

INVESTIGATION REPORT

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TO: John H. Clemmons, Esq.
Law Director
City of Fairfield

FROM: Douglas E. Duckett, Esq. **Douglas E. Duckett**
Duckett Law Firm, LLC Digitally signed by Douglas E. Duckett
Date: 2018.01.30 12:01:15 -05'00'

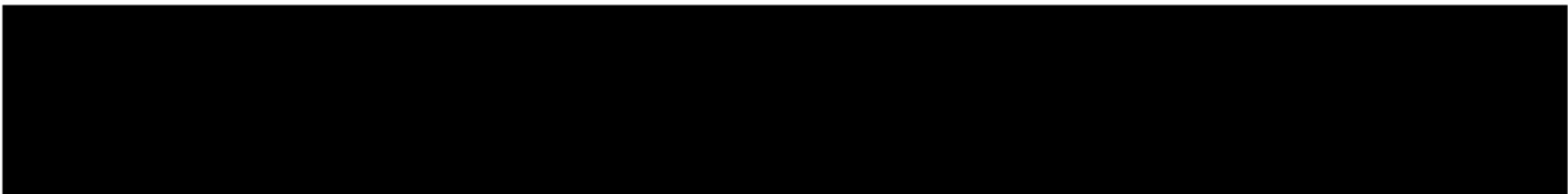
SUBJECT: Investigation of Candidate for Police Chief

DATE: January 30, 2018

I. SCOPE OF ENGAGEMENT AND FACTUAL BACKGROUND.

I am an attorney in Cincinnati, Ohio, and the owner and principal of Duckett Law Firm, LLC. My firm offers legal and training services for employment and labor relations issues for public- and private-sector employers in Ohio and throughout the United States, including conducting internal investigations when needed. The City of Fairfield, through you as Law Director and City Manager Mark T. Wendling, retained my firm to investigate issues relating to Lt. Stephen B. Maynard and his current candidacy for promotion to Police Chief. There are five finalists for that position, and Lt. Maynard is the sole internal candidate. In my first meeting with Mr. Wendling, he requested me to determine the facts behind stories of misconduct from several years ago when Lt. Maynard was a young police officer, as well as any other issues that may arise in the course of my review. My investigation and this report are thus intended to assist you in advising Mr. Wendling and the City of Fairfield on any legal or human resources issues presented in this matter and how the conclusions in my report may or may not be relevant to Mr. Wendling's decision as to whom to appoint to the Police Chief position that will soon be vacated by the retirement of Police Chief Michael J. Dickey, who has served with distinction in that role for nineteen years. I am therefore submitting this report to you so that you can consult with the City Manager on the next steps.

Lt. Stephen B. Maynard has spent his entire police career at the City of Fairfield. He was first employed as a police officer in 1999, and he worked as a police officer both on road patrol and in special investigations, often referred to as "the vice unit." In 2008, Mr. Maynard was promoted to sergeant, and in 2015 he was promoted to lieutenant. He serves as one of three lieutenants in the Police Department, and he oversees operations (including the road patrol), park rangers, and animal control—in short, the largest part of the department.



[REDACTED]

As would be expected, the issue of who will be the next police chief after Chief Dickey's long tenure in that role is a topic of both great attention and considerable conversation within the Police Department. Of the five finalists, Lt. Maynard is the sole internal candidate, [REDACTED]

[REDACTED] Chief Dickey alerted the City Manager that these matters were being discussed within the Department, and Mr. Wendling charged me to work with Law Director John Clemmons² to investigate the events and report what I found to inform his upcoming decision on choosing a new police chief.

The events I looked into involved [REDACTED]

- Allegations that then-Officer Steve Maynard exposed his penis at a party [REDACTED] almost certainly in August 2003 following the Sacred Heart parish festival at which officers had staffed a Fraternal Order of Police dunking booth. Two different incidents are alleged to have occurred there.
 - An allegation that then-Officer Maynard had also exposed his penis after drinking while walking in public in Washington, D.C. with fellow officers, who were attending an honor-guard convention in that city, perhaps while going down the steps of either the Capitol or some other memorial. This was alleged to have taken place in either 2004 or 2005, the two years that Officer Maynard traveled with the group to Washington.
- [REDACTED]

² While this report is addressed to you, Mr. Clemmons, I will refer to you in the third person in the rest of the report for clarity.

