clerk for policies and procedures concerning paying and insuring these deputies.**

Reserve force deputies may perform duties that encompass a particular act or a series of acts. A County Sheriff or salaried Deputy Sheriff must accompany a reserve force deputy sheriff unless the reserve deputy has completed the required 160-hour basic police course.

19 O.S. § 547 (B)

Reserve force deputies may be compensated for their services. Within 12 months after they have been commissioned to be paid by the county as an individual reserve deputy, they must complete a 160-hour basic police course. The County Sheriff may also pay for travel expenses and for training expenses for reserve force deputies.

Reserve force deputy sheriffs with at least 160 hours of training shall not serve more than 140 hours per calendar month.

Employees who are reserve deputy sheriffs and who miss work in performing their duties in case of emergency shall not have to use any accrued leave or need to make up any time due to the performance of their reserve deputy sheriff duties.

74 O.S. § 840-2.20 (A)(9)

For reserve deputies, a basic reserve academy shall consist of a minimum of 240 hours.

70 O.S. § 3311 (E) (2) (c)

After January 2014, any reserve peace officer who has completed the 240-hour reserve peace officer certification program, and who has been in active service in that capacity in the past two years, shall be eligible to attend a 360-hour basic full-time training academy to become certified as a full-time police or peace officer.



**Reserve force deputies must be covered under the blanket bond for the County Sheriff's office. See "[The Blanket Bond](#)" in Chapter Six, *Office of the County Sheriff*, for information the blanket bond.**

## **Non-Certified Deputies**

Every person who has not been certified as a peace officer and is duly appointed or elected as a peace officer shall hold that position on a temporary basis only. Within six months from the date of appointment or taking office, the non-certified officer must qualify as required in the statutes or forfeit the position. In computing the time for qualification, all service is cumulative from the date of the first appointment or taking office as a peace officer.

70 O.S. § 3311 (E)(3),E(5)

## **Duties and Job Descriptions**

The resources needed to conduct the business of the County Sheriff are controlled by the local economic structure, size, population, and other factors in each county.

Written job descriptions for deputies will prove helpful in understanding the work of the County Sheriff's office.

Job descriptions can be expanded in detail and can provide valuable information to new employees, reduce training time, and help reduce errors.

All County Sheriff employees should know all of the duties of the office of the County Sheriff to best serve the customers of the office.

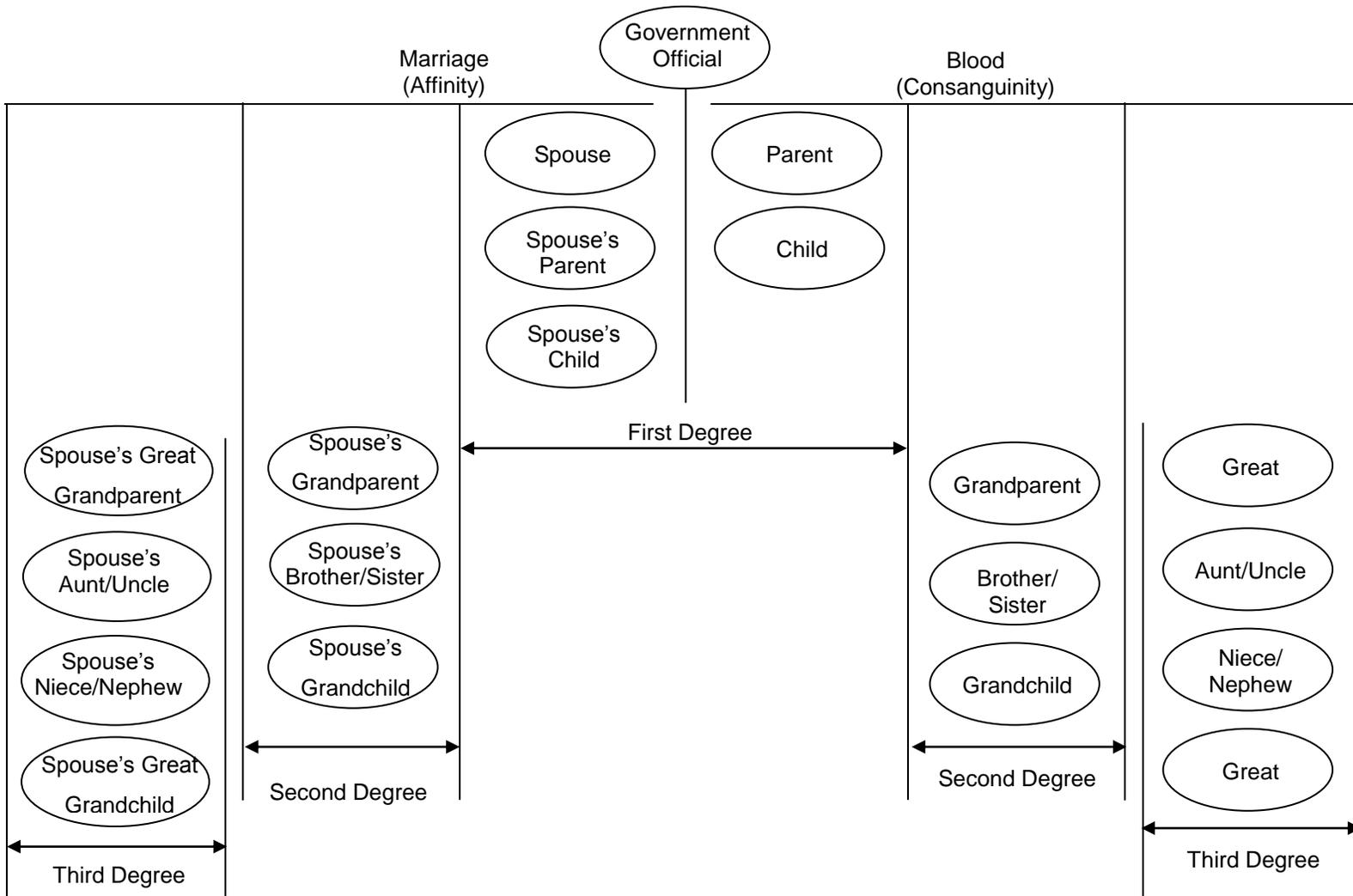
## ***Nepotism***

Each county officer should attempt to ensure that no county officer or employee violates the nepotism laws. No person related within the third degree by affinity (marriage) or consanguinity (blood) to any elected county official or any non-elected official defined in the statutes can hold any clerkship, office, position, employment, or duty in the same agency as the official.

21 O.S. §§ 483  
21 O.S. §§ 484  
A.G. Opinion 88.45

Figure 10-1 contains a nepotism chart that shows the degrees of affinity and consanguinity.

Careful research of the applicable statutes and opinions should be done or legal advice sought if any questions arise about compliance with the nepotism statutes.



## Figure 10-1. Nepotism Chart

**WARNING Any County Sheriff who violates the nepotism laws is guilty of a misdemeanor involving official misconduct, and subject to punishment by a fine of not less than One Hundred or more than One Thousand Dollars and forfeiture of office.**



Nepotism restrictions do not apply to relatives or officials in branches of county government other than the officer's own. For example, the spouse of a County Excise Board member can work for the Election Board.

Spouses of persons related to the official by marriage are eligible for appointment. For example, the husband of the official's spouse's sister could be appointed or hired.

Spouses of persons related to the official by blood are ineligible for appointment. For example, the husband of the official's sister cannot be appointed or hired.

Nepotism restrictions apply to adopted as well as natural children.

When a husband and wife divorce, the divorce terminates their relationship by affinity.

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## Employee Requirements, Salaries, and Benefits

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Please refer to *Personnel Guidelines for Elected County Officials, Second Edition* published by [The Association of County Commissioners of Oklahoma \(ACCO\)](#), and the [Oklahoma Public Employees Retirement System \(OPERS\)](#) handbook for additional information on office personnel requirements, nepotism, salaries, and benefits.

### ***Wages and Salaries***

The Board of County Commissioners sets the salaries for all elected county officials and dictates guidelines within the limits set by the statutes. The Board of County Commissioners must pass a resolution for the salaries. The County Excise Board is responsible for reviewing and approving these recommendations. The County Sheriff's payroll budget cannot exceed these approved funds.

19 O.S. § 180.65(D)

[Chapter Two](#) in this handbook, "The County Budget Process," contains detailed information on County Excise Boards and County Budget Boards.

The statutes dictate guidelines for computing wages and salaries for elected County Sheriffs and undersheriffs, deputies, assistants and other employees. County Sheriffs' salaries are based on the assessed valuation and population of the counties. Designated undersheriffs', deputies' or assistants' salaries cannot exceed the County Sheriff's salary in their county. Salaries for other deputies or assistants cannot exceed the County Sheriff's salary in their county.

19 O.S. § 180.60  
19 O.S. § 180.62  
19 O.S. § 180.81(C)  
19 O.S. § 180.61  
19 O.S. § 180.73

Salaries must be paid either monthly or twice a month as ordered by the Board of County Commissioners for each month or fraction of a month that the County Sheriff lawfully occupies and holds title to the office.

19 O.S. § 180.62(C)  
19 O.S. § 180.79

Changes in salary must take place as of, on, and after the first day of July of each fiscal year. The County Sheriffs cannot receive any salary increase or decrease during their term of office except by a law enacted prior to their election or appointment.

19 O.S. § 180.68  
19 O.S. § 180.83

Salary calculations begin with a basic amount to which a supplement may be added as shown in Figures 10-1 and 10-2.

19 O.S. § 180.77  
19 O.S. § 180.62  
19 O.S. § 180.63  
19 O.S. § 180.74  
19 O.S. § 180.75

Figure 10-2 shows a calculation for the maximum permissible salary for County Sheriffs in counties that have not exempted household personal and livestock. Salaries are calculated based on the county's net valuation of all tangible taxable property (serviceability) and population (service load).

19 O.S. §§ 180.58, 180.59,  
180.60, 180.61, 180.62,  
180.63, 180.64, 180.65,  
180.66, 180.67, 180.68  
19 O.S. §§ 180.71, 180.72,  
180.73, 180.74, 180.75,  
180.76, 180.77, 180.78,  
180.79, 180.80, 180.81,  
.....

Figure 10-3 shows a calculation for the maximum permissible salary for officers in counties exempting household personal and livestock. Salaries are calculated based on the county's serviceability, which the statutes define as the total amount of revenue authorized to be collected from the millage rate levied

against the taxable valuation of property within the county, and the population or service load.

A county's current population can be found on the U.S. Census Bureau website: <http://www.census.gov/>.

### ***Deputies' and Assistants' Salaries***

The deputy, undersheriff, or assistant appointed by the County Sheriff cannot receive a salary greater than the County Sheriff's salary. Salaries for other deputies or assistants also cannot exceed the County Sheriff's salary.

19 O.S. § 180.65

### ***Travel Allowance***

#### **Travel Options**

Three options are available in the statutes for travel provisions In lieu of the travel reimbursement or monthly travel allowance provided for by law for County Sheriffs:

- The board of county commissioners, with the concurrence of the county sheriff, may purchase and provide for the operation, maintenance,

19 O.S. § 180.43(B)

insurance, equipping, and repair of automobiles for the use of the sheriff in performing the duties of his office.

- In lieu of reimbursement for traveling expenses within their county, County Sheriffs may receive a monthly travel allowance of \$600.00 in addition to their salaries. Under IRS regulations, this travel allowance is subject to taxation unless a detailed mileage log is maintained. The County Sheriff may forfeit this travel allowance for failure to attend the meetings as specified by statute.
- In any county having a population of at least 350,000, where it is determined by the sheriff to be more economical and advantageous to the county, the sheriff may establish a monthly automobile allowance of not more than \$400.00 per month in lieu of the mileage per mile for in-county driving. Any travel reimbursement other than in-county driving as provided for in this section shall be for actual and necessary expenses as provided for in the State Travel Reimbursement Act.

19 O.S. §§ 165, 166

19 O.S. § 180.43(B)

These provisions do not prevent the emergency use of a county-owned vehicle or county-owned equipment by the County Sheriff when acting on behalf of the county or when such use is related to county business. Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action.

### **Aircraft Use**

Any non-elected law enforcement officer or citizen who offers the use of a personal airplane or aircraft for searches or criminal pursuits may be reimbursed by the county requesting the assistance for the cost of fuel used during the flight.

74 O.S. § 500.6

**Basic Annual Salaries for counties that have not voted to exempt household personal property and livestock from ad valorem taxation**

Net Valuation	County Officers
\$0 – 40,000,000	\$19,000 minimum to \$39,000 maximum
\$40,000,000 – 80,000,000	\$22,500 minimum to \$42,500 maximum
\$80,000,000 – 300,000,000	\$24,500 minimum to \$44,500 maximum
\$300,000,000 – 600,000,000	\$22,500 minimum to \$42,500 maximum
More than \$600,000,000	\$19,000 minimum to \$39,000 maximum

**May Increase: (Supplement) Basic Salary**

Net Valuation (Assessed value after removing all exemptions)

\$0 - 75 million	\$100 x each \$1,000,000 or major fraction*
\$75 - 500 million	\$100 x each \$5,000,000 or major fraction
\$500 million - 2 billion	\$125 x each \$7,000,000 or major fraction
Over \$2 billion	\$125 x each \$20,000,000 or major fraction

**Shall Increase: (Supplement) Basic Salary**

Population (Per most recent census)

0 - 75,000	\$12.50 x each 1,000 population or major fraction
75,000 - 150,000	\$12.50 x each 5,000 population or major fraction
Over 150,000	\$12.50 x each 10,000 population or major fraction

(The population amount is from the most recent Federal Decennial Census)

\*Major fraction is any amount greater than 1/2.

No increases are made to basic salaries if the assessment ratio is below 9%.

19 O.S. § 180.60  
19 O.S. § 180.64(F)  
19 O.S. § 180.76

**Figure 10-2. Sample Salary Calculation for County Sheriffs in Counties Not Exempting Household Personal and Livestock**

**Example:**

County Commissioner in a county of 202,000 population and valuation of \$88,000,000

Basic Salary = \$24,500 to \$44,500

Supplement for Valuation:

0 - \$75 million:  $75,000,000 \div 1,000,000 = 75$ ;  $\$100 \times 75 = \$7,500.00$

Over \$75 million:  $(88,000,000 - 75,000,000) \div 5,000,000 = 2.6$  (round to 3)  $= \$100 \times 3 = \$300.00$

Supplement for population:

0 - 75,000 population:  $75,000,000 \div 1,000,000 = 75$ ;  $\$12.50 \times 75 = \$937.50$

75,000-150,000 population:  $(\$150,000,000 - 75,000,000) \div 5,000,000 = 15$ ;  
 $\$12.50 \times 15 = \$187.50$

Over 150,000 population;  $(202,000,000 - 150,000,000) \div 10,000,000 = 5.2$  (round to 5)  
 $\$12.50 \times 5 = \$62.50$

Maximum Permissible Salary: \$33,487.50 to \$53,487.50

**Figure 10-2 (Continued). Example of Sample Salary Calculation for County Sheriffs in Counties Not Exempting Household Personal and Livestock**

**Basic Annual Salaries for that have voted to exempt household personal property and livestock from ad valorem taxation:**

Service-Ability	County Officers
\$0 - 400,000	\$19,000 minimum to \$39,000 maximum
\$400,000 - 800,000	\$22,500 minimum to \$42,500 maximum
\$800,000 - 3,000,000	\$24,500 minimum to \$44,500 maximum
\$3,000,000 - 10,000,000	\$22,500 minimum to \$42,500 maximum
More than \$10,000,000	\$19,000 minimum to \$39,000 maximum

**May Increase Basic Salary**

Service-Ability (Revenue levied for county purposes, Taxable Value x Mill Rate)

\$0 - 750,000	\$100 x each \$10,000 or major fraction*
\$750,000 - 5,000,000	\$100 x each \$50,000 or major fraction
\$5,000,000 - 20,000,000	\$125 x each \$70,000 or major fraction
Over \$20,000,000	\$125 x each \$200,000 or major fraction

**Shall increase Basic Salary Based on Population**

Service Load (Population)

0 - 75,000	\$12.50 x each 1,000 population or major fraction
75,000 - 150,000	\$12.50 x each 5,000 population or major fraction
Over 150,000	\$12.50 x each 10,000 population or major fraction

*\*Major fraction is any amount greater than 1/2.*

19 O.S. § 180.64(F)

**Figure 10-3. Sample Salary Calculation for County Sheriffs in Counties Exempting Household Personal and Livestock**

**Example:**

County Commissioner in a county with a service load (population) of 202,000 and service-ability of 880,000

Basic Salary = \$24,500 to \$44,500

Service-Ability Factor:

\$0 – 750,000:  $(750,000 \div 10,000) \times \$100$ ;  $75 \times \$100 = \$7,500.00$

Over \$750,000:  $\$880,000 - 750,000 \div 50,000 = 2.6$  (round to 3);  $3 \times \$100 = \$300.00$

Service Load:

0-75,000 population:  $75,000 \div 1,000 = 75$ ;  $\$12.50 \times 75 = \$937.50$

75,000-150,000 population:  $(\$150,000 - 75,000) \div 5,000 = 15$ ;  $\$12.50 \times 15 = \$187.50$

Over 150,000 population:  $(202,000 - 150,000) \div 10,000 = 5.2$  (round to 5);  $\$12.50 \times 5 = \$62.50$

Maximum Permissible Salary: \$33,487.50 to \$53,487.50



A salary calculation spreadsheet that automatically makes these calculations is available at <http://agecon.okstate.edu/ctp/resources.asp>.

**Figure 10-3 (Continued). Sample Salary Calculation for County Sheriffs in Counties Exempting Household Personal and Livestock in Counties**

- In any county having a population of at least 350,000, where it is determined by the sheriff to be more economical and advantageous to the county, the sheriff may establish a monthly automobile allowance of not more than \$400.00 per month in lieu of the mileage per mile for in-county driving. Any travel reimbursement other than in-county driving as provided for in this section shall be for actual and necessary expenses as provided for in the State Travel Reimbursement Act.
- These provisions do not prevent the emergency use of a county-owned vehicle or county-owned equipment by the County Sheriff when acting on behalf of the county or when such use is related to county business. Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action.

### ***Fair Labor Standards Act***

Each County Sheriff should have a written policy that addresses overtime compensation for non-exempt employees in the County Sheriff's office.

The County Sheriff should become familiar with the regulations under the Fair Labor Standards Act (FLSA) regarding non-exempt employees in law enforcement, which are different from those for other county office employees. Information about the FLSA regulations for law enforcement employees is available at <http://www.wagehour.dol.gov> or at 1-866-487-9243. The County Clerk would also be a good resource for the County Sheriff regarding this act.

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## Payroll Requirements

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The County Sheriff must submit to the County Clerk a signed payroll claim form ([SA&I Form No, 2742](#)) for each payroll period that documents the time worked for all employees in the County Sheriff's office.

The County Sheriff should check with the County Clerk for more information regarding payroll processing in that county and for deadlines.

### ***Hiring***

The County Sheriff must notify the County Clerk in writing of any new hire (both full-time and part-time), including all of the information necessary to process employment.

The County Sheriff should ensure that all new hires meet with the County Clerk in a timely manner to complete the necessary forms for employment.



**The County Sheriff should report any new hires promptly to the County Clerk. The County Clerk is required to send the federal Employment Eligibility Verification form I-9 to the Immigration and Naturalization Service within three days of the date of hire.**

**The County Clerk is also required to send Form No. 112 (Oklahoma New Hire Reporting Form) to report newly-hired employees to the Oklahoma Employment Services Commission within 20 days of the date of hire.**

25 O.S. § 1313

### ***Terminations and Retirements***

Each time an employee terminates employment, for whatever reason, the employee must complete an Employee Status Change form.

The County Sheriff must notify the County Clerk, in writing, of the termination or retirement.

The County Clerk serves as coordinator of retirement the Oklahoma Public Employees Retirement System (OPERS).

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## **Maintaining Employment Records and Personnel Files**

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### ***Files in the County Sheriff's Office***

The County Sheriff must maintain in that office a personnel file for each employee in that office. The following are some of the basic items that are included in that file:

- Application for Employment
- Employment Eligibility Verification
- A copy of the INS Employment Eligibility Verification form must be kept in the employee's personnel file.

For all employees hired after October, 1986: required by the Immigration Reform Act of 1986

- Timesheets

The County Sheriff should check with the County Clerk to see if timesheets also need to be filed with the County Clerk.

- If County Sheriffs maintain time sheets for their employees, these time sheets must be kept in their employees' personnel files.
- Evaluation and Disciplinary paperwork

- Medical Information

If any medical information is kept in the personnel file in the County Sheriff's office, that information must be kept private and confidential.

Other forms and personnel paperwork are kept in the employee's personnel file in the County Clerk's office.

### ***Access to Personnel Files***

Personnel files must be kept in a secure area with limited access. The County Sheriff's office should have clearly established rules regarding access to personnel files. Employees should know where personnel files are maintained. They should also be informed that they are responsible for updating such information as addresses, number of dependents, and changes in marital status.

Counties are not required to disclose the following personnel records:

- Internal personnel investigations including examination and selection material for employment, hiring, appointment, promotion, demotion, discipline or resignation
- Disclosures that would constitute a clearly unwarranted invasion of personal privacy such as employee evaluations, payroll deductions, medical information, employment applications submitted by persons not hired, home address of employed or formerly employed persons

According to the Open Records Act, the county must inform any person who requests the information of any final disciplinary action taken against an employee if that disciplinary action results in loss of pay, suspension, demotion of position, or termination. The county should not disclose the reasons that any of these actions were taken against the employee.

Certain personnel records for persons who become public officials must be available for public inspection and copying: the employment application, gross receipts of public funds, dates of employment, title or position, and records of any final disciplinary action resulting in loss of pay, suspension, demotion or termination.

Employees must have access to their own personnel files.

51 O.S. § 24A.5  
51 O.S. § 24A.7

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## **Benefits**

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### ***Insurance***

The county may provide hospital and medical benefits, accident, health, and life insurance for its employees. The county may pay for any or all of these benefits and, with proper authorization, may deduct premiums from the employees' wages. This insurance may be contracted to any insurance company authorized to do business in the State of Oklahoma.

A county may also provide liability insurance for both the county and its elected officers and employees. This insurance may be provided by self-insurance or by any insurer authorized to operate within the state. Self-insurance may even be pooled between two or more counties.

For insurance information, contact the County Clerk.

### ***Workers Compensation***

All worker's compensation matters and questions should be referred to the County Clerk or the worker's compensation intermediary for the county.

## ***Vacations and Sick Leave***

Each county may develop and maintain a formal plan for vacation and sick leave for all regular employees. The County Sheriff, either elected or appointed, is not eligible for any leave plan or accrual of leave benefits.

The leave plan that is adopted by the county cannot provide benefits greater than those provided to a regular state employee in the classified service.

## ***Holidays***

The Board of County Commissioners and the County Excise Board set the holidays to be observed by the counties. Holiday dates should be published each year between January 1 and 20. The Oklahoma Statutes list nine holidays that might normally be included plus additional optional holidays.

Any required business may be performed on the next succeeding business day following an official holiday without liability or loss from the delay.

## ***Safety Awards***

Each year, County Sheriffs may nominate their employees for a special incentive award up to \$250.00 for safety-related job performance. The Board of County Commissioners approves and provides the safety awards. These awards are subject to taxes. County Sheriffs are not eligible for these safety awards.

19 O.S. § 339(A)(10)

Please refer to “[Incentive Awards for Safety Related Job Performance](#)” in Chapter Four of the Purchasing Handbook for Oklahoma Counties (p. 4-48) for more information on safety awards.

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## Training

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### ***CLEET Training***

Within 12 months of taking office, all newly elected or appointed sheriffs must complete a sheriff's administration school developed by the Oklahoma Sheriff's Association and approved by the Council on Law Enforcement Education and Training (CLEET). Failure to complete the school within the specified period prevents the new sheriff from obtaining CLEET certification. New sheriffs with prior CLEET certification, who fail to attend the school, will have their CLEET certification revoked.

19 O.S. § 510

### **Continued CLEET Training**

Every active full-time County Sheriff or deputy sheriff, certified by the Council on Law Enforcement Education and Training (CLEET) shall attend and complete a minimum of 25 hours of continuing law enforcement training accredited or provided by CLEET which shall include a mandatory minimum of four hours on mental health issues and a minimum of six hours on evidence-based sexual assault and sexual violence training.

70 O.S. § 3311  
70 O.S. § 3311.4(A)  
70 O.S. § 3311.5(A, B, C)

Any active full-time certified County Sheriffs or deputy sheriffs who fail to meet the annual training requirements are subject to having their certification suspended, after receiving written notice of noncompliance and a reasonable time to comply with the requirements.

70 O.S. § 3311.4(D)

A County Sheriff or deputy sheriff shall not be employed in the capacity of a peace officer during any period of the suspension. The suspension period shall be effective until the individual files a statement attesting to full compliance with the requirements. Any suspensions shall be reported to the District Attorney for the county, the liability insurance company of the County Sheriff's office, the chairman of the Board of County Commissioners, and the County

Sheriff. Any officer whose certification is suspended may request a hearing with CLEET. Such hearings shall be governed by the Administrative Procedures Act except that the affected officer has the burden to show CLEET why CLEET should not have the certification of the officer suspended.

### ***County Sheriff Certification Program***

In 2001, the Oklahoma Sheriffs Association adopted a voluntary certification program for County Sheriffs, their deputies and employees. As recommended by the Sheriff's Education Committee, four courses were selected to begin the initial or basic certification program. In January of 2007, the program was amended. Certificates are awarded at the County Sheriffs annual conference.

The certification program is subject to revisions and updates. Please contact the County Training Program (coordinated by the [Oklahoma Cooperative Extension Service](#)) at Oklahoma State University for additional information, including the most current requirements. Details on the certification program can also be viewed on the County Training Program website at <http://agecon.okstate.edu/ctp> under "County Sheriff: Certification Guidelines".

19 O.S. § 130.7

## Chapter Eleven

# Duties of the County Sheriff: Jail Maintenance

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Reese Lane, Payne County Jail Administrator, stands in the visiting area for the Payne County Jail.

57 O.S. § 41

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## Operating The County Jail

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Every county, by authority of the Board of County Commissioners and at the expense of the county, must have a jail or access to a jail in another county for the safekeeping of prisoners.

When there is no sufficient prison in any county, every judicial or executive officer of that county who has the power to order or sentence any person to the county jail, may, upon application of the County Sheriff, order any person charged with a criminal offense in that officer's jurisdiction and ordered to be committed to prison, to be sent to the jail of the nearest county having a sufficient jail. Upon receiving the order, the County Sheriff of the nearest county must accept the prisoner and keep the prisoner in custody at the expense of the county from which the prisoner is sent. Upon receiving an additional order from the officer who committed the prisoner, the County Sheriff must deliver that prisoner back to the originating county.

### ***Jail Purposes***

The county jail must be used as a facility for the following purposes:

- The detention of persons charged with offenses who are pre-trial detainees
- The detention of persons committed to secure their attendance at a trial as witnesses
- The confinement of persons awaiting sentence after a conviction
- The confinement of persons committed for any purpose authorized by law
- The confinement of persons who may be sentenced to imprisonment in a state prison, until they can be transmitted to that facility

### ***County Sheriff's Responsibilities***

The County Sheriff has charge and custody of the county jail and all of the prisoners in the jail. The sheriff must keep the jail by himself, or by his deputy or jailer. The County Sheriff is liable for all acts concerning the county jail and must follow all rules and directions mandated by state statutes, the district judge, or other proper authorities. Indictment for failure to comply with all rules and regulations or neglect of duty will result in a fine.

