

CRIME

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# Judge might release secret Clovis police files in civil rights case

## HIGHLIGHTS

Fresno-based federal judge says court documents 'presumed to be public record'

City's lawyers say documents are scandalous, prejudicial

Plaintiff's lawyers say documents are key to proving case



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A federal judge on Friday was leaning toward making public confidential Clovis police documents regarding one of four officers involved in the alleged beating of a motorcyclist in September 2012.

“Documents used in judicial proceedings are presumed to be public record,” Magistrate Judge Barbara A. McAuliffe said in U.S. District Court.

The case involves George Macias Jr., 24, who says in his federal civil rights lawsuit that four Clovis police officers savagely beat him while he was handcuffed and used a stun gun on him. He is seeking unspecified damages for alleged violation of his civil rights, assault, battery, excessive force, malicious prosecution and intentional infliction of emotional distress.

Police contend Macias initiated the fight and put the officers’ lives in danger when he slipped his handcuffs from behind his back to in front of him.

In court papers, Macias’ lawyers, Charles Tony Piccuta and Panos Lagos, say officers Steve Cleaver, Cesar Gonzalez, Eric Taifane and Angel Velasquez fabricated their account. The lawyers say their can prove their contention if allowed to use confidential police Internal Affairs documents regarding the four officers.

McAuliffe has ordered information in the Internal Affairs files to be redacted in the court file until she rules otherwise.

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Macias’ lawyers say their client has a legitimate case against the officers because a Fresno County Superior Court jury in March 2014 found him not guilty of resisting arrest. Macias pleaded guilty to a traffic infraction (driving a motorcycle without a motorcycle license), court records say.

Fresno attorneys James Weakley and Brande Gustafson, who are defending the city against Macias’ lawsuit, say they want to keep the Internal Affairs documents secret, saying in court papers the redacted information is not only confidential, but “impertinent, scandalous and prejudicial” toward the officers.

During Friday’s hearing, McAuliffe said she needed a compelling or good reason to keep the IA information sealed from the public.

The confidential information pertains to one of the four officers. The officer was not identified in court, but in general the IA documents pertain to people the officer had previously arrested, but not charged.

Before arguments began, lawyers for the city made a motion to close the courtroom to the public. McAuliffe denied the motion.

Piccuta argued that the IA information should be made public because it is central to proving Macias' accusations against the four police officers.

Gustafson argued that if the information is made public, it would prejudice potential jurors against the city and the four officers. She also accused Macias' lawyers of targeting the officer out of spite. "From the beginning, the plaintiff's lawyers have demonstrated that they are out to get one specific officer," Gustafson told the judge.

In addition, Gustafson said that if the confidential information is made public, it would invade the privacy rights of the officers, as well as the rights of people mentioned in the IA documents who have nothing to do with the Macias case. The documents contain personal information such as victims' names, phone numbers and home addresses, the lawyers said.

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McAuliffe, however, said neither side would be prejudice by making the information public. Once the case goes to trial, the judge and the lawyers will have the opportunity to question potential jurors about their knowledge of the case.

The judge also said the information Macias is seeking is central to his allegation of malicious prosecution. The information includes the scope of the officer's authority and any evaluations of the officer's conduct while on the police force.

Regarding the privacy issues, Piccuta assured the judge that he and Lagos would work with the city's lawyers to ensure that any personal information would remain redacted.

Before the hearing ended, the city's lawyers made a second motion to close the courtroom to the public. Again the judge said no.

After hearing the arguments, McAuliffe said she would rule in the near future on the plaintiff's motion to unseal the documents and the city's motion to dismiss the complaint or part of it. Because her ruling is pending, no trial date has been set.

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