


# The Tarrant County College District Police Department

## GENERAL ORDER

	SUBJECT	GENERAL ORDER NUMBER
	<b>USE OF DISCRETION</b>	<b>309.00</b>
	CALEA STANDARDS	EFFECTIVE DATE
	<b>1.1.3, 1.2.6, 1.2.7</b>	<b>May 1, 2015</b>
	REVISION DATE	
APPROVAL	PAGES	
<b>Shaun Williams, Chief of Police</b>	<b>4</b>	

**Policy Statement** - The Police have a statutory obligation to enforce the law. This responsibility is especially important due to the potential impact upon the community and well-being of individuals if laws are not enforced vigorously enough, or if they are enforced too rigidly. If the police fail to enforce the laws in a fair and reasonable manner, public confidence in the police can be seriously weakened. Conversely, the authority of the police may be seriously abused if laws are enforced in an arbitrary and prejudicial manner. The discretion in enforcement afforded the police is an awesome responsibility that must not be taken lightly. Patrol officers must be made to understand the importance of their role not just in enforcing the laws, but in defining, through the application of discretion, what is considered the demarcation between legal and illegal behavior.

There are many factors in each situation that officers weigh in making decisions. Among these factors are: the seriousness of the offense; the apparent mental state of the offender; past criminal record when known to the officer; whether weapons were involved; and the relative danger to the officer. In short, police discretion is inevitable partly because the police cannot do everything, partly because many laws require interpretation before they can be applied, and partly because the community will not tolerate full enforcement of all laws all the time.

### **309.01 - ADMINISTRATIVE REVIEW** **A 1.2.6**

- A. All students are expected to obey the Civil and Penal statutes of the State of Texas and The United States, the Rules and Regulations within the Student Handbook of The Tarrant County College District, the Policy and Procedures of The Tarrant County College District, and the orders or instructions issued by an administrative official of The Tarrant County College District in the course of his/her duties and to observe standards of conduct that are compatible with The Districts function as an educational institution.
- B. Any student who engages in conduct that is prohibited by the laws, rules, regulations, policy as stated above is subject to disciplinary action regardless of whether such conduct takes place on or off campus or whether civil or criminal penalties are also imposed for such conduct.
- C. **Alternatives to Physical Arrest.** Tarrant County College Police Officers, when attempting to resolve the various types of problems to which they respond, are encouraged to seek alternatives to physical arrest and incarceration, providing hazards to the community, victim, or suspects are not a result of their actions.

1. Tarrant County College Police Officers may choose to submit a Disciplinary Referral, detailing the incident, to the Vice President for Student Development Services or his/her designated discipline coordinator, in lieu of arrest or citation.
2. If the circumstances warrant such action, Tarrant County College Police Officers may submit a Disciplinary Referral to the Vice President for Student Development Services or his/her designated discipline coordinator, in lieu of or in addition to an arrest of or the issuance of a citation to a student. The Disciplinary Referral Form will be submitted with the applicable report.

D. **Incidents Involving Students and Non-Students.** In the event that an incident involves both students of the Tarrant County College District and non-students, the students shall be treated in the same manner as the non-students, with respect to enforcement.

### **309.02 - OFFICER DISCRETION A 1.2.7**

A. **Discretion and Alternatives.**

1. Scope - Procedures set forth in this *General Order (309.00)* as well as others are not designed to dictate to an Officer a specific response to every situation encountered, but rather, what bounds exist and what guidelines should be followed.
2. The use of discretion shall be controlled through:
  - a. Appropriate selection of personnel
  - b. Effective supervision
  - c. Departmental and/or institutional General Orders, including the Code of Ethics
  - d. Quality training
  - e. Performance Evaluation
3. The use of discretion shall not deteriorate into a form of discrimination, violence, or other abusive practice.
4. The Officer must use discretion as a tool and derive a satisfactory end result based on facts, variables, attitudes, and behavior known at the time.
5. Officers shall be corrected for inappropriate use of discretion through instructional material, training, effective supervision, and performance evaluation. Except for violent crimes, domestic violence cases, and violations of family violence protective orders, an officer does not have to make a warrant-less arrest every time the law authorizes it. The officer may, for good cause consistent with the public interest, decline to arrest even though there is probable cause to arrest.