19 O.S. § 513  
57 O.S. § 42  
57 O.S. § 47



The Board of County Commissioners may call an election to create a county jail trust authority. See “[County Jail Trust Authority](#)” below in this chapter. This body may contract with a private contractor to manage and operate the county jail. See “[Responsibilities of Public Trust, Private Owner, or Management Entity Contracting to Operate Jail](#)” below in this chapter. In this instance, the County Sheriff is not responsible for custody of the jail or the prisoners.

19 O.S. § 904.1

57 O.S. § 55

### **Failure to Receive Persons into Custody or Fingerprint Persons Received into Custody**

**WARNING: Any County Sheriff who refuses to receive a person into custody or fingerprint a person received into custody as per the statutes is guilty of a misdemeanor.**

21 O.S. § 533

Except as provided in the Oklahoma Statutes, for emergency medical treatment for an injury or condition that threatens life or threatens the loss or use of a limb, any County Sheriff or jail or prison contractor who, in violation of a duty imposed upon the officer or contractor by law or by contract to receive into custody any person as a prisoner, willfully neglects or refuses to receive the person into custody is guilty of a misdemeanor.

Except as provided in the Oklahoma Statutes, for emergency medical treatment for an injury or condition that threatens life or threatens the loss or use of a limb, any peace officer or jail or prison contractor who, in violation of a duty imposed upon the officer or contractor by law or by contract to fingerprint any person received into custody as a prisoner, willfully neglects or refuses so to fingerprint such person is guilty of a misdemeanor.

## **Bail Bondsmen List**

The County Sheriff must provide the list of bail bondsmen permitted to write bails in that county, provided by the County Court Clerk, to any incarcerated individual when requested.

59 O.S. § 1320

## **Providing Emergency Medical Care**

Any person coming into contact with a County Sheriff or deputy sheriff prior to being actually received into custody at a jail facility or holding facility, including, but not limited to, during the time of any arrest, detention, transportation, investigation of any incident, accident or crime, who needs emergency medical treatment for an injury or condition that threatens life or threatens the loss or use of a limb, must be taken directly to a medical facility or hospital for emergency medical care notwithstanding any duty imposed or any other provision of law to first take such person into custody or to fingerprint such person.

The responsibility for payment of the emergency medical costs is the sole responsibility of the person coming into the officer's contact and is not the responsibility of any jail, law enforcement agency, jail or prison contractor, County Sheriff, municipality or county, except when the condition is a direct result of injury caused by an officer acting outside the scope of lawful authority.

## **Jailers**

The jailer, jail director, or keeper of the jail, unless the County Sheriff elects to act as the jailer in person, must be a deputy appointed by the County Sheriff. Any civilian employees hired to operate the jail do not need to complete the training prescribed for peace officers in the statutes, but only need to complete training that the County Sheriff deems necessary for the civilians to properly perform the duties assigned to them, or training that may otherwise be prescribed by law.

The jailer must take the necessary oaths before assuming the duties of the office. A jailer in a county having a population of greater than four hundred thousand

(400,000), according to the latest Federal Decennial Census, may be authorized by the County Sheriff of the county to use nonlethal weaponry upon completion of appropriate training. The County Sheriff must in all cases be liable for the negligence and misconduct of the jailer as of other deputies.

### ***Jailer Training***

Every County Sheriff must require appropriate training for jailers in accordance with the jail standards promulgated by the State Department of Health. The County Sheriff will not permit supervision of any prisoner in the custody of the jail by any person that does not meet the jail standards for training and supervision of inmates.

19 O.S. § 513.1

These provisions do not apply to jails operated by private prison contractors through a contract with the Board of County Commissioners.

The County Sheriff or contractor having charge and custody of the jail shall comply with all minimal supervision standards pursuant to the jail standards promulgated by the State Department of Health, except when otherwise provided by law. Nothing in this section shall be construed to prohibit or restrict the County Sheriff or contractor having charge and custody of the jail from training or cross-training a person as a backup jailer, if otherwise qualified for such position.

### **Jail Register**

The County Sheriff of each county in this state must maintain a jail register that contains the following information:

57 O.S. § 48  
57 O.S. § 49

- The name of each prisoner with the date and cause of commitment, the authority committing and, if committed for a criminal offense, a description of the person
- The date or manner of discharge, release, transmittal, or escape
- Any sickness that has prevailed in the jail during the year and the cause of the diseases, if known



**Any medical records or information pertaining to jail prisoners must be kept private and confidential and should be filed separately.**

- The habits of the prisoners as to personal cleanliness, diet, and order
- The methods in which prisoners were furnished literary, moral and religious instruction, and labor
- All other matters required by the rules and directions, or in the discretion of the sheriff deemed proper

The County Sheriff must carefully keep and preserve the jail register in the jailer's office. At the end of the present County Sheriff's term, the jail register must be delivered to the new County Sheriff.

The County Sheriff must furnish a copy of the jail register, upon request, to the presiding judge of the district court.

### **Confinement Order**

The County Sheriff must keep a copy of any process regarding any prisoner's confinement that may be required to be returned to the court, along with the returns made on that process. The process copy, duly certified by the County Sheriff, is prima facie evidence of the County Sheriff's right to retain the prisoner in custody.

57 O.S. § 61  
57 O.S. § 62  
57 O.S. § 63

All instruments of every kind, or attested copies of them, by which a prisoner is committed or liberated, must be regularly endorsed and filed, and safely kept by the County Sheriff, or the deputy sheriff acting as a jailer. These instruments or copies must be delivered to the successor of the officer having charge of the county jail.

### **Care of Prisoners**

The Board of County commissioners, at the expense of their county, must provide suitable means for warming the county jail and its cells or apartments. The Board must also provide beds and bedding and other permanent fixtures and to make such repairs as may be prescribed by the district judge or the State Department of Health.

57 O.S. § 51

The County Sheriff must provide bed clothing, washing, board, and medical care when required, and all necessities for the comfort and welfare of prisoners as specified by the standards prescribed in the statutes, which are listed below under “[Inspections of County Jails](#).” The County Sheriff must be given compensation for these and other services required by the statutes as may be prescribed by the Board of County Commissioners. All purchases must follow the purchasing laws specified in the Oklahoma Statutes, including the use of blanket purchase orders.

57 O.S. § 53  
57 O.S. § 60  
74 O.S. § 192

### **Confinement of Different Prisoner Classifications**

Within the county jail, sufficient and convenient apartments for confining prisoners of different sexes and classification separate and apart from each other must be provided. The County Sheriff of each county must notify the Department of Corrections of the prisoner capacity (as determined by the State Fire Marshal) of the county jail within 30 days of any changes.

19 O.S. § 1500  
19 O.S. § 1501  
19 O.S. § 1502  
19 O.S. § 1503  
19 O.S. § 1504  
19 O.S. § 1505  
57 O.S. § 57  
74 O.S. § 317

All county jails must have a system of classifying prisoners, based upon the severity of the charges, past criminal history, and other relevant factors. These prisoners may be confined two per cell or barrack-style, provided the living space meets the square footage requirements set forth in the statutes.

74 O.S. § 192

### **Examination of Prisoners for Infection and Communicable Diseases**

The County Sheriff is responsible to ensure that every person confined to the county jail is examined for infections and communicable diseases.

63 O.S. § 1-524

Within six hours after the arrest of a person for first or second degree rape, forcible sodomy, intentional infection, or attempt to intentionally infect a person with the human immunodeficiency virus (HIV), the County Sheriff must immediately deliver the person for a rapid test for (HIV) without a court order, if a rapid test site is available. If the rapid HIV test results are positive, the physician examining the person must be immediately notified, and the physician must immediately provide the victim with preventive treatment, if the victim can be treated within the medically prescribed period for preventive measures.

63 O.S. § 1-524.1

## **Prisoner Condition and Safety**

The County Sheriff or a designated employee must visit the county jail in person at least once a month and inquire into the condition of each prisoner.

57 O.S. § 53

Any County Sheriff, deputy, or other person who treats any prisoner in a cruel or inhuman manner is subject to punishment by fine, imprisonment, or both.

57 O.S. § 9

No person can administer any corporal punishment of any kind to any jail inmate. Anyone who violates this law is guilty of a misdemeanor.

57 O.S. § 31, 32

Any County Sheriff, deputy, or other person who is in charge of a prisoner must protect the prisoner from insult and annoyance and communication with others while outside the jail. Any person who persists in insulting and annoying or communicating with any prisoner after being commanded to desist is subject to a fine or imprisonment.

57 O.S. § 10

Any County Sheriff, deputy, or other person must remove prisoners exposed to danger by fire to a safe place and confine them there as long as necessary to avoid the danger.

57 O.S. § 14

## **Meals**

In order to protect the health and safety of certain law enforcement personnel and the citizens of this state, and to provide the state with proper security within the county jails, all jailers, jail directors, keepers of the jail, County Sheriffs, deputy sheriffs, or any other law enforcement personnel working within the county jail may, upon the approval of the County Sheriff or facility head, be served the same meals served to the prisoners within the county jail. There is no cost to the law enforcement personnel for such meals. The County Sheriff or facility head must pay for these meals out of the funds appropriated to the County Sheriffs. The county and all of its officers and agents are hereby prohibited from recouping the cost of such meals either directly or indirectly or otherwise considering such costs or their impact when establishing the charges to municipalities for housing municipal prisoners in the

57 O.S. § 69

county jail; provided, a municipality may negotiate the manner of establishing such charges.

### **Jail Cleanliness**

The County Sheriff or the person administering the jail is responsible for ensuring that the jail is constantly kept in a clean and healthful condition and that strict attention is paid to the personal cleanliness of all prisoners.

57 O.S. § 4

### **Board of County Commissioners Inspection**

The Board of County Commissioners must inspect the jails in their respective counties at least once each year, and fully examine the health, cleanliness and discipline conditions of the jail. The County Sheriff or the person responsible for administering the jail must provide the Board with the name, age, and basis for incarceration of each prisoner and if it appears to the Board that any provisions of law have been violated or neglected it must notify the county's district attorney. This inspection is in addition to that performed by the State Department of Health.

57 O.S. § 1

### **Prisoner Employment and Credits**

#### ***Employment***

When any person is confined to jail and any part of that confinement is at hard labor, The County Sheriff must provide the prisoner with suitable tools and materials to work with, if, in the opinion of the County Sheriff the prisoner can be profitably employed either in the jail or the yard. The expense of the tools and materials must be defrayed by the county, and the county is entitled to the prisoner's earnings.

57 O.S. § 58

If the County Sheriff believes the prisoner can be more profitably employed outside of the jail or yard, either for the county or for any municipality in the county, the County Sheriff is responsible to employ the prisoner, either in work on public streets or highways or otherwise; and to take all necessary precautions to prevent the prisoner's escape. Fifty percent of the profits of employment, after paying all expenses, may be retained by the County Sheriff as his fees. The balance is paid into

57 O.S. § 224

the County Treasury of the county to the credit of the general fund. When a prisoner is confined in the county jail for nonpayment of a fine, the prisoner may be employed by the County Sheriff as provided. If any prisoner employed outside of the jail yard escapes, the prisoner is considered to have escaped from the jail itself.

57 O.S. § 58.1

All prisoners committed to the county jail for nonpayment of a fine or jail time must, upon the order of the County Commissioner or the County Sheriff, be required to assist in maintaining, repairing, or beautifying the county courthouse, the jail or other public property and the adjoining grounds or work in the jail as a cook or on any other jail work detail assigned by the County Sheriff or jail administrator.

57 O.S. § 58.2

The jail administrator, upon the request of the Board of County Commissioners or the County Sheriff, must issue an order requiring the prisoners to perform such duties under the direction of the maintenance superintendent or janitor of the county courthouse and shall supply such guards as may be necessary to prevent an escape by the prisoners.

### ***Employment Outside the County***

57 O.S. § 224

An inmate of a state correctional institution may be assigned to a county jail for service and maintenance work for the county. Such a transfer is subject to the approval of the County Sheriff. Preference must be given to inmates who, while incarcerated in a state correctional institution, have attained a high school diploma or equivalent general education diploma or completed a literacy program approved by the Department of Corrections. The county is responsible for the security, lodging, food costs, and personal expense money of each inmate under the care the County Sheriff. Any expense monies must be approved by the County Sheriff.

The Department of Corrections must reimburse the county for the actual costs paid for any emergency medical care for physical injury or illness of the inmate. The director of the department may transfer any inmate required to have extended medical care back into the custody of the department.

### **Work Credits**

Prisoners employed must be given a credit of two days on a jail sentence for each day worked, and a credit of \$50.00 per day on the payment of a fine or court cost, if sentenced for nonpayment of a fine or court cost. The County Sheriff is authorized to order the credit be given to the prisoner on the records of the court where the conviction of the prisoner is filed.

57 O.S. § 58.3

Every county prisoner, whether required to work on the public highways or merely confined in the county jail, must receive credit on fines and costs of \$1.00 for each day confined in prison, or working; provided that those prisoners performing the most efficient work and making the best prisoners, must be entitled to an additional credit of one day for every five days of work, the guard or custodian of the county jail to determine at the end of each five days of the imprisonment whether or not the prisoner is entitled to the credit, and to make a record of the decision and notify the prisoner.

57 O.S. § 20

### **Credits for Good Behavior and Blood Donations**

Any person in this state convicted of a crime, who is serving time as a prisoner in a county jail is entitled to receive five days' credit for every four days' time in the county jail provided the prisoner has obeyed the rules and regulations of the county jail in a satisfactory manner.

57 O.S. § 65

Each prisoner shall also, be entitled to a deduction of three days for each pint of blood donated during the first thirty days of confinement in the county jail, and to five days for each pint of blood donated during any sixty-day period thereafter to the American Red Cross or to a hospital approved for such purpose by the County Sheriff. The County Sheriff is authorized to order the credit to be given to the prisoner on the records of the court out of which the conviction has been made.

## **Intoxicating Beverages**

No County Sheriff, jailer, or any keeper of any county jail will, under any pretense, give, sell or deliver to any person committed to the jail for any cause, any spirituous liquor, or any mixed liquor, part of which is spirituous, or any wine, cider, or strong beer, under the penalties prescribed by the prohibition law of this state, unless a physician certifies in writing that the health of the prisoner requires it, in which case the prisoner may be allowed the quantity prescribed and no more.

57 O.S. § 2

## **Bibles and Ministers**

The County Sheriff or the keeper of the jail must provide, at the expense of the county, a copy of the Bible or New Testament for each prisoner who may desire to use one during the prisoner's confinement. Any minister must be allowed access to prisoners at seasonable and proper times.

57 O.S. § 5

## **Contraband in Jails**

### ***Prisoners and Visitors***

The Oklahoma Statutes address the penalties for inmates or visitors bringing contraband into the jail, which includes the following items:

57 O.S. § 21

- Guns, knives, bombs, any other dangerous instruments
- Controlled dangerous substances
- Intoxicating beverages or low-point beer
- Money, or financial documents
- Tobacco products
- Cellular phone or other electronic devices capable of electronic communication

Each County Sheriff's office and jail administration entity should develop policies and procedures regarding contraband in the jail.

### ***Jail Employees***

No detention officer, deputy sheriff, or other person employed as jail operations staff by the county or other entity that operates a jail can receive compensation from any person other than the County Sheriff or jail administrator for providing goods, tobacco products, or services for the benefit of an inmate. Anyone who accepts such compensation is guilty of a misdemeanor and is subject to fines, jail time, or both.

57 O.S. § 22

### **Juvenile Prisoners**

Juvenile prisoners must be treated with humaneness and in a manner designed to promote their reformation, and they must be kept separate from more experienced and hardened criminals. Visits of parents, guardians, and friends who desire to exert a moral influence over them must be permitted to visit at all reasonable times.

57 O.S. § 19

### **Indigent Prisoners**

When an indigent convict has been confined for six months for nonpayment of fines and costs only, the County Sheriff must make a report to any two justices of the peace for the county. If required by the justices, the County Sheriff must bring the convict before them, either at the prison, or at some other convenient place that they direct. The justices must inquire into the truth of the report, and if they are satisfied that the report is true, and the convict has not had since his conviction any estate, real or personal, with which he could have paid the sums required, the justices must make a certificate to the County Sheriff to discharge the inmate from the jail.

57 O.S. § 15

### ***Operating a Commissary***

Each County Sheriff may operate, or contract the operation of, a commissary for the benefit of persons lawfully confined in the county jail. Any funds received for operating a commissary must be the funds of the county where the persons are

19 O.S. § 180.43 (D)  
19 O.S. § 514.2

incarcerated and must be deposited in the Sheriff's Commissary Account ( a cash fund). The sheriff is permitted to use these funds to improve or provide jail services.

The County Sheriff is permitted to use any surplus in the Sheriff's Commissary Account for administering expenses for training equipment, travel or for capital expenditures. The claims for commissary expenses must be filed with and allowed by the Board of County Commissioners in the same manner as other claims. The County Sheriff receives no compensation for the operating a commissary. The County Sheriff must file an annual report on any said commissary no later than January 15 of each year. The State Auditor and Inspector must conduct an audit of the report in the same manner as other public records.

### **Disposition of Money Remaining in Fund**

Any money remaining (after a period of six months) in the Sheriff's Commissary Account for an inmate who is no longer detained in the jail, the County Sheriff follows the same procedures as for property or money left in the County Sheriff's possession. See "[Disposition of Property or Money in Sheriff's Possession](#)" in Chapter Fourteen, *Duties of the County Sheriff: Criminal Procedure*.

22 O.S. § 1325

### ***Establishing an Inmate Trust Fund Checking Account***

The County Sheriff may establish a checking account, to be designated the "Inmate Trust Fund Checking Account", to be managed by the County Sheriff and maintained separately from regular county funds. The checking account is subject to audit by the State Auditor and Inspector. The County Sheriff must deposit all monies collected from inmates incarcerated in the county jail into this checking account and may write checks to the Sheriff's Commissary Account for purchases made by the inmate during his or her incarceration and to the inmate from unencumbered balances due the inmate upon his or her discharge.

19 O.S. § 531(A)

The County Sheriff may also use the funds in the Inmate Trust Fund Checking Account for the following purposes:

19 O.S. § 531(B)

- Deduct an amount of eight dollars or more as a medical payment on account for each medical services visit the inmate receives while incarcerated in the county jail, except as otherwise provided in the statutes.

Any offender injured during the commission of a felony or misdemeanor offense or treated for any other medical condition or illness while incarcerated shall be required to reimburse the County Sheriff the full amount paid by the County Sheriff for any medical care or treatment administered to such offender during any period of incarceration in the county jail. The County Sheriff may deduct the costs of medical care and treatment whether resulting from the commission of a felony or misdemeanor offense or for emergency or routine medical services from any money collected from such inmate's jail account at a rate of eight dollars or more per visit for medication or service dispensed.

If the funds collected from the inmate's jail account are insufficient to satisfy the actual or minimal payment on account for medical costs, the County Sheriff must collect the remaining balance of the medical care and treatment as provided in the Oklahoma Statutes.

22 O.S. § 979a

- Deduct an amount of ten cents per page for copies made at the request of the inmate.

### **Disposition of Money Remaining in Account**

Any money remaining (after a period of six months) in the Inmate Trust Fund Checking Account for an inmate who is no longer detained in the jail, the County Sheriff follows the same procedures as for property or money left in the County Sheriff's possession. See "[Disposition of Property or Money in Sheriff's Possession](#)" in Chapter Fourteen, *Duties of the County Sheriff: Criminal Procedure*.

22 O.S. § 1325

### ***Operating a Telephone System***

Each County Sheriff may operate, or contract the operation of, a telephone system for the benefit of persons lawfully confined in the county jail under the custody of the County Sheriff. Any funds received for a telephone system must be the funds of the county where the persons are incarcerated and must be deposited in the Sheriff's Service Fee Account. These funds may be used according to the guidelines previously established for expenditures from the general fund. The claims for expenses must be filed with and allowed by the Board of County Commissioners in the same manner as other claims.

19 O.S. § 180.43 (D)

### ***Providing Medical Care for Inmates***

When a person is in the custody of a county jail, the custodial county is only liable for the cost of medical care for conditions that are not preexisting prior to arrest and that arise due to acts or omissions of the county. A preexisting condition is a condition for which the person received medical treatment or advice, or a condition which was diagnosed in the six months preceding the custody of the person by the County Sheriff. An accidental injury sustained during the six months preceding the custody of that person by the law enforcement agency will also be considered a preexisting condition.

19 O.S. § 746(A)

An inmate in pretrial detention or the custody of a county jail must be provided with the opportunity to receive necessary medical care for a preexisting condition, and the inmate is liable for paying the cost of the medical care including, but not limited to, medication, medical treatment, and transportation costs.

19 O.S. § 746(B)

The medical provider or hospital shall seek payment for all medical care provided for preexisting conditions directly from the offender. In the event there is a dispute between the jail and the medical provider or hospital concerning the existence or extent of a preexisting condition or the liability to pay medical expenses relating to such condition, and the County Sheriff pays the expense pending a final determination of liability for such medical expense, the court shall order the offender

19 O.S. § 746(C)

to reimburse the County Sheriff for all medical care and treatment for preexisting conditions and injuries except for amounts collected pursuant to the statutes. Nothing in the statutes requires a jail to pay disputed medical expenses or expenses for any preexisting condition.

### **Medical Care**

The medical provider or hospital must seek payment for all medical care provided for preexisting conditions directly from the offender. When there is a dispute between the jail and the medical provider or hospital concerning the existence or extent of a preexisting condition or the liability to pay medical expenses relating to the condition, and the County Sheriff pays the expense pending a final determination of liability for the medical expense, the court must order the offender to reimburse the County Sheriff for all medical care and treatment for preexisting conditions and injuries except for amounts collected in the Inmate Trust Fund Checking Account.

19 O.S. § 531

Unless a contract exists between a hospital and the county for medical care and treatment of inmates in the county jail, a hospital must accept, as payment in full, reimbursement from the county according to the current fee schedule of the State and Education Employees Group Insurance Board in effect at the time services were rendered; provided that payment of the services is made by the county within 45 calendar days after submission of a claim by the hospital.

19 O.S. § 746(D)

The County Sheriff is responsible for providing and paying for medical, dental, and mental health care screening when an inmate is admitted, routine sick calls within the county jail, and access to on-site physician services as is routinely provided for all inmates in the custody of the County Sheriff and as provided by the Oklahoma Statutes.

The Department of Corrections must reimburse health care providers for medical care and treatment and pharmacy providers for medications for inmates retained in county jails after a certified copy of a judgment and sentence has been entered. Dental and mental health care must be provided through the designated host facility

of the Department of Corrections for inmates retained in county jails after a certified copy of a judgment and sentence has been entered

The County Sheriff is responsible for transportation and security of inmates to all outside health care appointments including host facilities of the Department of Corrections.

Neither the Department of Corrections nor the sheriff are responsible for the cost of health care while an inmate is on escape status or for any injury incurred while on escape status.

The Department of Corrections is not responsible for payment of health care of inmates housed in the county jail under the following circumstances:

- Prior to entry of a certified judgment and sentence pursuant to the provisions of the Oklahoma Statutes
- When an inmate is detained in the county jail pursuant to a writ of habeas corpus
- When an inmate is detained in the county jail for additional cases pending after a certified copy of the judgment and sentence has been entered
- When an inmate is detained in the county jail and his or her status is on hold for another jurisdiction
- When an inmate is detained in the county jail and the inmate is sentenced to county jail time only

### **Medications and Treatments**

Prescription medications shall be provided to the prisoner as directed by a physician or designated medical authority. The prisoner shall be observed to ensure the prisoner takes the medication. The physician or designated medical authority shall be particularly aware through training of the impact of opiate or methadone

57 O.S. § 4.1  
43A O.S. § 5-204

withdrawal symptoms that may occur in regard to the mental and physical health of the prisoner.

The physician or medical authority shall prescribe and administer appropriate medications to the prisoner as the medical authority deems appropriate to address those symptoms. Neither prescription nor over-the-counter medications shall be kept by a prisoner in a cell with the exception of prescribed nitroglycerin tablets and prescription inhalers. Over-the-counter medications shall not be administered without a physician's approval unless using prepackaged medications.

Medical reception information shall be recorded on a printed screening form approved by the physician or designated medical authority which shall include inquiry into the following items:

- Current illnesses and health problems including medications taken and any special health requirements
- Behavioral observation, including state of consciousness and mental status
- Body deformities and trauma markings such as bruises, lesions, jaundice, and ease of body movement
- Condition of skin and visible body orifices, including infestations
- Disposition or referral of prisoners to qualified medical personnel on an emergency basis

In the county jail, certified medication aides, upon successful completion of competency standards or prescribed training courses, shall be eligible to distribute medications or treatments.

63 O.S. § 1-1950.3 (E)(1)(c)  
63 O.S. § 1-1950.3 (E)(2)

### **Dealing with Inmates with AIDS**

Any person who has the Acquired Immune Deficiency Syndrome (AIDS) disease who is confined in the county jail in violation of the Oklahoma Statutes, whether convicted or pending trial, may be transferred to the Department of Corrections for

21 O.S. § 1192.1

57 O.S. § 51.1

extended medical care for the duration of the sentence imposed or pending trial. At the request of the medical officer, physician or surgeon employed by the county jail, the County Sheriff must apply to the Department of Corrections for a transfer of the person, and the Department of Corrections may accept the person under the following conditions:

- The person's right to a speedy trial is not delayed by the transfer to a state facility.
- The person's right to confer with legal counsel is not restricted by the transfer to a state facility.
- The county agrees to a mutual exchange of inmates from the Department of Corrections for the medical care and custody of the person to be transferred.
- The medical care or custody of the person is necessary to preserve the health and safety of the public, the inmates of the county jail ,or the person being transferred.
- The person to be transferred may be adequately treated in the state facility.
- The state facility has medical bed space available for the person.

### **Notification Regarding Inmates with AIDS**

Each County Sheriff or the person responsible for the county jail must notify the correctional officers, probation and parole officers, and any jailor, or other employee or any employee of the Pardon and Parole Board, who has or will have direct contact with an inmate infected with HIV or who has AIDS.

63 O.S. § 1-523 (B)

### ***Medical Officer***

The Board of County Commissioners, at the expense of the county, has the power to appoint a medical officer to the jail and pay that person a salary to be drawn out of

57 O.S. § 19

the county treasury. The Board may require written reports from the medical officer when necessary.

### ***Providing Counseling for Inmates***

Based on the availability of county funds, the Board of County Commissioners and the County Sheriff are authorized to hire counselors or contract for services of counselors to provide counseling services to inmates in county jails.

19 O.S. § 353.1

### ***Transporting Sentenced Persons to Other Facilities***

Any person convicted of an offense against the laws of this state and sentenced to imprisonment that is not to be served in a county jail must be transported by the County Sheriff of the county where the person is sentenced, or transported by a designated representative of the County Sheriff, to the Department of Corrections at the Lexington Assessment and Reception Center or other location designated by the Director of the Department of Corrections.

57 O.S. § 95

Any person convicted of an offense against the laws of this state and sentenced to imprisonment that is not to be served in a county jail and who is not housed in a county jail must be transported by the detention center, or transported by a designated representative of the detention center, to the Department of Corrections at the Lexington Assessment and Reception Center or other location designated by the Director of the Department of Corrections.

The County Sheriff must deliver the person to the Department together with the following items:

22 O.S. § 980

- A certified copy of the judgment and sentence from the court ordering the imprisonment, unless the judgment and sentence previously has been sent electronically by an authorized clerk of the court

- A certificate setting forth the number of days served in the county jail after the pronouncement of judgment and rendering of sentence for the offenses committed
- A copy of any medical, dental, or mental health records of the defendant for conditions reviewed or treated while in the custody of the County Sheriff
- Any medication or medical or dental device prescribed for the defendant while in the custody of the County Sheriff or for a pre-existing condition
- A copy of the presentence investigation report, if a report was prepared

The Department must give the County Sheriff a receipt for each person received into the custody of the Department at the Lexington Assessment and Reception Center or other location. The receipt must be filed by the County Sheriff in the office of the clerk of the court where the sentence was made.

