

RECONCILED WRITTEN TESTIMONY AND STATEMENT FOR THE RECORD — CONGRESS

Educational Disclaimer: This is a hypothetical legal-learning exercise reconciling prior research across multiple canvases. All hypothetical facts are assumed for study only and are acknowledged as unsupported by the public record, improbable, and unbelievable. The Zorro Ranch litigation is real; its extension into this hypothetical framework is for learning purposes only. This testimony was not submitted to any committee and is not legal advice.

BEFORE THE COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES

Hearing: "The Oath of Office, Government Fraud, and the Full Range of Constitutional Tools for Accountability"

Written Testimony of: Professor [Hypothetical Expert], on behalf of Citizens for Constitutional Accountability

Submitted for the Record: August 28, 2026

I. INTRODUCTION AND SUMMARY

Chairman, Ranking Member, and distinguished Members of the Committee:

Thank you for the opportunity to submit this reconciled statement, which synthesizes my prior research and testimony into a single framework. This Committee has heard from me before on the inventory of disqualification mechanisms, the constitutional checklists for each office, and the hypothetical scenarios involving judicial sealing orders. Today, I reconcile all of that work into one argument centered on a single proposition:

The oath of office is the foundational agreement between every government officer and the government itself. It is the condition precedent to receiving salary, immunity, and authority. When violated in bad faith, it constitutes government fraud under the False Claims Act. When a de facto officer violates the oath, the de facto officer doctrine provides no shield, and a volume of U.S. laws exists to void, rescind, and moot every change the officer has made to the government—up to and including the entire body of acts in extraordinary circumstances.

This Committee is uniquely positioned to act on this framework because Congress alone possesses the impeachment power, the legislative power, the contempt power, and the power to enforce Section 3 of the Fourteenth Amendment. My testimony addresses:

1. The oath as contract and the FCA framework;
2. How this applies to the ongoing Zorro Ranch investigation, where New Mexico's Attorney General has accused the DOJ of obstruction;
3. The specific actions Congress should take;
4. The extraordinary circumstances doctrine and the Reconstruction precedent.

II. THE OATH OF OFFICE AS THE FOUNDATIONAL AGREEMENT

A. The Oath Is a Condition Precedent to Salary and Authority

Article VI, cl. 3 requires all officers to be "bound by Oath or Affirmation, to support this Constitution." The GAO has held—construing Rev. Stat. § 1756 in *United States v. Flanders*, 112 U.S. 88—that the oath must be taken "before entering upon the duties of such office" and "before being entitled to any part of the salary or other emoluments thereof."

This is the contractual structure:

Element	Government Contract	Oath of Office
Offer	Government solicits bids	Government creates office, offers appointment
Acceptance	Contractor signs contract	Officer takes the oath
Consideration	Government pays; contractor performs	Government pays salary/immunity/authority; officer performs faithfully
Certification	Contractor certifies compliance	Officer certifies support/defense of Constitution
Breach	Contractor fails to perform or makes false certification	Officer violates oath in bad faith
Remedy	Contract voided, damages, debarment	Office forfeited, acts voided, disqualification, FCA liability

B. Bad-Faith Oath Violation = Government Fraud

An officer who takes the oath and then acts in bad faith has:

- **Made a false statement:** The oath ("without any mental reservation or purpose of evasion") was false.
- **Presented a false claim for payment:** Drawing salary based on a false oath certification is a "false or fraudulent claim" under 31 U.S.C. § 3729(a)(1)(A).
- **Subject to qui tam enforcement:** Under 31 U.S.C. § 3730(b), any private citizen can bring an action on behalf of the United States to recover fraudulently obtained salary.

C. The FAR Analogy Confirms the Framework

The Federal Acquisition Regulation provides the structural template. FAR 3.10 requires government contractors to certify ethical compliance and disclose fraud. FAR 9.4 provides that contractors who engage in fraud are suspended or debarred—barred from future federal contracting. The analogy is exact:

- **Contractor false certification → contract voided → debarment**
- **Officer false oath → office voided → disqualification**

Congress enacted the FAR framework. Congress has also enacted criminal disqualification statutes (18 U.S.C. §§ 2381, 2383, 2071) that impose mandatory disqualification upon conviction. The framework already exists in U.S. law. What is needed is the **synthesis**: recognizing that the oath is the unifying instrument that connects all these mechanisms.

