

# **City of Calhoun Georgia**

226 S Wall St, Calhoun, GA 30701, United States

## **Confidential Internal Investigation**

**September – October 2025**

Calhoun Fire Department



**PRIVILEGED & CONFIDENTIAL  
ATTORNEY-CLIENT COMMUNICATION**

Investigator:  
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## **SECTION I – INVESTIGATION BACKGROUND**

On July 29, 2025, the law firm of Elarbee, Thompson, Sapp and Wilson, LLP was contacted by City of Calhoun City Attorney George Govignon and City Administrator Paul Worley regarding recently discovered evidence obtained during the course of on-going litigation brought by former Division Chief of Training Chris Cox against the City, Fire Chief Leonard Nesbitt, City Administrator Worley, and Deputy Chief Terry Mills (hereinafter, “Cox Litigation”), which could be violative by Chief Nesbitt, Deputy Chief Mills, and others within the CCFD, of the City’s Charter, Code, personnel policies, or state or federal law.

The underlying facts in the Cox Litigation stem from a complaint that Cox received regarding alleged sexual misconduct by Battalion Chief Roger Smith involving a 17-year-old high school student. In December 2022, Cox reported Smith’s alleged misconduct to Administrator Worley, bypassing his chain of command. Cox made two distinct allegations:

(1) that Smith had engaged in inappropriate sexual activity with a minor on CCFD property, and  
(2) that Chief Nesbitt and Deputy Chief Mills were involved in covering up Battalion Chief Smith’s activities. Ultimately, Calhoun Police Chief Tony Pyle initiated a criminal investigation into the allegations, and while the investigation confirmed that Smith had engaged in inappropriate conduct, it produced no evidence that Chief Nesbitt or Deputy Chief Mills were involved in any cover-up. Cox’s employment was ultimately terminated and he filed suit thereafter.

In August 2025, Calhoun City Administrator Worley retained the firm of Elarbee Thompson to initiate an independent internal investigation into possible misconduct by Chief Nesbitt, Deputy Chief Mills and other Calhoun Fire Department employees relative to the Cox Litigation. This writer, Chief (ret.) Dan Flynn was retained to perform the investigation which commenced in August 2025.

## **SECTION II – CROSS REFERENCES**

The below listed policies, rules, procedures, and documents serve as sources of information for this investigation, and they are cross-referenced by number throughout this report.

| <b><u>Cross Ref. Number</u></b> | <b><u>Cross Reference Description</u></b>                                                                                       |
|---------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
|                                 |                                                                                                                                 |
|                                 | <b><u>Calhoun Policies, Rules and Procedures</u></b>                                                                            |
|                                 |                                                                                                                                 |
| 1                               | City of Calhoun Personnel Policies (also known as City Handbook) (rev 7/23)                                                     |
| 2                               | Calhoun Fire Department Standard Operating Guidelines (SOG)                                                                     |
| 3                               | Calhoun Fire Department SOG 100.02.03 – Rules of Conduct                                                                        |
| 4                               | City of Calhoun Fire Department Code of Ethics                                                                                  |
|                                 |                                                                                                                                 |
|                                 | <b><u>Cox Litigation Depositions</u></b>                                                                                        |
|                                 |                                                                                                                                 |
| 5                               | CFD Battalion Chief Todd Holbert (April 22, 2025)                                                                               |
| 6                               | Gordon County Emergency Management Director Courtney Taylor (June 17, 2025)                                                     |
| 7                               | CFD Deputy Chief Terry Mills. (February 25, 2025)                                                                               |
| 8                               | CFD Chief Leonard Nesbitt. (February 25, 2025)                                                                                  |
|                                 |                                                                                                                                 |
|                                 | <b><u>Documents</u></b>                                                                                                         |
| 9                               | Reprimand/Counselling Notice dated 12/8/2022 concerning Roger Smith (1 page)                                                    |
| 10                              | Copies of text messages between Terry Mills and Roger Smith from Mills' phone between May 5, 2024, and January 2025 (25 pages). |
| 11                              | Text Message from L. Nesbitt to Courtney Taylor dated June 8. (1 page)                                                          |

## **SECTION III – INTERVIEWS**

### **1. Battalion Chief Todd Holbert**

Calhoun Fire Department  
327 S. Wall Street  
Calhoun, Ga. 30701  
706-263-5933

Chief Holbert was interviewed as part of this internal investigation on August 22, 2025, at 200 N. Wall Street, Calhoun Georgia.

#### ***Issue – Employee Intimidation***

In his deposition in the Cox Litigation, on April 22, 2025, (cross ref. # 5) Chief Holbert testified that on March 28, 2024, he spoke to Fire Chief Leonard Nesbitt at his office. Holbert said Nesbitt stated he had been told Holbert was Chris Cox’s “ride and die partner.” Holbert denied Nesbitt’s assertion, believing it to mean he was an intensely loyal friend to Cox who had filed a lawsuit against the City of Calhoun, Nesbitt and others. Immediately after speaking with Nesbitt, Holbert stated he made notations on his cell phone regarding the chief’s statement.

After speaking with Chief Nesbitt, Holbert spoke with Deputy Chief (DC) Mills at his office and asked him what Nesbitt meant by “ride and die partner.” Mills responded that Nesbitt was agitated or upset about the Cox Litigation, and meant “whoever testified in this lawsuit, it might not go well for them.” Holbert asked if it meant they could lose their job and Mills replied, “not by me,” but yes. Holbert immediately made notations on his cell phone regarding his conversation with DC Mills.

Holbert stated that after his conversations with Nesbitt and Mills, he went directly to the station bunkroom and told “his guys” about it. The “guys” to whom he was referring were Fire Engineer Chad Castoe and Fire Lieutenant Jaron Gilbert. Holbert described his own demeanor when he spoke to Castoe and Gilbert as astonished and fearful, as he related his conversation with the Chief and Deputy Chief and showed Castoe and Gilbert the notes on his phone.

### **2. Chad Castoe, former Fire Engineer**

Calhoun Fire Department  
327 S. Wall Street, Calhoun, Ga. 30701

Chad Castoe, who has retired from the City of Calhoun, was interviewed as part of this internal investigation on September 4, 2025, at 200 N. Wall Street, Calhoun Georgia.

### *Issue – Employee/Witness Intimidation*

Mr. Castoe volunteered that he is an ordained minister and stated he left his employment at the Calhoun Fire Department (CFD) because of ongoing conflict and low morale within the department. He went on to say he feels there is a lack of leadership, culture and values in the CFD and he used the term “the inmates are running the asylum” to describe the leadership of the CFD. He also said he was embarrassed for the department over the incidents involving Roger Smith and Chris Cox lawsuit. The matters were publicly discussed on Facebook as well as in the local news media and they cast a dark shadow in the community, questioning the integrity of the Calhoun Fire Department.