### ***Responsibilities of Public Trust, Private Owner, or Management Entity Contracting to Operate Jail***

19 O.S. § 513.2)

Every statute reference or rule imposing any duty or responsibility on the County Sheriff or any jailer to operate, manage or provide any service to any person in the custody of the jail or any service related to managing the jail are applicable to and imposed on the public trust or private owner or management entity who legally operates or manages the jail facility.

It is unlawful for any public trust, private owner or management entity contracting to operate or manage any jail facility, to fail to comply with the provisions of any statute or rule relating to duties and responsibilities required to operate, manage and provide services to any person in the custody of the jail.

Every Board of County Commissioners who contracts for the operation or management of any jail facility with a public trust or any private owner or management entity must have a provision in the contract requiring compliance with

the duties and responsibilities imposed by statute or rule to operate or manage a jail facility.

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## **Keeping Federal, State, or Municipal Prisoners and Alien Detainees**

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Each County Sheriff may contract with the Department of Justice of the United States of America, the Department of Corrections, or any municipality in Oklahoma for the feeding, care, housing, and upkeep of federal, state, or municipal prisoners, or alien detainees incarcerated in the county jail. Any funds received under this contract must be the funds of the county where the federal, state, or municipal prisoners, or alien detainees are incarcerated and must be deposited in a separate revolving fund with the County Treasurer. All purchases must be made according to the purchasing laws. See Purchasing Procedures in Chapter Eight, Finances and Fees for more information on purchasing.

19 O.S. § 180.43(A)

The sheriff can use any surplus in the revolving fund for administering expenses for salaries, training, equipment, or travel, or for capital expenditures.

The claims for these expenses must be filed with and allowed by the board of county commissioners the same as other claims. The sheriff receives no compensation for these services. The sheriff must file an annual report with the Board of County Commissioners no later than January 15 of each year. The State Auditor and Inspector must conduct an audit of the report as on other public records of the county.

### **Federal Prisoners**

When a prisoner is delivered to a County Sheriff or a keeper of any jail by the authority of the United States, the County Sheriff or keeper must receive and commit the prisoner. Any County Sheriff or keeper who refuses or neglects to take possession

57 O.S. § 16

of such a prisoner, except for reasons of loss of life or limb, will be subject to the same penalties as for neglecting or refusing to commit any prisoner delivered under the authority of the state. Any County Sheriff or keeper who allows any such prisoner to escape is subject to the same penalties as for allowing any prisoner to escape who is committed under the authority of the state. The allowance for the maintenance of any such prisoner is no greater than that made for prisoners committed under the authority of the state.

57 O.S. § 16a

All County Sheriffs, jailers, and deputy sheriffs to whom any person is sent or committed, by virtue of legal process, issued by or under the authority of the United States, must receive these persons into custody and keep them safely until discharged by due course of the laws of the United States. All County Sheriffs, jailers, and deputy sheriffs who do not follow these mandates, except for reasons of loss of life or limb, are liable to the same penalties, and the parties aggrieved are entitled to the same remedies against them as if the prisoners had been committed to their custody by virtue of legal process issued under the authority of this state.

57 O.S. § 17

The United States is liable to pay for the support and keeping of federal prisoners, which is the same as allowed for prisoners committed under authority of the state.

57 O.S. § 18

Before every stated term of the United States court to be held within the state, the County Sheriffs, jailers and prison keepers must make out, under oath, a calendar of federal prisoners in their custody that includes the following information:

- The date of their commitment
- By whom they were committed
- For what offense they were committed

They must transmit this information to the judge of the district court of the United States for their district. At the end of every six months, they must transmit this information to the United States marshal of their district, for allowance and payment

of their account, if any, against the United States, for the support and keeping of the prisoners.

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## **Jail Facilities Reaching Maximum Capacity**

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If all correctional facilities reach maximum capacity and the Department of Corrections is required to contract for bed space to house state inmates, then the Pardon and Parole Board must consider all nonviolent offenders for parole who are within six months of their scheduled release from a penal facility.

57 O.S. § 37

No inmate may be received by a penal facility from a county jail without first scheduling a transfer with the Department. The County sheriff or County Court Clerk must transmit by facsimile, electronic mail, or actual delivery, a certified copy of the judgment and sentence certifying that the inmate is sentenced to the Department of Corrections. The receipt of the certified copy of the judgment and sentence must certify that the sentencing court has entered a judgment and sentence and all other necessary commitment documents. The Department of Corrections is authorized to determine the appropriate method of delivery from each county based on electronic or other capabilities. Once the judgment and sentence is received by the Department of Corrections, the Department must contact the County Sheriff when bed space is available to schedule the transfer and reception of the inmate into the Department.

When a county jail has reached its capacity of inmates as defined in the Oklahoma Statutes, then the County Sheriff must notify the Director of the Oklahoma Department of Corrections, or the Director's designated representative, by facsimile, electronic mail, or actual delivery, that the county jail has reached or exceeded its capacity to hold inmates. The notification must include copies of any judgment and sentences not previously delivered as required. Then within 72 hours following the notification, the County Sheriff must transport the designated excess inmate or inmates to a penal facility designated by the Department. The County Sheriff must notify the Department of the transport of the inmate prior to receiving the inmate.

74 O.S. § 192

The Department shall schedule the reception date and receive the inmate within 72 hours of notification that the county jail is at capacity, unless other arrangements can be made with the County Sheriff.

Once the judgment and sentence are transmitted to the Department of Corrections, the Department will be responsible for the cost of housing the inmate in the county jail from the date the sentence was ordered by the court until the date of transfer of the inmate from the county jail. The cost of housing is the per diem rate specified in the statutes. In the event the inmate has other criminal charges pending in another Oklahoma jurisdiction, the Department is responsible for the housing costs while the inmate remains in the county jail awaiting transfer to another jurisdiction. Once the inmate is transferred to another jurisdiction, the Department is not responsible for the housing cost of the inmate until such time that another judgment and sentence is received from another Oklahoma jurisdiction. The County Sheriff must be reimbursed by the Department for the cost of housing the inmate in one of two ways:

57 O.S. § 38

- The sheriff may submit invoices for the cost of housing the inmate on a monthly basis
- The sheriff may submit one invoice for the total amount due for the inmate after the Department has received the inmate

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## Inspection of County Jails

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19 O.S. § 904.1

The State Department of Health must inspect all county jails at least once each year to ensure compliance with the standards mandated in the statutes. The standards shall provide for:

- Uniform admission and release procedures
- Uniform, safe, and sensible security measures
- Proper, fit, and sanitary conditions

- A wholesome and adequate diet fed to inmates
- Adequate clothing and living areas for inmates
- Living areas must be no less than 40 square feet of floor space per inmate plus 20) square feet of floor space in such living area per each additional inmate in existing facilities, and no less than 60 square feet of floor space per cell for two prisoners in facilities constructed after November 1, 1985.

Nothing in the statutes prohibits placing two inmates in a cell, provided the cell is no less than 40 square feet per initial inmate plus 20 square feet for each additional inmate. In every barracks-style housing area, the square footage must meet the minimum requirements provided in this section.

The facility must have showers with hot and cold running water, toilets, and water basins provided in the ratio of not less than one to every twenty prisoners. Counties may build barracks-style jails, single or double cell, to meet the security needs of the county for minimum security prisoners. These jails shall meet all the minimum requirements set forth in the statutes. All facilities must have showers with hot and cold running water, toilets and water basins provided in the ratio of not less than one to every twenty prisoners.

Counties may also build tent jails, which are temporary in nature, to meet the security needs of the county for minimum security prisoners. The temporary tent jails are not required to meet the minimum requirements. The State Board of Health must mandate minimum standards for temporary tent jails. These standards must be designed to specifically address and take into consideration the temporary status of the inmate housing needs of the county

- Proper advisement to inmates regarding the rules of the facility in which they are detained

- Training for staff members to assist them in performing their assigned tasks  
This training is to be provided by the Jail Inspection Division of the State Department of Health. All employees who work in direct contact with inmates must receive, at a minimum, four hours' review of material as required by the Jail Inspection Division and at a maximum, eight hours of jailer training per year after the first year of employment
- Steps to ensure the safety and segregation of women, the infirm, and minors
- Adequate medical care for inmates, provided this medical care is not limited to illnesses or injuries incurred during the time beginning with the arrest and throughout the time of incarceration. Inmates may apply for assistance and receive assistance, provided the inmate meets or exceeds established requirements
- Steps to ensure that no person is confined without twenty-four-hour supervision
- At least one designated exit in the facility that will permit prompt evacuation of inmates and staff in an emergency

A facility in existence on November 1, 1985, is not required to construct additional exits if it has one exit which is deemed adequate by the State Fire Marshal

If an inspection reveals to the State Department of Health the commission of a crime or crimes related to the operations of a county jail facility, the Department must initiate a complaint with the appropriate district attorney, and cooperate in the prosecution of the alleged offender in the event an information is filed pursuant to such complaint.

Any county, city, or town may operate a holding facility for the incarceration of persons under arrest who are to be charged with a crime, which holding facility shall

not be required to meet the standards established in the statutes for jails, as long as no person is held there for a period longer than 12 hours and as long as an employee of the county, city, or town is available to render aid to or to release any person confined in the event aid or release is required because of a health or life-endangering emergency.

Notwithstanding any other provision of law or rule, any county or municipality that operates a jail facility which houses forty or fewer prisoners at all times and provides the following items is not required to have more than one jailer or dispatcher on-site to provide for the security, custody, and supervision of prisoners.

- Twenty-four-hour supervision of prisoner activity that is conducted either by direct observation or electronically by closed-circuit television
- An intercommunication system that terminates in a location that is staffed twenty-four hours a day and is capable of providing an emergency response

Any county or municipality that operates a jail facility which houses more than forty and less than seventy-five prisoners at all times and provides the following items is required to have more than one jailer or one jailer and at least one other basic CLEET-certified person on the same premises as the jail facility to provide for the security, custody, and supervision of prisoners.:

- Twenty-four-hour supervision of prisoner activity that is conducted either by direct observation or electronically by closed-circuit television
- An intercommunication system that terminates in a location that is staffed twenty-four (24) hours a day and is capable of providing an emergency response

Within 90 days after June 9, 1994, the State Board of Health must promulgate new rules governing square footage requirements, double-celling of prisoners, and the ratio of showers, toilets, and water basins to prisoners. The rules must be governed by the guidelines enumerated in the statutes, and must be designed to carry out the

intent and purpose of the guidelines. Each city or county jail facility in this state must be in compliance with the rules on or before January 1, 1995.

The State Department of Health must employ inspectors and other personnel as necessary and specifically authorized by the Legislature to carry out the provisions of the statutes and may rent or purchase premises or equipment in order to assist inspectors in the performance of their functions.

### ***Grand Juries***

57 O.S. § 59

The grand jury at each term of the district court, must make personal inspection of the condition of the county jail, as to the sufficiency for the safekeeping of prisoners, their convenient accommodation and health, and must inquire into the manner in which the jail has been kept since the last term, and the court shall give this duty in special charge to such grand jury, and lay before them all rules and regulations in force relating to county jails and prison discipline; and it shall be imperative upon the board of county commissioners to issue the necessary orders, or cause to be made the necessary repairs, in accordance with the complaint or recommendation of the grand jury.

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## **County Jail Trust Authority**

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19 O.S. § 904.1

The board of county commissioners of any county, if the board determines that such would be conducive to the promotion and preservation of the public safety of the county, may call an election at which shall be submitted to the qualified voters of the county the question of whether to create a county jail trust authority.

Notice of the election shall be given by publication in some newspaper of general circulation in the county once a week for two (2) consecutive weeks next preceding the date of the election. The notice shall specify the date of the election. The election shall be conducted in accordance with the general election laws of this state. If a majority of the qualified voters of the county voting on the question at an election

called for such purpose by the board of county commissioners approve, the county jail trust authority shall be created.

19 O.S. § 904.2

The directors of the Authority so created shall consist of five (5) members and include the chairperson of the board of county commissioners, the county sheriff, one member appointed by the presiding district court judge, one member appointed by the board of county commissioners, and one member appointed by the county sheriff. The appointed members shall be residents of the county and shall not be elected officials.

The county sheriff shall serve as chairperson of the board of directors. The board of directors of the Authority shall appoint a clerk and a treasurer. The board of directors shall fix the term and duties of the clerk and treasurer. The chairperson and members of the board shall serve without compensation. The treasurer shall give an official bond, in an amount fixed with sureties approved by the board of directors, conditioned upon faithful accounting for all money pertaining to the Authority and coming into the hands of the treasurer.

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## Regional Jail Districts

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Any county or combination of counties by resolution of their Boards of County Commissioners, may jointly create a regional jail district for the purpose of planning, financing, constructing, maintaining, and operating a jail located within the boundaries of those counties. The county or combination of counties, or their agencies, creating the regional jail district shall be designated the beneficiary of the district. The boundaries of the regional jail district shall follow the boundaries of the county or counties creating the district.

19 O.S. § 905  
19 O.S. § 905.1  
19 O.S. § 905.2  
60 O.S. § 176

## ***Resolution and Agreement***

The board of county commissioners of each county desiring to join the regional jail district shall approve a resolution to join the district and shall approve an agreement which specifies the duties of each county within the regional jail district. If any county wishes to join a regional jail district that has already been established, the agreement shall be rewritten and approved by each member county.

19 O.S. § 905.2

The agreement, which specifies the duties of each county within the regional jail district, shall contain the following information:

- The name of the regional jail district
- The names of the counties within the regional jail district
- The formula for calculating the contribution of each county to the costs of the regional jail district
- The types of prisoners which the regional jail may house, limited to prisoners which may be transferred to counties under state law
- The methods and powers which may be used for planning, constructing, financing or maintaining a regional jail
- The duties of the director of the regional jail
- The timing and procedures for approval of the annual budget of the regional jail district by the regional jail commission

In addition to the powers granted to the regional jail district by its member counties under the agreement, the regional jail district has all the powers necessary or appropriate to carry out its purposes

19 O.S. § 905.3

### ***Commission and Director***

Any regional jail district created shall be governed by a commission. The regional jail commission shall be composed of the County Sheriff and presiding County Commissioner from each county within the district. Each regional jail commissioner of the regional jail district shall serve during their tenure as County Sheriff or as presiding County Commissioner.

19 O.S. § 905.4

A director, appointed by the regional jail commission, shall administer the regional jail.

19 O.S. § 905.5

The director shall be paid a salary determined by the regional jail commission. The director shall have the authority to hire other officers and employees for positions that are authorized by the commission.

### ***Jail District Operation and Use***

The regional jail may be used to hold prisoners who have pled guilty or been found guilty of a crime or prisoners who are being held prior to or during trial.

19 O.S. § 905.6

Each county within the regional jail district may keep its own jail for holding any prisoners who have pled guilty or been found guilty of a crime or who are being held prior to or during trial.

Any county, city or town may contract with a regional jail commission for the purposes of holding prisoners.

19 O.S. § 905.2

A regional jail district shall exist for the duration of the regional jail's operation and no longer than one year after the regional jail ceases to operate.

## Chapter Twelve

# Duties of the County Sheriff: Process, Writ, Warrant, and other Service

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A McClain County Sheriff's Deputy prepares to serve a notice to an individual in the county.

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## Service Issuers

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### *District and Municipal Courts*

The County Sheriff is required to serve, execute, and return all process, writs, precepts, and other orders issued that are directed to the County Sheriff by

19 O.S. § 514  
19 O.S. § 545

lawful authorities in civil and criminal cases and to serve the several courts of record held in the county:

- All work issued out of district courts
- Municipal courts as requested

11 O.S. § 27-113

The County Sheriff is required to receive and serve writs and processes and arrest warrants as directed by a municipal court to any place in the state.

12 O.S. § 1347

11 O.S. § 28-121

The County Sheriff receives compensation allowed for these services, directed by the judge of the court. The municipality must pay the county (for deposit into the Sheriff's Service Fee Account) a fee for any service by a County Sheriff.

All processes directed to the County Sheriff from the District Court or any other court in the county must be served promptly, returned without delay, and filed in the proper court. The County Sheriff must endorse on every item the day and hour the item was received.

12 O.S. § 53

**CAUTION: Failure to promptly serve process directed to the County Sheriff (unless prevented by inevitable accident), or to perform expeditiously all of the duties of the office, are grounds for removal from office.**

12 O.S. § 54

19 O.S. § 523

**Any County Sheriff who neglects to serve, execute, or make due return of any writ or process, or is guilty of any default or misconduct associated with service, execution, or due return is liable to a fine or attachment, or both and is liable to actions from any persons aggrieved from the neglect or actions.**

If any party, his agent or attorney, files an affidavit with the clerk of the proper court that states a belief that the County Sheriff of that county, because of partiality, prejudice, consanguinity or interest, will not faithfully perform the prescribed duties in any suit commenced in that court, the Court Clerk will

direct the original, or other process, in that suit to the County Clerk who must execute the documents in the same way as the County Sheriff. The County Clerk is subject to the same penalties as the County Sheriff for failing to do so, unless prevented by inevitable accident. The County Clerk must perform all of the other duties of the County Sheriff when the County Sheriff is a party to the case, or is disqualified.

### **Bribery and Corruption Charges**

Prior to a trial in which bribery charges are pending, the County Sheriff of the county in which the bribery charges are pending must serve any orders and writs issued by the court that direct the County Sheriff to seize and take possession of any monies, funds, properties, or assets used in violating the bribery laws, and to hold them subject to the proceedings.

21 O.S. § 402  
21 O.S. § 403

### ***Oklahoma Labor Commission***

The County Sheriff must execute all warrants received from the Oklahoma Labor Commission regarding delinquent unemployment contribution payments. The warrant is filed by the Commission in the office of the County Clerk' office and constitutes a lien by the state upon the title to any interest in any real or personal property of the delinquent employer against whom the warrant is issued.

40 O.S. § 3-501  
40 O.S. § 3-502  
40 O.S. § 3-503  
40 O.S. § 3-504

Upon receiving the warrant, the County Sheriff must execute the warrant in the same manner prescribed by law for executions against property upon judgment of the court of record.

40 O.S. § 3-505

If any sheriff refuses or neglects to execute any warrant issued by the Commission, or refuses or neglects, on demand, to pay to the Commission, all moneys collected or received under the warrant, The County Sheriff, upon motion of the Commission in court, and after 30 days' notice in writing, will be amerced in the amount of the warrant, together with all penalties and costs

and with an additional penalty of ten percent to the State of Oklahoma. Every surety of any County Sheriff will be made a party to the judgment rendered against the County Sheriff.

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## Service Methods

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### *Service by Personal Delivery*

If the plaintiff chooses, process, other than a subpoena, must be served by a County Sheriff or deputy sheriff, a person licensed to make service of process in civil cases, or a person specially appointed for that purpose.

12 O.S. § 2004 (C)(1)

A summons to be served by the County Sheriff or deputy sheriff must be delivered to the County Sheriff by the Court Clerk or an attorney of record for the plaintiff.

When a summons, subpoena, or other process is to be served by the County Sheriff or deputy sheriff of another county, the Court Clerk must mail it, together with the voucher of the Court Clerk for the fees collected for the service, to the County Sheriff of that county. That County Sheriff must deposit the voucher in the Sheriff's Service Fee Account. That County Sheriff or deputy sheriff must serve the process in the manner that other process issued out of the court of the County Sheriff's own county is served.

19 O.S. § 514.1

A summons to be served by a person licensed to make service of process in civil cases or by a person specially appointed for that purpose must be delivered by an attorney of record for the plaintiff to that person.

Service must be made in the following ways:

- Upon an individual, other than an infant who is less than 15 years of age or an incompetent person, by delivering a copy of the summons and of the petition personally or by leaving copies at the person's

dwelling house or usual place of abode with some person who resides there who is 15 years of age or older, or by delivering a copy of the summons and of the petition to an agent authorized by appointment or by law to receive service of process

- Upon an infant who is less than 15 years of age, by serving the summons and petition personally and upon either of the infant's parents or guardian, or if they cannot be found, then upon the person having the care or control of the infant or with whom the infant lives; and upon an incompetent person by serving the summons and petition personally upon the incompetent person's guardian
- Upon a domestic or foreign corporation or upon a partnership or other unincorporated association that is subject to suit under a common name, by delivering a copy of the summons and of the petition to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant
- Upon the United States or an officer or agency in the manner specified by Federal Rule of Civil Procedure 4
- Upon a state, county, school district, public trust or municipal corporation or other governmental organization subject to suit, by delivering a copy of the summons and of the petition to the officer or individual designated by specific statute. However, if there is no statute, then upon the chief executive officer or a clerk, secretary, or other official whose duty it is to maintain the official records of the organization
- Upon an inmate incarcerated in an institution under the jurisdiction and control of the Department of Corrections, by delivering a copy of

the summons and of the petition to the warden or superintendent or designee of the institution where the inmate is housed; the receiving warden or superintendent or a designee must promptly deliver the summons and petition to the inmate.

The warden or superintendent or designee must reject service of process for any inmate who is not actually present in the institution.

### ***Service by Mail***

If the plaintiff chooses, a summons and petition may be served by mail by the plaintiff's attorney, any person authorized to serve process pursuant to the statutes, including the County Sheriff, or by the Court Clerk. Service by mail must be effective on the date of receipt, or if refused, on the date of refusal of the summons and petition by the defendant.

### ***Service by Publication***

Service of summons upon a named defendant may be made by publication when it is stated in the petition, verified by the plaintiff or the plaintiff's attorney, or in a separate affidavit by the plaintiff or the plaintiff's attorney filed with the court, that with due diligence service cannot be made upon the defendant by any other method.

### ***Return of Service***

The County Sheriff, when serving the process must provide proof of service to the court promptly and in any event within the time during which the person served must respond to the process. However, the failure to provide proof of service does not affect the validity of the service.

When process has been served by a County Sheriff or deputy sheriff and return of service is filed in the office of the Court Clerk, a copy of the return must be

sent by the Court Clerk to the plaintiff's attorney within three days after the return is filed.

### ***Telephone Service for Misdemeanor Warrants***

The County Sheriff of any Oklahoma county may enter into a private contract for automated telephone system for misdemeanor warrants or failure-to-pay warrants, according to the Oklahoma Statutes. The contract must require the contractor to attempt to locate and notify persons of their outstanding misdemeanor warrants.

19 O.S. § 514.4  
74 O.S. § 85.41

### ***Retiring Sheriffs***

County Sheriffs, undersheriffs and deputies may execute and return all such writs and processes in their hands at the expiration of their office, or at the time of their removal from office, that they have already begun to execute by service, levy, or collection of money.

19 O.S. § 518

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## **Executions, Levies, and Proceedings**

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Executions are deemed processes of the court, are issued by the Court Clerk, and are directed to the County Sheriff. They may be directed to different counties at the same time.

12 O.S. § 731

### ***Sheriff's Sale of Goods and Chattels***

#### **Undertaking**

When a County Sheriff receives an execution and levies on any goods and chattels that remain unsold because of lack of bidders, lack of time to advertise and sell, or any other reasonable cause, the County Sheriff may, for security, request the defendant to provide a pledge, with security, for a sum deemed sufficient. The goods and chattels must be delivered for sale at a time and place

12 O.S. § 756

appointed by the County Sheriff, either by notice given in writing to the defendant, or by a newspaper advertisement published in a newspaper printed in the county. If the defendant fails to deliver the goods and chattels at the time and place mentioned in the notice or to pay their full value or the amount of the debt and costs, the pledge may be proceeded on as in other cases.

### **Notice of Sale**

12 O.S. § 757

No goods or chattels levied upon by the County Sheriff pursuant to an execution issued by a court of record may be sold unless the party who issued the execution mails a written notice (regarding the sale to be held by the County Sheriff) at least ten days prior to the date of the sale by first class mail, postage prepaid, to the judgment debtor, any holder of record of an interest in the property, and all other persons who claim a lien or any interest in the goods or chattels, if the names and actual addresses of these persons are known. This notice must describe the goods or chattels subject to sale and state the date, time, and place where the sale will occur.

For at least ten days before the day of the sale, the County Sheriff must execute a public notice stating the date, time, and place of the sale. The notice must also state the name of any person having an interest in the property whose actual address is unknown, and must designate the person whose unknown successors are being notified. The notice must be given by advertisement in some newspaper published in the county, or, in case no newspaper is published, by setting up advertisements in five public places in the county.

Two advertisements must be put up in the township where the sale is to be held. An affidavit of proof of mailing and of publication or posting must be filed in the case.

## **Sale Procedures**

If a purchaser other than the party causing the execution to be issued, when required by the County Sheriff, fails to post cash or certified funds equal to ten percent of the amount bid for the property within twenty-four hours of the sale, excluding Sundays and legal holidays, or otherwise fails to complete the sale, the County Sheriff may proceed with the sale and may accept the next highest bid.

When goods and chattels levied upon cannot be sold for want of bidders, the officer making the return must affix a true and correct inventory of the goods and chattels to the execution, and the party causing the execution to be issued may sue out another writ of execution, directing the sale of the property levied upon.

### ***Sheriff's Sale of Real Estate***

#### **Notice of Sale**

Lands and tenements taken on execution may not be sold unless the party issuing the execution mails the same type of notice described for goods and chattels above.

12 O.S. § 764  
12 O.S. § 766

Upon receiving the writs of execution, the County Sheriff or must sell the lands and tenements, provide to the purchaser as good and sufficient deed of conveyance of the land sold as the persons against whom the writs of execution were issued could have made. The deed is sufficient evidence of the legality of the sale and its proceedings.

#### **Deed of Conveyance**

The deed of conveyance, made by the County Sheriff must include the following information:

- A recitation of the execution or executions

- The names of the parties
- The amount and date of rendition of each judgment, by virtue whereof the said lands and tenements were sold as ordered.

The deed must be executed, acknowledged and recorded as provided by law, to perfect the conveyance of real estate.

All sales of lands or tenements under execution must be held at the court house in the county in which such lands or tenements are situated, unless some other place within the county is designated by the judge having jurisdiction in the case. No County Sheriff making the sale of property, either personal or real, may, either directly or indirectly, purchase the lands or tenements; and every such purchase is considered fraudulent and void.

12 O.S. § 769

In all cases where two or more executions are put into the hands of any County Sheriff, and it is necessary to levy on real estate to satisfy them, and either of the judgment creditors, in whose favor one or more of the executions are issued, shall require the County Sheriff or other officer to levy said executions, or so many thereof as may be required, on separate parcels of the real property of the judgment debtor or debtors, giving to the officer making the levy on behalf of the creditors, whose execution may, by the provisions of this article, be entitled to a preference, the choice of such part of the real property of the judgment debtor or debtors, as will be sufficient, at two-thirds of the appraised value, to satisfy the same. In all cases where two or more executions, which are entitled to no preference over each other, are put in the hands of the same County Sheriff, it shall be the duty of the County Sheriff, when required, to levy the same on separate parcels of the real property of the judgment debtor or debtors, when, in the opinion of the appraisers, the same may be divided without material injury; and if the real property of said debtors will not be sufficient, at two-thirds of its appraised value, to satisfy all the executions chargeable thereon, such part of the same shall be levied on, to satisfy each

12 O.S. § 771

execution, as will bear the same proportion in value to the whole, as the amount due to the execution bears to the amount of all the executions chargeable thereon, as near as may be according to the appraised value of each separate parcel of said real property.

