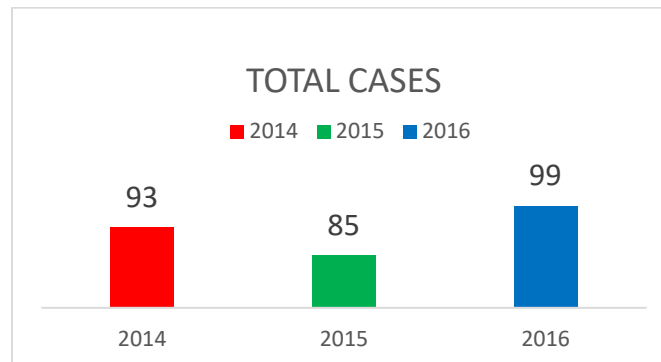


# Johnson County Sheriff's Office Professional Standards Unit 2016 Annual Report

The Professional Standards Unit (PSU), comprised of one investigator and one Command Level supervisor, provides the Sheriff's Office with a thorough, consistent and fair investigative review of complaints. The Unit is located within the Administration Division of the Sheriff's Office and reports directly to the Sheriff. PSU has full authority to conduct investigations without interference from any employee. PSU exists to provide the following services to employees of the Sheriff's Office and the community:

- Protect the public from misconduct of an employee,
- Protect the agency and employees from false accusations of misconduct,
- Provide an early warning system of misconduct, and
- Identify organizational conditions that may contribute to misconduct.

The Professional Standards Unit is tasked with investigating complaints from external sources, such as citizens or an outside agency, as well as internal complaints initiated by employees. There were 99 cases/complaints investigated during 2016. This was a 14% increase in cases (85) from 2015, and a 6% increase in cases (93) from 2014.



Upon conclusion of an investigation, a final disposition will be determined. The Sheriff's Office has four (4) disposition findings:

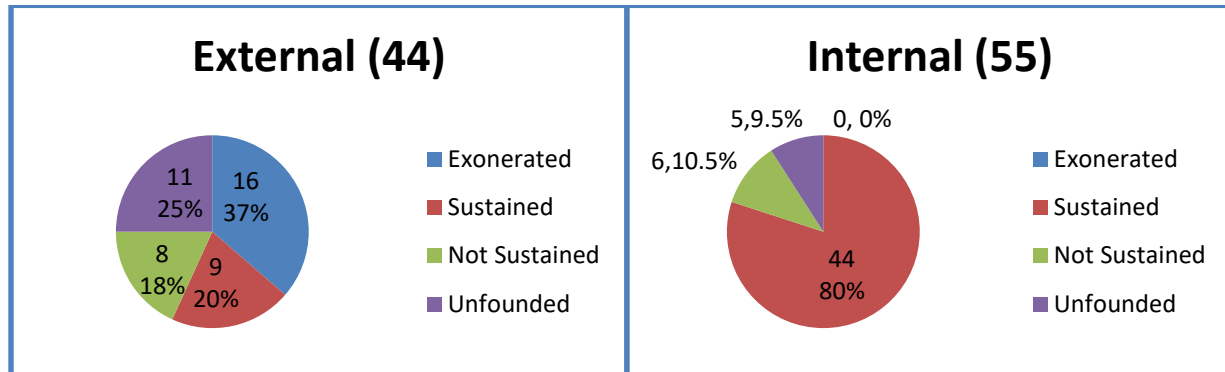
- **Exonerated** – the action of the agency or the employee was consistent with agency policy.
- **Unfounded** – the complaint was clearly false or there is no credible evidence to support the complaint.
- **Not Sustained** – there is insufficient proof to confirm or to refute the allegation.
- **Sustained** – there is probable cause to believe the allegation is true and the action of the agency or the employee was inconsistent with agency policy.

All of the 99 cases were investigated to the fullest extent possible. Among the cases, 44 of them (44%) were initiated by external sources. The remaining 55 cases (55%) were a result of internal complaints.

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When the internal and external complaints were combined (99 cases), 54% of the cases (53 cases) were sustained. The other 46% (46 cases) were exonerated, unfounded or not sustained. The following charts represent external and internal cases and the disposition results.



