

IA2022-03
Deputy Kear, Michael

SUMMARY OF CRIMINAL AND ADMINISTRATIVE INVESTIGATION

CBI Case Number 2022-208
CBI Investigator Chris Adams

CCSO Case Number 2022-03
CCSO Investigator Lloyd Smith

Previous Associated Case: Salida PD – CO 0080200

ADMINISTRATIVE CHARGES:

TIMELINE

On August 10, 2022, Sergeant Brandon Schoch reported that [REDACTED] claimed that Deputy Michael Kear had sexually assaulted her.

On August 12, 2022, Sheriff Robert Hill requested assistance from the Colorado Bureau of Investigations, in conducting a criminal investigation into the allegations.

On August 13, 2022, Sheriff Robert Hill and Mr. Lloyd Smith met with Deputy Kear and placed him on paid administrative leave until the criminal investigation could be completed.

The Colorado Bureau of Investigation team faced a backlog of cases. They were unable to begin their investigation until August 29, 2022.

On September 23, 2022, the Colorado Bureau of Investigation presented their investigation to the 11th Judicial District District Attorney Linda Stanley for review.

On October 5, 2022, the 11th Judicial District District Attorney Linda Stanley determined there was insufficient evidence to file criminal charges on Deputy Michael Kear.

On October 13, 2022, Undersheriff Smith completed the Internal Affairs Administrative Investigation.

SYNOPSIS

Sergeant Brandon Schoch, his wife Stacey Schoch, and Frecom Dispatcher Samantha Moos were eating at the Four Kings Restaurant in Silver Cliff Colorado on August 10, 2022. Sergeant Schoch and Stacey Schoch reported that [REDACTED] s disclosed to them that she was sexually assaulted by Deputy Michael Kear while he was off duty.

It was reported that Deputy Michael Kear sent photographs of his penis to a dispatcher using the snapchat app on his cellular phone.

It was reported that Deputy Michael Kear had sex with a person in his car while parked at the Silver Dome Saloon in Silver Cliff.

WITNESS WRITTEN STATEMENT SUMMARIES

BRANDON SCHOCH

Sergeant Schoch typed up a written statement (0-5 CA CCSO documents.pdf). In this statement he provided the following:

- Deputy Kear had sent her multiple images on his naked penis.
- She admitted to lying to me when I interviewed her about the images, and said it was because I was recording the conversation.
- She said he has a "small penis", and Samantha laughed because that was what the dispatcher also told her.
- Stacey asked her about the statement she made, about Dep. Kear not taking "no" for an answer and she recounted the following incident:
- Sometime at the end of 2021, in the winter, she had been heavily intoxicated and at her friend's house.
- She later identified the friend as Jessica Rae Rowland (DOB: 03/29/1982).
- Someone she did not know, who was also at Jessica's house, agreed to drive her home.
- She went inside her residence, and someone came up behind her.
- Initially she thought it was the unknown man who had driven her home.
- She soon realized that it was Dep. Kear.
- Dep. Kear had been messaging her all night and she had been ignoring him, but he must have been waiting outside her house.
- He initiated sexual activity, and she told him "no."
- He continued and sexually assaulted her.
- She described herself as extremely intoxicated.
- I asked her why she did not report this incident before now and she said Dep. Kear told her nobody would believe her, and he had already "beaten" an investigation like this.
- ██████ said Dep. Kear was referring to an investigation in which Dep. Kear was accused of inappropriately touching my juvenile daughter.
- She said, if he can get away with doing that to your daughter, she was afraid to report it.
- She said this incident occurred while ██████ boyfriend (██████ ██████) was an inmate at the Custer County Jail.
- Dep. Kear continued to send her nude pictures of himself, even while responding to her house as a Deputy- She said he came to her house for a civil standby between ██████ and her biological mother.
- Dep. Kear sent the pictures through snapchat and other social media accounts.

