

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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JENNIFER WELCH DEMSKI and
ALISON TURKOS,

Index No. 150089/2019
Date Purchased: 1/4/2019

Plaintiffs,

**AMENDED COMPLAINT
AND JURY DEMAND**

-against-

CITY OF NEW YORK; JAMES O’NEILL, as
Commissioner of the New York Police
Department; TERENCE MONAHAN, as Chief
of Department; and DERMOT F. Shea, as Chief
of Detectives of the New York Police
Department,

Defendants.

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Plaintiffs Jennifer Welch Demski and Alison Turkos, by and through their
attorneys Cuti Hecker Wang LLP, allege for their Amended Complaint as follows:

INTRODUCTION

1. The New York City Police Department (“NYPD”) is failing sexual assault victims across the City. Fundamentally, the failure emanates from the male-dominated culture that pervades the NYPD and the fundamental disregard for both how sex crimes occur and the debilitating, life-altering harm they cause. The root of the failure is gender bias against female victims.

2. The NYPD declares as its mission “protecting the lives and property of *all* citizens of New York City by treating every citizen with compassion, courtesy, professionalism, and respect, while efficiently rendering police services and enforcing the laws impartially, by fighting crime both through deterrence and the relentless pursuit of criminals.”

3. The reality is very different. The services available to female victims of sexual assault – who comprise approximately 90% of all adult sexual assault victims in New York City – come nowhere close to living up to that promise.

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4. Virtually since its inception, the Special Victims Division, which was designed to focus on sexual assault investigations, has faced unique structural challenges. It has never received the support from NYPD leadership necessary to effectively investigate all complaints of sexual assault in New York City – unlike divisions in the NYPD which investigate crimes in which the victims are predominantly male.

5. Since 2010 especially, when the Department's failings were formally reviewed and articulated in concrete terms, NYPD brass at One Police Plaza have refused to alter their approach to this critical division, choosing instead to chronically understaff it, to devote insufficient resources to it, and to enact policy decisions that have a disparate impact on women and are motivated by an inherent gender bias against women.

6. Plaintiffs learned this the hard way. They are two brave survivors who each suffered cruel and life-altering sexual assaults. They rightly chose to report the crimes – both to bring their assailants to justice and to prevent those men from having an opportunity to victimize other women. They knew pursuing a criminal investigation would bring with it emotional and psychological challenges, but they also believed in the system. They were wrong.

7. Upon courageously reporting their assaults to the police, Plaintiffs Jennifer Welch Demski and Alison Turkos were denied the very services promised by the NYPD to every member of the public. They were ridiculed; they were mistreated; their cases were either denied any attention or so badly mishandled that subsequent investigations – which the NYPD

undertook only after Plaintiffs each went to superhuman lengths to force the police to actually investigate their crimes – were severely hampered.

8. Their experiences are the same as so many other female victims who choose to report their sexual assaults to the police.

9. The depth of trauma inflicted upon Plaintiffs and other women sexually assaulted in the City has a significant impact not only on the victims themselves, but on the entire City because of the scope and lasting effect of the harm, and the fact that even repeat perpetrators are not pursued.

10. The depth of the NYPD's discriminatory treatment of sexual assault victims is all the more troubling given the recent expansion of societal awareness of and sensitivity to sexual assault. As extensive media coverage has demonstrated, women across the City have been reporting sexual assaults in record numbers due predominantly to newfound empowerment stemming from the #MeToo movement.

11. Yet, despite all of the news coverage and near-universal recognition that sexual assault plays a much more prevalent role in the daily lives of women than previously believed – and despite years and years of internal and external reviews and reports underscoring critical structural problems in the Special Victims Division – the NYPD still has refused to overcome its gender bias and devote the necessary resources and attention to sexual assault victims.

12. The NYPD failed Plaintiffs as they have failed countless female victims of sexual assault, and as they will fail countless others if the necessary changes are not made. This action seeks to remedy these failures.

PARTIES

13. Plaintiff Jennifer Welch Demski (“Ms. Welch”) is an individual residing in Kings County, New York.

14. Plaintiff Alison Turkos (“Ms. Turkos”) is an individual residing in Kings County, New York.

15. Defendant City of New York (the “City”) is a municipality organized and existing under the laws of the State of New York. At all times relevant to the events described herein, the City, acting through the New York City Police Department (the “NYPD”), has been responsible for the policy, practice, supervision, implementation, and conduct of all NYPD matters, and has been responsible for the appointment, training, supervision, and conduct of all NYPD personnel. In addition, at all relevant times, the City has been responsible for enforcing the rules of the NYPD, allocating resources, and ensuring that NYPD personnel obey the laws of New York City. At all relevant times, the members of the NYPD whose conduct forms the basis of Plaintiffs’ claims against the City have been employed by the City and acting within the scope of their employment by the City.

16. Defendant James O’Neill is the Commissioner of the NYPD and is responsible for its operation. Defendant O’Neill’s office is located at One Police Plaza in Manhattan. Defendant O’Neill has the power and duty to perform any duty imposed upon the NYPD, including the operation of all investigative branches of the NYPD. He is sued in his official capacity. At all times relevant to the events described herein, Defendant O’Neill and those who held his position before him have acted under color of law of the State of New York and in their capacity as agents, servants, and employees of Defendant City of New York, and within the scope of their employment as such.

17. Defendant Terence Monahan is the Chief of Department of the NYPD.

Defendant Monahan's office is located at One Police Plaza in Manhattan. He is sued in his official capacity. At all times relevant to the events described herein, Defendant Monahan and those who held his position before him have acted under color of law of the State of New York and in their capacity as agents, servants, and employees of Defendant City of New York, and within the scope of their employment as such.

18. Defendant Dermot F. Shea is Chief of Detectives of the NYPD. Defendant Shea's office is located at One Police Plaza in Manhattan. He is sued in his official capacity. At all times relevant to the events described herein, Defendant Shea and those who held his position before him have acted under color of law of the State of New York and in their capacity as agents, servants, and employees of Defendant City of New York, and within the scope of their employment as such.

