

Police courtesy calls to Tennessee's Butch Jones 'could violate state law'

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The calls — contrary to police best practices — gave the accused players time to call each other, call potential witnesses and obtain lawyers.



(Photo: Larry McCormack / The Tennessean)

University of Tennessee football players A.J. Johnson and Michael Williams didn't learn from police they were under investigation for rape the way most suspects do.

Instead, the players first heard the news from their Tennessee football coaches — in Johnson's case, four hours before police showed up at the scene of the alleged crime to question him, according to sources and cell phone records obtained by The Tennessean.

Contrary to police best practices, potentially threatening the integrity of the investigation and in possible violation of state law, Knoxville Police Chief David Rausch and a detective made "professional courtesy" calls to Tennessee head football coach Butch Jones about the investigation — a practice Rausch says is common when police investigate

alleged crimes involving an athlete at Tennessee.

Courtesy calls from police to prominent individuals and major institutions in a community are common, but typically not done in the initial stages of an investigation. Concerns arise if details about an investigation are shared before an arrest is made, which can hinder a case.

Law enforcement experts not involved in the case say providing advance notice can give suspects time to clean up evidence and align stories for police.

In this case, it gave the accused players the time to make a series of calls to each other, to potential witnesses, and to obtain lawyers, according to sources.

The calls may also have violated state law, according to a statement issued by the Knox County district attorney in response to an inquiry by The Tennessean.

“We cannot discuss the investigation of this case while the litigation is pending,” said Assistant District Attorney Sean McDermott.

“In any case, however, (Knox County District Attorney) General (Charme) Allen opposes pre-arrest notification to any person or agency that is not made in furtherance of the investigation,” the statement said. “A pre-arrest disclosure of sensitive information that is not made for the purpose of advancing the criminal investigation potentially could violate state law regarding the misuse of official information.”

KPD detective Sam Brown, who serves as a liaison to the football team, alerted Jones to the investigation at 8:20 a.m. on November 16, 2014 — about five hours after an initial 911 call reporting the rape allegations.

Jones then called Johnson at 8:22 a.m., according to cell phone records. An assistant coach contacted Williams, according to sources. It is unclear from the cell phone records obtained by The Tennessean how the assistant coach learned of the police investigation.



Knoxville Police Chief David Rausch in 2013. (Photo: Mark Humphrey / File / AP)

Rausch called Jones at 8:38 a.m. — the first of four calls between the Knoxville police chief and the head UT football coach that day. Law enforcement experts not associated with the investigation called the calls “unusual” and said they were cause for concern. By contacting a football coach, who then alerted his players before police did, “that’s a big problem,” said Rob McGuire, a prominent former Nashville prosecutor who now serves as a criminal defense attorney.

“From an investigative standpoint, if you are trying to get to the truth of what happened, you want to get the suspects’ impressions of the event without outside influence,” McGuire said. “As an investigator, you yield advantage if the suspect knows if the investigation is underway.

“Even if nobody did anything wrong and the victim is making this up, why risk the integrity of the investigation? You lose the element of surprise. If a suspect knows police are investigating, that’s not going to work. The problem is that a lack of information control can taint the investigation. It can get in the way of the truth of what happened.”

A series of phone calls with police

Police first learned of the alleged assault in a 911 call about 3 a.m. that Sunday.

Brown, the football team liaison, called Jones, whom he escorts at Tennessee football games, at 8:20 a.m.

After a two-minute conversation with Brown, Jones immediately called Johnson, according to cell phone records. After speaking with Johnson, Jones called Brown at 8:30 a.m., according to phone records. KPD Chief David Rausch called Jones at 8:38 a.m. What they talked about is unknown.



Tennessee coach Butch Jones walks with Knoxville police detective Sam Brown during the Vol Walk before a game at Neyland Stadium. (Photo: Larry McCormack / The Tennessean)

It wasn't until between noon and 12:15 p.m. that officers knocked on the door to Johnson's apartment, where the alleged rape took place, sources said. Then about 6 p.m., police returned to the apartment with a warrant to search the alleged crime scene.

Cell phone records show that throughout the day — before and after police first made contact with Johnson — Jones was in regular contact with Johnson, placing or receiving six phone calls to or from his player. Jones' cell phone records list no calls to or from Williams that day — or at any point in the following two-week span of phone logs requested by The Tennessean.

Rausch and Jones would speak on the phone eight more times in the next 72 hours. During all of those calls, the two spoke for a total of 49 minutes. The shortest call lasted two minutes; the longest was 16 minutes.

The team announced on Twitter Jones had suspended Johnson and Williams the next afternoon — approximately 32 hours after the police department's first call to the coach.

Eight days after police launched their investigation, Jones was asked specifically if he had conversations with the two players about the investigation.