II. THE INVESTIGATION AND ISSUES PRESENTED.

This investigation began with a meeting on December 18, 2017, between me and City Manager Mark Wendling, Police Chief Michael Dickey, and Assistant City Manager Greg Preece. Mr. Wendling retained my firm to investigate these issues, and we discussed the events in question and the factual background known to that point. We also agreed that Sarah Jones, the City's Human Resources Assistant, would observe the investigation and assist me in the mechanics of the process, such as scheduling and calling witnesses for interviews. Ms. Jones was extremely diligent and helpful at every stage of this process, and I appreciated her assistance and insight, but the conclusions I reach in this report are my own.

The investigation involved a series of investigatory interviews of employees, as set forth below:

- January 9, 2018: Officers [REDACTED]
- January 11, 2018: [REDACTED]
- January 16, 2018: [REDACTED] and Lt. Stephen Maynard.

My investigation reveals [REDACTED] distinct incidents involving the conduct of Stephen Maynard which may raise questions about his suitability for the position of police chief. Accordingly, the issues for consideration in this report are as follows:

- A. Did Officer Steve Maynard expose his penis to co-workers on the porch during a party at [REDACTED] home, and with what effect?
- B. [REDACTED]
- C. Did Officer Maynard expose his penis publicly in the presence of co-workers during an honor guard trip to Washington, D.C.?
- D. [REDACTED]
- E. What is the relevance to these events to Lt. Maynard's current candidacy for police chief?

I will first offer an executive summary, where I will briefly summarize my main conclusions on each of the issues raised. In the body of this report, I will analyze in greater depth each of the issues and what I learned during the investigation. I will also offer my conclusions on what has happened as well as weighing whether these events should be viewed as significant to Lt. Maynard's current candidacy for the position of police chief. At all times, I respect that the decision on whom to appoint to this vital position lies with the City Manager alone, and that for reasons that bear no relation to these issues, he may well choose to appoint another candidate.

III. EXECUTIVE SUMMARY.

A. Did Officer Steve Maynard expose his penis to co-workers on the porch during a party at [REDACTED] home, and with what effect?

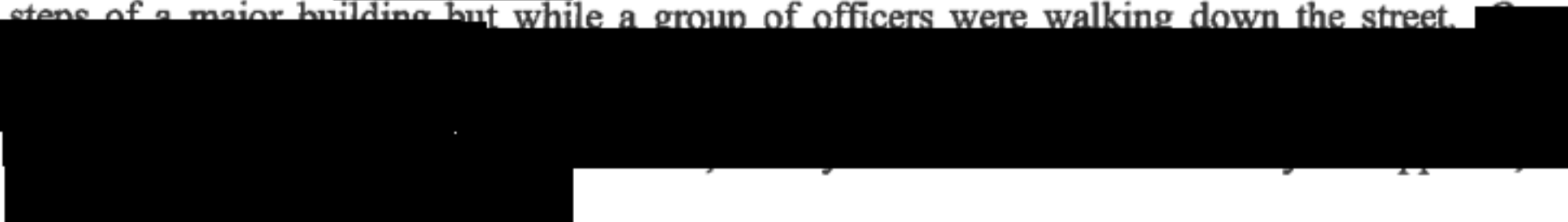
Lt. Maynard, then a young police officer, admits that he exposed his penis to Officers [REDACTED] on [REDACTED] front porch. He may have done so in response to teasing or baiting [REDACTED]. Officers [REDACTED] basically confirm this account, and that it was a fairly widespread rumor and joke within the department [REDACTED]. Neither Officer [REDACTED] nor Officer [REDACTED] was offended at all, then or now. While [REDACTED] claims to have seen this as well while waiting for pizza to be delivered, no one else confirms this, and I find [REDACTED] account not credible.

It is obvious that this behavior was juvenile, inappropriate, and unprofessional—even at an off-duty party—because these were all fellow officers. Officer Maynard's conduct, while foolish and wrong, clearly was not the kind of unwelcome sexual conduct of a severe or pervasive nature that could create a hostile work environment based on sex.