JURISDICTION AND VENUE

19. The Court has jurisdiction because the City of New York is a municipal corporation organized under the laws of the State of New York and is headquartered in New York County.

20. Venue is proper under C.P.L.R. § 504, as the events giving rise to Plaintiffs' claims against Defendants occurred in New York County.

JURY DEMAND

21. Plaintiffs hereby demand a trial by jury.

FACTUAL ALLEGATIONS

22. At the end of 2017, the NYPD had approximately 74 investigators available to investigate the 5,661 complaints of adult sexual assault crimes (including rape, other felonies,

and misdemeanor assaults). That translates to nearly 80 sexual assaults per investigator for the year.

23. In stark contrast, in the same year, the NYPD devoted an estimated 101 investigators to investigate the 282 homicides that occurred in New York City in 2017. In other words, investigators carried caseloads of approximately two to three homicides over the course of the year.

24. Approximately 90% of all adult sexual assault victims in New York City are women.

25. Approximately 77.8% of all homicide victims in the United States are male.

26. The life-long devastating harm caused by sexual assault is profound. The trauma experienced by sexual assault victims can degrade their lives – causing depression, PTSD, anxiety, and other serious harms. Sexual assault drains our City and debilitates or diminishes thousands of women each year and tens of thousands of women over the course of just a few years. The harm lasts for decades, for lifetimes.

27. On information and belief, the overwhelming majority of police officers who handle the initial intake of and subsequent “investigation” into sexual assault reports remain woefully untrained, and fundamentally biased against female victims of sexual assault, making misogynist and sexist assumptions about why and when women behave in certain ways and excusing perpetrator conduct as acceptable and/or “normal” male behavior.

28. On information and belief, the top NYPD decision makers are driven by an inherent and/or overt gender bias in their failure to properly staff, support and/or otherwise create a system that fully investigates and/or follows through on reports of sexual assault.

29. The NYPD’s failures with respect to its decisions on how and whether to train or

support investigations of reports of sexual assault have a disparate impact on individuals who identify as female.

Overview and Organizational History of the Special Victims Division

30. For years, many inside and outside the NYPD's Special Victims Division ("SVD" or the "Division") have fought hard to reshape the Division and to provide it with the support and resources necessary to carry out its mission of conducting quality investigations of sexual assaults in New York City. Unfortunately for sexual assault victims and citizens of New York City, those voices have been disregarded by NYPD brass at One Police Plaza.

31. In 2003, the NYPD created the SVD within the Detective Bureau in an effort to more properly address the sensitive nature of major sex crimes and child abuse cases.

32. Prior to the creation of the SVD, each borough had maintained a Special Victims Squad that handled such cases independently.

33. With the creation of the SVD, these borough-based Special Victims Squads ("SVS") came under the direct command of a newly established Commanding Officer of SVD, who reported directly to the Chief of Detectives.

34. In 2005, the NYPD made minor changes to the organization of the Division. Two captains were assigned as Zone Commanders covering Zone 1 (Manhattan, Brooklyn, and Staten Island), and Zone 2 (Bronx and Queens).

35. As of 2010, cases handled by the SVD came from many sources, including patrol officers responding to 911 calls and walk-in victims, precinct detective squads, hospitals participating in the Sexual Assault Response Team program, and prosecutors.

The 2010 Sex Crimes Working Group Makes Specific Recommendations to Improve the Provision of Services by the SVD

36. It was in 2010 that then-Commissioner Raymond Kelly convened a Sex Crimes

Working Group (“Working Group”) to explore the apparent systematic mishandling and improper assigning of sexual assault investigations within the SVD.

37. The Working Group was created in response to, among other things, complaints that the NYPD was consistently improperly misclassifying sexual assaults, predominantly by purposefully downgrading them, and was mistreating sexual assault victims who reported sex crimes to the police.

38. As part of its evaluation, the Working Group interviewed stakeholders, reviewed relevant data, and examined the rules and practices governing the NYPD’s assignment and investigation of sex crimes.

39. The Working group made several findings and recommendations, which it presented in its Final Report.

40. Particularly relevant to Plaintiffs’ claims, the Working Group made the following recommendations: (1) all sex crimes should be assigned to the SVD; (2) the SVD – not ordinary patrol officers – should respond directly to hospitals when a victim reports a sex crime; (3) SVD staffing should be increased significantly, and those investigators who are reallocated to the SVD should possess “advanced investigatory skills and experience”; and (4) the NYPD should enhance training, both for SVD investigators and for other officers and detectives who are likely to come into contact with sex crimes complainants as first responders.

41. Based on a staffing model utilized elsewhere in the country that had been adopted by the NYPD’s Office of Management, Analysis, and Planning, the Working Group recommended the addition of 17 experienced investigators to the SVD – for a total of 136 investigators – plus three additional sergeants to enable the Division to handle the influx of

misdemeanor sex crimes cases that would result from a recalibrated classification system. The Working Group acknowledged that further staffing allotments might also be necessary.

42. The recommended increase in staffing was intended to address the concern that misdemeanor sex crimes were not being investigated by trained SVD investigators, as well as the concern that felony sex crimes were being improperly downgraded to misdemeanors to artificially ease the SVD's prior caseload.

43. The Working Group made a separate recommendation that nine additional investigators be added to the SVD to effect its proposal that SVD investigators should respond to all hospital sex crimes complaints, particularly in the midnight shift, which complaints had previously been addressed by night shift patrol officers.

44. At the time the Working Group presented its findings, NYPD insiders challenged the staffing model employed by the Working Group and argued that the assessment underestimated the personnel that would be needed to carry out the recommended improvements to the Division.

45. NYPD leadership informed those objectors that the report had been approved by Commissioner Kelly and that changes could not be made.

46. Despite the analytical flaws in the Working Group's staffing analysis, the underlying themes of its recommendations were spot on and have been underscored by many NYPD insiders and stakeholders with knowledge about the SVD and the services it provides.

47. In particular, the Working Group emphasized that "only highly experienced and knowledgeable detectives, such as high-caliber investigators assigned to precinct detective squads" should be considered for transfer to the SVD. In order to facilitate that recommendation, the Working Group proposed that SVD investigators be given greater

consideration for grade and special assignment promotions.