- [REDACTED] appeared upset at Dep. Kear's wife, and said it was completely inappropriate that he had started to date her while she was a senior at Cotopaxi High School, then married her after she graduated and turned 18.
- [REDACTED] said if Dep. Kear's wife wanted, she would be able to describe Dep. Kear's bedroom to her.
- I asked her if she told anyone else about this incident and she said the night she was sexually assaulted she called Christy Morell and told her.

STACEY SCHOCH

Stacey Schoch also provided a written statement. In her statement she provided the following information.

- She, her husband Sgt Brandon Schoch, and dispatch supervisor Samantha Moos were eating at the Four Kings Restaurant in Silver Cliff.
- Samantha told the group that Deputy Michael Kear was having an affair with Frecom dispatcher Danica, and that he sent her photographs of his penis.
- [REDACTED] said she would believe it because Kear wouldn't take no for an answer.
- While [REDACTED] husband was in jail, she went to the house of Jessica Rowland. While at the house she got extremely drunk. An unknown person drove her home. Mike came into the house after the unknown person dropped her off. She told him no, but Kear had intercourse with her. After the assault was over, she got sick and called Christy Morrell to report the incident.
- [REDACTED] told Stacey that Mike Kear told her that no one would believe her.
- [REDACTED] said she had a friend take photographs of the nude photographs on her phone using a second phone.
- She admitted denying the penis photos when Sergeant Shoch first asked her because she knew the conversation was being recorded.
- She feared for her safety because Mike Kear is a cop.
- Stacey also stated she contacted Christy Morrell to verify that [REDACTED] had called her.

SAMANTHA MOOS

Samantha Moos also provided a written statement. In her statement she provided the following information.

- Samantha Moos was eating dinner and having drinks with the Schoch's at Four Kings restaurant in Silver Cliff. She shared with the group that Deputy Michael Kear was having an affair with a Frecom Dispatcher named Danika. Samantha also told the group that Kear had sent photographs of his penis.
- Samantha heard [REDACTED], their waitress tell us that Deputy Michael Kear had forced sexual intercourse with her and that she had told him no.
- Samantha then left for the bathroom and didn't hear the rest of [REDACTED]' complaint.

COLORADO BUREAU OF INVESTIGATIONS INTERVIEW SUMMARIES

[REDACTED] CBI INTERVIEW SUMMARY

CBI Agents drove to Westcliffe to interview [REDACTED] about her allegation of sexual assault by Deputy Michael Kear. The interview was audio recorded.

- [REDACTED] said that she and the Schoch's were having shots that night at the Four Kings Restaurant.
- [REDACTED] said that the Schoch's do not particularly like Michael Kear.
- [REDACTED] denied stating that he sexually raped her.
- [REDACTED] said that she described Michael Kear as having "Rapey" vibes. Which she elaborated as weird or creepy.
- [REDACTED] said that Kear did not take advantage of her.
- [REDACTED] doesn't like alcohol and can't remember what she said.
- [REDACTED] said she had consensual intercourse with Kear before he got married. She estimated it was between November 2021 and February 2022.
- [REDACTED] confirmed that ne never had forced sex with her.
- [REDACTED] denied receiving unwanted penis photographs.
- [REDACTED] said an unknown female gave her a ride home from Jessica Rowland's home.
- [REDACTED] hypothesized that the statements by the Schoch's were misconstrued by alcohol.
- [REDACTED] said that the election caused the bad blood with the Schoch's.
- [REDACTED] said so many cops had asked about the photographs of the penis.
- [REDACTED] knew that an inmate in jail was seeking to get photographs of Kear's penis. She received this information from Brandon Schoch.
- [REDACTED] was also questioned by Undersheriff Robert Hill and she denied having photographs of Kear's penis.
- Christy Morell is a good friend of hers. She called her the night of sex with Kear because she was disgusted with herself.
- [REDACTED] said she feels bad that she said something while she was intoxicated that could potentially ruin Kear's life.

BRANDON SCHOCH'S CBI INTERVIEW SUMMARY

CBI agents interviewed Brandon Schoch. The interview was audio recorded.

