



**Snohomish County**

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**Dave Somers**

*County Executive*

December 1, 2017

Dan Figaro  
Renton Police Department  
1055 S Grady Way  
Renton, WA 98057

RE: John Urquhart

Dan,

Thank you for referring the Urquhart case to me. It was prudent to seek prosecutor review because of the public interest in the case, and I agree that you had probable cause to believe a crime was committed. On Thursday November 9<sup>th</sup> my office received your referral on Mr. Urquhart, which I began reviewing on Monday the 13<sup>th</sup>, and met with you on Tuesday the 14<sup>th</sup>. Prior to becoming the elected prosecutor I had occasion to review and make charging decisions on hundreds of sexual assault cases, and I approached this case the same way.

In making most charging decisions, at some point I usually have to assess the credibility of victims, suspects, and witnesses, and consider the strength of the evidence. For my initial reviews, however, I often take a different, much simpler approach.

With this case, as with many over the years, I started my review by choosing to accept the essential allegations as completely true, exactly as laid out by the alleged victim. I didn't look critically at the allegations at that point, nor try to determine the credibility of any witnesses. I also ignored the many statements made and material submitted both bolstering and attacking the credibility of the alleged victim and/or Mr. Urquhart. I simply considered this underlying, fundamental question: If the accusation is completely, 100% true, was it a crime, and if so, what crime? If the allegations do constitute an identifiable crime(s), and that crime(s) is still within the statute of limitations, only then would I need to more closely scrutinize and weigh the various statements, claims, and denials. That second level of scrutiny wasn't necessary in this case, and we are declining to file any criminal charges. That decision absolutely does not mean that I either believed or disbelieved the alleged victim, nor does it mean I accepted or rejected Mr. Urquhart's version of events. It means that we aren't going to file any criminal charges. That's all it means.

The two crimes you referred for review were one felony, Indecent Liberties, and a gross misdemeanor, Fourth Degree Assault with Sexual Motivation. The two year statute of limitations has long passed for the filing of any gross misdemeanor (which Assault 4<sup>th</sup> Degree is), so while the claimed physical contact might well constitute that crime, I won't discuss that potential charge any further. There is just no point in analyzing the merits of an impossibility. The incident in question took place in March of 2014. The felony of Indecent Liberties could still be charged within the statute of limitations. I am declining to file that charge too. I simply don't believe, *even if one accepts everything the alleged victim says as true*, that the alleged actions of Mr. Urquhart constitute that very serious, violent, Class A felony sex offense.

Indecent Liberties requires that the defendant used "forcible compulsion" to accomplish his sexual assault. "Forcible Compulsion" is defined in relevant part as "physical force that *overcomes* resistance". The allegation here however, recounts resistance by the alleged victim that was completely successful in rebuffing the brief physical contact, and no further attempts by Mr. Urquhart to continue or reinitiate the physical contact. His offending hand was removed by the alleged victim, and that was essentially the end of the encounter. In my opinion, and that of other Senior Special Assault Unit deputies I have discussed the case with, the incident as described by the alleged victim simply doesn't constitute Indecent Liberties. St v Ritola, 63WnApp.252 (1991) describes conduct just as egregious, the sudden grabbing of a woman's breast. The Court of Appeals ruled that was not sufficient to constitute forcible compulsion because it did not overcome resistance. I agree with that distinction. I think that if an assault is able to be fended off, and so quickly stops, that's not quite the same as a fight or wrestling match, or a dogged, unrelenting physical attack that continues despite resistance and overcomes that resistance. I think most anyone would agree.

I am sure this decline will do nothing to quell the intense media interest, speculation, and conjecture surrounding the incident and those involved. It isn't intended to, and that's not a prosecutor's role. Through numerous public records requests, many entities have all the reports and can debate the various versions of the incident, form and voice their opinions, and make up their own minds about who they do or don't believe. I limited myself to the task of a prosecuting attorney, making a charging decision, and my decision is simply that even if I accept all the allegations as true, I don't believe Indecent Liberties was committed, and it is too late to consider Assault Fourth Degree with Sexual Motivation, which would be the most applicable charge.

I have communicated this decision to the advocate for the alleged victim, and I spoke with the alleged victim last night. Thank you for providing those phone numbers to me. To my knowledge I have never met either Mr. Urquhart or the alleged victim, nor did I talk with either before making this decision. Their statements were well documented and I didn't need further information to make my decision. Thank you for your offer to provide more information however.

It was good getting to know you. Your investigation was very thorough, professional, and fair to everyone. The interviews were well handled and skillfully done, and you clearly approached this investigation with the seriousness every sexual assault case deserves. If only all sexual assault cases got the notice and attention this one has.

I guess as a final thought, having worked handling sexual assault cases for decades, I continue to be chagrined that what happens to SA victims doesn't seem to merit media attention unless the *suspect or defendant* was famous, or an official. I think that tells the millions of victims out there that their pain and hurt isn't what matters, it's the occupation of their abuser that prioritizes what is newsworthy. I think that's very unfortunate, and is dismissive and demeaning to victims of all the usually *un-famous* assailants, many of whom are often family members or acquaintances. I think that by ignoring the fact that the vast, overwhelming multitude of sexual assaults are NOT committed by famous people or elected officials, an inaccurate illusion of safety is created. Of course this case deserved some attention; but what about all those thousands of others where the suspect was "nobody"? Isn't what happened to those victims just as important and worth noting and condemning? Doesn't the public need to know the true extent and prevalence of all sexual assault, not just cases prioritized by how rich, famous, or powerful the *abuser* is?

When a sexual abusers are committing their crimes, I think it's unlikely that at that moment it matters all that much to their victim what their attacker's occupation is. They just want it to stop.

Mark Roe

A handwritten signature in black ink, appearing to be 'Mark Roe', with a long horizontal flourish extending to the right.