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"Inclusion Through Diversity"

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PRESS RELEASE / FOR IMMEDIATE RELEASE

Statement regarding Jane Doe v. Cornell University, et al

On September 18, 2026, I learned of the civil complaint filed in New York County Court alleging a series of heinous and despicable acts committed by members of the Chi Phi fraternity at Cornell University against a fellow Cornell student on October 19, 2024. The lawsuit, which has been published and widely discussed online, sets forth allegations of multiple sexual assaults committed by male fraternity members against a woman who is referred to as Jane Doe. Given the lawsuit's graphic allegations of criminal conduct, the question of why those individuals were not criminally prosecuted has been raised. Over the past two weeks, many people have called my office, left voicemails, and sent emails about this case. Some people have understandably sought answers. Others have simply insulted and sometimes threatened my office and my staff. In each case, the comments and questions have been based solely on the allegations in the civil lawsuit and its characterization by news and social media sources.

While I generally refrain from commenting publicly on criminal investigations, the community outrage stemming from the incomplete news and social media coverage requires that I provide an answer to why the investigation resulted in a lack of criminal charges. Before I discuss the specific facts and reasons that went into this decision, I want to provide the answer in the most basic and understandable form:

Jane Doe's sworn statement in November of 2024 did not allege that she was drugged against her will or gang raped. On the contrary, Jane Doe's statement described her participation in drug use and sexual conduct as voluntary, conscious, and consensual. My office obviously did not and could not have based our November 2024 decision on the allegations in a civil lawsuit that would not be filed until nearly two years later. Furthermore, I have never been contacted by Jane Doe's attorneys. Not to inform me the original statement was inaccurate and not to ask me to reconsider our decision. Rather, I reached out to Jane Doe's attorneys after the lawsuit was filed to understand the discrepancy between the original statement and the lawsuit's allegations and the proper path forward in light of the lawsuit's allegations.

The primary obligation of the District Attorney's Office is to prosecute state criminal offenses by reviewing police evidence, presenting cases to the Grand Jury, and litigating cases in court. While the District Attorney's Office is often called upon to provide investigation support to police agencies, we do not conduct parallel independent investigations of cases alongside police investigations. The police investigate crimes. The District Attorney's Office prosecutes crimes.

In November of 2024, the Cornell University Police Department (CUPD) informed the DA's Office of their investigation in this case and asked us to review a statement provided by Jane Doe to determine if her allegations constituted a crime under New York law. Law enforcement agencies commonly consult with us on questions of evidence, matters of law, and potential charges, if any.

In November of 2024, the Cornell University Police Department (CUPD) asked the District Attorney's Office to review a statement provided by Jane Doe. This is not unusual. It is common practice for law enforcement agencies to consult with the DA's Office when investigations involve significant or legally technical matters such as those involving allegations of sexual conduct and questions about the legal definition of "lack of consent."

In this case, Jane Doe provided a six-page, single spaced, typewritten statement to the Cornell University Police Department. Jane Doe made more than twenty hand-written notations to the six-page document. The signature page of the statement contains the following language: "I have read this statement consisting of 6 pages and the facts contained herein are true and correct. I understand that making a false

written statement is punishable as a class A Misdemeanor pursuant to §210.45 of the Penal Law of the State of New York.” As I explain further below, the statement – especially as it relates to the legal definition of “lack of consent” – provides a different narrative and set of facts of the events of October 19, 2024 than those alleged in the lawsuit. But first, let me explain more about the review process.

In cases where a voluntary sworn statement is provided, the first step of a review is to determine whether the facts alleged in the statement constitute a crime or crimes. For purposes of this stage of review, the allegations are assumed to be true. If the allegations do not set forth the elements of criminal conduct under the New York State Penal Law even if we assume them to be true, we obviously cannot advise the police that criminal charges are appropriate. Furthermore, we obviously do not advise the police to change the facts or to get a witness to change his or her statement so that someone can be charged with a crime. It goes without saying that doing so would be blatantly improper and unethical.

