

RECONCILED AMICUS AND SUPPORTING LEGAL MEMORANDUM — NEW MEXICO ATTORNEY GENERAL

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 memorandum was not submitted to the New Mexico Department of Justice or any court and is not legal advice.

TO: ATTORNEY GENERAL RAÚL TORREZ, NEW MEXICO DEPARTMENT OF JUSTICE

FROM: CITIZENS FOR CONSTITUTIONAL ACCOUNTABILITY (HYPOTHETICAL AMICUS)

RE: SUPPORTING LEGAL FRAMEWORK FOR STATE OF NEW MEXICO v. U.S. DEPARTMENT OF JUSTICE, ET AL.

DATE: AUGUST 28, 2026

TABLE OF AUTHORITIES

Cases

- *Brady v. Maryland*, 373 U.S. 83 (1963)
- *Buckley v. Fitzsimmons*, 509 U.S. 259 (1993)
- *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009)
- *Giglio v. United States*, 405 U.S. 150 (1972)
- *Harlow v. Fitzgerald*, 457 U.S. 800 (1982)
- *Kyles v. Whitley*, 514 U.S. 419 (1994)
- *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847 (1988)
- *Lucia v. SEC*, 585 U.S. 237 (2018)
- *McGrain v. Daugherty*, 273 U.S. 135 (1927)
- *Norton v. Shelby County*, 118 U.S. 425 (1886)
- *Ryder v. United States*, 515 U.S. 177 (1995)
- *Texas v. White*, 74 U.S. 700 (1869)
- *Trump v. Anderson*, 601 U.S. 100 (2024)
- *Tumey v. Ohio*, 273 U.S. 510 (1927)
- *United States v. Flanders*, 112 U.S. 88 (1884)
- *United States v. Nixon*, 418 U.S. 683 (1974)

New Mexico Cases

- *State ex rel. White v. Griffin*, No. D-101-CV-2022-00426 (N.M. 1st Jud. Dist. 2022) — Couy Griffin removed under 14th Amend. § 3
- *State ex rel. King v. Sloan*, 2011-NMSC-020, 149 N.M. 620, 253 P.3d 33
- *State ex rel. Martinez v. Padilla*, 1980-NMSC-064, 94 N.M. 431, 612 P.2d 223
- *State ex rel. Hannett v. District Court*, 1925-NMSC-004, 30 N.M. 472

Constitutional Provisions

- U.S. Const. Art. VI, cl. 3 (Oath of Office); Art. III, § 1 (Good Behavior); Amends. X, XIV §§ 1, 3, 4
- N.M. Const. Art. XX, § 1 (Oath of Officer); Art. IV, § 7 (Legislative disqualification)

Federal Statutes

- 5 U.S.C. §§ 3331 (federal oath), 3348(d) (FVRA void ab initio), 706 (APA review)
- 18 U.S.C. §§ 1505 (obstruction), 1512 (witness tampering), 1513 (retaliation), 2071 (record concealment), 2381 (treason), 2383 (insurrection), 242 (deprivation of rights)
- 28 U.S.C. §§ 1361 (mandamus), 1651 (all writs), 2201 (declaratory judgment)
- 31 U.S.C. §§ 3729 (False Claims Act), 3730 (qui tam)

New Mexico Statutes

- NMSA 1978, § 10-1-13 (state employee oath; felony disqualification)
- NMSA 1978, §§ 44-3-1 to 44-3-8 (quo warranto)
- NMSA 1978, § 3-10-2 (municipal officers; failure to take oath vacates office)
- NMSA 1978, § 10-6-3 (abandonment of office)

Other Authorities

- GAO Decision, National Youth Administration (oath as condition precedent to salary)
- William Baude & Michael Stokes Paulsen, "The Sweep and Force of Section Three," 172 U. Pa. L. Rev. (2024)
- POGO Report, "The Constitution's Disqualification Clause Can Be Enforced Today" (2023)

