



PAWNEE COUNTY SHERIFF'S OFFICE
SHERIFF DARRIN VARNELL

Policy # Dealing with Persons of Diminished Capacity	Related Policies:
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by The Pawnee County Sheriff's Office for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Applicable Oklahoma Statutes 43A O.S. 5-207 (B) (43A O.S. 1-103)	
CALEA Standard:	

- I. **Purpose:** To provide field Deputies with the essential tactical and processing skills necessary to effectively deal with persons of diminished capacities in a manner to provide the required professional assistance these persons need, to protect the community, to safeguard the Deputies involved in the encounter and to enhance the agency's risk management.
- II. **Policy:** Every community can expect its law enforcement Deputies to encounter persons of diminished capacities. This group of special needs persons presents field Deputies/deputies with different and often complex issues. These types of persons, whether from intoxication, suicidal potentials, medical complications or mental illness, present field Deputies/deputies with a wide range of behaviors usually different than those exhibited by other members of the community or persons involved in criminal activities. Persons of diminished capacities may display conduct that is bizarre, irrational, unpredictable, and threatening. They may not receive or comprehend commands or other forms of communication in the manner that the Deputies/deputy would expect. They often do not respond to authoritative persons or the display of force. It is the primary task of the field Deputies confronting these special needs persons to resolve the encounter in the safest manner. It is the Deputies' task to bring these types of persons to professional resources, when necessary. It is not the mission of the field Deputies to diagnose the root cause for the person's behavior. Every Deputies can expect to encounter these types of special needs persons while performing their official duties. Deputies are expected to control the incident. Proper tactical and intervention techniques can assist in resolving the immediate field implications of the encounter and hasten the intervention by professional resource persons.
- III. **Definitions:**

- A. Persons of diminished capacity: This refers to a segment of the community Deputies will be expected to deal with. It encompasses all persons encountered in the field who exhibit unusual behaviors commonly referred to as irrational, bizarre, unpredictable, or weird. These outward observable symptoms could be the result of intoxication, drug use, suicidal indications, mental illness, or medical complications.
 - B. Mental Illness: This policy does not require Deputies to make a diagnosis of whether the subject is mentally ill or what form of mental illness the subject may have but rather to use reasonable judgment to recognize behavior, which is outside the norm in which a person poses a danger to themselves or others.
 - C. "Mentally Ill Person" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of the person's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological or social factors.
 - D. Professional resources: These sources are those available to the agency such as mental health professionals, emergency medical facilities, and detoxification centers.
 - E. PERSON REQUIRING TREATMENT (43A O.S. 1-103) – a person who because of a demonstrable mental illness represents a risk of harm to self or others, who has engaged in one or more recent overt attempts, gestures, or threats to harm self or someone else, and as a result of the mental illness it can be reasonably assumed that without treatment the expectation is that the person will cause serious bodily harm to him/herself or others, or x a person who is drug- or alcohol-dependent of sufficient severity to cause major disruption in at least two areas of daily living.
 - F. PROTECTIVE CUSTODY (43A O.S. 5-206) – the taking into protective custody of a person pursuant to the provisions of 43A O.S. 5-208 until such time as an emergency examination is completed and a determination is made as to whether or not emergency detention is warranted
 - G. Voluntary and involuntary commitments: These are the provisions within the State in which the agency can use for the civil commitment of persons requiring professional psychological intervention.
 - H. Prosecution guidelines: It is the policy of The Pawnee County Sheriff's Office to evaluate the necessity for and method of prosecution when dealing with a person of diminished capacity. Normally misdemeanor violations by the person committed during the agency control of the incident will not subject the person to a physical arrest. The decision to cite or request a filing by the prosecutor will be determined by the field supervisor. A field supervisor will evaluate felony and/or other crimes committed upon non-agency personnel to determine whether a physical arrest is warranted. The ultimate mission of the agency is to encourage professional resource intervention for the person of diminished capacity. Physical arrest should be considered a last resort.
- IV. Procedure:** Field control tactics: The ultimate mission of law enforcement when encountering a person of diminished capacity is to control the encounter and then determine the best course of action for the subject person. This field tactical response can be segmented into four (4) distinct tactical responses: Containment, Coordination, Communication, and Time.

- A. Containment:** Before any reasonable control and defusing techniques can be used, the subject must be contained:
- a. Two (2) Deputies shall be dispatched to an incident involving a person of diminished capacity. Should an Deputies find him/herself in a situation with such a person, the Deputies shall request a back-up before attempting to intercede.
 - b. Responding Deputies should avoid the use of emergency lights and siren when responding to this type of call for service. Experience has demonstrated that this may agitate the response by the subject of the call or encounter.
 - c. The Deputies shall devise a plan that separates the subject from other civilians. This containment should respect the comfort zone of the subject in order to reduce any unnecessary agitation. Deputies should convince the subject that they do not have to move. Deputies should continuously evaluate this comfort zone and not compress it, unless necessary.
 - d. It is important for Deputies to ensure that on-lookers and family members are not in a position to become involved either verbally or physically in the control methods.
 - e. Effective containment reduces the elements of agitation, such as large groupings of persons or Deputies, emergency vehicle equipment, loud police radio transmissions, and multiple persons directing communications to the subject. Containment is meant to reduce outside influences and sources of agitation.
 - f. Deputies should move slowly.
 - g. Deputies should utilize all available tactics to de-escalate the situation where possible, however if an Deputies is faced with a dynamic and violent situation which poses a threat to the Deputies or other persons present, then Deputies should utilize their law enforcement control tactics outlined under the "Response to Resistance" policy to gain control.
- B. Coordination:** This is essential for control of the encounter and is the foundation for the development of an effective plan and use of personnel and resources:
- a. One Deputies at the scene shall be designated or assume the position of being the lead Deputies. This may not be the most senior person on the scene.
 - b. A perimeter shall be determined to ensure that outside persons and/or family members do not become involved.
 - c. Deputies shall limit observable indications of force. If firearms are drawn, they should be maintained in the low ready position and not displayed by Deputies who are attempting to establish communications with the subject.
 - d. The lead Deputies shall designate an Deputies to gather intelligence regarding the subject being encountered. This type of information can come from persons at the scene, neighbors and/or family. This information can become important in determining the further tactical approaches to the subject and the most appropriate form of referral.
 - e. The lead Deputies is responsible for determining what resources should be requested including additional sheriff personnel, specialized weapons, and professional resources and staged medical personnel.