- Brandon spoke of the night at Four King's Restaurant with his wife Stacey Schoch and Samantha Moos.
- Brandon said that Samantha Moos brought up the photos of Kear's penis. In return [REDACTED] said it sounded like something he would do.
- Brandon said that [REDACTED] said she was sexually assaulted by Kear sometime at the end of 2021.
- [REDACTED] was drinking at the home of Jessica Rowland and an unknown person gave her a ride home because she was intoxicated.

- [REDACTED] described while walking up the stairs of her house someone came up behind her and it was Kear.
- [REDACTED] told him no, and he forced himself on her.
- [REDACTED] called Christy Morrel that night.
- Christy Morrel advised [REDACTED] to call the mayor of Silver Cliff to report the crime as he had been a deputy with Custer County in the past.
- Stacey Schoch told Brandon the part about [REDACTED] saying Kear wouldn't take no for an answer.
- [REDACTED] was a domestic violence victim from her female partner when she moved here.
- Brandon felt [REDACTED] would probably recant her accusation.
- Brandon volunteered that Kear shouldn't be wearing a badge due to an incident with his daughter. He was pissed off to no end about that incident.
- Brandon said that he was told that Kear drove by [REDACTED] house and revved the engine on his Range Rover.

CHRISTY MORELL'S CBI INTERVIEW SUMMARY

CBI agents interviewed Christy Morrell. The interview was audio recorded.

- Christy Morrel was called by [REDACTED] at 3AM in the morning about a year ago.
- During this call [REDACTED] was crying and vomiting.
- [REDACTED] reported that Kear had sent her dick picks all night and she had put him off and put him off.
- While she was getting ready for bed, Kear showed up at her front door.
- [REDACTED] told Morrell that she had slept with Kear and it was the night before his wedding.
- [REDACTED] said she let Kear in, but she was nodding off. When she woke up one time, Kear was undressing her.
- [REDACTED] continued to nod in and out of consciousness and found she had sex with Kear.
- When [REDACTED] called Morrell, she didn't refer to this as rape.
- Morell concluded that prior to this encounter, Kear was the instigator of sending the photos and wanting to come over to her house, but [REDACTED] didn't want him to come over.
- [REDACTED] drinks heavily on the weekends when she doesn't have the kids around.
- Morrell asked [REDACTED] if she was vomiting from the alcohol, [REDACTED] said she was disgusted with herself for having sex with Kear.
- Morell said one week prior to this interview that [REDACTED] said Kear had driven slowly by her house and revved the motor on his Range Rover. Morrell said this was an attempt to intimidate her.
- Prior to the CBI interview Stacey Schoch called Morrell about this case. They talked about [REDACTED] being too drunk to consent to sex.
- CBI asked what she knew about Kear pulling over young girls on traffic stops. Morell was unable to confirm this allegation but suggested that her own daughter was uncomfortable and unwilling to be alone with Kear. The daughter would not

add Kear to her social media. Other girls at school felt stalked by Kear on social media.

- Morrell brought up the incident with Kear and the Schoch daughter. Morell said that Kear was suspended
- Morrell feels that deputy misconduct in the past has been covered up and this is a barrier to people reporting misconduct now.
- Morell says that Kear has threatened ██████ in the past. (0:16:15 on the recording)
- ██████ is a domestic violence victim from her boyfriend.
- “██████ has spent her whole life manipulating men to be safe and get what she needs to survive”.

STACEY SCHOCH'S CBI INTERVIEW SUMMARY

CBI agents interviewed Stacey Schoch. The interview was audio recorded.