Castoe recalled the day on or about March 28, 2024, when Chief Holbert came into the CFD bunk room and told him and Lieutenant Gilbert about conversations he (Holbert) had moments earlier with Chief Nesbitt and DC Mills. Castoe described Holbert’s demeanor at the time of their conversation as one of shock and he said Holbert felt he had been threatened by both Nesbitt and Mills.

Holbert went on to say that Chief Nesbitt said he had been told Holbert was Chris Cox’s “ride and die partner” which he denied. When he asked Mills what Nesbitt meant by “ride and die partner,” Mills allegedly replied to the effect; I think he means that things will not go well for anyone who testifies in favor of Chris Cox in his lawsuit.”

Castoe went on to say once Holbert finished telling him and Gilbert about his conversations with Nesbitt and Mills, he (Holbert) took out his cell phone and began adding to notes he had written about the conversations. Castoe and Gilbert saw Holbert reviewing the notes.

When asked if, while working in the CFD, Castoe felt intimidated about reporting misconduct by other members of the department, Castoe said not personally, because he was a senior member of the department, but other employees were intimidated. He said he did not recall any specific member of the CFD covering up any misconduct by any other member.

Castoe volunteered that one of the things that contributed to his embarrassment of the CFD was when a Calhoun citizen he knew confronted him in public and expressed disgust in what she had read on Facebook and in the news regarding the allegations against Roger Smith.

3. **Lieutenant Jaron Gilbert**  
Calhoun Fire Department  
327 S. Wall Street  
Calhoun, Ga. 30701  
706-263-5933

Lieutenant Gilbert was interviewed as part of this internal investigation on September 4, 2025, at 200 N. Wall Street, Calhoun Georgia.

### ***Issue – Employee/Witness Intimidation***

Lieutenant Gilbert is a current employee of the Calhoun Fire Department. He stated he remembered the incident concerning Chief Holbert on or about March 28, 2024, in the bunk room of the CFD. Chief Holbert seemed “shocked” and “couldn’t believe” a conversation he just had with Deputy Chief (DC) Mills.

Gilbert stated Chief Holbert said that DC Mills told him “Things wouldn’t be good” for anyone who testified for Chis Cox in the Cox Litigation. When asked if he discussed this conversation with anyone else, Gilbert said it was being widely discussed throughout the CFD.

When asked if he recalled Chief Holbert saying anything about a conversation with Chief Nesbitt, Gilbert said he did not recall any conversation regarding conversation between Chief Nesbitt and Chief Holbert. He only remembers Holbert talking about his conversation with DC Mills.

#### **4. Director Courtney Taylor**

Gordon County Emergency Management Agency  
4543 Fairmount Highway SE  
Calhoun, Georgia 30701  
770-881-3276

Courtney Taylor is not an employee of the City of Calhoun, but rather Gordon County. Taylor was interviewed as part of this internal investigation on September 4, 2025, at 200 N. Wall Street, Calhoun, GA.

### ***Issue – First Report of Smith Allegations***

Director Taylor recounted his testimony as documented in his deposition in the Cox litigation (cross ref. # 6). He recalled the conversation he had on October 17, 2022, with Chief Nesbitt, who he has known for approximately 30 years, as he reported allegations against Roger Smith of the CFD. Taylor reiterated the conversation in a manner consistent with his deposition.

Taylor’s testimony concerning his conversation with Nesbitt is contained on pages 28-32 of his deposition. The key points of his testimony were as follows:

1. He is certain he told Nesbitt the girl [REDACTED] in question was 17 years old and she worked at Big John's Restaurant in Calhoun.
2. He told Nesbitt the name of the complainant who called him, Tammy Evans.
3. He told Nesbitt Smith was trying to get the girl to come to the fire station for sex.
4. He told Nesbitt Smith sent sexually oriented texts to the 17-year-old and they had "talked sexually"
5. He does not recall if he "offered" the texts to Nesbitt verbatim, but he testified he said to Nesbitt "If you don't want these, I am going to delete them." He testified Nesbitt specifically said to him "I don't want them."

***Issue – Text message from Nesbitt to Taylor regarding testimony***

Director Taylor was asked if he recalls receiving a text message from Chief Nesbitt concerning his upcoming deposition in the Cox litigation. He replied yes, and he has retained a copy of it. He went on to say the content of the text did not ask him to lie, but he felt the closing sentences asking him to delete the text and not tell anyone about it made him uneasy and seemed wrong.

5.     **Deputy Chief Terry Mills**  
Calhoun Fire Department  
327 S. Wall Street  
Calhoun, Ga. 30701  
706-263-5933

Deputy Chief Mills was interviewed on August 22, 2025, at 200 N. Wall Street, Calhoun Georgia.

Mills said he remembered his testimony from his deposition in the Cox litigation on February 25, 2025 (cross ref. # 7). He said it was true and correct to the best of his recollection.

***Issue - First Report of Allegations***

Mills remembered being called to Chief Nesbitt's office on October 17, 2025, and the Chief telling him about the conversation he had just had with Courtney Taylor. Mills could not recall specifically whether Nesbitt told him it was Taylor who had given him the allegations. Mills has given two different versions about this recollection.

Mills stated Nesbitt asked him if he knew anything about Roger Smith having an affair with a young waitress and Mills said he did not. Nesbitt then asked him to check with Smith to see what was going on.

Mills stated he spoke with Smith on the same day Chief Nesbitt asked him to. He said Smith told him he was talking to the girl, who was a waitress in Big John's Restaurant as part of an attempt to lift her self-esteem. He said she had a recent breakup with her boyfriend and was suffering low self-esteem because of it. Mills went on to say Smith told him he had deleted all his social media accounts, and he would make the situation "go away."

Mills reiterated that he did not press Smith for any further details of his initial explanation. Mills did not ask for or make any attempt to recover Smith's social media communications, texts or phone calls. Mills said he took no further action until he told Chief Nesbitt there was nothing to the Smith affair.

In his deposition (lines 19-24), Mills was asked if Chief Nesbitt had asked him to investigate the allegations against Roger Smith. Mills replied "No sir. He asked me to speak with Roger about the incident, and he did not ask me to investigate the incident"

### ***Issue - Smith Reprimand Document***

Mills was shown a copy of a written Reprimand/Counseling form obtained in the Cox Ligation. It was issued to Roger Smith and dated December 8, 2022, cross ref. # 9. Mills was asked and answered the following question as indicated:

Question - Showing you a copy of a written reprimand dated December 8, 2022, issued to Roger Smith, did you prepare this document? If you didn't, do you know who did?

