


Buncombe County Sheriff's Office

	Policy Number: 202	Effective Date: August 5 th , 2020
	Subject/Title: COMPLIANCE WITH ORDERS	
	Rescinds: Not Applicable; New Policy	
	Approved: Sheriff Quentin Miller	

202.1 PURPOSE AND SCOPE

The purpose of this policy is to set forth required standards for the behavior of BCSO personnel related to compliance with orders and Office Directives.

As no policy is capable of foreseeing all situations, this policy is not intended to serve as a complete list of all prohibitions or expectations regarding employee conduct and behavior related to orders and Office Directives. As always, the Sheriff reserves the authority to hire, supervise, promote, demote, transfer, terminate, and take any other form of employment action against any BCSO employee, volunteer, or associate, at any time and at will.

202.2 POLICY STATEMENT

The effective, efficient, and safe operation of the Buncombe County Sheriff's Office is contingent on each individual's compliance with this Manual, and with the BCSO Chain of Command as set forth herein. Thus BCSO personnel shall follow all lawful orders as defined in this policy timely and without question, except in cases where an individual reasonably and in good faith believes an order is unlawful or conflicts with an earlier order; in these cases, the individual shall follow the clarification mandates set forth below.

For additional details regarding personnel compliance mandates, see also the Policy Manual policy.

203.3 COMPLIANCE WITH ORDERS

Absent a reasonable and good faith basis for non-compliance, both sworn and non-sworn personnel shall timely comply with all lawful orders issued by Office personnel in a position of authority.

The terminology "Office personnel in a position of authority" includes:

- Personnel of higher rank within the individual's Chain of Command;
- Personnel of a higher rank, outside of the individual's Chain of Command;
- Personnel regardless of rank, including individuals of the same rank or a lesser rank, when personnel issuing the order has been placed in charge of a specific situation,

scene, task, initiative, or other Office function by the Chain of Command, for example, a Duty Officer or Shift Supervisor;

- Individuals regardless of rank, including individuals of the same rank or a lesser rank, when the personnel asserting authority has been placed in charge of a specific situation, scene, task, initiative, or other Office function by operation of this Manual or by operation of standard operating procedure, for example, when lesser ranking Internal Affairs personnel are conducting certain investigations or in secondary employment situations where personnel on-duty is of a lesser rank than personnel working in a secondary capacity.

203.4 UNLAWFUL ORDERS

203.4.1 ORDER ISSUER'S RESPONSIBILITIES

BCSO personnel shall not knowingly or recklessly issue orders, which would result in a violation of the law or a violation of Office policy or Office directive.

203.4.2 ORDER RECIPIENT'S RESPONSIBILITIES

BCSO employees shall not follow unlawful orders. Unlawful orders are defined as those which appear to the employee to be in direct conflict with state law, federal law, or local ordinance. Following an unlawful order is unlikely to serve as either a criminal or civil legal defense; further following an unlawful order does not relieve BCSO employees from possible criminal prosecution, civil liability, or from Office discipline up to and including termination.

If a BCSO employee receives an order the employee believes may be in conflict with the law, the employee shall seek clarification of the order from the issuer. If the employee is unable to clarify the order with the issuer the employee shall contact a higher ranking employee than the issuing employee for clarification. Employees seeking clarification and/or refusing to follow an order pending clarification should be prepared to justify their refusals, however, in all cases, the responsibility to refuse to follow an unlawful order rests with the recipient employee.

BCSO employees who are issued unlawful orders shall report all such instances in accordance with the Personnel Complaints policy, even if the order issuer subsequently clarifies the order to the employee's satisfaction.

203.5 CONFLICTING ORDERS

203.5.1 ORDER ISSUER'S RESPONSIBILITIES

BCSO personnel shall not knowingly or recklessly issue orders which conflict with orders previously issued, without providing clarification as described herein.

When a BCSO employee issues an order that conflicts with an earlier order, whether or not the earlier order was issued by themselves or issued by another BCSO employee, the BCSO employee issuing the new order should clarify that the new order is intended to overrule, countermand, modify, and/or replace the earlier order.

203.5.2 ORDER RECIPIENT'S RESPONSIBILITIES

If a BCSO employee receives an order the employee believes is or may be in conflict with a current or previously given order, the employee shall respectfully seek clarification of the order from the issuer. Clarification of the new order and the issuer's intent that the new order modify or countermand any current or previous order is the responsibility of the issuer, and employees should comply with the order even absent the issuer's clarification to their satisfaction unless such compliance would create a safety risk.

BCSO employees who comply with a conflicting order after seeking and failing to receive clarification of the conflicting order will not be held accountable for disobedience of the earlier order as long as the new order is not also unlawful (see Unlawful Orders above.)

BCSO employees who are issued conflicting orders shall report such instances in accordance with the Personnel Complaints policy.

203.6 UNLAWFUL AND CONFLICTING ORDER REPORTING

203.6.1 ORDER ISSUER RESPONSIBILITIES

BCSO personnel who are questioned by any person about the lawfulness or conflict status of an order they have issued shall report the incident in accordance with the Personnel Complaints policy. These reports shall occur even if clarification successfully clarified the order recipient's concerns, in order that appropriate documentation of the incident can be made.

In the event the order issuer also believes that clarification of an Office policy or Office directive is necessary, the order issuer shall also make notification pursuant to the Employee Notifications and Grievances policy.

END OF DOCUMENT