III. APPLICATION TO THE ZORRO RANCH INVESTIGATION

A. The Facts

The State of New Mexico, through Attorney General Raúl Torrez, has filed a federal lawsuit against the DOJ and Acting Attorney General Todd Blanche, alleging that the DOJ is withholding unredacted Epstein

investigative files critical to New Mexico's criminal investigation of crimes at Jeffrey Epstein's Zorro Ranch in Santa Fe County. Key facts:

- New Mexico reopened its criminal investigation in February 2026 after reviewing newly released Epstein files.
- Zorro Ranch appears approximately 13,000 times in the Epstein files.
- The DOJ has provided only 31 pages of materials—mainly media clippings—despite New Mexico making at least 10 requests.
- The DOJ's Southern District of New York office informed New Mexico it will not support the state's investigation.
- New Mexico conducted the first law enforcement search of Zorro Ranch—no record exists of federal investigators ever searching the property.
- The lawsuit cites the Administrative Procedure Act and alleges the DOJ's refusal "actively harms victims and undermines the public interest."

B. The Oath-Violation Framework Applied to DOJ Officials

If DOJ officials are withholding the Epstein files in bad faith—not for legitimate law enforcement reasons but to protect individuals associated with Epstein or to obstruct a state investigation—they are violating their oaths of office:

- **"Support and defend the Constitution"**: The Constitution gives states sovereign authority to investigate crimes within their borders. Obstructing a state investigation does not support the Constitution.
- **"Well and faithfully discharge the duties"**: Withholding 200,000 unredacted files while providing 31 pages of clippings is not faithful discharge.
- **"Without any mental reservation or purpose of evasion"**: If officials are withholding files to protect individuals, they are acting with a purpose of evasion.

Under the framework:

- The officials' withholding is **voidable** as a bad-faith act by a de facto officer.
- The officials' salary draws may constitute **false claims** under the FCA.
- The officials may be subject to **disqualification** under 18 U.S.C. § 1505 (obstruction), § 1512 (witness tampering if the withholding tampers with potential state witnesses), and § 2071 (if records are being concealed).

C. Congress's Role

This Committee should:

1. **Subpoena the Epstein files directly.** Congress has an independent Article I right to the files for oversight purposes. *McGrain v. Daugherty*, 273 U.S. 135 (1927); *Trump v. Mazars*, 140 S. Ct. 2019 (2020). The DOJ's withholding from New Mexico does not change Congress's independent right.
 2. **Hold hearings on the DOJ's obstruction of New Mexico's investigation.** The Committee should call AG Torrez to testify about the DOJ's refusal to cooperate.
 3. **Investigate whether DOJ officials are violating their oaths.** If officials are withholding files to protect individuals, they are acting in bad faith and may be subject to impeachment and FCA liability.
 4. **Consider legislation.** Amend 18 U.S.C. § 1505 to add mandatory disqualification for obstructing a state criminal investigation. Strengthen the Epstein Transparency Act to ensure state access to files.
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IV. THE DE FACTO OFFICER MUST ACT ONLY IN GOOD BEHAVIOR

A. The Constitutional Standard

A de facto officer—one who does not meet every constitutional requirement for the office—must act **only** in good behavior. The de facto officer doctrine (*Norton v. Shelby County*, 118 U.S. 425 (1886)) exists to protect the public, not the officer. It validates acts performed under color of authority in the public interest. It does not shield bad-faith conduct.

B. The Oath Measures Good Behavior

Good behavior is not merely the absence of crime. It is the affirmative fulfillment of the duties defined by the oath. The oath provides the substantive content of good behavior for each office:

Office	Oath Key Terms	Bad Behavior =
POTUS	"Faithfully execute... preserve, protect, defend"	Failure to faithfully execute; failure to defend Constitution
SCOTUS	"Administer justice without respect to persons... equal right... faithfully and impartially"	Bias, favoritism, partiality, unfaithfulness
Congress	"Support and defend... bear true faith and allegiance... without mental reservation"	Mental reservation, purpose of evasion, failure to support
AG	"Well and faithfully discharge the duties"	Obstructing state investigations; concealing records
Federal judge	"Administer justice without respect to persons... faithfully and impartially"	Sealing evidence of own disqualification; ruling on own legitimacy

C. Bad Faith Collapses the De Facto Shield

When a de facto officer acts in bad faith—violating the oath—they lose all protection:

