IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:25-cv-03967-PAB

UNITED STATES OF AMERICA,
Plaintiff

v.

JENA GRISWOLD, in her Official Capacity as Secretary of State for the State of Colorado,
Defendant.

MOTION OF COMMON CAUSE, KYLE GIDDINGS, AND ANNE KEKE TO INTERVENE AS DEFENDANTS

Common Cause, Kyle Giddings, and Dr. Anne Keke (collectively, "Proposed Intervenors") respectfully move to intervene as Defendants pursuant to Rule 24(a) of the Federal Rules of Civil Procedure or, in the alternative, pursuant to Rule 24(b), and set forth the legal argument necessary to support their motion below.[1] Proposed Intervenors append as Exhibit 1 to this motion a proposed motion to dismiss by way of a response to the United States' Complaint. *See* Fed. R. Civ. P. 24(c).

INTRODUCTION

The United States seeks to force Colorado to turn over voters' sensitive personal information and data. It has been widely reported that the United States intends to use this data to build an unauthorized national voter database and to target voters for potential challenges and disenfranchisement.

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[1] **Certification Pursuant to D.C.Colo.LCivR. 7.1:** Proposed Intervenors conferred with Plaintiff and Defendant about this motion. Both indicated that they do not take a position on this motion.

Proposed Intervenors are Common Cause, a non-partisan organization dedicated to grassroots voter engagement in Colorado, whose members and whose own work are at risk by the relief the federal government seeks in this case, and voters who are directly threatened, Kyle Giddings and Dr. Anne Keke. Proposed Intervenors have a strong interest in preventing the disclosure of Colorado's most sensitive non-public voter data. Common Cause has an interest in protecting the voting and privacy rights of its members and all Colorado voters. The relief the federal government seeks risks discouraging Coloradans from registering to vote, undermining its work. And the privacy and voting-rights interests of Common Cause's members and of Mr. Giddings and Dr. Keke are also directly at stake. Proposed Intervenors include members of some of those groups who are under particular threat from the United States' requested relief, including voters who are naturalized citizens or who have a prior felony conviction.

Proposed Intervenors are entitled to intervene as of right under Rule 24 as this motion is timely, their rights and interests are at stake, and those rights and interests are not adequately represented by Defendant, who unlike Proposed Intervenors, is a state actor, subject to broader considerations external to the legal issues presented in this case. Their unique interests, perspective, and motivation to interrogate the purpose of the sweeping request for non-public voter data will ensure full development of the record and aid the Court in its resolution of this case. Intervention as of right pursuant to Rule 24(a), or in the alternative permissive intervention pursuant to Rule 24(b), should be granted.

BACKGROUND

A. DOJ's Efforts to Obtain Private Voter Information

Beginning in May 2025, Plaintiff United States, through its Department of Justice ("DOJ"), began sending letters to election officials in at least forty states, making escalating demands for the production of voter registration databases, with plans to gather data from all fifty states. *See* Kaylie Martinez-Ochoa, Eileen O'Connor, & Patrick Berry, *Tracker of Justice Department Requests for Voter Information*, Brennan Ctr. for Just. (updated Dec. 19, 2025), https://perma.cc/A4A4-737Z. On May 12, 2025, DOJ sent a letter to the Colorado Secretary of State ("the Secretary"), apparently based on "a complaint alleging noncompliance by [her] office with the duties outlined in 52 U.S.C. § 20507," demanding, "[a]ll records, as outlined in 52 U.S.C. § 20701, and a certification that no record required for preservation has been deleted, destroyed or altered from its original format." Compl. ¶¶ 20–21; Pl.'s Ex. 1, Letter from Harmeet K. Dhillon to Jena Griswold dated May 12, 2025, Dkt. No. 5-1 at 2. As it did not detail particular records of interest, DOJ sought "*all records and papers* which [came] into [the Secretary's] possession *relating to any application, registration*, . . . *or other act requisite to voting*" from "any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives" that had occurred within 22 months of the letter. 52 U.S.C. § 20701 (emphasis added).

On December 1, 2025, a DOJ attorney emailed the Secretary's office offering an MOU that would functionally federalize the state's voter list maintenance, *see* Ex. 2, U.S. Dep't of Just., C.R. Div., Confidential Mem. of Understanding ("MOU"), and seeking the unredacted statewide voter list. *See* Compl. ¶ 24; Pl.'s Ex. 2, Email from Eric Neff to

Deputy Sec'y of State Andrew Kline (Dec. 1, 2025), Dkt. No. 5-1 at 5. He requested a response by the next day. *Id.* Colorado declined. *See* Pl.'s Ex. 3, Email from Deputy Sec'y of State Andrew Kline to Eric Neff (Dec. 2, 2025), Dkt. No. 5-1 at 7. The United States responded by filing this lawsuit, which is one of at least twenty-two similar suits seeking disclosure of sensitive voter data.[2]

The federal government's requests for private, sensitive voter data appears to be in connection with never-before-seen efforts by the United States to construct a national voter database, and to otherwise use untested forms of database matching to scrutinize voter rolls. According to reporting, federal government employees "have been clear that they are interested in a central, federal database of voter information." Devlin Barrett & Nick Corasaniti, *Trump Administration Quietly Seeks to Build National Voter Roll*, N.Y. TIMES, (Sept. 9, 2025), https://www.nytimes.com/2025/09/09/us/politics/trump-voter-registration-data.html. DOJ is coordinating in these unprecedented efforts with the federal Department of Homeland Security ("DHS"), according to reported statements from both agencies. *Id.* A recent article extensively quoted a lawyer who recently left DOJ's Civil Rights Division, describing the government's aims in this case and others like it:

