

# ABUSE & ACCOUNTABILITY: THE JEFFREY EPSTEIN SAGA

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## I. Introduction

Over at least three decades, “Jeffrey Epstein, a wealthy, white, billionaire child rapist, ran an international sex trafficking ring.”<sup>1</sup> He curried favor with the highest echelons of American aristocracy including actors, businessmen, lawyers, and even two Presidents.<sup>2</sup> This relationship between Epstein and elites from all professions, makes the circumstances of his prosecutions and death more suspect than normal defendants. Conspiracies abound on whether Epstein’s death was truly a suicide.<sup>3</sup> The fixation on his death in 2020, and the missteps that allowed for it, while not irrelevant, overemphasize the role Epstein himself could have had while bringing justice in this case. Jeffrey Epstein was merely a cog in a cesspool of a system that enabled him to prey upon the weaknesses of children and prosecutors alike.

If it is accepted that Epstein did, in fact, take his own life in his prison cell while awaiting trial, it must still be acknowledged that his death benefited the elites in Epstein’s circle. Objectively, whether they engaged in illegal activities with Epstein or not, Epstein’s death provides a convenient end to the public proceedings which may implicate his former associates. Epstein’s treatment by the justice system is starkly juxtaposed against the treatment of suspects who are not wealthy, white, or male.<sup>4</sup> Because Epstein escaped prosecution for so long and because the benefits derived from his death were seemingly felt only by social elites, it appears to many, often marginalized, individuals that a conspiracy must be afoot. The story of Epstein’s

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<sup>1</sup> Blanche Bong Cook, *Jeffrey Epstein: Pedophiles, Prosecutors, and Power*, 26 J. GENDER RACE & JUST. 311, 313 (2023).

<sup>2</sup> *Id.* Acquaintances include Donald Trump (President), Bill Clinton (President), Leslie Wexner (billionaire), Alan Dershowitz (Harvard professor), and George Mitchell (U.S. Senator). *Id.*

<sup>3</sup> Lisa Hagen, *Here's Why Conspiracy Theories About Jeffrey Epstein Keep Flourishing*, NPR (Sept. 8, 2022), <https://www.npr.org/2022/09/08/1121525125/heres-why-conspiracy-theories-about-jeffrey-epstein-keep-flourishing>.

<sup>4</sup> Cook, *supra* note 1, at 318.

disparate treatment at the hands of the state now reveals that a significant portion of Americans do not believe their government tells them the truth about how moneyed interests are prioritized in the justice system.<sup>5</sup>

## II. *PRE-2008: The Deal of Lifetime*

Before 2008, there is no inclination Epstein acted with anything less than absolute impunity. From at least the mid-1990s until he signed a non-prosecution agreement (NPA) in 2008, Epstein created a system in which he trafficked vulnerable minors for his own sexual gratification.<sup>6</sup> In addition to exploiting the minors himself, Epstein ingratiated himself into elite social circles by pimping out minors to elites for the purpose of potentially blackmailing these elites later.<sup>7</sup> His circle of high powered acquaintances included members of both the public and private sectors and both major political parties.<sup>8</sup> Conveniently for them, most of Epstein's acquaintances allege they knew nothing about his criminal activity while he was alive.<sup>9</sup>

In 2005 a report filed with the Palm Beach Police Department (PBPD) accused Epstein of raping two underage girls.<sup>10</sup> The PBPD investigated and obtained an arrest warrant for Epstein in 2006, but in a series of unprecedented moves, the state prosecutor, Barry Krischer, referred the charges to a grand jury.<sup>11</sup> This decision is abnormal because in the state of Florida only first-degree murder cases must be brought to a grand jury.<sup>12</sup> Krischer's office also only presented

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<sup>5</sup> Jacob Shamsian, *Almost Half of Americans Now Believe the Conspiracy Theory that Sex Offender Jeffrey Epstein Was Murdered*, BUSINESS INSIDER (Nov. 25, 2019), <https://www.businessinsider.com/jeffrey-epstein-kill-himself-poll-2019-11>.

