



Indiana State Police Turn Down Elkhart Mayor's Request for Broad Review of City's Police Department

Stories by the South Bend Tribune and ProPublica revealed Elkhart police officers' misconduct and disciplinary histories. The state police were asked to investigate, but say that's the job of the U.S. Justice Department.

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November 19, 2018

The Indiana State Police have declined a request by Elkhart Mayor Tim Neese to investigate his city's Police Department in the wake of reporting by the South Bend Tribune and ProPublica that revealed a handcuffed man's beating by Elkhart officers and examined the disciplinary records of higher-ranking officers.

Capt. David Bursten, a state police spokesman, said in a statement Monday the agency would not participate in the criminal case against officers Cory Newland and Joshua Titus, or in the type of broader review of the Elkhart police that Neese requested last week. He instead suggested that the mayor approach the U.S. Department of Justice.

Elkhart County prosecutors have filed a single misdemeanor count of battery against each officer in the Jan. 12 beating of Mario Guerrero Ledesma.

The prosecutor's office was "very well engaged" in the case and there was no reason for an investigation by the state police, Bursten said.

The mayor also called Thursday for a "very thorough and far-reaching" investigation by the state police of any patterns of excessive force and "anything that relates to the Elkhart Police Department." At the time, Neese said he had spoken with Indiana State Police Superintendent Douglas Carter about his request. But on Monday, Bursten said in his statement the state police had declined to undertake such a review.

Of the 34 supervisors in the Elkhart, Indiana, Police Department, 28 have been disciplined. Fifteen have been suspended. Seven have been involved in fatal shootings. Three have been convicted of criminal charges.

"We typically don't investigate the operations of other agencies," Bursten said.

The state police, in an email to the Tribune, said an investigation of civil rights violations "would fall under the investigative jurisdiction of the United States Department of Justice."

But the Department of Justice, under President Donald Trump, has retreated from that role. As ProPublica's Ian MacDougall reported last week, former Attorney General Jeff Sessions, before leaving the job, signed a seven-page memorandum formalizing the department's disengagement from investigating local police departments accused of violating people's civil rights.

Separate from court-monitored decrees and other oversight that might be imposed against a local government's wishes, the Justice Department also has a voluntary program to help police departments interested in pursuing reforms. But as The New York Times reported last year, that program, called the Collaborative Reform Initiative, has also been scaled back under the current administration.

It is unclear whether Neese would ask the Justice Department to take on an investigation. A spokeswoman for the mayor did not immediately respond to a phone message and email seeking comment.

City officials announced the charges against Newland and Titus 10 months after the beating, and only after the Tribune asked for video that showed the officers tackling Ledesma and repeatedly punching him in the face after he spit toward Newland.

Court documents in the criminal case against Newland and Titus offered glimpses of how the officers described the beating in their own reports.

In Newland's report, he said Ledesma "continued to fill his mouth with saliva and make the ... spitting noise," even after he was on the ground and being punched in the face, according to an affidavit written by an investigator identified as an Elkhart police officer.

Newland said he and Titus "delivered several strikes to (Ledesma's) head and body in an effort to keep him from spitting on us," according to the affidavit.

Titus said he delivered "approximately three closed-fist strikes to Mr. Ledesma's head to keep him from spitting."

The video shows Titus throwing six punches, and Newland four.

The charging affidavit appears to be based entirely on records produced by the Elkhart police, and much of the five-paragraph document explains Ledesma's arrest on domestic battery charges, the injuries he sustained during his initial arrest and the reasons Newland and Titus tackled and punched him. The affidavit also says Titus pushed Ledesma to the ground by his right shoulder but says nothing of Newland grabbing Ledesma by the throat.

At the time of the beating, both Newland and Titus were corporals. A month later, however, Titus was promoted to acting investigator and assigned to the Elkhart County Interdiction and Covert Enforcement Unit, the county's combined drug task force. That task force is coordinated by the county prosecutor, and its commander is an employee of the prosecutor's office.

According to Titus' personnel file, his promotion to the drug task force took effect June 20 — eight days after Police Chief Ed Windbigler issued written reprimands to Titus and Newland for the January beating.

A spokeswoman for Elkhart County Prosecutor Vicki Becker did not respond Monday to a voicemail seeking comment.

Clark Neily, vice president for criminal justice at the Cato Institute, a libertarian think tank, said Monday that having the Elkhart Police Department investigate two of its own officers on possible charges “presents an obvious conflict.” Even if the department navigates the actual conflict, and investigates the case as it would any other, the appearance of a conflict will remain, he said.

“It’s certainly a best practice to avoid that if you can,” he said.

The department could have asked another law enforcement agency to conduct the investigation, he said.

Neese — whose son, Sgt. Drew Neese, was in the room during the beating — has said in “hindsight” the chief should have leveled more severe discipline against Newland and Titus. The mayor’s son was not disciplined in connection with the incident.

Last week, the Tribune and ProPublica published a report revealing that nearly all Elkhart police supervisors, from sergeant up to chief, have been disciplined or suspended at some point in their careers, some repeatedly.

Seven have been involved in fatal shootings, and three have been convicted of criminal charges. Also, under Windbigler, the department appears to have scaled back discipline compared with his immediate predecessors.