

ORAL ARGUMENT SCHEDULED FOR SEPTEMBER 20, 2011

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 11-7001

ALEXANDRIA McGAUGHEY,

Appellant,

v.

DISTRICT OF COLUMBIA,

Respondent.

On Appeal from the United States District Court
for the District of Columbia
1:07-cv-01498-RJL

AMICUS BRIEF OF THE DC RAPE CRISIS CENTER, THE MARYLAND
COALITION AGAINST SEXUAL ASSAULT, THE NATIONAL SEXUAL
VIOLENCE RESOURCE CENTER, THE NATIONAL CENTER ON DOMESTIC
AND SEXUAL VIOLENCE, THE VICTIM RIGHTS LAW CENTER, THE OREGON
COALITION AGAINST DOMESTIC AND SEXUAL VIOLENCE, THE KANSAS
COALITION AGAINST SEXUAL AND DOMESTIC VIOLENCE AND THE NEW
JERSEY COALITION AGAINST SEXUAL ASSAULT
IN SUPPORT OF APPELLANT

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CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES
PURSUANT TO CIRCUIT RULE 28

PARTIES

The Plaintiff below and Appellant here is Alexandria McGaughey. One of the Defendants below and the Appellee here is the District of Columbia. Other Defendants below not involved in this appeal are Howard University Hospital, Howard University, Wendie Williams, M.D., Dawit Yohannes, M.D., District Hospital Partners, L.P., d/b/a George Washington University Hospital, George Washington University, and Christopher Lang, M.D. There were no intervenors in this matter in the District Court, and as of the time of this filing, none here.

There were no amici in this matter in the District Court. Amici represented in this amicus brief include the DC Rape Crisis Center, the Maryland Coalition Against Sexual Assault, the National Sexual Violence Resource Center, the National Center on Domestic and Sexual Violence, the Victim Rights Law Center, the Oregon Coalition Against Domestic and Sexual Violence, the Kansas Coalition Against Sexual and Domestic Violence, and the New Jersey Coalition Against Sexual Assault.

RULINGS

Appellant McGaughey appeals from District Court Judge Richard J. Leon's August 26, 2010, Order granting summary judgment to the District of Columbia. JPA 1209 (Order), 1199 (Mem. Opinion). Judge Leon's December 6, 2010,

Minute Order certified the August 26, 2010, Order as a final order under Federal Rule 54(b). *See* JPA 1210. On January 27, 2011, Judge Leon issued an amended order to clarify his December 6, 2010, Minute Order. JPA 1212.

RELATED/SIMILAR CASES

This case has not previously been before this Court or any other court except the court below. Undersigned counsel are not aware of any related cases.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 26.1, none of the organizations who have joined this brief as amici are corporations, associations, joint ventures, partnerships, syndicates or other similar entities. All amici are non-profit, non-governmental organizations.

NOTICE AND CERTIFICATE OF WRITTEN REPRESENTATION

Amici have received consent from counsel for the District of Columbia and counsel for Appellant Alexandria McGaughey to file this amicus brief.

/s/ Martina E. Vandenberg
Martina E. Vandenberg

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GLOSSARY

DCRCC	D.C. Rape Crisis Center
KCASDV	Kansas Coalition Against Sexual and Domestic Violence
MCASA	Maryland Coalition Against Sexual Assault
NSVRC	National Sexual Violence Resource Center
MPD	Metropolitan Police Department
NCDSV	National Center on Domestic and Sexual Violence
NJCASA	New Jersey Coalition Against Sexual Assault
OCADSV	Oregon Coalition Against Domestic and Sexual Violence
SAMFEs	Sexual Assault Medical Forensic Examinations
SANE	Sexual Assault Nurse Examiner
VRLC	Victim Rights Law Center