In this case, multiple prosecutors and criminal investigators reviewed Jane Doe’s statement and correctly determined the alleged facts *as set forth in the statement* do not constitute a crime. This decision was not because the case would have been difficult to prove in court – it was because the facts *as set forth in the statement* objectively prevent the filing of criminal charges. To be clear, the credibility of the woman, who described the facts in excruciating detail, was never in question.

Following our review, we confirmed with CUPD that criminal charges were not appropriate based on Jane Doe’s statement. As is my longstanding policy in cases such as this, we also asked CUPD to inform Jane Doe, at her option, that we would personally meet with her to explain our decision and answer any of her questions. If such a request is made, the police investigator facilitates a meeting with our office. CUPD thereafter explained the results of our review to Jane Doe. As I mentioned, in nearly two years since we were asked to review the case, neither Jane Doe nor her attorneys ever contacted the DA’s Office, not to

seek answers, not to ask for reconsideration of her case, and not to suggest her sworn statement was inaccurate. Rather, I reached out to Jane Doe's attorneys to understand and resolve this discrepancy.

The above explanation addresses *how* we came to the decision that criminal charges in this case were not applicable. It does not explain *why* criminal charges are not applicable. For that reason, simply concluding my statement at this point would undoubtedly do little to clear up the misperceptions of our decision. To address this problem, I have considered releasing a copy of Jane Doe's original statement. It very well may be that the statement is publicly available through the proper channels and ultimately will have to be released. I have considered this but decided against it at this stage for at least two reasons. First, my interest at this stage is to explain the decision of my office. This can be accomplished without exposing identifying information of the people involved. Second, a released copy of the statement would have to go through a privacy review and be heavily redacted. This would prevent me from releasing a timely statement and would ultimately result in a statement without context and clarity. For those reasons, I believe it is sufficient to provide the relevant facts that went into our decision quoting directly from the statement where possible. My office's legal analysis of the facts will follow the factual summary.

The following are facts from Jane Doe's statement that were relevant and determinative to the issues of sexual conduct and the legal definition of consent. To be clear, these are *not* conclusions made from our review of the statement. They are the facts provided in Jane Doe's statement. Where words appear in quotes, they are exactly as they appear in the statement unless names or pronouns have been redacted or adjusted for clarity:

On the evening of October 19, 2024, Jane Doe walked the approximately one-mile distance from Lot 10 in the City of Ithaca to the Chi Phi Fraternity at 107 Edgemoor Lane to meet her friend Male Number 1. She had made plans to meet Male Number 1 earlier in the week and "had been texting [Male Number 1] that [she] was on the way." Jane Doe described her level of intoxication as a "5 out of 10" when she arrived at the fraternity.

While there, Jane Doe opened one previously unopened can of beer. She and Male Number 1 “danced a little” in a way that “was definitely flirtatious in nature.” Male Number 1 brought Jane Doe to a “quiet area” and “asked how [Jane Doe] would feel about having a threesome with two male partners.”

Jane Doe “agreed due to how attracted [she] was to [Male Number 1] on top of [her] drunken curiousness.” When she learned that Male Number 2 would be the third participant, Jane Doe “remembered being excited because [she] thought that [Male Number 1 and Male Number 2] wanting to have a threesome meant that they were gay.”

The three engaged in a “threesome” involving oral and vaginal sex in a room of the fraternity. At the start of the threesome, Jane Doe described her intoxication level as “5 or 6 out of 10” and that she was “pretty ok with having this threesome.” The sexual conduct ended when Jane Doe “noticed that [Male Number 1] appeared really sleepy and was no longer fully erect.” She told Male Number 2 “[they] needed to stop having sex in order to make sure [Male Number 1] was ok. [Male Number 2] then stopped having sex with [Jane Doe].”

