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Nixa police chief won't release files

Investigation followed traffic stop of teen girl.

By Tara Muck
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NIXA — Police Chief James Bacon has denied a News-Leader request for files related to an internal investigation of Nixa police officers involved in a September traffic stop.

The News-Leader requested that the investigation into a formal complaint by Joe and Pat Pierce — on behalf of their daughter — be made public in accordance with the Missouri Sunshine Law. The internal investigation stemmed from a complaint filed Oct. 2 by the Pierces regarding the Sept. 11 traffic stop of their daughter, Anne Pierce, 16, who was pulled over after suspicious driving.

The Pierces alleged, among other things, that during the 30-minute traffic stop, their daughter never consented to a search and that a field sobriety test was conducted for “practice.”

In a response to the complaint, which was given Nov. 10 to the Pierces and the media, Bacon

Past coverage: Read our previous coverage of this story at News-Leader.com

said the internal investigation showed policy violations over “statements made during the stop” but no criminal or civil rights violations.

“I have determined that a policy violation existed, and I have

taken appropriate disciplinary action,” Bacon wrote. “I will also confirm that we have recognized areas in which we can improve our performance and training, and I can assure you that we will always take the necessary steps to continue our evaluation of personnel performance.”

However, Bacon would not say what policy was violated or what action was taken, saying it was “protected as a personnel issue.”

In requesting the internal investigation files, the News-Leader cited a court decision in *Guyer v. City of Kirkwood*, which states that a complaint alleging criminal misconduct by a police officer is an incident report and a report concerning investigation into the complaint is an investigative report and “cannot be closed on grounds that they are personnel records or related to disciplining or firing of an employee.”

Bacon said he consulted with Christian County Prosecuting Attorney Ron Cleek and FBI agents in Springfield to help determine if there were any criminal or civil violations.

In his response to the News-Leader, Bacon said: “After reviewing the formal written complaint with the Nixa City Attorney, the document as submitted by the Pierce family did not allege any criminal misconduct and therefore the investigation materials and reports are not subject to disclosure. The fact that I sought input from the FBI and County Prosecutor was an attempt to alleviate public concerns of an ‘internal investigation,’ but in no way gives

support that the complaint filed was for a criminal allegation.”

The Pierces said their daughter never gave consent to the search. Because of this, their formal complaint says: “Sexual assault and/or harassment should also be addressed at this point, since this was not a consensual search.”

But according to the findings of the internal investigation, Bacon said the officer claims Anne did give consent. He goes on to address sexual assault or harassment, stating that “after reviewing the video with prosecutors and federal officials, everyone agrees that there is no evidence to support that claim.”

Not releasing the investigative files — or even disclosing information about how matters are being handled — could harm law enforcement’s ability to interact with the public, said Jean Maneke, an attorney who represents the Missouri Press Association.

“Those reports should be made public,” Maneke said. “If they decide not to release information about disciplinary actions taken, I think what happens is the public has less confidence in law enforcement.”

“I realize that there are some rights to privacy on personnel matters, but you’re dealing with a law enforcement officer who the public needs to trust and who the public needs to believe is upholding the law. That’s their job.”

Messages left with City Attorney Pat Sweeney, who advised Bacon, were not returned.