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[2] *See* Press Release, U.S. Dep't of Just., *Justice Department Sues Four States for Failure to Produce Voter Rolls* (Dec. 18, 2025), https://perma.cc/HHJ7-JWQQ; Press Release, U.S. Dep't of Just., *Justice Department Sues Four Additional States and One Locality for Failure to Comply with Federal Elections Laws* (Dec. 12, 2025), https://perma.cc/TQ5T-FB2A; Press Release, U.S. Dep't of Just., *Justice Department Sues Six Additional States for Failure to Provide Voter Registration Rolls* (Dec. 2, 2025), https://perma.cc/F5MD-NWHD; Press Release, U.S. Dep't of Just., *Justice Department Sues Six States for Failure to Provide Voter Registration Rolls* (Sept. 25, 2025), https://perma.cc/7J99-WGBA; Press Release, U.S. Dep't of Just., *Justice Department Sues Oregon and Maine for Failure to Provide Voter Registration Rolls* (Sept. 16, 2025), https://perma.cc/M69P-YCVC.

> We were tasked with obtaining states' voter rolls, by suing them if necessary. Leadership said they had a DOGE person who could go through all the data and compare it to the Department of Homeland Security data and Social Security data. . . . I had never before told an opposing party, Hey, I want this information and I'm saying I want it for this reason, but I actually know it's going to be used for these other reasons. That was dishonest. It felt like a perversion of the role of the Civil Rights Division.

Emily Bazelon & Rachel Poser, *The Unraveling of the Justice Department*, N.Y. TIMES MAG. (Nov. 16, 2025), https://www.nytimes.com/interactive/2025/11/16/magazine/trump-justice-department-staff-attorneys.html.

According to additional reporting, these efforts are being conducted with the involvement of self-proclaimed "election integrity" advocates within and outside government who have previously sought to disenfranchise voters and overturn elections.[3] Such actors have previously sought to compel states to engage in aggressive purges of registered voters and have abused voter data to mass challenge voters in other states. *See, e.g.*, *PA Fair Elections v. Pa. Dep't of State*, 337 A.3d 598, 600 n.1 (Pa. Commw. Ct. 2025) (determining that complaint brought by group affiliated with current DHS official, Heather Honey, challenging Pennsylvania's list maintenance practices was meritless).[4]

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[3] *See* Alexandra Berzon & Nick Corasaniti, *Trump Empowers Election Deniers, Still Fixated on 2020 Grievances*, N.Y. TIMES, Oct. 22, 2025, https://www.nytimes.com/2025/10/22/us/politics/trump-election-deniers-voting-security.html (documenting "ascent" of election denier Honey); Matt Cohen, *DHS Said to Brief Cleta Mitchell's Group on Citizenship Checks for Voting*, DEMOCRACY DOCKET, June 12, 2025, https://www.democracydocket.com/news-alerts/dhs-said-to-brief-cleta-mitchells-anti-voting-group-on-checking-citizenship-for-voters/; Jude Joffe-Block & Miles Parks, *The Trump Administration Is Building a National Citizenship Data System*, NPR, June 29, 2025, https://www.npr.org/2025/06/29/nx-s1-5409608/citizenship-trump-privacy-voting-database (reporting that Mitchell had received a "full briefing" from federal officials).

[4] *See* Carter Walker, *Efforts to Challenge Pennsylvania Voters' Mail Ballot Applications Fizzle*, SPOTLIGHT PA, Nov. 8, 2024, https://www.spotlightpa.org/news/2024/11/mail-

The federal government's actions also indicate that it may target specific groups of voters in its use of the requested data. In its letters to other states, DOJ also requested information focusing on vote by mail, history of felony convictions, and citizenship status.[5] The Administration has also confirmed that it was sharing the requested information with the DHS. Jonathan Shorman, *DOJ is Sharing State Voter Roll Lists with Homeland Security*, STATELINE (Sept. 12, 2025), https://stateline.org/2025/09/12/doj-is-sharing-state-voter-roll-lists-with-homeland-security.

B. Proposed Intervenors

Proposed Intervenor Common Cause is a nonpartisan organization committed to, *inter alia*, ensuring that all eligible Colorado voters register to vote and exercise their right of vote at each election. *See* Ex. 3, Decl. of Colorado Common Cause Executive Director Aly Belknap ("Belknap Decl.") ¶¶ 5–7, 9–10. Common Cause expends significant resources conducting voter engagement and assistance efforts, including registering qualified people to vote, helping voters navigate the vote-by-mail process, encouraging participation, and assisting voters who face problems trying to vote. *See* Belknap Decl. ¶¶ 9–10, 13. The success of these efforts, especially with respect to voter registration, depend on voters' trust that, when they provide personal information to the State as part

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ballot-application-challenges-pennsylvania-fair-elections/ (describing mass-challenges and noting connection to Honey and her organization "PA Fair Elections").

