

Germany: Another case of police brutality with fatal consequences

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On May 24, 31-year old Stephan Neisius died as a result of injuries he received earlier at the hands of the police in Cologne. He had been in hospital in a coma for two weeks after being seriously mistreated during his arrest and then kicked and beaten by police at the Eigelstein police station.

The public prosecutor's office, however, has only pursued the relatively minor charge of bodily injury against the officers responsible. In a joint press statement on June 26, the public prosecutor's office and Cologne police justified their stance by claiming that a forensic medical report exonerated the police officers from any charges of causing Neisius' death.

"The force directed by the accused police officers against Stephan N. did not cause any fatal injuries," the press statement said. Instead, the psychologically excited state of Stephan N., who had been arguing with his mother in his apartment before the police officers arrived, was cited as the principal reason for his sudden heart failure that resulted in his coma and subsequent death.

The police and public prosecutor's office conceded that it could not be excluded that Neisius' "tense and strained state was heightened and maintained by the actions of the police officers." But, they insisted, his death was not foreseeable and therefore could not have been caused negligently.

This interpretation of the forensic medical report was publicly questioned on the ARD television programme *Monitor*. While the programme's editors, who had seen the report, were prevented from quoting from it for legal reasons, they submitted it to an independent expert for appraisal. He reached a completely different conclusion from that of the police and public prosecutor, regarding the factors that had led to Neisius' coma and subsequent death.

Klaus Bernsmann, professor for criminal law, explained on the *Monitor* broadcast of July 4: "In my judgement, the forensic report shows there were three combined causes, which brought about the victim's death. First, the overall psychological condition of the victim, who was possibly in a psychotic phase. Secondly, the way the police behaved, which further increased his pre-existing excited state. That is, the victim was struck, kicked and was not treated in a particularly friendly manner. And thirdly, the way the victim was transported. That is, he was laid in a prone position on his stomach, making his breathing substantially more difficult. Moreover, police officers had obviously sat on his back, making respiration even more difficult. This clearly led to death by asphyxiation."

Professor Bernsmann commented later during the programme: "I infer from the report that the forensic medical expert accepts the outcome could be foreseen. There were sufficient grounds for him to assume that the position [in which the victim was held] meant death by asphyxiation was foreseeable."

Friends of Neisius in the Cologne theatre group "Gebäude 9", which he helped to establish, have written about the forensic medical report on their website (<http://www.gebaeude9.de/neisius.html>). They emphasised that the police officers were definitely informed about Stephan's health problems by his mother. At the very least, his death was the result of their negligence.

The family's lawyers, who held their own press conference on July 18, also criticised the statement of the police and public prosecutor, which they found to be "legally and factually wrong". "[T]he joint public relations operation by the police and public prosecutor's office gave rise to a suspicion the

investigation had been prejudiced,” they stated. The family intends to appear as co-plaintiffs in any proceedings.

The death of Stephan Neisius has drawn widespread public attention inside and outside Cologne.

Niesius was arrested, after neighbours had called the police reporting a loud argument between him and his mother. He was mistreated by police both during his arrest and later at the Eigelstein police station in Cologne’s city centre. After being bound hand and foot, five to six officers kicked and hit him as he lay helpless on the ground. Then—still bound—he was taken to the Marienhospital, where a compulsory blood test was conducted. He fell into a coma, from which he never awoke.

A policewoman and a policeman, who had been on duty at the Eigelstein station, later told their superior officer what had happened. Regional and national newspapers and television stations reported on the case. The day after Stephan’s death, friends and supporters held a protest meeting in front of the Eigelstein police station, demanding the truth be exposed.

Amnesty International contacted the interior and justice minister in North Rhine Westphalia, Fritz Behrens, a member of the Social Democratic Party, calling for a rapid, careful and impartial investigation, as well as for a copy of the autopsy report. The organisation also demanded information about the results of the internal police investigation and inquiries by the public prosecutor’s office.

In order to damp down public anger, the police and the public prosecutor’s office promised to uncover all the facts of the case. The police officers involved faced legal proceedings for committing bodily harm with fatal consequences. The forensic medicine institute at Cologne University was tasked with providing an expert opinion regarding the cause of death.

Now, however, the case threatens to take the same course as numerous others, in which police officers in Cologne and other large cities have been accused of mistreatment.

On its July 4 programme, *Monitor* reported that the Cologne public prosecutor’s office had conducted 270 investigations last year into police officers who had committed bodily harm while on duty. To date, there has not been a single court case. At Eigelstein police station alone, there were 37 preliminary investigations

against police officers over the last year. The cases all came to nothing, however, because the victims were unable to provide any evidence or witnesses, or because of cover-ups by the police.

Still no date has been set for the opening of legal proceedings against the police officers involved in the mistreatment and death of Stephan Neisius.



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