### ***Inability of County Sheriff to Act***

12 O.S. § 772

If the term of service of the County Sheriff or other officer who has sold any lands and tenements, expires, or if the County Sheriff or other officer is absent, or is rendered unable by death or other reasons to make a deed of conveyance, then any succeeding County Sheriff or other officer may execute, under the following conditions, to the purchaser or purchasers, or their legal representatives, a deed of conveyance of the lands and tenements sold:

- Upon receiving a certificate from the court from which the execution was issued for the sale of the lands and tenements that is signed by the Court Clerk, by order of the court, and provides that sufficient proof has been made to the court that the sale was fairly and legally made
- Upon tender of the purchase money, or on proof of payment and tender of the balance, if any

This deed shall be as good and valid in law and have the same effect as if the County Sheriff or other officer who made the sale had executed it.

If, on any sale made, the County Sheriff or other officer has more money than is sufficient to satisfy the writ or writs of execution, with interest and costs, the County Sheriff or other officer must, on demand, pay the balance to the defendant in execution.

### ***Judgment Lien on Real Estate - Reappraisal***

12 O.S. § 801

In all cases where real estate has been taken on execution, appraised, advertised, and offered for sale twice, and remains unsold for lack of bidders,

the court from which the execution was issued, on motion of the plaintiff, is responsible for setting aside the appraisalment.

12 O.S. § 802

The County Sheriff must return the writ to the court within 60 days from the date of the writ.

### ***Actions for Neglect or Refusal to Execute***

12 O.S. § 811

If any County Sheriff refuses or neglects to perform any of the following actions, the party aggrieved by the alleged neglect or refusal may file an action in district court to recover damages sustained.

- Execute any writ of execution
- Sell any goods and chattels, lands and tenements
- Call an inquest and return a copy to the Court Clerk's office
- Return any writ of execution to the proper court on or before the return day
- Return a just and perfect inventory of the goods and chattels taken in execution, unless the County Sheriff returns that he has levied and made the amount of the debt, damages, and costs
- To pay over, on demand, to the plaintiff, his agent or attorney of record, all moneys collected or received
- To pay over, on demand made by the defendant, his agent or attorney of record, all moneys received for any sale made, beyond what is sufficient to satisfy the writ or writs of execution, with interest and legal costs

Before an aggrieved party may proceed in an action, the party must serve written notice on the County Sheriff, detailing the alleged acts of negligence or a refusal to act. The notice must be served personally on the County Sheriff at

least 20 days before a petition is filed in district court. The County Sheriff has 20 days from receiving the notice to perform the act which is the basis for the alleged neglect or refusal to act or to give the reason for failing to act. If the County Sheriff performs the act required within the 20-day period, no action for damages is authorized.

Notice must be served upon the surety from whom the bond was purchased. Proof of service notice required by the statutes must be attached to the petition filed by the aggrieved party.

When the cause of action is for refusing to pay over money collected, the County Sheriff is not liable for a sum greater than the amount withheld.

12 O.S. § 813

When execution is issued to the County Sheriff of any county other than the county in which the judgment was rendered, the County Sheriff must endorse the date of its reception, and following the time of its levy, return any writ to the clerk of the court from which it was issued.

12 O.S. § 814

When execution is issued in any county in this state and directed to the County Sheriff of another county, The County Sheriff may lawfully have the execution, after having discharged all the duties required by law, to enclose the execution, by mail, to the clerk of the court who issued the execution. When the County Sheriff provides proof that the execution was mailed soon enough to have reached the office where it was issued within the time prescribed by law, the County Sheriff is not liable for any penalty or damages if it does not reach the office in due time.

12 O.S. § 815

No County Sheriff may forward by mail any money made on any execution, unless especially instructed to do so by the plaintiff, an agent, or attorney of record.

12 O.S. § 816

Every surety of any County Sheriff may be made party to the judgment rendered against the County Sheriff, by action, to be commenced and prosecuted as in other cases; but the goods and chattels, lands and tenements

12 O.S. § 817

of any such surety are liable to be taken on execution, when sufficient goods and chattels, lands and tenements of the County Sheriff can be found to satisfy the surety.

In cases where a County Sheriff is subject to an action provided for in the statutes, and has collected the amount of the original judgment, the County Sheriff is permitted to sue out an execution and collect the amount of the judgment, in the name of the original plaintiff.

12 O.S. § 811  
12 O.S. § 812  
12 O.S. § 818

### ***Payment of Execution by Debtor of Defendant***

After issuing an execution against property, any person indebted to the judgment debtor may pay to the County Sheriff the amount of his debt, or as much as may be necessary to satisfy the execution. The County Sheriff's receipt is sufficient discharge for the amount paid or directed to be credited by the judgment creditor on the execution.

12 O.S. § 846

### ***Appointment of Receiver of Property of Judgment Debtor - Order to Forbid Transfer of Property***

The judge may also, by order, appoint the County Sheriff of the proper county a receiver of the property of the judgment debtor, in the same manner and with like authority as if the appointment was made by the court. The judge may also, by order, forbid a transfer or other disposition of the property of the judgment debtor, not exempt by law, and any interference therewith.

12 O.S. § 852

### ***Compensation for Costs***

The judge must allow to County Sheriffs, compensation as is allowed for like services in other cases, to be taxed as costs in the case, and shall enforce, by order, the collection of costs from the parties required to pay them.

12 O.S. § 861

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## Forcible Entry and Detainer Summons

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### ***Summons Service***

The County Sheriff, after receiving a summons issued by a district court for a forcible entry and detention trial, must summon the defendant to appear for the trial at the time and place specified, which must not be less than five days, or more than ten days, from the date the summons is issued.

12 O.S. § 1148.4

The summons may be served as in other cases except that the service must be at least three days before the trial date, and the return day must not be later than the trial date. The summons may also be served by leaving a copy (at least three days before the trial date) with some person over 15 years of age, who resides on the premises. If service cannot be made by reasonable diligence, it may be served by certified mail with return receipt postmarked at least three days before the trial date.

12 O.S. § 1148.5

Service may also be accomplished by conspicuous posting by the County Sheriff (at least five days before the trial date) on the building on the premises of the defendant. If no building is on the premises, then the summons must be conspicuously posted on the premises.

12 O.S. § 1148.5A

### ***Jury Panel***

If a jury is requested by either party, and no jury is available from the general panel, the judge immediately directs the County Sheriff of the county, or one of his deputies, to summon the number of jurors needed, to be selected from the body of the county without resorting to the jury wheel. The persons selected must have the qualifications of jurors.

12 O.S. § 1148.8

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## Garnishments and Attachments

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When receiving an order of attachment, the County Sheriff. is required to attach the lands, tenements, goods, chattels, stocks, rights, credits, moneys, and effects of the defendant in his county, not exempt by law from being applied to the payment of the plaintiff's claim, or as much as will satisfy the plaintiff's claim, to be stated in the order as in the affidavit, and the probable cost of the action not exceeding \$50.00.

12 O.S. § 1154

Orders of attachment may be issued to the County Sheriffs of different counties, and several of them may, at the option of the plaintiff, be issued at the same time, or in succession. Only orders that have been executed can be taxed in the costs, unless otherwise directed by the court.

12 O.S. § 1155

The order of attachment must be executed by the County Sheriff, without delay. The County Sheriff must go to the place where the defendant's property may be found, and declare that, by virtue of the order, the property is attached at the suit of the plaintiff. The officer, with two householders, who shall be first sworn or affirmed by the officer, must make a true inventory and appraisement of all the property attached, which shall be signed by the officer and householders, and returned with the order.

12 O.S. § 1158

The County Sheriff must deliver the property attached to the person in whose possession it was found, upon the execution, by such person, in the presence of the County Sheriff, of an undertaking to the plaintiff, with one or more sufficient sureties, resident in the county, to the effect that the parties to the same are bound, in double the appraised value thereof, that the property, or its appraised value in money, shall be forthcoming to answer the judgment of the court in the action; but if it shall appear to the court that any part of said property has been lost or destroyed by unavoidable accident, the value thereof shall be remitted to the person so bound.

12 O.S. § 1160

The County Sheriff delivers all items collected to the receiver designated by the court.

12 O.S. § 1225

The receiver must take possession of all notes, due bills, books of account, accounts, and all other evidences of debt that have been taken, by the County Sheriff, as the property of the defendant in attachment, and must proceed to settle and collect the same.

12 O.S. § 1228

Where a receiver is not appointed by the court or a judge, the County Sheriff attaching the property has all the powers and performs all the duties of a receiver appointed by the court or a judge, and may, if necessary, commence and maintain actions in his own name. He may be required to give security other than his official undertaking.

12 O.S. § 1229

The court must make proper orders for the preservation of the property during the pendency of the suit; it may direct a sale of property, when, because of its perishable nature; or of the costs of keeping it, a sale will be for the benefit of the parties. In vacation, the sale may be ordered by the judge of the court. The sale must be public, after an advertisement as is prescribed for the sale of like property on execution, and must be made in the manner and upon the terms of credit, with security, as the court or judge may direct. The proceeds, if collected by the County Sheriff, with all the moneys received by him from garnishees, must be held and paid over by him, under the same requirement and responsibility of himself and sureties, as are provided in respect to money deposited in lieu of bail.

12 O.S. § 1231

The undertaking mentioned in the last section may, in vacation, be executed in the presence of the County Sheriff having the order of attachment in his hands, or after the return of the order, before the clerk, with the same effect as if executed in court, the sureties in either case to be approved by the officer before whom the undertaking is executed.

A garnishee may pay the money owing to the defendant by him to the County Sheriff having the order of attachment, or into court. He shall be discharged from liability to the defendant for any money so paid, not exceeding the plaintiff's claim. He shall not be subject to costs, beyond those caused by his resistance of the claim against him; and if he discloses the property in his hands, or the true amount owing by him, and deliver and pay the same, according to the order of the court, he shall be allowed his costs.

12 O.S. § 1233

The court may compel the delivery to the County Sheriff, for sale, of any of the attached property for which an undertaking may have been given, and may proceed summarily, on such undertaking, to enforce the delivery of the property, or the payment of such sum as may be due upon the undertaking, by rules and attachments, as in cases of contempt.

12 O.S. § 1236

The court may order the County Sheriff to repossess himself, for the purpose of selling it, of any of the attached property, which may have passed out of his hands, without having been sold or converted into money; and the County Sheriff must, under such order, have the same power to take the property as he would have under an order of attachment.

12 O.S. § 1237

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## Habeas Corpus

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Writs of habeas corpus may be granted by any court of record.

12 O.S. § 1333

The writ must be directed to the officer or party who has the person under restraint, commanding that officer to have the person before the court, or judge, at the time and place that the court or judge directs.

12 O.S. § 1334

If the writ is directed to the County Sheriff, it must be delivered by the Court Clerk without delay.

12 O.S. § 1335

If the writ is directed to any other person, it must be delivered to the County Sheriff who must serve it by delivering it to the other person without delay.

12 O.S. § 1336

If the person to whom the writ is directed cannot be found, or refuses admittance to the County Sheriff, the writ may be served by leaving it at the residence of the person to whom it is directed, or by affixing it on some conspicuous place, either of the dwelling house or where the party is confined under restraint.

12 O.S. § 1337

The County Sheriff or other person to whom the writ is directed must return the writ immediately or the court must enforce return by attachment.

12 O.S. § 1338

No County Sheriff is liable to a civil action for obeying any writ of habeas corpus or order of discharge.

12 O.S. § 1347

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## Subpoenas

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### *Service*

Service of a subpoena upon a person named therein shall be made by delivering or mailing a copy to the person and, if the person's attendance is demanded, by giving that person the fees for one day's attendance and the mileage allowed by law. Service of a subpoena may be accomplished by any person who is 18 years of age or older. A copy of any subpoena that commands production of documents and things or inspection of premises before trial must be served on each party in the manner prescribed in the statutes. If the subpoena commands production of documents and things or inspection of premises from a nonparty before trial, but does not require attendance of a witness, the subpoena must specify a date for the production or inspection that is at least seven days after the date that the subpoena and copies of the subpoena are served on the witness and all parties. The subpoena must include the following language: "In order to allow objections to the production

12 O.S. § 2004  
12 O.S. § 2004.1

12 O.S. § 2005 (B)

of documents and things to be filed, you should not produce them until the date specified in this subpoena, and if an objection is filed, until the court rules on the objection."

A subpoena may be serviced by mail by mailing a copy by certified mail with return receipt requested and delivery restricted to the person named in the subpoena. The person serving the subpoena must make proof of service to the court promptly and, in any event, before the witness is required to testify at the hearing or trial. If service is made by a person other than a County Sheriff or deputy sheriff, that person must make an affidavit of the service. If service is by mail, the person serving the subpoena must show in the proof of service the date and place of mailing and attach a copy of the return receipt showing that the mailing was accepted. Failure to make proof of service does not affect the validity of the service, but service of a subpoena by mail is not effective if the mailing was not accepted by the person named in the subpoena. Costs of service are allowed whether service is made by the County Sheriff, the sheriff's deputy, or any other person. When the subpoena is issued on behalf of a state department, board, commission, or legislative committee, fees and mileage must be paid to the witness at the conclusion of the testimony out of funds appropriated to the state department, board, commission, or legislative committee.

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## Partitions

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If partition cannot be made, and the property has been valued and appraised, any one or more of the parties may elect to take the same at the appraisal, and the court may direct the County Sheriff to make a deed to the party or parties so electing, on payment to the other parties of their proportion of the appraised value. The election must be filed within 20 days of the filing of the

12 O.S. § 1512

Commissioners' report provided that the court may, before expiration of the said 20 days, fix a different and longer period for the filing of elections.

12 O.S. § 1513

If none of the parties elect to take the property at the valuation, or if several of the parties elect to take the same at the valuation, in opposition to each other, the court shall make an order directing the County Sheriff of the county to sell the same, in the same manner as in sales of real estate on execution; but no sale shall be made at less than two-thirds of the valuation placed upon the property by the Board of County Commissioners.

The County Sheriff must make return of his proceedings to the court, and if the sale made by him is approved by the court, the County Sheriff must execute a deed to the purchaser, upon the payment of the purchase money, or securing the same to be paid, in such manner as the court shall direct.

12 O.S. § 1514

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## Replevin

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Replevin refers to the following two items:

1. The recovery of goods by the person claiming to own them, on a promise to test the matter in court and give the goods up again if defeated
2. The writ by which one takes over the goods

The order for the delivery of the property to the plaintiffs must be addressed and delivered to the sheriff. It must state the names of the parties and the court in which the action is brought. It must command the County Sheriff to take the property, describe it and deliver it to the plaintiff, and return the order on a day to be named in the order. The return day of the order of delivery, when issued at the commencement of the suit, must be the same as that of the summons. When issued afterwards, it must be ten days after it is issued.

12 O.S. § 1574  
12 O.S. § 1575

The County Sheriff must execute the order by taking the property mentioned in the order. He must also deliver a copy of the order to the person charged with the unlawful detainer of the property, or leave the copy at his usual place of residence. If, within 24 hours after service of the copy of the order, one or more sufficient sureties of the defendant is executed, to be approved by the County Sheriff, an undertaking to the plaintiff, in not less than double the amount of the value of the property as stated in the affidavit of the plaintiff, to the effect that the defendant will deliver the property to the plaintiff, if such delivery be adjudged, and will pay all costs and damages that may be awarded against him, the County Sheriff shall return the property to the defendant. If such undertaking be not given within 24 hours after service of the order, the County Sheriff must deliver the property to the plaintiff.

12 O.S. § 1576  
12 O.S. § 1577

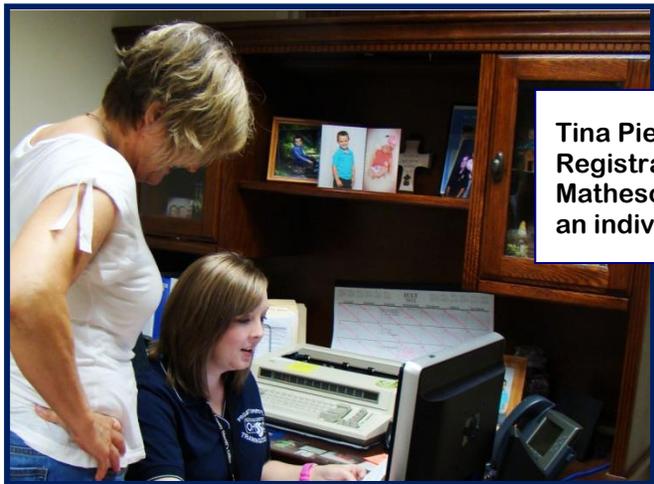
The County Sheriff or other officer, in the execution of the order of delivery, may break open any building or enclosure in which the property, or any part of the property claimed is concealed, but not until he has been refused an entrance into the building or enclosure and the delivery of the property, after having demanded the same.

12 O.S. § 1582

## Chapter Thirteen

# Duties of the County Sheriff: Crimes and Punishments

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Tina Pierce(left), Payne County Offender Registration Supervisor, checks with Patsy Matheson, Administrative Assistant regarding an individual.

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## Powers of the County Sheriff Regarding Criminal Laws

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As a peace officer of the State of Oklahoma, the County Sheriff may enforce the criminal laws of this state throughout the territorial bounds of this state, under the following circumstances:

21 O.S. § 99a

- In response to an emergency involving an immediate threat to human life or property
- Upon the prior consent of the head of a state law enforcement agency or the chief of police in whose investigatory or territorial jurisdiction
- In response to a request for assistance pursuant to a mutual law enforcement assistance agreement with the agency of investigatory or territorial jurisdiction
- In response to the request for assistance by a peace officer with investigatory or territorial jurisdiction
- While the officer is transporting a prisoner

While serving as a peace officer of the State of Oklahoma and rendering assistance under the circumstances listed above, County Sheriffs have the same powers and duties as though employed by and are deemed to be acting within the scope of authority of the law enforcement agency in whose or under whose investigatory authority or territorial jurisdiction they are serving.

Salaries and other benefits are not the responsibility of a law enforcement agency that is not the employing agency for the County Sheriff.

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## **Responsibilities of the County Sheriff to Victims of Criminal Acts**

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### ***Victims of Violent Crimes***

Upon the preliminary investigation of a violent crime, it shall be the duty of the officer who interviews the victim of such crime to inform the victim, or a responsible adult if the victim is a minor child or an incompetent person, or the

21 O.S. § 142A-3(A)

family member who receives death notification in the case of a homicide, in writing, of their rights as a crime victim. Written notification shall consist of handing the individual a preprinted card or brochure that, at a minimum, includes the following information:

1. A statement that reads, "As a victim of crime, you have certain rights"
2. The telephone and address information for the local District Attorney Victim-Witness Coordinator
3. The website address where victims can access a full list of their rights, additional information, and information on how to apply for crime victim compensation assistance.

### ***Victims of Domestic Abuse***

A victim of domestic abuse has the right to be informed by the first peace officer who interviews the victim of domestic abuse of the 24-hour statewide telephone communication service and to give notice to the victim of certain rights. The notice shall consist of handing such victim the following statement:

21 O.S. § 142A-3(B)  
74 O.S. § 18p-5

As a victim of domestic abuse, you have certain rights. These rights are as follows:

1. The right to request that charges be pressed against your assailant
2. The right to request protection from any harm or threat of harm arising out of your cooperation with law enforcement and prosecution efforts as far as facilities are available and to be provided with information on the level of protection available
3. The right to be informed of financial assistance and other social services available as a result of being a victim, including information on how to apply for the assistance and services

4. The right to file a petition for a protective order or, when the domestic abuse occurs when the court is not open for business, to request an emergency temporary protective order.

### ***Victims of Rape or Forcible Sodomy***

The victim of rape or forcible sodomy has the right to be informed by the officer who interviews the victim of the rape or forcible sodomy, or a responsible adult if the victim is a minor child or an incompetent person, of the 24-hour statewide telephone communication service and to give notice to the individual of certain rights of the victim. The notice shall consist of handing the individual a written statement in substantially the following form:

As a victim of the crime of rape or forcible sodomy, you have certain rights. These rights are as follows:

1. The right to request that charges be pressed against your assailant;
2. The right to request protection from any harm or threat of harm arising out of your cooperation with law enforcement and prosecution efforts as far as facilities are available and to be provided with information on the level of protection available;
3. The right to be informed of financial assistance and other social services available to victims, including information on how to apply for the assistance and services;
4. The right to a free forensic medical examination; and
5. The right to be informed by the district attorney of other victim's rights per the Oklahoma Statutes.

### ***Victims of Domestic Violence Involving Intimate Partner Violence***

Upon the preliminary investigation of a domestic violence crime involving intimate partner violence, the first peace officer who interviews the victim of

21 O.S. § 142A-3(C)  
74 O.S. § 18p-5

21 O.S. § 142A-3(D)

domestic abuse shall assess the potential for danger by asking a series of questions provided on a lethality assessment form. The lethality assessment form shall include, but not be limited to, the following questions:

1. Has the person ever used a weapon against the victim or threatened the victim with a weapon?
2. Has the person threatened to kill the victim or children of the victim?
3. Does the victim think the person will try to kill the victim?
4. Has the person ever tried to choke the victim?
5. Is the person violently or constantly jealous or does the person control most of the daily activities of the victim?
6. Has the victim left or separated from the person after living together or being married?
7. Is the person unemployed?
8. Has the person ever tried to kill himself or herself?
9. Does the victim have a child that the person knows is not his or her own child?
10. Does the person follow or spy on the victim or leave the victim threatening messages?
11. Is there anything else that worries the victim about his or her safety and if so, what worries the victim?

Based upon the results of the lethality assessment, referrals to shelters, domestic violence intervention programs, and other social services shall be provided to the victim.

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## **Assault and Battery on County Sheriff or Deputy**

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### ***Assault and Battery on County Sheriff or Deputy***

Any person who, without justifiable or excusable cause, knowingly commits any aggravated assault or assault and battery on a County Sheriff, deputy sheriff, or any corrections personnel while that officer is performing job-related duties is guilty of a felony that is punishable by imprisonment in the custody of the Department of Corrections for not more than life, or by a fine not exceeding one thousand dollars, or both.

21 O.S. § 650(A)

### ***Maiming of County Sheriff or Deputy***

Any person who, without justifiable or excusable cause, knowingly commits any aggravated assault or assault and battery on a County Sheriff, deputy sheriff, or any corrections personnel that results in maiming while that officer is performing job-related duties is guilty of a felony that is punishable by imprisonment in the custody of the Department of Corrections for not less than five years or more than life, or by a fine not exceeding \$5,000.00, or both.

21 O.S. § 650(b)  
21 O.S. § 751

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## **Gambling**

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### ***Duties of County Sheriff Regarding Gambling***

Every County Sheriff must diligently perform the acts required under the gambling act and must arrest any person violating any of the provisions of the act and inform against those persons.

21 O.S. § 974

The County Sheriff must present in evidence the fact that any gambling paraphernalia was set up, operated, conducted, displayed, or exposed in a public place for any considerable length of time, provided the time and place is

21 O.S. § 975

sufficient to put a reasonably efficient officer upon inquiry and notice, to prove that the County Sheriff had knowledge of its existence.

21 O.S. § 976

Any County Sheriff who fails to diligently perform the acts and duties required under the gambling act, and knowingly allows the violation of this act is guilty of willful neglect of duty and must be removed from office. The County Sheriff is also guilty of a misdemeanor and is punishable by a fine of not less than \$250.00 or more than \$1,000.00, or by imprisonment in the county jail for a term of not less than 30 days or more than one year, or both.

Any County Sheriff, upon being convicted or removed from office, is ineligible to hold public office for a period of two years from the date of the conviction or removal.

### ***Gambling Paraphernalia***

#### **Seizing Gambling Paraphernalia**

Every County Sheriff is required to seize every slot machine and every punch board, together with all money, and all property and items of value associated with them, and hold and safely keep them, subject to the order of the district court.

21 O.S. § 973(A)  
21 O.S. § 960  
21 O.S. § 943

#### **Reports**

##### ***District Attorney***

Immediately following each seizure, the County Sheriff must report to the District Attorney of the county in which the seizure was made. The District Attorney must immediately file an application in the district court of county in the name of the State of Oklahoma.

This application includes an order to pay any money seized into the Sheriff's Training Fund.

21 O.S. § 973(A)(4)(b)  
22 O.S. § 1325

### **County Clerk**

Within five days of seizing any personal property used in violating the gambling laws, the County Sheriff must make a written report and file a copy with the County Clerk of the county in which the property was seized. If another officer or person seized the property, that person must file a report with the County Sheriff, who provides the person with a receipt and files a copy with the County Clerk. The County Sheriff retains the original report until it is ordered destroyed by court order.

22 O.S. § 1261

The report must include the following information:

- The name of the officer or person seizing the property
- The place where the property was seized
- An inventory of the property

The County Sheriff is liable on the Sheriff office bond for the safe keeping of all property seized under this act.

### **Selling or Destroying Gambling Paraphernalia**

The application also includes an order that any gambling paraphernalia seized is either to be sold with the district court's approval by the County Sheriff of the county in which the seizure is made, or destroyed by the County Sheriff or some other person as directed by the district court. The proceeds of the sale are paid into the Sheriff's Training Fund.

21 O.S. § 973(A)(4)(a)  
22 O.S. § 1325

The County Sheriff or other person ordered to destroy gambling paraphernalia must execute the order and make return within five days from the date of the order, and show the manner in which the order was executed.

21 O.S. § 973(C)

### **Selling Other Items**

The application also includes an order that any other item of value seized that is not used specifically for gambling is to be sold by the County Sheriff of the county in which the seizure is made, on notice directed by the district court. The proceeds of the sale are paid into the Sheriff's Training Fund.

21 O.S. § 973(A)(4)(c)  
21 O.S. § 943

### **Other Furniture or Equipment**

Any furniture or equipment that has been determined by a magistrate or justice of the peace as being used for gambling purposes must be delivered to the County Sheriff to wait for the district court's order.

21 O.S. § 943

Any of the furniture or equipment susceptible of legitimate use, may be sold and the proceeds placed in the court fund of the county. Any money found by the officers shall be placed in the court fund of the county.

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## **Road Sign Crimes**

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Any person who defaces, steals, or possesses any road sign or marker posted by any city, state, or county is guilty of a misdemeanor punishable by a fine of not more than \$100.00 or restitution to be paid to the city, state, or county, or by not more than 20 days of community service, or by imprisonment in the county jail for a term of not more than 30 days, or by such fine, imprisonment, community service, or restitution as the court may order.

21 O.S. § 1753.8

If any of the above violations results in personal injury to or death of any person, the person committing the violation is guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not more than two years, or by a fine of not more than \$1,000.00. In addition, the person may be ordered to pay restitution to the city, state, or county, or to perform not

less than 40 days of community service, or to such combination of fine, imprisonment, community service, and/or restitution, as the Court may order.

### ***Returned Road Signs or Markers***

The County Sheriff must hold any returned city, state, or county road sign or marker and notify the Department of Transportation that such signs or markers have been returned. The Department has authority to promulgate any necessary rules and regulations concerning the disposition of the returned signs or markers, which shall include written permission to keep old and nonuseable signs.

21 O.S. § 1753.9

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## **Littering**

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Any County Sheriff may issue a state traffic citation to any person committing a violation listed below.

21 O.S. § 1753.3

### ***Dumping Trash***

Any person who deliberately places, throws, drops, dumps, deposits, or discards any garbage, trash, waste, rubbish, refuse, debris, or other deleterious substance on any public property or on any private property of another without consent of the property owner is guilty of a misdemeanor.

21 O.S. § 1761.1

In addition to the penalty prescribed in the statute, the court shall direct the person to make restitution to the property owner affected; to remove and properly dispose of the garbage, trash, waste, rubbish, refuse, or debris from the property; to pick up, remove, and properly dispose of garbage, trash, waste, rubbish, refuse, debris, and other nonhazardous deleterious substances from public property; or perform community service or any combination of the foregoing which the court, in its discretion, deems appropriate.

The dates, times, and locations of such activities shall be scheduled by the County Sheriff pursuant to the order of the court in such a manner as not to interfere with the employment or family responsibilities of the person.