**STATEMENT OF IDENTITY AND INTEREST AND SOURCE OF
AUTHORITY TO FILE**

The D.C. Rape Crisis Center (DCRCC) is dedicated to creating a world free of sexual violence. The DCRCC works to end rape and other forms of sexual assault through community outreach, education, legal and public policy initiatives, and helps survivors and their families heal from the aftermath of sexual violence through crisis intervention, counseling and advocacy. The DCRCC has a special interest in the *McGaughey* case, because the DCRCC, the primary rape survivor assistance organization in DC, was *not* called to provide an advocate when Plaintiff sought medical attention – a violation of Howard University’s Sexual Assault Nurse Examiner (SANE) policy. Additionally, the DCRCC regularly works with D.C. police on sexual assault issues, and the DCRCC helped to establish the District of Columbia’s SANE program, which should provide all survivors of sexual violence with proper Sexual Assault Medical Forensic Examinations (SAMFEs) without police interference. The DCRCC joins this amicus brief to advocate for Plaintiff’s rights and to ensure that future victims of sexual violence in the District of Columbia are able to gather evidence against their attackers without police interference or other demeaning or disrespectful behavior from law enforcement.

The Maryland Coalition Against Sexual Assault (MCASA) is the collective voice in Maryland advocating for accessible, compassionate care for survivors of

sexual assault and abuse, and accountability for all offenders. MCASA works with local, state and national organizations to address issues of sexual violence in Maryland. MCASA is a membership organization that includes the state's seventeen rape crisis centers, and it also includes the Sexual Assault Legal Institute, which provides legal services for survivors. MCASA joins this amicus brief to ensure that police in the Washington, DC metropolitan area respond appropriately to all victims of sexual violence and to help the court understand the devastating impact on victims when police interfere with evidence collection or are otherwise insensitive toward victims.

The National Sexual Violence Resource Center (NSVRC) serves as the nation's principal information and resource center regarding all aspects of sexual violence. It provides national leadership, consultation, and technical assistance by generating and facilitating the development and flow of information on sexual violence and prevention strategies. NSVRC joins this amicus brief on behalf of Plaintiff to educate the court about, and to generally promote, appropriate responses from law enforcement toward victims of sexual violence.

The National Center on Domestic and Sexual Violence (NCDSV) provides customized training and consultation, engages in policy advocacy, and promotes collaboration with the goal of ending domestic and sexual violence. NCDSV joins

this brief to encourage better policies and practices and better training for those who respond to sex crimes.

The Victim Rights Law Center (VRLC) is the first national nonprofit law center in the country created specifically to provide free civil legal services to rape and sexual assault victims. The VRLC provides legal representation to help victims of rape and sexual assault rebuild their lives and to promote a national movement committed to seeking justice for every rape and sexual assault victim. The VRLC joins this amicus brief to help the court understand failures of the criminal justice system, which continues to blame victims, deter rape victims from reporting, and reinforce damaging myths that silence rape victims.

The Oregon Coalition Against Domestic and Sexual Violence (OCADSV) is a nonprofit organization founded in 1978 and made up of programs across the state of Oregon that serve survivors of sexual and domestic violence. OCADSV's mission is to raise awareness about violence against women and children and to work towards non-violence through leadership in advocacy, public policy, training, resource development and social change. OCADSV joins this brief to bring attention to the dire consequences for survivors of sexual violence when police interfere in their medical care, prevent survivors from accessing forensic exams, or otherwise belittle and diminish women who come forward seeking help.

The Kansas Coalition Against Sexual and Domestic Violence (KCADSV) is a nonprofit organization founded in 1988, and its member programs work directly with victims of sexual assault and domestic violence throughout Kansas.

KCADSV is focused on improving the availability and competency of advocacy for all survivors of sexual violence, and it has a variety of projects focused on training advocates, attorneys, law enforcement, Sexual Assault Nurse Examiners, and other allies. KCADSV joins this brief to help the court understand the importance of competent, sensitive law enforcement response to victims and the devastating impact on victims when police prevent victims from collecting evidence, engage in victim-blaming, treat victims as if they are lying, or otherwise treat victims disrespectfully.

The New Jersey Coalition Against Sexual Assault (NJCASA) represents the collective voice of sexual violence survivors, their loved ones, and the 22 sexual violence programs throughout New Jersey, as well as individuals, students and corporations concerned about ending sexual violence. The mission of NJCASA is to promote the compassionate and just treatment of survivors, their loved ones and significant others, to foster collaborative relationships between community systems, and to affect attitudinal and behavioral changes in society. NJCASA joins this brief to help draw attention to the importance of a survivor-centered

response to sexual violence survivors by law enforcement as well as the negative consequences when survivors encounter untrained law enforcement.

