

How the Flaws of H.R. 4405 Could Revictimize Epstein's Victims, Create New Victims, and Damage the Judicial System

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BACKGROUND. On November 12, 2025, a motion to discharge in relation to H. Res 581 was filed and assigned to the Discharge Calendar. Accordingly, the House is poised to consider H.R. 4405, compelling the Department of Justice (DOJ) to release its files related to Jeffrey Epstein and Ghislaine Maxwell. While Republicans fully support transparency and the release of the names of those who conspired with and aided Epstein and Maxwell, the bill the House will consider is flawed.

ANALYSIS. The flaws in H.R. 4405 include the following.

1. Fails to Fully Protect Victim Privacy. While H.R. 4405 permits the Attorney General to withhold “*personally identifiable information of [Epstein’s] victims*” and “*personal and medical files and similar files*,” this authority is limited to disclosures that “*constitute a clearly unwarranted invasion of personal privacy*.” Protections for Epstein’s victims should go further. Congress should give the Attorney General broader authority to redact all victim information. This would prevent the release of information that could be used to unmask victims who have chosen to remain anonymous. Anything less risks revictimizing those who were trafficked and exploited.¹ The courts have recognized this concern. On August 20, 2025, Judge Richard Berman (SDNY) issued an order² denying DOJ’s request to release Epstein grand jury materials, noting “*names and identifying information [of victims] appear in the subject materials*.” Judge Berman quoted a letter related to victims’ concerns, which stated: “*[T]ransparency cannot come at the expense of the very people whom the justice system is sworn to protect...*” and he quoted a letter from a victim, Jane Doe 2, which stated: “***I beg the court to make sure it is the utmost [sic] priority that in any sort of release ALL and EVERY detail that could possibly reveal our identities be redacted.***”

2. Could Create New Victims. H.R. 4405 requires DOJ to release information, even in cases where DOJ or the FBI has determined it was false. Congress should avoid mandating this kind of release. Doing so could ruin the reputations of innocent persons, such as those who may have known Epstein but knew nothing of his crimes, or whose names Epstein exploited and used in order to get close to his intended victims. Releasing information containing the names of innocent people would subject the innocents to a guilt by association, creating a new group of victims who have no means to clear their names. To avoid this, the Attorney General should be given additional authority to redact information the FBI has previously deemed was false or not credible.

3. Potentially Jeopardizes Grand Jury Secrecy. Rule 6(e) of the Federal Rules of Criminal Procedure prohibits the release of grand jury materials. An unauthorized release can be prosecuted as a criminal offense, including obstruction of justice. This secrecy exists to protect

¹ Department of Justice Press Release, “Ghislaine Maxwell Sentenced to 20 Years....” July 28, 2022. See: <https://www.justice.gov/usao-sdny/pr/ghislaine-maxwell-sentenced-20-years-prison-conspiring-jeffrey-epstein-sexually-abuse>

² Decision and Order of Judge Richard M. Berman issued August 20, 2025. See: <https://www.documentcloud.org/documents/26069162-berman-ruling-on-epstein-grand-jury-docs/>

the individual. Grand juries are not adversarial. There is no opportunity for the subject of a grand jury inquiry to cross-examine, disprove testimony, or challenge the evidence. If Congress compels release of grand jury materials, it raises a risk that the grand jury process will become politicized in the future. Imagine how a malicious prosecutor could abuse and weaponize the grand jury process by inducing testimony about a political adversary, testimony the prosecutor knows is false and which could not be contested, with the hopes a future Congress would later compel disclosure. H.R. 4405 is ambiguous as to whether it requires DOJ to release grand jury materials from the Maxwell and Epstein cases. As such, as written, the current text of H.R. 4405 creates a conflict of laws. Congress can clear up any ambiguity by requiring the Attorney General to redact grand jury materials.

4. Fails to Prohibit Release of Child Sexual Abuse Materials. H.R. 4405 allows the Attorney General to redact portions of records that “*depicts or contains child sexual abuse materials (CSAM) as defined under 18 U.S.C. 2256...*” It necessarily follows that the redaction authority is limited by whatever CSAM definition is found in 18 U.S.C. 2256. Unfortunately, Sec. 2256 does not contain **any** CSAM definition, which means that H.R. 4405 bestows no real legal authority on the Attorney General to redact those materials. The bill should be amended to clearly prohibit release of any CSAM.

5. Jeopardizes Future Federal Investigations. H.R. 4405 allows the Attorney General to redact “*portions of records that... would jeopardize an active federal investigation or ongoing prosecution*” but only if “*narrowly tailored and temporary.*” This standard ignores the impact disclosure might have on future investigations. Release of this information could publicly identify individuals who were promised confidentiality, such as a whistleblower or confidential informant, in exchange for agreeing to share information in the Epstein case. Violating confidentiality would have a chilling effect, deterring future whistleblowers and informants. Release could also publicly reveal the identity of undercover law enforcement officers, preventing them from working in future operations. In order to properly protect whistleblowers, informants, and undercover officers, the Attorney General should be given additional authorities to redact information related to these types of individuals (if any), provided they were not complicit in Epstein’s crimes.

6. National Security Concerns. H.R. 4405 requires the Attorney General to complete the release of information within 30 days, including to declassify “*classified information to the maximum extent possible.*” This raises two concerns. First, it may not be feasible to properly undertake such an extensive review in such a short period of time. Second, it ignores the principle that declassification should rest with the agency that originated the intelligence so as to protect sources and methods. It is incredibly unwise to demand that DOJ declassify materials originated by other agencies. H.R. 4405 should be amended to direct relevant intelligence agencies to work with the Attorney General to declassify in a reasonable time frame.

CONCLUSION. Republicans support transparency, especially when it comes to disclosing the names of those who conspired with and aided Jeffrey Epstein. Before H.R. 4405 becomes law, each of the above concerns should be addressed, with particular attention paid to ensuring the highest protection for victims.