

Law Enforcement Authority

100.1 PURPOSE AND SCOPE

The purpose of this policy is to affirm the authority of the members of the Fargo Police Department to perform their functions based on established legal authority.

100.2 PEACE OFFICER POWERS

Licensed members of the Fargo Police Department are authorized to exercise the authority of peace officers and to make arrests as authorized by law or as expanded by a joint powers agreement with another jurisdiction (N.D.C.C. § 11-15-03; N.D.C.C. § 40-20-05; N.D.C.C. § 44-08-20).

100.2.1 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE FARGO POLICE DEPARTMENT

The arrest authority of officers outside the jurisdiction of the Fargo Police Department includes:

- (a) While continuing beyond the 1½-mile jurisdictional boundaries of the City when in hot pursuit and if obtaining the aid of law enforcement officers who have jurisdiction would cause a delay that could permit escape (N.D.C.C. § 40-20-05).
- (b) While transporting an individual who is under arrest or being detained for a mental illness or a substance use disorder under chapter N.D.C.C. § 25-03.1-01 et seq. (N.D.C.C. § 29-06-05.3).

An officer should, as soon as practicable after making the arrest, notify the agency having jurisdiction where the arrest was made.

100.2.2 ARREST AUTHORITY WITHIN THE JURISDICTION OF THE FARGO POLICE DEPARTMENT

The arrest authority within the jurisdiction of the Fargo Police Department includes:

- (a) In compliance with an arrest warrant (N.D.C.C. § 29-06-02).
- (b) Without a warrant for the following (N.D.C.C. § 29-06-15):
 1. For a public offense committed or attempted in the officer's presence.
 2. When the person arrested has committed a felony, although not in the officer's presence.
 3. When a felony in fact has been committed and the officer has reasonable cause to believe the person arrested has committed it.
 4. For the public offenses not classified as felonies and not committed in the officer's presence as provided for under N.D.C.C. § 29-06-15.1.
 5. On a charge, made upon reasonable cause, of DUI.
 6. On a charge, made upon reasonable cause, of being under the influence of volatile chemical vapors in violation of N.D.C.C. § 19-03.1-22.1.

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100.2.3 GRANTING AUTHORITY TO OTHERS

An officer making an arrest may summon the aid of any persons the officer deems necessary to aid in the arrest (N.D.C.C. § 29-06-03).

100.3 INTERSTATE PEACE OFFICER POWERS

Peace officer authority may be extended within other states:

- (a) As applicable under interstate compacts and memorandums of understanding in compliance with the laws of each state and North Dakota law (N.D.C.C. § 54-40.3-04).
- (b) When an officer enters Minnesota in fresh pursuit of a felony subject (Minn. Stat. § 626.65; Minn. Stat. § 626.71).
- (c) When an officer enters Montana or South Dakota in fresh pursuit of a subject who committed any offense (§ 46-6-411, MCA; S.D.C.L. § 23A-3-9; S.D.C.L. § 23A-3-10).

Whenever an officer makes an arrest in another state, the officer shall take the offender to a magistrate or judge in the county where the arrest occurred as soon as practicable (Minn. Stat. § 626.66; § 46-6-411, MCA; S.D.C.L. § 23A-3-12).

100.4 CONSTITUTIONAL REQUIREMENTS

All employees shall observe and comply with every person's clearly established rights under the United States and North Dakota constitutions.

100.5 POLICY

It is the policy of the Fargo Police Department to limit its members to only exercise the authority granted to them by law.

While this department recognizes the power of peace officers to make arrests and take other enforcement action, officers are encouraged to use sound discretion in the enforcement of the law. This department does not tolerate abuse of law enforcement authority.

100.6 REVISION DATE 07/25/2024