STATEMENT REGARDING PREPARATION OF AMICUS BRIEF

Amici's counsel from Jenner & Block LLP authored this brief in its entirety. Jenner & Block worked on this matter pro bono; no party to this lawsuit or any other party donated money to fund preparation or submission of this brief.

SUMMARY

We are collectively dismayed by the alleged actions – and inaction – of the District of Columbia's Metropolitan Police Department toward Plaintiff. Research regarding rape and its impact on victims indicates that a rape victim, such as this Plaintiff, is affirmatively harmed when police interfere with her ability to receive comprehensive care and treatment, including the collection of forensic evidence from her body. Similarly, a rape victim suffers harm when police treat her dismissively and disrespectfully. Victims of rape are also harmed when they are denied the ability to identify perpetrators through evidence collection, forever forestalling any chance of a criminal prosecution or other restitution or remedies through a civil case or, in this case, a potential university disciplinary action. Finally, police mistreatment of rape victims deters future victims from reporting crimes and seeking help.

Accordingly, we strongly encourage the court to grant the Plaintiff's request to reverse the district court's decision to dismiss the District of Columbia from Plaintiff's case.

BACKGROUND

Rape is a pervasive problem. National data suggest that at least 17 to 25 percent of women will be raped in their adult lifetime. Karen Bachar & Mary P. Koss, *From Prevalence to Prevention: Closing the Gap Between What We Know About Rape and What We Do in* SOURCEBOOK ON VIOLENCE AGAINST WOMEN 117 (Claire M. Renzetti et al. eds., 2001). More than 60 percent of rapes and sexual assaults are never reported (U.S. Dept. of Justice, National Crime Victimization Study (2005)), and of those that are reported, only 22 to 25 percent are prosecuted. Rebecca Campbell, *Rape Survivors' Experiences With the Legal and Medical Systems: Do Rape Victim Advocates Make a Difference?*, 12 VIOLENCE AGAINST WOMEN 30 (2006). Only 10 to 12 percent of those cases result in some type of conviction. *Id.* Rape is one of the most severe of all traumas, causing multiple, long-term negative outcomes, such as post-traumatic stress disorder, depression, substance abuse, suicide, repeated victimization, and chronic physical health problems. Dean G. Kilpatrick & Ron Acierno, *Mental Health Needs of Crime Victims: Epidemiology and Outcomes*, 16 J. TRAUMATIC STRESS 119 (2003).

In response to this problem, victim advocates and healthcare professionals, in conjunction with local police departments, have worked over the last three decades to improve the response to victims, including creating programs to ensure that rape victims receive needed evaluation, treatment, and services. Rebecca Campbell *et al.*, *The Effectiveness of Sexual Assault Nurse Examiner (SANE) Programs: A Review of Psychological, Medical, Legal, and Community Outcomes*, 6 TRAUMA, VIOLENCE & ABUSE 313 (2005). Among these efforts has been the development of Sexual Assault Nurse Examiner (SANE) programs. According to the Department of Justice, the primary mission of a SANE program is to meet the needs of sexual assault victims by providing immediate, compassionate, culturally sensitive, and comprehensive forensic evaluation and treatment by trained experts. *Sexual Assault Nurse Examiner Development & Operation Guide*, Office for Victims of Crime, U.S. Dept of Justice, p. 8 (1999). SANE programs are collaborative efforts between hospitals, community advocates (rape crisis centers), prosecutors, and law enforcement to ensure that victims of rape and other forms of sexual violence receive comprehensive, coordinated care that includes collection of forensic evidence. Sensitive and supportive treatment through a SANE exam increases a victim's willingness to continue to move forward in the criminal justice process. Ultimately, SANE programs are intended to increase prosecution rates of sex offenders by improving the quality and consistency of evidence collection.