- It was a “shitty day”, it was a nice night to get out and have drinks with friends. We weren't eating, we were drinking. ██████ brought us some shots.
- Somehow Kear got brought up.
- When I had brain surgery some stuff happened with my daughter. I don't know what happened but there was an investigation. This gave me an edge with Michael Kear.
- I believe that he was not held accountable for what he did to my daughter. Which I don't know because my daughter won't tell me about it.
- Samantha started talking about how Mike Kear sent a dick picture to Danika the dispatcher. Danika showed all the deputies in Fremont the picture. It was very identifiable. ██████ heard this because she was our waitress.
- She heard a rumor that the new sheriff was going to make Michael Kear a sergeant. She didn't feel he should be a cop or a leader.
- ██████ overheard and said Mike sends her dick pictures all the time via snapchat. She had a friend take a photo of the snapchat to prevent Kear from knowing that she was saving the pictures.
- ██████ said it didn't surprise her about the Schoch daughter because Kear doesn't know how to take no for an answer.
- Stacey Schoch said ██████ just told her that “Kear basically sexually assaulted ██████” in private.
- Brittany then told them all at the table that she got drunk at Jessica's house and Mike had been texting her all night asking to come over. She kept telling him that because she was drunk and had her kids. An unknown person took her home. When she got home Mike came into the house behind her. She didn't know who it was and Mike was touching her and doing things to her. She told him no, She was drunk. He wouldn't stop. There was intercourse and she told him no. After he left She called Christy Morrel. While talking to Christy she was throwing up because she was so upset at what he did.
- Mike told her that no one would believe her, “Because of who I am” and that people in town know me. And because Mike had gotten away with what he did to the Schoch daughter.

- While she was talking to us, Brandon brought up to her that he had asked about the dick pics. "Of course, I said no because I was on camera".
- The Schoch's told her she had to tell.
- Stacey Schoch called Christy Morrell to verify [REDACTED] story.
- The Schoch's determined that it must be reported.
- Stacey felt the dick pics were immoral and unethical because he was married.
- Stacey did not talk further to [REDACTED] but did talk to Christy and the Schoch daughter.
- Stacey was upset about Mike, but it would never enter her mind to set him up with this story.
- Brandon and Stacey are not the kind of people to make up lies about people.
- Stacey felt that Mike drove by [REDACTED] house to intimidate her.

MICHAEL KEAR'S CBI INTERVIEW SUMMARY

CBI agents interviewed Michael Kear. The interview was audio recorded.

- Kear said that he had a relationship with [REDACTED] that ended a month ago. (End of July 2022)
- He last had consensual sex with [REDACTED] two months ago or less than that. (May-June 2022 ??)
- Kear had a relationship with [REDACTED] for less than one year.
- Kear says there are no unwanted communications with [REDACTED] on his two cell phones.
- Most of their talks were on the snapchat app.
- The relationship began after her case with her partner Jeremy Carson was closed.
- They began communicating on snapchat. The chats became flirtatious, and she ended up inviting him to her home for sex.
- Kear said; "To me it was completely consensual".
- Kear said; "Both times it was completely consensual".
- "When she came to my house she started it".
- First time, yes, both of us were drinking.
- Kear was married in May last year. First time we had sex was after that.
- Kear told her to keep their relationship on the "down low".
- Kear said he never made any threats.
- Her first invitation was on snapchat.
- Kear has been "trying to work on things with his wife as of recently".
- Kear says he has issues with Stacey Schoch, he had an IA with her daughter, he did not support Brandon Schoch in the sheriff's election.
- Kear was given three (3) days suspension because there was alcohol and minors present.
- Stacey Schoch threatened Kear at the rodeo (mid July) about not having to keep her mouth shut. Kear has a witness (Serenity Sullivan).
- "I didn't sexually assault anybody. It was completely consensual."
- Kear made sure that [REDACTED] case was "completely closed".
- Kear feels that Stacey Schoch called the CSP background investigator to ruin his chance of getting hired by CSP.

- Kear says it's more Stacey that has it out for him. Brandon was his FTO. Kear feels he owes what he knows to Brandon who is a great cop and investigator.
- Kear feels Stacey Schoch is vindictive.
- Kear says I want to get back to work. I am missing out on overtime.
- Kear sent dick pictures to dispatchers and it was wanted.
- Kear provided oral sex to Danica Croft three weeks ago at the Blossom Festival.