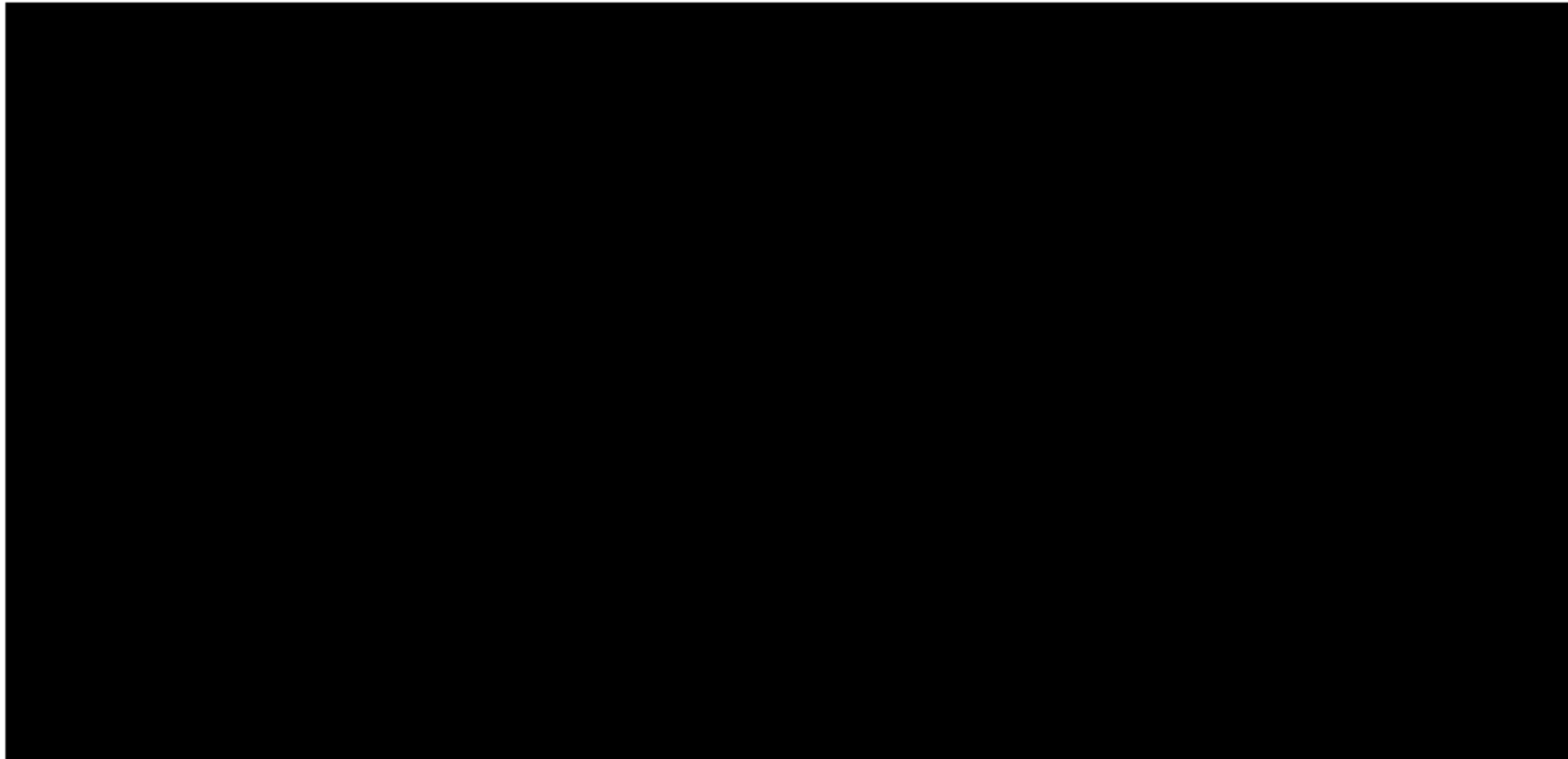


C. Did Officer Maynard expose his penis publicly in the presence of co-workers during an honor guard trip to Washington, D.C.?

