

HUMAN RIGHTS WATCH

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February 6, 2013

Chief Cathy Lanier
Metropolitan Police Department
300 Indiana Avenue NW
Washington, D.C. 20001

Via Email and USPS

Dear Chief Lanier:

Human Rights Watch was surprised to learn from news stories in the Washington Post and NBC that the Metropolitan Police Department (MPD) asserts it has uncovered documentation for many of the 170 (actually 182) sexual assault cases reported at the hospital for which we were unable to locate either a PD-251 incident report or entry into the WACIIS database. We are disappointed you did not bring this information to us directly, particularly in light of our settlement agreement with the MPD resulting from our FOIA litigation.

It is unclear from your media statements whether the documentation you have found consists of incident reports (PD-251s)—required for the MPD to proceed with an investigation and the focus of our report—or other records or notations made by MPD. Pursuant to MPD policy, of course, records or notes about a complaint unaccompanied by a PD-251 incident report are not evidence that the MPD in fact properly investigated the case.

Either way, we find it deeply disturbing that the MPD did not produce such records before: the MPD was legally required (under Freedom of Information Act requirements, as well as according to the terms of an August 21, 2012 settlement agreement) to provide all such documentation to us. And the MPD repeatedly assured us that it had done so.

The MPD's failure to produce this documentation previously is also surprising because Human Rights Watch, more than seven months ago, provided the MPD with lists of cases for which we were missing PD-251s, giving the MPD ample opportunity to search through its files, even if they were in disarray, and find the missing cases. Your statement to the *Washington Post* that "the police department repeatedly asked Human Rights Watch to share its hospital data but

the group refused until four days after their report was made public” is incorrect. As you are aware, on June 19, 2012, Human Rights Watch provided Commander George Kucik with a list of 149 dates of hospital reports for which we could find no corresponding PD-251. Our staff then spent an entire day searching the MPD’s database (the WACIIS) for missing reports. Human Rights Watch followed up on June 22 with additional lists of case numbers for which we were missing PD-251s, to further ensure the MPD had provided Human Rights Watch with all relevant PD-251s in compliance with its Freedom of Information Act (FOIA) requirements. You were copied on the email that contained this information. Over the course of June and July, the MPD provided us with various additional PD-251s resulting from our search for missing reports.

The MPD then represented to our attorneys that its production of PD-251s was complete. On September 5, 2012, in email correspondence with Assistant Chief Peter Newsham, we informed MPD of our assumption “that we have all the relevant PD-251s and there is no outstanding document request.” Your office did not suggest otherwise and no additional documents were provided. If you have now uncovered additional PD-251s that the MPD failed to disclose to us before, despite repeated assurances that you had sent us all relevant records as required by law, please forward them to us immediately.

Moreover, as part of the August 21, 2012, settlement agreement, Human Rights Watch was entitled to review “all sexual assault cases from 2009 through 2011 for which a PD-251 was not completed.” This would include entries in the MPD’s WACIIS database for all sex abuse allegations or cases that may not have a PD-251. The MPD provided us with 88 such cases for a three year period.

Again, between the FOIA obligation to turn over all PD-251s and the settlement agreement requiring MPD to show us WACIIS entries for all cases without PD-251s, Human Rights Watch should have seen every possible case that could be included in its analysis.

Unless the newly discovered cases are not sex abuse cases, we are concerned that the MPD is in violation of either its settlement agreement or its FOIA obligation. In either case, as Human Rights Watch has repeatedly emphasized, our primary concern is with the accuracy of our findings. Therefore, if there is additional information that you just discovered and failed to share with us between May 30, 2012 and December 20, 2012, we would be interested in reviewing that information and will adjust our findings if necessary.¹

¹ If you have expanded the date range for the analysis, we would also like information confirming that any PD-251s you found are in fact Washington Hospital Center cases.