[5] *See, e.g.*, Br. in Supp. of Mot. to Intervene as Defs., Ex. 1, Letter from Maureen Riordan to Sec'y of State Al Schmidt (June 23, 2025), *United States v. Pennsylvania*, No. 25-cv-01481 (W.D. Pa. Oct. 9, 2025), Dkt. No. 37-1 (Pennsylvania); Mot. for Leave to File Mot. to Dismiss, Ex. A, Letter from Michael E. Gates to Sec'y of State Jocelyn Benson (July 21, 2025), *United States v. Benson*, No. 25-cv-01148 (W.D. Mich. Nov. 25, 2025), Dkt. No. 34-3 (Michigan).

of the registration process, that information will not be abused, their privacy will be respected, and their right to participate will be honored. *See* Belknap Decl. ¶¶ 10–11.

Common Cause has over 24,000 members in Colorado. *See* Belknap Decl. ¶ 4. Those members include Colorado voters, whose personal data will be provided to the federal government if the United States prevails in this lawsuit. *See* Belknap Decl. ¶ 6. Common Cause's members in Colorado and the individual Proposed Intervenors include voters who are at particular risk of being caught up in the DOJ's efforts to remove voters from voter rolls, whether because they have a supposed "duplicate" record in the system, registered to vote by mail, have a felony conviction, and/or are naturalized citizens. *See* Belknap Decl. ¶¶ 6, 11–12; Ex. 4, Decl. of Kyle Giddings ("Giddings Decl.") ¶¶ 1–2, 4 (Colorado voter with prior felony conviction); Ex. 5, Decl. of Dr. Anne R. Keke ("Keke Decl.) ¶¶ 6–10 (Colorado voter who is a naturalized citizen). They also may include voters whose identifying information is particularly important to keep private, for example, due to their status as victims of domestic violence. *See* Belknap Decl. ¶¶ 11–12; Colo. Rev. Stat. §§ 24-30-2104, 2108, 2109 (establishing address confidentiality program and making it a misdemeanor to disclose or receive an address subject to the program).

ARGUMENT

I. Movants Are Entitled to Intervene as a Matter of Right.

In the Tenth Circuit, a party is entitled to intervene as of right under Fed. R. Civ. P. 24(a) upon establishing: "(1) the application is timely; (2) the applicant claims an interest relating to the property or transaction which is the subject of the action; (3) the applicant's interest may as a practical matter be impaired or impeded; and (4) the applicant's interest

is not adequately represented by existing parties." *United States v. Albert Inv. Co.*, 585 F.3d 1386, 1390 (10th Cir. 2009) (quotation marks and brackets omitted). The Tenth Circuit takes a "liberal" approach to intervention, *Coal. of Ariz./N.M. Cntys. for Stable Econ. Growth v. Dep't of Interior*, 100 F.3d 837, 841 (10th Cir. 1996), and "the requirements for intervention may be relaxed in cases raising significant public interests," *Kane Cnty. v. United States* (*Kane II*), 928 F.3d 877, 890 (10th Cir. 2019). "The central concern in deciding whether intervention is proper is the practical effect of the litigation on the applicant for intervention." *Barnes v. Sec. Life of Denver Ins. Co.*, 945 F.3d 1112, 1121 (10th Cir. 2019) (citation omitted). Because the Proposed Intervenors meet Rule 24(a)'s requirements, the Court should grant their intervention as a matter of right.

A. The Motion to Intervene Is Timely.

Timeliness is determined "in light of all of the circumstances." *Okla. ex rel. Edmondson v. Tyson Foods, Inc.*, 619 F.3d 1223, 1232 (10th Cir. 2010) (quotation marks omitted). Three non-exhaustive factors are "particularly important: (1) the length of time since the movants knew of their interests in the case; (2) prejudice to the existing parties; and (3) prejudice to the movants." *Id*. (citation omitted).

This motion is timely. The suit was filed on December 11, 2025, and, upon learning of it, Proposed Intervenors promptly prepared this motion. *Cf. W. Energy All. v. Zinke*, 877 F.3d 1157, 1164–65 (10th Cir. 2017) (timeliness satisfied when "conservation groups moved to intervene just over two months" after the complaint was filed, resulting in a "lack of prejudice" to plaintiff); *Utah Ass'n of Cntys. v. Clinton*, 255 F.3d 1246, 1251 (10th Cir. 2001) (timelines satisfied even when intervenor moved to intervene three years after the

start of the litigation, considering "the relatively early stage of the litigation and the lack of prejudice to plaintiffs"). Defendant has not yet filed her response, meaning that the case is at its earliest stages and the existing partes would not be prejudiced. In contrast, Proposed Intervenors will be substantially prejudiced absent intervention, given the serious threats that the relief sought poses to Proposed Intervenors' fundamental rights.

B. Proposed Intervenors Have Concrete Interests in the Litigation.

Proposed Intervenors have a "sufficient"—*i.e.*, a "significantly protectable"—interest in the litigation. *Donaldson v. United States*, 400 U.S. 517, 531 (1971). A protectable interest is one that "would be 'impeded by the disposition of the action.'" *San Juan Cnty., Utah v. United States*, 503 F.3d 1163, 1203 (10th Cir. 2007) (en banc), *abrogated on other grounds by Hollingsworth v. Perry*, 570 U.S. 693 (2013) (citation omitted). Here, Proposed Intervenors offer multiple, independently sufficient interests.