I. INTRODUCTION AND INTEREST OF AMICUS

Attorney General Torrez:

Amicus Citizens for Constitutional Accountability submits this supporting legal memorandum to assist the New Mexico Department of Justice in its ongoing action against the U.S. Department of Justice and Acting Attorney General Todd Blanche (*State of New Mexico v. U.S. Department of Justice, et al.*, D.D.C., filed Aug. 5, 2026). Amicus has conducted an extensive legal inventory of every federal and state disqualification mechanism, a constitutional checklist of the requirements for every major office, and an analysis of the oath of office as the foundational agreement between officer and government. This memorandum reconciles that research into a single framework tailored to New Mexico's position.

New Mexico's case is strong on existing legal grounds—the APA claim, state sovereignty, and the Brady doctrine are well established. This memorandum argues that New Mexico can significantly strengthen its position by adding a layer of analysis drawn from the oath-of-office framework: that DOJ officials who withhold the Epstein files in bad faith are violating their oaths, that their withholding is voidable as an act of a

de facto officer, and that New Mexico has unique state-law tools—including the very quo warranto mechanism it used to remove Couy Griffin—to challenge the legitimacy of those officials' actions.

No party's counsel authored this memorandum.

II. SUMMARY OF ARGUMENT

This memorandum argues that the DOJ's withholding of unredacted Epstein investigative files from New Mexico is unlawful on at least six independent grounds, and that New Mexico can deploy a unified oath-based framework to strengthen each:

1. **APA violation** — The withholding is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law" (5 U.S.C. § 706(2)(A)). The oath framework provides the substantive standard: if the withholding violates the officials' oaths, it is per se "not in accordance with law."
 2. **State sovereignty violation** — New Mexico has an independent constitutional authority to investigate and prosecute crimes within its borders (U.S. Const. Amend. X). Federal obstruction of that authority is a structural overreach that the oath framework exposes: officials sworn to "support and defend the Constitution" cannot lawfully undermine a sovereign state's investigative power.
 3. **Brady duty to state proceedings** — If the Epstein files contain exculpatory or impeachment evidence relevant to any New Mexico prosecution, the DOJ has a constitutional duty to disclose (*Brady v. Maryland*, 373 U.S. 83 (1963), applied to states via the Fourteenth Amendment). No sealing order or policy preference overrides this duty.
 4. **Obstruction of a state criminal investigation** — The withholding may constitute obstruction under 18 U.S.C. § 1505 (obstruction of congressional or federal proceedings) and potentially state obstruction statutes. The oath framework establishes that officials who obstruct a state investigation are not "faithfully discharging the duties" of their office.
 5. **De facto officer doctrine** — Any DOJ official involved in the withholding who does not meet every constitutional requirement for their office is a de facto officer. De facto officers must act only in good behavior, as measured by their oath. Bad-faith withholding collapses the de facto shield, rendering the withholding voidable.
 6. **Government fraud under the False Claims Act** — If officials are drawing salary while acting in bad faith in violation of their oaths, they may be presenting false claims for payment under 31 U.S.C. § 3729. New Mexico can reference this framework to show that the withholding is not merely unreasonable but potentially fraudulent.
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III. THE FACTS

The following facts are drawn from public reporting and the New Mexico Department of Justice's press release and complaint:

- New Mexico's state legislature passed a law requiring an investigation into Zorro Ranch.
- New Mexico reopened its criminal investigation in **February 2026** after reviewing newly released Epstein files.
- New Mexico conducted the **first-ever law enforcement search** of Zorro Ranch—a 7,600-acre property in Stanley, New Mexico—on **March 9, 2026**. No federal agency had ever searched the property in the nearly seven years since Epstein's death in 2019.