48. In short, sensitively interviewing sexual assault victims and successfully investigating such complex crimes requires sufficient resources and time, starting first and foremost with trained detectives leading the investigations. The Working Group recommendations were clear, even as they remained watered down by top brass.

The NYPD Ignores the Working Group's Recommendations and Places Greater Strains on the SVD

49. Rather than implement even the underestimated increase in staffing recommended by the Working Group, NYPD leadership made policy changes that placed even greater strain on the SVD without providing for a correlative increase in support or resources.

50. For example, in 2011, the NYPD began assigning all misdemeanor sex crimes to the SVD. Misdemeanor sex crimes had previously been handled by precinct detectives.

51. The policy change resulted in an annual increase of the SVD's caseload by approximately 2,000 cases. The NYPD did not make sufficient staffing adjustments to account for this enormous additional burden on the SVD.

52. In 2013, the SVD was assigned, all at once, 756 cold-case, unassigned DNA hit/match cases. After the initial transfer of these cases, the SVD began receiving an average of 40 new cold cases per month. *The NYPD did not assign any additional staffing to SVD to handle the increased case load resulting from this departmental decision.*

53. Though the SVD borough squads were already dramatically understaffed in part due to the new challenge of handling all misdemeanor sex crimes cases, they suffered further in operational capacity to handle their growing caseload by the diversion of several members of their squads to handle the newly assigned cold cases that came to the SVD.

54. Mere months after the SVD attempted to cobble together a makeshift unit to

address the new cold cases, the ad hoc cold cases unit had to be dismantled so that its members could reenter the regular SVD case catching rotation.

Internal Alarm Bells About Systemic Failures Are Also Ignored

55. Beginning in 2014, then-Chief of SVD Michael Osgood submitted to numerous high-ranking NYPD officials at One Police Plaza, including the Chief of Detectives and Chief of Department, repeated well-reasoned requests and proposals for organizational change to rectify the SVD's many challenges in delivering effective investigative services to sexual assault victims.

56. Time and again, internal memos to NYPD brass highlighted the complex nature of sex crimes investigations, the need for experienced and dedicated investigators to do the work properly, and the reassignment of thousands of cases to the SVD, which were drowning the Division.

57. Internal memos repeatedly called for NYPD leadership to provide an organizational mechanism for the SVD to obtain and retain practiced skilled detectives and investigative supervisors, something it has never had and was recommended by the 2010 Working Group.

58. Other comparable elite squads, such as homicide, maintain a preferential grade structure that incentivizes experienced detectives to seek out homicide posts.

59. The SVD has been consistently disadvantaged in its inability to draw the highest-level detectives because there are simply not the promotional and advancement opportunities within the SVD that exist in other comparable squads.

60. The impact of the lack of well-trained and experienced detectives in the SVD is particularly striking given the complex nature of sex crimes investigations. Sex crimes are

remarkably complicated. The vast majority of all sexual assaults occur between people who know one another. Victims of sexual assault suffer extreme injuries. Sex crimes investigations are lengthy and invasive. They rely heavily on victim participation, which is complicated further by the lifetime of trauma with which victims must cope as they grapple with what they have suffered. Victims are forced to revisit their trauma each time they speak with an investigator. The manner in which investigators interact with victims is therefore critical and can have significant – and deleterious – effects on an investigation if not handled properly.

61. All of these characteristics have been pointed out to NYPD leadership numerous times in internal memoranda, formal requests for staffing, and other presentations. The top ranks at One Police Plaza have chosen to ignore the glaring need for SVD detectives of the highest quality to do this difficult work.

Gender Bias Causes the Systemic Failings

62. The unwillingness at the highest levels of the NYPD to address the myriad problems plaguing the SVD stems from an entrenched gender bias among the NYPD's leadership and the NYPD frontline.

63. The discriminatory culture runs from the patrol level – entry level officers who are young, novice, typically male, and usually unenlightened – through the rank and file of the NYPD's precincts and up to the top brass at One Police Plaza, the vast majority of whom are men who have an old-fashioned, and gendered, approach to policing. This male-dominated environment perpetuates a biased worldview in which sexual assault victims are often dismissed as having somehow invited their assaults by virtue of the clothes they chose to wear or their agreement to go on a date with the perpetrator, or which condones and/or encourages demeaning and offensive responses to sexual assault victims when they report their crimes. The NYPD's

obvious relegation of them to a lower rung of importance results in the dedication of less attention and fewer resources to the investigation of their assaults.

64. Despite persistent pleas for additional resources and staffing, the NYPD has chosen to let sexual assault investigations flounder and to let the overwhelmingly female sexual assault victims go without services or justice.

65. For example, in November 2014, then-Chief Osgood submitted a formal request to NYPD decisionmakers at One Police Plaza for the creation of and appropriate additional staffing for an SVD DNA Cold Case Squad. The request explained clearly the operational need for a dedicated squad of experienced investigators for such a unit.

66. That November 2014 request was made in conjunction with a formal request for a complete staffing assessment to be undertaken to respond to the growing operational demands placed on an understaffed SVD, deficiencies which had gone unaddressed since the Working Group's report and been exacerbated by subsequent NYPD decisions.

67. In continued efforts to obtain the staffing and support needed for the SVD to serve the public, Osgood submitted yet another staffing assessment request in July 2015. In that request, he proposed the creation of a Special Victims Major Case Squad and a Stranger Rape Cold Case Squad – both to be staffed by additional experienced investigators – as well as the establishment of a victim assistance group and the expansion of the data analysis group. The July 2015 staffing assessment request also voiced objections to the NYPD brass's recent decision to transfer all transit sex cases to borough SVD squads. Those cases and the public would be better served, the request argued, by the creation of a dedicated Citywide Transit Sex Crime Squad.

68. A 2017 internal memo addressed to the Chief of Detectives warned explicitly that

the Division's "very serious operational problems [placed] the Department at substantial risk and those problems are staffing dependent." These problems, the memo stated, would leave the NYPD vulnerable to any external review, which would inevitably find that the Division is unable to properly serve sexual assault victims.