First, Proposed Intervenors have a right to privacy in the sensitive data sought, i.e., the entire unredacted voter file, "with all fields, including . . . state driver's license number, the last four digits of their Social Security number, or HAVA unique identifier." Compl. at 6-7. Sensitive information like driver's license numbers and Social Security numbers are protected from disclosure by Colorado law. Colo. Rev. Stat. § 1-2-302. The data sought is also protected by federal law, which prohibits the creation of a national voter database of the type that the United States is reportedly assembling. *See* 5 U.S.C. § 552a(e)(7) (prohibiting the creation of any database "describing how any individual exercises rights guaranteed by the First Amendment," which includes exercising the right to vote). These privacy interests are significant and inure to Mr. Giddings, Dr. Keke, and

to Common Cause's members who are Colorado voters. *See* Belknap Decl. ¶¶ 10–11; Giddings Decl. ¶¶ 1, 4–5; Keke Decl. ¶ 8–11.

Second, and based on the United States' similar requests to other States, the data sought is likely to be used to challenge the registration of certain Coloradans, including voters with prior felony convictions, voters who are naturalized citizens (who may have indicated they were not a citizen on a government form prior to naturalization), and voters who vote by mail. *See supra* 5–6 & n.3–5. Mr. Giddings, Dr. Keke, and Common Cause members fall within those categories. *See* Belknap Decl. ¶¶ 11–12; Giddings Decl. ¶¶ 2, 4; Keke Decl. ¶¶ 8–11. And Common Cause's members, especially those most likely to be targeted using the data sought, have a concrete interest in not being disenfranchised by so-called "election integrity measures."

Third, Common Cause as an organization has a protectable interest at stake as their core mission will be harmed if the relief that the federal government seeks is granted. Common Cause's voter registration activities will be harmed as voters will be chilled from registering if they believe their sensitive personal data will be provided to the federal government and potentially misused as part of a national database. Belknap Decl. ¶¶ 11–13; *see also* Giddings Decl. ¶ 4. Mass challenges by "election integrity" activists now wielding the power of the federal government will force Common Cause to redirect resources to mitigating the attempted disenfranchisement of existing voters, away from core activities of registering voters and engaging new voters in the democratic process. *Id.* ¶ 12. Courts routinely find that non-partisan organizations, like Common Cause, should be granted intervention in election-related cases, due to their significantly

protectable interests related to voting. *See, e.g.*, *Texas v. United States*, 798 F. 3d 1108, 1111–12 (D.C. Cir. 2015); *Kobach v U.S. Election Assistance Comm'n*, No. 13-cv-04095, 2013 WL 6511874, at *1–2 (D. Kan. Dec. 12, 2013). This case is no exception. Indeed, in a similar case brought over California's refusal to turn over sensitive voter information, such organizations were granted intervention. *See* Order, *United States v. Weber*, No. 25-cv-09149, (C.D. Cal. Nov. 19, 2025), Dkt. No. 70.

C. Disposition of this Case May Impair the Proposed Intervenors' Interests.

Proposed Intervenors' interests would be impaired if Plaintiff succeeds in obtaining its requested relief. This third element "presents a minimal burden," requiring movants to show only that "it is 'possible' that the interests they identify will be impaired." *W. Energy All.*, 877 F.3d at 1167 (citation omitted). "Where a proposed intervenor's interest will be prejudiced if it does not participate in the main action, the mere availability of alternative forums is not sufficient to justify denial of a motion to intervene." *Clinton*, 255 F.3d at 1254. Here, the threat of impairment is significant. Plaintiff proposes to summarily dispose of voters' interests by obtaining an immediate order compelling the disclosure of private voter data, bypassing the normal civil litigation process and any discovery into "the basis and the purpose" of their request, 52 U.S.C. § 20703. *See* U.S. Mot. to Compel Prod. of Recs., Dkt. No. 2. This attempt to secure the irrevocable disclosure of private voter data at the very beginning of the case militates strongly in favor of allowing Proposed Intervenors into the case to represent voters' interests.

Finally, the Tenth Circuit has recognized that "the *stare decisis* effect of the district court's judgment is sufficient impairment for intervention under Rule 24(a)(2)." *Clinton*,

255 F.3d at 1254. In *Clinton*, a judgment in favor of plaintiffs challenging the designation of a national monument would have "impair[ed] the intervenor [environmental groups'] interests in promoting their environmental protection goals by seeking presidential designation of other national monuments in the future." *Id.* Common Cause maintains an active and ongoing interest in protecting the privacy of voters' sensitive personal data. Accordingly, a judgment in favor of Plaintiff—endorsing its legal theories and granting the requested relief—would have a *stare decisis* effect that could harm Common Cause's ability to oppose future efforts that undermine voters' privacy interests.

D. The Secretary's Interests Differ from Those of Proposed Intervenors.

Proposed Intervenors' burden to show that "existing parties may not adequately represent its interest" is "minimal, and it is enough to show that the representation may be inadequate." *Kane II*, 928 F.3d at 892 (cleaned up). They meet this minimal burden here. Notably, "the possibility of divergence of interest need not be great, and this showing is easily made when the representative party is the government." *Id.* (cleaned up). Indeed,

> the government's representation of the public interest generally cannot be assumed to be identical to the individual parochial interest of a particular member of the public merely because both entities occupy the same posture in the litigation. In litigating on behalf of the general public, the government is obligated to consider a broad spectrum of views, many of which may conflict with the particular interest of the would-be intervenor. . . . This potential conflict exists even when the government is called upon to defend against a claim which the would-be intervenor also wishes to contest.