Answer "Chief Nesbitt and I prepared it together which we typically always do"

### ***Issue - "Ride and Die Partner" Conversation***

Mills recalled the incident in which Holbert was talking with Chief Nesbitt at Nesbitt's office which is next to his. Mills said he did not hear exactly what was being said, but he remembers Nesbitt and Holbert were excited, loud and shouting at one another. Mills went and escorted Holbert to his (Mills') office to calm him down.

Mills said he told Holbert Chief Nesbitt was upset because multiple people had been coming to him saying Holbert and others were openly discussing the Cox litigation even though those discussing it were not named in the Cox Litigation. He said Chief Nesbitt was warning Holbert that if he and others continued talking about the litigation, they would be drawn into it, possibly



be deposed, and may have to testify. Mills said he told Holbert Nesbitt was telling him that he and others not named needed stay out of the litigation matter. Mills stated he told Holbert to “stop talking about it.”

Mills stated Holbert likes to be in the middle of everything and he “sticking his nose where it didn’t belong”. He does not specifically remember repeating the term ride and die partner, but he admits he told Holbert to “stop talking about it”.

### ***Issue - Mills’ Texts with Roger Smith***

DC Mills was shown a 25-page set of photographs of texts extracted from his city-owned and issued telephone occurring between May 2024 and January 2025 between him and Roger Smith. (cross ref. # 10). He said he was familiar with them.

Mills was asked to explain why, in his Cox Litigation deposition he said he stopped being friends with Smith in late 2022 when he found out Smith had lied to him, yet the texts showed they continued to communicate a friendly manner. Mills replied that he had been taken out of context in his deposition and he was not given a chance to explain.

Mills said for approximately 30 years, up until 2022, his family and Smith’s family were close friends. They socialized and attended various social activities together as friends. Once he found out what Smith had done, he stopped their social friendship, but not his **acquaintanceship** with Smith. He continued to communicate with him as evidenced in the texts.

It is noted in his Cox Litigation deposition (cross-reference # 7) (page 59, line 22 through 24) Mills was specifically asked:

“Question: When did you stop being his friend?

Answer: Stopped being acquaintances when all of this transpired.”

When asked about texts in which Smith was inquiring about how the **strippers** were in Dallas and Miami, Mills explained that his wife works for a carpet company. He mentioned this in his Cox Litigation deposition (page 10, lines 14 through 20). He went on to say that his wife sells carpeting to several groups of clients, one of which is gentleman’s’ clubs. He often accompanies her to trade shows in major cities (like Dallas and Miami) where she interacts with representatives of gentlemen’s clubs. That is what Smith was jokingly asking about.

Mills volunteered that for several years before he was married, he was a prolific womanizer with many different girlfriends. He said he was often ridiculed and or joked with about it by other firemen. He also indicated Roger Smith was also a womanizer.

6. **Fire Chief Leonard Nesbitt**  
Calhoun Fire Department  
327 S. Wall Street  
Calhoun, Ga. 30701  
770-548-5459

Chief Nesbitt was interviewed on August 22, 2025, at 200 N. Wall Street, Calhoun Georgia.

Nesbitt began by confirming his testimony in his deposition in the pending Cox Litigation was true and accurate to the best of his recollection.

Nesbitt was asked questions regarding his October 17, 2022, conversation with Courtney Taylor when he was first apprised of the allegations against Roger Smith. In summary, Nesbitt said Courtney received a call from a woman who wanted to remain anonymous. He said she told Courtney about allegations regarding an affair between Roger Smith and a 17-year-old female high school student. He asked Courtney to have the caller contact him or Deputy Chief Mills, but Courtney said the woman had been told Nesbitt and Mills could not be trusted so she did not want to bring it to them.

Nesbitt did not say that Taylor had any texts or photos because if he did, he (Nesbitt) would have asked for them. He reiterated that Taylor never offered to give him copies of any evidence of the affair. He denies Taylor said anything about deleting evidence because he “didn’t say he had any”. In a follow up question, Nesbitt was asked:

Question: “Did Courtney say if you did not want the texts he had, he was going to destroy them?”

Answer: “Do not remember”

Following the above exchange, Nesbit was asked: “Did you ask Cortney who gave him the allegations?” He replied “wanted to remain anonymous”

The next question and answer were as follows:

Question: “Did Courtney tell you the identity of the individual who gave him the allegations.”

Answer: “Don’t remember”

Nesbit was also asked if Taylor told him the name of the young woman with whom Roger Smith was allegedly flirting or talking to? Nesbit replied “I don’t remember”

Nesbitt said he went back to his office and asked Terry Mills if he knew anything about the alleged relationship. Mills said no, so Nesbitt told him to check with Smith and ask him

about it. Nesbitt went on to say after asking Mills to check with Smith, he did not notify Mr. Worley, Ms. Land (HR), City Attorney Govinion, or anyone else about the allegations.

Although he couldn't remember exactly when it occurred, Nesbitt said at some point Mills returned to him and said there was nothing to the allegations. Nesbitt volunteered that Mills did not tell him about any Facebook messages.

Nesbitt said he learned somewhere that Smith had been involved in trying to lift the self-esteem of a young woman who had just broken up with someone, and she liked Smith, but that was all there was to it. Nesbitt said he never spoke directly to Smith about the allegations.

Nesbitt testified he did nothing further after speaking with Mills, because he believed there was nothing to the allegations until approximately December 5, 2024, when the text messages were given to Mr. Worley. *Note-Nesbitt made no mention of an undocumented reprimand Mills said the two of them (Nesbitt and Mills) wrote together two days after Mills spoke with Smith.*

When asked if he was satisfied with Terry Mills' handing of this matter up until December 5, 2024, Nesbitt said yes, he had "no reason not to be."

#### ***Issue - "Ride and Die Partner" Conversation***

Nesbitt was asked if at any point after December 2024 he said to Battalion Chief Holbert "I heard you were Chris Cox's ride and die partner" or anything like that. Nesbitt's reply was "I don't recall" "It was not a term I would typically use, no, I don't remember."

Nesbitt was also asked if he ever told Mills or anyone else that things may not go well for anyone in the CFD who testified in favor of Chris Cox, and if so, what he meant by it. Nesbitt's reply was as follows:

I never said that. I said something like if Holbert or anyone else kept involving themselves in the lawsuit and talking about it, they would have to give depositions and answer questions like those of us who are involved in the lawsuit.

#### ***Issue - Text from Nesbitt to Courtney Taylor***

Nesbitt was shown the text message obtained from his city-owned and issued telephone which he allegedly sent Taylor regarding his pending testimony in the Cox litigation.

Nesbitt acknowledged sending the text and stated, "I did, but I made no suggestions whatsoever as to what he should testify to, I shouldn't have sent it." (*note – indicating using poor judgement*)

When asked if toward the end of the text he stated, "call me if you need anything and please delete the text" he answered - Yes – That was stupid of me. "Shouldn't have done it."

