SUPPLEMENTAL BRIEF 25-6727

IN THE SUPREME COURT OF THE UNITED STATES

No. [Pending] (Tenth Circuit Case No. 25-4081)

ANTONIA BLACKWELL, Petitioner,

v.

MICHAEL BOEHM, et al., Respondents.

Pursuant to Supreme Court Rule 15.8, Petitioner respectfully submits this Supplemental Brief to inform the Court of intervening developments that bear directly on the Questions Presented. The December 10, 2025 Utah Legislative Audit was published five days before Petitioner filed her petition on December 15, 2025, but Petitioner did not discover it until after filing.

New Authority: This brief presents two items of new authority, both from December 2025:

1. **App. K:** News report on Utah Legislative Audit findings (December 10, 2025)
2. **App. L:** Department of Justice Final Rule eliminating disparate impact enforcement (December 9, 2025)

To the extent this brief references prior case law, it does so only to explain the significance of the December 2025 developments, not as standalone new authority.

I. The December 10, 2025 Utah Legislative Audit

On December 10, 2025, the Utah Office of the Legislative Auditor General released a performance audit of Utah prosecutor offices, as reported by KSL News (App. K). The audit found:

1. *"The absence of clear policies has resulted in different outcomes for similar cases during the screening process."*
2. *"Limited written policies within the DA's office have led to inconsistent applications of prosecutor discretion."*
3. *"Without documentation or case notes, it is challenging to determine how cases were managed or how plea deal agreements were reached."*
4. This problem is *"prevalent throughout the state."*

The audit further revealed that 27 of 29 Utah county and district attorneys signed a joint letter cautioning against using performance metrics to measure prosecutors.

This is not Petitioner's allegation. It is the state's own finding. Utah's auditor found "different outcomes for similar cases" as a condition "prevalent throughout the state." Twenty-seven of 29 prosecutors responded by refusing oversight. The state has demonstrated through its actions that it cannot self-correct.

This accountability failure extends beyond prosecutors. Petitioner served notice of this Court's decision in *A.J.T. v. Osseo Area Schools*, 145 S. Ct. 1647 (2025), on District Judge Ted Stewart and all lower courts on June 20, 2025. Every court ignored it. When neither prosecutors nor courts face accountability, federal rights cannot be enforced.

II. The December 9, 2025 DOJ Rule

On December 9, 2025, the Department of Justice published a final rule eliminating disparate impact enforcement under Title VI. (App. L). This rule eliminates the federal enforcement mechanism that remained after *Alexander v. Sandoval*, 532 U.S. 275 (2001), held that private parties cannot sue for disparate impact discrimination.

The December 2025 convergence:

Event	Date	Effect
Sandoval eliminates private enforcement	2001	Citizens cannot sue for disparate impact
DOJ eliminates agency enforcement	December 9, 2025	Federal government will not investigate
Utah audit reveals no documentation exists	December 10, 2025	Discrimination becomes unprovable
27 of 29 prosecutors refuse oversight	December 10, 2025	State will not self-correct

The audit's finding that prosecutors maintain no documentation explains why the bail disparity in Petitioner's case, $10,000 versus the $680 statutory maximum, cannot be remedied through state processes. Before *Sandoval*, private parties could sue. Before December 9, 2025, DOJ could investigate. The December 10, 2025 audit reveals there are no records to prove disparate treatment. The December 2025 convergence closed every door.

Petitioner does not rely on disparate impact theory. The audit's finding of "different outcomes" is relevant not as statistical inference, but as context for the direct evidence of intentional coordination documented in her petition. Petitioner has direct evidence of intentional discrimination, including party admissions, not statistical patterns requiring inference. The DOJ rule is cited to show the closure of enforcement mechanisms generally, not because Petitioner's claims depend on it.

The implications extend beyond Petitioner's case. Over seven million children receive special education services under IDEA. The December 2025 convergence creates a blueprint for silencing any parent who advocates for their child's federally guaranteed rights: prosecute the advocacy as harassment, set bail to coerce compliance, maintain no documentation, and refuse oversight. If states can criminalize protected parental advocacy without federal recourse, IDEA's promise of parental participation becomes unenforceable for millions of families.