### ***Flaming or Glowing Substance***

Any person convicted of committing any of the violations listed above with any flaming or glowing substance, or any substance that may cause a fire faces a fine of not less than \$2,000.00 or more than \$5,000.00 or imprisonment in the county jail for not more than 60 days, or both. The penalties collected from the payment of the citations are paid, after deduction of court costs, to the fire department of the district in which the flaming or glowing substance was discarded. Any person violating the provisions of this subsection is liable for all damages caused by the violation. Damages are recoverable in any court of competent jurisdiction.

### ***During Burn Bans***

During a burn ban declared by the Governor, any person convicted of committing any violation with any flaming or glowing substances, or any substance that may cause a fire faces a fine of not less than \$4,000.00 nor more than \$10,000.00 or by imprisonment in the county jail for not more than 120 days, or both. The penalties collected from the payment of the citations are paid, after deduction of court costs, to the fire department of the district in which the flaming or glowing substance was discarded. Any person violating the provisions of this subsection is liable for all damages caused by the violation. Damages are recoverable in any court of competent jurisdiction.

### ***Violations***

Any person may report a violation, if committed in their presence, to a County Sheriff or deputy. The County Sheriff shall then conduct an investigation into the allegations, if warranted. If a violation has in fact been committed, and the

22 O.S. § 1334  
21 O.S. § 1761.1(H)

County Sheriff has reasonable cause to believe a particular person or persons have committed the violation, a report shall be filed with the District Attorney for prosecution.

### ***Citations***

Any County Sheriff may issue a state traffic citation to any person committing a violation. The state traffic citation shall be in an amount not to exceed \$400.00. The penalties collected from the payment of such citations shall not include court costs and shall be divided as follows:

22 O.S. § 1334  
21 O.S. § 1761.1(l)

- One-half shall be paid into the reward fund created according to the Oklahoma Statutes.
- One-half shall be paid into the County Sheriff's service fee account for that county to be used for enforcing the provisions of the statute.

### ***Restitution***

In addition to the penalties prescribed above, the court must direct the person to make restitution to the property owner affected; to remove and properly dispose of the garbage, trash, waste, rubbish, refuse, or debris from the property; to pick up, remove, and properly dispose of garbage, trash, waste, rubbish, refuse, debris, and other nonhazardous deleterious substances from public property; or perform community service or any combination of the foregoing that the court deems appropriate. The dates, times, and locations of such activities shall be scheduled by the County Sheriff pursuant to the order of the court.

Any person may report any of the violations listed above, if committed in their presence, to a County Sheriff or deputy. The County Sheriff must then conduct an investigation into the allegations, if warranted. If a violation has been committed, and the County Sheriff has reasonable cause to believe a particular

person or persons have committed the violation, a report must be filed with the District Attorney for prosecution.

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## **Other Crimes**

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### ***Masks and Disguises***

No person in Oklahoma may wear a mask, hood, or covering that conceals the identity of the wearer while committing a crime or to coerce, intimidate, or harass another person. Any person violating this provision is guilty of a misdemeanor punishable by a fine of not less than \$50.00 dollars or more than \$500.00, or by imprisonment in the county jail for a period of not exceeding one year, or both.

21 O.S. § 1301

### ***Firearms with ID Numbers Removed or Altered***

Any person committing or attempting a felony who possesses or controls a firearm with the factory serial number or identification number removed, defaced, altered, obliterated, or mutilated in any manner is guilty of a felony punishable by imprisonment in the State Penitentiary for a period of not less than two years or more than five years, or by a fine of not less than \$1,000.00 or more than \$10,000.00, or both.

21 O.S. § 1550

Any person who removes, defaces, alters, obliterates, or mutilates in any manner the factory serial number or identification number of a firearm, or assists in any manner is guilty of a misdemeanor punishable by imprisonment in the county jail for not to exceed one year, or by a fine of not to exceed \$1,000.00, or both.

Upon a conviction of a violation, the County Sheriff or other person having custody of the firearm must immediately deliver the firearm to the

Commissioner of Public Safety, who must preserve the firearm pending an order of the court.

### ***Laser Safety Act***

Any person who knowingly and maliciously projects a laser on or at a County Sheriff without the consent of the County Sheriff while the County Sheriff is acting within the scope of official duties is guilty of a misdemeanor punished by a fine of not more than \$100.00. Any person who commits a second or subsequent violation of this section is guilty of a misdemeanor punishable by a fine of not more than \$500.00, a term of imprisonment in the county jail for a period of not more than six months, or both.

21 O.S. § 1992

"Laser" means any device that projects a beam or point of light by means of light amplification by stimulated emission of radiation or a device that emits light which simulates the appearance of a laser.

### ***Eluding a County Sheriff***

Any operator of a motor vehicle who has received a visual and audible signal, a red light and a siren from a County Sheriff directing the operator to bring the vehicle to a stop and who willfully attempts to elude the County Sheriff is guilty of a misdemeanor.

21 O.S. § 540A

Violation is punishable by not more than one year imprisonment in the county jail or by a fine of not less than \$100.00, nor more than \$2,000.00, or both. A second or subsequent violation is punishable by not more than one year in the county jail or by a fine of not less than \$500.00, nor more than \$5,000.00, or both.

The County Sheriff, while attempting to stop a violator, may communicate a request for the assistance of other peace officers from any office, department or agency. Any peace officer within this state having knowledge of such a request

is authorized to render assistance in stopping the violator and may make an arrest upon probable cause.

Any person who endangers any other person while committing this violation is guilty of a felony punishable by imprisonment in the State Penitentiary for a term of not less than one year, nor more than five years, or by a fine of not less than \$1,000.00, nor more than \$5,000.00, or both.

Any person who causes an accident, while attempting to elude an officer that results in great bodily injury to any other person may be charged with a violation of this law, which is punishable by imprisonment in a state correctional institution for not less than one year and not more than five years, and a fine of not more than \$5,000.00.

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## Chapter Fourteen

# Duties of the County Sheriff: Criminal Procedure

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Amanda Lemmons (left) and Brittany Roy, Payne County Dispatchers, handle calls in the dispatch room.

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## Criminal Procedures

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### *Arrests Without Warrants*

A County Sheriff may, without a warrant, arrest a person under the following conditions:

For a public offense, committed or attempted in the officer's presence

22 O.S. § 60.1  
22 O.S. § 60.2  
22 O.S. § 196

- When the person arrested has committed a felony, although not in the officer's presence
- When a felony has in fact been committed, and the officer has reasonable cause to believe the person arrested to have committed it
- On a charge, made upon reasonable cause, of the commission of a felony by the party arrested
- When the officer has probable cause to believe that the party was driving or in actual physical control of a motor vehicle involved in an accident within the state, whether upon public roads, highways, streets, turnpikes, other public places, or upon any private road, street, alley or lane which provides access to one or more single- or multi-family dwellings and was under the influence of alcohol or intoxicating liquor or who was under the influence of any substance included in the Uniform Controlled Dangerous Substances Act
- Anywhere, including a place of residence of the person, if the officer has probable cause to believe the person within the preceding 72 hours has committed an act of domestic abuse, although the assault did not take place in the presence of the officer. A officer may not arrest a person without first observing a recent physical injury to, or an impairment of the physical condition of, the alleged victim 22 O.S. § 60.1  
22 O.S. § 60.2
- When a peace officer, in accordance with the provisions of the statutes, is acting on a violation of a protective order offense 22 O.S. § 60.9
- When the officer has probable cause to believe that the person has threatened another person as defined in the Oklahoma Statutes 21 O.S. § 1378

### ***Person Arrested Without Warrant for Offense Not Bailable To Be Held By County Sheriff***

A person, when arrested without warrant for an offense not bailable, must be held in custody by the County Sheriff of the county in which the arrest was made. If the County Sheriff has contracted for the custody of prisoners in the county, the contractor is required to hold in custody any prisoner delivered to the contractor.

22 O.S. § 190.1  
22 O.S. § 563

### ***Stolen Property Moved from One County to Another – Jurisdiction***

When property taken in one county, by burglary, robbery, larceny, or embezzlement, has been brought into another county, the jurisdiction of the offense is in either county. But if, before the beginning of the trial in the latter county, the defendant is indicted or information is filed against the defendant in the former county, the County Sheriff of the latter county must, upon demand, deliver him to the County Sheriff of the former county, when served with a certified copy of the indictment or information, and on receiving a receipt endorsed by the County Sheriff of the former county, of the delivery of the defendant. The County Sheriff of the latter county is, on filing the copy of the indictment and the receipt, exonerated from all liability in respect to the custody of the defendant.

22 O.S. § 128

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## **Sheriff Responsibilities for Court Orders**

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### ***Removal of Defendant Upon Change of Venue***

If the defendant is in custody, the order must provide for the removal of the defendant, by the County Sheriff of the county where the defendant is imprisoned, to the custody of the proper County Sheriff of the county to which

22 O.S. § 563

the action is removed, and the defendant must be removed according to the terms of the order.

***When Sheriff is to Execute Judgment - Delivery of Defendant***

22 O.S. § 979

When the judgment is imprisonment in a county jail, or a fine, with the defendant being imprisoned until it is paid, the judgment must be executed by the County Sheriff of the county or subdivision. In all other cases when the sentence is imprisonment, the County Sheriff of the county must deliver the defendant to the proper officer, in execution of the judgment.

***When the Court May Require Prisoners to Pay Costs of Incarceration***

22 O.S. § 979a(A)

When the court requires prisoners who are actually received into custody at a jail facility or who are confined in a county jail or holding facility, for any offense, to pay the jail facility or holding facility the costs of incarceration, the costs of incarceration are determined by the County Sheriff. The costs for incarceration are an amount equal to the actual cost of the services, which includes booking, receiving and processing out, housing, food, clothing, medical care, dental care, and psychiatric services.

The costs of incarceration are collected by the Court Clerk and are paid to the county or other public entity responsible for the operation of the county jail. Except for medical costs, 10% of any amount collected is paid to the District Attorney's office, and the remaining amount is paid to the County Sheriff's service fee account. If the County Sheriff does not operate the jail facility, the remaining amount is deposited with the public entity responsible for operating the county jail facility.

The County Sheriff must give notice to the defendant of the actual costs owed before any court-ordered costs are collected. The defendant must have an opportunity to object to the amount of costs solely on the grounds that the

number of days served is incorrect. If no objection is made, the costs may be collected in the amount stated in the notice to the defendant.

The County Sheriff, or other public entity responsible for the operation of the county jail, may collect the costs of incarceration ordered by the court from the jail account of the inmate. If the funds collected from the jail account of the inmate are insufficient to satisfy the actual incarceration costs ordered by the court, the County Sheriff or other public entity responsible for the operation of the jail is authorized to collect the remaining balance of the incarceration costs by civil action. When the County Sheriff or other public entity responsible for the operation of the jail collects any court-ordered incarceration costs from the jail account of the inmate or by criminal or civil action, the Court Clerk must be notified of the amount collected.

Any offender receiving routine or emergency medical services or medications or who is injured during the commission of a felony or misdemeanor offense and administered any medical care is required to reimburse the County Sheriff or other public entity responsible for the operation of the jail the full amount paid for any medical care or treatment administered to the offender during any period of incarceration or when the person was actually received into custody for any reason in that jail facility.

Please refer to [“Providing Emergency Medical Care”](#) in Chapter 11: *Jail Maintenance*, for more information about collecting costs for routine or emergency medical services prior to incarceration.

Costs of incarceration are a debt of the inmate owed to the county or other public entity responsible for the operation of the jail and may be collected as provided by law for collection of any other civil debt or criminal penalty.

The court cannot waive the costs of incarceration in their entirety. However, if the court determines that a reduction in the fine, costs, and costs of

incarceration is warranted, the court must equally apply the same percentage reduction to the fine, costs, and costs of incarceration owed by the defendant.

### ***When Defendants are Sentenced to State Prison***

22 O.S. § 980

If the judgment is for imprisonment in a state prison, the County Sheriff must, upon receipt of a certified copy or authorized notification, take and deliver the defendant to the warden of the Lexington Assessment and Reception Center or to a place determined by the Director of the Department of Corrections (DOC). The County Sheriff must also deliver the following items to the DOC:

- A certified copy of the judgment and sentence, unless the judgment and sentence has previously been sent electronically by an authorized clerk of the court
- A copy of any medical, dental, or mental health records of the defendant for conditions reviewed or treated while in the custody of the County Sheriff
- Any medication or medical or dental device prescribed for the defendant while in the custody of the County Sheriff or for a pre-existing condition
- Any forms required to be filed pursuant to the rules of the Court of Criminal Appeals at the time of the formal sentencing
- Any forms of identification of the defendant that were in the possession of the defendant at the time of sentencing

Upon delivery of the defendant with the required judgment, records, and medication or devices, the County Sheriff must obtain from the DOC a receipt for the defendant, and return the receipt to the court.

### **Authority of Officer to Command Assistance of Citizens Punishment for Refusal to Assist**

The County Sheriff or his deputy, while conveying the defendant to the proper prison in execution of a judgment of imprisonment, has the same authority to require the assistance of any citizen of this state in securing the defendant and in retaking the defendant if the defendant escapes, as if the County Sheriff were in that County Sheriff's own county, and every person who refuses or neglects to assist the County Sheriff, when so required, is punishable as if the County Sheriff were in that County Sheriff's own county.

22 O.S. § 981

### ***Felony Offenders***

#### **Confinement in County Jails**

Any person who has been convicted of a nonviolent felony offense in this state may be sentenced, at the discretion of the judge, to incarceration in the county jail for a period of one or more nights or weekends with the remaining portion of each week being spent under supervision. County jail imprisonment pursuant to the provisions of the statutes occurs under one of the following conditions:

22 O.S. § 991a-2

- Prescribed by law for the particular felony
- A condition of a suspended sentence

Weekend incarceration begins at 6 p.m. on Friday and continues until 8 a.m. on the following Monday. Incarceration overnight begins at 6 p.m. on one day and continues until 8 a.m. of the next day. The sentencing judge may modify the incarceration times if the circumstances of the particular case require such action. Persons who have been sentenced to incarceration in the county jail under the provisions of this law will not have to be processed through the Lexington Assessment and Reception Center prior to incarceration.

### **Fines, Costs, and Other Punishments**

In addition to incarceration, the court may impose any fine, cost assessment, or other punishment provision allowed by law, provided however, the punishment when taken in its entirety with the jail term does not impose a greater punishment than allowed by law for the offense.

### **Work Duties and Cost Reimbursement**

Any person incarcerated in the county jail under the provisions of the law may be assigned work duties as ordered or approved by the judge. The sentencing court may require a person incarcerated to pay the county for food and maintenance for each day of incarceration, an amount equal to the maximum amount prescribed by law to be paid by the county to the County Sheriff for such expenses. If the judge does not so order, the DOC must reimburse the county for the cost of feeding and care of the person during the periods of incarceration.

Any person incarcerated as described above is not considered to be in the custody of the DOC or an inmate of the DOC. The person is deemed to be in the custody of the county.

When the court sentences a person to incarceration in conjunction with a suspended sentence, the court has the authority to revoke any unserved portion of the suspended sentence as provided by law.

### ***Judgment of Death – Warrant Execution***

When judgment of death is rendered, the judge must sign and deliver to the County Sheriff a warrant duly attested by the clerk, under the seal of the court, stating the conviction and judgment and appointing a day on which the judgment is to be executed. The day of execution must be not less than 60 or more than 90 days from the time of the judgment. The judge must direct the

22 O.S. § 1001

County Sheriff to deliver the defendant within 10 days from the time of judgment to the warden of the state prison at McAlester.

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## **DNA Testing Required by Statute**

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### ***Persons Required to be Tested***

The following persons must be required to submit to deoxyribonucleic acid DNA testing for law enforcement identification purposes, and the testing results must be entered into the OSBI Combined DNA Index System (CODIS) Database.

22 O.S. § 991a(l)  
74 O.S. § 150.27a

- Any person convicted of a felony offense or receiving any form of probation for an offense in which registration as a sex offender is required
- Subject to the availability of funds, any person convicted of a misdemeanor offense of assault and battery, domestic abuse, stalking, possession of a controlled substance prohibited under Schedule IV of the Uniform Controlled Dangerous Substances Act, outraging public decency, resisting arrest, escape or attempting to escape, eluding a police officer, peeping tom, pointing a firearm, unlawful carry of a firearm, illegal transport of a firearm, discharging of a firearm, threatening an act of violence, breaking and entering a dwelling place, destruction of property, negligent homicide, or causing a personal injury accident while driving under the influence of any intoxicating substance, or any alien unlawfully present under federal immigration law

- Any defendant sentenced to probation must be required to submit to testing within 30 days of sentencing either to the DOC or to the County Sheriff as directed by the court.
- Defendants who are sentenced to a term of incarceration in a county jail or who enter into the custody of the County Sheriff

### ***Exceptions to Testing Requirement***

Convicted individuals who have previously submitted to DNA testing under this section and for whom a valid sample is on file in the OSBI Combined DNA Index System (CODIS) Database at the time of sentencing are not required to submit to additional testing.

Except as required by the Sex Offenders Registration Act, a deferred judgment does not require deoxyribonucleic acid testing.

### ***Collecting Test Samples***

Samples of blood or saliva for DNA testing required above must be taken by the County Sheriff or employees or contractors of the County Sheriff's office. These individuals must be properly trained to collect blood or saliva samples. Persons collecting blood or saliva for DNA testing under this law are immune from civil liabilities arising from this activity.

All collectors of DNA samples must ensure the collection of samples are mailed to the Oklahoma State Bureau of Investigation within 10 days of the time the subject appears for testing or within 10 days of the date the subject comes into physical custody to serve a term of incarceration.

All collectors of DNA samples must use sample kits provided by the OSBI and follow procedures provided by the OSBI.

### ***Collecting Required Fee***

Persons subject to DNA testing who are not received at the Lexington Assessment and Reception Center are required to pay a fee of \$15.00 to the County Sheriff's office for submission to the OSBI Combined DNA Index System (CODIS) Database. Any fees collected must be deposited in the revolving account or the service fee account of the County Sheriff.

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### **Disposition of Exhibits**

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22 O.S. 1327

All exhibits that have been introduced, filed, or held in custody of the state in any criminal action or proceeding may be disposed of as ordered by the courts.

After the end of six months from the time a conviction becomes final, or if the action or proceeding has not resulted in a conviction, or at any time after the judgment has become final, the court in which the case was tried must order specific exhibits to be released from the custody of the court without prejudice to the state.

### ***Notification of Last Person in Possession***

The property is transferred to the County Sheriff for sale to the public. At least 10 days prior to the sale, a notice of the sale must be sent by certified mail return receipt requested, to the last person in possession of the exhibits prior to their seizure. Upon satisfactory proof being provided to the County Sheriff that the last person in possession of the exhibits was a lawful possessor, the exhibits must be released to that person.

At any time prior to the time fixed for the transfer in the court order, the owner or any person entitled to any of the exhibits may obtain from the court an order returning them to that person.

### ***Sale or Transfer of Exhibits***

Articles not returned to their owners or to persons entitled to them, at or prior to the time set for the transfer, must be sold by the County Sheriff for cash. The articles can be sold singly or in combinations. The money received from the sales must be placed in the appropriate County Sheriff's fund.

When the exhibit consists of money or currency and is unclaimed at the time of the transfer, it must not be transferred but must immediately be deposited in the appropriate County Sheriff's fund.

If any property is transferred to the County Sheriff, it may be sold in the manner provided by law for the sale of surplus personal property. If the County Sheriff determines that the property transferred for sale is needed for a public use, the property may be retained by the agency and does not need to be sold.

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## **Liquor Report and Disposition**

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### ***Report***

In all cases where wines, whiskey, beer, or other intoxicating liquors mentioned in the Constitution or laws of this state or any personal property used for the purpose of violating any of the prohibitory liquor laws or gambling laws of this state are seized by a County Sheriff, with or without a search warrant, the County Sheriff is required within five days to make a written report under oath and file the report with the County Clerk of the proper or respective county where the items were seized. The report must state the following information in detail:

- The name of the officer or person making the seizure
- The place where the seizure took place

22 O.S. § 1261

- An inventory of the property, articles or intoxicating liquors taken into possession

If any person other than the County Sheriff seizes the property, that person must, within five days deliver the property to the County Sheriff, who provides a receipt. The receipt is in duplicate and the County Sheriff retains one copy until the property is destroyed pursuant to the orders of the court. In computing the five days, Sundays and holidays and not counted. A duplicate copy of the receipt must immediately be filed with the County Clerk.

### ***Preservation of Evidence***

All liquors and property seized must be preserved for use as evidence in the trial of any action. All officers seizing the liquors are hereby required to mark the bottles or containers for identification by writing on them the date of the seizure and the name of the person from whom the liquor was seized. The County Sheriff is liable on his bond for the safe keeping of all the property described above.

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## **Disposition of Property or Money in Sheriff's Possession**

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22 O.S. § 1261

Any County Sheriff's office is authorized to dispose of by public sale, destruction, donation, or transfer for use to a governmental subdivision personal property that has come into its possession. Any County Sheriff's office is authorized to deposit in a special fund all money that has come into its possession. The property or money must have the following characteristics:

- It may have been stolen, embezzled, lost, abandoned, or otherwise.
- The owner of the property or money is unknown or has not claimed it.
- The County Sheriff has held for it for least six (6) months.

- The property or money, or any part of it, is no longer needed to be held as evidence or otherwise used in connection with any litigation.

### ***Personal Property***

22 O.S. § 1325(B)

Where personal property held under the circumstances listed above is determined by the County Sheriff to be unsuitable for disposition by public sale due to its condition or assessed by agency personnel as having limited or no resale value, it may be destroyed, discarded as solid waste, or donated to a charitable organization designated by the IRS as a 501(c)(3) nonprofit organization.

### **Report**

Where disposition by destruction, discard, or donation is made of personal property, a report describing the property by category and quantity, and indicating what disposition was made for each item or lot, must be submitted to the presiding judge of the district court within 10 days following the disposition.

### **Application for Disposition and Hearing**

22 O.S. § 1325(C)

Where disposition by public sale is appropriate, the County Sheriff must file an application in the district court of its county requesting the authority of the court to dispose of such personal property. A list describing the property must be attached to the application, including the following items:

- All identifying numbers and marks, if any
- The date the property came into the possession of the County Sheriff's office
- The name and address of the owner, if known

The court must set the application for hearing not less than 10 days or more than 20 days after filing.

## Written Notice

Written notice by first-class mail, postage prepaid, directed to the last-known address of the owner at least 10 days prior to the date of the hearing must be given by the County Sheriff's office of the hearing to each and every owner set forth in the application.

22 O.S. § 1325(D)

- The notice must contain the following information:
  - \* A brief description of the property of the owner
  - \* The place and date of the hearing

## Public Posting and Publication

In addition, notice of the hearing must be posted in three public places in the county, one being the county courthouse at the regular place assigned for the posting of legal notices or published in a newspaper authorized by law to publish legal notices in the county in which the property is located. If no newspaper authorized by law to publish legal notices is published in such county, the notice must be published in a newspaper of general circulation that is published in an adjoining county. The notice must state the name of the owner being notified by publication and must be published at least 10 days prior to the date of the hearing.

## Disposition

At the hearing, if no owner appears and establishes ownership to the property, the court must enter an order authorizing the County Sheriff's office to donate property having a value of less than Five Hundred Dollars (\$500.00) to a not-for-profit corporation as or to sell the personal property to the highest bidder for cash, after at least five days of notice has been given by publication in one issue of a legal newspaper of the county. The County Sheriff's office must make a return of the donation or sale and, when confirmed by the court, the order

22 O.S. § 1325(E)

confirming the donation or sale gives the recipient or purchaser title to the property donated or purchased.

## ***Money***

### **Application for Disposition and Hearing**

22 O.S. § 1325(F)

A County Sheriff who possesses money under the circumstances shown above, prior to appropriating the money for deposit into a special fund, must file an application in the district court of the county requesting the court to enter an order authorizing it to appropriate the money for deposit in the special fund.

The application must list the following items:

- A description of the money, together with serial numbers, if any
- The date the money came into the possession of the County Sheriff's office
- The name and address of the owner, if known

Upon filing, the application must be set for a hearing not less than 10 days or more than 20 days from the filing. Notice of the hearing must be given in the same manner as for personal property as described above. The notice must state that, if no one appears to prove ownership to the money, the court will order it to be deposited in the special fund by the County Sheriff's office.

The notice may be combined with a notice to sell personal property as described above. At the hearing, if no one appears to claim and prove ownership to the money or legal tender, the court must order the same to be deposited by the County Sheriff in the special fund, as described below.

22 O.S. § 1325(G)

If a County Sheriff possesses personal property deemed to have potential utility to that County Sheriff's office or another governmental subdivision, prior to appropriating the personal property for use, the County Sheriff must file an application in the district court requesting an order authorizing it to

appropriate or transfer the property for use. The application must contain the following information:

- A description of the property, together with serial numbers, if any
- The date the property came into the possession of the County Sheriff's office
- The name and address of the owner, if known

Upon filing, the application must be set for hearing not less than 10 days or more than 20 days from the filing. Notice of the hearing must be given as described above for personal property. The notice states that, if no one appears to prove ownership to the personal property, the property will be ordered by the court to be delivered for use by the County Sheriff's office or transferred to another governmental subdivision for its use. The notice may be combined with a notice to sell personal property as described above.

At the hearing, if no one appears to claim and prove ownership to the personal property, the court must order the property to be available for use by the County Sheriff's office or delivered to an appropriate person for use by another governmental subdivision.

### **Deposit and Use of Money**

22 O.S. § 1325(H)

The money received from the sale of personal property as described, after payment of the court costs and other expenses, if any, together with all money in possession of the County Sheriff that has been ordered by the court to be deposited in the special fund, must be deposited in that fund which is separately maintained by the County Sheriff's office in a special fund with the County Treasurer to be used with the approval of the County Sheriff to purchase equipment, materials, or supplies that may be used in crime prevention, education, training, or programming. The fund or any portion of it may be used to pay the expenses of the County Sheriff or deputy to attend law

enforcement or public safety training courses that are conducted by the Oklahoma Council on Law Enforcement Education and Training (CLEET) or other certified trainers, providers, or agencies.

### ***Biological Evidence***

Biological evidence, as defined in the statutes, must be disposed of according to the statutes.

22 O.S. § 1327

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## **Drug Court**

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### ***Eligibility of Offender for Drug Court Program***

The initial opportunity for review of an offender for a drug court program must occur within four days after the arrest and detention or incarceration of the offender in the city or county jail. Or, if an immediate bond release program is available through the jail, the initial opportunity for review must occur in conjunction with the bond release program.

22 O.S. § 471.2

To determine eligibility for a drug court program, the following information must be initially reviewed by the County Sheriff or designee, if the offender is held in a county jail:

- The offender's arrest or charge does not involve a crime of violence against any person, unless there is a specific treatment program in the jurisdiction designed to address domestic violence, and the offense is related to domestic violence and substance abuse
- The offender has no prior felony conviction in this state or another state for a violent offense within the last ten years, except as may be allowed in a domestic violence treatment program authorized by the drug court program

- The offender's arrest or charge does not involve a violation of the Trafficking In Illegal Drugs Act
- The offender has committed a felony offense and fulfills one of the following conditions:
  - \* Admits to having, is known to have, or appears to have a substance abuse addiction
  - \* The arrest or charge is based upon an offense eligible for the drug court program

### ***Eligibility Forms***

If the County Sheriff believes that the offender may be potentially eligible for the drug court program, the offender must be given an eligibility form, which may be voluntarily completed by the offender, and the County Sheriff must file the criminal case record within the time prescribed. The offender is not automatically considered for the program based upon this review. The offender must request consideration for the drug court program and must have approval from the District Attorney before being considered.

The eligibility form must describe the drug court program for which the offender may be eligible, according to the statutes.