### ***Issue - Notifications***

Nesbitt was asked why he didn't advise Mr. Worley or anyone else about the serious allegations Taylor relayed to him between October 17, 2022, and December 5, 2022. Nesbitt simply replied "No"

### **Closing Remarks**

At the end of his interview, Nesbitt was asked if there was anything he would like to add and he stated: I have been doing this for over 40 years. I never showed favoritism even to Terry Mills. I was good friends with Cox; we taught and travelled together. I have no axe to grind with Cox.

Nesbitt later volunteered that there were times when Mills wanted to discipline Cox, but he (Nesbitt) told Mills not to.

## **SECTION IV – ANALYSIS AND FINDINGS**

### **STANDARDS OF CONDUCT**

The standards of conduct, responsibilities and ethics required of all members of the Calhoun Fire Department are governed by the following policies, guidelines and code:

- A. City of Calhoun Personnel Policies, as detailed therein.
- B. Calhoun Fire Department Operating Guidelines; Core Values , Paragraph 2, Honesty/Trust, “We will use honesty as the foundation to develop and maintain a high level of trust along with a firm reliance on the integrity, ability, and character of those we serve with, those we lead and those who lead us as well as a commitment to maintaining the trust of the community we serve”
- C. Firefighter Code of Ethics:

“I understand that I have the responsibility to conduct myself in a manner that reflects proper ethical behavior and integrity. In so doing, I will help foster a continuing positive public perception of the fire service. Therefore, I pledge the following...” As detailed therein

*Excerpts from the Firefighter Code of ethics will be itemized later in this report.*

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#### **I. Fire Chief Leonard Nesbitt**

**Allegation 1**– Chief Nesbitt was untruthful when he was questioned under oath regarding his conversation with Gordon County Emergency Management Director Courtney Taylor on October 17, 2022.

#### **Alleged Violations:**

**City of Calhoun Personnel Policies, Section 5.E, Disciplinary Actions** – Reprimands, Item 5, Reasons for Disciplinary Action, f, willfully giving false statements to supervisors, officials, the general public, boards or commissions.

**Calhoun Fire Department, Standard Operating Guidelines**, Chapter 100, Section 02, Subject 03, Rules of Conduct, All Members Shall, item 4; “Always conduct themselves to reflect credit on the Department” and item 6 “Members shall always conduct themselves in a manner that creates good order inside the department.

**Firefighter Code of Ethics, Bullet Point 5**; “be truthful and honest at all times and report instances of cheating and other dishonest acts that compromise the integrity of the fire service.”

## **Nesbitt Allegation 1 - Analysis and Findings**

*Note: Director Courtney Taylor's deposition in the Cox litigation is cross reference # 6.*

Gordon County Emergency Management Director Courtney Taylor reiterated his testimony in the Cox litigation and articulated the details of his conversation with Chief Nesbitt on October 17, 2022. Director Taylor's testimony was verified in this investigation and is corroborated by the following factors:

- a. Director Taylor is not an employee of the City of Calhoun. He is an independent Gordon County employee; thus, his employment is not reliant on the City of Calhoun. There is no indication he would have anything to gain by falsifying testimony against his longtime acquaintance, Chief Leonard Nesbitt.
- b. Director Taylor was steadfast in his assertion that on October 17, 2025, he told Chief Nesbitt the identity of the individual who called him with allegations against Roger Smith, Ms. Tammy Evans. Ms. Evans corroborated on the record she was the one who called Director Taylor concerning allegations against Roger Smith on October 17, 2025.
- c. Director Taylor testified and reiterated that he told Chief Nesbitt he had incriminating texts and photos implicating Roger Smith in an illicit relationship with a 17-year-old waitress who worked at Big John's Restaurant in Calhoun. Copies of the lurid texts and photos were later produced by Ms. Evans. The details were consistent with the original allegations and testimony of Taylor.
- d. Director Taylor clearly testified and confirmed that he offered the texts and photos concerning the allegations against Roger Smith to Chief Nesbitt by saying "If you don't want these, I am going to delete them." He further testified that Nesbitt directly replied, "I don't want them." Taylor's testimony is consistent throughout his deposition and statement.
- e. When shown a copy of a text from Chief Nesbitt to Taylor (cross reference #11), Taylor confirmed that he had received it from Nesbitt. Although the body of the text asked him to delete the text message and deny they spoke, Taylor retained a copy that matches the one forensically extracted from Nesbitt's phone.
- f. The fact that, in the body of the text message in question, Nesbitt asked Taylor to delete the text and deny they spoke, substantiates evidence of Chief Nesbitt's nefarious intent.

Taken together, the foregoing items of corroboration combine to meet the **preponderance of evidence standard** establishing that Director Taylor was truthful in his testimony. He testified clearly and consistently twice on these matters (Cox Litigation and Calhoun internal investigation) and the texts between Roger Smith and the victim he spoke of were eventually produced and entered in evidence. Director Taylor's veracity is also supported by Tammy Evans. Most importantly, his testimony all makes sense.

### ***Issue – Nesbitt Contradictions***

In his sworn deposition (cross-reference #8, page 33 lines 4-21), Chief Nesbitt conveniently denied or answered he did not remember key issues in Director Taylor’s testimony, specifically; 1- That Taylor told him the identity of the original caller, Ms. Evans. 2 – that Taylor told him about the existence of text messages and photos, and 3 – (in Nesbitt’s deposition, page 52, line 25 and page 53, line 1) that Taylor told him the age of the high school student with whom individual Roger Smith was allegedly having an illicit affair. In addition, in his internal investigation statement, Nesbitt contradicted his own prior testimony regarding the age of the student victim when he clearly said on the record that Taylor told him “The gal is 17”.

While Director Taylor’s testimony was consistent and corroborated, Chief Nesbitt’s has been discredited by testimony, evidence and convenient failures to remember. Thus, it is more likely (preponderance standard) that Director Taylor is telling the truth and Chief Nesbitt is not. Also, Chief Nesbitt delayed approximately six weeks (October 17 until the first week of December 2022) to investigate the allegations against Roger Smith. By the first week of December 2022, he had no choice because the allegations had become public.

In his internal investigation statement, on several follow up questions, Nesbitt conveniently stated “don’t remember” after he answered.

When asked why he sent the text to Taylor before his deposition, Chief Nesbitt answered, “It was stupid” (*note: this statement is indicative of Nesbitt failing to use good judgement*)

### **Nesbitt Allegation 1 is SUSTAINED**

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**Allegation 2** - Chief Nesbitt failed to initiate a prompt investigation when he was first advised of serious, potentially criminal, accusations against Roger Smith, an employee of the Calhoun Fire Department.