III. Relevance to Questions Presented

Question	December 2025 Development	Significance
Q2: Excessive bail	Audit found "different outcomes for similar	The 1,470% bail deviation is part of a documented systemic pattern. *Hill v. Braxton*, 277 F.3d 701 (4th Cir. 2002), held courts must provide notice before sua sponte dismissal precisely because lack of

Question	December 2025 Development	Significance
	cases" with no documentation	documentation enables arbitrary outcomes. The audit confirms this is exactly what occurred: no documentation, no notice, no reasoning, and a 1,470% deviation that went unexamined. The Fourth Circuit requires notice; the Tenth Circuit provided none. The audit reveals this is not oversight but practice.
Q3: First Amendment retaliation	Audit found "limited written policies" and no documentation	The audit demonstrates how arbitrary targeting of protected advocacy occurs without accountability.
Q4: Younger abstention	Audit proves state remedies are illusory	Younger requires adequate state remedies. When 27 of 29 prosecutors refuse oversight, the state has demonstrated it cannot self-correct.
Q5: Systematic suppression	Audit validates Petitioner's allegations; DOJ rule eliminates federal alternative	The audit confirms systematic failure. The DOJ rule eliminates federal enforcement. No mechanism remains to protect IDEA rights. This Court's own precedent in *A.J.T. v. Osseo Area Schools* was served on all lower courts June 20, 2025, and ignored. The audit explains how: without documentation or oversight, even Supreme Court precedent becomes unenforceable.

IV. Conclusion

These developments occurred in December 2025 while Petitioner was finalizing her petition. The audit was published December 10, 2025. The DOJ rule was published December 9, 2025. Petitioner filed her petition December 15, 2025, unaware of these developments.

This Court should know that in the days surrounding Petitioner's filing, the state's own auditor confirmed her allegations of systemic failure and the DOJ eliminated federal enforcement. These are not distant events requiring the Court to speculate about state remedies. This is real-time confirmation that no remedy exists.

Every enforcement door has closed. Private suits eliminated (*Sandoval*). Federal enforcement eliminated (DOJ rule). State self-correction impossible (audit). This Court is the only remaining avenue, not as rhetoric, but as documented fact.

APPENDIX TO SUPPLEMENTAL BRIEF

Appendix	Document
App. K	"Audit calls for more transparency in how Salt Lake County DA makes decisions," KSL News (December 10, 2025)
App. L	Department of Justice Press Release: "Department of Justice Rule Restores Equal Protection for All in Civil Rights Enforcement" (December 9, 2025)

Respectfully submitted,

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/s/ Antonia Blackwell

Dated: January 7, 2026

PROOF OF SERVICE

I, Antonia Blackwell, declare that on January 7, 2026, as required by Supreme Court Rule 29, I served this Supplemental Brief on each party by electronic mail, which is the method of service used throughout the proceedings below.

MICHAEL BOEHM South Jordan Justice Court Judge 1600 West Towne Center Drive South Jordan, UT 84095 Email: jcsouthjordan@utcourts.gov

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 7, 2026.

/s/ Antonia Blackwell

APP K

Audit calls for more transparency in how Salt Lake County DA makes decisions

By Pat Reavy, KSL | Posted - Dec. 10, 2025 at 6:15 a.m.

Salt Lake County District Attorney's Office on Nov. 17, 2020. A new audit calls for more transparency. (Kristin Murphy, Deseret News)

- An audit of the Salt Lake County District Attorney's Office revealed inconsistent case filings.
- Auditors recommend more transparency and documentation for plea deals and diversion programs.
- The audit highlights statewide issues with performance metrics and documentation in Utah's county attorney offices.

SALT LAKE CITY — A new audit involving the Salt Lake County District Attorney's Office found inconsistencies in the screening and filing of criminal cases, and a lack of documentation to analyze plea deals.

