

# Charges against WSU players may not come before end of season

*Four members of WSU football players facing potential felony charges*

**Josh Babcock, Daily News staff writer**

Whitman County Prosecutor Denis Tracy said the process of deciding whether or not to prosecute the four members of the Washington State University football team facing felony charges could take several months, meaning the players - some of whom are key contributors to the team - could play out the entire season before learning their fates.

Tracy said Tuesday a process has to be followed in every case after police forward charges. The process begins with the prosecutor's office reviewing the charges and determining whether the case can proceed beyond a reasonable doubt.

And that takes time.

"In some cases people are arrested by police for probable cause, but there's not enough to prove beyond a reasonable doubt," Tracy said. "When I look at the file I charge the case if I can prove it beyond a reasonable doubt, which is a higher burden of proof than probable cause."

Three weeks into the football season and with Pac-12 play set to begin next weekend in Pullman, the Cougs have nine conference games remaining until their season closes on Nov. 25 in Pullman against rival University of Washington. Three of the four players facing charges took the field against the University of Idaho on Saturday in Pullman. One player has only practiced with the team and has yet to play.

Tracy said he received the case against WSU star safety Shalom Luani, 22, on Friday, but the cases against three other players allegedly involved in assaults in Pullman throughout the summer have not reached his desk.

Tracy said he hasn't started reviewing Luani's case, but he hopes to have a first read of the report finished by the end of Monday or sooner, since felony cases are prioritized over misdemeanors.

Tracy said it takes about four months - starting from the day the alleged crime took place - for the average felony assault investigation to conclude.

"We're constantly re-prioritizing what's going on in our office," Tracy said. "The review process could take one week to a few months."

Police allege that in the early morning hours of Aug. 24, Luani, upset that his order at Domino's Pizza was taking too long, punched a fellow WSU student in the face and broke his nose.

Police also allege starting linebacker U'umaulauaganu'u "Logan" Tago assaulted and mugged a man on College Hill with five others for a six pack of beer; and that defensive end Toso Fehoko, 19, and nose tackle Robert Barber, 22, assaulted WSU students at a house party. One WSU student suffered a broken jaw in the incident and a second received a concussion.

Tracy said the fact that the cases involve football players won't make them move any faster through the judicial process.

"That will not impact my office at all, but there's a sense of urgency in that they were involved in potential felony conduct," he said. "In that sense they are important and I do not want to let them sit. Just because they are football players doesn't give them any more priority than any other criminal case."

Tracy said his office's case load is fairly heavy at the moment.

According to Pullman Police, charges against Fehoko and Barber will be sent to Tracy this sometime this week.

The 29 player arrests in the past four-plus seasons under coach Mike Leach is a number that leads all NCAA Division I schools. Charges have been dismissed in 16 of the 29 arrests.

Washington State University President Kirk Schulz told The Spokesman Review on Monday he's confident in the athletics department's handling of the arrests of four football players. Coaches and administrators may need to reconsider how they respond to criminal allegations, but that's a question to be addressed after the football season, Schulz said.

"Clearly, at the end of the football season, I think it's very fair that athletic director Bill Moos and myself and coach Leach all sit down and say, 'Hey, is what we're doing working?' " Schulz said. "But we don't do that in the middle of the season for anything."

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