Cases are defined as investigations that were conducted. Some of these cases involve multiple violations and multiple employees. For example, one case could include two different violations and five different employees. This is only counted as one case but increases the amount of times the violation is alleged. In some cases, only one violation may have been sustained resulting in a final disposition of the case being recorded as sustained. In 2016, there were nearly 600 employees at the Sheriff’s Office, both Civilian and Civil Service/Sworn. Of those, only 85 different employees were involved in the 99 cases.

According to the violation chart on page 3, the three most frequent complaints of deputy and civilian employees from both internal and external sources were Courtesy (19 cases), Unsatisfactory Performance (14 cases), and Violation of Rules (12 cases).

The three most frequent complaints received from external sources were Courtesy which included allegations that staff were rude or unprofessional, didn’t explain reason for contact, or didn’t express empathy or compassion; Conformance to Laws involving employees committing traffic infractions, speeding or parked illegally, or involved in criminal matters; and Unbecoming Conduct involving behavior that brings the agency or employee into disrepute.

Regarding internal complaints, the most frequent violation involved Unsatisfactory Performance which includes allegations that staff failed to perform their duties or failed to conform to work standards. Second was Violation of Rules when employees violated standards, procedures, general orders or other polices. Unbecoming Conduct was third.

As shown in the following table, there were 119 allegations concerning:

- 32 different Professional Standards
- 7 Civilian Standards(included)
- Against 85 different staff members
  - 4 involving the Agency
  - 88 involving Deputies
  - 10 involving Civilians
  - 15 involving Supervisors (Sergeants and above)

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| Violation  | Times Alleged | Sustained | Exonerated | Unfounded | Not Sustained |
|--|---------------|-----------|------------|-----------|---------------|
| Off Duty Law Enforcement Contact                   | 3             | 2         |            |           | 1             |
| Neglect of Duty                                    | 4             | 3         |            | 1         |               |
| Knowledge of Standards                             | 6             | 5         | 1          |           |               |
| Sexual, Ethnic, Racial, Religious Harassment       | 2             |           |            | 1         | 1             |
| Violation of Rules                                 | 11            | 10        | 1          |           |               |
| Unbecoming Conduct                                 | 9             | 5         |            | 1         | 3             |
| Abuse of Position (Civilian)                       | 1             |           |            |           | 1             |
| Treatment of Prisoners (Civilian)                  | 1             |           | 1          |           |               |
| Truthfulness (Civilian)                            | 1             | 1         |            |           |               |
| Courtesy (Civilian)                                | 3             |           | 1          |           | 2             |
| Unsatisfactory Performance (Civilian)              | 2             | 1         |            |           | 1             |
| Violation of Rules (Civilian)                      | 1             |           |            | 1         |               |
| Knowledge of Standards (Civilian)                  | 1             | 1         |            |           |               |
| Insubordination                                    | 3             | 3         |            |           |               |
| Political Activity                                 | 1             |           |            |           | 1             |
| Conformance to Laws                                | 10            | 5         | 3          | 1         | 1             |
| Courtesy   | 16            | 5         | 6          | 2         | 3             |
| Arrest, Search and Seizure                         | 2             |           | 1          | 1         |               |
| Hostile Work Environment                           | 1             |           |            |           | 1             |
| Abuse of Position                                  | 1             | 1         |            |           |               |
| Treatment of Prisoners                             | 5             | 1         | 2          | 1         | 1             |
| Truthfulness                                       | 5             | 2         | 1          | 1         | 1             |
| Information Technology/Communication Systems Usage | 3             | 2         |            | 1         |               |
| Racial Profiling                                   | 3             |           |            | 3         |               |
| Weapons Management                                 | 1             | 1         |            |           |               |
| Sheriff's Office Reports                           | 1             | 1         |            |           |               |
| Use of Sheriff's Office Facilities/Equipment       | 1             | 1         |            |           |               |
| Possession or Use of Alcohol While on Duty         | 1             | 1         |            |           |               |
| Subject Control                                    | 1             |           |            | 1         |               |
| Absence from Duty                                  | 4             | 4         |            |           |               |
| Unsatisfactory Performance                         | 12            | 12        |            |           |               |
| Reporting for Duty                                 | 3             | 3         |            |           |               |
| <b>TOTALS</b>                                      | <b>119</b>    | <b>70</b> | <b>17</b>  | <b>15</b> | <b>17</b>     |

Cases can be investigated either by the Division where the accused employee is assigned, or by the Professional Standards Unit. PSU primarily investigates matters that are categorized as A, B, or AR (Administrative Review) violations. Category A violations are treated the most seriously. Other categories, while still unacceptable, are of declining severity down to a Category D violation, which is the least severe. Divisions primarily investigate matters that are C or D violations.