According to the rumor mill in the Police Department, when Officer Maynard accompanied the honor guard detail to a conference or convention in Washington in the mid-2000s, he pulled out his penis while walking drunkenly down the steps of a major building, either the Capitol or a monument. Officer [REDACTED] is cited as the source, but he says that it did not happen on the steps of a major building but while a group of officers were walking down the street. [REDACTED]



This behavior is not only juvenile and very inappropriate among co-workers, even when intended as a joke, but could have constituted the criminal offense of public indecency if any witness had been offended. Given the context and the apparent joking invitation of others to display his penis, this does not constitute hostile or unwelcome sexual harassment, however—just very poor judgment by a young officer.



E. What is the relevance to these events to Lt. Maynard's current candidacy for police chief?

I would not view Stephen Maynard's immature and foolish choices and actions more than a decade ago to be fatal to his candidacy as police chief now. People, including police officers, can mature and grow, and they can be better and stronger than the worst mistakes they make early in a career.

The real issue will be whether Lt. Maynard is the strongest of the five candidates, not only in his ability to lead the department into the future generally but in making the culture changes needed to clean up behavior and language that could damage the department and officers' careers if left unchecked.

III. DETAILED ANALYSIS OF ISSUES.

I will now analyze in greater detail what I learned from the interviews on the key issues that I was asked to investigate and other issues that arose during the investigation. As above, each issue will be addressed in turn.

A. Did Officer Steve Maynard expose his penis to co-workers on the porch during a party at [REDACTED] home, and with what effect?

The Sacred Heart of Jesus Roman Catholic church in Fairfield holds an annual fundraising festival each summer in August. One year, the Fraternal Order of Police (FOP), which is the union representing Fairfield police officers, sponsored a dunking booth with officers. After the festival ended for the evening, a number of these officers went to the then-home of [REDACTED]. As best I can determine, this occurred in August 2003.

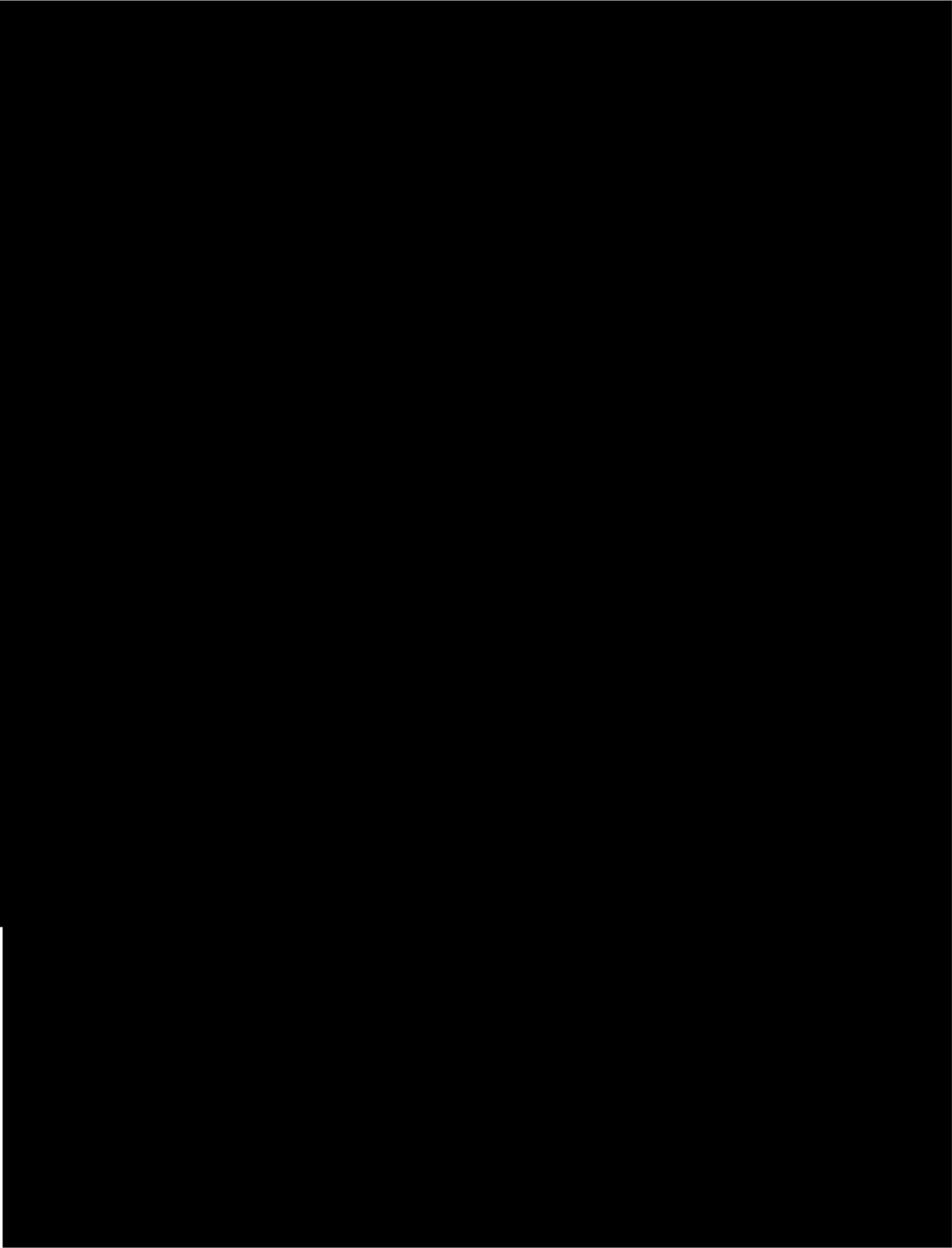
It is not disputed that when Officers [REDACTED] were standing on the porch of [REDACTED] home, Officer Maynard pulled out his penis and exposed it, perhaps after being prodded or teased [REDACTED]. No one present was offended, then or now. That said, of course the behavior is immature and very inappropriate, particularly among people he worked with. Mr. Maynard had been drinking at the party, along with many others [REDACTED].

