



## **DALLAS COUNTY LAW LIBRARY TRESPASS POLICY**

**A. Policy Goal.** The purpose of this policy is to provide a pleasant atmosphere that facilitates the process of legal research and study. The Law Library is intended for use by persons engaging in law-related research or study. Dallas County believes that patrons of the Law Library have the right to use the Law Library materials and services without being disturbed or impeded by other Law Library users; that patrons and staff have the right to a secure and comfortable environment; and that patrons and staff have the right to materials and facilities that are in good condition. Thus, violations of the rules set forth below, Section D, may result in a Trespass Warning.

**B. Role of Law Library Director.** The Law Library Director ("Library Director") shall have the authority to request the issuance of a Trespass Warning ("Warning"), for the violations/conduct set forth in Section D, from Dallas County Security or the Dallas County Sheriff's Department. The Library Director will recommend the term of the Warning, to the issuing officer, pursuant to the guidelines set forth in Section E. The Library Director should give the individual who is to be issued the Warning an opportunity to provide a verbal explanation.

Dallas County will enforce this policy in a fair, consistent, and impartial manner.

**C. Notice of Trespass Policy.** Posted notice of the Trespass Policy in Section D, in a conspicuous location at the Law Library, shall constitute sufficient notice of Law Library rules that may result in a Warning. The Law Library, however, will endeavor to give a person a minimum of one written or verbal warning, and an opportunity to comply, before issuing a Warning for a Class I or Class II Offense (see Section D). Depending on the nature, frequency, or seriousness of the offense, a warning may not be possible.

**D. Trespass Policy.** It is the policy of Dallas County that a Trespass Warning may be issued for the Dallas County Law Library for content neutral conduct under the following conditions:

1. The person is at the Law Library for purposes other than to read, study, or otherwise use the Law Library materials; use the Internet for legal research (including Westlaw searches); attend a Law Library event; make copies of documents; or receive or send faxes (**Class I Offense**).

To establish this requirement, the person must: 1) admit to being at the Law Library for purposes other than to utilize it for its intended services; or 2) be observed failing to utilize the Law Library for its intended purpose after being put on notice (verbally or written) that they must be using the Law Library for the intended purpose to remain on the property and having had an opportunity to do so. The Law Library patron not using the Law Library's materials, facilities, and services, for the purposes stated in this section, should be asked to leave, unless in the judgment of the Library Director a Warning should be issued.

If a Warning is issued, an officer must state the facts giving rise to the conclusion that the person is at the Law Library for purposes other than to utilize the Law Library for its intended purpose.

2. The person continues to violate the following rules at the Law Library after being given a minimum of one verbal or written warning to desist or discontinue the conduct and an opportunity to correct the behavior (**Class I Offenses**):
  - a. Eating and drinking;
  - b. Soliciting, panhandling, petitioning, interviewing, or survey-taking;

- c. Littering or throwing things;
- d. Smoking or other tobacco use (including electronic cigarettes);
- e. Bringing pets or animals other than service animals necessary for disabilities, into the Library, except as authorized by appropriate Law Library personnel.
- f. Engaging in loud, boisterous, or disruptive behavior;
- g. Engaging in obscene language or gestures;
- h. Running;
- i. Entering an unauthorized area without permission of an authorized Law Library personnel;
- j. Using cell phones, pagers, and other electronic devices in a manner that disturbs others. Cell phones and other audible electronic devices should be turned off, and calls should be made/taken in the lobby or out of doors.
- k. Entering without a shirt or other covering of upper/lower bodies or without shoes or other footwear;
- l. Offensive bodily hygiene that interferes with others use of the library or with the library's staff performance of their duties;
- m. Using Law Library furniture for purposes other than for which the furniture was designed (e.g., two people sitting in a chair designed for one or sitting on a Law Library table);
- n. Misuse of the Law Library restrooms or water fountains (including bathing, shaving, or washing clothes); or
- o. Disruption of Law Library business by engaging in conduct which serves no legitimate purpose and interferes with: 1) the ability of patrons to use the Law Library; or 2) Law Library's staff ability to perform their jobs.

**3. The person continues to violate the following rules at the Law Library after being given a minimum of one verbal or written warning to desist or discontinue the conduct and an opportunity to correct the behavior (**Class II Offenses**):**

- a. Pushing or shoving;
- b. Using abusive, profane, or threatening language with staff or patrons, including but not limited to discriminatory language based upon race, color, religion, sex, national origin, age, or disability;
- c. Being under the influence of alcohol or drugs to the extent that the person is unable to exercise care for their safety or the safety of others or Law Library property;
- d. Harassment of staff or patrons. Harassment/harass means a systematic pattern of conduct directed at a specific person at the Law Library, that the perpetrator knows is unwanted by that person, and may cause emotional distress in such person and serves no legitimate purpose, including but not limited to:
  - a. unnecessary and prolonged staring, in a manner that reasonably can be expected to disturb the subject, with the intent to harass;
  - b. purposefully following others around the library, in a manner that reasonably can be expected to disturb the subject, with the intent to harass.