69. While the NYPD eventually created a DNA Cold Case Squad, a Transit Special Victims Squad, and a Stranger Rape Cold Case Squad, in some instances it took three years or more to effectuate the changes for which the boots on the ground in the SVD had been advocating since at least 2014. The few, slow changes came nowhere close to providing the resources necessary to address the many problems articulated by the Working Group, Chief Osgood, and others with direct knowledge about the Division's shortcomings.

The 2018 Department of Investigation Report Reveals Critical Deficiencies in Staffing, Training, and Resources Allocation in the SVD

70. Seven years after the Working Group had presented its findings and made concrete recommendations to NYPD leadership at One Police Plaza, the SVD was still plagued by virtually all of the same problems it had faced before the Working Group was established.

71. SVD squads were still severely understaffed; the investigators assigned to the SVD were still underqualified and inexperienced; victims were still being mistreated and re-traumatized by their interactions with the police; misdemeanor sexual assaults were still being given short shrift, or no shrift at all.

72. In 2017, prompted in part by a public statement from an NYPD captain that stranger rapes demand more concern and attention from the police than assaults committed by known assailants, the New York City Department of Investigation ("DOI") commenced a year-long investigation into the way the SVD investigates sexual assault cases. The DOI interviewed current and former SVD commanders and investigators, sex crime prosecutors, victims' services

providers, and victim advocates, and it reviewed internal NYPD memoranda, records, and data.

73. In March 2018, the DOI issued its findings (“DOI Report”), which concluded that the “NYPD has routinely understaffed and neglected the Special Victims Division, negatively impacting sexual assault investigations.”

74. The DOI Report recommended that the NYPD should immediately double the size of the adult sex crimes squads. The DOI also concluded that NYPD leadership had been aware of the understaffing and other problems in the SVD for years, and had “failed to act.”

75. The Report made 12 separate recommendations, but the crux of the DOI Report focused on the severe understaffing in SVD, the lack of experienced investigators assigned to the SVD, inadequate training within the Division, and insensitivity among investigators in their interactions with sexual assault victims.

Inadequate Staffing

76. The DOI concluded that “the five adult sex crimes units have suffered from chronic understaffing issues for at least the past nine years.” According to the DOI, the NYPD’s failure to respond appropriately to the numerous internal requests for additional SVD staffing “has eroded SVD’s ability to fully investigate increasing numbers of sex crime allegations[.]” Despite repeated emphasis over the years on the need for *experienced* investigators to be assigned to the SVD, the NYPD has assigned instead a majority of “white shield” investigators who are police officers serving provisionally in a detective capacity with merely the goal of achieving detective rank. The result has been a negative impact on public safety and inadequate investigations by the SVD.

77. For instance, in 2015, the NYPD added 31 staff to the SVD, but none of those investigators was added to any of the five adult sex crimes squads.

78. Between 2010 and 2016, though the NYPD had received dozens of transfer requests by investigators to the SVD, NYPD leadership had failed to actually act on approximately two dozen of those requests.

Top Brass Lie About What's Being Done

79. Defendant O'Neill deflected criticism of the SVD staffing issues by making inaccurate public statements about what the NYPD has done to bolster the Division. For example, in December 2017, he stated at a press conference that the NYPD had placed more seasoned investigators into the SVD. In reality, no detectives had been assigned to the SVD in all of 2017. Only four investigators had been transferred into adult sex crimes squads that year – all to the Staten Island SVS and all were police officers from local precincts serving provisionally in a detective role.

80. The DOI Report recommended that 73 new investigators be added to the SVD to make up for the considerable deficit under which the Division has been operating for years.

Inexperienced Investigators

81. The DOI also found that despite repeated requests over many years to improve the grading structure within the SVD and make it on par with those of other “elite squads” in the NYPD, the DOI found that the SVD’s grade and promotional structures have remained unchanged since 2003.

82. The DOI Report confirmed that the current SVD grade and promotional situation not only contravenes the Working Group’s explicit recommendations and numerous internal memos, but also discourages highly qualified detectives from seeking transfer to the SVD.

83. The lack of experience among SVD investigators is indeed concerning. Because a large portion of SVD investigators have no prior investigative experience – including

approximately one third of all new adult sex crimes recruits who have come directly from patrol units – the DOI found that many investigators made inappropriate comments during interviews with victims, often retraumatizing victims who were reporting sexual assaults to the police.

84. The DOI Report concluded that the staffing model utilized by the Working Group was flawed and that, therefore, even had the NYPD implemented the Working Group’s staffing recommendations (which it did not), such changes would have been insufficient to confront the ever-increasing staffing demands on the SVD.

85. As a result of the chronic understaffing of the SVD, the NYPD has maintained an internal policy to deprioritize “acquaintance” and “domestic” rape cases.

86. Such known assailant sex crimes comprise approximately 90% of all rapes reported annually in New York City.

87. Rather than devoting SVD investigators to such cases, the NYPD permits enhancement of them by local precincts when summary arrest is made by patrol personnel. This means that a vast majority of sexual assaults in New York City are not being investigated by the SVD and instead are being pursued by investigators with no SVD training or experience. In practice, the vast majority of these cases are not being investigated at all.

88. Perhaps aware of the “deleterious effect” such a de-prioritization policy has on investigations of sexual assaults, Defendant O’Neill attempted to spin the facts at a December 2017 press conference. He stated that “each rape that is reported is fully investigated by the seasoned professionals in Special Victims.” In reality, because of an NYPD policy overseen and enforced by the Commissioner himself, that is far from the truth.

Insufficient Training

89. The DOI also found that training for new SVD recruits is insufficient.

90. Technically, SVD recruits are required to undergo a two-week Criminal Investigator Course (“CIC”) as well as five days of specialized sex crimes-specific investigative training *before* beginning work in the SVD. However, in practice, because the specialized sex crimes training is offered only twice a year, and the CIC course offers more limited space, new recruits to the SVD often start working on SVD cases before completing *any* specialized training.

91. The DOI cited a 2014 internal NYPD memo criticizing the SVD training program, which was at the time twice as long as it is now.

