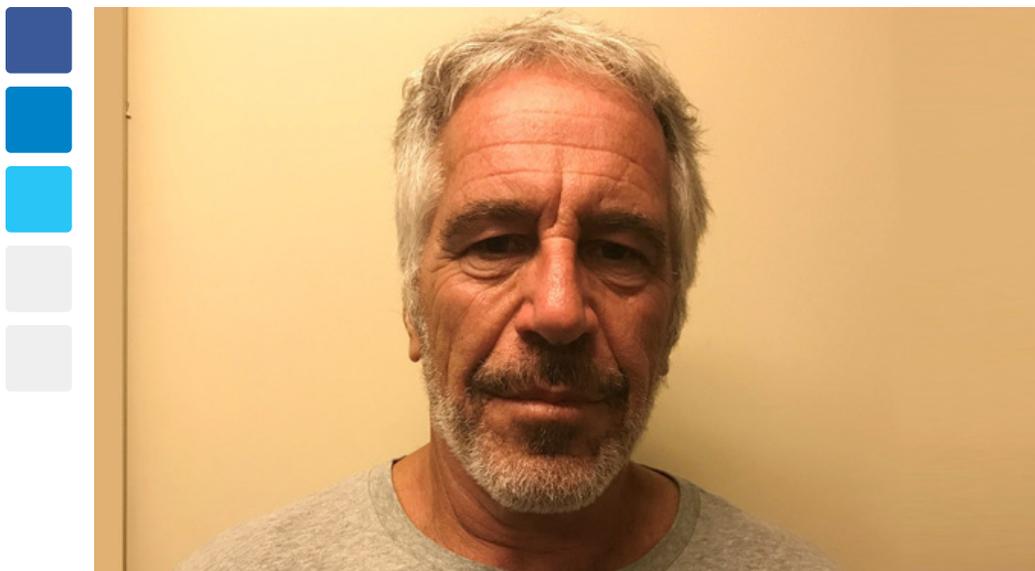


Would Jeffrey Epstein's Accusers Have Fared Better After #MeToo Movement?

"It's such a clear signaling that what we really care about here is not sexual assault," said University of Miami law professor Mary Anne Franks, who drafted the first model criminal statute on nonconsensual pornography, or rever porn. "What we care about is the men involved."

By [Raychel Lean](#) | August 14, 2019 at 10:37 AM



Jeffrey Epstein. Photo: New York State sex offender registry.

The women and girls who accused Jeffrey Epstein of sexual abuse and assault in the 2000s reported systematic intimidation—including intrusive questioning, and men in black sport utility vehicles parking outside their homes and following them to school.

Would they have fared better or seen more favorable litigation outcomes if their cases had arisen more recently, after the #MeToo movement?

Attorney [Spencer T. Kuvin](#) thinks so, but others disagree.

Kuvin, litigation director at the Law Offices of Craig Goldenfarb in West Palm Beach, represented three teenage accusers who sued Epstein over alleged sexual abuse. In his view, his clients might have been better protected if their allegations came out today.

"I think that the public has a more acute awareness of the victimization of women that occurs in these types of situations, especially by powerful and wealthy men," he said.

According to Kuvin, his clients reported undergoing a campaign of intimidation during their civil cases, when they were allegedly followed by private detectives who also probed their family and ex-boyfriends.

"They tell accounts of large, black Tahoes pulling up to their house and sitting outside, people following them to school," Kuvin said. "Investigators interviewing their ex-boyfriends and asking about whether or not they had sex, or how many times they had sex, or positions they liked."

Kuvin claims civil attorneys also used events in the accusers' lives to form a line of intrusive questioning in cross-examination, including asking whether what Epstein had done was worse than terminating a pregnancy, as one of his clients had.

"These were young women that were doing exactly what people say now women should do," Kuvin said. "In other words, they reported what was happening to them at the time it was happening. They went to police, they went to the professionals. They reported the events of what occurred. And as a result of them doing that, their lives were destroyed."