Stalking, sexual harassment, or harassment based on race, gender, age, disability, nationality, religion, or ethnicity will be considered to be a Class III violation.

**4. The person engages in any of the following conduct (**Class III Offenses**):**

- a. Vandalizing, tampering with, or damaging Law Library materials or property (includes but is not limited to folding or marking the pages of Law Library books, modifying or damaging Law Library computers hardware or software [including system configuration], intentionally misplacing or misfiling Law Library books, etc.);
- b. Public lewdness or indecent exposure;
- c. Selling or possessing illegal drugs;
- d. Stealing Law Library material;

- e. Viewing material deemed to be obscene, child pornography, or harmful to minors, as those terms are defined in the Children’s Internet Protection Act and the Texas Penal Code;
- f. Using Law Library computers to: a) propagate computer worms or viruses; b) gain access to files or passwords belonging to other individuals or computer networks; or c) transmit materials in violation of U.S. or state regulations.
- g. Fighting or challenging to fight;
- h. Physically abusing or assaulting a patron or staff;
- i. Conduct resulting in harm or bodily injury to a patron or staff; or
- j. Stalking, sexually harassment, or harassment of staff or patrons based on race, gender, age, disability, nationality, religion, or ethnicity. Sexual harassment means the unwanted sexual attention of a persistent or offensive nature made by a person who knows, or should know, that such attention is unwanted, including the making of unwanted sexual advances and/or remarks, offensive touching, or obscene remarks. Sexual harassment includes:
  - a. persistently paying unwanted romantic attention to another at the Law Library, including unwanted romantic advances, after being given a warning to desist such conduct; or
  - b. making unsolicited and invasive comments regarding the sexual activities or involvement of another person at the Law Library, which the commenter knows or should know the subject would find offensive or which invades a person’s privacy interests, after being given a warning to desist such conduct.

Stalking means the willful and repeated following, watching, and/or harassing of another person: 1) for no legitimate purpose, after being put on notice to discontinue the conduct; or 2) prohibited by a Protective Order issued by a court of competent jurisdiction.

For a Warning based on harassment or stalking of a staff member or patron, an officer must state the specific facts giving rise to the conclusion that the person was stalking or harassing a patron or staff.

- 5. The person has committed any violation of federal, state, or local law (including a city ordinance) at the Law Library that:
  - a. results in a Class C Misdemeanor Citation (**Class II Offense**);
  - b. results in a Class A or B Misdemeanor complaint/charge (**Class III Offense**); or
  - c. results in a felony charge (**Class III Offense**).

**E. Effect of a Warning.** The person issued a Warning shall not enter the Law Library for the period of time specified in the Warning. Any person who re-enters the Law Library during the term of the Warning shall be considered a trespasser and may be prosecuted for criminal trespass. See Texas Penal Code § 30.05.

**F. Guidelines.**

- 1. A Warning for any conduct listed in Section D can be issued at the request of the Library Director, pursuant to the following guidelines, based on the classification of the offense, unless concern for the safety of person or property requires otherwise:

<b>Description of Conduct (within a 24 month period)</b>	<b>Duration of Exclusion</b>
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<b>CLASS I OFFENSES</b>	
First trespass warning	0-30 days
Second trespass warning	30-60 days
Third trespass warning	90 days-1 year
<b>CLASS II OFFENSES</b>	
First trespass warning	60-120 days
Second trespass warning	150-1 year
Third trespass warning	1 year-permanent
Any Class II offense resulting in minor/de minimus harm to persons or property, first trespass warning	180 days
Any Class II offense involving serious bodily injury or the threat of serious bodily injury to a person or property, and threat of similar future conduct	1 year - permanent
<b>CLASS III OFFENSES</b>	
First trespass warning	180 days – 1 year
Second trespass warning	240 days - permanent
Serious bodily injury or the threat of serious bodily injury to a person or property, and threat of similar future conduct	permanent

1. The Library Director may add additional days to the exclusionary period of repeat offenders who commit successive offenses, within different classifications within 24 months, if such successive Warnings are not otherwise addressed by the guidelines enumerated under Section F(1). The Library Director can add up to 60 days to the

maximum exclusionary period for the offense. For example, if the person commits a Class II offense and then a Class I offense within 24 months, the maximum penalty is 90 days (30 days + 60 days).