By establishing the District of Columbia's SANE program with police and healthcare officials, the DC Rape Crisis Center sought to improve conditions for rape victims and increase accountability for offenders. Through the SANE program, the Metropolitan Police Department (MPD) received specialized training in responding to sexual assault victims and agreed to follow certain protocols, such as ensuring that only officers from the Sex Offense Unit conducted interviews with victims and that these interviews were done in person. The training conveyed the importance of only sending specially trained officers to interview rape victims, and the training was part of promoting an overall concept confirmed in study after study: When police officers interfere with a rape survivor's ability to receive comprehensive care and treatment, including the collection of forensic evidence from her body, or otherwise demean, belittle or mistreat victims – as has been alleged by Plaintiff – the victims may be re-traumatized and deterred from reporting the rape. As a result, victims face grimmer prospects for long-term recovery, vital evidence may be lost, and perpetrators may escape justice. In this case, it appears that police action and inaction were diametrically opposed to the goals of the SANE program.

Additionally, even without the presence of special programs or training, law enforcement's goal should be to encourage – not discourage or otherwise frustrate – evidence collection and efforts to bring assailants to justice. While police and

prosecutors may ultimately decide not to pursue a matter after an investigation, in the early stage of responding to a complaint, police should not interfere with the collection of evidence that could possibly be used to hold offenders accountable through a civil lawsuit, a university disciplinary proceeding, or a criminal prosecution that the police or prosecutors might choose to pursue once they see the evidence.

ARGUMENT

I. INTERFERING WITH ACCESS TO COMPREHENSIVE CARE AND EVALUATION AND OTHER MISTREATMENT FROM POLICE CAUSES AFFIRMATIVE HARM TO RAPE VICTIMS.

Police behavior toward victims significantly impacts their recovery, their mental health, and their understanding of the attack. To avoid secondary victimization and other harm to victims, it is critical that police not interfere with a rape survivor's ability to receive comprehensive care and treatment, including the collection of forensic evidence from their body, and that they avoid demeaning, belittling, or acting dismissively toward rape victims. When police interfere with treatment and SAMFEs, refuse to send specially trained officers to interview rape victims, blame victims of sexual violence, and/or treat victims rudely and dismissively, police affirmatively harm rape victims. These responses by law enforcement cause lasting psychological and physiological damage. Such distress, which is caused not by the rape itself, but by how the survivors are treated by

social systems, including law enforcement, is known as “secondary victimization” or “second rape.” See Rebecca Campbell, *The Psychological Impact of Rape Victims’ Experiences With the Legal, Medical and Mental Health Systems*, 63 AM. PSYCHOLOGIST 711 (2008); Lee Madigan & Nancy Gamble, THE SECOND RAPE: SOCIETY’S CONTINUED BETRAYAL OF THE VICTIM (1991); Rebecca Campbell *et al.*, *The Community Response to Rape: Victims’ Experiences with the Legal, Medical, and Mental Health Systems*, 26 AM. J. COMMUNITY PSYCHOL. 355 (1998).

“Negative responses from the legal and medical systems exacerbate victims’ distress” and leave victims feeling dehumanized, blamed, and intimidated.

Campbell, *Psychological Impact of Rape Victims’ Experiences*, AM.

PSYCHOLOGIST, *supra* 708. The results can be devastating. “These experiences of secondary victimization take a toll on victims’ mental health. In self-report characterizations of their psychological health, rape survivors indicated that as a result of their contact with legal system and law enforcement personnel, they felt bad about themselves (87%), depressed (71%), violated (89%), distrustful of others (53%), and reluctant to seek further help (80%).” *Id.* at 705. Studies have found that a failure to take legal action against the perpetrator (*i.e.*, the case did not progress or was dropped by law enforcement) was associated with increased symptoms of post-traumatic stress disorder. *Id.* at 705.

According to studies on the topic, secondary victimization may result from at least two factors that are present in Plaintiff's allegations: 1) law enforcement and medical personnel treating victims in an insensitive manner; and 2) victims not receiving adequate assistance. As discussed below, research studies have conclusively shown that these forms of secondary victimization affirmatively harm victims and cause damage beyond the initial rape.