92. The more robust training program in effect in 2014 was demonstrably inadequate. Trainees sat through a 10-day, 40-hour “talking head orientation class of a disparate set of different special victim topics. . . . [The training program] does not build the inherent skill set needed to manage the complexity of Special Victim cases.”

93. The likelihood that inexperienced patrol officers will be transferred into the SVD and begin case work without any specialized SVD training is deeply problematic.

94. The deficient training structure stems directly from resource-allocation decisions made by NYPD brass at One Police Plaza and reflects a policy choice to *not* dedicate sufficient resources to adequately train all SVD investigators.

95. The DOI recommended strenuously that the NYPD devote more time and resources to formal training, to encouraging informal training within the SVD, and to providing enhanced special victims training to patrol officers who are likely to be first responders.

The NYPD Falsely Defends Its Practices and Only Further Cripples the SVD to Harm Victims

96. The NYPD responded formally to the DOI Report in June 2018, having

informally posted a preliminary retort on its website in March 2018. Upon information and belief, at Defendant O'Neill's direction, the NYPD has vehemently defended decision-making regarding the SVD made by Defendant O'Neill and other members of the NYPD leadership. The NYPD rejected outright many of the crucial changes recommended by the DOI based on its review of years of data and internal memos, and its interviews with stakeholders inside and outside of the NYPD.

97. Among other failings in the NYPD's response to the DOI Report, the NYPD defended current staffing levels in the SVD and rejected the staffing analysis utilized in the DOI's assessment, without offering any alternative analysis.

98. The NYPD maintains that the staffing levels and investigator caseloads in the SVD are entirely appropriate. It has decided to add only 20 investigators since the DOI recommended adding 73, and the NYPD has not publicized information about the experience level of those new investigators.

99. Consistent with that theme, the NYPD's June 2018 response focused in large part on the overall increase in head count in the SVD, appearing to lump together all transfers into the SVD without distinguishing between detectives and new recruits with little or no investigative experience.

100. The NYPD defended the experience level of SVD investigators and challenged the DOI to "examine the body of work produced by the police officers and detectives" in the SVD.

101. Such an examination would reveal the same inadequacies underscored by the DOI Report and countless internal memos over many years. For instance, SVD cases are frequently

highlighted in CompStat meetings as evidencing failures that need to be addressed more comprehensively.

102. In addition, a quality assurance team created by then-Chief Osgood in 2017 has already uncovered (over the course of one year) approximately 100 SVD cases that were handled by the Division in a substandard manner.

103. Purportedly in an effort to “enhance the Department’s response to sex crimes,” Defendant Shea has undertaken a “top-to bottom review of the SVD” since the DOI issued its report. However, that review has resulted in the elimination of several constructs that were implemented by former Chief Osgood as part of a valiant effort to restructure the SVD within the confines of its limited resources to address the most critical challenges and to try to serve victims and the public.

104. For instance, the NYPD boasted in its response to the DOI Report that the Stranger Rape Cold Case Squad had been created in 2018. That Squad has been shut down since June 2018.

105. A specialized squad dedicated to investigating drug facilitated sex crimes has been shut down.

106. The Penal Code 130 Squad, which was created to review and confirm proper classification of sex crimes, has been shut down.

107. A victim liaison unit comprised of a handful of experienced detectives who are available to specifically address victims’ and advocates’ concerns, and to go to hospitals and help victims who are reporting sex crimes, has been shut down.

108. Even in the face of direct and specific criticism of the NYPD’s decision-making

regarding the operational structure of the SVD, NYPD leadership refuses to acknowledge even the possibility that it could heed the advice of the many department insiders, external reviewers, and stakeholders to improve the SVD's ability to carry out its mission.

109. The NYPD's deficient response to years of criticism and proposed changes led directly to the discriminatory conduct suffered by Plaintiffs.

Ms. Welch Is Sexually Assaulted, and the NYPD Denies Her Its Services and Exacerbates Her Harm

110. Ms. Welch had had a brief relationship with a man who, for the purpose of this complaint, will be referred to as John Doe.

111. On or about July 9, 2015, Ms. Welch woke up to find Mr. Doe forcing himself on her, having removed her tampon while she was asleep and then barely conscious, and having placed himself in such a manner as to have intercourse with her without her consent and without a condom. She covered her face with her hands, trying to believe this was not happening.

112. Ms. Welch had explicitly told Mr. Doe earlier that night that she insisted that they use a condom for any intercourse in which they engaged.

113. Ms. Welch was devastated by this sexual assault, and for months, Ms. Welch tried to process what had happened. At some point, she learned that Mr. Doe had done this to at least one other woman – that is, engaged in non-consensual sex without protection while the woman was passed out or barely conscious – including one woman *after* Ms. Welch had experienced the assault. Ms. Welch felt guilt for not reporting Mr. Doe, believing that by reporting the assault to law enforcement, there would at least be some accounting of Mr. Doe, or a record of his assaults.

114. Ms. Welch decided to report the sexual assault to law enforcement.

115. On January 6, 2016, Ms. Welch reported the crime to the police at her local precinct.

116. Ms. Welch provided a detailed account of her assault to an officer and a sergeant in the precinct, who did not employ any specialized victim-centric interviewing techniques.

117. The officer and sergeant announced to Ms. Welch that she had not in fact been raped because, among other things, she had not fought back. That she had been asleep initially and then was still groggily waking up during the actual assault made no difference to the officer and sergeant.

118. The sergeant commented that Ms. Welch looked attractive in her driver's license photograph and dismissed her claims of having been assaulted by observing that he frequently has sex with his wife while she is asleep and that his wife does not report such conduct as rape.

119. The same sergeant went so far as to ask Ms. Welch – a victim in the process of reporting a sexual assault to the police – why she “was doing this to” her ex.

120. During Ms. Welch's initial visit to the police, the officer called a detective in the Brooklyn Special Victims Division (“SVD”) numerous times. The officer informed Ms. Welch that the Brooklyn SVD had no time for her case and that what happened to her was not rape.