2. In determining the duration of the exclusion, in accordance with the Guidelines set forth in Section F(1) and F(2)(where applicable):
  - a. the seriousness of the offense should be considered. The duration of the exclusion should be related in severity to the seriousness of the offense; and,
  - b. The specific provisions prevail over the general provisions. For example, if a person destroyed a Law Library book with a value under \$50.00, Section D(4)(a), specific provisions regarding tampering/damaging Law Library property, Class III Offense guidelines, would prevail over the general guidelines under Section D(5)(a), for a Class C Misdemeanor for criminal mischief under Texas Penal Code 28.03, involving pecuniary loss under \$50.00, a Class II Offense.
3. An officer, at his discretion, can issue a longer period of exclusion, outside of the Guidelines set forth in Section F(1) and F(2), if he reasonably believes a person poses a serious threat of bodily injury or property damage to Law Library staff/patrons or materials/property. The officer should state the facts which, taken together with rational inferences from those facts, lead the officer to conclude that the person is a serious threat of bodily injury or property damage.
4. The Warning should be limited to the Law Library. The Warning should describe the area or building from which the person is to be excluded so that a reasonable person may understand the specific area to which the person may not return.
5. The Warning should state the specific provision of the Law Library Trespass Policy violated, the facts in support of the violation, the duration of the exclusion, and should be served on the person by certified mail return receipt or hand delivery.

**G. Documentation.** The Law Library shall maintain an "incident log" of all verbal/oral and written warnings to patrons and visitors. The log should include the date of the incident, the name of the patron or visitor (if known), the rule violated, a brief description of the facts, and the warning given or action taken. The Law Library shall maintain these records for a minimum of three years.

#### **H. Appeal Process.**

Any person who is issued a Warning, for the Law Library, may file an appeal. The Warning should be appealed on the **Trespass Administrative Appeal Form** pursuant to the **Guidelines For Filing an Appeal of a Trespass Warning With Dallas County** as follows:

1. A First Appeal should be made to the Director of Planning & Development (Via Certified Mail or hand delivery), at Dallas County Administration Building, 411 Elm St., 3rd floor, Dallas, Texas 75202, within 14 days of receiving the Warning. If the suspension is for 60 days or less, an informal hearing can be requested with the Director of Planning & Development ("Planning Director"). If the suspension is for 61 days or more, a formal hearing can be requested before the Planning Director. If a hearing is not requested, the appeal will be determined on the written submission of documents.
2. An appeal of the First Appeal Decision must be made to the Dallas County Administrator (Via Certified Mail or hand delivery), at Dallas County Administration

Building, 411 Elm St., 2nd floor, Dallas, Texas 75202, within 10 days of receiving the First Appeal. The Second Appeal can be reviewed by the Dallas County Administrator or designated to a Dallas County Assistant County Administrator for review. The decision of the Dallas County Administrator/Assistant Administrator shall be final.

The **Trespass Administrative Appeal Form** and the **Guidelines For Filing an Appeal of a Trespass Warning With Dallas County** can be found on the Dallas County Website at (TBD) or requested at (TBD).

The First Appeal should contain a brief description of the reasons for the appeal and why the Warning should be modified or overturned. The First Appeal should be based on the premise that the Warning was not consistent with this policy, was unjustified, violates some law or right, the person in receipt of the Warning received a favorable disposition of the charges/citation that gave rise to the Warning, and/or for other good cause shown. The First Appeal should be set for hearing, where applicable, within 10-30 business days of receipt of the appeal and a decision made within 48 hours of the hearing, unless emergency review is requested. If the First Appeal is by written submission of documents, the decision should be made within 5-7 business days of receipt of the appeal. Emergency review is available in cases where an individual will suffer immediate harm if not allowed back into the Law Library. A First Appeal accepted for emergency review should be set for hearing within 5-10 business days of acceptance and a decision made within 48 hours of the hearing.

The Second Appeal, if any, is based on the record and there is no hearing. Upon notice of a Second Appeal, the Planning Director shall provide the Dallas County Administrator/Assistant Administrator with the full record from the First Appeal. The review shall be based on substantial evidence (see Burden of Proof, Section I). The Dallas County Administrator/Assistant Administrator shall issue his/her written decision on the Second Appeal within 10 days of receiving the First Appeal.

## **I. Hearing Procedures.**

The person to whom a Warning is issued may appeal an exclusion of 60 days or less through an informal hearing or an exclusion of 61 days or more through a formal hearing, on the **Trespass Administrative Appeal Form**. If an informal or formal hearing is requested, the person issued the Warning shall be notified of the informal or formal hearing date at least Seven business (7) days before the hearing. For good cause, the individual or Library Director can request, in writing, an extension of the hearing date, which may be granted at the sole discretion of the Planning Director. Only one extension will be granted, irrespective of which party acts for the extension. The request for an extension must be in writing and received 48 hours prior to the scheduled time for the hearing.