Clinton, 255 F.3d at 1255–56; *see also Kobach*, 2013 WL 6511874, at *4 (voting rights organization's interests could reasonably diverge from those government defendants).

This litigation fits precisely these circumstances. As a government official, the

Secretary has a generalized interest in carrying out her office's legal obligations and in minimizing burdens on governmental employees and resources. She also must consider broader public policy concerns, in particular, the need to maintain working relationships with federal officials. In contrast, Proposed Intervenors bring a distinct, particular interest to this litigation, making the existing representation inadequate: the perspective of civil rights groups whose sole commitment is to ensuring access to the ballot and individual voters whose own rights are at risk. *T-Mobile Northeast LLC v. Town of Barnstable*, 969 F.3d 33, 40 (1st Cir. 2020). There may be arguments and issues that Defendant may not raise that are critical to organizations like Common Cause. For example, individual voters have a more direct injury than states under the Privacy Act for misuse of their personal data, especially given that the Privacy Act grants individuals an express right to bring suit. *See* 5 U.S.C. § 552a(g)(1)(D) ("Whenever an agency fails to comply with any other provision of this section . . . in such a way as to have an adverse effect on an individual, the individual may bring a civil action against the agency"). As another example, courts have found a risk that considerations external to the issues presented by a case like this can motivate officials to pursue a settlement that could jeopardize the private information of Proposed Intervenors or of their members. *See Judicial Watch, Inc. v. Ill. State Bd. of Elections*, No. 24-cv-1867, 2024 WL 3454706, at *5 (N.D. Ill. July 18, 2024) (allowing intervention in NVRA case and observing that "potential intervenors can cite potential conflicts of interests in future settlement negotiations to establish that their interests are not identical with those of a named party"); *cf. Berger v. N.C. State Conf. of the NAACP*, 597 U.S. 179, 198 (2022) (reversing denial of motion to intervene where North Carolina

Board of Elections was "represented by an attorney general who, though no doubt a vigorous advocate for his clients' interests, is also an elected official who may feel allegiance to the voting public or share the Board's administrative concerns").

These diverging perspectives—between the government's general need to balance various considerations and the Proposed Intervenors' personal and particular interest in the privacy of their own data—present a classic scenario supporting intervention. *See, e.g.*, *Am. Farm Bureau Fed'n v. EPA*, 278 F.R.D. 98, 110–11 (M.D. Pa. 2011) (allowing public interest groups to intervene, "[b]ecause the EPA represents the broad public interest . . . not only the interests of the public interest groups"); *Kobach*, 2013 WL 6511874, at *4.

II. In The Alternative, The Court Should Grant Permissive Intervention

Should the Court decline to grant intervention as of right, the Court should use its broad discretion to grant permissive intervention. *See Kane Cnty. v. United States*, 597 F.3d 1129, 1135 (10th Cir. 2010) (citation omitted). "On timely motion, the court may permit anyone to intervene who . . . has a claim or defense that shares with the main action a common question of law or fact." Fed. R. Civ. P. 24(b)(1)(B). In exercising its discretion, the district court "must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights." Fed. R. Civ. P. 24(b)(3).

As discussed above, this motion is timely, there will be no delay or prejudice to the adjudication of the existing parties' rights, and their interests are not adequately represented by any of the existing parties. And Proposed Intervenors' defense goes directly to the matters at issue, such as (1) whether federal law permits Plaintiff to force

Colorado to give it the personal information sought; (2) whether federal and state legal privacy protections prohibit disclosure of that information; and (3) whether the United States' motivations for the data sought are permissible. Proposed Intervenors' distinct perspective on the issues will complement or amplify Defendant's arguments and sharpen the issues and the quality of the record, aiding the Court in resolving the issues before it.

Because of this unique perspective, district courts routinely grant permissive intervention to advocacy organizations, even when a government party defends a challenged action. *See, e.g.*, *Republican Nat'l Comm. v. Aguilar*, 2024 WL 3409860, at *1–3 (D. Nev. July 12, 2024) (permitting intervention by voter advocacy group as defendant in litigation seeking purge of voter rolls). The Court should do the same here.

CONCLUSION

For all these reasons, the Motion should be granted.

Dated: December 19, 2025

Respectfully submitted,

/s/ Theresa J. Lee

Theresa J. Lee
Sophia Lin Lakin*
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004
(212) 549-2500
tlee@aclu.org
slakin@aclu.org

Timothy R. Macdonald, Bar No. 29180
Sara Neel, Bar No. 36904
American Civil Liberties Union of Colorado
303 E. 17th Avenue, Suite 350
Denver, CO 80203
(303) 777-5482
tmacdonald@aclu-co.org
sneel@aclu-co.org

Patricia J. Yan
American Civil Liberties Union Foundation
915 15th Street NW
Washington, DC 20005
(202) 457-0800
pyan@aclu.org

*admission pending

CERTIFICATE OF SERVICE

I hereby certify that on December 19, 2025, a true and correct copy of the foregoing document was served via the Court's ECF system on all counsel of record.