- f. When warranted, the lead person will designate the location for a command post and staging area. This should be out of sight of the location of the subject encounter.
- C. Communication** with the person of diminished capacity should be planned and controlled:
- a. Prior to engaging the subject in communication, the initial responder should await the arrival of a cover Deputies. When dealing with subjects armed with edged weapons Deputies should, where possible, maintain a zone of safety, which allows for reaction should the subject decide to attack.
 - b. One Deputies shall be designated as the command voice and other Deputies shall refrain from becoming involved.
 - c. Verbal communication should be non-threatening. Whenever possible, use open-ended questions designed to facilitate the subject's participation. If the subject does not respond, use other communication techniques. It may be necessary to change the person designated as the command voice and determine whether that might be beneficial.
 - d. Sharp, authoritative commands should be avoided. Deputies should use calming communicative attempts.
 - e. It has been found that threats to arrest or use force are not productive when dealing with persons with diminished capacities. Reassure the subject that the police are there to help them.
 - f. Be truthful at all times.
 - g. Deputies must constantly analyze what affect, if any, their efforts are having on the subject. It is essential to identify areas that appear to agitate the subject and that should be avoided.
 - h. Normally, family members should not be used in an attempt to establish communications. This frequently exacerbates the situation.
- D. Time** is the concept of elongating the encounter, rather than hastening it:
- a. History has shown that the longer the encounter is allowed to occur, the better the chance for a successful and safe resolution.
 - b. Increasing the time of the encounter and using defusing techniques allows the subject to reflect upon his/her predicament.
 - c. Creating time also allows the field units to be supported by the deployment of additional sheriff personnel, specialized equipment and medical support personnel.
 - d. Time encourages the ability to communicate and create a relationship between the subject and the command voice.
 - e. The primary purpose for law enforcement response to an incident involving a person of diminished capacities is to control the situation and ensure that the person receives the most appropriate form of professional resources.
 - f. In determining, the most appropriate form of professional resource and referral Deputies should consider the information provided by professional resources persons and family members.

- g.** It is important for the Deputies on the scene to determine what, if any, on-going threat potential the subject poses to him or herself, family, community and the Deputies. This threat potential may necessitate an involuntary commitment procedure rather than simply hand off the subject to the family for a voluntary commitment.
- h.** Deputies shall use the resources of local crisis intervention personnel, if available, when making this commitment decision.

E. Commitment Procedures

- a.** Any person who appears to be or states that such person is mentally ill, alcohol-dependent, or drug-dependent to a degree that immediate emergency action is necessary may be taken into protective custody and detained as provided pursuant to the provisions of §43A-5-207.
- b.** Any peace Deputies who reasonably believes that a person is a person requiring treatment as defined in Section 1-103 of §43A-5-207 shall take the person into protective custody. The Deputies shall make every reasonable effort to take the person into custody in the least conspicuous manner.
- c.** The Deputies shall prepare a written statement indicating the basis for the Deputies' belief that the person is a person requiring treatment and the circumstances under which the Deputies took the person into protective custody. The Deputies shall give a copy of the statement to the person or the person's attorney upon the request of either. If the Deputies does not make the determination to take an individual into protective custody on the basis of the Deputies' personal observation, the Deputies shall not be required to prepare a written statement
- d.** If the person is medically stable, the Deputies shall immediately transport the person to the nearest facility designated by the Commissioner of Mental Health and Substance Abuse Services as an appropriate facility for an initial assessment. If, subsequent to an initial assessment, it is determined that emergency detention is warranted, the Deputies shall transport the person to the nearest facility, designated by the Commissioner as appropriate for such detention, that has bed space available. If it is determined by the facility director or designee that the person is not medically stable, the Deputies shall transport the person to the nearest hospital or other appropriate treatment facility.
- e.** If the person is medically unstable, the person may be transported to an appropriate medical facility for medical treatment.

F. RISK OF HARM TO SELF OR OTHERS (43A O.S. 1-103) –

- a.** a substantial risk of physical harm to self as manifested by evidence of serious threats of, gestures, or attempts at suicide or other self-inflicted or bodily harm,
- b.** a substantial risk of physical harm to another person or persons as manifested by evidence of violent behavior directed toward another person or persons,
- c.** having placed another person or persons in a reasonable fear of violent behavior, threats, or gestures of harm directed towards such person or persons or serious physical harm to them as manifested by serious threats,

