

**MEMO  
TOWN OF EATON  
POLICE DEPARTMENT**

**To: Chief Sturch**

**From: Lt. Suter** 

**Date: May 26, 2022**

**RE: Internal Affairs Investigation Report #22-01**

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**CONFIDENTIAL**

**INTERNAL AFFAIRS INVESTIGATION REPORT**

**NOT FOR RELEASE**

**EATON POLICE**

**CO**

<b>EATON POLICE DEPARTMENT IA REPORT</b>			<b>CONFIDENTIAL</b>	CASE NO. 22-01
REPORT TYPE: IA REPORT	CLASSIFICATION: INTERNAL AFFAIRS	<b>INTERNAL AFFAIRS REPORT CONFIDENTIAL</b>	REPORTING OFFICER: Lt. Thomas Suter	DATE OF REPORT:
STATUTE/ORD TITLE/INCIDENT/EATON POLICE POLICY PROCEDURE			STATUTE/ORD NUMBER / POLICY NUMBER	
1. Conduct Unbecoming an Officer			Sec 3.6	
2. Adherence to Policy			Sec 3.23.2	
3.				
4.				
5.				
LOCATION OF OCCURRENCE/ADDRESS Element Brazilian Jiu Jitsu, 206 Oak Ave, Eaton, CO 80615			DATE/TIME REPORTED 05-19-2022 / 2303 hrs	
DATE/TIME OCCURRED (On or Between) 10-28-2021 /			AND 05/18/2022 /	

**EATON POLICE OFFICER UNDER IA INVESTIGATION** (if multiple officers being investigated continue below)

**(OFC) Officer Under Investigation**

Per Code <b>OFC</b>	NAME: (Last, First, Middle) Swartz, Michael #21-02		PHONE:(H) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNK	PHONE:(W) <input type="checkbox"/> NONE <input type="checkbox"/> UNK
ADDRESS: (Street, City, State, Zip)				
BUSINESS / SCHOOL (Include Address) Eaton Police Department, 224 First St., Eaton, CO 80615				
DOB <input type="checkbox"/> UNK	AGE 29	SEX Male	RACE White	ETHNICITY Non-Hispanic
HEIGHT		WEIGHT		HAIR
EYES		PARENTS NAME: (Juvenile Only)		
PARENTS DOB: <input type="checkbox"/> UNK		PHONE:(H) <input type="checkbox"/> NONE <input type="checkbox"/> UNK		PHONE:(W) <input type="checkbox"/> NONE <input type="checkbox"/> UNK
ADDRESS: (street, City, State, Zip)			ADDRESS: (Business/School)	

**INVOLVED PARTIES** (if officer is a witness not under investigation they will be W if being investigated they will be OFC)

**(OFC) Officer Under investigation (V) Victim (RP) Reporting Party (W) Witness (J) Juvenile**

Per Code <b>J</b>	NAME: (Last, First, Middle)		PHONE:(H) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNK	PHONE:(W) <input type="checkbox"/> NONE <input type="checkbox"/> UNK
ADDRESS: (Street, City, State, Zip)				
BUSINESS / SCHOOL (Include Address)				
DOB <input type="checkbox"/> UNK	AGE	SEX	RACE	ETHNICITY
HEIGHT		WEIGHT		HAIR
EYES		PARENTS NAME: (Juvenile Only)		
PARENTS DOB: <input type="checkbox"/> UNK		PHONE:(H) <input type="checkbox"/> NONE <input type="checkbox"/> UNK		PHONE:(W) <input type="checkbox"/> NONE <input type="checkbox"/> UNK
ADDRESS: (street, City, State, Zip)			ADDRESS: (Business/School)	

**(OFC) Officer Under investigation (V) Victim (RP) Reporting Party (W) Witness (J) Juvenile**

Per Code <b>RP</b>	NAME: (Last, First, Middle)		PHONE:(H) <input type="checkbox"/> NONE <input type="checkbox"/> UNK	PHONE:(W) <input type="checkbox"/> NONE <input type="checkbox"/> UNK
ADDRESS: (Street, City, State, Zip)				
BUSINESS / SCHOOL (Include Address)				
DOB <input type="checkbox"/> UNK	AGE	SEX	RACE	ETHNICITY
HEIGHT		WEIGHT		HAIR
EYES		PARENTS NAME: (Juvenile Only)		
PARENTS DOB: <input type="checkbox"/> UNK		PHONE:(H) <input type="checkbox"/> NONE <input type="checkbox"/> UNK		PHONE:(W) <input type="checkbox"/> NONE <input type="checkbox"/> UNK
ADDRESS: (street, City, State, Zip)			ADDRESS: (Business/School)	