/s/ Theresa J. Lee

Exhibit 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:25-cv-03967-PAB

UNITED STATES OF AMERICA,
Plaintiff

v.

JENA GRISWOLD, in her Official Capacity as Secretary of State for the State of Colorado,
Defendant.

[PROPOSED] MOTION TO DISMISS OF COMMON CAUSE, KYLE GIDDINGS, AND ANNE KEKE

INTRODUCTION

The United States seeks to compel the disclosure of sensitive personal voter data to which it is not entitled, using the civil rights laws as a pretext. Because the United States failed to disclose the basis and purpose of its request for the data, dismissal should be granted, and its attempt to summarily dispose of this case via an improper motion to compel should be rejected.[1]

Congress has repeatedly legislated to ensure that all eligible Americans can participate in free, fair, and secure elections. As the U.S. Department of Justice ("DOJ") has explained, Title III of the Civil Rights Act of 1960 ("Title III" or "CRA"), the provision invoked here, was designed to "secure a more effective protection of the right to vote."

[1] Proposed Intervenors' Motion to Dismiss responds to both Plaintiff's Complaint and its Motion to Compel. Rather than submit two separate responses to Plaintiff's filings, Intervenors have filed a single combined motion opposing the relief that Plaintiff requests. Proposed Intervenors' Motion is 18 pages and respectfully requests leave of court, to the extent necessary, to file an 18-page Motion to Dismiss.

U.S. Dep't of Just., C.R. Div., Federal Law Constraints on Post-Election "Audits" (Jul. 28, 2021), https://perma.cc/74CP-58EH (citing *Alabama ex rel. Gallion v. Rogers*, 187 F. Supp. 848, 853 (M.D. Ala. 1960) and H.R. Rep. No. 86-956, at 7 (1959)).

The federal government's demand for Colorado's unredacted voter file—which contains sensitive personal information including driver's license numbers and/or Social Security numbers from millions of Coloradans—undermines the CRA's core purposes and is contrary to law. Releasing voter records without redaction and for purposes far afield from protecting voter access would only deter voter participation and undermine the right to vote. That is especially so here, where the United States has not fully and accurately set forth "the basis and the purpose" for its data request, as required by the very statute that it invokes. 52 U.S.C. § 20703. The Court should dismiss.

BACKGROUND

Beginning in May 2025, Plaintiff United States, through its DOJ, began sending letters to election officials in at least forty states, making escalating demands for the production of statewide voter registration databases, with plans to gather data from all fifty states. *See* Kaylie Martinez-Ochoa, Eileen O'Connor, & Patrick Berry, *Tracker of Justice Department Requests for Voter Information*, Brennan Ctr. for Just. (updated Dec. 19, 2025), https://perma.cc/A4A4-737Z.

On May 12, 2025, DOJ sent a letter to the Colorado Secretary of State ("the Secretary"), based on "a complaint alleging noncompliance by [her] office with the duties outlined in 52 U.S.C. § 20507," demanding, "[a]ll records, as outlined in 52 U.S.C. § 20701, ..." Compl. ¶¶ 20–21; Pl.'s Ex. 1, Letter from Harmeet K. Dhillon to Jena

Griswold dated May 12, 2025, Dkt. No. 5-1 at 2 ("May 12 Letter"). This means the demand included "*all records and papers* which [came] into [the Secretary's] possession *relating to any application, registration*, . . . *or other act requisite to voting*" from "any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives" within the previous 22 months. 52 U.S.C. § 20701 (emphasis added).

On December 1, 2025, a DOJ attorney emailed the Secretary's offering an MOU that would functionally federalize the state's voter list maintenance, *see* Ex. 2, U.S. Dep't of Just., C.R. Div., Confidential Mem. of Understanding ("MOU"), and seeking the unredacted statewide voter list. *See* Compl. ¶ 24; Pl.'s Ex. 2, Email from Eric Neff to Deputy Sec'y of State Andrew Kline (Dec. 1, 2025), Dkt. No. 5-1 at 5 ("Neff Email"). He requested a response by the next day. *Id.* Colorado declined. *See* Pl.'s Ex. 3, Email from Deputy Sec'y of State Andrew Kline to Eric Neff (Dec. 2, 2025), Dkt. No. 5-1 at 7. This suit followed, one of at least twenty-two similar suits.

But the federal government's request does not appear to relate to voter roll list maintenance under the NVRA, 52 U.S.C. § 20507, the statute invoked in the May 12 Letter. According to reporting, federal employees "have been clear that they are interested in a central, federal database of voter information." Devlin Barrett & Nick Corasaniti, *Trump Administration Quietly Seeks to Build National Voter Roll*, N.Y. TIMES, Sept. 9, 2025, https://www.nytimes.com/2025/09/09/us/politics/trump-voter-registration-data.html. One recent article extensively quoted a lawyer who recently left DOJ's Civil Rights Division, describing the Administration's aims in these cases:

> We were tasked with obtaining states' voter rolls, by suing them if necessary. Leadership said they had a DOGE person who could go through all the data and compare it to the Department of Homeland Security data and Social Security data. . . . I had never before told an opposing party, Hey, I want this information and I'm saying I want it for this reason, but I actually know it's going to be used for these other reasons. That was dishonest. It felt like a perversion of the role of the Civil Rights Division.