22 O.S. § 471.2(B)

The offender may request consideration for the drug court program according to the following items:

- If the offender is incarcerated, the offender must sign and complete the eligibility form and return it to the County Sheriff, if the offender is held in the county jail. The County Sheriff, upon receipt of the eligibility form, must file the form with the District Attorney at the time of filing the criminal case record or at any time during the period

of incarceration when the offender completes the form after the criminal case record has been filed.

- After release of the offender from incarceration, the offender must sign and complete the eligibility form and file it with the District Attorney or the court, prior to or at the time of either initial appearance or arraignment.
- Any offender desiring legal consultation prior to signing or completing the form for consideration in a drug court program shall be referred to the defense attorney of the drug court team, or a public defender, if the offender is indigent, or allowed to consult with private legal counsel.

### ***District Attorney Approval***

When an offender has filed a voluntary request to be considered for a drug court program on the appropriate form, the District Attorney must indicate approval of the request by filing the form with the drug court judge. When the District Attorney files the form, an initial hearing must be set before the drug court judge. The hearing must be not less than three work days or more than five work days after the date of the filing of the request form. Notice of the hearing must be given to the drug court team, or in the event no drug court team is designated, to the offender, the District Attorney, and to the public defender. The offender is required to notify any private legal counsel of the date and time of the hearing.

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## Community Service Sentencing Systems

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### ***Community Service Sentencing Program***

A Community Service Sentencing Program was established in 1999 in the Oklahoma Statutes as a continuation of a prior program to provide an alternative to incarceration for nonviolent felony offenders who would normally be sentenced to incarceration in a state institution.

22 O.S. § 991a-4.1(A)

### ***Eligible Offenders***

Any eligible offender may be sentenced, at the discretion of the judge, to a Community Service Sentencing Program according to the statutes. For purposes of this section, "eligible offender" means any person who satisfies the following requirements:

22 O.S. § 991a-4.1(B)

- Is not participating in the Delayed Sentencing Program for Young Adults
- Has not previously been convicted of two or more felonies
- Has been convicted of a nonviolent felony offense which is defined as any felony offense except assault and battery with a dangerous weapon, aggravated assault and battery on a law officer, poisoning with intent to kill, shooting with intent to kill, assault with intent to kill, assault with intent to commit a felony, murder in the first degree, murder in the second degree, manslaughter in the first degree, kidnapping, burglary in the first degree, kidnapping for extortion, maiming, robbery, child beating, wiring any equipment, vehicle or structure with explosives, forcible sodomy, rape in the first degree or rape by instrumentation, lewd or indecent proposition or lewd or indecent act with a child under 16 years of age, use of a firearm or

offensive weapon to commit or attempt to commit a felony, pointing firearms, rioting, or arson in the first degree

- Has properly completed and executed all necessary documents Is not otherwise ineligible by law or court rule

### ***DOC Administration***

The Department of Corrections (DOC) administers the Community Service Sentencing Program, except in counties with a population of 550,000 or more persons that operate in an existing program.

22 O.S. § 991a-4.1(C)  
22 O.S. § 982

The DOC conducts a presentence investigation if the court determines the offender is to be assigned to the program. As part of this presentence investigation, the DOC must interview the offender and advise the offender of the requirements and conditions of the program. The DOC must recommend an assignment of the offender to any one or combination of the following areas:

- Community service, with or without compensation
- Education, vocational-technical education or literacy programs
- Substance abuse treatment programs
- Periodic testing for the presence of controlled substances
- Psychological counseling or psychiatric treatment
- Medical treatment
- Restitution, to be paid either to the victim of the offense or to the Crime Victims Compensation Revolving Fund
- Confinement in a county jail for a period not to exceed one year, night or weekend incarceration or incarceration by the DOC, provided the DOC reimburses a county that does not receive payments from any

other source for the costs of the necessary expenses of persons during periods of incarceration no more than \$20.00 per day and to any county receiving payments no more than \$10.00 per day. The DOC must reimburse the county for the actual costs paid for any emergency medical care for physical injury or illness of any persons if the county is required by law to provide such care for inmates in the jail. The reimbursement provided by this section must not exceed the cost that would have accrued the state for the feeding or care or medical care of the persons had they been incarcerated with the DOC.

- Probation or conditional probation

In counties with a population of 550,000 or more persons that operate an existing program, the DOC is hereby authorized to reimburse the County Sheriff the cost of necessary expenses for confinement in the county jail for an eligible offender. This reimbursement is subject to appropriation by the Oklahoma Legislature. The DOC may establish rules and procedures for submitting claims for reimbursements.

### ***Geographic Boundaries***

22 O.S. § 988.4

In jurisdictions where a community sentencing system has not been established prior to July of 1999, the Chief Judge of the Judicial District must establish the geographic boundaries of a community sentencing system which will be the boundaries of each county, unless the Chief Judge establishes one or more multicounty community sentencing systems consisting of two or more contiguous counties within the judicial district

### ***Multicounty Community Sentencing Systems***

The consent of the County Sheriff of each affected county and each District Attorney operating within each of the subject counties must be obtained before a county may join a proposed multicounty community sentencing system.

Multicounty community sentencing systems may be established by the Chief Judge of a Judicial District with the consent of each local council affected as provided by rules established by the Community Sentencing Division within the DOC.

## Chapter Fifteen

# Duties of the County Sheriff: Tax Warrants

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Mike Darty, Payne County Tax Warrant Deputy, prepares information for serving a tax warrant.

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## Tax Warrants

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County Sheriffs are responsible for two types of tax warrants as mandated by state law:

- **County personal property tax warrants** are issued by the County Treasurer and served by the County Sheriff to collect delinquent county personal property taxes.

- **Oklahoma Tax Commission tax warrants** are issued to the County Sheriff for execution to a county resident for failure to pay any state tax.

### ***Warrants***

The attorney general has stated that “a ‘warrant’ is a command of one duly authorized officer County Treasurer to another County Sheriff to do an act to collect taxes by levying on personal or real property. The warrant is itself a process or command.”

### ***Execution***

Execution is a legal term for carrying out orders provided for in the statutes. The purpose of execution is to enforce a judgment that has already been determined.

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## **County Personal Property Tax Warrants**

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### ***County Treasurers’ Responsibilities in Collecting Delinquent Taxes***

Prior to issuing a tax warrant, the County Treasurer completes the following actions:

The County Treasurer, per state statute, mails a tax bill to every property owner in the county. If these taxes are not paid by April 1 of each year, they become delinquent and start to accrue interest.

- Within sixty days after April 1, the County Treasurer mails a notice to each delinquent taxpayer that taxes are delinquent and subject to payment with interest.

The County Treasurer also inserts a notice of each tax delinquency in a newspaper of general circulation published in the county.

- Within 30 days after publishing the newspaper notice, the County Treasurer prepares a delinquent personal property tax lien docket, [SA&I Form No. 171](#), which lists all taxes that are still unpaid. These liens become superior to all other liens, conveyances, or other encumbrances filed after these liens and remain active for seven years.

Except as provided otherwise in the statutes, all unpaid personal property taxes shall become a lien on any real estate owned by the taxpayer.



**The County Treasurer can also report the delinquent tax to the credit bureau.**

### ***Issue of Tax Warrant by the County Treasurer***

68 O.S. § 3104

For taxpayers who owe delinquent personal property taxes, the County Treasurer must issue tax warrants to collect delinquent personal property taxes. This tax warrant, [SA&I Form No. 168](#), can be issued under the following conditions:

- Whenever the County Treasurer feels it is necessary
- When another person requests it

- When any person is about to remove personal property from the county after it has been assessed and before the taxes have been paid, and sufficient monies have not been left to pay the taxes.

68 O.S. § 3104  
28 O.S. § 43

Prior to issuing the tax warrant, the County Treasurer may write a warning letter to the taxpayer indicating that the tax warrant process is being initiated. A second warning letter is sometimes issued on the County Sheriff's official stationery explaining that the property could be seized and sold if the taxes are not paid.

68 O.S. § 3104

Tax warrants must be issued against the person who had possession of the personal property at the time it was assessed. These tax warrants are sent to the County Sheriff of the county in which the property is located, and they command the County Sheriff to serve the warrant.

The County Treasurer should forward [SA&I Form No. 169](#), Alias Tax Warrant, to another County Treasurer when it is learned the delinquent taxpayer has moved to another county.

### **Length of Validity of Tax Warrants and Alias Warrants**

Personal Property Tax Warrants are valid for 60 days from the date of issue. At the end of 60 days, the tax warrant must be returned.

An alias tax warrant can be issued for a second attempt to collect the delinquent taxes. If an alias warrant is required because the taxes have not been collected, the County Sheriff indicates "insufficient time to levy" on the original tax warrant. New warrant fees apply to each alias warrant issued

## ***Service of Tax Warrant by the County Sheriff***

### **Methods of Service**

Personal Property Tax Warrants can be served by the County Sheriff in one of the following ways:

68 O.S. § 3104  
28 O.S. § 43  
68 O.S. § 3104



The County Sheriff usually delegates the service and collection duties for Personal Property Tax Warrants to a Tax Warrant Deputy who works closely with the County Treasurer.

- Personal Service
- Posting Notice
- Mail
- Fax



Using only mail or Fax service does not allow the County Sheriff to collect service fees.

## ***Collection of Delinquent Personal Property Taxes by the County Sheriff***

### **Items Collected**

The Tax Warrant Deputy collects the following items related to the delinquent personal property taxes:

- Total taxes due

- Interest penalty due on the date the tax warrant is issued
- Advertising costs
- Sheriff's service fee of \$50.00 to be deposited in the Sheriff's Service Fee Account
- \$10.00 tax warrant fee for the County Treasurer
- If the tax warrant is served by mail, \$10.00 for each person notified
- Any other lawful costs on fees on the personal property
- An additional fee for each warrant issued, each address (each person) in one or more counties, each alias warrant, and all warrants for each delinquent year

28 O.S. § 152.1

28 O.S. § 43  
28 O.S. § 152.1(A.5)( A.6)



**If the property goes to sale, the County Sheriff is entitled to a \$75.00 fee for the sale on execution.**

## **Bankruptcy**

If the person or business being served is in bankruptcy, the County Sheriff writes the case number, the type of bankruptcy, and the date of filing on the tax warrant. The tax warrant is returned to the County Treasurer for re-issue at a later date.

## **Collection Steps**

The following steps are an example of the actions the County Sheriff can take to collect the monies due:

- Receive the Personal Property Tax Warrant file from the County Treasurer's office. This file contains the following items:
  - \* A copy of the Personal Property Tax Warrant
  - \* A copy of the current tax statement
  - \* Any bankruptcy information
  - \* Oklahoma Tax Commission information
  - \* Mortgage information
  - \* Secretary of State information
  - \* A list of sources used to obtain the information in the file
- Time and date stamp the tax warrant
- Log the tax warrant
- Prepare a Sheriff's letter that includes a date for payment and mail it to the taxpayer with a copy of the tax warrant
- Notify any lien holders including the mobile home park if the property is a mobile home
- Serve the warrant to the taxpayer: for a business, serve the owner, manager, or other person in charge



**The County Sheriff may tap the till if deemed appropriate for collection.**

- \* If no one is available, post the business. Allow ten days for payment if desired. (This time allowed is optional as a courtesy, it is not required.) Refer the taxpayer to the County Treasurer’s office for any questions.
- Write the name and telephone number of the person contacted on the tax warrant plus the date of service
- If payment is made, complete the tax warrant return and return it to the County Treasurer. Refer to “[Payment from Personal Property Tax Warrants](#)” in this chapter.

### ***Levy of Property by the County Sheriff***

If the taxes, interest, and other fees are not collected, the County Sheriff can levy the assessed property. If no personal property is found, the County Sheriff can levy any real property owned by the taxpayer or in which the taxpayer has an interest.



**Most County Sheriffs give persons and businesses ten business days to pay before seizing any property.**

**This is a courtesy, not a requirement.**

### **Levying Personal and Farm Property**

The County Sheriff can levy personal and farm property in the following ways:

68 O.S. § 3104(B)(1-2)

- Seize the assessed property
- Seize the property in place, such as a mobile home
- Physically seize the property, such as farm equipment

- Confiscate the first proceeds received by an auctioneer conducting a sale
- Seize other personal property
- Seize real estate
- Take possession of the property or assets of the taxpayer, advertise it in a legal notice, and sell it to satisfy the tax debt

### **Levying Business Property**

68 O.S. § 3104.B.1-2

The County Sheriff can levy business property in the following ways:

- Tap the till
- Lock the business and seize all property in place
- Notify utilities
- Notify real estate owner if property is leased
- Inventory property (treat as a crime scene)
- Physically seize the property and store
- Provide security
- If the business is a corporation, determine its business incorporation status by contacting the Secretary of State. Determine who the trustees, director, and officers of the corporation are and find out what other personal or real property they own.
- If the franchise tax has not been paid to the state, the corporation license may be cancelled, forfeited or expired, which makes the trustees, director, and officers liable in the same manner as if they

were partners. This condition makes them personally liable for all debts of the corporation.

- Any property in the name of the corporation can also be seized, such as vehicles, homes, and other items.
- Begin the sale process (See “[Sheriff’s Sales Resulting from Tax Warrant Execution](#)” below in this chapter.)

### ***Payments Collected by the County Sheriff***

#### **Payments Received**

When a payment is received, the tax warrant return must be completed and the warrant returned to the County Treasurer.

All checks and money orders must be made payable to the County Treasurer.

All cash, checks, and money orders collected by the County Sheriff must be turned in daily to the County Treasurer. After the County Treasurer pays the taxes, the County Treasurer provides the County Sheriff with a receipt. The receipt enables the County Sheriff to have an accounting of the warrants paid and the fees received.

#### **Payment Plans**

The County Sheriff can authorize a payment plan for payment of the monies owed. The taxpayer must sign an affidavit. The County Sheriff should get a copy of the taxpayer’s driver’s license. If the payment plan agreement is not followed, the delinquent tax becomes due immediately.

### ***Sheriff’s Sales Resulting from Tax Warrant Execution***

If any taxpayer’s property is seized by attachment, execution, or chattel mortgage, without leaving a sufficient amount of property exempt from levy and sale to pay the taxes, then the tax on the property becomes due immediately,

and the County Sheriff can hold a Sheriff's Sale. The proceeds of the sale of the attached property are used to pay the taxes owed in preference to all other claims against the property. The County Sheriff or deputy sheriff who is selling the property under attachment, must determine the amount of taxes due on the property, retain that amount from the proceeds of the sale, and pay that amount to the County Treasurer.

A Sheriff's Sale resulting from a tax warrant execution is conducted in the same way as any other Sheriff's Sale.

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## State Tax Warrants

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### ***Responsibilities of Oklahoma Tax Commission***

If any tax, imposed or levied by any state tax law, or any portion of such tax, is not paid before the tax becomes delinquent, the Oklahoma Tax Commission may immediately issue a warrant under its official seal. A tax warrant directed to the County Sheriff of any county commands the County Sheriff to levy upon and sell, without any appraisal or valuation, any real or personal property of the taxpayer found within the county for the payment of the delinquent tax, interest and penalties, and the cost of executing the warrant.

68 O.S. § 231(A), 231.1

### ***Responsibilities of the County Sheriff***

The County Sheriff must return the warrant and any monies collected to the Oklahoma Tax Commission, within sixty days from the date of the warrant.

68 O.S. §§ 231, 231.1

Monies collected by the County Sheriff for an additional penalty imposed by the Oklahoma Tax Commission are apportioned by the Oklahoma Tax Commission (OTC) to the various County Treasurers to be deposited in the appropriate fund of the County Sheriff's department to be used to increase efforts to locate tax debtors and their property, to execute upon tax warrants, and to collect delinquent taxes.

The additional penalty is imposed as a fee for the collection of delinquent taxes by the County Sheriff, undersheriff, deputy sheriff or OTC. The penalty is in addition to the reimbursement of actual and necessary travel and costs authorized in the statutes and any other fees which may be allowed by the district court.

68 O.S. § 231(G)

If the County Sheriff refuses or neglects to levy upon and sell any real or personal property of any taxpayer as directed by any warrant issued by the

OTC, or refuses or neglects, on demand, to pay over to the OTC all monies collected or received under any warrant issued by the OTC, the County Sheriff upon motion of the OTC in court, and after 30 days' notice thereof, in writing, is fined in the amount for which any the warrant was issued by the OTC, together with all penalties and costs and with an additional penalty of ten percent, to and for the use of the State of Oklahoma. Every surety of any County Sheriff or officer shall be made a party to the judgment rendered against the County Sheriff or other officer.

### ***Categories of State Tax Warrants***

#### **Municipalities**

In case any city, town, county, or other political subdivision of the state fails or refuses to pay any taxes due under the provisions of any state tax law, the OTC issues a tax warrant for the amount of tax due, and the County Sheriff serves the warrant on the County Treasurer. From the date of the service, the tax, penalties and interest shall be a lien on all ad valorem tax penalties collected by the County Treasurer for any such city, town, county, or other political subdivision of the state until the amount of all the delinquent tax, penalties and interest is paid.

The County Treasurer is required to remit the amount of all the ad valorem tax penalties collected to the OTC until the amount due the State of Oklahoma on the delinquent tax is paid; provided that the lien does not attach to the property to which the penalties are attributable.

#### **Excise Tax on Vehicles**

When the OTC has determined that taxes are due on a vehicle that has been seized for nonpayment of taxes, the OTC issues a warrant directly to the County Sheriff of the county where the vehicle owner resides, that orders and

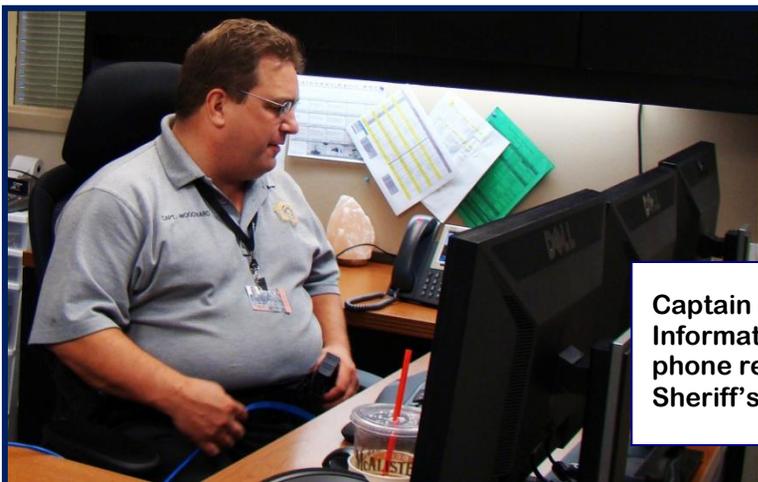
directs the sale of the vehicle according to the same procedure now provided by law for the sale of vehicles for failure to pay the annual license fee. This seizure and sale may at the time include both the registration fee due and the excise tax, together with all costs of advertisement and sale. The sale must be conducted as provided by law for the sale of personal property under execution.



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## Chapter Sixteen

# Duties of the County Sheriff: Public Safety



Captain Kevin Woodward, Payne County Public Information Officer, talks with a reporter by phone regarding a case being handled by the Sheriff's office.

## Sheriffs' Responsibilities for Public Safety Issues

### *Unlawful Assembly-Crowd Dispersal*

Where any number of persons, whether armed or not, are unlawfully or riotously assembled, the County Sheriff and his deputies, the officials governing the city or town, or the justices of the peace and marshals and

22 O.S. § 101

constables and police of the city or town, or any of them, must go among the persons assembled, or as near to them as possible, and command them in the name of the state, immediately to disperse.

### ***Controlled Dangerous Substances***

#### **Dangerous Substances Plants**

63 O.S. § 2-509

It is unlawful (a felony and punishable by a fine and imprisonment in the State Penitentiary) for any person to cultivate or produce, or to knowingly permit the cultivation, production, or wild growing of any species of plants from which controlled dangerous substances identified in the statutes may be derived, on any lands owned or controlled by that person. Any persons who find such plants growing on lands owned or controlled by them must destroy the plants.

Whenever a County Sheriff or other peace officer receives information that any species of these plants from which controlled dangerous substances can be derived have been found growing on any private lands in Oklahoma, that officer must notify the County Sheriff and the County Commissioners of the county in which the plants are found growing. Within five days of receiving this notice, the County Commissioners must notify the owner or person in possession of the lands on which the plants have been found growing that the plants must be destroyed or eradicated within 15 days. When the 15 days have elapsed, the original reporting peace officer must investigate to see if any of the plants are still growing on the land. If so, the County Commissioners must cause the plants to be destroyed or eradicated by either cutting or burning or by applying herbicides approved for such purpose by the Department of Agriculture in accordance with the statutes.

Whenever any plants are destroyed or eradicated by order of the County Commissioners and the labor is furnished by the County Commissioners, the cost of the labor must be taxed against the lands where the labor was performed, and is a lien on that land in all manner and respects as a lien of

judgment, if the owner is charged with cultivation or having knowledge of cultivation. If the charge is against a person other than the owner of the land, without the knowledge of the owner, the costs must be paid by the initiating law enforcement agency.

A County Sheriff who receives information of such plants growing in Oklahoma, must notify in writing the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. The future destruction or eradication of the annual growth of such plants must be supervised by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

### **Vehicle and Firearms**

Any vehicle or firearm that has come into the possession of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma Department of Public Safety, the Oklahoma State Bureau of Investigation, or the Office of the Attorney General may be transferred, donated or offered for lease to any County Sheriff's office on an annual basis to assist with enforcing the provisions of the Uniform Controlled Dangerous Substances Act.

63 O.S. § 2-508

Each County Sheriff shall develop rules, regulations, and procedures for leasing vehicles and firearms. No fully automatic weapons will be subject to the leasing agreement. All firearms leased may be utilized only by C.L.E.E.T. certified officers who have received training in the type and class of weapon leased. Every lessee must be required to submit an annual report to the leasing agency stating the condition of all leased property. A lease agreement may be renewed annually at the option of the leasing agency. Upon termination of a lease agreement, the property must be returned to the leasing agency for sale or other disposition. All funds derived from lease agreements or other disposition of property no longer useful to law enforcement must be deposited in the agency's revolving fund and must be expended for law enforcement purposes.

## **Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission**

One County Sheriff is appointed by the Governor to serve on the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission to serve a seven-year term.

63 O.S. § 2-104.1

### ***Sex Offenders, Violent Crime Offenders, and Paroles***

#### ***Sex Offenders Registration Act***

Any person who is subject to the Sex Offenders Registration Act must register with the County Sheriff, if the person resides or intends to reside or stay at any place outside the jurisdiction of any municipality for seven consecutive days or longer. The person must register within three days of entering the area.

57 O.S. § 583

The registration with the County Sheriff must be in a form approved by the County Sheriff's office and must include the following information about the person registering:

57 O.S. § 584

- The full name of the person, alias, date of birth, sex, race, height, weight, eye color, social security number, driver license number, and a mappable home address with a zip code
- The home address must be a physical address, not a post office box.
- A description of the offense for which the offender was convicted, the date of the conviction, and the sentence imposed, if applicable
- A photocopy of the driver license of the person
- The level assignment of the person

Upon registration of any person designated as a habitual or aggravated sex offender, the County Sheriff must notify, by any method of communication deemed appropriate, anyone that the County Sheriff determines appropriate. A partial list of suggested persons, suggestions regarding the type of information

57 O.S. § 584  
57 O.S. §§ 582.2, 583

the notification should include, and other information regarding the Sex Offenders Registration Act can be found in the statutes.

### **Mary Rippy Violent Crime Offenders Registration Act**

57 O.S. § 594

Any person, from within or outside the state, who is subject to the Mary Rippy Violent Crime Offenders Registration Act must register with the County Sheriff, in the area the person resides or intends to reside for more than seven days. The person must register within three days of entering the area. At the time of registration, the County Sheriff must inform the person of several conditions found in the statutes.

The registration with the County Sheriff required by the Mary Rippy Violent Crime Offenders Registration Act must be in a form approved by the County Sheriff's office and must include the following information about the person registering:

- The full name of the person, alias, date of birth, sex, race, height, weight, eye color, social security number, driver license number, and home address
- A description of the offense for which the offender was convicted, the date of the conviction, and the sentence imposed, if applicable

The person must be continuously registered during the term of the sentence and for at least ten years from the date of completing the sentence.

57 O.S. § 595(H)

The County Sheriff must make the violent crime offender registry available upon request, without restriction, and at a cost that is no more than what is charged for other records provided by the County Sheriff pursuant to the Oklahoma Open Records Act.

57 O.S. § 595(J)(2)  
57 O.S. §§ 594, 595

Upon registration of any person designated as a habitual violent crime offender, the County Sheriff must notify, by any method of communication deemed appropriate, anyone that the County Sheriff determines appropriate. A

partial list of suggested persons, suggestions regarding the type of information the notification should include, and other information regarding the Sex Offenders Registration Act can be found in the statutes.

### **Parole and Release of Inmates to County**

The County Sheriff is notified by the state Pardon and Parole Board whenever a parole is granted and an inmate is released into the county or whenever an inmate is placed on specialized parole in the county.

57 O.S. § 360  
57 O.S. § 365

The County Sheriff is notified by the Department of Corrections the when an inmate is assigned to the Electronic Monitoring Program and placed in the county.

57 O.S. § 510.9

### **Fire Investigation**

The County Sheriff of the county in which a fire has occurred that has destroyed or damaged property, along with the State Fire Marshal, must investigate the cause, origin and circumstances of every fire occurring in the county, and especially investigate whether the fire was the result of carelessness or design. The investigation must begin within two days of the fire, not including Sundays, and the Fire Marshal has the right to supervise and direct the investigation whenever deemed necessary or expedient. The County Sheriff must notify the Fire Marshal and, within a week of the fire, furnish the Fire Marshal a written statement of all facts relating to the cause and origin of the fire, and any other information required by the Fire Marshal.

74 O.S. § 314

Some County Sheriffs have agreements with cities within their counties regarding fire investigation of fires occurring in the cities.

### **Fireworks**

The State Fire Marshal, his deputies, or any authorized police or peace officer of the state, including the County Sheriff, must seize as contraband any illegal

68 O.S. § 1628

fireworks as defined in the statutes. The County Sheriff of the county in which the fireworks were seized must take custody of any seized fireworks.

The party surrendering the fireworks, if aggrieved by the action, may file an appeal in writing to the district court in the county where the fireworks were seized. Upon hearing the appeal, the district court may authorize the return of part or all of the confiscated fireworks; otherwise, the court must authorize and direct that the fireworks be destroyed.

### ***Shooting Galleries and Ranges***

Before any shooting gallery or range may begin operation in any county, city, or town in Oklahoma, the County Sheriff, or an authorized deputy, must inspect the premises for safety, and the owner must have an inspection statement in writing by the County Sheriff or an authorized deputy that the premises have been inspected, meet the standards and specifications mandated in the statutes, and are considered safe to operate.

63 O.S. § 701  
63 O.S. § 704

If a shooting gallery or range is moved from one place to another, the owner or operator must secure a new inspection statement prior to beginning operation. The County Sheriff of each county or an authorized deputy is responsible for inspecting the gallery or range when requested by the owner or operator.

Shooting galleries or ranges constructed prior to 1955 that may not meet the requirements of the statutes, may be furnished an inspection statement if, in the opinion of the County Sheriff or an authorized deputy, the gallery or range is safe to operate.

### ***Transient Merchant Licensing Act***

No transient merchant may transact business in any county without a license and without complying with the requirements of the Transient Merchant Licensing Act.

19 O.S. § 1602  
19 O.S. § 1604  
19 O.S. § 1611

The County Sheriff, along with other law enforcement officers in the county and the district attorney, is responsible for enforcing the provisions of the Transient Merchant Licensing Act.