- In 2019, federal prosecutors asked New Mexico to **pause** its investigation and promised to share relevant information when their work concluded. That information was never provided.
 - The publicly released Epstein files contain approximately **13,000 references to Zorro Ranch** and **5,000 references to New Mexico**.
 - The DOJ has provided New Mexico only **31 pages** of materials—mainly media clippings and past correspondence—despite at least **10 formal requests**.
 - On March 13, 2026, AG Torrez sent a letter to then-Attorney General Pam Bondi seeking unredacted copies of five specific documents and general access to Zorro Ranch-related materials. He received no reply by the March 27 deadline.
 - On April 1, 2026, Associate Deputy Attorney General Diego Pestana said DOJ was willing to cooperate but demanded formal **Touhy requests** to the FBI's New Mexico Field Office. New Mexico complied.
 - The DOJ's Southern District of New York office informed New Mexico it **will not support** the state's investigation.
 - The DOJ cited "victim privacy" as the reason for withholding, stating: "Protecting victim privacy remains a top priority for the Department, and neither (formal) requests nor a desire to cooperate outweighs that privacy."
 - At his confirmation hearing on July 16, 2026, Acting AG Todd Blanche said the department was **not actively seeking prosecutions** related to Epstein.
 - On **August 5, 2026**, New Mexico filed suit in the U.S. District Court for the District of Columbia against Acting AG Todd Blanche and the DOJ, citing the Administrative Procedure Act and alleging the DOJ's refusal "actively harms victims and undermines the public interest."
 - The FBI received a tip about possible "buried bodies" at Zorro Ranch, yet searched Epstein's other properties (Manhattan, Palm Beach, Little Saint James) while deliberately **excluding** Zorro Ranch.
 - The **Epstein Files Transparency Act**, signed into law November 19, 2025, requires public disclosure of redacted investigative documents and led to the release of roughly 3 million pages.
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IV. ARGUMENT

A. New Mexico's Constitutional Authority to Investigate Is Sovereign and Inviolable

1. The Tenth Amendment and state police power

The Tenth Amendment reserves to the states all powers not delegated to the federal government. The power to investigate and prosecute crimes committed within a state's borders is among the most fundamental of reserved powers. As the Supreme Court held in *McGrain v. Daugherty*, 273 U.S. 135 (1927), a state's investigative power is "essential to the proper conduct" of its sovereign functions.

The DOJ's withholding of investigative files from New Mexico does not merely inconvenience the state—it strikes at the heart of state sovereignty. New Mexico is not asking the federal government to investigate; New Mexico is investigating. The federal government's refusal to share evidence relevant to state crimes committed on state soil is an intrusion into the state's reserved powers.

2. The oath framework reinforces sovereignty

Every DOJ official took an oath to "support and defend the Constitution of the United States against all enemies, foreign and domestic" (5 U.S.C. § 3331). The Constitution they swore to defend includes the Tenth Amendment. An official who obstructs a state's sovereign investigative authority is violating the very Constitution they swore to support.

This is not a novel theory. The oath makes the structural protections of federalism enforceable at the level of individual official conduct. If an official's oath requires supporting the Constitution, and the Constitution reserves investigative power to the states, then obstructing a state investigation is per se an oath violation.

B. The DOJ's Withholding Is an APA Violation and an Oath Violation

1. The APA claim

New Mexico's complaint correctly invokes 5 U.S.C. § 706(2)(A), which requires courts to set aside agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." The withholding satisfies every element:

- **Arbitrary and capricious:** Providing 31 pages of media clippings when the files contain 13,000 references to the target property is the definition of arbitrary.
- **Abuse of discretion:** Citing "victim privacy" to withhold investigative files from a state criminal investigation—while the state has its own victim-protective procedures—abuses whatever discretion DOJ possesses.
- **Not in accordance with law:** The withholding conflicts with the Brady duty, the Tenth Amendment, and the officials' own oaths of office.