"I have not had any dialogue at all," Jones said. "Again we're letting the investigation take care of itself. And that's all I'll say."

On Monday, Ryan Robinson, senior associate athletic director for communications, said Jones was responding to whether or not Jones had an ongoing dialogue with the players at the time of the press conference. Robinson also said Jones' cell phone calls with Johnson the day of the alleged incident were about the coach's decision on whether to issue any discipline against the player.

Jones' phone records also reveal three calls beginning at 3:39 p.m. on the day of the alleged rape to Knoxville attorney Wilson Ritchie. Ritchie's nephew, Wayne Ritchie, later represented Johnson in his campus disciplinary process.

Wayne Ritchie's law firm, Ritchie, Dillard, Davies & Johnson, is representing Johnson in the criminal trial. Wilson Ritchie and Wayne Ritchie did not respond to The Tennessean's requests for comment for this story.

Johnson and Williams have both pleaded not guilty to rape charges and their separate trials are scheduled for this summer.

The then 19-year-old UT student who reported the alleged assault is one of eight women who filed suit against the university in February over how it handles reports of sexual assault.

Players call each other, friends

The four-hour gap between learning of the rape investigation from their coaches and when police contacted Johnson gave Williams and Johnson time to talk with each other and their friends — which they did, according to sources.

It was unclear from sources and cell phone records when police first contacted Williams. However, his attorney David Eldridge called a detective working the investigation on Nov. 16, the day of the alleged assault, sources told The Tennessean. Police did not formally interview Williams until Nov. 26 — the day after they interviewed Johnson.

Retired Metro Nashville Police Department Cmdr. Bob Nash, who oversaw the department's sex crimes unit for several years, said detectives often use a "controlled" phone call during an investigation and that may have been jeopardized because of the four-hour lapse before police contacted the suspects.

In a controlled call, the accuser will call the accused person while police secretly listen on the line to hear if anything incriminating is said.

Nash said detectives try to search the alleged crime scene for evidence before the accused person has a chance to clean up. He also said that in cases where multiple people are accused, detectives want to quickly interview them separately before they can talk to get their stories straight.

"When you give suspects that four-hour heads up, there's a chance for evidence to be disposed of, or cleaned, or for the whole scene to be changed," Nash said. "There's all kinds of things that potentially got messed up because of this."

'Professional courtesy'

Rausch has said that alerting the coach and staff when police are investigating an alleged crime against a UT athlete is a long-standing practice and a "professional courtesy."

On Monday, Knoxville police spokesman Darrell DeBusk referred questions about the practice to a statement issued from Rausch last week, but said such courtesy calls were common by other police chiefs and that "elements of the case were not discussed."

Rausch said in an earlier statement that the reason for the notifications "is due to the scrutiny these events bring to allow appropriate time to prepare responses to the various interests. Our paramount concern at KPD is to the victims and their families and to assure them that we will utilize every resource available to conduct a thorough and comprehensive investigation."

DeBusk also noted Monday that the police investigation ultimately led to charges against the players.

"Obviously charges were brought off the investigation," he said.

John DeCarlo, an associate professor in the Department of Law, Police Science and Criminal Justice Administration at the John Jay College of Criminal Justice, called such a courtesy call "irregular to say the best."

"It seems like something that would not normally happen in an investigation into a sexual assault," said DeCarlo a former chief of police in Bransford, Conn. "I could almost understand the college would have to deal with negative public relations something like this would generate, but I'm just not seeing the courtesy. I'm not saying it was against the law or unethical. Is it good investigative practice? Maybe not. It puts a wedge in the investigative process that didn't need to be there."

Nashville criminal defense attorney David Raybin, who is also a former prosecutor, said police leaking information to those not directly involved in an alleged crime can also have a negative impact on the accused.

For instance, Raybin said he's represented clients whose innocence was clearly demonstrated when police conduct a controlled call with the accuser.

"Sometimes you see from the get-go, that the accused individual is stunned to be accused and adamant that nothing illegal took place, and a controlled call where they do not know the police are listening can show that," Raybin said.

It's typical for a police department to have open lines of communication with companies, civic groups, unions, schools and even prominent gangs, Raybin said. But he stressed that police would not want to put their positive relationship with an organization in front of their priority of investigating a crime as thoroughly as possible.

Making a courtesy call “doesn’t track with me,” said former prosecutor McGuire. “I get the fact there are possible political considerations. UT is a big deal in Knoxville. I get that. But you need to be more concerned with the integrity of the investigation and not necessarily a courtesy to the football coach.”

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This story has been updated to reflect the total number of minutes Tennessee coach Butch Jones and Knoxville police Chief David Rausch spoke on the phone.