# EATON POLICE DEPARTMENT - **CONFIDENTIAL** IA NARRATIVE

REPORTING OFFICER:  
Lt. Thomas Suter

INTERNAL AFFAIRS  
**CONFIDENTIAL REPORT**

IA NUMBER  
IA #22-01

At approximately 2233 hours on Wednesday, May 18, 2022 I received a call at home on my department issued cell phone from Chief Sturch #07-01. He advised me that [REDACTED], [REDACTED] had filed a complaint with Cpl. Allen #15-02. The complaint was that Officer Michael Swartz #21-02 had been sending excessive texts (over 150 of them) to [REDACTED] year old [REDACTED]. [REDACTED] is known to officers of this department as he owns [REDACTED] and has taught a couple of in-service training classes to Eaton PD officers. [REDACTED] usually accompanies [REDACTED] when he teaches classes and she is also known to officers. When [REDACTED] initially began teaching in-service training classes [REDACTED] was [REDACTED] years old and she turned [REDACTED] in January. It is common knowledge in the department that Officer Swartz trains with [REDACTED] and [REDACTED] at his Dojo. At approximately 2303 hours I received a call from Sgt. Rundle who advised me that he was taking an initial complaint from [REDACTED]. At approximately 2342 hours I received a second call from Chief Sturch who ordered me to open an Internal Affairs investigation into the complaint and that Sgt. Rundle would be opening a criminal investigation. The chief advised me that he placed Officer Swartz on paid administrative leave and provided me a copy of the written notice.

At approximately 0816 hours on Thursday, May 19, 2022 I contacted [REDACTED] by phone, [REDACTED]. I asked [REDACTED] to give me some background information. He stated that things at the Dojo were getting awkward as there was too much "touchy feely" stuff going on between Swartz and [REDACTED]. He said he was keeping an eye on it and that [REDACTED] had tried to put a stop to it. Swartz had been keeping him after training for an hour crying about how to fix his relationship with [REDACTED]. He noticed [REDACTED] was beginning to have a bad attitude so he asked [REDACTED] and her mother, [REDACTED] to come in and talk to him. He looked at approximately 30 text messages between Swartz and [REDACTED] and while he didn't read them all it appeared to him that she was trying to, "...blow him off." He thumbed down 15 or 20 times on the text screen and never got to the beginning. There was nothing sexual that he saw on the text thread, but it appeared to him that he was trying to groom her. Swartz had texted him about [REDACTED] and he told him to back off of her several times. He deleted those texts a couple weeks ago when he was cleaning up his phone. He had questioned Swartz about his relationship with [REDACTED] and Swartz told him that [REDACTED] was [REDACTED] and it wasn't illegal if he was less than 10 years older. This information about the legal age difference both surprised him as well as being a "big red flag". Last night he sent Swartz a text and also sent a copy of the text to Cpl Allen. This text said in part: "I gotta say that is highly inappropriate for someone your age and in your position to be texting a [REDACTED] year old girl like that." "So it sucks but I can't let you train here anymore." A copy of this text is attached to this case file.

At approximately 1002 hours on Thursday, May 19, 2022 I contacted [REDACTED] by phone, [REDACTED] and asked her if I could schedule an interview with her daughter, [REDACTED]. She and [REDACTED] arrived a short time later as they live a block from the police department. I met with both of them in the town attorneys office and explained the dual IA investigation and criminal investigation process. I then asked [REDACTED] to step out of the room and asked [REDACTED] if I could interview her daughter alone and she immediately consented.

At approximately 1014 hours I met with [REDACTED] in the interview room and turned on the camera equipment. A thumb drive of the interview was made and is attached to this case file. The following is a synopsis of the interview:

She and Swartz became good friends for about two months beginning in October 2021. Swartz then started becoming closer than she would have liked as a friend. She tried pushing him away by telling him to leave her alone and give her some space. Swartz would always come back and ask her why

## EATON POLICE DEPARTMENT - *CONFIDENTIAL* IA NARRATIVE

and ask her what he did wrong. She needed some time alone to try to figure out what was going on. She stopped talking to him, "...completely dropped him for a while." Swartz kept coming to training and she tried to be civil, tried to be a good training partner, and coach. Swartz then tried becoming her friend again and she told him to completely leave her alone.