2. The oath as the "in accordance with law" standard

The oath framework provides the substantive content of "in accordance with law." An agency action taken by officials who are violating their oaths is, by definition, "not in accordance with law." The APA does not merely require rationality—it requires legality. An official acting in bad faith is not acting legally, regardless of whether the action superficially appears within their delegated authority.

New Mexico should argue that the oath is the legal floor below which no agency action may sink. When officials withhold evidence in bad faith—not for legitimate law enforcement reasons but to protect individuals or obstruct a state investigation—their action is both arbitrary and unlawful.

C. The Brady Duty Extends to New Mexico's Investigation

1. Brady applies to state proceedings

Brady v. Maryland, 373 U.S. 83 (1963), requires the prosecution to disclose exculpatory and impeachment evidence to the defense. This duty applies to state proceedings through the Fourteenth Amendment. *Kyles v. Whitley*, 514 U.S. 419 (1994), establishes that the prosecution team includes investigating agencies—the DOJ cannot hide evidence from a state prosecution by keeping it in federal files.

2. The Epstein files are Brady material

The Epstein files contain:

- **13,000 references to Zorro Ranch**—evidence of the scope and nature of crimes at the property;
- **Potential witness information**—names and statements relevant to identifying and corroborating witnesses;
- **Potential impeachment evidence**—information that could impeach government witnesses or co-conspirators;
- **Potential exculpatory evidence**—information that may exonerate individuals under investigation.

If any of this material is exculpatory or impeaching as to any defendant in a New Mexico prosecution, the DOJ has a constitutional duty to disclose it. No sealing order, no privacy policy, and no DOJ preference can override this duty. *United States v. Nixon*, 418 U.S. 683 (1974) established that even executive privilege must yield to the demands of due process. The DOJ's generalized "victim privacy" rationale is far weaker than executive privilege.

3. The oath framework strengthens the Brady argument

A DOJ official who withholds Brady material from a state investigation is violating their oath to "well and faithfully discharge the duties" of their office. The Brady duty is a constitutional duty; withholding it is unfaithful discharge. Under the oath framework, this bad-faith withholding is voidable, and the official may face personal consequences.

D. The Withholding May Constitute Obstruction

1. 18 U.S.C. § 1505 — obstruction of proceedings

Section 1505 criminalizes conduct that "obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States." New Mexico's investigation, while state-based, involves pending federal interactions (Touhy requests, FBI field office involvement) that constitute proceedings before federal departments.

2. 18 U.S.C. § 2071 — concealment of records

Section 2071 criminalizes the concealment, removal, or destruction of government records. If DOJ officials are deliberately concealing Epstein investigative files to prevent New Mexico from accessing them, they may be violating § 2071. The statute carries **mandatory disqualification** from office upon conviction.

3. The pattern of non-cooperation as evidence of bad faith

The following facts, taken together, may establish a pattern of bad-faith obstruction:

- The FBI received a tip about "buried bodies" at Zorro Ranch and **deliberately excluded** the property from its searches;
- Federal prosecutors asked New Mexico to pause its investigation in 2019 and never shared the promised information;
- The DOJ provided 31 pages of media clippings when 13,000 file references exist;
- SDNY affirmatively refused to support New Mexico's investigation;
- Acting AG Blanche stated DOJ is "not actively seeking prosecutions" related to Epstein;
- DOJ cited "victim privacy" as a justification for withholding, despite New Mexico having its own victim-protective procedures.

This pattern, if established, supports the inference that DOJ officials are not acting in good faith—and are therefore violating their oaths.

E. The De Facto Officer Doctrine: Bad Faith Collapses the Shield

1. De facto officers must act in good behavior

Under *Norton v. Shelby County*, 118 U.S. 425 (1886), a usurper's acts are "totally null and void." Under *Ryder v. United States*, 515 U.S. 177 (1995), a timely challenge to an officer's constitutional validity defeats the de facto doctrine, and the challenger is "entitled to a decision on the merits."