On Tuesday, the Office of the Legislative Auditor General released its findings of an audit of District Attorney Sim Gill's office. Auditors say they were asked to "evaluate the efficiency and effectiveness" of the district attorney's office.

According to the audit, the district attorney's office lacks adequate policies for its screening and filing processes. And despite the recently released "informal written guidance, this has been poorly communicated and implemented."

While the audit acknowledges that Salt Lake County has a heavier workload than other jurisdictions, and 77% of cases screened have resulted in criminal charges, auditors say the office is inconsistent in which cases they choose to file.

"We recognize the workload of screening staff is substantial, and employees are attempting to use their best judgment for each case. However, due to the volume of cases, we questioned whether the screening division used written policies to ensure consistent filings for similar cases. Office management stated that they intentionally do not use policies because they prefer to handle law enforcement referrals on a case-by-case basis. The absence of clear policies has resulted in different outcomes for similar cases during the screening process," the audit states, adding that the district attorney's screening policy "is broadly worded and focuses more on general philosophy than on specific criteria."

"Limited written policies within the DA's office have led to inconsistent applications of prosecutor discretion in both the pre-filing (charging) and post-filing phases. We recognize that each case

Utah.

Auditors recommend that the district attorney's office "should regularly evaluate a sample of screening decisions. This can help the office ensure filings and declinations are consistent with office practices and policies."

On Monday, Gill unveiled a new screening dashboard to help the public better understand the screening process.

Auditors also found the district attorney needs to be more transparent in its criteria for "alternative-to-incarceration" programs, such as drug court.

"For months, staff at the DA's office prevented us from attending meetings where program admission decisions were made. This lack of transparency and the repeated delays hindered our ability to fully evaluate the diversion programs," the audit states.

Auditors further found that the Salt Lake County District Attorney's Office does not adequately address public safety when deciding who is eligible for an alternative program.

"Individuals with violent crimes are not immediately disqualified from the program. We are concerned that the program's criteria do not properly focus on individuals whose criminal activity is driven by drug dependency, while also not disqualifying those who present a public safety risk," the audit found.

As with the screening process, auditors also say there needs to be more documentation and consistency with plea deals.

"For example, we found instances where criminal charges were significantly reduced through plea deals without proper documentation or justification. We acknowledge that each case is unique and that the strength of the evidence plays a critical role in determining the final disposition. However, office leadership should strengthen oversight by establishing documented expectations to both reduce the risk of inconsistent case decisions and improve transparency," the audit states.

"Without documentation or case notes, it is challenging to determine how cases were managed or how plea deal agreements were reached. A lack of documentation can diminish the transparency of the prosecutor's decision-making process," the audit states.

Auditors also noted that Gill's office is not the only one affected by this issue. "We could not find any offices within Utah that have strong policies and oversight mechanisms to ensure consistent documentation of plea agreements among the counties we visited," the audit says.

In fact, while auditors recommend that the district attorney "establish clear performance metrics to evaluate the office's effectiveness," the audit also found that all 29 district and county attorney offices in Utah are reluctant to use performance measures to evaluate the performance of a prosecutor.

"Historically, prosecutors' offices have rarely collected data or communicated their performance to the public using metrics. We found that county attorneys overwhelmingly believe that a prosecuting office's success cannot be measured with data. This problem is prevalent throughout the state."

In a letter signed by 27 of the 29 county and district attorneys submitted to auditors, while they support efforts to ensure accountability and effectiveness, prosecutors caution against using statistics other than to measure a prosecutor's success.

"Our offices are mindful of the risks of over-emphasizing numerical measures in a profession where success is not always reflected in a conviction or short timeline. A just outcome may involve securing a conviction and prison sentencing in one case, dismissing charges where the evidence is insufficient in another, or referring an offender to treatment court — each of which can be an equally important contribution to a fair and effective system," the letter states.

Gill's office released a statement Tuesday following the release of the audit.