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## Homeland Security

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74 O.S. § 51.3

One County Sheriff in each homeland security region of the state is a member of the regional planning and coordination advisory council for homeland security for the region that includes that County Sheriff's county. These regional councils are created by the Oklahoma Statutes, and the Oklahoma Homeland Security Director designates the geographical boundaries for each regional advisory council within the state.

The following members also serve on each regional advisory council:

- A chief of a paid fire department
- A chief of a volunteer fire department
- A chief of a police department
- A physician or hospital administrator
- An emergency management coordinator
- An emergency medical services
- A veterinarian
- A representative of a state or local disaster relief agency
- A city manager or mayor
- A county commissioner
- A public health representative

- A Council of Government representative
- A representative of a public school district
- A representative of an institution of higher learning

Each regional advisory council must meet at least twice a year or more frequently at the discretion of the director. The director or designee from the Oklahoma Office of Homeland Security must attend the meetings of the regional advisory councils. A majority of the members of the regional advisory council constitute a quorum. The Office of Homeland Security establishes policies and procedures regarding the operation of the regional advisory councils.

Each regional advisory council has the following duties and responsibilities

- Assessing and documenting the needs of the region related to homeland security
- Coordinating and cooperating with the Oklahoma Office of Homeland Security to achieve the strategic objectives prescribed in this act
- Other duties and responsibilities as determined by the Oklahoma Homeland Security Director

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## Chapter Seventeen

# Duties of the County Sheriff: Traffic



A McClain County deputy checks a county neighborhood for a stolen vehicle.

## Traffic Responsibilities

### *Traffic Stops and Enforcement*

#### **Requirement for Marked Cars and Official Uniforms**

Oklahoma state law declares it unlawful for any County Sheriff, deputy sheriff, or reserve deputy sheriff to use any vehicle for routine traffic stops and

19 O.S. § 180.43 (C)

enforcement that is not clearly marked as a law enforcement vehicle. In addition, these individuals must be dressed in the official County Sheriff's uniform, including shoulder patches, badges, and any other identifying insignias normally used by the County Sheriff's department.

### ***Wrecker and Towing Services***

#### **DPS Licensed Wrecker or Towing Services**

47 O.S. § 952

The Department of Public Safety has the power and authority necessary to license, supervise, govern, and control wrecker vehicles and wrecker or towing services and has prescribed rules stating the requirements for facilities, storage of vehicles, necessary towing equipment, and other provisions.

Unless otherwise regulated by the Board of County Commissioners of the county, the wrecker vehicles used to perform wrecker or towing services requested by the County Sheriff or deputy sheriffs for removal of a vehicle from public property for reasons listed in the statutes must be from the licensed wrecker or towing service whose location is nearest to the vehicle to be towed. Requests for service may be alternated or rotated among all such licensed wrecker or towing services that are located within a reasonable radius of each other.

In cities of less than fifty thousand population, all such licensed wrecker or towing services located near or in the city limits of such cities are considered as being equal distance and must be called on an equal basis as nearly as possible.

The County Sheriff must advise any person requesting information about a wrecker or towing service, the name of the nearest licensed wrecker operator, giving equal consideration to all licensed wrecker operators located within a reasonable radius of each other.

In counties bordering other states, if the County Sheriff believes safety and time considerations warrant, the officer may call a wrecker or towing service that is not on the rotation log.



**No County Sheriff who has any interest, financial or otherwise, in a wrecker or towing service, or with a person who derives business or income from a wrecker or towing service can contract with this service for the county sheriff's department or the county.**

47 O.S. § 956

### **Wrecker Operator Liability**

A licensed wrecker operator is not liable for damage to a vehicle, vessel, or cargo that obstructs the normal movement of traffic or creates a hazard to traffic and is removed in compliance with the request of the County Sheriff or deputy sheriff, unless the operator fails to exercise reasonable care or engages in willful or malicious conduct.

The County Sheriff has the authority to make arrests for violations of the rules regarding wrecker services. If the County Sheriff reasonably believes that any wrecker is being operated in violation of the law, the County Sheriff can require the operator to stop and show documentation as may be required to establish the operator's authority.

47 O.S. § 954

### **Rotation Logs**

The County Sheriff of each county must keep rotation logs on all requested tows, except where sufficient licensed wrecker or towing services are not available to rotate such service, or services are contracted after a competitive bid process. Rotation logs must be made available for public inspection upon request.

47 O.S. § 952

Any calls made from cell phones or two-way radios by any County Sheriff or deputy sheriffs to any wrecker service must be listed on the rotation or call logs and made available for public inspection.

A wrecker service must not be removed from rotation without notifying the wrecker operator and stating the reason for removal from the rotation log. All notification for removal from a rotation log must be mailed to the wrecker service owner at least ten days before removal from the rotation log and must state the procedure and requirements for reinstatement.

The County Sheriff must not place any wrecker or towing service on an official rotation log for service requested by the County Sheriff or sheriff deputies unless the service meets the following requirements:

- The principal business facilities are located within Oklahoma.
- The tow trucks are registered and licensed in Oklahoma.
- The owner is a resident of the State of Oklahoma or the service is an Oklahoma corporation.

If a licensed wrecker or towing service is not located within the county, a wrecker or towing service that is located outside of the county, or the state, and does not meet the above qualifications may be placed on the rotation log for the county.

### **Fees Charged**

When performing services at the request of the County Sheriff or deputy sheriffs, no operator or wrecker or towing service on the rotation logs may charge fees in excess of the maximum rates for services performed within the state, including incorporated and unincorporated areas, as prescribed in the statutes.

47 O.S. § 953.1

### ***Abandoned Motor Vehicles***

When an abandoned motor vehicle or abandoned junk motor vehicle as defined in the statutes is reported or discovered, the County Sheriff or deputy sheriff must follow the instructions shown below.

## **Stolen Vehicles**

The County Sheriff or deputy sheriff must first check to see if the vehicle is stolen. If the vehicle is stolen, the vehicle must be impounded by having the vehicle towed to a wrecker lot in a secure area inaccessible to the public until processing and follow the procedures listed under “[Vehicles of Arrestees as Evidence](#)” below. The County Sheriff or deputy sheriff must also notify the Department of Public Safety of the stolen vehicle. See “[Reporting Stolen or Recovered Vehicles](#)” below.

## **Vehicles that are not Stolen**

If the vehicle is not stolen and has been abandoned on private property, the owner of the property may direct the vehicle to be towed at their direction and expense. The County Sheriff's Office does not aid or assist in this process.

47 O.S. § 902

If the vehicle is not stolen and has been abandoned on public property in a location that would be hazardous to the free flow of traffic or highly susceptible to damage from vandalism, the County Sheriff or deputy sheriff has the authority to remove the vehicle or have it removed. The County Sheriff or deputy sheriff, at the time of removal, must also determine the sale price of the vehicle and certify that amount on the removal order.

47 O.S. § 901

If the vehicle is not stolen and has been abandoned on public property and does not constitute a hazard, and with 48 hours, there is no evidence of an owner who intends to remove the vehicle, the County Sheriff or deputy sheriff must take responsibility for removing the abandoned vehicle.

## **Notification of Department of Public Safety**

47 O.S. § 903

Any County Sheriff or deputy sheriff who has removed or directed the removal of any vehicle must, within seventy-two hours, notify the Department of Public Safety. The notice of removal must contain the name and address of the owner, if known, the make, model, vehicle identification number, registration number,

date stored, place stored, and the estimated value. The Department of Public Safety then requests the Oklahoma Tax Commission or other appropriate motor license agent to furnish the name and address of the owner and any lienholder of the vehicle and within five days sends notice to the owner and any lienholder.

### ***Reporting Stolen and Recovered Vehicles***

47 O.S. § 4-105(A)

Every County Sheriff must immediately report to the Department of Public Safety (DPS) all vehicles reported to the County Sheriff's office as being stolen or recovered. Such reports must be made as prescribed by DPS.

Any County Sheriff who has reason to believe, or upon receiving information, that a motor vehicle has been stolen has the authority to confiscate and hold that vehicle until satisfactory proof of ownership is established.

47 O.S. § 4-105(E)

### ***Mechanically Disabled or Unlawfully Parked Vehicles***

#### **Mechanically Disabled Vehicles**

Responsibility for securing a wrecker for a mechanically disabled vehicle (not involved in an accident) is that of the vehicle owner or driver who will be instructed to secure a wrecker. When the position of the vehicle is such that it creates a danger to other motorists or pedestrians and a phone is not readily available, the County Sheriff or deputy sheriff may, upon request of the driver or owner, request the dispatcher to dispatch any requested wrecker for the vehicle owner or driver.

#### **Unlawfully Parked Vehicles**

When a vehicle is parked unlawfully on a street or an expressway and is creating hazardous interference with the movement of vehicular traffic, the driver should be ordered to move the vehicle.

If the driver is not immediately available, or the vehicle is apparently inoperable, the vehicle should be towed and a Tow-In Report that records the details of the location of the vehicle, registration information, and the reason for towing should be completed.

If the vehicle is parked unlawfully on the expressway and is not immediately interfering with the movement of vehicular traffic, the County Sheriff or deputy sheriff should notify the highway patrol.

### ***County Parking Restrictions***

No person may place, stop, park, or stand any vehicle, including trailers or implements of husbandry, contrary to any official sign reserving, restricting, or regulating the placing, stopping, standing, or parking of a vehicle within the boundaries of the following:

- County-owned property
- Public property within unincorporated areas of a county

In counties with a population over 500,000, according to the last decennial census, the County Sheriff is responsible for enforcing this law. Of the monies generated from fines collected for this offense, the Court Clerk retains \$5.00 and the balance of the monies are deposited in the Sheriff's Service Fee Account to be used exclusively for the purpose of providing courthouse security.

### ***Impounding and Towing Vehicles***

#### **Impoundment**

Any County Sheriff is authorized to impound and cause to be towed any vehicle found on the roadway under the following circumstances:

47 O.S. § 955

- A report has been made that the vehicle has been stolen or taken without the consent of its owner.
- The County Sheriff or deputy sheriff has reason to believe the vehicle has been abandoned as defined in the statutes.
- The vehicle does not display license plates registered to that particular vehicle or displays license plates that have been expired for over 90 days.
- The vehicle is parked in such a way that it constitutes a hazard.
- The person driving or in control of the vehicle is arrested for an alleged offense for which the County Sheriff or deputy sheriff is required by law to take the person arrested or summoned before a proper magistrate without unnecessary delay.
- The vehicle needs to be secured subsequent to the driver's and/or occupants' arrests and it cannot reasonably be released to another person or parked legally and safely.
- The vehicle's driver is under the influence of alcohol, drugs, or a combination of both.
- The vehicle is to be held as evidence in a criminal case.
- The driver is involved in violations regarding narcotics, gambling, immigration, or other offenses under which the vehicle may be subject to forfeiture proceedings by state or federal law enforcement agencies.
- The vehicle is subject to forfeiture for involvement in first degree burglary or transportation of stolen automobile parts

47 O.S. § 901

47 O.S. § 902

47 O.S. § 1115.1

- At the scene of an accident, when the owner or driver is not in a position to take charge of the vehicle and direct or request its proper removal
- The County Sheriff or deputy sheriff has probable cause that the person operating the vehicle has not been granted driving privileges or that the driving privileges of that person are currently suspended, revoked, canceled, denied, or disqualified.

### **Impounding Vehicles of Arrestees as Evidence**

If a driver or owner is arrested and the vehicle is to be held for evidential purposes, deputies should perform the following procedures:

- Impound the vehicle by having the vehicle towed to a wrecker lot in a secure area inaccessible to the public until processing.
- Process the vehicle, or make arrangements for forensic experts to process it, if necessary
- Give an explanation on a Tow-In Report as to the basis for placing a hold on the vehicle and who the vehicle is being held for, such as County Sheriff's Office investigators or outside agencies.

### **Impoundment Procedures**

When impounding a vehicle, the County Sheriff or deputy sheriff will perform the following procedures:

- If an arrest has not been made and the vehicle is operable and not a safety hazard, the County Sheriff or deputy sheriff must try to contact the owner before removing the vehicle. If the owner can come to the vehicle's location within a reasonable amount of time, the deputy can then release the vehicle to the owner or the owner's designee.

- If the owner cannot be located or cannot come to the vehicle's location within a reasonable amount of time, the County Sheriff or deputy sheriff must request a wrecker to the scene.

### ***Inventory Searches***

The County Sheriff or deputy sheriff must conduct inventory searches of all impounded vehicles prior to towing to a storage area to protect the vehicle owner's property from misdeed and to protect the county and the County Sheriff's office from liability claims.

Inventory searches should be conducted in the following manner:

- The inventory search should be conducted in the presence of the vehicle owner or operator if possible.
- All containers in a vehicle should be searched.
- Containers that cannot be opened without causing physical damage must be opened only with a supervisor's approval.
- A Vehicle Tow-In Report should be completed, noting the following information:
  - \* The disposition of items of apparent value that are removed from the vehicle
  - \* A narrative should list all items removed from vehicle
  - \* Any items inventoried and removed should be taken to the property room. If contraband or evidence of a crime is discovered during the inventory search, the Vehicle Tow-In Report should reflect the following information, if known:
    - \* Property receipt number
    - \* Case number

## ***Holds Placed on Impounded Vehicles***

### **Investigative Holds**

An investigative hold may be placed on an impounded vehicle if the vehicle is, or contains evidence of, a crime.



**To avoid charges to the County Sheriff's department during an investigative hold, the County Sheriff should negotiate an agreement with storage/wrecker facilities regarding the payment responsibility for storing vehicles under investigative hold.**

Each County Sheriff's office should have policies in place regarding photocopies and distribution of the Tow-in Reports and procedures for releasing holds.

### ***Charges for Impoundment***

Vehicle owners must be informed that payment of impoundment and storage fees does not include payment for any traffic citations. Total impoundment or storage charges may be obtained by contacting the wrecker company that towed the vehicle. The Sheriff's Office does not pay for towing and impoundment charges even if the vehicle is being held for a crime investigation.

### **Alternatives to Impoundment**

A motor vehicle subject to impoundment due to an arrest may not be impounded under any of the following conditions:

47 O.S. § 955

- Right of possession can be easily established at the vehicle's location by checking with the driver, the person in possession of the vehicle or the person to whom possession of the vehicle is to be given, and the vehicle can be turned over to the rightful possessor or legally parked at its location.
- If such person is not available and the vehicle is not needed for evidence, the County Sheriff or deputy sheriff must notify the driver

that the driver may choose to leave the car parked at its location, in lieu of towing. This option is only available if the vehicle is located in an area where it could be left legally and safely.



**Vehicles are not to be left on expressways as required by law.**

- The driver is able to arrange for someone else to take care of the vehicle after being given a reasonable opportunity to do so.
- If the vehicle is not needed for evidence, the deputy should notify the driver that the driver may arrange for a responsible person to take care of the vehicle and give the driver a reasonable opportunity to make such arrangements.

If the designated person takes custody of the vehicle, the County Sheriff or deputy sheriff must note the name, social security number, date of birth, and the address of the designee on the narrative, if completed, otherwise this information is to be noted on the Tow-In Report.

If the arrestee fails or refuses to designate a person to care for the vehicle, or the County Sheriff, deputy sheriff, or driver is unable to contact the designated person, or the designated person fails to claim the vehicle within a reasonable time, a wrecker should be ordered and the vehicle impounded. The County Sheriff or deputy sheriff should indicate on the Tow-In Report that an opportunity was given to the arrestee to make arrangements for the removal of the vehicle, however, the arrestee did not take the opportunity in a reasonable amount of time.

### ***Parking the Vehicle***

If the vehicle can be legally parked at its location, and the driver is in legal possession of the vehicle, the arresting County Sheriff or deputy sheriff has the discretion of allowing the driver to leave the vehicle where it is. Should the driver choose to leave the vehicle, the County Sheriff or deputy sheriff will notify the driver that the vehicle and all property contained in the vehicle remains the responsibility of the driver.



**The park and lock option is not available when the arrestee's approval cannot be obtained.**

On the narrative, the location where the vehicle is parked, the fact that the vehicle was left parked at the scene and the driver was notified of the responsibility for the vehicle, and its contents should be noted.

Vehicle search rights are limited when a vehicle is left parked unattended at the scene.

### ***Release of Vehicle at the Scene***

A vehicle to be impounded and not needed for evidence or other reasons will be released to the person with right of possession if the person arrives at the scene before the County Sheriff or deputy sheriff requests a wrecker. If the wrecker has already been ordered, the person must make arrangements with the wrecker, including paying any call fees.

### ***Private Property Open to the Public***

A vehicle is not required to be impounded when the vehicle is located on a public roadway with the violator parking on private property open to the public, and the property owner agrees to allow the vehicle to remain there.

### ***Private Property Not Open to the Public***

A deputy may be able to leave a vehicle parked when the vehicle is located on a public roadway. However, if the violator parks on private property not open to the public, the property owner must agree to allow the vehicle to remain there or the sheriff's deputy must make arrangements to remove the vehicle as described above.

### ***Seizing Unregistered Vehicles***

After 90 days from the expiration date for annual registration of a vehicle, the County Sheriff or deputy sheriffs may seize and take into custody every vehicle owned within this state not bearing or displaying a proper license plate required by the Oklahoma Vehicle License and Registration Act. The vehicle must not be released to the owner until it is duly registered and the license, registration, or title fee and penalties due are paid in full, proof of security or an affidavit that the vehicle will not be used on public highways or public streets is furnished, and the cost of seizure, including the reasonable cost of taking the vehicle into custody and storing the vehicle, have been paid.

If the owner of any vehicle seized fails to pay such fees and penalties due, together with the cost of seizure and storage, and fails to provide proof of security or an affidavit that the vehicle will not be used on public highways or public streets, the Department of Central Services shall proceed to sell the vehicle by posting not fewer than five notices of sale in five different public places in the county where the vehicle is located, one of such notices to be posted at the place where the vehicle is stored. A copy of the notice shall also be sent by certified mail, restricted delivery, with return receipt requested, to the last-known address of the registered owner of the vehicle. The vehicle shall be sold at such sale subject to terms and conditions identified in the statutes.

47 O.S. § 1115.1

## ***Motor Carrier Act***

It is unlawful for any motor carriers or their agents or employees to operate any powered motor vehicle, as a motor carrier for hire within the state, without the identification device issued by the Corporation Commission said displayed as provided by the rules of the Commission.

47 O.S. § 180m

The County Sheriff and deputy sheriffs have the responsibility to perform the following duties as mandated by the Corporation Commission.

47 O.S. § 180a, 180b,  
180c, 180d, 180e,  
180f, 180g, 180h,  
180i,, 180k, 180l, 180m

- To enforce the provisions of the Motor Carrier Act of 1995
- To apprehend and detain any motor vehicle or vehicles and driver or operator and their aides who are operating any motor vehicle on the highways of the state, for a reasonable length of time, for the purpose of investigating and determining whether such vehicle is being operated in violation of any of the provisions of the Motor Carrier Act of 1995
- To make arrests for the violation of the provisions the Motor Carrier Act of 1995, without the necessity of procuring a warrant
- To sign the necessary complaint and to cause the violator or violators to be promptly arraigned before a court of competent jurisdiction for trial
- To aid and assist in the prosecution of the violator or violators in the name of the State of Oklahoma to the end that this law shall be enforced
- To report all such arrests for violations of the Motor Carrier Act to the Corporation Commission of Oklahoma within 10 days after making such arrest and to furnish such information concerning same as the Commission may request

- At the request of the Corporation Commission, to seize and confiscate any and all identification devices and to forward the same to the Corporation Commission for cancellation.

47 O.S. § 180m

The Commissioner of Public Safety must require that the Division of Highway Patrol properly patrol the highways of the state and cooperate with County Sheriffs and deputy sheriffs in enforcing the laws regulating the operation of vehicles and the use of highways.

47 O.S. § 2-117

47 O.S. § 2-118

## Chapter Eighteen

# Duties of the County Sheriff: Children and Juveniles

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Betsy Holcomb, Payne County Dispatcher, takes a phone call in the dispatch room.

County Sheriffs have certain responsibilities regarding children and juveniles in their county.

O.S. Titles 10, 10A

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## Investigating Missing Children

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The County Sheriff, upon notification of a report of a missing child 16 years and under, must immediately initiate an investigation into the disappearance of that child.

10 O.S. § 1628

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## Fingerprinting Minors

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### *Fingerprinting Programs*

The Oklahoma Legislature has enacted certain laws to provide safeguards for Oklahoma children by instituting a fingerprinting program for minor children. Children in the Oklahoma school system may be fingerprinted in accordance with the provisions of the Oklahoma Minor Identification Act, and those fingerprints can be used for locating or identifying any child who is reported lost, missing, kidnapped, or killed.

10 O.S. §§ 1630, 1631, 1632, 1633

### **Sheriffs' Responsibilities**

The fingerprinting programs are developed by each board of education in conjunction with local law enforcement agencies, including the County Sheriff, that have jurisdiction within the school district or where the nonpublic school is located. The County Sheriff must cooperate fully, if requested, with the board of education or nonpublic school in developing its fingerprinting program. The fingerprinting programs can also be developed in conjunction with any organization that volunteers to provide the fingerprinting service.

If requested, the County Sheriff must perform the fingerprinting process of the students on fingerprint cards that the County Sheriff or the school requests from the Oklahoma State Bureau of Investigation. The name, sex, hair and eye

color, height, weight, and date and place of birth of the student must be indicated on the fingerprint cards.

The fingerprint cards must also include in a conspicuous place a statement that the card may be used for identification purposes only and may not be used in any juvenile or criminal investigation or proceeding conducted against the student. A fingerprint card prepared pursuant to the Oklahoma Minor Identification Act may be used by a law enforcement agency only to help identify a student who is lost, missing, kidnapped, or killed.

The fingerprinting of persons under eighteen (18) years of age shall be as prescribed by law for the fingerprinting of adults, except as specified by the provisions of the statutes.

### ***Minors' Fingerprints***

Fingerprints obtained and maintained pursuant to the statutes may be used only by County Sheriffs for comparison purposes in connection with a crime investigation or to establish identity in instances of death, serious illness, runaways, or emergency.

If a child is reported to a County Sheriff as a missing child or a custodial parent, legal guardian, or legal custodian of a child requests issuing a fingerprint card pursuant to the provisions of the Oklahoma Minor Identification Act, the provisions of the Oklahoma Minor Identification Act apply. With the voluntary and informed consent of the parent, legal guardian or legal custodian of the child, fingerprints obtained and maintained pursuant to the Oklahoma Minor Identification Act may be used for the purposes listed above.

10 O.S. § 1629  
10A O.S. § 2-6-107

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## Oklahoma Children's Code

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### ***Report of Abuse or Neglect of Child Under 18***

The County Sheriff must promptly report to the Department of Human Services any child under 18 who that County Sheriff believes may be a victim of abuse or neglect. The report must be made to the centralized hotline provided for that purpose.

10A O.S. § 1-2-101

### ***Custody of Child Prior to Petition Filing***

The County Sheriff may take a child into custody prior to a petition filing if the County Sheriff has reasonable suspicion that any of the following conditions exist:

10A O.S. § 1-4-201

- The child is in need of immediate protection because of an imminent safety threat.
- The circumstances or surroundings of the child are such that continued presence in the child's home or in the care or custody of the parent, legal guardian, or custodian would present an imminent safety threat to the child.
- An order has been issued by the district court.

The County Sheriff is authorized to transport a child under any of these conditions.

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## Oklahoma Juvenile Code

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### ***Custody of Juvenile Prior to Petition Filing***

10A O.S. § 2-2-101

The County Sheriff may take a juvenile into custody prior to a petition filing alleging that the child is delinquent or in need of supervision if any of the following conditions exist:

- The juvenile has committed a criminal offense for which the County Sheriff is authorized to arrest an adult without a warrant.
- The juvenile is willfully and voluntarily absent from the home for a substantial length of time or without intent to return without the consent of the parent, legal guardian, legal custodian, or other person having custody and control of the child.
- The surroundings of the juvenile are such as to endanger the juvenile's welfare.
- An order has been issued by the district court.

If the County Sheriff reasonably believes that medical treatment is needed for the juvenile, the County Sheriff has the authority to authorize medical examination and treatment.

### ***Reimbursement of Costs***

If the court finds that the parent or parents of the child or other persons are able to pay all or part of the costs and expenses set forth in the statutes, the court may order the parents or persons to reimburse any costs or expenses incurred by a Sheriff's office for custodial services or other authorized actions taken pursuant to the Oklahoma Juvenile Code.

## ***Juvenile Transport***

### **Court-Ordered Transport for Detention**

10A O.S. § 2-2-805

When a child is committed to the custody of the Office of Juvenile Affairs under the provisions of the statutes, the court must order the child to be delivered by the County Sheriff (or by a private contractor) to an institution, or other place designated by the Office of Juvenile Affairs. The cost of transportation is paid from the general fund of the county. The Office of Juvenile Affairs shall not be ordered to provide transportation for a juvenile who has been committed to the custody of the Office and is destined for a secure institution.

### ***Transport to and from Detention***

10A O.S. § 2-3-103

County Sheriffs or their designee may be required to provide transportation of juveniles in the custody of the Office of Juvenile Affairs under the provisions of the statute to and from secure detention for admission and for interfacility transfer, discharge, medical or dental attention, court appearance, or placement designated by the Office of Juvenile Affairs.

The cost of this transportation is reimbursed by the Office of Juvenile Affairs in the following manner:

- A fee for the cost of personal services at the rate of \$12.00 per hour
- Mileage reimbursement for each mile actually traveled at the rate established in the State Travel Reimbursement Act
- Meals for transporting personnel, not to exceed \$6.00 per meal
- Meals for juveniles being transported, not to exceed \$6.00 per meal

The Office of Juvenile Affairs must process and mail reimbursement claims within 60 days of receipt. Payments for services provided by a County Sheriff's

office must be paid to the county and deposited in the County Sheriff's service fee account.

### ***Notification Regarding Youthful Offenders***

The County Sheriff must notify the Office of Juvenile Affairs of any arrest and detention if a youthful offender. Youthful offenders have the same right to be released on bail as an adult in the same circumstances and, if detained, may be detained in a county jail if separated by sight and sound from the adult population as otherwise authorized by law. If no such county jail is available, then the offender may be detained at a juvenile detention facility.

10A O.S. §§ 2-5-204,  
2-5-205, 2-5-206

### ***Juvenile Record Procedures***

In cooperation with the County Sheriffs, the Office of Juvenile Affairs must develop procedures for providing timely and relevant information to the County Sheriffs concerning juvenile court records and agency records of juveniles adjudicated as delinquents for committing a delinquent act which, if committed by an adult, would be a felony offense that is a crime against the person or a felony offense involving a dangerous weapon. The procedures must be designed to provide the type of information useful and relevant to establishing security level requirements for juveniles in a County Sheriff's custody.

10A O.S. § 2-6-102  
10A O.S. § 2-6-110

Whenever a juvenile is accepted for placement or treatment in a facility or private treatment facility within Oklahoma, the facility must provide the County Sheriff with all prior criminal offense, conviction, and adjudication information. If a juvenile flees or is otherwise absent from the facility without permission, the facility must provide the County Sheriff of all prior criminal offenses, convictions, and adjudication information. Any County Sheriff has the authority to review or copy any records concerning the juvenile, including prior criminal offenses, convictions, or adjudication information.

10A O.S. § 2-6-110

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## Homes Juvenile Detention

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### *Consultation on design and location*

The board of county commissioners in every county in this state having a population in excess of 300,000, according to the most recent Federal Decennial Census, must provide a suitable home for the detention of delinquent juveniles in the county.

10 O.S. § 130.2

The County Sheriff, along with the District Attorney, and the Oklahoma City-County Board of Health must provide input into the design and location of the home and the equipment and furnishings required for its operation. The design, location, equipment and furnishing must be approved by the court.

