

Ask the Chief of the Anna Police: A weekly column allowing readers access to useful information about law enforcement issues in the Anna area.

This column is the personal opinion of Kenny Jenks and is based on his 29+ years of policing experience. It is not necessarily the official opinion of the City of Anna or the Anna Police Department. If you wish to Email, include your name and address in the correspondence. Your information will be edited before sending it to print.

Hello Readers,

I receive between 75-100 Emails each week from persons who would like to converse about the activities of the police in Anna and surrounding areas. I can't respond to or print all of them, but I do read them!

Jon from Oak Hollow writes: *“One of the boys that lives at ??? Oak Hollow Lane has begun telling other kids in the neighborhood that he can shoot them if they come on his property. When the boys mother was confronted about it, she denied that her child said it, but then said that he could. I wanted the trespassing law cleared up if you had the time. I was under the impression that you had to have signs to that nature posted. Please clear this incident up for me.*

Hello Jon,

Your inquiry is not a simple one. It deals with at least two sections of the Texas Penal Code. First, The Trespassing sections of the Penal Code (Sec. 30.05) define what trespassing is and what classification the violation would be. They do not cover or allow the use of force or deadly force (shooting people). Section 9 of the Penal Code covers the use of force in Texas.

Let's look at Criminal Trespass:

Sec. 30.05. CRIMINAL TRESPASS.

(a) A person commits an offense if the person enters or remains on or in property of another, including residential land, agricultural land, a recreational vehicle park, a building, or an aircraft or other vehicle, without effective consent and the person:

- (1) had notice that the entry was forbidden; or
- (2) received notice to depart but failed to do so.

(b) For purposes of this section:

- (1) "Entry" means the intrusion of the entire body.
- (2) "Notice" means: (A) oral or written communication by the owner or someone with apparent authority to act for the owner; (B) fencing or other enclosure obviously designed to exclude intruders or to contain livestock; (C) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden;

Now, let's look at Chapter 9 of the Penal Code which covers the use of force:

Sec. 9.41. PROTECTION OF ONE'S OWN PROPERTY. (a) A person in lawful possession of land or tangible, movable property is justified in using force against another when and to the degree the actor reasonably believes the force is immediately necessary to prevent or terminate the other's trespass on the land or unlawful interference with the property. **Note: Does not say, "Deadly Force (shooting somebody)" so your neighbor would be wrong if he or she believes you can shoot someone for coming onto her property.**

Key words in Section 9 are "force" and "reasonably believes the force is immediately necessary"

Any reasonable citizen understands that our society values human life and that the police and often the Grand Jury investigate use of force incidents. To be legal, any use of force must be deemed reasonable by those responsible for investigating the incident or it will proceed to a court of law for legal disposition. There a Judge or Jury will decide if the defendant acted "reasonably."

The Texas Statutes are available for the public to view. Please feel free to expand your knowledge of these statutes by viewing them on line: <http://www.statutes.legis.state.tx.us/>

Reminder: Outdoor Storm Sirens Tested (weather permitting)
First Wednesday of the month @ 12 noon.

***Phone numbers: Dial 911 in an emergency.** To have a police officer sent to you in a non-emergency, call 972-547-5350. During normal business hours, the APD number is 972-924-2848.

If you have a question or comment, please email: kjenks@annatexas.gov