"The Salt Lake County District Attorney's Office appreciates the opportunity to have worked with the Office of the Legislative Auditor through such an important exercise. The DA's office remains committed to providing transparency in our processes and continually improving our operations to maximize fairness and efficiency as we work day in and day out to achieve justice for crime victims and to keep our communities safe. We will continue to uphold our duty to seek

The Utah Legislature's Republican majority has often butted heads with Gill, accusing the Democrat district attorney of using a light prosecutorial touch, which they say has led to crime in and around the capital city. Last year, as lawmakers approved large investments in a potential new hockey arena and Major League Baseball stadium in Salt Lake City, the Legislature passed a bill requiring the district attorney's office to report billed time in 15-minute increments to a legislative committee.

Republicans said the bill was a way to add oversight of Gill's office as a way to protect the investment in sports and entertainment.

"One of the biggest complaints I've heard from business owners and citizens in this area is that there are many people walking around Salt Lake City who are criminals and they're not being prosecuted," former Rep. Kera Birkeland, R-Morgan, said at the time.

Then-Rep. Brady Brammer, R-Highland, added: "There needs to be some level of accountability in our capital city for the prosecution of crime when it is not appropriately prosecuted."

Contributing: Bridger Beal-Cvetko

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Pat Reavy

Pat Reavy interned with KSL in 1989 and has been a full-time journalist for either KSL or Deseret News since 1991. For the past

APP L

PRESS RELEASE

Department of Justice Rule Restores Equal Protection for All in Civil Rights Enforcement

Tuesday, December 9, 2025

For Immediate Release

Office of Public Affairs

Today, the Justice Department issued a final rule updating its regulations under Title VI of the Civil Rights of 1964. This rule ensures that our nation's federal civil rights laws are firmly grounded in the principle of equal treatment under the law by eliminating disparate-impact liability from its Title VI regulations.

"For decades, the Justice Department has used disparate-impact liability to undermine the constitutional principle that all Americans must be treated equally under the law," said Attorney General Pamela Bondi. "No longer. This Department of Justice is eliminating its regulations that for far too long required recipients of federal funding to make decisions based on race."

"The prior 'disparate impact' regulations encouraged people to file lawsuits challenging racially neutral policies, without evidence of intentional discrimination," said Assistant Attorney General Harmeet K. Dhillon of the Justice Department's Civil Rights Division. "Our rejection of this theory will restore true equality under the law by requiring proof of actual discrimination, rather than enforcing race-or sex-based quotas or assumptions."

"For over 50 years, the prior disparate-impact rule fostered the very thing the Civil Rights Act of 1964 prohibited — discrimination on the basis of race, color, or national origin. But with today's rule," said Chief of Staff and Supervisory Official for the Office of Legal Policy Nicholas

Schilling. "The Department reaffirms Congress' commitment to measure all Americans by merit."

Congress enacted Title VI, 42 U.S.C. § 2000d, as part of the landmark Civil Rights Act of 1964. It prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving Federal financial assistance. In 1973, the federal government added to the law a new rule — disparate impact — that was not part of the law. The term "disparate impact" refers to the concept of imposing liability on a federal fund recipient only because there may be different outcomes for different people, not based on prejudice or intent. That prior disparate-impact rule was already enjoined in one state, prohibiting DOJ from enforcing it there.

The Department's new rule reflects the best reading of Title VI, as the Supreme Court has repeatedly recognized for over twenty years. Title VI has and will continue to prohibit intentional discrimination. The Department's new rule ensures that recipients of federal funding will be judged on their actual conduct, not on statistical outcomes or circumstances beyond their control.

Despite decades of case law, the Department's prior Title VI disparate-impact regulations remained on the books, sowing confusion and creating costly compliance obligations for states, local governments, nonprofits, and private organizations receiving federal financial assistance. This new rule eliminates these burdens, promotes consistent enforcement across agencies, and restores public confidence in civil rights law by aligning the Department's regulations with the Constitution.

Updated December 9, 2025

Topic

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