In 2016, PSU investigated 29 cases (29%). The remaining 70 cases (71%) were investigated by the Divisions.

PSU coordinated two Divisional Hearings (convened for Category C violations), and four Professional Standards Disciplinary Boards (convened for Category A and B violations).

The Sheriff's Office has seven different Bureaus, including Detention, Operations, Communications, Judicial Services, Support Services, Training and Administration. Statistical information is broken down separately for Bureaus and Divisions within the Sheriff's Office.

The following information includes complaints made against individual staff members and the Division in general when no specific employee was named or determined.

### Detention Bureau

The Johnson County Sheriff's Office maintains two Detention facilities; the New Century Adult Detention Center in New Century and the Central Booking Facility in Olathe. Since staff can work out of either facility, cases were recorded based upon the location of the incident occurring, not where a particular staff member was assigned.

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## Central Booking Facility

15 cases. Eight cases originated from external sources and the remaining seven from internal sources.

- 8 cases were sustained (seven internal, one external)
  - 5 Counseling Statements (all internal)
  - 1 Official Reprimand/Suspension (external involving a Sworn employee)
  - 1 Resignation - (internal involving a Sworn employee)
  - 1 Termination - (internal involving a Sworn employee)
- 2 cases were not sustained (both external)
- 1 case was unfounded (external)
- 4 case was exonerated (all external)

## New Century Adult Detention Center

29 cases. 14 cases originated from external sources and the remaining 15 came from internal sources.

- 19 cases were sustained (14 internal, 5 external)
  - 1 verbal counseling (external)
  - 8 Counseling Statements (7 internal, 1 external)
  - 5 Official Reprimands (4 internal, 1 external)
  - 1 Suspension (external involving a Sworn employee)
  - 3 Resignations (2 internal, 1 external all involving Sworn employees)
  - 1 Termination (internal involving a Sworn employee)
- 5 cases were no sustained (1 internal, 4 external)
- 4 cases were unfounded (all external)
- 1 case was exonerated (external)

## Operations Bureau

### Patrol

19 cases. 14 cases originated from external sources and the remaining five came from internal sources.

- 4 cases were sustained (internal)
  - 2 Official Reprimands
  - 2 Terminations (both involving Sworn employees)
- 3 cases were not sustained (1 internal, 2 external)
  - 1 Performance Feedback (external)
- 4 cases were unfounded (external)
  - 1 Training
- 7 cases were exonerated (external)
- 1 case involving the Patrol Division was unfounded (external)

### Warrants

Three cases. Two cases originated from external sources and one came from an internal source.

- 1 sustained (verbal counseling)
- 1 not sustained (internal)

- 1 exonerated

## Investigations

Two cases. Both originated from external sources.

- 1 case not sustained (external)
- 1 case unfounded (external)

## Communications Bureau

Nine cases. Two cases originated from external sources and seven came from internal sources.

- 8 cases were sustained (6 internal, 2 external)
  - 4 Counseling Statements (2 internal, 2 external)
  - 2 Official Reprimands (Internal)
  - 1 Suspension (internal involving a Sworn Employee)
  - 1 Resignation (internal involving a Sworn Employee)
- 1 case was not sustained (internal)

## Judicial Services Bureau

### Civil

11 cases. Seven cases originated from external sources and four came from internal sources.

- 7 cases were sustained (4 internal, 3 external)
  - 3 Verbal Counseling (external)
  - 2 Counseling Statements (internal)
  - 2 Official Reprimands (internal)
- 1 case was not sustained (external)
- 3 cases were exonerated (external)

### Court Security

One external case involved one staff member and it was unfounded.

## Support Services Bureau

### Personnel

One external case involved the entire unit and the case was unfounded.

### Records

One internal case involved a civilian staff member. The case was sustained and resulted in termination.

## Training and Research Bureau

Two internal cases involved academy recruits. Both cases were sustained with one receiving a Performance Feedback and one receiving a Counseling Statement.

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## Administration Bureau

### Agency

Four cases were investigated that involved issues related more to Agency Policies and Procedures than to specific staff members. Two cases were from external sources and two came from internal sources.