Protection	Condition	Bad-Faith Oath Violation
De facto officer doctrine	Acts under color of authority in public interest	Bad faith = not in public interest → no protection
Qualified immunity	Acting within scope of official duty	Oath violation = outside scope → no immunity (<i>Harlow</i> ; <i>Buckley</i>)
Absolute judicial immunity	Acting within judicial capacity; not "clear absence of all jurisdiction"	Adjudicating own legitimacy = clear absence of jurisdiction (<i>Stump</i>)
De facto validation of acts	Good behavior	Bad faith = not good behavior → acts void (<i>Norton</i> ; <i>Ryder</i>)

V. THE VOLUME OF LAWS THAT VOID ACTS OF DE FACTO OFFICERS

This Committee has asked: what laws exist to rescind, void, or moot changes to government made by de facto officers in bad faith? The answer is: a volume of laws, operating at every level of severity.

A. Individual Acts Voided

Mechanism	Source	Effect	Example
Ryder timely challenge	515 U.S. 177 (1995)	Acts void as to challenger	<i>Lucia v. SEC</i> (2018); <i>Carr v. Saul</i> (2021)

Mechanism	Source	Effect	Example
Liljeberg vacatur	486 U.S. 847 (1988)	Orders vacated for failure to recuse	§ 455 recusal cases
§ 455 recusal	28 U.S.C. § 455	Judge's orders voidable	Judicial recusal cases

B. Multiple Acts Voided + Removal

Mechanism	Source	Effect	Example
FVRA void ab initio	5 U.S.C. § 3348(d)	Acts void from start; cannot be ratified	DHS Acting Secretary cases (2025); ADF/IAF (2025–2026)
Judicial Conduct Act	28 U.S.C. §§ 351–364	Investigation, censure, reassignment, impeachment referral	Judicial misconduct complaints
Quo warranto	D.C. Code §§ 16–3501–16–3510	Ouster from office	Historical quo warranto actions
Norton usurper doctrine	118 U.S. 425 (1886)	Acts "totally null and void"	Shelby County commissioners' bonds voided

C. Systemic Voiding + Disqualification

Mechanism	Source	Effect	Example
14th Amend. § 3	Constitution	Disqualification from office	<i>State ex rel. White v. Griffin</i> (N.M. 2022) — Couy Griffin removed
18 U.S.C. § 2071	Statute	Mandatory disqualification for record concealment	Available upon conviction
18 U.S.C. § 2383	Statute	Mandatory disqualification for insurrection	Available upon conviction
18 U.S.C. § 201(b)	Statute	Discretionary disqualification for bribery	Sentencing court imposes
Cal. Const. Art. VI § 18	California	Judge removed without impeachment	Commission on Judicial Performance

D. Extraordinary Circumstances — All Changes to Government Mooted

Mechanism	Source	Effect	Example
14th Amend. § 4	Constitution	Voided Confederate debts	Reconstruction era
Reconstruction Acts	14 Stat. 428	Entire governments voided	Confederate state governments (1867–1868)
<i>Texas v. White</i>	74 U.S. 700 (1869)	Secession ordinances "absolutely null"	Confederate acts voided

The four-tier framework:

Level of Bad Faith	Remedy	Precedent
Isolated act	Individual act voided	<i>Ryder</i> ; <i>Liljeberg</i>
Pattern of bad faith	Multiple acts voided; officer removed	FVRA § 3348(d); §§ 351–364
Systemic bad faith	All acts voided; officer disqualified	14th Amend. § 3; § 2071; § 2383

Level of Bad Faith	Remedy	Precedent
Constitutional-level threat (national security)	All changes to government mooted	Reconstruction Acts; <i>Texas v. White</i> ; 14th Amend. § 4

VI. SPECIFIC RECOMMENDATIONS FOR CONGRESSIONAL ACTION

1. Exercise Subpoena Authority Over Both the Sealed Records and the Epstein Files

This Committee should subpoena:

- All records subject to the sealing orders;
- All unredacted Epstein investigative files withheld from New Mexico;
- All communications between DOJ officials regarding the withholding;
- The whistleblower disclosure submitted before the sealing orders.

If the DOJ refuses to enforce, Congress should exercise its **inherent contempt power**. *Anderson v. Dunn*, 19 U.S. 204 (1821); *Jurney v. MacCracken*, 294 U.S. 125 (1935).