<sup>6</sup> Cook, *supra* note 1, at 323.

<sup>7</sup> Cook, *supra* note 1, at 324.

<sup>8</sup> See Cook, *supra* note 1.

<sup>9</sup> Caroline Halleman, *What We Do and Don't Know About Jeffery Epstein*, TOWN & COUNTRY MAG. (June 28, 2022), <https://www.townandcountrymag.com/society/money-and-power/a28352055/jeffrey-epstein-criminal-case-facts/>.

<sup>10</sup> *Timeline Of The Life And Crimes Of Jeffrey Epstein*, CBS (Aug. 10, 2019), <https://www.cbsnews.com/newyork/news/timeline-of-the-life-and-crimes-of-jeffrey-epstein/>.

<sup>11</sup> Cook, *supra* note 1, at 326.

<sup>12</sup> *Id.* at 326 n.85. This was the *first* instance a sex-related crime was referred to a grand jury in Florida. *Id.* at 326.

evidence related to one victim, despite the PBPD identifying thirteen victims by the time the case was heard.<sup>13</sup> Krischer's office also only presented evidence on one charge, prostitution, even though the evidence collected by the PBPD was sufficient to charge Epstein with more serious crimes.<sup>14</sup> The PBPD, concerned that the state attorney's office was undermining them, referred the case to the FBI and the U.S. Attorney for the Southern District of Florida, Alexander Acosta.<sup>15</sup>

In 2007, negotiations between Epstein's legal team and Acosta started.<sup>16</sup> These negotiations would ultimately conclude in a highly unusual NPA in which Epstein pled guilty to two state level crimes for soliciting prostitution.<sup>17</sup> In return for pleading guilty, Epstein received immunization from all federal charges for himself and four unnamed accomplices.<sup>18</sup> The prosecutors office also misinformed and misled the victims regarding the deal.<sup>19</sup> In June 2008, Epstein pled guilty and received eighteen months of jail time; he served thirteen.<sup>20</sup> As part of the NPA, Epstein was granted work release, permitting him to leave the prison and go to work for twelve hours, six days a week.<sup>21</sup> It is highly unusual that a suspect in Epstein's position, with the nature of the accusations and the amount of evidence seemingly against him, would be given such a sweetheart deal by the U.S. District Attorney's Office.

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<sup>13</sup> *Id.*. By 2018 the FBI had found eighty victims abused by Epstein between 2001 and 2006. *Id.* at 327.

<sup>14</sup> *Id.* at 326-27. Florida Governor Ron Desantis later ordered an investigation into Krischer. *Id.* at 327 n.89.

<sup>15</sup> Cook, *supra* note 1, at 326-27.

<sup>16</sup> *Id.* at 327.

<sup>17</sup> *Id.* at 327-28.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 327-28.

<sup>20</sup> *Timeline Of The Life And Crimes Of Jeffrey Epstein*, CBS (Aug. 10, 2019), <https://www.cbsnews.com/newyork/news/timeline-of-the-life-and-crimes-of-jeffrey-epstein/>.

<sup>21</sup> Cook, *supra* note 1, at 327-28.

### III. 2008-2020: Evasion, Arrest, and Death

After Acosta handed Epstein the “sweetheart deal of the century,”<sup>22</sup> the sex-trafficking ring continued as it had before, largely unimpeded.<sup>23</sup> Epstein avoided serious jail time with the NPA but also received the added benefit of keeping his crimes out of the public eye.<sup>24</sup> In the years after signing the NPA, Epstein continued to evade public scrutiny. In 2010 Epstein moved his residence to New Mexico, where he was not required to register as a sex offender due to an erroneous administrative ruling.<sup>25</sup> In 2011, Epstein petitioned to have his sex offender status reduced in New York, and while the petition was ultimately rejected, the Assistant District Attorney (ADA) shockingly argued in favor of reduction of his status.<sup>26</sup> Commenting on this move by the ADA, the presiding judge said, “I have to tell you, I’m a little overwhelmed because I have never seen a prosecutor’s office do anything like this. I have done so many [sex offender registration hearings] much less troubling than this one where the [prosecutor] would never make a downward argument like this.”<sup>27</sup>

