


Buncombe County Sheriff's Office

	Policy Number: 400	Effective Date: August 5 th , 2020
	Subject/Title: AUTHORITY AND JURISDICTION	
	Rescinds: Not Applicable; New Policy	
	Approved: Sheriff Quentin Miller	

400.1 PURPOSE AND SCOPE

This policy provides information regarding the legal authority and jurisdiction of sworn Buncombe County Sheriff's Office deputies as a general matter. This policy does not address mandatory arrest situations that are contained in more specific individual policies; for example, mandatory arrest requirements related to violation of domestic violence protective orders are referenced in the Domestic Violence policy.

This policy also does not address the manner of arrests and arrest warrant service related to safety issues and issues of fairness and equity. Relevant policies related to these and other operational issues should be consulted as applicable.

400.2 POLICY

The Sheriff is an elected official provided for in the North Carolina Constitution who is entrusted by the voters of Buncombe County with overseeing effective and efficient law enforcement efforts in our community. Gaining and maintaining the public's trust in the integrity of the BCSO and its personnel is essential to these efforts and to other efforts tasked to the Sheriff by law or custom. Without the community's trust, establishing and maintaining the most effective and efficient law enforcement organization is impossible.

A critical factor in establishing the public's trust is communicating that the BCSO and its personnel act only within their lawful authority. This policy serves as a general overview of that authority and addresses, in particular, the authority of sworn personnel employed by the BCSO as deputy sheriffs.

It is also the policy of the Buncombe County Sheriff's Office that its employees strictly respect the Constitutional and other legal rights of our community members and that sworn deputy sheriffs exercise only the authority granted to them by law. Arrests conducted by BCSO employees should adhere to these rights and should be conducted respectfully.

It is also the policy of the BCSO to provide relevant training to its employees and to provide a system to answer employee questions regarding legal and other issues on an

around-the-clock basis. Deputies are also expected to attend training and to stay up-to-date on the law.

400.3 SWORN DEPUTY AUTHORITY¹

400.3.1 TERRITORIAL AND SUBJECT MATTER JURISDICTION

The authority of a deputy is governed by two legal concepts: territorial and subject matter jurisdiction.

The subject matter jurisdiction for sworn deputies includes all laws of the state of North Carolina and all Buncombe County ordinances unless otherwise restricted by law.

The territorial jurisdiction for sworn deputies of the BCSO includes all locations within Buncombe County as well as the following locations outside of Buncombe County:

- a. At any place in the State of North Carolina when the arrest is for a felony or implied consent offense committed within Buncombe County.²
- b. On any property or right-of-way owned by Buncombe County.
- c. At any place in the State of North Carolina when the arrest is the result of immediate and continuous pursuit.
- d. Within the states of Georgia, South Carolina, Tennessee, and Virginia subject to certain restrictions and when responding in immediate and contiguous pursuit. (See also the Vehicle Pursuits policy and related SOPs.)

Deputies may also gain additional subject matter and/or territorial jurisdiction as part of individually-assigned duties, for example, the ability to enforce certain federal laws as part of a task force or specialized operation. (See also the Mutual Aid and Task Force policies.)

400.3.2 ARREST AUTHORITY

400.3.2.1 ARREST WARRANT HAS ISSUED³

Deputies are authorized to arrest any person located within Buncombe County when the deputy possesses an arrest warrant that has been issued for the person being arrested.

Deputies may also arrest a person described in an arrest warrant without possession of the arrest warrant when the deputy knows an arrest warrant has been issued but has not been executed. When a deputy arrests an individual under these circumstances, e.g., without possession of the arrest warrant, the deputy shall notify the person that an arrest warrant has been issued and shall serve the warrant on the individual as soon as possible.

¹ See generally N.C.G.S. Chapter 15A, Subchapter IV. Arrest, Article 20.

² See also N.C.G.S. § 20-38.2.

³ See N.C.G.S. § 15A-401(a)(1) and § 15A-401(a)(2).

Arrest warrants may be served by deputies at any time of the day or night. Deputies should consult relevant operations policies and standard operating procedures regarding safety measures including but not limited to deconfliction and high-risk service.

400.3.2.2 PROBABLE CAUSE IN THE PRESENCE OF A DEPUTY⁴

Deputies may arrest an individual without a warrant when they develop probable cause to believe an individual in the deputy's presence has committed a crime or has violated a pretrial release order.

400.3.2.3 PROBABLE CAUSE OUTSIDE THE PRESENCE OF A DEPUTY⁵

Deputies may arrest individuals for offenses committed outside of their presence when the deputy develops probable cause to believe the individual has committed a felony.

Deputies may also arrest individuals for misdemeanor offenses committed outside of a deputy's presence when the deputy develops probable cause and one of the following is also true:

- a. The individual will not be apprehended unless immediately arrested.
- b. The individual may cause physical injury to others or themselves unless immediately arrested.
- c. The individual may cause damage to property unless immediately arrested.
- d. The individual has violated a pretrial release order as specified by law.⁶
- e. The individual has committed one of the following misdemeanor offenses:
 1. An offense involving an assault on a female, assault inflicting serious injury, assault with a deadly weapon, assault by pointing a gun, or simple assault or affray when the offense was committed by a person with whom the alleged victim has a personal relationship as defined in N.C.G.S. § 50B-1.⁷
 2. Domestic criminal trespass.⁸
 3. Violation of a domestic violence protective order. (See also the Domestic Violence policy for information on mandatory arrest conditions.)⁹
 4. Impaired driving or impaired driving in a commercial vehicle.¹⁰
 5. Concealment of goods or price tag transfer.¹¹
 6. Any other misdemeanor offense when allowed by law.

400.3.2.4 AUTHORITY TO ENTER¹²

When deputies possess a warrant or an order for arrest they may enter onto or inside of private premises or vehicles to effect an arrest if they have reasonable cause to believe the person to be arrested is present. Unless reasonable cause exists to believe that

⁴ See N.C.G.S. § 15A-401(b)(1).

⁵ See N.C.G.S. § 15A-401(b)(2).

⁶ See specifically N.C.G.S. § 15A-534 and N.C.G.S. § 15A-534.1(a)(2).

⁷ See also N.C.G.S. § 15A-401(b)(2)d., citing to N.C.G.S. §§14-33(a), 14-33(c)(1), 14-33(c)(2) and N.C.G.S. §14-34.

⁸ See also N.C.G.S. § 14-134.3(a).

⁹ See N.C.G.S. § 50B-4.1(a); see also N.C.G.S. § 50B-4.1(b) & (c) regarding post-arrest requirements in certain cases.

¹⁰ See also N.C.G.S. § 20-138.1 and § 20-138.2.

¹¹ See also N.C.G.S. § 14-72.1.

¹² See N.C.G.S. § 15A-401(e).

giving notice to the occupant would present a clear danger to human life, deputies should give or make a reasonable effort to give, notice as to their authority and purpose.

A copy of a warrant or an order is also acceptable to effect an arrest provided the deputy has verified the copy is current and valid, and that the original is in the possession of a member of a law enforcement agency located within Buncombe County.

400.3.2.4 USE OF FORCE TO ENTER PREMISES OR VEHICLES¹³

Deputies may use force to enter premises or vehicles to effect an arrest if they reasonably believe they are being denied admittance or are being unreasonably delayed.

Deputies may also use force to enter premises or vehicles to effect an arrest if their entry is permitted without notice due to the presence of a clear danger to human life.

END OF DOCUMENT

¹³ See again, N.C.G.S. § 15A-401(e).