Fine line

[Joel Hirschhorn](#) of GrayRobinson in Miami has practiced for more than 50 years and specializes in criminal and white-collar defense. He said that although there's a fine line between investigating and stalking, it's normal for defense attorneys to hire a private eye.

"I don't have a problem with investigators doing their job," he said. "There is a standard of ethics, believe it or not, for private investigators. I've had investigators dig into witnesses' garbage, and there's nothing wrong with that."

That said, Hirschhorn noted that the kind of treatment Epstein appeared to have enjoyed with a lenient plea deal was, in his view, comparable only to clients who had served as valuable government informants or law enforcement resources, who had certain crimes forgiven because of their assistance.

But it would have been unjustifiable under any circumstances, Hirschhorn believes, to have swept Epstein's alleged sex trafficking under the carpet.

"I have seen situations where the government has taken a pass on people that have committed serious crimes because they provide information that someone in the government thinks is more important than the crime they committed," Hirschhorn said. "In my judgment, trafficking in children is the most heinous of all crimes."

[Michael J. Pike](#) of Pike & Lustig in Miami represented Epstein between 2009 and 2012, handling all of the early sex-related civil cases against him.

“The federal civil lawsuits were, in large part, defended based on the United States Constitution and the right to due process. Many of those arguments were won, and the rulings are public documents,” Pike said. “Really, the cases have a trove of well-written constitutionally based arguments that are as academic as it gets.”

Pike said his job then was to provide Epstein with the best defense. He’s doubtful today’s climate would have changed the way he and co-counsel Robert Critton Jr. litigated the case, where the defenses are constitutionally driven and due-process rights were at the heart of the claims.

“The U.S. Constitution was here long before, and attorneys continue to argue its interpretation such that courts may fairly apply the Constitution to each individual case protecting and extending due process rights,” Pike said. “Without such debate and consistent constitutional application, the justice system would be severely hindered.”

‘The cost of coming forward’

University of Miami law professor [Mary Anne Franks](#) specializes in criminal law, cyber law and the First Amendment, and drafted the first model criminal statute on nonconsensual pornography, or revenge porn. Franks said she counts herself as one of many advocates who don’t feel civil lawsuits are an adequate response for sexual assault allegations, considering the burden they can have on victims.

“If you learn that the cost of coming forward and making an accusation is someone will upend your life, someone will invade every aspect of your current life and jeopardize it, then what that victim learns is this is too costly,” Franks said. “And it sends a signal to any other victims to say, ‘Are you sure you want to do this? Because it’s going to cost you everything.’”

Kuvin’s clients, like more than two dozen others, settled their cases for a confidential amount. That was because, according to Kuvin, they didn’t want people to think the case was about money when it wasn’t.

“ They wanted the litigation over because they felt by terminating and ending the litigation, resolving their cases, that Mr. Epstein would eventually just go away,” Kuvin said. “They just wanted to forget him.”

‘A sad indictment’

If Epstein’s accusers were to have made those allegations today, Franks says the amount and breadth of coverage would have been more extensive than it was a decade ago, thanks largely to social media.

But although movements like #MeToo created an initial groundswell, Franks sees room for improvement by providing women space to talk about harassment or abuse without naming names, being criticized or second-guessed. Even with #MeToo, Franks felt the positive momentum only lasted a moment before a backlash ensued.

“We used to not care about sexual assault, let’s just put it bluntly,” Franks said. “Now we care about it, but only when the person accused of it doing it is someone we don’t like. And in some ways, I don’t even know if that’s worse. Because it really is such an

appropriation of the pain that's being caused. It's such a clear signaling that what we really care about here is not sexual assault. What we care about is the men involved."

Though the charges against Epstein appear unambiguous, Franks said she's troubled by the way his case is politicized.

"It depends on who you think [Epstein] is the tribe of. Everybody will condemn Epstein because he's now a national joke, suicide or not," Franks said. "But when you talk about how terrible he is, if you feel compelled to say, 'Epstein was a friend of the Clintons and that's why he's a monster,' or, 'Epstein was a friend of Trump's and that's why he's terrible,' that is such a sad indictment of where we are when it comes to our response to sexual assault."