

## **N.D.A.G. Letter to Renner (Feb. 3, 1989)**

February 3, 1989

Mr. Jerry Renner  
Kidder County State's Attorney  
P.O. Box 229  
Steele. ND 58482

Dear Mr. Renner:

Thank you for your letter of January 24, 1989, in which you inquire whether a city police officer can go outside of his geographic jurisdiction to investigate criminal offenses which occurred within his jurisdiction.

N.D.C.C. § 40-20-05 sets forth the territorial jurisdiction of a city police officer. Unless that officer is in "hot pursuit," the city police officer has the authority to exercise powers as a peace officer within the city limits and for a distance of one and one-half miles in all directions outside the city limits.

A city police officer does not have peace officer powers outside the one and one-half mile limit established by N.D.C.C. § 40-20-05 unless that police officer has been deputized or appointed as a peace officer by some other governmental entity.

Although a city police officer will not possess the ability to exercise powers as a peace officer beyond the one and one-half mile limit, there is nothing in North Dakota law which would prohibit that person from making inquiries outside this limit concerning the commission of criminal offenses occurring within the city limits. When going beyond the one and one-half mile limit, the officer will be acting in a capacity other than as a city police officer with full peace officer powers.

Although you did not raise this issue in your letter, I think it is important to discuss the capacity of the officer when conducting extraterritorial investigations. The person may be acting merely as a volunteer. In that case, that person would not be exercising the powers of a peace officer or acting within the scope of that person's employment with the city. However, there are instances in which a city or department may authorize a person to travel outside of the territorial limits of a city for official city functions. For instance, a city police officer may be authorized to attend meetings, seminars, or schools outside city limits but such attendance would be within the scope of the employment of that officer. Although the person would not be vested with peace officer authority, that person would continue to be acting within the scope of his or her employment with the city.

A person could be authorized by the city or department to conduct an extraterritorial investigation of criminal offenses occurring within the city. The person would not be vested with peace officer powers but would be acting within his or her scope of employment

based upon this authority. I believe it to be a common occurrence that city police officers travel outside of the city limits to assist with, or be present at a site of, a criminal investigation or meeting concerning the investigation when that investigation has a connection with an offense occurring within a city. In these instances, the officer would be acting within the scope of his or her employment with the city.

In summary, a city police officer's authority to exercise peace officer powers extends only to one and one-half miles outside of city limits unless that officer is in hot pursuit. Nothing in North Dakota state law prohibits a city police officer from conducting or participating in investigations outside of the city limits. However, that officer will not have the status as a peace officer but may be acting within the scope of his or her employment with the city when conducting that investigation if such act has been authorized by the city or department.

I would, however, encourage any officer who desires to conduct an extraterritorial investigation to contact, and seek cooperation from, the law enforcement agency with primary jurisdiction over the area of the investigation. This will not only avoid problems between agencies but will also aid a proper investigatory effort.

I hope that I have adequately responded to your inquiry.

Sincerely,

Nicholas J. Spaeth

cv