10 O.S. § 130.4

## Chapter Nineteen

# Duties of the County Sheriff: Mental Health

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## Mental Health

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### *Confinement by County Sheriff*

When any persons who are in the legal custody of the County Sheriff, are alleged or adjudged in any court to be mentally ill, alcohol-dependent, or drug-dependent, and have not been charged with committing a crime, the County Sheriff is authorized to confine those persons in a place other than the county jail. The place is selected by the County Sheriff who transports the persons to the place selected. Confinement must be in a place and in a manner that prevents the persons from endangering themselves or any other person.

43A O.S. § 5-202

The county must pay to provide for such confinement outside the county jail. The County Sheriff and the Board of County Commissioners have specific authority to enter into a contract with a nursing home or other facility as a place of confinement. Other departments and agencies of the state may not interfere with this right to contract.

### *Counseling Services*

Depending on the availability of county funds, the Board of County Commissioners and the County Sheriff are hereby authorized to hire

19 O.S. § 353.1

counselors or contract for the services of counselors to provide counseling services to mental health detainees in the custody of the county and county employees whose official duties relate to mental health, or immediate family members of those employees; provided, the counseling services are not provided at county expense for county employees or immediate family members except for counseling services necessary as a direct result of the employee performing official duties.

### ***Transport by County Sheriff***

Sheriffs and peace officers are responsible for transporting individuals to and from designated sites or facilities for the purpose of examination, emergency detention, protective custody, and inpatient services.

43A O.S. § 1-110

A municipal law enforcement agency is responsible for any individual found within the municipality's jurisdiction. The County sheriff is responsible for any individual found outside of a municipality's jurisdiction, but within the county.

When the County Sheriff is transporting an individual to and from designated sites or facilities, the County Sheriff is responsible for transporting the individual pending completion of the examination, emergency detention, protective custody, and inpatient services.

The County Sheriff is entitled to reimbursement from the Department of Mental Health and Substance Abuse Services for transportation services associated with minors or adults who require examination, emergency detention, protective custody, and inpatient services.

Any transportation provided by a County Sheriff or deputy sheriff on behalf of the county, to or from any facility for the purpose of examination, admission, interfacility transfer, medical treatment or court appearance must be reimbursed in accordance with the provisions of the State Travel Reimbursement Act.

The County Sheriff may enter into a lawful agreement with any other law enforcement agency to fulfill the requirements discussed above.

### ***Transport of Females by the County Sheriff***

Upon receiving an order from a district court to convey a mentally ill, alcohol-dependent, or drug-dependent female to a facility, the County Sheriff must procure a suitable female attendant to assist in conveying that female to the facility if the County Sheriff or deputy sheriff who will be conveying that female is male.

43A O.S. § 5-203

If a female attendant is not available, a male County Sheriff or male deputy sheriff may convey the mentally ill, alcohol-dependent or drug-dependent female without a female attendant provided the County Sheriff or deputy sheriff notifies the dispatcher of the specific mileage from the collection point to the destination point, the time of departure, and the estimated time of arrival.

The County Sheriff may procure assistance, and certify the same to the County Clerk as a part of the expense of the conveyance. No bill for the expense of such conveyance shall be allowed by the Board of County Commissioners of any county unless it is accompanied by a certificate of the executive director of the facility, showing that the person has been duly conveyed to the facility either by, or accompanied by a female attendant or as otherwise noted above.

Whenever a female is transferred from one facility to another within the Department of Mental Health and Substance Abuse Services or from a facility within the Department to another facility of like nature elsewhere, that female must be accompanied by a female employee of the Department or a suitable relative of that female.

### ***Notification of Emergency Detention by County Sheriff***

A person may be detained in emergency detention more than 72 hours, excluding weekends and holidays, only if the facility in which the person being

43A O.S. § 5-209

detained is presented with a copy of an order of the district court authorizing further detention. Such an order may be entered by the court only after a petition has been filed seeking involuntary commitment or treatment according to the statutes.

43A O.S. § 5-410, 9-102

If a copy of an order for further detention is not delivered to the facility by the end of the period of emergency detention, the person alleged to be a mentally ill person, an alcohol-dependent person, or a drug-dependent person and a person requiring treatment must be discharged from the facility in which detained unless the person has applied for voluntary treatment.

The person being held in protective custody or emergency detention must be asked to designate any person whom the person wishes to have informed regarding the detention. If the person being held in protective custody is incapable of making such a designation, the County Sheriff holding the person in protective custody must notify, within 24 hours of taking the person into protective custody, other than the person initiating the request for protective custody, the attorney, parent, spouse, guardian, brother, sister, or child who is at least eighteen 18 years of age of the person. If the County Sheriff fails to find such a person within a reasonable time, the County Sheriff must report to the administrator of the facility. This report must be made a part of the records of the facility for the person being detained.

### ***Return to Private Hospital of Facility by County Sheriff***

When a private hospital or facility has a mentally ill person leave without permission, or the person escapes, the person in charge of the private hospital or facility must immediately notify the attending physician and, in the case of a committed person, the committing court.

43A O.S. § 8-107

In the case of a committed person, the attending physician must in turn immediately notify the petitioner, relative, or guardian who obtained the commitment to the private hospital or facility.

The petitioner, relative, or guardian who obtained the commitment of the person is responsible for returning the person to the hospital or facility. If that person fails to return the escaped person, then the County Sheriff of the county where the person is present is responsible for returning the person to the private hospital or facility.

The county must reimburse the County Sheriff for necessary travel expenses as provided by law.

### ***Transport***

A person committed to a private hospital or facility under the provisions of the Mental Health Law may be transferred to a state or federal hospital for the mentally ill at any time prior to discharge.

43A O.S. § 8-108

The request for transfer must be made to the executive director of the state hospital in the district that serves the county of residence of the consumer.

The request for transfer may be made by the attending physician, the person in charge of the private hospital or facility, or the petitioner, relative, or guardian of the consumer.

All documents pertaining to the commitment of the person to the private hospital or facility, and an abstract of the clinical history of the person during treatment at the private hospital or facility, must be forwarded with the person at the time of transfer.

The County Sheriff of the county in which the person is hospitalized is authorized to transport the person to the state hospital, and the expense of conveying the person will be borne whenever possible by the petitioner, relative, or guardian. The County Sheriff or deputy sheriff must be reimbursed for necessary travel expenses and subsistence as provided by law for other official business.

A female attendant must accompany a sheriff transporting a female.

### ***Report of Possible Abused Persons***

Any person having reasonable cause to believe that a vulnerable adult is suffering from abuse, neglect, or exploitation must make a report, as soon as the person is aware of the situation, to either the Department of Human Services or the County Sheriff's office in the county in which the suspected abuse, neglect, or exploitation occurs. The County Sheriff investigates the situation and notifies the Department of Human Services, as soon as possible of the investigation.

43A O.S. § 10-104

After receiving the report, the Department of Human Services makes an investigation. If forcible entry is required to any premises, the department representative may request the County Sheriff to accompany them.

43A O.S. § 10-105

## Chapter Twenty

# Duties of the County Sheriff: Animal Control and Regulation

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The County Sheriff has certain responsibilities regarding animal control and regulation according to the Oklahoma Statutes.

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## Animal Control

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### ***Dogs in Counties with Populations over 200,000***

The Board of County Commissioners of any county with a population of 200,000 or more, according to the last Federal Decennial Census, may regulate or prohibit dogs running at large within their county.

4 O.S. § 43

The Board must establish and enforce rules governing regulation or prohibition, and they must enter into a definite cooperative agreement with the County Sheriff of their county that prescribes the rules and regulations, the manner and terms of enforcement, and the financing and compensation.

O.S. Title 4

### ***Release of Dogs on County Sheriff***

Any person who releases any dog upon a County Sheriff while the County Sheriff is performing official duties is guilty of a felony punishable by imprisonment or fine.

4 O.S. § 42.4

## ***Dangerous Dogs***

Owners of a dangerous dog (as defined in the statutes) must have a certificate of registration for the dog. This law does not apply to dogs used by law enforcement officials.

4 O.S. § 45  
4 O.S. § 42.4  
4 O.S. § 47

As animal control authority of the county, the County Sheriff must issue a certificate of registration to the owner of a dangerous dog providing the owner provides sufficient evidence of the following conditions:

- Providing a proper enclosure to confine a dangerous dog and posting the premises with a clearly visible warning sign of a dangerous dog, including the conspicuous display of a sign with a warning symbol that informs children of the presence of a dangerous dog
- Holding a policy of liability insurance, such as homeowner's insurance or surety bond, issued by an insurer qualified by the Oklahoma Statutes in the amount of not less than Fifty Thousand Dollars that insures the owner for any personal injuries inflicted by the dangerous dog

The County Sheriff must immediately confiscate any dog from an owner who has violated any of these conditions.

If an owner has a dangerous dog in an incorporated area that is serviced by both a city and county animal control authority, the owner must obtain a certificate of registration from the city authority.

Counties may charge an annual fee not to exceed ten dollars, in addition to any regular dog licensing fees, to register dangerous dogs.

## ***Abandoned Animals and Animals with Arrested Persons***

### **Abandoned Animals**

Any person who owns or has custody of a maimed, diseased, disabled, or infirm animal who abandons the animal or who allows the animal to lie in a public street, road, or public place one hour after the person receives notice by a County Sheriff or a duly constituted authority that the animal is disabled or dead, upon conviction, shall be guilty of a misdemeanor.

21 O.S. § 1686

Abandon means the voluntary relinquishment of an animal and includes, but is not be limited to, vacating a premises and leaving the animal in or at the premises, failing to feed the animal, or allowing it to stray or wander onto private or public property with the intention of surrendering ownership or custody over the animal.

Any County Sheriff or deputy sheriff or animal control officer may humanely destroy or cause to be humanely destroyed any animal found abandoned and for which no proper care has been given.

### **Animals in the Charge of Arrested Persons**

When any person who is arrested is, at the time of the arrest, in charge of any animal or of any vehicle drawn by or containing any animal, the County Sheriff, or animal control officer may take custody of the animal or of the vehicle and its contents. All necessary expenses incurred in taking custody of the animal or of the vehicle and its contents shall be a lien on the property.

### ***Stray Animals***

#### **Identification of Owner**

If any landowners or lessees take up any domestic animal that strays onto their land or any public thoroughfare that adjoins it, they must immediately reasonably investigate to determine the owner of the animal. Within seven

4 O.S. § 85.3

days, they must report to the County Sheriff of the county in which the animal is taken up, giving a description of the animal, including the brand, sex, and approximate age of the animal.

When the owner's identity of any stray animal is known to the takers-up, they must communicate to the owner that the animal has strayed and has been taken up. The takers-up may require the owner of the strayed animal to pay the actual cost of its keep plus any damages that the strayed animal caused to their premises. When a taker-up is unable, after investigation, to determine the animal's owner, or when an owner of a strayed animal is identified, but fails to pay the cost of the animal's keep and any damages and does not remove the animal from the taker-up, the taker up must report to the County Sheriff of the county in which the animal was taken up.

### **Custody to Owner or County Sheriff**

4 O.S. § 85.4

After taking up any stray animal or animals, and sending a description to the County Sheriff, the taker-up is entitled to hold the animal until the County Sheriff takes it into custody.

Should someone request possession of the animal from the taker-up, the taker-up must immediately notify the County Sheriff. If the County Sheriff is satisfied that the applicant is the rightful owner, the County Sheriff issues an order authorizing the taker-up to return the stray animal to the owner. The owner is required to pay the taker-up the actual cost for keeping the animal, together with the actual amount of any damages suffered by the taker-up from the animal being on the property. These costs and damages must be approved by the district judge and must be entered on the order by the County Sheriff.

### **County Sheriff's Responsibilities**

4 O.S. § 85.5

- When notified that a strayed animal has been taken up, any peace officer, including the County Sheriff, unless the owner is identified

and known by the peace officer to be the owner, must research the brand records and reports of lost, strayed, and stolen livestock.

If the peace officer can determine the name of the owner or probable owner, the peace officer must notify the owner that the strayed animal has been taken up.

- If the name of the owner or probable owner cannot be determined, the peace officer must arrange housing for the animal.

The county may establish a list of facilities, including, but not limited to, livestock sales facilities or veterinary clinics, for an official rotation log for housing strayed animals.

- When the peace officer is satisfied that the animal's lawful owner has been identified, the peace officer allows the owner to take the animal, after payment of the actual cost for keeping it together with the amount of any damages suffered by the taker-up.
- If the owner fails to pay the charges or the owner cannot be identified, the County Sheriff sells the animal after publishing in two consecutive weekly issues of a newspaper having general circulation in the county in which the strayed animal has been taken up a description of the animal including sex, age, and brand or brands, but not color, or marks, or other descriptive information.

4 O.S. § 85.6

If more than one person claims the stray animal after the publication, the County Sheriff must certify the matter to the district court of the county in which the animal is taken up. The small claims division of the district court docket the matter, and the claimants have ten days from the date of the docketing to file affidavits in support of their claims. After the hearing, the district court enters a finding

4 O.S. § 85.7

determining the ownership of the stray animal. The court's findings have the same effect and force as a judgment.

- After all costs and expenses incurred for the care, transportation, and sale of the animal have been deducted from the gross sale proceeds, the net amount is paid to the owner.
- If no owner has been identified, any remaining money, after payment of all costs and expenses, is deposited with the County Treasurer to be held in a special fund from which payment may be made to a claimant who has been determined by the district court to be the owner of the stray animal. If payment is not made within one year, the funds are credited to the County General Fund.

### ***Trespassing Animals and Damages***

4 O.S. § 98

All domestic animals must be restrained by their owners at all times from running at large in Oklahoma. Damages caused by domestic animals trespassing on lands of another are recovered in a manner provided by law. Domestic animals include cattle, horses, swine, sheep, goats, exotic livestock, and all other animals not considered wild. The term "domestic animals" does not include domestic house pets.

### **Penalties**

4 O.S. § 99

Any person who commits one of the following acts is guilty of a misdemeanor and upon conviction, will be punished by a fine of not more than \$50.00 for each offense, or not more than 30 days' imprisonment in the county jail for each offense, or by both fine and imprisonment.

- Willfully fails to keep a domestic animal such person owns or has charge of within a suitable enclosure

- Allows the animal to be unrestrained or to run at large, with notice that the enclosure within which the animal is kept is open
- Knowingly causes a domestic animal to escape confinement

### **Destrained Animals**

4 O.S. § 135

Within forty-eight hours after stock has been distrained (seized or held to satisfy an obligation), Sunday not being included, the party distraining, or that party's agent, must notify the owner of the stock when known, or, if unknown, the party having them in charge. If the owner fails to satisfy the person whose lands are trespassed upon, the party injured must, within 24 hours, notify the County Sheriff, in writing, to come to the property to view and assess the damages.

The County Sheriff must, within forty-eight hours after receiving this notice, Sundays and holidays excepted, go to the property to view and assess the damages and determine a reasonable amount to be paid for seizing and keeping the stock. If the person owning the distrained stock fails to pay the damages as assessed, the County Sheriff must sell the animals after publishing in two consecutive weekly issues of a newspaper having general circulation in the county where the stock are distrained a description of the animal including sex, age, and brand or brands, but not color, or marks, or other descriptive information.

Any money or stock left after satisfying such claims is returned to the owner of the stock sold.

4 O.S. § 136

The County Sheriff must make an assessment in writing and file it with the County Clerk. The assessment is kept in the County Clerk's office.

Any person who feels wronged by the actions of the County Sheriff may appeal to the district court. The person appealing must file with the County Sheriff a bond, in a penalty double the value of the property distrained, or if the value of

the property exceeds the amount of damage claimed, then double the amount of damages, with good and sufficient sureties, to be approved by the County Sheriff. After the appeal bond is filed, no action can be taken by any party before the appeal is heard. After the appeal is taken, the County Sheriff must certify all the original papers in the case to the district court.

### ***Motor Vehicle Carriers of Livestock***

4 O.S. § 351

The County Sheriff or a Deputy Sheriff can demand to see (subject to certain restrictions in the statutes) a written permit authorizing movement from any person driving a vehicle containing any of the following items:

- Livestock, domestic fowls, or ratite (such as an ostrich or emu)
- Slaughtered livestock, slaughtered domestic fowls or ratite
- Butchered portions of any of the above.

If the driver cannot produce a written permit, the driver is subject to a fine of not more than two hundred dollars for each head of livestock being transported.

The County sheriff can also search the vehicle for any stolen livestock, domestic fowls, or ratites and detain the vehicle for a reasonable length of time to determine whether any stolen livestock, domestic fowls, or ratites are in the truck. The County Sheriff must provide adequate care and feed for the livestock while they are being detained.

Any driver who has any false or forged permit or who makes any false written statement is subject to imprisonment or fine or both.

# Appendix A

## Using the Oklahoma Statutes

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For any questions on how to interpret a statute or law, the County Clerk should request legal advice from the District Attorney's office.

19 O.S. § 215.5

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### The Oklahoma Statutes On-line

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The Oklahoma Statutes can be accessed on line through the Oklahoma Supreme Court Network (OSCN). The URL or web address is <http://www.oscn.net>. Once the site comes up, click on the part of the black bar at the top of the page that says "Legal Research." Then click on "Oklahoma Statutes Citationized." When the list of statute titles appears, click on "expand" at the right-hand side of the title listing. After the title sections appear, click on the section needed. These copies of the statutes have all of the information found in the statute books plus historical information and court case data. They are updated once each year in August.

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### The Oklahoma Statutes

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The Oklahoma Statutes are made up of statutes, supplements, and session laws.

All the laws enacted, amended, and repealed since statehood comprise a multi-volume set published every ten years. For example, the Oklahoma Statutes, 2001 contains all the laws passed from statehood up to and including the 2001 legislative session.

### ***The Supplements***

Each year, legislators publish a Supplement containing all the laws enacted, amended, or repealed since the Oklahoma Statutes were last published. Therefore, a full reading of the law would require the reader to consult the Oklahoma Statutes and the latest Supplement.

### ***Session Laws Citations***

Following each session of the state legislature, all laws enacted in that session are published as the Oklahoma Session Laws for that year.

In the interim between the time legislators pass the laws and the time they publish the Annual Supplement to the Statutes, the Oklahoma Session Laws are the only reference available for the new laws. In order to find a law, either the date of passage or the number of the Bill is needed, as the Session Laws index lists laws both chronologically and by number.

### **Index**

The last volume of the Oklahoma Statutes has two parts. The first part is an alphabetical index of topics found in the previous volumes. The second part presents tables showing where the laws from former revisions and compilations appear in the most recent compilation.

### **Alphabetical Index**

The index to the Statutes is organized by major topics. Following each major topic heading is an alphabetical list of subentries to the major topic. Each subentry may be further subdivided as well. Following each subentry is the

Title and section where you can find it. For example, to find the laws addressing fees charged by Court Clerks, locate the major topic heading "Court Clerk" and search the alphabetical list under the heading for "Fees."

This particular example appears in the index in the following manner:

COURT CLERKS

Fees, 28§31, 151 et. seq.

Alimony without divorce, 28§152

Conveyances, 28§32

Divorce Actions, 28§152

Therefore, statutes addressing fees are in Title 28, Section 31 and Section 151 and the following sections (et. seq. means "and following").

Other notations following a concept listing are:

- generally, this index means the subentry is a major topic
- elsewhere in the index
- *ante* means the concept is listed prior to that listing under the same topic heading
- *post* means the concept is listed after that concept listing under the same topic heading

## Tables

The tables in the index help locate a statute only the session law date and number are known. For example, to find the location of the session law "laws 1970, C. 110§1" in the Oklahoma Statutes, 1991, locate the table for "laws 1970" under the major heading "session laws 1931-1991." The table reads as follows:

### *Laws 1970*

Chapter	Section	Title	Section
110	-----	1	----- 19 ---- 138.4

## ***A Closer Look***

Statutes, supplements, and session laws are made up of Titles, which are divided into chapters, which are divided into sections.

## ***Titles***

Each part of the Oklahoma Statutes is organized into major categories called Titles, which are arranged alphabetically by the title of the category. These are Titles. Each Title is numbered consecutively in both the Table of Contents and throughout the Statutes. The Titles listed in Volume I begin as follows:

<u>Title</u>	<u>Page</u>
1. Abstracting	187
2. Agriculture	192
3. Aircraft and Airports	412

Thus, a reference made to "Title 2 of the Statutes" is actually a reference to laws generally pertaining to agriculture.

## ***Chapters and Sections***

Each Title in the Statutes is organized by chapters which pertain to the major topic of the Title. Chapters are further divided into sections. Instead of starting over with one at every new chapter, sections are numbered continuously throughout each Title, so that only the Title and section number need be known. The chapter number is unnecessary.

At the beginning of each Title, a listing of the chapter headings and section numbers can be found. Thus, Title 19, Counties and County Officers, is subdivided in the following manner:

Chapter	Section
1. Status and Powers of Counties	1
2. Creation and Alteration of Counties	11
3. Assets and Liabilities Among Constitutional Counties	61

At the beginning of each chapter is a complete list of topics covered in that chapter and sections where topics are found. For example, Title 19, Chapter 1, begins as follows:

### Chapter 1: Status and Powers of Counties

#### Section

1. Powers in General
2. Property of County
3. Powers of county exercised by Board of County Commissioners

The symbol designating a section in the Statutes is §. Therefore, Title 19, of the 2001 Oklahoma Statutes, section 116 is written 19 O.S. §116. Statutes from

the 2001 volumes usually do not have a date indication. If the law has been changed or a new law has been passed, references from the Supplements are written 19 O.S. 2007, §116 to show that the law must be looked up in the 2007 Supplement for the latest version.

After each section of the Statutes will be a footnote listing the following information:

- The year in which the law enacted
- The year(s) in which amendments were made
- The date on which the law or amendment became effective if an emergency was declared
- The chapter (or page number) and the section of the Oklahoma Sessions
- The Laws at which the law or amendment is found

For example, following 19 O.S. §165 is the footnote:

Laws 1979, C. 221, §5, emerg. eff. May 30, 1979

Laws 1980, C. 302, §2, eff. July 1, 1980.

Therefore the law relating to 19 O.S. §165 was enacted in 1979, is found at Chapter 221, Section 5 of the Oklahoma Session Laws 1979, and became effective May 30, 1979. The law was amended in 1980. The amendment can be found at Chapter 302, Section 2 of the Oklahoma Session Laws 1980.

The amendment became effective July 1, 1980.

## Appendix B

# Related Sources, Addresses, and Phone Numbers

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### **Association of County Commissioners of Oklahoma (ACCO)**

429 N. E. 50th  
Oklahoma City, Oklahoma 73105  
405-524-3200  
800-982-6212  
Fax: 405-524-3700  
<http://www.okacco.com>

### **Publications Available:**

Employment Policies and Procedures Handbook for County Elected  
Officials  
ACCO Fire and Safety Manual

### **Commission on County Government Personnel Education and Training County Training Program**

313 Ag Hall  
Oklahoma State University  
Stillwater, OK 74078-8088  
405-744-6555  
Fax: 405-744-8210  
[ctp@okstate.edu](mailto:ctp@okstate.edu)

<http://agecon.okstate.edu/ctp>

**Publications Available:**

Handbook for County Clerks of Oklahoma  
Handbook for County Court Clerks of Oklahoma  
Handbook for County Commissioners of Oklahoma  
County Equalization Board Handbook  
Purchasing Handbook for Oklahoma Counties  
Handbook for County Treasurers of Oklahoma  
Handbook for the County Assessors of Oklahoma  
Handbook for County Sheriff's Association

**Office of Management and Enterprise Services (formerly Department of Central Services)**

Will Rogers Office Building (2401 North Lincoln), Suite 116  
P.O. Box 528803  
Oklahoma City, OK 73152-8803  
405-522-0955  
Fax: 405-521-4475  
<http://www.ok.gov/DCS>

**Governmental Finance Officers Association (GFOA)**

203 N. LaSalle Street, Suite 2700

Chicago, IL 60601-1210

312-977-9700

Fax: 312-977-4806 or 312-977-9083

1301 Pennsylvania Avenue, N.W., Suite 309

Washington, D.C. 20004-1714

202-393-8020

Fax: 202-393-0780

<http://www.gfoa.org>

**Oklahoma Cooperative Extension Service**

Division of Agricultural Sciences and Natural Resources

Department of Agricultural Economics

313 Agricultural Hall

Oklahoma State University 74078-6026

405-744-6555

Fax: 405-744-8210

<http://www2.dasnr.okstate.edu/extension>

**Publications Available:**

County Financial Statement Handbook

OSU Extension Fact Sheets

**Oklahoma Department of Libraries**

209 N.E. 18th Street  
Oklahoma City, Oklahoma 73105  
405-521-2502  
Fax: 405-525-7804  
<http://www.odl.state.ok.us>

**Publications Available:**

Directory of Oklahoma (published every two years)  
Oklahoma state agencies, boards, commissions, courts,  
institutions, legislatures, and officers

**Oklahoma Department of Transportation**

200 N.E. 21st Street  
Oklahoma City, Oklahoma 73105  
Local Government Division - 405-521-2553  
Office Engineering – 405-521-2625  
<http://www.okladot.state.ok.us>

**Oklahoma Insurance Commission**

2401 N.W. 23rd Street  
Oklahoma City, OK 73107  
P.O. Box 53408  
Oklahoma City, Oklahoma 73152-3408  
405-521-3966  
Fax: 405-521-6635  
<http://www.oid.state.ok.us>

**Oklahoma Press Service, Inc.**

An affiliate of the Oklahoma Press Association  
3601 North Lincoln Boulevard  
Oklahoma City, Oklahoma 73105-5499  
888-815-2672 (In Oklahoma)  
405-524-4421

<http://www.okpress.com>

**Publications Available:**

Oklahoma Open Meeting & Open Records Book

**Oklahoma Public Employees Retirement System (OPERS)**

5801 North Broadway Extension, Suite 400  
Oklahoma City, OK 73118  
P.O. Box 53007  
Oklahoma City, Oklahoma 73152-3007  
800-733-9008  
405-858-6737

Fax: 405-521-4718

<http://www.opers.state.ok.us>

**Publications Available:**

Oklahoma Public Employees Retirement Handbook

**Oklahoma Sheriffs Association**

1615 South State Street  
Edmond, OK 73013  
405-471-6049

Fax: 405-471-6097

[kmcnair@oklahomasheriffs.com](mailto:kmcnair@oklahomasheriffs.com)

**Office of the Oklahoma State Auditor and Inspector (SA&I)**

Room 100 State Capitol  
Oklahoma City, Oklahoma 73105  
405-521-3495  
Fax: 405-521-3426  
<http://www.sai.ok.us>

**Publications Available:**

County Government Chart of Accounts  
County Clerk and County Treasurer Forms and Purchasing Forms

**Oklahoma State Department of Health**

1000 N.E. 10th Street  
Oklahoma City, Oklahoma 73117-1299  
800-522-0203  
405-271-5600  
Fax: 405-271-3431  
<http://www.ok.gov/health>

**Oklahoma Tax Commission**

P.O. Box 269060  
Oklahoma City, Oklahoma 73126-9060  
Ad Valorem Division - 405-319-8200  
Fax: 405-521-0166  
<http://www.oktax.state.ok.us>

**Publications Available:**

State payments to governments – from Public Information Office  
State tax collections – from Public Information Office

**Secretary of State  
State of Oklahoma**

101 State Capitol Building  
2300 North Lincoln Boulevard  
Oklahoma City, Oklahoma 73105-4897  
405-521-3912  
Fax: 405-521-3771  
<http://www.sos.state.ok.us>

**State Election Board**

Room B-6, State Capitol Building  
P.O. Box 53156  
Oklahoma City, Oklahoma 73152  
405-521-2391  
Fax: 405-521-6457  
<http://www.ok.gov/~elections/>

**Publications Available:**

Roster, state and county officers and elections returns

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