Public attention did not seriously turn to Epstein until December 2018, when an article published in the *Miami Herald* renewed scrutiny of the plea deal following Alex Acosta’s nomination as Secretary of Labor.<sup>28</sup> When Epstein was arrested on July 6, 2019, the public realized Secretary Acosta investigated him fifteen years earlier for almost identical conduct but

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<sup>22</sup> *Id.* at 311.

<sup>23</sup> Ben A. McJunkin, et al., *Collusive Prosecution*, 108 IOWA L. REV. 1653, 55 (2023).

<sup>24</sup> Cook, *supra* note 1, at 328.

<sup>25</sup> McJunkin, *supra* note 23. The New Mexico Department of Public Safety relied on an erroneous Florida police report which noted the victim’s age as seventeen. *Id.* The victim was, in fact, fourteen at the time. *Id.* at 1654.

<sup>26</sup> Cook, *supra* note 1, at 333. ADA Jennifer Gaffney under New York County District Attorney Cyrus Vance. *Id.*

<sup>27</sup> *Id.* (internal footnote omitted).

<sup>28</sup> Halleman, *supra* note 8.

elected to give the sex-trafficker the deal of a lifetime.<sup>29</sup> Six days later on July 12, 2019, Acosta resigned.<sup>30</sup> Little more than a month after his incarceration, on August 10, 2019, Epstein was found dead in his cell in the New York Metropolitan Correctional Center.<sup>31</sup> A report by the Inspector General, released in June 2023, noted several failures within the system that allowed for Epstein's death to occur but reaffirmed the original finding that Epstein's death was a suicide and stated foul play was not possible.<sup>32</sup>

Despite these findings, theories abound stating that Epstein did not in fact kill himself but, rather, was murdered.<sup>33</sup> It became apparent that Acosta was far from the only high-powered enabler of Epstein. Political backgrounds and pre-existing conspiracy theories shape the way Epstein's death has been interpreted by various subsets of the population.<sup>34</sup> Some individuals believe Epstein's social connections along with the circumstances of his death imply Epstein's was murdered to ensure his silence.

#### *IV. Post-Death: Litigation and Accountability*

Litigation surrounding Epstein and his estate continues.<sup>35</sup> There were initially concerns about the victims ability to sue Epstein for damages because he attempted to transfer the vast majority of his assets to a trust two days prior to death.<sup>36</sup> However, these issues have not proved

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<sup>29</sup> Cook, *supra* note 1, at 335.

<sup>30</sup> Edward Helmore, *Alex Acosta Resigns as US Labor Secretary Following Epstein Plea Deal Scandal*, THE GUARDIAN (July 12, 2019), <https://www.theguardian.com/us-news/2019/jul/12/alex-acosta-resigns-trump-jeffrey-epstein-plea-deal-latest-news>.

<sup>31</sup> Aaron Katersky, et al., *Jeffrey Epstein's Suicide: New Details Revealed*, ABC NEWS (June 27, 2023), <https://abcnews.go.com/US/jeffrey-epsteins-suicide-new-details-revealed/story?id=100405667>.

<sup>32</sup> Katersky, *supra* note 31.

<sup>33</sup> Shamsian, *supra* note 5.

<sup>34</sup> Hagen, *supra* note 3. There is a right-leaning political bias observed among groups that believe Epstein did not kill himself. *Id.* Anti-semitetic conspiracies surrounding Epstein are common. *Id.*

<sup>35</sup> Chris Spargo, *Over \$150 Million Paid to Jeffrey Epstein Victims by His Estate Claim Executors in Latest Financial Filing*, INSIDE EDITION (Nov. 14, 2023), <https://www.insideedition.com/jeffrey-epstein-victims-payments-estate-value>.