A. It Is Imperative that Rape Victims Be Treated in a Sensitive Manner.

When victims seek help after a rape, they place a great deal of trust in social systems, such as law enforcement. In contacting law enforcement, rape victims risk disbelief, scorn, shame, punishment, and refusals of help. Madigan & Gamble, *THE SECOND RAPE*, *supra*. How these interactions with law enforcement and medical personnel unfold can have profound implications for victims' recoveries. Wayne A. Kerstetter, *Gateway to Justice: Police and Prosecutorial Response to Sexual Assaults Against Women*, 81 J.CRIM. LAW & CRIMINOLOGY 267 (1990). Studies have shown that some victims experience secondary victimization when police treat them in an insensitive manner, display victim-blaming attitudes, give the impression that a victim may have provoked an attack, and/or insinuate that she is lying about the occurrence of rape. See Rebecca Campbell & C.R. Johnson, *Police Officers' Perceptions of Rape: Is There Consistency Between State Law and Individual Beliefs?*, 12 J. INTERPERSONAL VIOLENCE, 255 (1997); C.

Ward, *The Attitudes Toward Rape Victims Scale: Construction, Validation, and Cross-Cultural Applicability*, 12 PSYCHOL. OF WOMEN Q. 127 (1988). Victim-blaming by police is especially harmful, as it has been linked to increased post-traumatic stress disorder among rape victims. Rebecca Campbell *et al.*, *Community Services for Rape Survivors: Enhancing Psychological Well-Being or Increasing Trauma?*, 67 J. CONSULTING & CLINICAL PSYCHOL. 847 (1999). Based on Plaintiff's allegations about the way the police responded to her complaint, including that they merely prepared a "miscellaneous" incident report after talking with her about being drugged and raped, it appears that officers were minimizing Plaintiff's concerns, treating her as if she were lying, and refusing to classify what happened to Plaintiff as a sexual assault. These actions are inconsistent with existing protocols. Research has shown that police actions such as those displayed here cause victims harm separate from the trauma initially caused by the rape.

Following SANE protocols, including the one the MPD have agreed to operate under, can alleviate these concerns. SANE protocols ensure that only trained officers are sent to interview rape victims and that the interviews are conducted in person. This training, and the use of trained police officers, is especially important because police officers often significantly underestimate the impact that they are having on survivors. Rebecca Campbell, *What Really Happened? A Validation Study of Rape Survivors' Help-Seeking Experiences With*

the Legal and Medical Systems, 20 VIOLENCE & VICTIMS 55 (2005). Thus, it is particularly important to ensure that only appropriately trained officers interact with rape victims and that untrained officers are not involved in interviewing victims or making determinations regarding collection of forensic evidence from a victim's body.

B. It Is Equally Imperative that Rape Victims Receive the Treatment and Services They Need.

The legal, medical, and other services that rape victims receive or do not receive can have a profound impact on their ability to overcome psychological distress caused by the rape. Indeed, studies have found that social systems can work as catalysts for healing when a rape victim receives the services she needs and is treated supportively and empathically. Linda A. Fairstein, *SEXUAL VIOLENCE: OUR WAR AGAINST RAPE* (1993).

Conversely, if rape victims do not receive the services they need and are treated in an insensitive manner, interactions with law enforcement personnel and others can magnify feelings of powerlessness, shame, and guilt. See Shirley Feldman-Summers & Gayle C. Palmer, *Rape as Viewed by Judges, Prosecutors, and Police Officers*, 7 CRIM. JUST. & BEHAV. 19 (1980); Madigan & Gamble, *THE SECOND RAPE*, *supra*. Thus, the denial of assistance, such as the denial of access to properly trained professionals, can itself cause distress separate from that of the rape itself. R. Campbell, *et al.*, *Preventing the "Second Rape": Rape Survivors'*

Experiences with Community Service Providers, 16 J. INTERPERSONAL VIOLENCE 1239,1241 (2001).