Any DOJ official involved in the withholding who does not meet every constitutional and statutory requirement for their office—including any official serving under the Federal Vacancies Reform Act whose appointment may be defective—is a de facto officer. De facto officers may act only in good behavior, as measured by their oaths.

2. The FVRA void ab initio provision

5 U.S.C. § 3348(d) provides that actions taken by an official improperly serving under the FVRA are "void ab initio" and "may not be ratified." If Acting AG Todd Blanche or any subordinate involved in the withholding decision is improperly serving under the FVRA, their withholding determination is void from the start and cannot be cured by ratification.

New Mexico should investigate whether all officials involved in the withholding decision were properly appointed under the FVRA. If not, the withholding is void ab initio.

3. Bad faith collapses all protections

Protection	Condition	Effect of Bad-Faith Oath Violation
De facto officer doctrine	Acts in good behavior	Bad faith = not good behavior → no protection
Qualified immunity	Within scope of official duty	Oath violation = outside scope → no immunity (<i>Harlow</i> ; <i>Buckley</i>)
Agency discretion	Within delegated authority	Bad-faith obstruction = not within authority → APA violation
Privacy justification	Legitimate law enforcement purpose	Obstructing state investigation = not legitimate → no justification

F. The Oath of Office as Condition Precedent: The FCA Framework

1. The oath is a condition precedent to salary and authority

The GAO has held—construing Rev. Stat. § 1756 in *United States v. Flanders*, 112 U.S. 88 (1884)—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."

The structural analogy to the False Claims Act is exact:

Element	Government Contract (FAR)	Oath of Office
Certification	Contractor certifies compliance	Official certifies oath: support/defend Constitution
Payment	Government pays contractor	Government pays salary, grants immunity/authority
False certification	False compliance certification → FCA liability	False oath (bad faith) → FCA liability
Consequence	Contract voided, debarment (FAR 9.4)	Acts voided, disqualification
Enforcement	Qui tam (31 U.S.C. § 3730(b))	Qui tam available against false-oath salary draws

2. Application to DOJ officials

If DOJ officials are withholding the Epstein files in bad faith—acting with a mental reservation or purpose of evasion inconsistent with their oath—they have:

- **Made a false record or statement:** The oath ("without any mental reservation or purpose of evasion") was false if they harbored an intent to obstruct.
- **Presented a false claim for payment:** Drawing salary based on a false oath certification is a "false or fraudulent claim for payment" 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.

New Mexico need not itself bring an FCA action. But New Mexico can reference this framework to establish that the withholding is not merely unreasonable—it is potentially fraudulent, which strengthens the APA "arbitrary and capricious" analysis and the state's request for injunctive relief.

G. New Mexico's Unique State-Law Tools

New Mexico has a distinctive arsenal of state-law mechanisms that no other state has deployed more successfully:

1. New Mexico quo warranto (NMSA §§ 44-3-1 to 44-3-8)

New Mexico's quo warranto statute is one of the most potent in the nation. Key provisions:

- **§ 44-3-1:** "One of the primary purposes of quo warranto is to ascertain whether one is constitutionally authorized to hold the office he claims, whether by election or appointment, and the supreme court must liberally interpret the quo warranto statutes to effectuate that purpose."
- **§ 44-3-4:** "Where the acts of an officer are said to work a forfeiture of the office, ipso facto, quo warranto is a proper remedy." (*State ex rel. Martinez v. Padilla*, 1980-NMSC-064.)
- **§ 44-3-4:** "Impeachment does not preempt quo warranto as the exclusive means for removing a felon from public office." (*State ex rel. King v. Sloan*, 2011-NMSC-020.)
- The Attorney General is the indispensable party plaintiff in quo warranto proceedings. NMSA § 44-3-4.