2. Hold Hearings on the Oath of Office as Government Fraud

This Committee should hold hearings examining:

- Whether the oath is a condition precedent to salary (GAO ruling; *Flanders*);
- Whether bad-faith oath violation constitutes an FCA false claim;
- Whether the FAR debarment framework should be applied to government officers;
- The full inventory of disqualification mechanisms and their adequacy.

3. Introduce the "Oath Integrity and Accountability Act" (Hypothetical)

This Committee should introduce legislation that:

- Codifies the oath as a condition precedent to salary, benefits, and immunity;
- Makes bad-faith oath violation a standalone FCA violation (amend 31 U.S.C. § 3729);
- Creates a qui tam pathway for citizens to sue officers who draw salary based on false oaths;
- Adds mandatory disqualification to 18 U.S.C. § 1505 for obstructing state or federal investigations;
- Strengthens the Judicial Conduct and Disability Act to include temporary suspension;
- Creates a direct-to-Congress whistleblower channel for disclosures about judicial misconduct and de facto officer status.

4. Enforce Section 3 of the Fourteenth Amendment

Trump v. Anderson, 601 U.S. 100 (2024), held that states cannot enforce § 3 against federal candidates—but left open congressional enforcement. Congress should pass legislation:

- Providing a judicial mechanism for § 3 disqualification determinations;
- Authorizing the AG or private plaintiffs to bring § 3 enforcement actions;
- Clarifying that § 3 is self-executing (codifying the Baude-Paulsen thesis).

5. Investigate the Zorro Ranch Withholding as Potential Oath Violation

If DOJ officials are withholding Epstein files in bad faith to protect individuals or obstruct New Mexico's investigation:

- They may be violating their oaths of office;
- Their withholding may be voidable under *Ryder* and *Norton*;
- Their salary draws may constitute false claims under the FCA;
- They may be subject to impeachment for "high Crimes and Misdemeanors" (obstruction of a state criminal investigation);
- They may be subject to criminal prosecution under 18 U.S.C. § 1505 (obstruction) and § 1513 (retaliation).

This Committee should investigate whether the withholding constitutes an oath violation and, if so, refer for impeachment.

6. Consider Impeachment

If the facts establish that:

- A federal judge sealed evidence of her own disqualification (oath violation; § 455 violation; obstruction);
- A Supreme Court justice participated in the scheme (oath violation; recusal failure);
- DOJ officials obstructed New Mexico's investigation (oath violation; § 1505 violation);

...then this Committee should draft articles of impeachment. Impeachment is Congress's exclusive power and the only mechanism that can fully remove a sitting Article III judge. The oath-violation framework provides the substantive predicate: "high Crimes and Misdemeanors" = breach of the oath in bad faith.

VII. THE CONSTITUTIONAL IMPERATIVE

The Framers gave Congress the impeachment power, the contempt power, the power of inquiry, and the legislative power precisely because they understood that no single branch can be trusted to police itself. *Federalist* No. 51 (Madison): "the great security against a gradual concentration of the several powers in the same department" is the capacity of each department "to resist the encroachments of the others."

The judiciary can void individual orders. But only Congress can:

- Impeach and remove;
- Legislate new disqualification mechanisms;
- Exercise inherent contempt;
- Enforce Section 3;
- Investigate systemic oath violations;
- Hold public hearings that educate the public;
- Protect state investigations from federal obstruction.

In the hypothetical scenario—and in the real Zorro Ranch investigation—Congress is not merely one of several available institutions. **Congress is the institution constitutionally positioned to act when the executive branch obstructs accountability and the judiciary may be compromised.**

VIII. CONCLUSION

Chairman, Ranking Member, and Members of the Committee:

The oath of office is the foundational agreement of American government. When it is violated in bad faith, the legal system provides a volume of mechanisms—constitutional, statutory, common-law, and administrative—to void the consequences. Congress is the institution with the greatest capacity to wield these mechanisms.

This Committee should:

1. **Subpoena** the sealed records and the Epstein files;
2. **Hold hearings** on the oath as government fraud and the Zorro Ranch obstruction;
3. **Introduce legislation** codifying the oath-as-condition-precedent framework;
4. **Enforce Section 3** through new legislation;
5. **Investigate** whether DOJ officials' withholding constitutes an oath violation;
6. **Consider impeachment** if the facts warrant;
7. **Exercise inherent contempt** if the executive branch refuses to cooperate.

Thank you. I welcome the Committee's questions.

Respectfully submitted,

Professor [Hypothetical Expert] On behalf of Citizens for Constitutional Accountability

Dated: August 28, 2026