B. Among acceptable reasons not to arrest are:

1. The victim is not seriously interested in prosecution because the victim desires restitution only or the victim is in a continuing relationship with the offender (except for domestic violence cases where the relationship of the parties is not an acceptable reason not to arrest);

2. The offender can be referred to another agency that is better equipped to deal with the problem;
  3. Arrest would result in unnecessary harm to the victim or offender that outweighs the risk of non-arrest; or
  4. The actual damage done to persons or property is minimal.
- C. Despite the presence of one or more of the factors listed above, arrest should be made if:
1. The offender is under investigation for another offense and in-custody investigation is desirable;
  2. The offense involves excessive or substantial loss or damage to property; or
  3. Arrest is necessary to safeguard witnesses or evidence or to prevent the offender from warning other conspirators.
- D. An officer must be able to articulate the reason(s) for making or not making an arrest.
- E. Arrest may be delayed to avoid the use of extraordinary force if delay will not jeopardize the arrest. Delay of arrest for an offense committed in view of the officer requires that an arrest warrant be obtained to make the arrest.

### **309.03 - OTHER ALTERNATIVES TO ARREST** A 1.2.6

- A. Officers may utilize written warnings on those traffic and Class C misdemeanor offenses where the facts indicate proper resolution of the event can be achieved without formal charge.
- B. This discretionary action may be restricted by the supervisor or department administration in those areas of directed patrol or selective traffic enforcement requiring stricter attention to enforcement or where the needs of the community warrants formal charges.
- C. **Verbal Warning.** Officers should **NOT** use the verbal warning to evade proper recording to resolving the situation properly. Supervisors will ensure that each incident response and resolution by the police will be properly documented.
- D. **Alternatives to Arrest/Pre-arraignment Confinement.** Under certain circumstances, officers are faced with situations where an arrest and pre-arraignment confinement will not be possible. In this case, officers may elect to exercise certain alternatives such as issuance of summonses, referral to a social service agency or simply a warning. Examples of the circumstances include:
1. Mentally or emotionally disturbed persons.
  2. Domestic non-violent situations where counseling may be appropriate.
  3. Juvenile offenders.
  4. Transient persons who need shelter and food.
  5. Misdemeanor cases at officer discretion.

- E. **Informal Handling of Criminal Matters.** Officers often deal with situations where the public interest would be better served by social service agencies or crisis and professional organizations. When, in the judgment of the officer, a better solution to the problem may be achieved by the use of alternatives to enforcement action, he should then refer the citizen to a social services agency.
- F. **Warnings.** The use of warnings may provide a satisfactory solution to a problem and may improve the public perception of the department. Normally, the use of a warning occurs in traffic offenses, but occasionally may be applied to criminal offenses. In determining whether the warning should be issued, the officer should consider the following:
  - 1. The seriousness of the offense.
  - 2. The likelihood that the violator will heed the warning.
  - 3. Previous contact with the violator (i.e., repeat offender; has had previous warnings).
- G. **Referral to local, state, or federal agencies for social service assistance.** The Tarrant County College Police Department has a role in utilizing local, state, or federal agencies for social service assistance. Officers may refer offenders to local, state, or federal agencies for social service assistance when the situation warrants. Examples of these referrals include, but are not limited to: **A 1.1.3**
  - 1. Women's Shelter;
  - 2. mental health organizations;
  - 3. drug abuse diversion programs; and
  - 4. criminal justice diversion programs principally designed for juvenile delinquents but may apply to others with whom the department may be involved.

#### **309.04 - DECISION MAKING PROCESS**

- A. Decisions made by employees during the course of their duties shall utilize sound judgment and factor the totality of the circumstances with due regard for the following:
  - 1. Law, Statute, and/or Ordinance;
  - 2. District and/or Department Policy and Procedure; and
  - 3. Acceptable Safety Protocol, Practice, Procedures.