### **Alleged Violations:**

**Core Values of the Calhoun Fire Department. to wit:** “Honesty / Trust –We will use honesty as the foundation to develop and maintain a high level of trust along with a firm reliance on the integrity, ability, and character of those we serve with, those we lead and those who lead us as well as a commitment to maintaining the trust of the community we serve.”

**Calhoun Fire Department, Standard Operating Guidelines**, Chapter 100, Section 02, Subject 03, Rules of Conduct, All Members Shall, item 4 “Always conduct themselves to reflect credit on the Department,” and item 9, “Members will operate safely and **use good judgement.**”

**Firefighter Code of Ethics, Bullet Point 9**, Exercise professionalism, competence, respect and loyalty in the performance of my duties and use information, confidential or otherwise, gained by virtue of my position, only to benefit those I am entrusted to serve.

## **Nesbitt Allegation 2 - Analysis and Findings**

### ***Issue - Failure to collect available evidence from Courtney Taylor***

Chief Nesbitt was unprofessional and failed to use good judgement when he received serious allegations against Roger Smith from Courtney Taylor October 17, 2022. Nesbitt failed to gather all available information and evidence from Taylor, who Chief Nesbitt admitted is a credible source operating in good faith on this matter.

Nesbitt denies that Taylor told him the original caller was Tammy Evans. Taylor affirms in his internal investigation statement that he did tell Nesbitt the caller's identity. Taylor's statement was corroborated by Tammy Evans. Instead of acknowledging he knew who Evans was, Nesbitt stated Taylor told him the caller wanted to remain anonymous. If it was true that Nesbitt didn't know the caller's name, it would have prevented him (Nesbitt) from being able to reach out to Ms. Evans to verify the original allegations in October 2022.

Nesbitt's second denial of Taylor's testimony came when Nesbitt denied Taylor told him he had texts and photos pertaining to the allegations. If that was true, it too would have conveniently prevented Nesbitt from having enough evidence to justify a full investigation.

Nesbitt's third denial of Taylor's testimony came in both his deposition and internal investigation statements when he testified that Taylor never "offered" him any evidence of any kind. Nesbitt may have been parsing words because what Taylor stated in his testimony was, (referring to the texts and photos,) "if you don't want them, I am going to delete them." Taylor also said Nesbitt specifically replied, "I don't want them." That meant Nesbitt knew the items were available from Taylor.

Collectively, there is a preponderance of evidence showing Nesbitt not only knew Taylor had copies of the texts and photos, but he failed to accept or otherwise collect them. His later verbiage about "flirting or talking to" also tended to minimize the importance of what Taylor told him.

### ***Issue - Failure to launch a formal investigation***

Nesbitt agrees that in his conversation with Taylor, at a minimum, he was told there were allegations Smith, a married firefighter, was having an illicit affair with a 17-year-old high school student possibly on Fire Department premises. Taylor is a credible source and therefore the allegations would have justified a formal investigation by any supervisor of the CFD who was conducting themselves to reflect credit on the Department and always conducting themselves in a manner that creates good order inside the department. Taylor's testimony simply outweighs Nesbitts.



Even if he didn't have the text and photo evidence he denies knowing about, or the identity of the complainant which he also denies, Nesbitt had sufficient evidence to launch a formal investigation and make notifications to his peers and/or superiors. (Nesbitt deposition page 36 line 19 through page 37 line 16) (Mill's deposition page 57, line 19 through page 58, line 4).

Mills did not launch a formal investigation when he should have and two days later he and Chief Nesbitt apparently issued Smith an undocumented superficial reprimand/counseling with a two-day suspension for being absent from duty without leave (cross reference # 9). In the Cox litigation and in an independent conversation with this writer, Nesbitt said at some point he created a personal journal entry about the reprimand, but did not tell anyone, including Smith about it. It was not formally documented until December 2, 2022, or exposed until 2025 when the Smith affair finally became public.

Evidence in both the Cox litigation and Calhoun internal investigation suggests in December 2022, Nesbitt and Mills surreptitiously created and backdated the reprimand/counseling document.

Nesbitt should have initiated an investigation and made appropriate notifications when he first learned of the allegations on October 17, 2022, from Courtney Taylor; not wait for weeks until (December 5) when the matter was made public by Cox.

Chief Nesbitt's only action when the allegations were first reported to him was to ask DC Mills to ask his friend, Roger Smith, i.e. the main subject of the allegations, about the allegations. That gave Roger Smith the opportunity to destroy evidence (texts and photos) and potentially influence witnesses against him before the delayed investigation began and before the police were notified.

In violation of the CFD core value regarding "Honesty and Trust," Chief Nesbitt failed to initiate any semblance of a proper investigation of the allegations presented to him by Director Taylor. This failure constituted a failure in leadership responsibility on the part of Chief Nesbitt. It also resulted in feasible allegations of a coverup (Cox Litigation), diminished morale within the CFD (Castoe separation) and diminished trust of the CFD as expressed in social media and news. *Chief Nesbitt's deposition in the Cox litigation is cross reference # 8.*

## **Nesbitt Allegation 2 is SUSTAINED**

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**Allegation 3** – Chief Nesbitt did not keep himself sufficiently informed of pertinent issues necessary to competently execute his administrative responsibilities (do his job effectively) as required by cited rules, policies and codes of the Chief of the City of Calhoun and the CFD.

### **Alleged Violation**

Calhoun Fire Department Standard Operating Guidelines, Chapter 100, Section 02 Administrative/Management Policies, Subject 03, Rules of Conduct, “All members shall, item 7. Keep themselves informed to do their jobs effectively.” Chief Nesbitt failed to keep himself informed of pertinent information.

### **Nesbitt Allegation 3 Analysis and Findings**

In his sworn deposition in the Cox litigation (Cross ref. # 8), Chief Nesbitt intentionally or unintentionally testified he:

- a. Didn’t know who made the decision to terminate Chris Cox from the CFD (Nesbitt deposition, page 22, lines 6-9).
- b. Didn’t know the age at which an individual is considered a minor or adult for the purpose of consenting to sex or sending or receiving illicit messages over the internet. (Nesbitt deposition page 69 lines 6-19)
- c. Didn’t know if he had the right to request or otherwise obtain text messages from Roger Smith’s personal cell phone. (Nesbitt deposition, page 42, lines 1-7) and never checked anywhere to find out.
- d. Didn’t know if there was a procedure for documenting a complaint from the public when the alleged minor victim’s parents came to his office to register a complaint against Roger Smith. (Nesbitt deposition page 72, lines 14 through page 73, line 8)

In addition, there is no evidence to indicate Chief Nesbitt ever attempted to learn the answers to these pertinent issues to keep himself “informed to do his job effectively” as required by the CFD standard operating guidelines and administrative and management policies.