In follow up questions [REDACTED] stated:

- Swartz always wanted to take her to dinner, do stuff with her, and play games with her family as a way of trying to push further into her life than just be friends.
- Between February and March 2022 she told Swartz 4-5 times in person to stop talking to her and leave her alone. She told him once to stop texting her. Swartz continued to talk to her once in a while and sent very few texts.
- Not including the ride-along with Swartz she estimated they were alone together 14 times: they went to dinner alone together twice at the Rio Grande in Greeley and the other 12 times were at the Dojo where she trained Swartz. Swartz paid her for the training time. She insists there was never any intimate contact. I asked her what intimate contact meant to her and she said, 'touching her private parts, chest or rear'.
- Swartz sent her a text on snapchat and she deleted the app because of the contact. She does not remember what he sent. Swartz never sent her any photographs via text nor Snapchat.
- I mentioned to her that [REDACTED] had told me she developed a bad attitude in training. [REDACTED] said she had a lot going on in her life and Swartz was not giving her space and not leaving her alone wasn't helping. In class Swartz was disrespectful to other students and it got on her nerves. She didn't want to talk to him about it because she didn't want to have any contact with him. She described him being disrespectful as telling other students 'you're not that good' or 'I can tap them out'.
- I did a quick audit of her cell phone and saw nothing sexually explicit.
- On March 23, 2022 she sent Swartz a text message asking him to stop contacting her. She remembers the date because she recently pulled up that text message for [REDACTED].
- Between April and May there was no contact between them except in Brazilian Jiu Jitsu training. During contact in training she was as civil as she could be.
- She has erased approximately two text messages on the thread with Swartz. She does not recall what those messages were.
- In October 2021 [REDACTED] gave her Swartz's phone number because Cpl. Allen and Swartz were going to take her to dinner to celebrate her blue belt.
- Swartz was paying [REDACTED] for Brazilian Jiu Jitsu lessons.
- She said there was no sexual contact. In training she felt there was some unnecessary touching but that its very hard to differentiate between what's unnecessary and what's necessary on the mats.
- She didn't want this reported and didn't want to get Swartz in trouble. She just wanted him out of the Dojo so she would be more comfortable training and wouldn't have to worry so much.
- Yesterday she blocked Swartz so he can't text her.
- Swartz knew her age because she told him. Additionally, they celebrated her getting her blue belt at age [REDACTED] so he definitely knew. He also wished her happy birthday on her [REDACTED] birthday.
- The last time she had contact with Swartz was yesterday in training. They communicated exclusively via text and never via phone conversations.
- She and her dad are concerned that since she is driving now if she gets pulled over he might do something.

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- I asked her how she is feeling since this has been reported. She replied that it's really hard for her to sleep because she doesn't know how it's going to end...feeling a little anxious...more or less because I'm in a police station.

██████████ completed a written statement in which she states around January or February Swartz started becoming closer than she wanted. She told him around this time to leave her alone and give her space and Swartz would ask what he did wrong and what he could do to fix it. She would tell him he did nothing wrong and to stop talking to her but he would still continue to ask. In March she told him via text to stop texting her and he continued to go to class. She was very uncomfortable doing her job when he was there. The statement is attached to this report.

At approximately 1102 hours on Thursday, May 19, 2022 I left a voice mail for Swartz to call me. At approximately 1109 hours I sent a text to his personal phone asking him to give me a call. A short time later Swartz called me and I asked him to meet with me at the police department. Swartz arrived at the police department at approximately 1154 hours and I served him an Internal Affairs Complaint Notification. I also advised that while he is on paid administrative leave his place of duty was his residence between 0800 – 1700 hours with lunch between 1200 - 1300. Swartz asked me about his court appearance tomorrow since he can no longer appear in uniform. I advised him to wear a suit. I also advised him to talk with the DA before he gets on the stand to let them know he is on paid administrative leave and is the subject of an IA investigation.

When Cpl. Allen arrived for duty at approximately 1505 hours on Thursday, May 19, 2022 he provided me with a copy of the report he authored during the early morning hours of Thursday, May 19<sup>th</sup> before he went end of watch. His report recorded his involvement with this IA investigation and is attached to this case file. As Cpl. Allen's report stands on its own I did not interview him.

On Monday, May 23, 2022 I found a print out of the text messages between Swartz and ██████████ on my desk. The print out of the text message thread is approximately 419 pages. Between October 28, 2021 and March 23, 2022 Swartz sent approximately 1,134 texts and ██████████ sent approximately 823 texts. I spent approximately 4 hours reviewing the text message thread.

