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**Subject:** FW: WASHINGTON POST; Jeffrey Epstein's scandal of secrecy points to a creeping rot in the American justice system

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Just FYI.

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# Jeffrey Epstein's scandal of secrecy points to a creeping rot in the American justice system

When rich people are credibly accused of crimes, does the public have a right to know? Should multimillionaires be allowed to silence their accusers with cash?

According to superlawyer David Boies, "dozens" of women who could give testimony [about being sexually assaulted as girls by mysterious financier Jeffrey Epstein](#) are silenced by settlements they reached with their alleged assailant. The exact number is yet another secret in this least transparent of criminal cases. "Three dozen or eight dozen, I don't know, but there are dozens," Boies told me recently. He himself represents two alleged Epstein victims bound by "non-disclosure agreements" (NDAs).

Because Epstein can afford to buy silence, he may succeed in shuttering the window of accountability pried open in a South Florida court back in February. U.S. District Judge Kenneth A. Marra [ruled](#) that federal prosecutors — led by the

current labor secretary, Alexander Acosta — broke the law by entering a secret sweetheart deal to allow Epstein to serve a cushy sentence without facing evidence that he assaulted more than 30 underage girls in Palm Beach.

That ruling may prove hollow, however, if the alleged victims are now gagged by their settlements with Epstein. What a galling next chapter that would be in this appalling story.

Epstein, whose enormous and unexplained wealth attracted a circle of friends that included Bill Clinton, Donald Trump, actor Kevin Spacey and Britain's Prince Andrew, travels from mansion to mansion while poor men accused of lesser crimes rot in prison.

This scandal of secrecy points to a creeping rot in the American justice system. Too many cases involving potential felonies are resolved through civil settlements that include ironclad NDAs. Once the money changes hands, witnesses can no longer testify to crimes; indeed, penalties for telling the truth after a settlement often run to the millions of dollars — ruinous for most crime victims. It's a short step removed from silencing witnesses with cement shoes.

“It is a classic case of rich man's justice,” said Boies. Add the fact that wealthy predators often target victims in financial need. That was allegedly Epstein's M.O. as he sent recruiters into working-class neighborhoods in search of teenagers to give him “massages.” The rich exploit the poverty of their victims to extract promises of silence — backed by the force of law because the NDAs are binding contracts.

What's needed is a simple change to the law, Boies contends: “Simply say that agreements to conceal evidence of a crime are not enforceable.”

The Epstein case is particularly creepy but not unique. The #MeToo movement has revealed the pernicious misuse of NDAs to enable crime. Powerful men such as producer [Harvey Weinstein](#) and television executive [Leslie Moonves](#) reportedly made use of the agreements to hide evidence of sexual assault or harassment. This secrecy in turn allowed offenders to target additional victims.

That's where the public interest comes in. Crime is not just a matter between an offender and a victim; crime is also an offense against the public order. The public

has an important stake in punishing past crimes and preventing future offenses. Purchased secrecy interferes with those aims.

Some attorneys say NDAs are the only protection the rich and famous have against unfounded accusations. But that doesn't bear much scrutiny. A person who might falsely claim to be a victim has more to fear from sunlight than from secrecy. And anyone who pays hush money to cover up false allegations is only encouraging more extortion.

I am beginning to worry that the fresh breeze of openness that appeared to be blowing through the stink of the Epstein case might be smothered by secrecy. Attorneys for Epstein's Palm Beach accusers are losing confidence that their clients will ever tell their stories in court.

Meanwhile, a panel of appeals court judges in New York has gone silent in a related matter. British socialite Ghislaine Maxwell, an Epstein friend and confidante, is battling to keep details of her settlement with an Epstein accuser sealed from public view. In a March hearing at the U.S. Court of Appeals for the 2nd Circuit, [Judge José A. Cabranes](#) openly scoffed at Maxwell's attorney as he argued for secrecy. Yet here we are on the cusp of summer, and the court has not been heard from. When will a ray of sunshine pierce the cloud of money?

If anything good can come out of this miserable case, maybe this is it: Lawmakers can seize this outrageous moment to outlaw the silencing of witnesses through NDAs. The agreements have their place in civil matters, but not to mask evidence of crimes. The legal system, meanwhile, can do the right thing. Open the Maxwell files. Then launch a full-fledged investigation of Epstein's conduct in New York, New Mexico and the Virgin Islands: places where the tainted South Florida agreement cannot protect him.

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