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Kizer rejects resignation demand; grand jury asks chief's dismissal

By JOHN NORBERG
Staff Writer

Tiptecanoe County Prosecutor James Kizer today said he will not resign his office as recommended by a strongly worded grand jury report issued Monday.

The report not only asked for Kizer's "immediate resignation" for failure to perform his duties, but also said Lafayette Police Chief Paul Butler and Captain of Detectives Dan Eberle should be removed from their positions.

"We believe this to be a vital and necessary step to effective law enforcement in the Lafayette community," the jurors said in asking Mayor James Riehle to take the step against the officers.

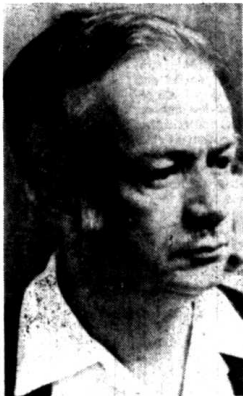
RIEHLE, Butler and Eberle today had no comment.

Kizer said he will not comment further than his statement that he will not resign.

"I will comment on all other matters in the grand jury's report at a later date," he said. "I am not going to shoot off the top of my head on this. I need time to read and study it."

Riehle said he would not comment until he receives a certified copy of the report.

"If the grand jury has recommen-



PAUL BUTLER
... Lafayette police chief

dations for me I think they should supply me with a certified copy, so I don't have to get my information from the news media," he said this morning.

The three-and-one-half-page grand jury report, issued at 4 p.m. Monday, makes several points in supporting the recommendations.

ON KIZER:

1. "He has failed to devote adequate time to the job of prosecuting

Related stories and full text of special grand jury's report on Page A-3; editorial on Page A-6

... He has spent so little time in his office that his staff was unable to schedule appointments for him as they were not advised when he would be in. During all of 1975 he tried only two cases (himself) Even as an administrator he has failed to spend enough time in his office to have the necessary knowledge to administer his office." (The jury heard from employees in the prosecutor's office and the deputy prosecutors).

2. The report accused him of "lack of candor in his public statements." In October, when the special investigation here began, Kizer emphatically said several times he was not aware of any corruption in Tiptecanoe County.

But in April, 1975, he sent a letter to Indiana State Police Superintendent Robert DeBard stating he had reason to believe there was corruption in the Lafayette Police Department and asking DeBard for state police help in investigating it.

3. The report accused him of "lack of candor . . . in dealing with the county commissioners." Especially mentioned is the transference of a bill for a law library from his own account to the county, with a balance of \$1,758 outstanding.

Kizer said Saturday all the books purchased with public funds would be in the possession of the county.



JAMES KIZER
... Tiptecanoe County prosecutor

Bruce Osborn, president of the county commissioners, Saturday said he'd have to check the claim before commenting on it. Today, he said, "I don't remember if he did discuss it (the library) with us or not."

4. Kizer said in October he had discussed the firing of then-Chief Deputy Prosecutor John Dibble with no one.

The grand jury said "the fact is that Kizer, more than a week before the firing, had asked another of his deputies whether he would be willing to accept the job if (Kizer) removed Dibble. In addition, he conferred with a member of the law firm of Heide, Gams and Mucker with regard to the legal ramifications



DAN EBERLE
... LPD captain of detectives

of firing his first deputy."

THE REPORT said Kizer did not talk to County Democratic Chairman Richard T. Heide about the firing. Heide was accused by Dibble of telling Kizer to take the action.

5. . . . his inaction with regard to criminal cases filed by the prosecutor's office and his indecisiveness with regard to a shortage of funds discovered in his office, coupled with his practicing private law after choosing to become a full-time prosecutor, cry out for his resignation from office," the report said.

The alleged shortage of funds is believed to have occurred in an account for the collection of money

from bad checks.

THE RECOMMENDATIONS concerning Butler and Eberle list a number of accusations, including that a police officer was promoted "less than a month" after he allegedly admitted to the commission of crimes.

That incident stems back to early 1975 when a convicted felon gave police a sworn statement charging Det. Richard Holmes had aided him in burglaries. (Holmes now is a sergeant).

Both Holmes and the felon were given lie-detector tests. The felon reportedly passed his test. There was what a lie-detector administrator called "a problem" in the test given Holmes.

HOLMES, who has been indicted by the grand jury, was then retested at the Keefer Polygraph Institute in Chicago by Leonard Harrelson.

Harrelson sent a letter to Butler stating Holmes had passed the second test. However, he sent a "confidential" memo to Butler stating Holmes confessed to other crimes.

It is not known if Riehle saw that second letter, but it is believed he did not. Last year Riehle and Butler both steadfastly told reporters Holmes had passed the test and was innocent of wrongdoing, basing their statements on the first letter from Harrelson. It is believed Harrelson testified before the grand jury.

The grand jury report also makes these charges against Butler and Eberle:

Continued on Page A-4

Inside