Emily Bazelon & Rachel Poser, *The Unraveling of the Justice Department*, N.Y. TIMES MAG., Nov. 16, 2025, https://www.nytimes.com/interactive/2025/11/16/magazine/trump-justice-department-staff-attorneys.html. Additional reporting reveals self-proclaimed "election integrity" advocates who have previously sought to disenfranchise voters and overturn elections are involved in these efforts. *See* Mot. to Intervene as Defs. at 5 & n.4. In its letters to other states, DOJ also requested information focusing on vote by mail, history of felony convictions, and citizenship status.[2] Because the federal government has not provided a statutorily sufficient basis and purpose to support its request for Colorado's unredacted voter file, the relief should be denied and the Complaint dismissed.

LEGAL STANDARD

A court must dismiss a complaint if, accepting all well-pleaded factual allegations as true, it does not "state a claim upon which relief can be granted." Fed. R. Civ. P.

[2] *See, e.g.*, Br. in Supp. of Mot. to Intervene as Defs., Ex. 1, Letter from Maureen Riordan to Sec'y of State Al Schmidt (June 23, 2025), *United States v. Pennsylvania*, No. 25-cv-01481 (W.D. Pa. Oct. 9, 2025), Dkt. No. 37-1 (Pennsylvania); Mot. for Leave to File Mot. to Dismiss, Ex. A, Letter from Michael E. Gates to Sec'y of State Jocelyn Benson (July 21, 2025), *United States v. Benson*, No. 25-cv-01148 (W.D. Mich. Nov. 25, 2025), Dkt. No. 34-3 (Michigan); Decl. of Thomas H. Castelli in Supp. of State Defs.' Mot. to Dismiss, Exhibit No. 1, Letter from Michael E. Gates to Sec'y of State Tobias Read (July 16, 2025), *United States v. Oregon*, No. 25-cv-01666 (D. Or. Nov. 17, 2025), Dkt. No. 33-1 (Oregon); Decl. of Malcolm A. Brudigam in Supp. of Defs.' Mot. to Dismiss, Exhibit No. 1, Letter from Michael E. Gates to Sec'y of State Shirley Weber (July 10, 2025), *United States v. Weber*, No. 25-cv-09149 (C.D. Cal. Nov. 7, 2025), Dkt. No. 37-2 (California).

12(b)(6). A court need not accept a complaint's legal conclusions. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Nor can "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements," survive a motion to dismiss. *Id*. at 678–79. Courts will grant a motion to dismiss when, even if they "take all well-pleaded facts in the complaint as true, the plaintiffs have failed to present a plausible right to relief." *Robbins v. Oklahoma*, 519 F.3d 1242, 1249 (10th Cir. 2008). In assessing a complaint, courts can "consider documents subject to judicial notice, including . . . matters of public record" and "documents that are both central to the plaintiffs' claims and to which the plaintiffs refer in their complaint," in addition to the information within the four corners of the complaint. *Mbaku v. Bank of Am., Nat'l Ass'n*, No. 12-CV-00190-PAB-KLM, 2013 WL 425981, at *1 n.2 (D. Colo. Feb. 1, 2013) (citations omitted).

ARGUMENT

I. THE UNITED STATES' DEMANDS EXCEED THE STATUTORY AUTHORITY OF THE CRA AND ARE CONTRARY TO LAW.

The United States' demand for Colorado's full, unredacted voter file exceeds its statutory authority under the CRA. Against the backdrop of the turmoil of the Jim Crow era, Congress enacted the CRA, including the public records provisions in Title III, to facilitate investigations of civil rights violations preventing eligible citizens from voting due to discrimination. H.R. Rep. No. 86-956 at 7 (1959) (indicating the purpose of Title III "is to provide a more effective protection of the right of all qualified citizens to vote without discrimination on account of race"). But the Attorney General's access to these records is not unbounded. If the Attorney General makes a demand for records, she must provide "a statement of the basis and the purpose therefor." 52 U.S.C. § 20703.

The records request here is contrary to the CRA for at least two distinct reasons. *First*, in making this sweeping demand for Colorado's full and unredacted state voter registration list, the United States fails to offer a statutorily sufficient statement of "the basis and the purpose" in support of its records requests. *Second*, any records should be redacted to vindicate the privacy and constitutional rights of Colorado voters. Nothing in the CRA prevents the appropriate redaction of the sensitive personal information of voters. So Plaintiff is not entitled to its requested relief.

A. The United States' Demand Fails to Meet the CRA's Requirements.

Title III of the CRA sets out requirements regarding federal election records, including a requirement in Section 301 for officers of elections to "retain and preserve, for a period of twenty-two months from the date of any" federal election, "all records and papers which come into [their] possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election," with certain exceptions regarding delivery and designation of custodians. 52 U.S.C. § 20701. Section 303 requires that "[a]ny record or paper" retained and preserved under Section 301 "shall, upon demand in writing by the Attorney General or [her] representative directed to the person having custody, possession, or control of such record or paper, be made available for inspection, reproduction, and copying at the principal office of such custodian by the Attorney General or [her] representative." *Id*. § 20703. "This demand shall contain a statement of *the basis and the purpose therefor*." *Id*. (emphasis added).