121. Ms. Welch was crying through all of her report.

122. The officers left the interview room door open as people walked by and as she cried in recounting her sexual assault. At one point, Ms. Welch turned around to observe an NYPD officer sitting inside the interview room while eating her lunch, apparently listening in.

123. Ms. Welch was sent home with a copy of a police report that categorized her reported sexual assault as a “dispute.”

124. In the wake of her sexual assault – an experience which continues to haunt her – Ms. Welch did what society expects of her: she reported the crime to the police.

125. She left the police station having been told that her report of a crime was

illegitimate, that she had not been sexually assaulted, and that the NYPD would not be pursuing any investigation into the reported crime.

126. More than three weeks later, Ms. Welch returned a call from the officer to whom she had reported her rape and left the officer a message. The officer never responded and never attempted to contact Ms. Welch again regarding her reported sexual assault or any investigation thereof.

127. In April 2016, still reeling from both the assault itself and the NYPD's callous rejection of her victimization, Ms. Welch went to the Brooklyn Family Justice Center to pursue a further inquiry into her sexual assault.

128. During her meeting with an NYPD officer there, Ms. Welch learned that a detective was never assigned to her case and that there was nothing the officer could do for her.

129. Ms. Welch was not willing to walk away from her assault. After reading the DOI Report, in which she learned of the NYPD's policy or practice of refusing or failing to investigate reported sexual assaults that are committed by known assailants, Ms. Welch became even more outraged.

130. On May 10, 2018, Ms. Welch contacted NYPD SVD to inquire about filing a complaint about the officers to whom she initially reported her assault on January 6, 2016 and the dismal and illegitimate response she received from the NYPD.

131. Ms. Welch was eventually connected with an SVD sergeant, who met with Ms. Welch on May 16, 2018. The sergeant offered Ms. Welch the opportunity to pursue a proper investigation of her rape. Ms. Welch agreed.

132. Subsequently, Ms. Welch was contacted by an SVD detective. She met with him and an SVD officer on May 16, 2018. By that time, Mr. Doe had moved out of the state.

133. Following that interview, which came about only as result of Ms. Welch's extraordinary persistence and commitment, and nearly two and a half years after the NYPD rejected Ms. Welch's report of her sexual assault, the new detective and officer investigated Ms. Welch's assault. In November 2018, Ms. Welch was informed that the District Attorney would not prosecute her case.

134. For more than two years, while struggling immensely with the fact that she had been raped by a known assailant, a person with whom she had previously been involved in a consensual romantic relationship but who had later decided to perpetrate a sexual crime against her, Ms. Welch attempted to cope also with the reality that the NYPD had failed her. In the face of her reported rape, members of the SVD ridiculed Ms. Welch for considering herself a victim, they offensively commented on her physical attractiveness, and they decided on the spot that her case was not worth pursuing. That decision precluded Ms. Welch from obtaining the police services to which she was entitled.

135. The treatment Ms. Welch received on January 6, 2016, and the subsequent failure of the NYPD to pursue any investigation into her reported assault caused significant emotional injury to Ms. Welch separate and apart from the harm she suffered as a survivor of a sexual crime.

136. Upon information and belief, it was the policies and practices determined by Defendants O'Neill, Monahan and/or Shea, as well as other high-ranking NYPD officials at One Police Plaza, that caused the NYPD officers, detectives, and sergeants to cause harm to Ms. Welch.

137. Upon information and belief, critical decision-making regarding the distribution of NYPD resources and staffing, training of NYPD officers and detectives, treatment of victims

who report crimes to the NYPD, and other policies and/or practices that led to the discriminatory denial and/or hostile provision of services to Ms. Welch were made by Defendants O'Neill, Monahan and/or Shea, among others, at NYPD headquarters in Manhattan.

Ms. Turkos Is Kidnapped and Brutally Raped and Reports the Crime, and the NYPD Discriminatorily Denies Her Its Services

138. The evening of Friday, October 13, 2017, began in an ordinary fashion for Ms. Turkos, as she met up with some friends for drinks, dinner, and a night out in Brooklyn.

139. When, after an especially exhausting work week, Ms. Turkos hit a wall of fatigue around 2:30 a.m., she ordered a Lyft car to take her from Crown Heights to Williamsburg where she was house-sitting for a friend.

140. Once Ms. Turkos confirmed that her driver was taking her in the right direction towards her destination – down Bedford Avenue – she leaned back and allowed her tired eyes to close. She was startled awake when the car hit a large pothole in the road; Ms. Turkos looked out the window as she was being driven across the Manhattan Bridge.

141. From that point on, Ms. Turkos began living an actual nightmare. Her Lyft driver proceeded to kidnap her at gunpoint and took her to New Jersey where two other men were waiting in a park. Ms. Turkos was viciously and brutally raped at gun point by the three men.

142. After having been deposited at her original destination around 4:00 a.m., Ms. Turkos was confused, exhausted, and utterly traumatized. The combination of exhaustion, alcohol-intake typical of a night out with friends, and the severe trauma contributed to extreme confusion for Ms. Turkos. She struggled to remember and make sense of what had happened to her on that fateful car ride.

143. The following Monday, Ms. Turkos sought medical attention at New York Presbyterian Brooklyn Methodist Hospital where a rape kit was performed. At the gentle urging

of an Emergency Room doctor and notwithstanding a personal reluctance to involve the police stemming from prior sexual assaults, Ms. Turkos decided to report her rape.

144. Four uniformed officers arrived approximately 20 minutes later and immediately launched into insensitive and unhelpful questioning of Ms. Turkos, apparently unaware that a nurse was attempting to complete the rape kit. The officers did not know what Lyft was and required Ms. Turkos to explain what it was. The nurse had to ask the officers to hold off on their questioning so that she could complete the rape kit as quickly as possible to ensure evidence would be preserved. The officers did not appear to understand the urgency associated with completing a rape kit or how to speak to a rape victim.

145. Two more uniformed officers arrived to question Ms. Turkos after the rape kit was completed.

146. The same day, an SVD Detective was assigned to Ms. Turkos's case.

147. Ms. Turkos had little memory of the attack. The detective never sought to employ any investigative tools that would help trigger additional memories by Ms. Turkos.