<sup>36</sup> Kelly Rielly, *What Jeffrey Epstein's Last-Minute Will Means for Accusers Trying to Recover Money From His Estate*, TIME (August 20, 2019), <https://time.com/5656776/jeffrey-epstein-will-estate/>.

to be obstacles because the transfer to the trust either was not successfully completed before his death or it was a fraudulent transfer because of the criminal charges against him.<sup>37</sup> As of September 2023, more than \$154 million dollars have been paid out by the estate to the victims.<sup>38</sup> The estate also agreed to pay \$105 million to the Government of the Virgin Islands to settle the territory's claims.<sup>39</sup>

Other litigation, prompted by Epstein's arrest and death, involves the entities with which he did his banking. Deutsche Bank settled for \$75 million in October 2023 with victims abused during the time Epstein banked with them.<sup>40</sup> This came soon after another settlement in June 2023, when victims recovered \$290 million from JPMorgan on similar claims.<sup>41</sup> These monetary damages are only a modest ameliorative measure for the horrors Epstein's victims endured.

#### V. Conclusion

There are several proposed solutions to bring justice to the system that allowed Epstein to thrive. Congress could legislate to explicitly give victims their rights under the Crime Victims' Rights Act prior to the government officially starting proceedings against a suspect.<sup>42</sup> Plea bargaining could be reformed to require a more apt reflection of the crimes actually committed by the accused.<sup>43</sup> The claims of victims could be prioritized over the claims of other creditors in

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<sup>37</sup> *Id.*

<sup>38</sup> Spargo, *supra* note 35.

<sup>39</sup> *Id.*

<sup>40</sup> Luc Cohen, *US Judge Approves Deutsche Bank \$75 Million Settlement With Epstein Accusers*, REUTERS (Oct. 20, 2023), <https://www.reuters.com/legal/us-judge-approves-deutsche-bank-75-million-settlement-with-epstein-accusers-2023-10-20/>. The bank did not acknowledge any wrongdoing as part of the settlement. *Id.*

<sup>41</sup> *Id.* JPMorgan has said it regrets its association with Epstein. *Id.*

<sup>42</sup> See generally Paul G. Cassell, et al., *Circumventing the Crime Victims' Rights Act: A Critical Analysis of the Eleventh Circuit's Decision Upholding Jeffrey Epstein's Secret Non-Prosecution Agreement*, 2021 MICH. ST. L. REV. 211 (2021).

<sup>43</sup> See generally McJunkin, *supra* note 23.

probate.<sup>44</sup> There is currently no consensus on how to begin remedying the landscape Epstein took advantage of.

Will the victims of Jeffrey Epstein ever realize true justice for the harms inflicted on them? Despite all the damages currently being distributed by the Epstein estate and the financial institutions that backed his illegitimate ventures, it is hard to say justice has been served while the many of the high-profile individuals who enabled and engaged with Epstein's illegal deals have not been held accountable. Epstein's most publicized co-conspirator, Ghislaine Maxwell, was convicted of sex trafficking crimes in 2021,<sup>45</sup> but the rest remain unprosecuted.

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<sup>44</sup> See generally Matthew P. H. Warden, *Jeffrey Epstein, A Moral Imperative, and a Menage a Trois with Estate Claim Prioritization*, 34 Quinn. Prob. L. J. 273 (2021).

<sup>45</sup> Press Release, U.S. Attorney's Office, S.D.N.Y., Ghislaine Maxwell Sentenced To 20 Years In Prison For Conspiring With Jeffrey Epstein To Sexually Abuse Minors (June 28, 2022), <https://www.justice.gov/usao-sdny/pr/ghislaine-maxwell-sentenced-20-years-prison-conspiring-jeffrey-epstein-sexually-abuse>.