


Buncombe County Sheriff's Office

	Policy Number: 104	Effective Date: September 4 th , 2020
	Subject/Title: FAIRNESS AND EQUITY	
	Rescinds: Not Applicable; New Policy	
	Approved: Sheriff Quentin Miller	

104.1 PURPOSE AND SCOPE

This policy prohibits employees of the Buncombe County Sheriff's Office from engaging in bias-based behavior and provides guidelines to assist employees in identifying the same.

This policy also provides guidelines for the creation and maintenance of BCSO processes aimed at preventing and responding to these actions if and/or when they occur.

See also the Personnel Complaints and Anti-Discrimination/Harassment policies for actions by BCSO employees directed toward other BCSO employees, and the Use of Force and Field Encounters policies regarding deputy standards for investigative and enforcement actions.

104.2 POLICY STATEMENT

The Buncombe County Sheriff's Office is committed to serving the public in a way that is fair and impartial. This commitment includes – because it must - recognizing the role explicit and implicit biases play in law enforcement. It also includes a commitment to working both within and outside of the BCSO to eliminate bias affecting members of our community based on their race, religion, ethnicity, national origin, cultural affiliation, sex, gender, gender identity, sexual orientation, economic status, age, pregnancy, or disability status.

BCSO's commitment to openly working to address these issues is driven not only by our legal obligations but by our ethical responsibility to maintain the trust of our community. The Buncombe County Sheriff's Office recognizes that its ability to fulfill its law enforcement purpose is entirely dependent on the public's approval of its existence and on the respect or lack thereof the public holds for its deputies, detention officers, and other employees. Once secured, it is only with the public's continued trust that the BCSO and its employees retain the authority and ability to perform their duties. Without the maintenance of this trust, the BCSO cannot be effective and public order within our community cannot be maintained.

Each BCSO employee's actions and behaviors either contribute to or detract from the Office's ability to secure and maintain the public's trust and respect. Key to obtaining and maintaining trust and respect is creating not only the appearance but the actual existence of a system in which all the actions of Office employees are both procedurally just and transparent. Unfortunately, transparency cannot always be fully accomplished, particularly when legal

mandates prevent or impede the same. Because of these legal mandates procedural justice becomes all the more important to assure the community that the actions of the BCSO and its employees are fair, equitable, and just.

In these efforts, it is the policy of the BCSO that its employees do not take, fail to take, or delay any action or inaction against or on behalf of an individual based solely on the individual's status as a member of a protected class. It is also the policy of the BCSO to create and maintain processes aimed at preventing and responding to impermissible bias-based behavior against individuals because of their membership in a protected class if and/or when they occur.

Lastly, the BCSO recognizes these topics can cause concern among law enforcement officers who are largely well-intentioned and dedicated public servants. The BCSO approach to these issues, in particular to implicit bias, includes a scientific approach that recognizes the brains of all individuals form predictive scripts about the world based on prior observations and experiences.¹ This scientific approach recognizes that the brain's observations in forming these scripts may or may not be correct and may or may not be intended by the individual, yet it is these predictive scripts that largely influence human behavior. Eliminating and correcting implicit and explicit biases where they occur requires that both BCSO employees and members of our community examine their patterns of thinking and reacting in an honest and welcoming environment. To this end, the BCSO expressly encourages an environment of openness and encourages BCSO employees and community members to ask questions, discuss concerns, and learn more about themselves and each other as we work to find solutions to these issues. The BCSO also commits to assisting and rewarding employees who willingly evaluate their patterns of thinking and who seek assistance in correcting inaccurate predictive thinking scripts and biases.

104.3 BIAS-BASED BEHAVIOR PROHIBITED

BCSO employees shall not take, refrain from taking, or delay, any action against or on behalf of an individual based solely on the individual's membership in a protected class. The term protected class refers to an individual's race, religion, ethnicity, national origin, cultural affiliation, sex, gender, gender identity, sexual orientation, economic status, age, pregnancy, or disability status.

Examples of bias-based behavior include but are not limited to:

1. Stopping drivers based solely on their race, ethnicity, natural origin, cultural affiliation, or perceived gender.
2. Conducting pat-down frisks of individuals based solely on their race, sex, gender, sexual orientation, or wearing of religious garb.

¹ Many scientific studies are available but see by way of example:

1. Daniel Kahneman's 2002 Nobel Prize winning body of work in human decision making (<https://www.nobelprize.org/prizes/economic-sciences/2002/press-release/>) and Gilovich, T., Griffin, D., & Kahneman, D. (Eds.). (2002). *Heuristics and biases: The psychology of intuitive judgment*. New York: Cambridge University Press;
2. See also by way of example, C. Staats, K. Capatosto, L. Tenney, S. Mamo, [State of the Science Implicit Bias Review](#), Kirwan Institute for the Study of Race and Ethnicity at Ohio State University, 2017; funded by the W.K. Kellogg Institute.

3. Detaining individuals solely based on their race, ethnicity, national origin, or cultural affiliation when it appears inconsistent with the socioeconomic status of a neighborhood or other area.
4. Failing to offer standard resources to individuals of a certain sex, gender, gender identity, or sexual orientation related to domestic violence or sexual assault offenses.

104.3.1 WHEN STATUS MAY BE CONSIDERED

BCSO employees may consider an individual's status in making a legal determination such as when reasonable suspicion or probable cause exist when:

1. The individual's status is considered along with all other relevant factors reasonably known to the employee at the time; and
2. The individual's status is specifically relevant to a particular offense, description, or investigation.