2. The Griffin precedent

New Mexico already made history in 2022 when a state court removed Otero County Commissioner Couy Griffin from office under Section 3 of the Fourteenth Amendment, using the state's quo warranto mechanism. *State ex rel. White v. Griffin*, No. D-101-CV-2022-00426 (N.M. 1st Jud. Dist. 2022). The court found that Griffin's participation in the January 6 insurrection, after taking an oath to support the Constitution, disqualified him under § 3.

The Griffin case established that:

- New Mexico's quo warranto statutes can enforce constitutional disqualification;
- The oath of office is the jurisdictional trigger for § 3 disqualification (officials who took the oath and then violated it are subject to removal);
- New Mexico courts will "liberally interpret the quo warranto statutes to effectuate" their purpose.

3. New Mexico's oath requirement (N.M. Const. Art. XX, § 1)

The New Mexico Constitution requires:

"Every person elected or appointed to any office shall, before entering upon his duties, take and subscribe to an oath or affirmation that he will support the constitution of the United States and the constitution and laws of this state, and that he will faithfully and impartially discharge the duties of his office to the best of his ability."

NMSA § 10-1-13(B) implements this requirement for state officers. The statute provides that conviction of a felony "disqualifies the person from holding any office of honor, trust, or profit in this state."

4. Application of NM state law tools to the Zorro Ranch case

While New Mexico's quo warranto statutes apply to *state* officers, not federal officers, they are relevant in two ways:

First, the principle is transferable. If New Mexico can remove a state officer for oath violation via quo warranto, the same logic supports the argument that a federal officer who violates their oath is acting outside lawful authority. New Mexico can cite its own quo warranto precedent to argue that the oath is the jurisdictional basis for all official authority—and that oath violation voids that authority.

Second, if any New Mexico state official were involved in facilitating the DOJ's withholding—for example, a state law enforcement officer who cooperated with federal obstruction—New Mexico could use quo warranto to remove that official. The threat of quo warranto is itself a deterrent.

H. The Volume of Laws That Void the Withholding

The withholding is voidable under multiple independent legal mechanisms, each operating at a different level of severity:

Tier 1: Individual Act Voided

Mechanism	Source	Effect
APA set-aside	5 U.S.C. § 706(2)(A)	Withholding declared unlawful
Brady violation	<i>Brady v. Maryland</i>	Withholding of exculpatory evidence voided
FVRA void ab initio	5 U.S.C. § 3348(d)	Improperly appointed official's acts void
<i>Ryder</i> timely challenge	515 U.S. 177 (1995)	De facto officer's acts void as to challenger

Tier 2: Pattern of Acts Voided + Removal

Mechanism	Source	Effect
Obstruction prosecution	18 U.S.C. § 1505	Officials prosecuted; mandatory disqualification available
Record concealment	18 U.S.C. § 2071	Officials prosecuted; mandatory disqualification upon conviction
FCA liability	31 U.S.C. § 3729	False oath = false claim; treble damages; qui tam available
Judicial Conduct Act	28 U.S.C. §§ 351–364	If any judge enabled the withholding, referral for misconduct
NM quo warranto	NMSA §§ 44-3-1 to 44-3-8	State officers facilitating obstruction removed

Tier 3: Systemic Voiding + Disqualification

Mechanism	Source	Effect
14th Amend. § 3	U.S. Const.	Disqualification for oath violation (insurrection/engagement)
18 U.S.C. § 2383	Statute	Mandatory disqualification for insurrection
Debarment analogy	FAR 9.4	Officials debarred from future federal service
Oath forfeiture	Art. VI, cl. 3	Office forfeited for false oath

Tier 4: Extraordinary Circumstances — All Changes Mooted

Mechanism	Source	Effect
14th Amend. § 4	U.S. Const.	Voided Confederate debts; established federal power to void governmental acts
Reconstruction Acts	14 Stat. 428	Entire state governments voided and reconstituted
<i>Texas v. White</i>	74 U.S. 700 (1869)	Secession ordinances "absolutely null"; all Confederate acts void

