



930 Tacoma Avenue South, Room 946  
Tacoma, Washington 98402-2171  
Front Desk: (253) 798-7400

(253) 798-7792  
FAX: (253) 798-6636  
www.pierceprosecutor.org  
pcprosatty@piercecountywa.gov

December 20, 2023

Sent via Email

Eric Eisinger  
Benton County Prosecuting Attorney  
7122 West Okanogan Place, Suite A230  
Kennewick WA 99336

Re: Conflict referral: Kennewick Police Report #2023-00018286, William McKay

Dear Mr. Eisinger:

We have completed review of the conflict referral on Mr. Bill McKay. We have reviewed all the documents including the police reports, correspondence, recordings, notes, and other attachments. Additionally, I received a phone call briefing from Kennewick Police Department Commander Clem and was able to ask questions. We are declining to file criminal charges against Mr. McKay.

During Spring of 2023, the Columbia River Task Force was investigating local massage parlors as part of a human trafficking investigation. Coincidentally, the day before the planned execution of a search warrant at one of the massage parlors, Mr. McKay approached the Kennewick chief of police, Chief Chris Guerrero, to provide handwritten notes and lists of massage parlors that he believed were not conducting legitimate business.

Kennewick Detectives Kristopher Safranek and Elizabeth Grant from the task force interviewed Mr. McKay. He reported that he had been "investigating" massage parlors himself by patronizing them. His "investigation" took place over a period of approximately two years prior to his decision to contact the chief of police.

During the course of his interview with the detectives, detectives informed Mr. McKay that certain massage parlor businesses employ cameras to record interactions between the employees and the patrons. When confronted about whether his account would be corroborated by video evidence, he admitted that he had had sexual contact with massage parlor employees on two occasions.

Patronizing a prostitute is a misdemeanor. Mr. McKay admitted paying for massage, but denied knowing that sexual conduct would be involved. Patronizing a prostitute (RCW 9A.88.110) requires payment of a fee pursuant to an understanding that in return the person will engage in sexual conduct with him or that the suspect specifically solicits or requests



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another person to engage in sexual conduct with him or her in return for a fee. Mr. McKay denied knowing that sexual conduct would be involved in these encounters, and with no cooperative victims or witnesses, there is no evidence to the contrary.

Even assuming there was evidence that he had an understanding or agreement to pay for sexual conduct, we would decline to file charges because there is no evidence to corroborate his confession.

The task force detectives made numerous contacts at the various businesses identified by Mr. McKay. The detectives were not able to obtain any video, records, or witness accounts to corroborate Mr. McKay's report.

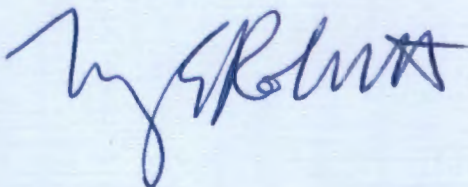
Although he admitted to criminal conduct, we are declining to file charges against Mr. McKay based on the long-standing doctrine of *corpus delicti*. "In Washington, a confession, standing alone, is insufficient to establish the *corpus delicti* of a crime." *State v. Smith*, 115 Wash. 2d 775, 780-81, 801 P.2d 975, 979 (1990). The "*corpus delicti* rule" is described as follows:

The confession of a person charged with the commission of a crime is not sufficient to establish the *corpus delicti*, but if there is *independent proof* thereof, such confession may then be considered in connection therewith and the *corpus delicti* established by a combination of the independent proof and the confession.

*Id.* Despite very diligent efforts, the investigators and detectives have not been able to establish independent evidence of the crimes. The crime victims and/or witnesses are not willing to cooperate with the investigation. The detectives have been unable to locate records, recordings, or any other evidence to corroborate Mr. McKay's confession. Accordingly, we are declining to file criminal charges against him at this time.

Please feel free to contact me if you have any questions or concerns about this review.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mary E. Robnett". The signature is stylized and cursive.

Mary E. Robnett  
Pierce County Prosecuting Attorney