### **Nesbitt Allegation 3 is SUSTAINED**

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**Allegation 4** - Chief Nesbitt intimidated multiple potential CFD witnesses in the Cox Litigation and he improperly attempted to influence Courtney Taylor using a City of Calhoun owned and issued cell phone.

### **Alleged Violations**

**Firefighter Code of Ethics, Bullet Point 1** – I pledge the following: *To* “Always conduct myself, on and off duty, in a manner that reflects positively on myself, my department and the fire service in general.

**Firefighter Code of Ethics, Bullet Point 14** – I pledge the following: *To “never harass, intimidate or threaten fellow members of the service or the public and stop or report the actions of other firefighters who engage in such behaviors.”*

**Firefighter Code of Ethics, Bullet Point 15** – I pledge the following: *To “Responsibly use social networking, electronic communications, or other media technology opportunities in a manner that does not discredit, dishonor or embarrass my organization, the fire service and the public. I also understand that failure to resolve or report inappropriate use of this media equates to condoning this behavior.”*

#### **Nesbitt Allegation 4 Analysis and Findings**

##### ***Issue - Ride and Die Partner Statement***

Chief Nesbitt first attempted to influence or intimidate members of the CFD when, as he admitted in his Calhoun internal investigation statement, he told Chief Holbert something to the effect that he heard Holbert was Cox’s ride and die partner. Nesbitt’s demeanor at the time of the statement (shouting and excited per DC Mills’ statement), the context in which he said it, and the fact that it was coming directly from the Fire Chief to a subordinate clearly implied it was a threat intended to intimidate employees.

In his internal investigation interview, Nesbitt admitted making a statement tantamount to ride and die partner, but he explained what he meant was that if people, including Holbert, who were not specifically named in the litigation continued talking about it, they would be subpoenaed and required to submit to depositions. Nesbitt admitted he told Holbert to “stop talking about it.”

Upon hearing Nesbitt’s statement, Chief Holbert was stunned. He loudly denied the implication he was Cox’s loyal friend and perceived Nesbitt’s statement as a threat. Holbert’s version of this matter is strongly corroborated in time, actions, and content by DC Mills, former Fire Engineer Castoe, and Lieutenant Gilbert. Both Castoe and Gilbert stated Holbert came to them immediately after he spoke to Nesbitt and Mills and told them about both conversations. Holbert was clearly shaken, he said he had been threatened, and he added to notes about the conversations on his telephone in Castoe and Gilbert’s presence.

In the context of the Cox lawsuit, and according to the testimony of Mills, Holbert, Castoe and Gilbert, the term “ride and die” partner was perceived as a threat intended to intimidate members of the CFD not to testify in favor of Chris Cox. When Chief Holbert asked Deputy Chief Mills what Chief Nesbitt meant by ride and die partner statement, DC Mills described Chief Nesbitt’s behavior as strange and agitated since the Cox Litigation had been filed. DC Mills went on to say it meant “anyone who testified favorably for Chris Cox could lose their job,” therefore upping the stakes. Chief Nesbitt’s meaning was clear to multiple witnesses who heard of it.

### ***Issue - Text to Courtney Taylor***

The second indication Chief Nesbitt attempted to influence or intimidate potential witnesses in the Cox lawsuit occurred when he sent a text message on his City of Calhoun-issued cell phone (cross reference # 11) to Courtney Taylor. The text occurred before Taylor's deposition in the Cox litigation. In the text, Nesbitt detailed what he expected Taylor's testimony to be. He ended the text with the statements "Thanks and call if you need anything. We didn't talk and delete this please." This statement clearly showed nefarious intent on the part of Chief Nesbitt. Director Taylor stated he perceived it as inappropriate because of these statements, and he saved a copy on his phone.

Even though Nesbitt did not tell Taylor to deviate from the truth in the body of his text, ending it by asking Taylor to delete and deny it gave it the meaning of an attempt to influence Taylor's testimony implying he should not say anything about having texts and photos or making them available to Nesbitt.

### ***Allegation Summary***

There is a preponderance of evidence to show that in his statement to Chief Holbert and his text to Director Taylor, Chief Nesbitt was attempting to inappropriately influence potential adversaries in the Cox litigation.

Even if Nesbitt's version of what he meant by the ride and die partner statement is correct, he had to realize it could be perceived as a threat to his CFD subordinates. As the experienced senior chief of the fire department, he should have and probably was, aware the impact of his words would have on subordinates and peers. He should have known better.

The fact that Nesbitt used his city-issued cell phone to send an inappropriate personal text to Courtney Taylor violated the above cited Firefighter Code of Ethics. He discredited, dishonored and embarrassed the Calhoun Fire Department and used social networking and electronics on his city-owned cell phone to do it.

### **Nesbitt Allegation 4 is SUSTAINED**

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## **II. Deputy Chief Terry Mills**

**Allegation 1** – Deputy Chief (DC) Mills exercised poor judgement and a lack of integrity by failing to ask probing questions or conduct a competent necessary follow up investigation of allegations against his friend and subordinate Roger Smith.

## **Alleged Violations**

### **A. Firefighter Code of Ethics:**

“I understand that I have the responsibility to conduct myself in a manner that reflects proper ethical behavior and integrity. In so doing, I will help foster a continuing positive public perception of the fire service. Therefore, I pledge the following...”

**B. Calhoun Fire Department Operating Guidelines: Core Values Paragraph 2, Honesty/Trust,** “We will use honesty as the foundation to develop and maintain a high level of trust along with a firm reliance on the integrity, ability, and character of those we serve with, those we lead and those who lead us as well as a commitment to maintaining the trust of the community we serve”

**C. Calhoun Fire Department, Standard Operating Guidelines,** Chapter 100, Section 02, Subject 03, Rules of Conduct, All Members Shall, item 4 “Always conduct themselves to reflect credit on the Department” and item 6 “Members shall always conduct themselves in a manner that creates good order inside the department.

**D. Calhoun Fire Department, Standard Operating Guidelines,** Chapter 100, Section 02, Subject 03, Rules of Conduct, All Members Shall, item 9, “Members will operate safely and use good judgement.”

## **Analysis and Findings:**

### ***Issue - Initial Inquiry***

DC Mills’ version of the events concerning the allegations against Roger Smith began October 17, 2022 when Chief Nesbitt asked him to find out what, if anything, was going on with respect to newly discovered allegations against Smith. The same day, according to Mills’ Cox Litigation deposition testimony, he approached Smith and asked him. Mills knew that Smith was a married firefighter at the time of the allegations.

Smith allegedly told Mills he (Smith) had been involved in a relationship with a young waitress who worked at Big John’s Restaurant in Calhoun, and the relationship began based on an attempt to console the young woman because she was suffering from low self-esteem due to a recent breakup.