[REDACTED]

[REDACTED] It was simply a remarkably juvenile prank or joke—inappropriate, embarrassing, and stupid, but not hostile or malicious in intent.

[REDACTED]

[REDACTED]



[REDACTED]

C. Did Officer Maynard expose his penis publicly in the presence of co-workers during an honor guard trip to Washington, D.C.?

One of the stories that has circulated around the Fairfield Police Department, particularly in recent months, is that when Officer Maynard accompanied officers from the honor guard to a conference or convention in the nation's capital, he walked down the steps of either the Capitol Building or another Washington monument "with his junk hanging out" during a night of drinking. Steve Maynard was never part of the honor guard himself, but he confirms that he took vacation twice to go with that group to a convention in Washington, D.C. in 2004 and 2005. This was within a couple of years of the incident at [REDACTED] home and thus took place when Mr. Maynard was still a rather young police officer, both in terms of his age and his relative lack of experience. That is no excuse but a fact nevertheless.

Officer [REDACTED] confirms that Officer Maynard did publicly expose his penis on one of those trips, but in a different manner than related above. It did not happen at the Capitol or at a major monument with steps, but while a group of officers were walking on the street in the evening after drinking. [REDACTED]

[REDACTED] Officer [REDACTED] was walking ahead of the small group walking with Officer Maynard and did not see him pull his penis out his pants, but he heard the reaction from the others who were with him (mostly loud laughter and "oh my God!"-type comments), so he confirms that Officer Maynard did expose his genitals.

