

Service Animals

347.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to ensure that the rights of individuals who use service animals to assist with disabilities are protected in accordance with Title II of the Americans with Disabilities Act (ADA).

347.1.1 DEFINITIONS

Definitions related to this policy include:

Service animal - A dog that is 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 individual's disability (28 CFR 35.104; N.D.C.C. § 25-13-01.1).

Service animal also includes a miniature horse if the horse is trained to do work or perform tasks for people with disabilities, provided the horse is housebroken, is under the handler's control, the facility can accommodate the horse's type, size, and weight, and the horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility (28 CFR 35.136(i)).

347.2 POLICY

It is the policy of the Fargo Police Department to provide equal access to services, programs, and activities of the Department to persons with service animals. Department members shall protect the rights of persons assisted by service animals in accordance with state and federal law. This protection extends to any person who is training a service dog (N.D.C.C. § 25-13-02.1).

347.3 IDENTIFICATION AND USE OF SERVICE ANIMALS

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the general 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 (28 CFR 35.136).

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness, or collar.

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.

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- (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.

347.4 INQUIRIES REGARDING SERVICE ANIMALS

If it is apparent or if a member is aware that an animal is a service animal, the individual generally 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 (28 CFR 35.136(f)):

- (a) Is the animal required because of a disability?
- (b) What task or service has the service 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 questions as to the animal's status should be asked. The individual should not be questioned about their disabilities nor should members ask any individual to provide any license, certification, or identification card for the service animal.

347.5 CONTACT WITH SERVICE ANIMALS

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

347.6 REMOVAL OF SERVICE ANIMALS

If a service animal is not housebroken, exhibits vicious behavior, poses a direct threat to the health or safety of others, or unreasonably disrupts or interferes with normal business operations, a department supervisor may direct the handler to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the person takes prompt, effective action to control the service animal (28 CFR 35.136 (b); 28 CFR 35.139).

Each incident must be considered individually, and 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 access to services, programs, and activities to an individual with a disability. Members are expected to provide all services, programs, and activities that are reasonably available to an individual with a disability, with or without a service animal.

347.7 ARREST 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.

347.7.1 ADDITIONAL ARREST 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 the Impaired Driving Policy (504).

347.8 COMPLAINTS

When handling calls of a complaint regarding a service animal, members should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to allow service animals to accompany their handlers into the same areas that other customers or members of the public are allowed (28 CFR 36.302).

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

347.9 INITIAL ISSUANCE DATE 03/10/2026