

Service Animals

338.1 PURPOSE AND SCOPE

Service animals play an important role in helping to overcome the limitations often faced by people with disabilities. The Fargo Police Department recognizes this need and is committed to making reasonable modifications to its policies, practices and procedures in accordance with Title II of the Americans with Disabilities Act (ADA) and North Dakota law to permit the use of service animals that are individually trained to assist a person with a disability.

338.2 SERVICE ANIMALS

The ADA defines a service animal as any dog or miniature horse that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the owner's disability (28 CFR 35.104).

338.2.1 STATE LAW

A "service dog" means any dog trained to do work, perform tasks, or provide assistance for the benefit of an individual with a disability. The term includes an animal trained to provide assistance to an individual with a disability, pull a wheelchair, lend balance support, retrieve dropped objects, or provide assistance in a medical crisis (N.D.C.C. § 25-13-01.1).

338.2.2 USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar. Service animals are not pets and may be trained by an individual or organization to assist people with disabilities.

Service animals may be used in a number of ways to provide assistance, including:

- (a) Guiding people who are blind or have low vision.
- (b) Alerting people who are deaf or hard of hearing.
- (c) Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- (d) Pulling wheelchairs.
- (e) Providing physical support and assisting with stability and balance.
- (f) Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.
- (g) Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

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338.3 MEMBER RESPONSIBILITIES

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the public is allowed. Department members are expected to treat individuals with service animals with the same courtesy and respect that the Fargo Police Department affords to all members of the public (N.D.C.C. § 25-13-02; N.D.C.C. § 25-13-02.1).

If an animal exhibits vicious behavior, poses a direct threat to the health of others or unreasonably disrupts or interferes with normal business operations, the employee may direct the owner to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the partner/handler takes prompt, effective action to control the animal. Each incident must be considered individually. Past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse service to an individual with disabilities. Members of this department are expected to provide all services as are reasonably available to the individual with a disability.

If it is apparent or if the Department member is aware the animal is a service animal, the owner should not be asked any questions as to the status of the animal. If it is unclear whether an animal meets the definition of a service animal, the member should ask the individual only the following questions:

- (a) Is the animal required because of a disability?
- (b) What task or service has the animal been trained to perform?

If the individual explains that the animal is required because of a disability and has been trained to work or perform at least one task, the animal meets the definition of a service animal, and no further question as to the animal's status should be asked. The person should not be asked questions about his/her disabilities nor should the person be asked to provide any license, certification or identification card for the service animal.

Service animals are not pets. Department members should not interfere with the important work performed by a service animal by talking to, petting or otherwise initiating contact with a service animal.

When handling calls of a complaint regarding a service animal, members of this department should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to permit service animals to accompany their partner/handler in all areas that other customers or members of the public are allowed.

Absent a violation of law independent of ADA, officers should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of their disability should be referred to the Civil Rights Division of the U.S. Department of Justice.

338.4 DETENTION OF SERVICE ANIMAL OWNER

In the event the owner of a service animal is arrested or brought to detox, the arresting or detaining officer shall do the following:

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- (a) Notify a supervisor given the possible ADA and medical care implications. The person needing service animal assistance may have a medical condition such as frequent seizures, and given the totality of the circumstances, the best course of action may be to contact the City Prosecutor or Cass County States Attorney to discuss release on PR.
- (b) Determine if a Community Service Officer (CSO) is on-duty to assist in taking possession of the service animal.
 - 1. The CSO should either release the service animal to a person of the owner's choice, or
 - 2. Transport the service animal to a department approved veterinary facility for safekeeping,
- (c) If no CSO is available, the officer shall determine if the service animal can be released to a family member or friend if within a reasonable amount of time (usually less than one hour).
- (d) If the owner refuses to release the service animal to another person, or the person cannot take possession of the service animal within a reasonable time, the officer shall:
 - 1. Take possession of the service animal or request another officer take possession of the service animal.
 - 2. Transport the service animal to a department approved veterinary facility for safekeeping.
 - 3. The officer shall note on the veterinary intake form that the animal is a service animal, the owner's name, whether the owner was arrested or taken to detox, and the time and date of arrest.
 - 4. The officer should also send an email to the CSO group notifying them of the placement of a service animal for safekeeping at the veterinary facility. The email should include the time and date of arrest, case number, and name of the arrestee/owner of the service animal.

338.4.1 ADDITIONAL CONSIDERATIONS

Reasonable accommodations for a service animal do not exist within the Cass County Jail or the City of Fargo Detox Center. Service animals are not allowed in either facility.

Nothing in this policy prohibits an officer from asking required or necessary medical questions of the arrestee during the jail booking process or during the investigation of a driving under the influence (DUI) incident pursuant to policy 504 (Impaired Driving).

338.5 REVISION DATE 04/01/25