148. Ms. Turkos did not hear from the detective for more than five weeks after she reported her rape.

149. In December 2017, on a rare occasion when the detective assigned to her case offered concrete information to Ms. Turkos, the detective confirmed to Ms. Turkos that she had been kidnapped, and that the toxicology report in her rape kit had come back negative. The detective told Ms. Turkos that the driver had still not been contacted and that video footage from the Holland Tunnel would not show anything because Ms. Turkos had been "lying down" in the backseat of the car.

150. Ms. Turkos became emotional – not at all surprising given the news she was

struggling to comprehend. The detective became visibly uncomfortable with Ms. Turkos's display of emotion and suggested that perhaps she not share information regarding Ms. Turkos's case in the future.

151. Ms. Turkos immediately told the detective that of course she wanted to be kept informed of progress on her case. Ms. Turkos had to explain to her SVD detective that her emotional state was legitimate and not an impediment to her remaining an active participant in the investigation.

152. What followed was an exceedingly frustrating several months in which Ms. Turkos diligently sought to participate in the investigation of her attackers and received almost no response from the SVD detective assigned to her case.

153. What information the detective did provide to Ms. Turkos was offered with little or no explanation or suggested follow up. Ms. Turkos asked countless questions to which the detective had no answers.

154. Meanwhile, time went on, and the investigation appeared to flounder.

155. On March 18, 2018, more than five months after Ms. Turkos was kidnapped and raped, and after countless calls and emails from Ms. Turkos seeking some – *any* – information from the SVD detective about the investigation, the detective reported to Ms. Turkos that the rape kit confirmed the presence of semen from two male contributors, neither of which matched the driver's DNA. The detective also informed Ms. Turkos that she had finally approached the District Attorney's office to request that an Assistant District Attorney be assigned to the case.

156. The detective indicated that she had news for Ms. Turkos on April 5, but Ms. Turkos had not been able to connect with the detective – despite repeated phone calls and emails – until April 23, when Ms. Turkos met someone at a victims' rights event who encouraged her to

report her mistreatment.

157. Following up on that conversation, Ms. Turkos lodged an official Internal Affairs Bureau complaint on April 25, 2018 about the dismal way in which her investigation had been handled by the SVD.

158. Though distressed at Ms. Turkos's account of her experience as a sexual assault victim, at least one NYPD official did not appear surprised at the ineptitude with which the SVD detective assigned to her case and others in the Division had approached the investigation.

159. Having had the wherewithal to seek out a high-ranking IAB official and file a formal complaint about her SVD investigation, Ms. Turkos was then connected with an SVD detective and officer who took over the investigation.

160. The new investigative team employed interview techniques never before attempted by the SVD detective assigned to her case, and they asked basic investigative questions Ms. Turkos had never before been asked. For instance, the new investigators requested the contact information for the two individuals who were with Ms. Turkos when she first got into the Lyft car. Ms. Turkos had never before been asked about that information.

161. Ms. Turkos was informed by an IAB detective that her case was "too complex" for the original detective assigned to her case, that there were "too many moving parts" for the detective. While Ms. Turkos was told that the same detective would not be placed on a case "like hers," there was no promise to remove the detective from investigating sexual assaults altogether, despite her obvious lack of training and experience to properly interact with sexual assault victims. Upon information and belief, the detective originally assigned to Ms. Turkos's case remained staffed to the SVD and was not removed from her investigative duties.

162. News reports subsequently discovered by Ms. Turkos revealed that the same

detective had been the subject of numerous lawsuits related to and investigations into her mishandling of several previous sexual assault investigations.

163. Eventually, the investigation of Ms. Turkos's rape was turned over to the FBI because of the federal laws implicated in her having been kidnapped and brought across state lines. The FBI has told Ms. Turkos that certain deficiencies in the way the NYPD handled the investigation initially, including a failure to obtain video evidence at the time and the botched questioning of the Lyft driver, have had severe and significant negative impacts on her case.

164. Ms. Turkos has suffered significant emotional harm as a direct result of the deficiencies in the SVD's investigation of her violent kidnapping and rape. On top of grappling with the enormity of what she went through and the lifetime of trauma she will necessarily have to struggle with, Ms. Turkos had to virtually beg her assigned SVD detective to give her any information about the investigation, or even to respond to Ms. Turkos's requests for contact. Moreover, Ms. Turkos continues to suffer harm because the NYPD's inadequate investigation has hampered the ongoing federal investigation.

165. Upon information and belief, it was the policies and practices determined by Defendants O'Neill, Monahan, and/or Shea, as well as other high-ranking NYPD officials at One Police Plaza, that caused the SVD detective assigned to Ms. Turkos's case and other NYPD officers and detectives to so deficiently pursue an investigation of Ms. Turkos's violent kidnapping and rape.

166. Upon information and belief, critical decision-making regarding the distribution of NYPD resources and staffing, training of NYPD officers and detectives, treatment of victims who report crimes to the NYPD, and other policies and/or practices that led to the discriminatory denial and/or hostile provision of services to Ms. Turkos were made by Defendants O'Neill,

Monahan and/or Shea, among others, at NYPD headquarters in Manhattan.

167. At its core, the current organizational structure of the SVD is not capable of adequately addressing the victimization and lifetime of damage inflicted on the City's sexual assault victims or to stop repeat perpetrators, particularly those who sexually assault women they know or who use drugs to commit their sexual assaults.

168. Despite countless proposals, requests, and concrete, soundly-formulated recommendations from both inside and outside the NYPD over the course of many years – and in the face of a powerful public movement that has prompted many more women to come forward and report their sexual assaults – NYPD leadership has chosen time and again to bury their heads in the sand and continue to provide woefully inadequate services, to fail entirely to provide any services, and/or to interact with sexual assault victims in a way that actively exacerbates the harm of sexual assault victims across the City, victims who are overwhelmingly female.

169. Plaintiffs suffered directly as a result of the NYPD's discriminatory refusal to address critical challenges facing the SVD about which the NYPD and its high-ranking officials have been fully aware for years.