The four-tier framework applied to Zorro Ranch:

Level	Application to Zorro Ranch	Remedy
Isolated act	A single denial of a single document	APA set-aside; order production
Pattern	10 requests denied; 31 pages provided; SDNY refusal; 7-year non-investigation	Multiple acts voided; officials referred for prosecution; FCA exposure
Systemic	Pattern of oath violations across multiple DOJ components (FBI, SDNY, Main Justice)	All withholding voided; officials disqualified; congressional investigation
Extraordinary	If the withholding is protecting individuals involved in crimes against children at a national level (national security threat)	All DOJ changes to the investigation mooted; independent counsel appointed; full disclosure ordered

V. SPECIFIC RECOMMENDATIONS FOR NEW MEXICO

1. Amend the Complaint to Add Oath-Violation Claims

New Mexico should consider amending its complaint to add claims that:

- The DOJ officials' withholding constitutes a violation of their oaths of office (5 U.S.C. § 3331);
- The withholding is "not in accordance with law" under the APA because it violates the officials' constitutional oaths;
- The pattern of non-cooperation constitutes bad faith, rendering the withholding voidable under *Ryder* and *Norton*.

2. Seek a Preliminary Injunction

New Mexico should seek a preliminary injunction ordering the DOJ to produce all unredacted Epstein files referencing Zorro Ranch, on the grounds that:

- New Mexico is likely to succeed on the APA claim (arbitrary and capricious withholding);
- New Mexico will suffer irreparable harm (obstruction of an active criminal investigation; victims denied justice);
- The balance of equities favors New Mexico (state's sovereign interest in prosecuting crimes vs. DOJ's generalized privacy rationale);
- The public interest favors disclosure (the Epstein Files Transparency Act itself reflects a congressional determination that public disclosure serves the public interest).

3. Request a Special Master or Monitor

New Mexico should request the appointment of a special master to:

- Review the unredacted files in camera and determine which contain evidence relevant to New Mexico's investigation;
- Oversee the production process to ensure compliance;
- Report to the court on the scope and adequacy of the DOJ's production.

4. Invoke the Griffin Precedent

New Mexico should cite its own precedent—*State ex rel. White v. Griffin*—to argue that:

- The oath of office is the jurisdictional basis for official authority;
- Oath violation voids that authority;
- New Mexico courts have already held that the oath is enforceable through quo warranto;

- The same principle applies to federal officials whose oaths are governed by 5 U.S.C. § 3331.

5. Request a Declaratory Judgment

Under 28 U.S.C. § 2201, New Mexico should seek a declaration that:

- The DOJ's withholding of unredacted Epstein files from New Mexico is unlawful under the APA;
- The withholding violates New Mexico's Tenth Amendment right to investigate crimes within its borders;
- The withholding violates the Brady duty to state proceedings;
- The officials' oaths of office require cooperation with, not obstruction of, state criminal investigations.

6. Coordinate with Congress

New Mexico should coordinate with the House Judiciary Committee, which has independent Article I authority to:

- Subpoena the Epstein files directly (*McGrain v. Daugherty*; *Trump v. Mazars*);
- Hold hearings on the DOJ's obstruction of New Mexico's investigation;
- Investigate whether DOJ officials are violating their oaths;
- Consider impeachment of officials who obstruct state investigations.

7. Consider State Criminal Referrals

If the evidence establishes that DOJ officials are deliberately obstructing New Mexico's investigation, New Mexico should consider:

- Referring the matter to a state grand jury for potential state obstruction charges;
- Requesting appointment of a special state prosecutor to investigate the federal obstruction;
- Using New Mexico's quo warranto authority against any state official who facilitated the obstruction.