Male Number 1 said “he was going to take a nap and refresh himself” and “would eventually stumble his way from the couch to the bed.” While Male Number 1 slept, “[Male Number 2] began to dry heave as if he was going to vomit. Jane Doe “began to take care of [Male Number 2] by patting his back while also waking [Male Number 1] every few minutes to make sure he was okay.” Jane Doe “was consoling [Male Number 2] on the couch and telling him that it was ok if he needed to vomit. [Male Number 2] told [Jane Doe] he was pretty sure he wasn’t going to vomit. Eventually, [Jane Doe and Male Number 2] would start making out for a very short amount of time.” While they were making out, “[Male Number 2] reached for the area near [her] vagina several times and each time he did, [she] would swat his hand away.”

Male Number 3 then knocked on the door of the room. Jane Doe “decided to let him in because it was his room.” She “opened the door” and let Male Number 3 in the room. Male Number 3 “introduced himself to [Jane Doe] and reached out to shake her hand.” “When [Jane Doe] made contact with [Male Number 3’s] hand, [Male Number 3] pulled [Jane Doe] into him and [they] began making out. While [Male Number 3] was kissing [her], [Male Number 2] began groping [her].” Eventually, “[Male Number 2, Male Number 3, and Jane Doe] would end up on the bed next to where [Male Number 1] was sleeping and [they] began to have a threesome.”

“[Male Number 1] would eventually wake up” and “said he wanted to take part and asked about making it a foursome, to which [Jane Doe] said ‘Hell No.’” Jane Doe rejected this request “because [she] knew that a foursome meant that [she] would have to take part in anal sex.” Jane Doe then remembered Male Number 3 leaving the room.

A group of other men – later determined to be Male Number 4, Male Number 5, Male Number 6 and Male Number 7 – then entered the room. Jane Doe hid under the covers of

the bed. Male Number 2 laid in the bed next to Jane Doe. Male Number 1 sat on the corner of the bed. Male Number 1 introduced the other males to Jane Doe.

Jane Doe had difficulty remembering parts of what happened next. She remembered “[Male Number 7] said something very rude and mean to [her].” Male Number 7 apologized and “grabbed [her] face and started kissing [her].” Jane Doe “quickly backed away to stop [Male Number 7] from kissing [her].”

Male Number 2 “asked [Jane Doe] if she wanted to do more Ketamine.” At that, Jane Doe remembered “that [she] had taken Ketamine at some point on the couch with [Male Number 1 and Male Number 2] during this night” but she could not remember “where or when that took place.”

Jane Doe thought that she “had already done Ketamine once so why not do it a second time.” “At that point, [Male Number 2] poured a line of Ketamine on his erect penis, implying for [her] to snort the line. [Jane Doe] snorted the line of Ketamine, which was a heavy amount of Ketamine.” Jane Doe was under the covers of the bed at that point and “[Male Number 2] got under the covers with [her], where he again tried reaching for the area of [her] vagina.”

The males began complimenting Jane Doe and “talking about how pretty [she] was.” Male Number 4 “asked [Jane Doe] if they all could do drugs off of [her] perfect body.” Jane Doe responded, “Sure.” While the men were doing drugs off of her body, “[Male Number 3] and [another male] entered the room and said something like, ‘Ok we’re shutting down whatever the f*** this is.’” Jane Doe felt dizzy due to a pre-existing medical condition causing dizziness combined with the effects of the Ketamine use. Male 5 or 6 (who apparently have the same first name) “encouraged [her] to stay seated as long as [she] needed.”

Eventually, “[Male Number 1] and [Male Number 4] ushered [Jane Doe] out of the room brought [her] upstairs to a small room.” Male Number 1 stated, “Let’s do more Ketamine.” Jane Doe “remembered snorting more Ketamine” and “remembered feeling extremely high.” Male Number 1 “said he wanted to have sex again because he wanted redemption for passing out earlier in the night.” Jane Doe initially stated that she was tired and asked Male Number 1, “What happened to just you and me?” Jane Doe could not remember how it started but she then engaged in a threesome with Male Number 1 and Male Number 4 involving oral sex and vaginal sex. She described her level of intoxication as “8 out of 10” at this point. “The threesome continued until at some point, around 5:45am, [Jane Doe] said [she] was tired and needed to turn in. At that point, both guys stopped the threesome with [her] as far as [she] can remember.”