- 1 case was sustained (internal resulted in change of policy and/or clearer guidance of staff)
- 2 cases were unfounded (internal, external)
- 1 case was exonerated (external)

### Criminalistics Laboratory

Two cases. One originated from an external source and one came from an internal source.

- 1 case was sustained (internal)
  - Performance Feedback
- 1 case was unfounded (external)

### Awards

In 2016, staff members received 429 awards and commendations. This reflects a 7% increase in awards from 2015 (396). The following table shows the awards received, separated by Divisions.

|                |     |                       |            |
|----------------|-----|-----------------------|------------|
| Administration | 4   | Property Room         | 1          |
| Civil          | 48  | Purchasing            | 1          |
| Communications | 34  | Research and Planning | 5          |
| Court Security | 61  | Records               | 3          |
| Crime Lab      | 27  | Training              | 31         |
| Detention      | 108 | VREU                  | 2          |
| Investigations | 34  | Warrants              | 12         |
| Patrol         | 53  |                       |            |
| Personnel      | 5   | <b>TOTAL</b>          | <b>429</b> |

### Use of Force<sup>1</sup>

Sheriff's Deputies have the responsibility to protect life and property and to apprehend criminal offenders in accordance with legal requirements (K.S.A. 21-5227), as well as follow the guidelines set forth in landmark cases including *Graham v. Connor (490 U.S. 386 (1989))*, *Johnson v. Glick (481 F.2d 1028 (2d Cir. 1973))*, and *Tennessee v. Garner (471 U.S. (1985))*. The type of control or force used by a deputy must be reasonable.

The following definitions are used by the Sheriff's Office regarding types of force:

- **Deadly Force** – Force which is reasonably likely to cause death or great bodily harm.
- **Defensive Force** – the use of physical force that is reasonably necessary to safely prevent or avoid the threat from another; to defend a Deputy or someone else from actual or apparent assault and/or battery.

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<sup>1</sup> Information provided is from data available as of 04-27-2017. Some subject control reports were pending at the time of this report.

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- **Empty Hand Techniques** – techniques that have minimal probability of causing serious injury (examples would be joint locks, limb control, touch pressure, and/or strikes)
- **Non-Deadly Force** – physical force which is not reasonably likely to cause death or which does not create some specified degree of risk that a reasonable Deputy would consider likely to cause great bodily harm to another.
- **Restraining Force** – the application of physical force reasonably necessary to safely control a person in a lawful detention, arrest or other lawful purpose.

In 2016, 248 different staff members were involved in 225 Use of Force incidents, involving 157 different subjects. The Use of Force incidents are separated by Division, with the Detention Facilities being displayed by building.

|                                    |       |
|------------------------------------|-------|
| Detention (177)                    |       |
| Central Booking Facility           | 101   |
| New Century Adult Detention Center | 76    |
| Civil                              | 8     |
| Court Security                     | 9     |
| Patrol                             | 20    |
| Personnel                          | 1     |
| SERT                               | 2     |
| Warrants                           | 8     |
|                                    | <hr/> |
|                                    | 225   |

Each incident may involve several different actions taken by multiple staff members. One incident may require the Deputy to apply force such as limb control, as well as give verbal commands/directions. Another example would be a felony car stop, which may require multiple Deputies to direct a subject out of the car utilizing lethal cover with a firearm, as well as may require limb control, touch pressure or strikes to affect the arrest. Because the Sheriff's Office demands accountability of the action of its Deputies, all use of force requires a Deputy to document their actions. The 225 Use of Force incidents included 814 total Deputy actions.

The primary action taken was limb control (646 uses), followed by verbal direction (460 uses) and touch pressure (71 uses). Visual display of a firearm was utilized 64 times. There were no incidents which resulted in deadly force in 2016.

Of those incidents, the reason for force used was listed as follows, according to the Subject Control Report form that is used to document the incident:

- 372 Deputy actions (46%) required force to restrain a subject for their own safety.
- 203 Deputy actions (25%) required force as it was necessary to defend an officer.
- 47 Deputy actions (6%) required force as it was necessary to defend a person.
- 67 Deputy actions (8%) required force as it was necessary to defend a person/officer.
- 97 Deputy actions (12%) required force to affect the arrest.
- 28 Deputy actions (3%) required force to prevent property damage.

