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December 6, 2012

Cathy L. Lanier, Chief of Police
Metropolitan Police Department of the District of Columbia
300 Indiana Avenue, NW
Washington, DC 20001

Dear Chief Lanier:

We are writing to update you on Human Rights Watch's upcoming report about the Metropolitan Police Department's response to sexual assault cases and provide you with an opportunity to respond to our revised findings.

We appreciate the efforts MPD has undertaken in response to our recommendations since our May 30, 2012, meeting. In particular, the June 12 memo by Commander George Kucik incorporates a number of important changes to police practice that, if implemented effectively, we believe will strengthen MPD's investigations and improve its treatment of victims. We also welcome MPD's addition of two staff members to the Victim Services Unit to assist with sexual assault cases. Your decision to refer all sexual assault cases to that unit is a positive development. We also understand that MPD has added staff to the Sexual Assault Unit (SAU), that MPD has offered some training to SAU detectives since our last communication, and that it is considering additional training for 2013.

At the same time, we have followed up on the additional information MPD provided to us, as well as on its suggestions for further interviews. We spoke with all eleven people on Assistant Chief Newsham's list of suggested witnesses. Most of the people on the list were not in a position to observe the initial contact that detectives have with victims (which is the subject of the report), but many of them emphasized that there are some good detectives in the unit. We have incorporated their views, along with the changes referenced in your June 8 letter and Assistant Chief Newsham's September 14 email to us, into a revised version of the report.

In addition, we have re-run our data analysis, incorporating all the new incident reports (PD-251s) that MPD has provided to Human

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Rights Watch since June. We have also added and corrected information based on our viewing of the WACIIS database in June and our review of case files at MPD headquarters in August.

In June, we provided lists of dates of missing incident reports to MPD. Before re-running the data analysis, we made every effort to find documentation of these missing cases. We included all incident reports in our analysis, whether or not MPD classified it as a sexual assault or assigned it a case number. We excluded hospital cases in which the victim did not report to a police department or reported to a department other than MPD. For 12 of the 36 months analyzed, the Washington Hospital Center (WHC) did not provide documentation of reports to departments other than MPD, apart from those contained on exam exempt forms. However, based on the median number of cases reported to other departments in the other 24 months, we were able to estimate that approximately 12 cases would have been missing from that twelve-month time period and we have therefore deducted 12 cases from the analysis.

Between October 2008 and September 2011, WHC indicates 480 patients presented at the hospital and reported an assault to MPD. Comparing the dates and numbers of persons who made reports at WHC to MPD during that period with all incident reports or detective reports in WACIIS that we had access to for the same period, we were still unable to locate a corresponding MPD report for 171 cases (35.6 percent). In addition, 34 of the cases for which incident reports matched the dates of hospital records were classified as miscellaneous or "office information." According to the SAU Standard Operating Procedures, this classification means the case is effectively closed and not investigated.

Due to MPD's stated concern about MPD's publicly available database being an incomplete source of information about sexual assault reports, Human Rights Watch excluded that analysis from the new version of the report.

Apart from the comparison of hospital dates to police reports, Human Rights Watch found that overall the number of sexual assault cases documented by MPD is lower than would be expected. For various reasons, many victims do not have a forensic exam. A large study in Los Angeles showed that only half of victims who reported a sexual assault to the police in that city in 2008 underwent a forensic exam.¹ Human Rights Watch's analysis of forensic evidence kits in Illinois over a 10-year period found that only 31 percent of reported rapes resulted in the administration of a

¹See Cassia Spohn and Katharine Tellis, "Policing and Prosecuting Sexual Assault in Los Angeles City and County: A Collaborative Study in Partnership with the Los Angeles Police Department, the Los Angeles County Sheriff's Department, and the Los Angeles County District Attorney's Office," Document No. 237582, U.S. Department of Justice Number 2009-WG-BX-0009, February 2012, <https://www.ncjrs.gov/pdffiles1/nij/grants/237582.pdf> (accessed November 30, 2012), p. III; Human Rights Watch email correspondence with Cassia Spohn, October 25, 2012.

forensic evidence kit in that state.² A Department of Justice document cites research finding that nationwide 59 percent of all sexual assault victims choosing to report the victimization to law enforcement receive medical treatment.³ Based on these trends, one would expect the total number of police reports for sexual assaults to be notably greater than the number of hospital reports.

Assuming the Washington Hospital Center data is correct, 436 victims had forensic exams and reported to MPD in the three year period analyzed by Human Rights Watch (this excludes 44 cases from the 480, as those victims presented at the hospital and reported to MPD but did not complete an exam). Over the same time period, MPD provided a total of 571 incident reports (including 173 police reports showing that the victim did not go to a hospital or went to a hospital other than Washington Hospital Center that were excluded from the date comparison analysis). Even if all the hospital reports were accounted for at MPD, MPD's number is still lower than expected. If approximately 59 percent of people who report have forensic exams, the number of MPD reports for sexual assault for that period would be expected to be 739 cases.