DANICA CROFT'S CBI INTERVIEW SUMMARY

CBI agents interviewed Danica Croft. The interview was audio recorded.

- Everything was consensual.
- We both agreed to everything that happened.
- He sent pictures of his genitalia. I didn't send them to anyone else.
- We hung out a couple of times. We never did anything sexually.
- We kissed.
- We did have oral sex.
- This happened in May but don't have an exact date.
- Everything was consensual.

TEXT MESSAGES ON COUNTY CELLULAR PHONE FROM MICHAEL KEAR TO

████████████████████
 "Just had a check show me her tits to try and get out of ticket"

Honda pilot bet you can catch her in paxi

No joke that's her

No joke bro not fuckin with you

Bro no joke that's the chick I found her on facebook

Ya. Full nips

Had to bro

Haha still I wrote her for 20-24 over

Hahahah wel don't speed in my county bitch she was going 25 over soo I kind of gave her a break

Lol will already decreased it from a summons to a PA .. she was out of state

55 in a 30 in front of a school .. Ya she got a good enough break

Bro my sarge would have written her the summons. I get plenty of breasts trust me

CUSTER SHERIFF'S OFFICE INTERVIEW SUMMARIES

JESSICA ROWLAND'S CCSO INTERVIEW SUMMARY

Undersheriff Smith interviewed Jessica Rowland. The interview was video/audio recorded.

- Mike Kear and [REDACTED] hung out, But I didn't witness anything. I'm pretty sure they had sexual relations.
- Yeah. They were consensual.
- I mean, I talked to [REDACTED]. I imagine she didn't do anything to him, but yes. At that point in time I was great friends with [REDACTED] and yeah, she was the one actually I think antagonizing it more.
- [REDACTED] was at Jessica's home and was really drunk. [REDACTED] drove herself home.
- Jessica thought that [REDACTED] invited Michael over for three-way sex with Jessica Rowland, but Jessica Rowland told [REDACTED] absolutely not.
- So, okay. First of all, she didn't have a party at my house that night. Okay. I remember that perfectly clear. Okay. 100%. She was messaging Michael. She was trying to tell Michael that me and her would meet him. And I said, absolutely not. She ended up going home, said that Michael came to her house. Now this is what [REDACTED] told me and that they did sleep together. But she was friendly with Michael after the fact. She never said anything. It was consensual between the two of them. They were flirtatious.
- Consensual. Most definitely. [REDACTED] was at my house texting, trying to say that we would have a threesome with him and stuff like that. I stayed at my house. She got in her own vehicle that night and drove herself home
- Okay. Yea. Honestly, when you messaged me, I was kinda like, well, what do you know? And I definitely don't want to be involved in anything and I don't... I try to keep to myself now and work. That's all I do.

MICHAEL KEAR'S INTERVIEW SUMMARY

Undersheriff Smith interviews Deputy Michael Kear. The interview was video/audio recorded.

- Kear stated they had consensual sex. [REDACTED] invited Kear over to her house for the first encounter.
- Kear stated that he picked her up for second encounter and had sex at Kear's house.
- Smith asked Kear what her medical condition was when he left her home after the first sexual encounter. Kear said [REDACTED] was fine and went outside to smoke.
- Kear thought he left around 2AM
- Kear felt she was at home before he came over to meet her.
- She invited him over for sex. Did not describe any scenario. The encounter was 15 minutes
- He told [REDACTED] to keep things quiet from his wife but not a threat.