170. On information and belief, numerous women who have been sexually assaulted in the City and reported the crime to the NYPD have been injured by Defendants' failure to provide the accommodations, advantages, privileges, and facilities of an unbiased and adequate NYPD investigation.

FIRST CAUSE OF ACTION
(Violation of New York City Administrative Law § 8-107)

171. Plaintiffs repeat and reallege the foregoing paragraphs as though fully set forth herein.

172. Plaintiff Jennifer Welch Demski is an aggrieved person, as defined in the New

York City Administrative Code § 8-502(a).

173. Plaintiff Alison Turkos is an aggrieved person, as defined in the New York City Administrative Code § 8-502(a).

174. The NYPD is a “place or provider of public accommodation” as defined in the New York City Administrative Code § 8-102(9).

175. All officers, detectives, sergeants, and other members of the NYPD referenced herein, including but not limited to Defendants O’Neill, Monahan, and Shea, were acting in their capacities as “agent or employee” of the NYPD.

176. New York City Administrative Code § 8-107(4) states that “it shall be unlawful”: “Because of any person’s actual or perceived . . . gender . . . , directly or indirectly: (a) To refuse, withhold from or deny to such person the full and equal enjoyment, on equal terms and conditions, of any of the accommodations, advantages, services, facilities or privileges of the place or provider of public accommodation”.

177. New York City Administrative Code § 8-107(4) states that “it shall be unlawful:” “Directly or indirectly to make any declaration . . . to the effect that . . . [f]ull and equal enjoyment, on equal terms and conditions, of any of the accommodations, advantages, facilities and privileges of any such place or provider of public accommodation shall be refused, withheld from or denied to any person on account of . . . gender[.]”

178. New York City Administrative Code § 8-107(6) states that “[i]t shall be an unlawful discriminatory practice for any person to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this chapter, or to attempt to do so.”

179. Defendants violated Section 8-107 by refusing, withholding, and/or denying Plaintiffs, both female victims of sexual assault, the full and equal enjoyment, on equal terms and

conditions, of the accommodations, advantages, services, facilities and privileges the NYPD has committed to provide.

180. Pursuant to policies and practices emanating from the NYPD leadership, including Defendants O'Neill, Monahan, and Shea, the NYPD did not provide to Ms. Welch the basic investigative services promised to all members of the public who report the occurrence of a crime and re-victimized Ms. Welch by the actively hurtful way in which the NYPD officers purported to receive her report.

181. Pursuant to policies and practices emanating from NYPD headquarters, including Defendants O'Neill, Monahan, and Shea, the NYPD discriminated against Ms. Turkos in the provision of its investigative services, which are promised to all members of the public who report the occurrence of a crime.

182. Defendants all promote and support, or in the alternative, know of and do not correct, a male-dominant culture within the NYPD that is infused with inherent and/or overt gender bias that includes, without limitation, misogynistic and/or sexist assumptions about how female victims of sexual assault should act or react during or to a sexual assault and/or sexist assumptions about what acceptable male behavior is. Such gender bias motivated the manner in which both Plaintiffs' reports of sexual assault were handled and caused Plaintiffs significant harm.

183. Defendant O'Neill was responsible for decisions regarding the implementation and/or retention of policies and practices that, upon information and belief, caused harm to Plaintiffs because as a result of those decisions, Plaintiffs were mistreated by and their investigations were mishandled and/or misclassified by inexperienced and poorly trained SVD investigators.

184. Defendant Monahan was responsible for decisions regarding the implementation and/or retention of policies and practices that, upon information and belief, caused harm to Plaintiffs because as a result of those decisions, Plaintiffs were mistreated by and their investigations were mishandled and/or misclassified by inexperienced and poorly trained SVD investigators.

185. Defendant Shea was responsible for decisions regarding the implementation and/or retention of policies and practices that, upon information and belief, caused harm to Plaintiffs because as a result of those decisions, Plaintiffs were mistreated by and their investigations were mishandled and/or misclassified by inexperienced and poorly trained SVD investigators.

186. Upon information and belief, male victims of crimes of equivalent severity are treated properly by the NYPD, with appropriate interviewing methods and follow up implemented pursuant to policies and practices determined at NYPD headquarters. Specifically, the NYPD devotes sufficient resources, training, and support for follow up of and investigation into reported crimes of equivalent severity that impact men as much or more than women.

187. On the basis of Plaintiffs' gender, the NYPD denied, withheld, and/or refused outright to Plaintiffs and/or denied, withheld, and/or refused the full enjoyment of, on equal terms and conditions, the provision of its services to Plaintiffs.

188. The discriminatory policies and practices of the NYPD, which deny, withhold, and/or refuse the provision of police services to victims of sexual assault and/or provide such services in a discriminatorily hostile manner, cause a disparate impact on the basis of gender or perceived gender.

189. To the extent NYPD services were provided to Plaintiffs, they were provided in a

discriminatorily hostile manner because of Plaintiffs' gender or perceived gender and/or through policies and practices that had a discriminatory disparate impact on Plaintiffs because of their gender or their perceived gender.

190. Defendants' conduct was intentional, willful, and taken in disregard for the rights of Plaintiffs.

191. As a direct and proximate result of the unlawful conduct detailed above, Plaintiffs sustained substantial damages in amounts to be determined at trial.

192. Absent injunctive relief, Plaintiffs will continue to suffer injuries caused by Defendants' failure properly to investigate the sexual assaults committed against them.

193. Pursuant to New York City Administrative Code § 8-502(c), Plaintiffs will serve a copy of this complaint upon the City Commission on Human Rights and Corporation Counsel within ten days of commencing the action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that judgment be entered against Defendants as follows:

- a. Ordering injunctive relief to rectify the discriminatory denial of services and/or the discriminatorily hostile provision of services that Plaintiffs suffered;
- b. Ordering Defendants to pay compensatory damages in an amount to be determined at trial;
- c. Ordering Defendants to pay punitive or exemplary damages in an amount to be determined at trial;
- d. Ordering Defendants to pay reasonable attorneys' fees and costs and interest; and

e. Awarding such other and further relief, including all disbursements and pre- and post-judgment interest, as the Court may deem just and proper.

Dated: New York, New York
January 31, 2019

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