*Informal Hearing.* For Warnings less than 60 days, if requested, an informal hearing should be scheduled with the Planning Director for the purpose of allowing the person issued the Warning to present their case and arguments regarding the Warning before the Planning Director rules on the First Appeal. The Library Director should provide the Trespass Warning and other public supporting documents concerning the trespass, from Dallas County Security and the Law Library, to the Planning Director, who will make such documents available to the person issued the Warning for inspection and copying before the hearing. The person may bring witnesses to the hearing with them to present their case, but the Department does not have to be present; however, the Planning Director may, at his/her discretion, require the presence of the Department and/or ask questions of the Library Director and/or staff or any other person deemed to have relevant information, including when there is a factual dispute concerning the action made the basis of the Warning. The person issued the Warning must notify the Planning Director, at a minimum, seventy two (72) hours before the hearing if they are bringing any witnesses or representatives with

them and the identity of the witnesses or representatives (including address and telephone number). The informal hearing will take place in the office of the Planning Director or another place designated by him/her.

*Formal Hearing.* For Warnings 61 days or more, if requested, a formal hearing should be scheduled by the Planning Director for the purpose of allowing the person issued the Warning to present their case and arguments regarding the Trespass Warning to the Planning Director, before he/she rules on their First Appeal. The person issued the Warning should be allowed to present testimony and evidence and may call witnesses and question witnesses of the other party. The Planning Director does not have the subpoena power to compel the attendance of a witness. The Law Library and the person issued the Warning are responsible for securing the attendance of their witnesses. The Planning Director shall conduct the hearing as he/she deems necessary, provided that he/she shall allow each side a fair opportunity to present their arguments. The hearing shall be held at a Dallas County Facility, as determined to be in the best interest of the parties, in the sole discretion of the Planning Director. The person issued the Warning and the Library Director must notify the Planning Director, at a minimum of four days before the hearing, if he/she will be represented by counsel or other representative and the identity (including address and telephone number) of any witnesses they plan to bring. The Library Director or his/her designee, must also appear at the hearing. The parties may question each other's witnesses. Each side will have 30 minutes to present their case and question any witnesses, unless good cause exists to extend the time. The right to question a witness may be restricted if the questioning is incompetent, irrelevant, immaterial and unduly repetitious. The time limitations do not apply to a permanent ban from the Law Library.

*Code of Conduct At Hearing:* Parties and witnesses shall preserve order and decorum and should not engage in disruptive or disorderly conduct during a hearing. Asking questions merely to embarrass, badger, or bully a witness is prohibited.

*Failure to Appear:* If the individual issued the Warning fails to attend a scheduled hearing, or provide good cause why they cannot attend, the Planning Director shall dismiss the appeal and affirm the Warning.

*Burden of Proof:* The burden of proof is on the Department to establish that there was substantial evidence to issue the Warning. "Substantial evidence" is more than a mere scintilla. It means there is relevant evidence that a reasonable mind might accept as adequate to support a conclusion.

*Issuance of Opinion:* Within forty-eight (48) hours after the formal or informal hearing, the Planning Director shall issue a written decision stating the reasons therefore, and cause the decision to be sent or delivered to the person issued the Warning, the Dallas County Sheriff's Department, the Library Director, and Dallas County Security. The issues for the decision, after considering all arguments and documents, shall include the following:

- whether the Warning was issued for a reason set out in Section D;
- whether the period of exclusion comports with sections F(1)-(3);
- whether the facts underlying the Warning are credible; and
- whether the duration of the Warning is appropriate under the facts and circumstances.

## **J. Notices.**

1. The Trespass Policy in Sections D-E and the Guidelines in Sections F-I should be posted in a conspicuous place in the Law Library (e.g., at the entrance or at the circulation desk), along with an e-mail link to information on the appeal process.

2. The Warning shall include the website at which to obtain the **Trespass Administrative Appeal Form** along with the **Guidelines For Filing An Appeal Of A Trespass Warning With Dallas County**, and the address at which to request the forms.
3. If a Warning is appealed, copies of all appeal decisions should be sent to the person appealing (by certified mail or e-mail, if provided), the Dallas County Sheriff's Department, the Library Director, and Dallas County Security, by the decision-maker.

**K. Application.** This policy applies to situations where a Trespass Warning may be issued to a Law Library patron or visitor. This policy is not exclusive and does not supersede or supplant the Law Library's right to enforce or take other actions for violation of Law Library rules or policies, excluding Trespass Warnings.