While examples of when reasonable suspicion and probable cause are fact-specific, examples of when an individual's status as a member of a protected class may be considered include but are not limited to:

1. When an individual's protected status is an element of a crime. For example, when an individual's age is an element of a sexual offense committed against a child by an adult or when an individual's sex or pregnancy status is an element of an assault offense.
2. When an individual's protected status is one part of a suspect description and other parts of the suspect description are also confirmed. For example, when a complainant describes a suspect as an individual of a certain race wearing certain clothing and a deputy locates an individual of that race and in that clothing present within a relevant time and distance of the alleged crime scene.
3. When an unknown individual's status is considered as one part of a criminal profile for a suspect related to a specific offense, the unknown individual's status is not the only factor making up the criminal profile, and the profile is supported by scientific or other reliable data confirming the association.
 - a. For example, when items found at a crime scene indicate the commission of a hate crime against a member of a specific racial or ethnic group including but not limited to offenses described in N.C.G.S. §§ 14-12.12, 14-3(c), or 15A-1340.16(d)(17), investigators could consider as part of a criminal profile of the offender the offender's most likely race or ethnicity.
 - b. Investigators could also consider an unknown suspect's likely race, ethnicity, or nationality as one factor among others in a criminal profile when evidence found at a crime scene indicates an offense has been committed which is traditionally reserved to a specific ethnic group, nationality, or religious denomination including but not limited to offenses described under Session Law 2019-183 and N.C.G.S. § 14-30.1.

104.4 DUTY TO REPORT NONCOMPLIANCE

104.4.1 INCIDENTS INVOLVING THE USE OF FORCE

If a deputy or a detention officer observes another deputy, detention officer, or employee engaging in bias-based behavior involving the use of force, the deputy or detention officer shall intercede to prevent the use of force when in a position to do so. Thereafter, the deputy or detention officer shall promptly report the incident to a supervisor per the Use of Force and Personnel Complaints policies.

If an employee, other than a deputy or detention officer, observes another employee including a deputy or detention officer engaging in bias-based behavior involving the use of force, the employee shall promptly report the incident to a supervisor as described in the Use of Force and Personnel Complaints policies.

104.4.2 INCIDENTS NOT INVOLVING THE USE OF FORCE

If an employee of any type observes another employee of any type engaging in bias-based behavior not involving the use of force, the observing employee shall intercede to mitigate the bias-based behavior when in a position to do so. The employee shall thereafter promptly report the incident to a supervisor pursuant to the Personnel Complaints policy.

Examples of mitigating bias-based behavior not involving the use of force may include but are not limited to an employee:

1. Contacting a supervisor within sufficient time to intervene in the encounter.
2. Providing the individual with additional information or resources when resources were not offered. For example, providing the same information in a domestic violence situation to a male victim as would normally have been provided to a female victim.
3. Providing an individual with the contact information of an appropriate supervisor within the Office who is available to assist the individual and/or offer additional resources.
4. Obtaining contact information from the individual and engaging in a follow-up response.
5. Providing information regarding the citizen complaint process as set out in the Personnel Complaints policy.

104.5 DIVISION COMMANDER RESPONSIBILITIES

Division Commanders are responsible for establishing a plan for their Division to ensure and promote compliance with this policy. This plan shall be submitted to the Sheriff on an annual basis with progress reports due to the Sheriff bi-annually or more frequently as he requests.

Division Commanders may work with their designees and with Resource Section Leaders to accomplish plan objectives but retain responsibility as described in the Employee Supervision policy for ensuring proper training, resources, and supervision are available to achieve plan directives.

Plans should include but are not limited to:

1. The creation of an early warning system to monitor compliance including appropriate response protocols and supervisor directives.

2. Routine and spot-check reviews of body camera footage, documentation, and other available data conducted by individuals at different levels of the Division's Chain of Command.
3. A non-adversarial, non-punitive review process for incidents that are within policy limits but could nonetheless pose a risk of harm to community relations, for example, a retrospective peer review process at selected roll calls.
4. Review and evaluation of available data and statistics, including how irregularities will be evaluated and resolved considering irregularities may or may not be the result of explicit or implicit bias.
5. Provision of resources and training, including but not limited to employee assistance options for employees seeking proactive guidance related to these topics.
6. How efforts related to the plan will be documented and audited.
7. A mechanism for ensuring remediation efforts are consistent with the Personnel Complaints policy.
8. Procedures for ensuring State-mandated reporting forms are completed and submitted as required by law.

104.6 TRAINING AND RESOURCES

BCSO employees should receive anti-bias training on the following schedule:

1. For all employees: on an annual basis.
2. For deputies and detention officers: on an annual basis or as part of the rotating training schedule established in the Office's Training Plan (see the Training policy.)

The Training Section Leader shall ensure resources related to the topics in this policy are provided to all employees in a way that allows for employee self-access. Employees are encouraged to access these resources as needed without needing to notify a supervisor. Employees are also encouraged to utilize other available resources including the Employee Assistance Program as described in the Fitness for Duty policy.

104.7 COMMUNITY FEEDBACK

BCSO employees should encourage community members to submit information to the Public Information Officer regarding their experiences with BCSO employees and/or other law enforcement officers for inclusion in training and resource material.

END OF POLICY DOCUMENT