Here, Plaintiff has alleged that the MPD did not perform even the minimally expected role following a violent crime. By interfering with Plaintiff's access to a Sexual Assault Medical Forensic Examination, the police denied her the opportunity to identify and seek justice *in any form* against her attacker(s). In addition to foreclosing any hope of a criminal prosecution by essentially denying Plaintiff the ability to collect evidence to identify her attacker(s), the police also prevented her from having the opportunity to obtain evidence to bring a civil suit or even a university disciplinary proceeding against the man or men who raped her. Through their actions and inactions, the MPD also likely exposed Plaintiff to the emotional harm associated with secondary victimization.

II. RAPE VICTIMS ARE AFFIRMATIVELY HARMED WHEN POLICE ACTIONS DENY VICTIMS ANY OPPORTUNITY TO IDENTIFY OR HOLD ACCOUNTABLE THE ATTACKER.

Police interference with a rape survivor's comprehensive care and evidence collection can cause irreparable harm to victims and to future efforts to investigate and prosecute rapists and other sex offenders. When police mishandle rape cases – and in particular, when police interfere with a victim's access to SAMFEs – they affirmatively harm rape victims by denying them access to necessary evidence for identifying, prosecuting, or otherwise holding attackers accountable.

Studies have found that victims of non-stranger rape, whose cases were not prosecuted and who were subjected to high levels of secondary victimization, had the highest levels of post traumatic stress disorder of all categories of victims.

Campbell, *Psychological Impact of Rape Victims' Experiences*, AM.

PSYCHOLOGIST, *supra* 705. Plaintiff's treatment by police fits into this category, suggesting that she was likely harmed by the alleged actions of the MPD. The professional and sensitive collection of evidence can aid significantly in the identification of a victim's attacker by the police, and the feeling of safety and relief that can result from prosecution of the attacker may dramatically decrease a victim's trauma.

Better forensic evidence collection in rape cases, particularly through collecting evidence from victims' bodies through SAMFEs, can also improve prosecutions, and the likelihood that a prosecution will take place. When properly administered, SAMFEs and SANE programs have more effectively and adequately collected evidence than similar efforts outside of such programs. Prosecutors, accordingly, are more satisfied with evidence collected through these programs because it is more often properly preserved, and may be more likely to proceed with a prosecution when they otherwise might not have. In addition, SANE programs often allow for trained medical professionals to be involved in the care of a victim, who will also be helpful witnesses at trial. Campbell, *The Effectiveness*

of Sexual Assault Nurse Examiner, supra 321. Case studies suggest that SANE programs increase prosecution and increase the rate of plea bargains (because when confronted with detailed forensic evidence, assailants often plead guilty rather than face trial). *Id.* at 322. A twelve-year analysis of criminal justice system case outcomes also showed that more cases were moving through the system to higher levels of disposition (*i.e.*, guilty pleas or convictions) after the implementation of SANE programs and that these effects were reasonably attributed to SANE programs and the programs' work with law enforcement. Rebecca Campbell *et al.*, *Systems Change Analysis of SANE Programs: Identifying the Mediating Mechanisms of Criminal Justice System Impact: Project Summary* 24 (April 2008) (a research report submitted to the U.S. Dept. of Justice). Even if a prosecution does not result, proper evidence collection may allow a victim to pursue justice through other means, such as a civil lawsuit.

When police interfere with comprehensive, coordinated care and the collection of evidence, the victim misses all of the above-mentioned benefits of SANE/SAMFE programs and properly preserved evidence. She may lose the ability to ever identify and pursue justice against her attacker, as the window for collecting evidence from a body is finite. This causes secondary victimization, including psychological trauma, for existing victims and puts other women at risk.

Rapists who stand no chance of being caught or held accountable remain free to rape again.

III. POLICE MISTREATMENT OF RAPE VICTIMS DETERS FUTURE VICTIMS FROM REPORTING CRIMES OR SEEKING HELP.

In addition to causing harm to the actual victim, when police mishandle rape cases, treat victims poorly, and interfere with access to forensic exams, their actions are also likely to deter future victims of sexual violence from seeking help from police.