Mills testified Smith told him he had recently discontinued the relationship, said he had deleted texts and/or Facebook messages between him and the young woman, and he (Smith) would make the situation “go away.” *Note: Smith made no mention of consorting with the woman in a fire department facility and Mills didn’t ask.* Conducting no further inquiry at that point, Mills accepted Smith’s story and allegedly issued him, but did not document, a reprimand two days later. Mills took no further action until December 2022 when the allegations were made public by Chris Cox.

Smith's ostensible explanation of what had transpired was not plausible, incomplete, and should not, at the time, have been acceptable to Mills. In his deposition in the Cox litigation, Mills specifically and conveniently denied that he is an investigator or that he was sent to investigate, but these denials are misleading and self-serving. Mills is a command level member of the CFD and the direct-report supervisor of Roger Smith. Therefore, Mills had the command level duties and responsibility to use good judgement and hold his subordinate reasonably accountable for his actions in the best interest of the community they all serve.

In his superficial *inquiry*, Mills did not ask anyone other than Smith about his admitted, potentially illegal, relationship. He failed to reach out to the young women in question, or her parents, although he easily could have. He also failed to make any attempt to recover any of the allegedly deleted social media posts or texts Smith told him about.

Especially since the allegations originated from a source outside the CFD, in order to; 1. foster a continuing positive public perception of the fire service, 2. conduct himself in a manner that creates good order inside the department, 3. lead to maintain the trust of the community, and 4. conduct himself in a manner to reflect credit on the department (CFD), DC Mills should have conducted fundamental inquiries to verify Smith's story. Even though, in October 2022, he had limited information about the situation, he should have immediately taken additional investigative steps to confirm Roger Smith's questionable story and obvious desire to suppress it.

At a minimum, to objectively confirm Smith's story, Mills should have asked Smith to try to recover and produce the allegedly deleted texts and ask for the identity of the young woman so he could contact her. Mills should have at least attempted to interview the young woman, ascertain if she had copies of the texts and or photographs in question and if so, attempt to recover them. Since there was a question about her age relative to sexual consent, Mills should have also made an attempt to interview her in the presence of her parents. If he felt unqualified to do so, Mills could have requested investigative assistance from his superiors or the Calhoun Police Department.

Had Mills objectively taken these threshold supervisory investigative steps, he could have learned, in October 2022, the salacious details of Roger Smith's sexual misconduct that came to light for the second time in December 2022.

There is a preponderance of evidence to indicate DC Mills failed to live up to several of his basic duties to the City of Calhoun and the Calhoun Fire Department and he failed to comply with the above cited policies, rules and ethics code of both the City of Calhoun and the Calhoun Fire Department.

### **Mills Allegation 1 is SUSTAINED**

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**Allegation 2** - Deputy Chief (DC) Mills conducted himself in an unprofessional manner that intimidated members of the CFD by telling Chief Holbert Chief Nesbitt meant things would not

go well for anyone who testified for Chris Cox in pending Cox Litigation, and they may lose their jobs over it.

### **Alleged Incident Violations**

**Core Values of the Calhoun Fire Department.** to wit: “**Honesty / Trust** – We will use honesty as the foundation to develop and maintain a high level of trust along with a firm reliance on the integrity, ability, and character of those we serve with, those we lead and those who lead us as well as a commitment to maintaining the trust of the community we serve.”

**Calhoun Fire Department, Standard Operating Guidelines,** Chapter 100, Section 02, Subject 03, Rules of Conduct, All Members Shall, item 4 “Always conduct themselves to reflect credit on the Department,” and item 9, “Members will operate safely and use **good judgement.**”

**Firefighter Code of Ethics,** Bullet Point 9, Exercise professionalism, competence, respect and loyalty in the performance of my duties and use information, confidential or otherwise, gained by virtue of my position, only to benefit those I am entrusted to serve.

**Firefighter Code of Ethics,** Bullet Point 14 – I pledge the following: *To* “never harass, intimidate or threaten fellow members of the service or the public and stop or report the actions of other firefighters who engage in such behaviors.”

### **Mills Allegation 2 - Analysis and Findings**

#### ***Issue - Ride and Die Partner Statement***

There is ample proof from the Cox Litigation testimony of Chief Holbert corroborated by the statements of former CFD Engineer Chad Castoe and CFD Lieutenant Jaron Gilbert, as well as notes on Holbert’s phone, that DC Mills intimidated Holbert and others in the fire department. DC Mills admitted he told Chief Holbert: By using a term like “ride and die partner,” Chief Nesbitt meant things would not go well for anyone who testified in favor of Chris Cox in the pending Cox Litigation, and they could lose their jobs. Mills claims he did not hear that from Nesbitt, and he did not ask Nesbitt about it, thus it is fair to assume the statement originated with Mills.

When Mills made the statement: things will not go well for those who testify for Cox to his subordinate, Chief Holbert, he (Mills) was intimidating Holbert, who feared employees could lose their jobs. Mills could logically assume Holbert would carry the message forward to his subordinates, which he did. Holbert, Castoe and Gilbert described the statement as inappropriate or threatening in nature. Mills testified he also personally told Holbert to “stop talking about it.”

As part of his internal investigation statement, Mills stated Holbert was “sticking his nose where it didn’t belong.” This is further evidence of his improper demeanor in this matter and perhaps animosity toward Holbert.

There is a preponderance of evidence to prove that by advancing Chief Nesbitt's original improper statement to Chief Holbert, at best Mills used poor judgement, was unprofessional, lacked integrity, was intimidating to employees and failed to reflect credit on the fire department as required in the above policies and code.

### **Mills Allegation 2 is SUSTAINED**

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**Allegation 3** - Deputy Chief (DC) Mills was untruthful in his deposition of February 25, 2025, when he testified, he stopped being friends with Roger Smith in late 2022 (cross ref. # 7, page 59, lines 17-25) because he learned Smith lied to him. Text messages from Mills show friendly trusting conversations between Mills and Smith on several dates in 2024 and 2025 (cross reference # 10).

### **Alleged Incident Violations**

**Core Values of the Calhoun Fire Department.** to wit: "Honesty / Trust – We will use honesty as the foundation to develop and maintain a high level of trust along with a firm reliance on the integrity, ability, and character of those we serve with, those we lead and those who lead us as well as a commitment to maintaining the trust of the community we serve."

**City of Calhoun Personnel Policies.** Section 5.E, Disciplinary Actions – Reprimands, Item 5, Reasons for Disciplinary Action, f, willfully giving false statements to supervisors, officials, the general public, boards or commissions.

**Firefighter Code of Ethics, Bullet Point 5;** "be truthful and honest at all times and report instances of cheating and other dishonest acts that compromise the integrity of the fire service."

