



# CITY OF FARGO POLICE DEPARTMENT



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March 9, 2021

Senator Holmberg, Chair  
North Dakota Senate Judiciary Committee  
Bismarck, ND

RE: HB 1287

Dear Chairman Holmberg and members of the Committee,

My name is David Zibolski and I am the newly appointed Chief of Police in Fargo. I am a 36-year law enforcement professional, having worked in various ranks within the Milwaukee Police Department, Deputy Administrator with the Wisconsin Department of Justice, and served as chief in two departments—Beloit, WI and now Fargo.

I testify before you today in strong support of HB 1287. In the City of Fargo, our overdoses have increased dramatically from 36 in 2019 to 91 in 2020 and have been on an upward trend since 2018. Most disconcerting is the rapid increase in fatal overdoses, from 11 in 2019 to 18 in 2020. When I testified before the House Judiciary Committee regarding this bill on January 26, 2021, we had experienced nine (9) overdoses with two (2) fatalities. As of March 6, 2021, the City of Fargo has experienced 24 overdoses with three (3) fatalities. Toxicology data from the fatal cases show a variety of poly-drug mixtures involving Fentanyl, Methamphetamine, and other drugs.

I have learned from our narcotics investigators that in some of the fatal overdose cases they have identified the same person or persons involved in the delivery of narcotics that caused a fatal overdose in our community. These individuals are not the addict-to-addict dealers, but in fact are insidious criminals who deliver a variety of narcotic mixtures, regardless of its fatal potency or components, for the sole purpose of criminal enterprise. They have evolved their criminality to the point where they now conceal fatal doses of Fentanyl into pills—M-30's—that appear to be prescription Oxycodone. The Fargo Police Department has recovered a large amount of these pills during search warrants related to overdose investigations. They are not using and then calling EMS after a fatal overdose, they are delivering dangerous narcotics to further their criminal gains and simply walking away.

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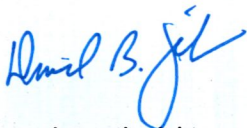
Unfortunately, this crime does not have a penalty enhancer, so a trafficker faces no additional penalty for causing a fatal overdose than they do for merely delivering a narcotic to a user. This is a critical gap in criminal accountability, as well as an oversight in safeguarding legitimate victims of these treacherous crimes.

Currently, law enforcement in North Dakota has no ability to hold these individuals responsible in a meaningful way. Federal cases offer an enhanced penalty, but are few and far between and in most cases venue cannot be established for such a case. Just as in other crimes (armed robbery, burglary, etc.) in which the victim is killed as a result, trafficking narcotics that cause a fatal overdose should expose the offender to an enhanced Class A Felony.

This bill does not diminish in any way the previously legislated immunity provisions provided for in section 19-03.1-23.4 (NDCC), but it does provide a much needed penalty enhancer for hard-core criminals who are killing our community members and adversely affecting our families. The final decision in terms of prosecution will rest with State Attorney's, which will ensure appropriate application of the enhanced penalty without compromising Good Samaritan safeguards. On January 25, 2021, the Fargo City Commission endorsed this bill under these premises.

Thank you for the opportunity to testify before you today. I am happy to answer any questions you may have.

Sincerely,



David B. Zibolski

Chief of Police

City of Fargo

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