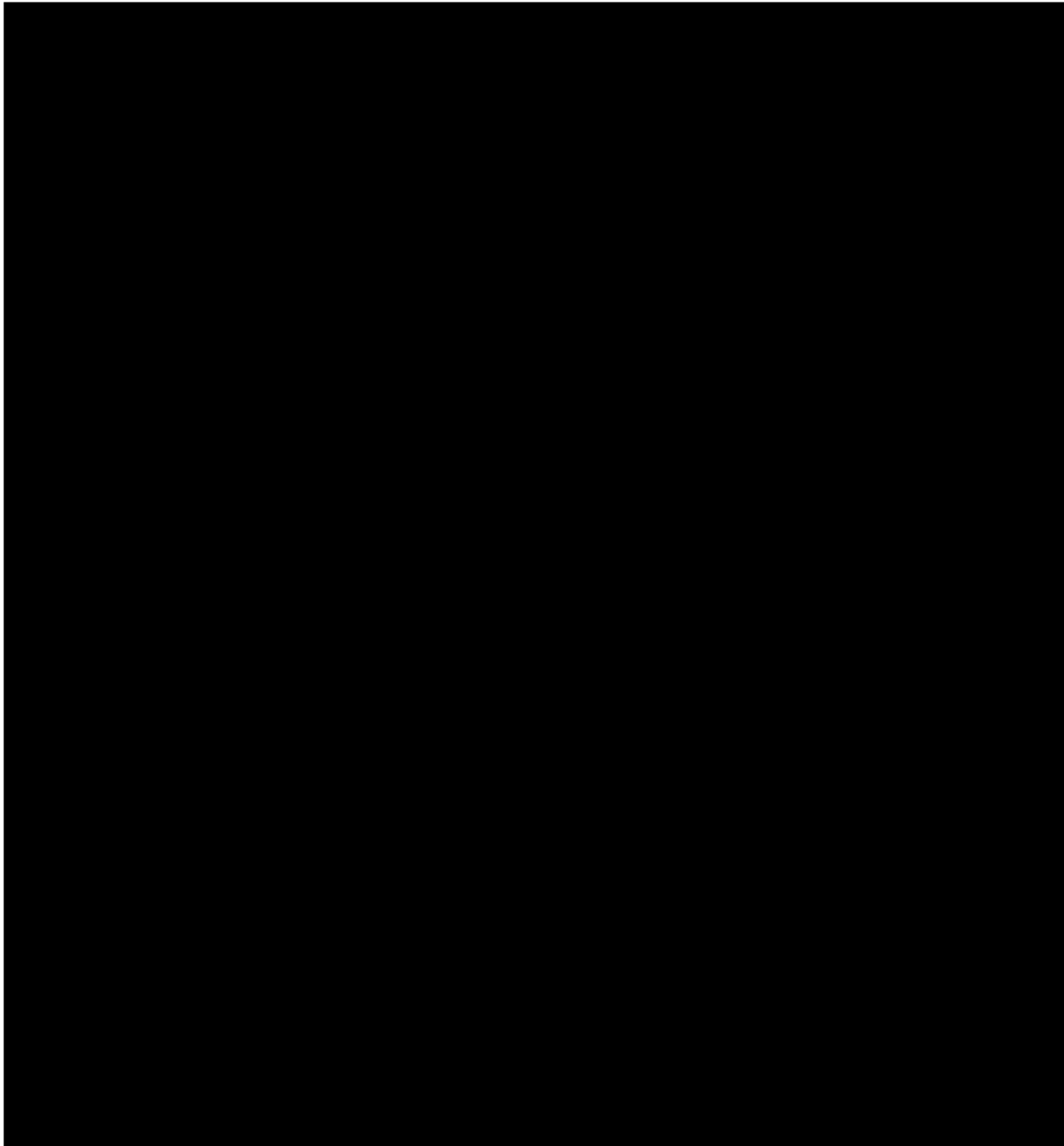
Lt. Maynard said that he does not remember doing this but does recall going out partying with other officers while in Washington, and he specifically said that if [REDACTED] said it happened, it probably did. Lt. Maynard says that he knows that he did not do this on the steps of the Capitol, where most of the rumors circulating in the Police Department place the incident. While Officer Maynard had a good deal to drink that night, he did not drink enough to black out. But he admits that this act could constitute public indecency if anyone had seen the incident and been offended, surely as much a crime in the District of Columbia as it is in Ohio.

I conclude that Officer [REDACTED] account is accurate, at least to the point that then-Officer Maynard exposed his penis while walking outside somewhere in Washington, D.C. This is obviously another extremely juvenile, inappropriate act by anyone, let alone a police officer who would know that such an act could constitute public indecency. While I do not minimize the

[REDACTED]

stupidity involved, I also recognize that this took place some twelve to thirteen years ago when Mr. Maynard was still a relatively young officer, and by his own account, someone who "partied" far harder at that stage of his life than in recent years, particularly now that he is both married and in management.

These were the issues that were presented initially when this investigation began, but as often happens, another issue emerged during the questioning of a bystander witness, and it is to that issue that I turn next.