Apart from the data on investigations, Human Rights Watch remains concerned that the MPD appears more intent on minimizing sexual assault victims' reports than on addressing the issue in a meaningful manner. We had direct testimony on this issue from approximately 20 victims, who are notoriously reluctant to speak about these issues. Their testimony was corroborated by many witnesses who saw firsthand the alarming behavior described in the report, as well as by police notes in internal records, which in several instances betray a dismissive, inappropriate attitude towards victims.

We were sad to see that rather than commit to correcting this behavior, you chose to go on the offensive against us in an NBC interview in which the issue was raised. Your response was to point to a single paragraph in a letter from a victim making a positive statement about her interaction with a responding uniformed officer, which you claimed we had omitted from the report while including the rest of her four-page letter. That is factually incorrect: our report explicitly points out that this victim was grateful that her responding officer stayed with her. Our report also emphasizes that "several people interviewed for this report told Human Rights Watch about a number of good detectives in the SAU who demonstrate an appropriate attitude towards these crimes." Contrary to your assertion on NBC, the report does not excerpt the rest of that one victim's four-page letter, but it does discuss the central point the victim made in her letter, the misclassification of her case. Indeed, her case is included in our report as an illustration of misclassification of a sexual assault case not as an example of improper treatment—of which there are many in the report. That you should seize on this case as somehow demonstrating that our findings on improper police treatment of sexual assault victims are unreliable only suggests to us that you are reaching for straws.

With regard to the same case, we are further perplexed by your assertion that the elements of the crime were not established. The victim said repeatedly she was subject to an attempted rape, she was forced into an alley even after she had tried to give the attacker her purse, and her dress was ripped. Your assertion raises troubling questions about what the MPD's standards are for investigating and classifying these crimes; sexual assault cases rarely have any witnesses apart from the victim (though in this case, two witnesses who heard her cry "rape" were not interviewed by the MPD). Other victims have since come forward to Human Rights Watch with similar stories, raising serious public safety concerns that attempted rapes are not being treated as such. These also raise questions about why, if all cases are properly documented, the rate of sexual assault per capita in DC over the past decade is half that of Philadelphia, when other rates of violent crime are comparable.

We are pleased that, as noted at the end of an MPD webpage on which you discuss our report (at <http://mpdc.dc.gov/page/sexual-assault-investigations-information-regarding-review-sexual-assault-investigations-human>), you are providing an opportunity for victims to contact the Sexual Assault Unit (SAU) and seek to have

their cases reviewed. But you should also be aware that by publicly undermining or dismissing the concerns of individual victims brave enough to come forward, you also reduce the likelihood that others will feel comfortable speaking to the MPD about their past experiences. At this stage, it is crucial that the MPD take steps to regain the trust of victims, not further damage it. We have already been contacted by victims who are very upset about your dismissal of victims' concerns and are worried that if they come forward they may risk negative repercussions. They have also raised with us whether it would be prudent to secure legal counsel to protect their interests if they pursue a complaint, and are concerned about the MPD revealing private information about them. Unfortunately, the overall response from the MPD to our findings about mistreatment of victims reinforces the problem we have documented in the report: a police culture in which victims' concerns are not, in practice, taken as seriously as they should be.

Finally, we believe it is worth reminding you—because the MPD has repeatedly claimed that HRW refused to provide information or cases on which we were basing our findings—that we shared our findings with the MPD on multiple occasions, offered the MPD many opportunities to provide additional data or witnesses, and have responded immediately to MPD requests for information about specific cases and data on which we were basing our findings. As soon as the report was final, we even provided the MPD with an embargoed—confidential—copy of our report a week before it was released, and then the MPD promptly and unprofessionally posted it on its webpage, breaking the embargo.

Again, we look forward to receiving the additional documentation and to independent review of the department's treatment of victims and handling of sexual assault cases by independent counsel or the Department of Justice, which we believe is necessary to address the numerous issues raised in the report.

Sincerely yours,



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