At approximately 1002 hours on Thursday, May 26, 2022 I interviewed Swartz. The interview was conducted in the interview room and was recorded. A list of 28 interview questions is attached to this report. The following is a synopsis:

- He doesn't know why ██████████ would file a complaint against him
- He was friends with ██████████ 'Well we were friends', was my coach
- They went to the Rio alone together once
- They were only alone in his personal vehicle once and that was when they went to the Rio
- Doesn't know how many times he was alone with ██████████ doing Brazilian Jiu Jitsu training, it was a lot of hours
- Doesn't remember who brought up the idea of her going on a ride-along first
- Its been so long ago he doesn't remember why he told the chief she asked to go on the ride along
- ██████████ mentioned to him the idea of hanging out at family game night because he told her he has no family
- He invited ██████████ and her family to his award ceremony because she was a big influence to him and he was a big influence on her as a cop. It felt like her parents were family. He doesn't remember how many times he met her parents
- She called him her best friend first and he 'went with it', 'allowed it', she said it first

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- He doesn't remember his friend [REDACTED] telling him his behavior was inappropriate. He talked about an incident in class where [REDACTED] sat in his lap which is what brought up [REDACTED] telling him his behavior was inappropriate
- He went through boot camp in the Army as a 92F Fuel Handler, but didn't make it through boot camp. [This information is absent on his employment application. I asked him if he would be surprised if he left that information off of his application and he replied he wouldn't. I had him review his application and he said, "It looks like I left it blank. I left a lot of things blank."]
- He began training at [REDACTED] because he has wanted to train for years now. [REDACTED] was the reason he went there – for motivation
- He probably called her dear – he calls a lot of people dear
- He doesn't think he ever drove by her house to see if she was awake. He patrols the town. He knew she was awake because she was on Instagram
- He erased the text message thread between him and [REDACTED] because she isn't a fan of him anymore. He typically erases text message threads
- He has kept [REDACTED] after class because they're friends. He remembers keeping him after once to talk about [REDACTED] behavior and a couple of times talking to him about not wanting to be at that gym
- [REDACTED] was asking questions about the law because he saw [REDACTED] in a park with an older man
- He doesn't recall ever picking [REDACTED] specifically as a partner in training. It is better to spar with a higher belt, its more satisfying
- At the Halloween party [REDACTED] was angry with him because he was smoking with [REDACTED] and [REDACTED]
- He only remembers talking to [REDACTED] about training uniforms once when they decided Monday/blue, Tuesday/white, and Wednesday/black
- He texted 'it'll be a lot easier to do things once she gets older' because she wanted to be friends
- Doesn't remember how many times [REDACTED] told him to leave her alone between February 1 and March 23. He remembers two specific times but wouldn't be surprised if it were 4-5 times
- Doesn't recall following her around the room after [REDACTED] told him to leave her alone
- Two officers (Moore #21-05 & Allen #15-02) reported they saw Swartz driving around town last night. Moore reported she saw Swartz parked by the Hawkstone clubhouse blacked out. Swartz said he was at [REDACTED] residence from 1900-0000. I contacted [REDACTED] [REDACTED] [REDACTED] He stated Swartz called him right before I did and that he was at his residence last night from 1900-1915 to 0000.
- Reviewed DOJ's grooming definition and his conduct. He said he wanted to be as good as her in Jiu Jitsu, she is the one that initiated hugging – ask anybody in that class, she hugs everybody, his intention was to be her friend and get good at Jiu Jitsu, had no problem being nice to a kid, and trying to be a good role model, and a good friend

### Investigative Conclusion:

- The allegation that Officer Swartz's conduct violated Eaton Police Department Policy & Procedure Sec. 3.6.1 Conduct Unbecoming an Officer is sustained.

*"A police officer is the most conspicuous representative of government; and to the majority of the people, he/she is a symbol of stability and authority upon whom they can rely. An officer's conduct is closely scrutinized; and when his/her actions are found to be excessive, unwarranted, or unjustified, he/she tends to be criticized far more severely than comparable conduct of persons in other walks of life. Since the actions of an officer, on or off-duty, reflect directly upon*

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*the department, an officer must at all times conduct himself or herself in a manner which does not bring discredit to himself/herself, the department, or the town."*

This allegation was brought forth by ██████████ in a text message sent to Officer Swartz and copied to Cpl. Allen. In part the text to Officer Swartz said, "I gotta say that is highly inappropriate for someone your age and in your position to be texting a ██████████ year old girl like that." "So it sucks but I can't let you train here anymore." When interviewing ██████████ he told me that he had questioned Swartz about his relationship with ██████████ and Swartz told him that ██████████ was ██████████ years old and it wasn't illegal if he was less than 10 years older. This information about the legal age difference both surprised ██████████ as well as being a "big red flag".