[REDACTED]

Lt. Maynard admits, however, that he has used the word [REDACTED] jokingly while interacting with colleagues on the inter-department SWAT team, where he serves as a supervisor. He said that he felt freer to do that with SWAT, because “we’re all family and know each other,” and that he therefore knows that no one will be offended. In short, he claims that this is merely joking banter among known-heterosexual men. This is a fundamental misjudgment on his part, and eh and I had a rather intense conversation on this point during our interview. First, Lt. Maynard lacks understanding of the clear boundary that slurs like this can *never* be used in work settings, jokingly or otherwise, whatever group he is with. Second, how could he possibly know that no one in that work group is gay or lesbian—or has a gay relative or close friend, or is otherwise simply appalled by bigoted speech (even when used jokingly) from anyone in any context? If a member of the SWAT team were gay and closeted or had a close friend or relative who is LGBT, would he or she likely self-disclose to a group of fellow police officers where the word [REDACTED] is thrown around in that kind of a cavalier and disrespectful way? The word [REDACTED] is always an offensive slur [REDACTED] It can *never* be used in a work setting or among co-workers even outside of work, because it is inherently offensive, demeaning, and professionally unacceptable. Lt. Maynard’s failure to grasp that point—at least until our discussion—demonstrates a disturbing lack of judgment and perception, at least in this area. Of all the issues I examined, that exchange gives me the most concern.

[REDACTED]

[REDACTED]

I also note that this is not the only time that Lt. Maynard used language in a thoughtless and careless way. Some witnesses report that in a meeting with Law Director John Clemmons to discuss testimony at an upcoming hearing involving discipline against [REDACTED] inappropriate sexual statements, then-Sgt. Maynard joked with Lt. Colburn, who was looking for a chair, telling him that "you can sit on this," referring either to Sgt. Maynard's lap (and presumably his penis) or, in Lt. Maynard's account, "I flipped him the bird and told him you can sit on this." Either way, this is a juvenile and inappropriate comment with sexual connotations—particularly coming from a supervisor in the context of a meeting about disciplining an officer for inappropriate language and statements.

Supervisors in particular need to watch their mouths. A question for the City Manager to ponder will be whether Lt. Maynard has learned this lesson in a reliable way.

E. What is the relevance of these events to Lt. Maynard's current candidacy for police chief?

The City Manager alone will choose the next police chief, not me and not the Law Director. The City Manager did ask for me to share my views, however, whether this investigation uncovered facts or events that would make selecting Stephen Maynard to be the next police chief of Fairfield inappropriate or unwise. With regard to the events that took place in the previous decade, I do not believe that to be the case. If Lt. Maynard is not appointed as the next police chief, those events should not determine that decision, in my view.

To elaborate, Officer Maynard's immature actions in displaying his penis to co-workers well over a decade ago were not assaultive or hostile in any way. As noted above, however, his actions were immature, stupid, and obviously inappropriate. In our interview, Lt. Maynard made a persuasive case that he was then a young, inexperienced, and somewhat foolish officer, as well as a single man who was a rather hard partier at that time—but that he is not that man or officer today. None of us would wish to have our lives and careers measured by our worst decisions in our young adulthood, and his point here is persuasive. Accordingly, I would not find those foolish actions from the 2000s fatal to his candidacy as police chief now. [REDACTED]

[REDACTED]

I am significantly more concerned about his more recent and flippant use of the word [REDACTED] among colleagues with whom he feels comfortable, and his use of juvenile and crude humor—neither is appropriate in a police supervisor, let alone a chief. This is a serious and more recent and relevant failing, and if it were my choice, I would want to see Lt. Maynard make a credible

[REDACTED]

case that he truly recognizes the need to clean up his act here, without any justification or rationalization.

Obviously, the City Manager must choose a new police chief from among five candidates with solid qualifications, and for reasons that have nothing to do with these events, Lt. Maynard may not prove to be the strongest candidate. But with Lt. Maynard and the other candidates as well, it would be well to focus on what each candidate would do to lead a significant culture change within the Police Department away from the use of sexual banter and slurs, even if used in a joking way. The days in which such conduct could be tolerated in a workplace or among co-workers even off-duty are long gone—even more so in light of the major sea change that we are now experiencing in our nation when it comes to the intersection of sex and working relationships. Whoever the next police chief is, he or she must lead that change—and that charge—going forward. A city with an overall fine police department deserves a leader who can make that happen.

IV. CONCLUSION.

I appreciate your entrusting me with this difficult and important investigation. I stand ready to help you and the City Manager in any way needed to further address or resolve these issues. Please let me know if you have any questions.