### ***Issue – Mills Friends with Smith?***

In his internal investigation interview, Mills was asked to explain why, in his deposition, he said he stopped being friends with Smith in late 2022 ostensibly after finding out Smith had lied to him, but the texts showed he and Smith continued to communicate in a friendly manner for over two more years. Mills responded that he had been taken out of context in his deposition and he was not given a chance to explain.

Mills went on to say for approximately 30 years up until 2022, his family and Smith's family were close friends. They socialized and attended various events and social activities together as friends. Once he discovered what Smith had done, he stopped their family social friendship, but not his **acquaintanceship** with Smith. They continued to communicate as shown in the evidentiary texts (cross reference #10). Mills' explanation comes off as parsing and redefining words in a lame attempt to explain a documented lie in which he had been caught.



When asked about the statement in the texts wherein Smith said to him “How’s the strippers in Dallas???” what did you mean by it? Mills explained that his wife works for a carpet company and sells to multiple client industries. One industry to which she sells is gentleman’s clubs and he (Terry Mills) and his wife often travel to flooring trade shows in various cities. When Smith asked him about strippers (jokingly) he was asking about the gentleman’s’ clubs. Near the beginning of his deposition, Mills did mention that his wife works for a carpet company. This was a plausible explanation of just this isolated issue.

The 25 pages of photos of texts between Mills and Smith directly disprove Mills’ direct testimony that he stopped being friends with Smith in 2022. Mills does not dispute that the texts are authentic and therefore there is a strong preponderance of evidence Mills lied in his deposition.

### **Mills Allegation 3 is SUSTAINED**

### **SUMMARY of FINDINGS**

From the Cox litigation, the Calhoun Internal Investigation, and evidence furnished by citizens, there is an ample preponderance of evidence to conclude that both Chief Nesbitt and Deputy Chief Mills testified untruthfully regarding multiple vital issues. They also committed multiple violations of the core values, personnel rules, standard operating guidelines and code of ethics of the City of Calhoun and the Calhoun Fire Department.

## **SECTION V – INTERNAL INVESTIGATION SUPPLEMENTAL FINDINGS**

**Supplemental Finding Issue 1** – Question - Did Chief Nesbitt, Deputy Chief Mills, or anyone else within the CFD attempt to intimidate or otherwise discourage witnesses from participating in the Cox litigation or testifying in Cox's behalf?

### **Supplemental Finding Issue 1 - Analysis and Findings**

There is a preponderance of evidence to indicate that Chief Nesbitt attempted to intimidate or discourage witnesses in the Cox litigation in two substantial ways. First, by sending a text to Courtney Taylor recounting what his testimony should be and adding the guilty-sounding statements "Please don't say we spoke about this and delete this text" and "we didn't talk and delete this please."

Chief Nesbitt's second attempt to intimidate or discourage witnesses in the pending Cox litigation was in his statement to Chief Holbert: I heard you were Chris Cox's ride and die partner. On its face ride and die partner is a vague statement, but Chief Holbert, Deputy Chief Mills, Lieutenant Gilbert and Engineer Castoe, all perceived it to be a threat, thus there is a preponderance of evidence it was indeed meant to be a threat intended to intimidate potential witness employees.

There is also a preponderance of evidence to indicate Deputy Chief Mills attempted to intimidate or otherwise discourage witnesses in the Cox litigation when he said to Deputy Chief Holbert: I think Chief Nesbitt meant by ride and die partner that things may not go well for anyone who testifies in favor of Chris Cox. Mills also admitted he told Holbert to "Stop Talking About it." There is no evidence Mills colluded with Nesbitt on this statement, which on its face it denotes intimidation and discouragement of witnesses.

**Supplemental Findings Issue 1 is affirmative** (note – this issue is also addressed in Section IV of this report.)

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**Supplemental Finding - Issue 2** – Question - Does a culture exist within the CFD which ignores, suppresses, discourages, or punishes internal or external complaints or which otherwise operates to restrict, impede or discourage the willingness of employees or otherwise utilize any complaint procedure outlined in the City's personnel policies, with any concerns they may have relating to CFD operations or practices.

### **Supplemental Finding - Issue 2 - Analysis and Findings**

The answer to this question is yes. To the extent there is an unequivocal chain-of command-policy and procedure, and no whistleblower procedure in place in the City of Calhoun or the CFD, it is fair to assume employees are discouraged from bringing forth allegations of misconduct by their

peers or supervisors, or complaints from the public or other city employees. This is not outside the norm for city governments or city government agencies like Calhoun.

Arguably since a fire department is an emergency response organization, like a police department, out of necessity, it traditionally operates in a quasi-military fashion, demanding strict adherence to orders and strict compliance with the chain of command and span of control. This is to avoid chaos in emergency situations. Thus, to some degree, the culture may have a valid utilitarian reason for tight command and control of employees, especially during emergencies like fighting fires or rescuing victims. It is also fair to assume that current members of the CFD were, in a sense, raised in this culture.

Based on a review of Calhoun Fire Department policies, procedures and standards, as well as information gleaned from interviews and testimony of present and past employees, it is fair to say the CFD operates as a traditional or conventional fire organization of its type. To the extent its employee culture is detrimental to the modern-day work environment, the best way to change it is to substantially retrain or replace top leadership. The new, or newly trained, leaders should not only be proficient in all manners of preventing, suppressing and investigating fires, but also educated in modern methods of leadership, values, management and administration.

It is difficult to train employees in matters of integrity, vision or leadership, but it is a worthy goal.

In today and tomorrow's human resource management environment, younger and potential future fire department employees are not likely to respond well to very traditional forms of leadership and management. Thus, it may be advisable to implement a transparent whistle-blower policy.

### **Supplemental Findings, Issue 2 is affirmative**

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**Supplemental Finding - Issue 3 – Question - Did Chief Nesbitt lie in his deposition in the Cox litigation when he testified that he did not back-date the reprimand he and DC Mills issued to Roger Smith?**

### **Supplemental Finding - Issue 3 - Analysis and Findings**

Although it is more germane to the Cox litigation than the Calhoun internal investigation, in Chief Nesbitt's interview in the Calhoun internal investigation, he volunteered that, for his deposition in the Cox litigation, he constructed a written reprimand/counselling form from prior notes or a log to document it. He seemed to be saying he felt he had done nothing wrong by backdating it because the statements in the document were accurate.

During his Calhoun internal investigation interview, Deputy Chief Mills was shown a copy of the Reprimand/Counselling form in question and asked if he recognized it. He in turn stated he had

written it and that he and Chief Nesbitt collaborated on writing the form together “as they always do.”

**Supplemental Finding - Issue 3** – This particular supplemental finding will not be addressed as part of the Calhoun internal investigation.

### **NOTES**