

CRIME JANUARY 12, 2016 11:03 AM

Merced CHP officer indicted on two counts of child molestation

HIGHLIGHTS

The alleged victim is a 10-year-old girl, authorities say

Gilbert Gutierrez, 38, was indicted by a grand jury on Thursday

Gutierrez has been with the CHP in Merced since 2013



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Gilbert Gutierrez, 38, was indicted by a grand jury on Thursday on two counts of lewd and lascivious acts upon a child under the age of 14, the Merced County District Attorney's Office confirmed. Merced County Sheriff's Office

BY ROB PARSONS

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An officer with the California Highway Patrol in Merced has been indicted on allegations he molested a 10-year-old girl during a slumber party at his home, authorities confirmed Tuesday.

Officer Gilbert Gutierrez, 38, faces two counts of lewd and lascivious acts upon a child, the Merced County District Attorney's Office said.

Brian Andritch, the attorney representing Gutierrez, said his client "is an upstanding citizen of the law enforcement community."

"He is absolutely maintaining his innocence," Andritch told the Sun-Star in a telephone interview. "He is maintaining he did nothing wrong."

Gutierrez has yet to enter a plea in court.

The allegations center around a slumber party on July 21, 2015, in Merced County in which Gutierrez is accused of sexually touching a 10-year-old girl twice, according to investigators and prosecutors.

If convicted, Gutierrez faces up to 16 years in state prison, according to Rob Carroll, chief deputy district attorney.

Gutierrez was booked into the Merced County Jail on Thursday following the grand jury hearing. He posted a \$300,000 bail bond and was released, according to jail records.

The case was investigated by the detective unit of the Merced County Sheriff's Office.

District Attorney Larry Morse II acknowledged prosecutors did not announce the indictment to the public.

"In these cases our primary concerns are to hold a person accountable for what they may have done and to protect the victim to the extent that it's possible," Morse said.

Andritch criticized the decision to use the grand jury instead of the more common preliminary hearing to establish probable cause in a court case.

"We're very disappointed the district attorney decided to use a secret process. The grand jury is a secret process," Andritch said. "We were not able to examine any evidence or present our side of the story. The grand jury is a one-sided process."

Morse said protecting the alleged victim's identity also was part of the reason prosecutors took the unusual step of taking the case to a grand jury, avoiding a preliminary hearing in which the victim would have to testify in open court.

Andritch, however, described claims the grand jury was used to protect the victim's identity as "disingenuous."

"Most victims don't testify at a preliminary hearing; a police officer testifies about (a victim's statements)," he said, citing Proposition 115, which allows investigators to describe a victim's statements to the court.

Carroll brushed off the criticism from the defense attorney.

"We understand it's his job to represent his client to the fullest extent of the law and we wouldn't expect him to speak for us," Carroll responded. "We stand by our statements and he'll have an opportunity to defend the charges in court."

Carroll added that "a preliminary hearing is done in open court in public and a grand jury hearing is private."

Andritch said his client has yet to see any of the evidence in the case.

"We're looking forward to examining the police reports and evidence and looking forward to getting our day in court," Andritch said.

Officer Moises Onsurez, a CHP spokesman, confirmed Gutierrez is a CHP officer in Merced.

"We are aware of (the investigation), but any questions about that need to be directed to the District Attorney's Office and the Sheriff's Department," Onsurez said.

Onsurez said he could not say whether Gutierrez remains on duty or whether he has been placed on administrative leave, citing personnel laws and protections from the California Peace Officer's Bill of Rights.

"All I can say is that he is employed by the CHP," Onsurez said.

Gutierrez has been with the CHP for about six years. He spent four years with the CHP in San Jose and transferred to Merced County at the beginning of 2013, Onsurez confirmed.

He is scheduled for arraignment on Feb. 8.