Many rape victims report that actions taken by police detectives, including dismissive behavior, insensitive questioning, and a reluctance to investigate rape cases, actively discourage victims from reporting the rape. Campbell, *Psychological Impact of Rape Victims' Experiences*, AM. PSYCHOLOGIST, *supra* 703. The beliefs of many rape victims about how they will be treated by the police come from their own prior experiences with legal and other systems. Debra Patterson *et al.*, *Understanding Rape Survivors' Decisions Not to Seek Help from Formal Social Systems*, 34 HEALTH & SOCIAL WORK 127, 132 (2009). Their expectations are also heavily influenced by the experiences of people within their social network. *Id.* This, of course, makes it all the more important that each rape victim be treated with a level of sensitivity and care. Without such sensitivity, future victims may be deterred from reporting the rape.

The deck is already heavily stacked against reporting of rape. Victims often do not seek help from police and other service providers because they are worried they will not be believed. T. Logan, *et al.*, *Barriers to Services for Rural and Urban Survivors of Rape*, 20 J. INTERPERSONAL VIOLENCE 591 (2005). Moreover, many victims do not seek help from law enforcement or medical personnel after an assault because they fear additional psychological harm from encountering people who do not care about them. Patterson, *Understanding Rape Survivors' Decisions*, *supra* 127. More than three-quarters of survivors in one study anticipated that systems, such as police and healthcare workers, would reject them personally and their expressed need for help. *Id.* at 130. Survivors also anticipated that police and healthcare workers would not provide them with services or could not help them. *Id.* at 131. Similarly, victims of sexual assault frequently believe that assistance from police would prolong, not alleviate, painful feelings, and that formal social systems would hinder, not foster, their recovery process. *Id.* at 132. In addition to not believing that police would or could help them, survivors also expressed concern that personnel would mistreat them in a hurtful manner. *Id.* These beliefs often come from survivors' prior experiences with legal and other systems or from the experiences of people they know or have heard about through their social network. *Id.* As a result, survivors often choose not to seek help as a self-protection mechanism. *Id.*

The costs are high when survivors do not report sexual assaults and therefore may not receive needed services. Without the necessary services, rape victims can suffer from post traumatic stress disorder and other psychological concerns. *Id.* at 127. They may also develop sexually transmitted diseases and other untreated health problems. *Id.* at 127. Thus, the police mistreatment of Plaintiff and mishandling of Plaintiff's case can have far-reaching effects, even beyond the devastating affect it has had on Plaintiff. It may, in fact, deter others in Plaintiff's social network or others who have heard of Plaintiff's case from even reporting rape cases in the future. This results in more traumatized victims and fewer prosecutions of those responsible.

CONCLUSION

Dozens of research studies have confirmed that victims of sexual assault who experienced interactions with law enforcement similar to those alleged by Plaintiff often suffer secondary victimization in the form of increased trauma, mental health problems, fear for personal safety, and other long-term damage. Interfering with rape victims' ability to obtain comprehensive, coordinated care and otherwise exacerbating their trauma can also mean forever denying them the chance to identify and hold their attackers accountable. In addition to harming individual rape victims, inappropriate responses from police negatively affect the entire community by lowering prosecution rates, perpetuating myths regarding

rape and sexual violence, and creating a hostile environment in which fewer victims are willing to report sex crimes or otherwise seek help after a sexual assault.

Accordingly, we strongly encourage the court to grant the Plaintiff's request to reverse the district court's decision to dismiss the District of Columbia from Plaintiff's case.

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CERTIFICATE OF COMPLIANCE

Undersigned counsel certifies that this brief complies with the type-volume limitations of the Federal Rule of Appellate Procedure 32(a)(7), the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5), and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6).

1. Exclusive of portions exempted by D.C. Circuit Rule 32(a)(1) and Federal Rule of Appellate Procedure 32(a)(7)(B)(iii), this brief contains 4206 words printed in a proportionately spaced typeface.
2. This brief is printed in a proportionately spaced, serif typeface using Times New Roman 14 point font produced by Microsoft Word 2007 software.

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CERTIFICATE OF SERVICE

I hereby certify that this 2nd day of June, 2011, I filed the foregoing with the Clerk of Court using the Court's CM/ECF system, which will send notice of such filing to the following registered CM/ECF users:

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