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814 Total Deputy actions

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## Accidents

A total of 17 accidents involving Sheriff's Office vehicles were reported to PSU in 2016.

|           |       |
|-----------|-------|
| Civil     | 1     |
| Detention | 4     |
| Patrol    | 9     |
| Training  | 1     |
| Warrants  | 2     |
|           | <hr/> |
|           | 17    |

## Racial or Biased Based Policing

As required by state statute K.S.A. 22-4610 (d)(1), the Johnson County Sheriff's Office submitted its Annual Report regarding racial or biased-based policing to the Kansas Attorney General's (AG's) Office on July 20, 2016. The annual report year included cases received between July 1, 2015 and June 30, 2016. There was 1 case that matched the criteria to report to the AG's office which occurred in February of 2016 and was unfounded. Three other cases matched the criteria to report to the AG's office and two occurred in July of 2016 and one in August of 2016 (all unfounded).

For the entire year of 2016, Professional Standards documented four reported cases involving allegations of racial or biased-based policing.

The first case, from February of 2016, involved a Patrol Deputy who self-reported contact he had with a driver during a traffic stop. The Deputy initiated a traffic stop for an expired tag violation and a traffic citation was issued. The driver claimed she was stopped due to the color of her face and not the color of her expired tag. She stated, "I just feel I was definitely profiled". The traffic stop was lawfully based upon probable cause for a traffic misdemeanor. The matter was reviewed and there was no evidence to support racial profiling occurred.

The second case, from July of 2016, involved a Patrol Deputy who was accused of racial and biased based policing by a driver during a traffic stop. The Deputy initiated a traffic stop for an expired tag violation and a traffic citation was issued. The driver commented, "You see two black people go in but not go out." The traffic stop was lawfully based upon probable cause for a traffic misdemeanor. The matter was reviewed and there was no evidence to support racial profiling occurred.

The third case, also occurring in July of 2016, involved a Patrol Deputy who was accused of racial and biased based policing by a driver during a traffic stop. The Deputy, going the opposite direction of the speeding vehicle, initiated a traffic stop on a vehicle traveling 89 mph in a 70 mph zone and a traffic citation was issued. The driver stated, "Me and two other African Americans in a car with no Caucasians and Florida tags." The traffic stop was lawfully based upon probable cause for a traffic infraction. The matter was reviewed and there was no evidence to support racial profiling occurred.

The fourth case, occurring in August of 2016, involved a Patrol Deputy who was accused of racial and biased based policing by the parent of a driver after a traffic stop was conducted. The Deputy initiated a traffic stop on a vehicle due to the license plate not being illuminated. The Deputy filled out information



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for a citation and asked the driver, who appeared to be of mixed race, what race s/he identified with. The driver stated, "White" which is a race indicator on the citation. This information was gathered for accurate descriptors in order to confirm the driver's identity. The traffic stop was lawfully based upon probable cause for a traffic infraction. The matter was reviewed and there was no evidence to support racial profiling occurred.

### **Property and Evidence Room Audit**

As directed by Sheriff's Office Policy, a Property Room audit is to be conducted by the Professional Standards Unit during the first quarter of each odd year. An audit and inventory of the Property Room commenced on November 7, 2016 and was completed on November 10, 2016 due to newly elected Sheriff Hayden assuming responsibility of the Property Room and its contents. A listing of all items stored in the Property Room was compiled from the Property Room Information Management System. Audit staff then physically went to each shelf to inventory each item. Items found on shelves were compared to lists from the database. When discrepancies were noted, all avenues to ensure the proper action were taken regarding the property and its final disposition. All discrepancies were able to be corrected in this manner.

Over 14,000 items were included in the audit. In conducting the inventory, 20 minor discrepancies were discovered. Items from 13 property slips were located on the shelves but the database listed them as destroyed. Items from 4 property slips were in the wrong location. Items from 1 property slip had been transferred to another shelf. Items from another property slip showed to be in the Property Room but were actually signed out to the Crime Lab. Additionally, one property slip was duplicated on another property slip.

Four potentially serious discrepancies were noted. This included an ATV which was listed on a property slip but not found. After interviewing the Detective, a court ordered the destruction of the vehicle. A generator was listed on a property slip and not found. An interview of the Detective revealed the item had been released to its owner. 9mm round were listed on a property slip but not found. Other items on the same slip were destroyed on 8/31/15 and the ammo was possibly destroyed at that time. Finally, a Mac IPod was listed on a property slip but not found. An interview of the submitting Deputy revealed the item was part of unclaimed property that had been left at the Courthouse and no owner was identified.