As I stated earlier, the above facts are not conclusions made by our office. The above facts were provided directly from Jane Doe's statement and we assumed them to be true for purposes of our legal analysis below.

Legal Analysis:

Under New York State Penal Law 130.05, every sexual assault offense requires proof beyond a reasonable doubt that the sexual act was committed without consent of the victim. As it relates to this case, lack of consent can result from 1) forcible compulsion by the actor, 2) mental incapacitation of the victim, 3) physical helplessness of the victim, or 4) with certain criminal charges where the victim clearly expressed that she did not consent to the act. See N.Y. Penal Law 130.05.

Under New York State Law, "forcible compulsion" requires proof of the use of physical force to compel someone to engage in sexual conduct. The facts provided by Jane Doe's statement do not allege that any person used physical force to compel Jane Doe to engage in sexual conduct.

Under New York State Law, "mental incapacitation" occurs when a victim is rendered incapable of controlling her own conduct due to the administration of a drug without her consent. The facts provided by Jane Doe's statement do not allege that she was either rendered incapable of controlling her own conduct or that any drug was administered to her without her consent.

Under New York State Law, "physical helplessness" occurs when a victim is unconscious or physically unable to communicate unwillingness to act. The facts provided by Jane Doe's statement do not allege that she was rendered unconscious. While the statement unquestionably describes excessive and illegal drug use by multiple participants and the effects on those participants such as falling asleep (of Male Number 1), dry heaving (of Male Number 2), and dizziness (of Jane Doe), there is no evidence in the statement that Jane Doe was unconsciousness or unable to communicate. (The failure to remember certain events days later is not sufficient evidence of unconsciousness at the time.)

Finally, there is no evidence in Jane Doe's statement indicating that she clearly expressed that she did not consent to the act. According to the statement, each time Jane Doe asked to stop the sexual conduct, the sexual conduct stopped. Thus, with no evidence of a "lack of consent," criminal charges simply could not be sustained. To instruct otherwise would have been to violate my prosecutorial obligations under New York State Law.

While the behavior of certain Chi Phi fraternity members was without question disgusting and morally reprehensible, the foundation of the criminal justice system is that criminal prosecutions must be based upon evidence and not emotion. As the elected District Attorney, I am personally responsible for the decisions made by my office. The decision made in November of 2024 that the evidence did not support the filing of criminal charges was legally correct. Individuals who are accused of committing a crime must be prosecuted based upon evidence and not public opinion, especially not public opinion based upon false information. However, recognizing that the process of healing from trauma is personal and different for every human, my office has reopened this investigation as described below.

Re-opening the Investigation:

One of the hardest but most important parts of a prosecutor's job is being constrained to consider only the admissible evidence and information provided by a victim and to strictly apply those facts to the applicable laws. It is my responsibility to seek justice. At the same time, I recognize the reality that it can take years of therapy and healing for victims of sexual assaults to fully process and understand what happened to them. Seeking justice sometimes requires us to reconsider or reopen cases when we are provided with additional evidence. That process obviously works better when the additional information comes directly from a witness, his or her representative, or the police rather than through allegations set forth in a civil lawsuit, but getting to the truth is the goal in this case.

I have been asked by the community to revisit the decision whether to pursue criminal charges against the seven fraternity members. I have already begun that process, starting with our conversation with Jane Doe and her attorneys. Once we determine the appropriate charges, the case will be prosecuted in the most objective and impartial means available – by testimony to the Tompkins County Grand Jury. I have asked a senior prosecutor from my office to prepare the case for Grand Jury presentation; a woman who has significant experience in prosecuting sex crimes and has conducted jury trials involving the sexual assault of college students by college students. The Grand Jury will be able to consider the testimony of Jane Doe as well as any new evidence raised by the allegations of the civil complaint. Upon a vote by the Grand Jury to indict any or all of the individuals involved, this office will prosecute the charges zealously and to the fullest extent of the law.