As part of its review of WACIIS, Human Rights Watch reviewed a number of cases that seemed misclassified on the face of their PD-251s. One such example is a 2009 incident report classified as a "misdemeanor" that reads: "The complainant states that the suspect penetrated her vagina several times with his penis without her consent. The suspect then left the room. When the suspect returned, he slapped the complainant in the face and pushed her down on a mattress. The suspect then penetrated the complainant's vagina with his penis again without her consent." In order to ensure that the victim cannot be identified by a third party, some details cannot be included in this letter. However, investigative notes from the report further indicate that the complainant tried to escape but was slapped and raped again. Nothing in the database indicated that this case and several others reviewed had been reclassified.

Other cases that we reviewed and that were listed as "office information" also seemed to be misclassified and there was often no indication of supervisor review. Many of those cases involved alcohol. For example:

- An early 2010 case in which a young woman reported that she was forced to orally copulate a stranger in an alley after a night of drinking. No investigation was done apart from a victim interview, but the detective's internal report concludes: "There is nothing to corroborate the complainant's alleged

² See Human Rights Watch, *United States - I Used to Think the Law Would Protect Me: Illinois's Failure to Test Rape Kits*, No. 1-56432-653-5, July 2010, <http://www.hrw.org/reports/2010/07/07/i-used-think-law-would-protect-me-0>, p. 9.

³ Office on Violence Against Women, U.S. Department of Justice, "Ensuring Forensic Medical Exams for All Sexual Assault Victims: A Toolkit for States and Territories," December 2008, p. 15.

allegations.” The detective did not prepare an incident report or assign the report a case number. The victim had a forensic exam, but there is no indication of follow-up after receiving test results.

- Another 2010 case in which the complainant was intoxicated and outside a club and reported that a suspect told her if she did not go with him she would be raped. He then took her in a car with a group of four others who called her friends and told them they would rape her if they did not come and get her. Witnesses stated the suspect then called another friend of the complainant and told her the complainant was being raped at the time. The complainant was taken to the hospital by ambulance after police were contacted. A SAU detective met her and her friends there. She was still intoxicated and did not recall details of what happened to her in the car. For follow up the detective notes say: “[Complainant] was provided with a business card and was advised that a record of the interview would be made [sic] in the department’s database.” The case was classified as office information. The file contains no indication of further investigation, follow up, or of results from the forensic exam, until nine months later when a supervisor recommended that the case be reopened.

Many more of these kinds of cases can be found in the files we reviewed in August, including the cases for which no case number was assigned.

In addition, reviewing the case files raised concerns about the high proportion of cases that the prosecutor rejected as “weak” and that were closed administratively. More than two-thirds of the arrest warrant affidavits we reviewed were rejected in this manner. In some cases, the warrant request appeared to be made with little expectation of success. Only 18 cases (27.2 percent) had a warrant approved.

Human Rights Watch reviewed only a limited number of files so it is not possible to draw a definitive conclusion from this. However, because MPD includes these administrative closures in the clearance rates it reports to the FBI as part of their Uniform Crime Reports, this would seem to account for MPD’s unusually high clearance rate for sexual assault cases in recent years. The arrest figures MPD provided to Human Rights Watch for 2008 through 2011 show relatively few arrests for sex abuse, despite the high clearance rates. For example, in 2008, MPD provided information showing 15 arrests, though its reported clearance rate was 65.1 percent (121 cases). Even recognizing that the FBI data includes non-adult sex abuse cases, the disparity is notable.

Our concerns about police treatment of victims during the period under examination in this report, which we highlighted in May 2012, have not changed. While we recognize not all detectives treat victims insensitively, and some new detectives in particular are viewed positively, information in the investigative files corroborated information we had received from victims and numerous observers about police

treatment of victims. Despite concerns raised to us that we might be basing our determinations on older cases, we have confirmed that nearly all the incidents that underlie our report occurred between 2009 and 2011.

We appreciate the efforts MPD has made to improve treatment of victims in light of our recommendations and, as mentioned above, will acknowledge them in the report and in discussions with media about our findings. However, the report contains other recommendations we would like to see implemented, including those for other agencies. In particular, we believe that external oversight is necessary to ensure that any changes in policy are implemented effectively.

We plan to release the report in January. We will incorporate any response we receive from you by December 20, 2012, into the report. If we do not hear from you, we will note in the report that we did not receive a response to this letter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Sara Darehshori". The signature is fluid and cursive, with a large initial "S" and "D".

Sara Darehshori