VI. THE ARGUMENT FOR EXTRAORDINARY RELIEF

The Zorro Ranch investigation is not a routine discovery dispute. The following facts, if established, elevate this case to the extraordinary tier:

1. **Scale of potential harm:** Epstein used Zorro Ranch for over 25 years. The files contain 13,000 references to the property. The potential number of victims and perpetrators is unknown—because the DOJ has prevented investigation.
2. **Duration of obstruction:** The federal government has been obstructing investigation of Zorro Ranch for nearly seven years—since 2019, when it asked New Mexico to pause and then never shared the promised information.
3. **Deliberate exclusion:** The FBI received a tip about "buried bodies" at Zorro Ranch and searched Epstein's other properties while deliberately excluding Zorro Ranch. This is not mere neglect—it is a pattern of deliberate non-investigation.
4. **Bad-faith justification:** The DOJ's "victim privacy" justification is pretextual. New Mexico has its own victim-protective procedures. The DOJ's real motive—protecting individuals or avoiding accountability—is evidenced by the seven-year pattern of obstruction, the SDNY's refusal to cooperate, and Acting AG Blanche's statement that DOJ is "not actively seeking prosecutions."

5. **National significance:** New Mexico's investigation is, according to AG Torrez, "the only active investigation in the United States into Epstein's associates." The DOJ's obstruction affects not just New Mexico but the entire nation's interest in accountability.

Under the four-tier framework, these facts, if established, support Tier 4 extraordinary relief: a court order declaring all DOJ actions obstructing the Zorro Ranch investigation void and ordering full production of all relevant files, appointment of a special master, and potential referral for independent prosecution.

The Reconstruction precedent is instructive. When an entire governmental apparatus acts in bad faith to obstruct justice—whether through secession ordinances (*Texas v. White*) or through systematic concealment of evidence—the legal system has tools to void the entire body of obstructive acts. The 14th Amendment § 4 voided Confederate debts. The Reconstruction Acts voided entire state governments. The principle is the same: when governmental bad faith reaches a systemic level, all of the government's obstructive acts can be voided.

VII. CONCLUSION

Attorney General Torrez:

New Mexico's case against the DOJ is strong on conventional legal grounds. The APA provides a clear cause of action. State sovereignty provides a structural constitutional basis. The Brady duty provides a due process foundation. The oath framework does not replace these arguments—it strengthens them by establishing that the DOJ's withholding is not merely unreasonable but potentially unlawful, voidable, and fraudulent.

The oath of office is the foundational agreement between every government officer and the government itself. When DOJ officials obstruct a state criminal investigation, they violate their oaths. When they violate their oaths, their acts are voidable. When their bad faith is systemic, a volume of U.S. laws—from the APA to the FVRA to the False Claims Act to the Reconstruction precedent—exists to void, rescind, and moot their obstructive acts.

New Mexico has already demonstrated, through *State ex rel. White v. Griffin*, that it understands how to use the oath of office as a legal instrument of accountability. The Zorro Ranch case is an opportunity to extend that leadership to the federal sphere.

Amicus respectfully recommends that New Mexico:

1. **Amend** the complaint to add oath-violation claims;
2. **Seek** a preliminary injunction ordering full production;
3. **Request** a special master to oversee production;
4. **Cite** the Griffin precedent and New Mexico's quo warranto tradition;
5. **Request** a declaratory judgment that the withholding is unlawful;
6. **Coordinate** with Congress for independent oversight;
7. **Consider** state criminal referrals for obstruction;
8. **Argue** for extraordinary relief based on the systemic nature of the obstruction.

Respectfully submitted,

Citizens for Constitutional Accountability (Hypothetical Amicus)

Dated: August 28, 2026

SOURCE NOTES

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10. **NMSA § 10-1-13** (State employee oath; felony disqualification): <https://nmonesource.com/nmos/nmsa/en/4364/1/document.do>
11. **State ex rel. White v. Griffin** (N.M. 2022): Complaint available at <https://www.citizensforethics.org/wp-content/uploads/2022/03/Griffin-Quo-Warranto-Complaint-.pdf>
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