Between October 28, 2021 and March 23, 2022, Officer Swartz (29 years old) sent approximately 1,134 text messages to ██████████ (a ██████████ year old female). Members of the public viewed a portion of these text messages and found them so inappropriate and abhorrent that he was barred from patronizing a business in town and the conduct was brought to the attention of the police department. Officer Swartz's off-duty actions reflect directly upon the department as he is known to be a police officer and his conduct brought discredit to himself, the department, and the town.

- The allegation that Officer Swartz's conduct violated P&P Sec. 3.23.2 Adherence to Policy is sustained.

*"Members of the Eaton Police Department are prohibited from engaging in conduct that is in violation of the laws, the provisions of this policy manual, or the Town of Eaton Employee's Handbook. Violations may result in disciplinary or punitive action, up to and including dismissal from service."*

A complete review of the text messages that 29 year old Officer Swartz sent to ██████████ year old ██████████ shows a lack of maturity and, although not sexual in nature, has the appearance of grooming her. [There are approximately 418 pages & approximately 1,134 individual text messages sent by Officer Swartz]

The U.S. Department of Justice, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) uses the following definition of grooming:

*"Grooming is a method used by offenders that involves building trust with a child and the adults around a child in an effort to gain access to and time alone with her/him. In extreme cases, offenders may use threats and physical force to sexually assault or abuse a child. More common, though, are subtle approaches designed to build relationships with families."*

*The offender may assume a caring role, befriend the child or even exploit their position of trust and authority to groom the child and/or the child's family. These individuals intentionally build relationships with the adults around a child or seek out a child who is less supervised by adults in her/his life. This increases the likelihood that the offender's time with the child is welcomed and encouraged."*

Grooming behaviors: Building trust with the child – text thread shows Officer Swartz continuously praises ██████████ continuously tells ██████████ she is his best friend, seeks her advice, asked her to go on a ride-along, bought her a gift, took her to dinner, solicits hugs, called her dear, allowed her to sit on his lap

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Building trust with the parents – asking to attend game night with the family, asking the family to attend his award ceremony, asking ██████ to tell her dad and brother happy birthday

Access to and spending time alone with the child – paying her for private Brazilian Jiu Jitsu lessons, taking her to dinner, asking her to go on a ride-along with him

In a text message from Monday, January 3, 2022 Officer Swartz texted ██████ "You are literally the reason I came to class." [IMG\_0624.PNG]

Between February and March 2022 ██████ told Officer Swartz 4-5 times in person to stop talking to her and leave her alone. Text messages show that Officer Swartz did not cease contact and continued to text her approximately 173 times between February 1<sup>st</sup> and March 23<sup>rd</sup>. Additionally, Officer Swartz continued to have contact with ██████ at Brazilian Jiu Jitsu training.

Officer Swartz engaged in conduct that is in violation of the provisions of this policy manual.

- There is Sustained Misconduct Not Based on Complaint in that Officer Swartz served in the U.S. Army as a 92F Fueller and did not make it through Basic Combat Training. This information is absent on his employment application, both in the Experience and Employment section and the Military Record section. This is a violation of:

P&P Sec. 3.6 Dishonesty or untruthfulness

P&P Sec. 3.8.2 Members shall at all times conduct themselves with dignity and honesty, never using excessive force or violence, or displaying cowardice in the line of duty

P&P Sec. 3.18.1 The public demands that the integrity of its law enforcement personnel be above reproach. The dishonesty of a single departmental member may impair public confidence and cast suspicion upon the entire department.

P&P Sec. 3.18.2 Succumbing to even minor temptation can be the genesis of a malignancy which may ultimately destroy an individual's effectiveness and may contribute to the corruption of countless others. Each employee must scrupulously avoid any conduct which might compromise his/her own integrity or that of fellow officers and the department. Each employee has the obligation to tell the truth and report the dishonesty of another.



Lt. T. Suter #14-01

Attachments:

Notice of Internal Affairs Investigation  
Hardin written statement  
Cpl. Allen report

# EATON POLICE DEPARTMENT - *CONFIDENTIAL* IA NARRATIVE

Notice of Paid Administrative Leave

IA interview question list

Employment application: three pages

Thumb drive: Swartz [REDACTED] text message thread, [REDACTED] interview, [REDACTED] text to Allen & Swartz