

Mental Illness Commitments

409.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may place a person under a mental illness commitment for purposes of a mental health evaluation (N.D.C.C. § 25-03.1-01 et seq.).

409.2 POLICY

It is the policy of the Fargo Police Department to protect the public and individuals through legal and appropriate use of mental illness commitments.

409.3 AUTHORITY

When an officer has probable cause to believe that an individual requires treatment and there exists a serious and immediate risk of harm to that individual, other persons, or property, and preliminary intervention by a magistrate is not possible, the officer may take the individual into custody and transport them to a public treatment facility to be screened for admission (N.D.C.C. § 25-03.1-04; N.D.C.C. § 25-03.1-25).

Should emergency conditions exist that prevent the immediate transportation of the individual to a public treatment facility, a private facility that has adequate resources and capacity may hold the individual for up to 23 hours prior to transfer to a public treatment facility (N.D.C.C. § 25-03.1-25).

If an officer reasonably believes that the individual is not complying with an order for alternative treatment, that the alternative treatment is not sufficient to prevent serious risk of harm, and that considerations of time and safety do not allow intervention by a court, the officer may cause the individual to be taken into custody and detained at a treatment facility as provided by law (N.D.C.C. § 25-03.1-21).

Upon taking an individual into custody for a mental illness commitment, an officer shall immediately advise the individual of the purpose of custody, of the intended uses and possible effects of any evaluation that the individual undergoes, and of the individual's rights to counsel as well as a preliminary or treatment hearing (N.D.C.C. § 25-03.1-25).

409.3.1 VOLUNTARY EVALUATION

If an officer encounters an individual who may qualify for a mental illness commitment, he/she may inquire as to whether the person desires to be voluntarily evaluated at an appropriate facility. If the person so desires, the officer should:

- (a) Transport the person to an appropriate facility that is able to conduct the evaluation and admit the person for detention for the purpose of a mental health evaluation.
- (b) If at any point the person changes his/her mind regarding voluntary evaluation, the officer should proceed with the involuntary detention for the purpose of a mental health evaluation, if appropriate.
- (c) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission. If during the officer's investigation enough information

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has been gathered to support the probable cause necessary to involuntarily commit the individual for an evaluation, the officer shall fill out state form SFN-17264 even if the person agreed to go willingly.

- (d) If an officer does not find probable cause to involuntarily commit the individual, but the individual is voluntarily transported to a mental health facility, the officer must enter comments into the dispatch run to document those facts.

409.4 CONSIDERATIONS AND RESPONSIBILITIES

Any officer handling a call involving a person who may qualify for detention for the purpose of a mental health evaluation should consider, as time and circumstances reasonably permit:

- (a) Available information that might assist in determining the possible cause and nature of the person's action or stated intentions.
- (b) Community or neighborhood mediation services.
- (c) Conflict resolution and de-escalation techniques, such as Crisis Intervention Team.
- (d) Community or other resources that may be readily available to assist with mental health issues such as the Mobile Crisis team.

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of officers and others.

Detention for the purpose of a mental health evaluation should be preferred over arrest for people who have mental health issues and are suspected of committing minor crimes or creating other public safety issues.

409.5 TRANSPORTATION

Transport for any individual for a mental illness commitment shall be conducted in accordance with the Transporting Persons in Custody Policy (902).

Officers may transport individuals in the patrol unit and shall secure them in accordance with the Handcuffing and Restraints Policy (302).

409.6 TRANSFER TO APPROPRIATE FACILITY

Upon arrival at the facility, the officer will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the officer should provide the staff member with the written application for detention for the purpose of a mental health evaluation and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the officer may assist with transferring the individual to facility

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restraints and will be available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints.

409.7 DOCUMENTATION

Upon arrival to the appropriate facility, the officer shall complete and provide the SFN-17264 form to the facility staff. The form must state the circumstances under which the individual was taken into custody and must describe the actions that led the officer to believe the individual requires treatment, and that, because of that person's condition, there exists a serious risk of harm to the individual, another person or property if the person is not immediately detained (N.D.C.C. § 25-03.1-25). A copy of the completed SFN-17264 form shall be submitted to the Records Unit for inclusion in the Department records management system.

The officer should also provide a verbal summary to a receiving facility staff member regarding the circumstances leading to the involuntary detention.

409.8 CRIMINAL OFFENSES

Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken into custody for a mental health evaluation should resolve the criminal matter by issuing a warning or a citation, as appropriate.

When an individual who may qualify for detention for the purpose of a mental health evaluation has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the officer should:

- (a) Arrest the individual when there is probable cause to do so.
- (b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the detention.
- (c) Facilitate the individual's transfer to jail.
- (d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for detention.

In the supervisor's judgment, the individual may instead be transported to the appropriate mental health facility. The supervisor should consider the seriousness of the offense, the treatment options available, the ability of the Department to regain custody of the individual, department resources (posting a guard) and other relevant factors in making this decision.

409.9 FIREARMS AND OTHER WEAPONS

Whenever a person is taken into custody for a mental illness commitment, the handling officer should try to determine if the person owns or has access to any firearm or other deadly weapon.

North Dakota Century Code does not allow specific authority to seize property from a person for the purpose of safekeeping, to include suicidal individuals. Doing so could create a liability for the department and the officer. In situations where there is no lawful reason to seize the firearm

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as evidence, the firearms may only be taken into custody with consent of the lawful owner or their designee. These persons should be encouraged to find alternative methods of securing the firearms such as, turning them over to a family member, a friend, or rendering the firearm unusable.

Firearms may be taken and logged in as safekeeping when:

- (a) All other options for alternative storage have been exhausted, AND
- (b) The owner has given permission for the firearm to be placed in police custody, AND
- (c) A report has been completed documenting the reason for police custody and consent from the owner, AND
- (d) A Safekeeping Receipt has been issued to the owner.

Officers are cautioned that a search warrant may be needed before entering a residence or other place to search, unless lawful, warrantless entry has already been made (e.g., exigent circumstances, consent). A warrant may also be needed before searching for or seizing weapons.

The handling officer should further advise the person of the procedure for the return of any firearm or other weapon that has been taken into custody. The department does background checks on all persons claiming the return or release of a firearm from the Property Unit. Firearms will not be returned to individuals who are not the lawful owner and/or who cannot lawfully possess them.

409.10 TRAINING

This department will endeavor to provide department-approved training on interaction with persons with a mental disability, mental illness commitments, and crisis intervention.

409.11 REVISION DATE 08/12/2025