- Kear denied having sex with [REDACTED] while her husband, Jeremy Carson, was in jail.
- Kear was threatened by Stacey Schoch at the rodeo and Serenity Sheldon may have heard it.
- When asked about the text message about the attractive female. Kear stated he only stopped her for the traffic violation and not her appearance.
- When asked Kear said he did not give her a ticket
- Did you have sex in the parking lot of the Silver dome Saloon in Silver Cliff? No
- How many people do you snapchat with? 50-75
- When did you have oral sex with Danica? After the last encounter with [REDACTED] [REDACTED] during Blossom Festival.
- Did Danica send you pictures? Yes
- Was any of this on duty? No, I ensured it was all off duty.
- Who was it at the Silver Dome? I picked up [REDACTED] at the Silver Dome before having sex at my house.
- So she instigated both encounters? Yes
- Is there anything that could be portrayed as non-consensual? I don't know if she had a couple of drinks the second time.
- I wouldn't say she was intoxicated
- Would you arrest her for DUI? Yes impaired to the slightest degree.
- Did you know that an inmate made a recorded call out of the jail to try and get dick pics to blackmail you? No

ANONYMOUS SOURCE

An unknown blonde female (believed to be [REDACTED]) who was a customer at the Silver Dome Saloon told the source that she had sex with Deputy Michael Kear in Kear's wife's car in the parking lot of the Silver Dome Saloon in Silver Cliff.

Undersheriff Smith asked Deputy Michael Kear about this incident in the internal interview. Kear said that [REDACTED] called him to pick her up at the Silver Dome, but he gave her a ride to his home and had consensual sex with her in his bedroom

EVIDENCE:

1. CCSO Policy manual
2. Criminal Investigative report from Colorado Bureau of Investigation, Special Agent Christopher Adams Including SA Christopher Adam's audio recordings of interviews
3. Internal Investigation audio/video recording of two interviews.
4. Text Messages retrieved from the work cellular phone issued to Deputy Michael Kear.

CONCLUSION:

Criminal Charges:

After reviewing the criminal investigative report and conducting an internal investigation that includes personnel interviews, interviews with witnesses or potential victims I do find the following:

There is insufficient evidence based on the statements of the victim, suspect, and witnesses to determine if Deputy Michael Kear did or did not sexually assault [REDACTED].

Comparison Of Key Issues Brought Up By Witness/Suspect/Victim							
Witness	Rape	Consensual	Drunk	Initiated by MK	Initiated by BG	Call to CM Rape	Call to CM Disgust
Jessica R	No	Yes	Yes	No	Yes		
[REDACTED]	No	Yes	Yes	Yes	No		Yes
Stacey S	Yes	No	Yes	Yes	No	Yes	
Brandon S	Yes	No	Yes	Yes	No	Yes	
Samantha M	Yes	No					
Michael K	No	Yes	No	No	Yes		
Christi M	No	Yes	Yes	Yes	No	No	Yes

Custer County Sheriff's Office Policy Manual.

Law Enforcement Code of Ethics: **Sustained**

Deputy Kear did not keep his private life unsullied as an example to all and did not behave in a manner to not bring discredit to himself or the Sheriff's Office.

320.3 Conduct that may result in discipline: **Sustained**

- Deputy Kear did not abide by standards of ethical conduct that brought discredit to the sheriff's office and made Deputy Kear susceptible to a possible black mail attempt by Kenny Boss.
- Deputy Kear used indecent language to describe a young woman he encountered on a traffic stop.
- Deputy Kears actions with [REDACTED], Danika Croft, and [REDACTED] brought discredit to the sheriff's office.

320.3.3 Performance: **Sustained**

Deputy Kears off duty conduct was reasonably suspected to be unbecoming to a member of a law enforcement agency and reflects unfavorably on the office of the sheriff.

320.12.9 Conduct: **Sustained**

Deputy Kear's use of a county provided cell phone while on duty used derogatory language for a member of the public.

701.6g Use of Personal Communications Device: **Sustained**

Deputy Kear used the agency provided communication device for inappropriate conduct on duty.

1030.4 Prohibited Speech, Expression and Conduct: **Sustained**

Deputy Kear sent text messages that were demeaning of a young woman he encountered on a traffic stop, using the county provided cellular phone while on duty.

RECOMMENDATION

Based on a thorough review of the evidence provided during the CBI investigation, the results of my own administrative investigation, and past behavior; It is my recommendation that Deputy Michael Kear be terminated from employment with the Custer County Sheriff's Office.