The federal government's requests fail to provide "a statement of the basis and the purpose" sufficient to support disclosure of the unredacted voter file. *Id*. The Complaint

offers only the conclusory allegation: "The written demand 'contain[ed] a statement of the basis and the purpose therefor.'" Compl. ¶ 27 (citation omitted). And DOJ's letter referenced one complaint of supposed noncompliance with Section 8 of the NVRA to demand all records held by the Secretary, though not specifying the unredacted voter file now sought. Compl. ¶¶ 20–21; May 12 Letter. Neither the Complaint nor the letter alleges any evidence of anomalies or anything amiss with Colorado's list maintenance. *See* Compl.; May 12 Letter.

Contemporaneous case law immediately following Title III's enactment shows that the "basis" is the statement for why the Attorney General believes there is a violation of federal civil rights law and the "purpose" explains how the requested records would help determine if there is a violation. *Kennedy v. Lynd*, 306 F.2d 222, 229 n.6 (5th Cir. 1962). Indeed, "basis" and "purpose" under Title III have consistently been treated as distinct concepts. *See id*.; *In re Coleman*, 208 F. Supp. 199, 199–200 (S.D. Miss. 1962), *aff'd sub nom*., *Coleman v. Kennedy*, 313 F.2d 867 (5th Cir. 1963).

Even if the United States had provided a proper "basis" for its demand—and it did not—it fails to explain any connection between its purported "purpose" and the request for the full and unredacted voter file. It does not explain why unredacted voter files are necessary to determine whether Colorado has "conduct[ed] a general program that makes a reasonable effort to remove the names of ineligible voters" by virtue of "death" or "a change in the residence of the registrant," 52 U.S.C. § 20507; Compl. ¶ 12. And in fact, such unredacted files are not necessary: A single snapshot of a state's voter list does not and could not provide enough information to determine if the state has made a

"reasonable effort" to remove ineligible voters under Section 8 of the NVRA. Compl. ¶ 12; 52 U.S.C. § 20507 (a)(4)(A)–(B). The NVRA and HAVA both leave the mechanisms for conducting list maintenance within the State's discretion. *See* 52 U.S.C. § 20507(a)(4), (c)(1); *id*. § 21083(a)(2)(A); *id*. § 21085. The procedures carried out by a state or locality establish its compliance; the unredacted voter file does not. Even were the United States to use voter file data to identify voters who had moved or died on Colorado's voter list at a single point in time, that would not amount to Colorado failing to comply with the "reasonable effort" required by the NVRA or HAVA. *See, e.g.*, *Pub. Int. Legal Found. v. Benson*, 136 F.4th 613, 624–27 (6th Cir. 2025) (describing a "reasonable effort" as "a serious attempt that is rational and sensible").

The basis and purpose requirements are critical safeguards that prevent the statute from being used as a fishing expedition to obtain records for reasons that are speculative, unrelated to the CRA's aims, or otherwise impermissible or contrary to law. The statutory basis and purpose requirements are not perfunctory but require a specific statement as to the reason for requesting the information and how that information will aid in the investigatory analysis. In the context of administrative subpoenas, and specifically in assessing an analogous power by which federal agencies obtain records in service of investigations, courts have found that the test of judicial enforcement of such subpoenas includes an evaluation of whether the investigation is "conducted pursuant to a legitimate purpose," *United States v. Powell*, 379 U.S. 48, 57 (1964), and that such subpoenas "may not be so broad so as to be in the nature of a 'fishing expedition,'" *Peters v. United States*, 853 F.2d 692, 700 (9th Cir. 1988). Such purpose requirements ensure

that the information sought is relevant to the inquiry and not unduly burdensome. *See, e.g.*, *F.D.I.C. v. Wentz*, 55 F.3d 905, 908 (3d Cir. 1995) (reciting requirements for investigation via administrative subpoena).

As such, even if some other voting records or some portion of the voter file were necessary to investigate Colorado's NVRA list maintenance compliance, May 12 Letter at 2, the United States has not provided any justification for why the full unredacted voter file is necessary. For decades, DOJ has neither sought nor required a full, unredacted voter file in its NVRA compliance investigations. The United States' failure to articulate the basis and the purpose for its demand is another reason it is insufficient as a matter of law.

Title III's basis and purpose requirement is especially important here, where public reporting and public, judicially noticeable documents show that the federal government did not disclose the main basis and purpose for its demand: building a national voter file for its own use, to be shared with other agencies for unlawful purposes. *See supra* 3–4. As Congress has never authorized the creation of such a database, its creation would violate the federal Privacy Act. *See* 5 U.S.C. § 552a(e)(7) (prohibiting the creation or maintenance of any database "describing how any individual exercises rights guaranteed by the First Amendment," which necessarily includes exercising the right to vote).

The federal government's failure to fully and accurately provide this information is fatal. Section 303 requires a statement of "the basis and the purpose" of a records request, and by twice using the definite article, the statute requires not just a basis or purpose among many, but the actual basis and purpose underlying the request. *See Niz-*

Chavez v. Garland, 593 U.S. 155, 165–166 (2021); *see also, e.g.*, *Corner Post, Inc. v. Bd. of Governors of the Fed. Rsrv. Sys.*, 603 U.S. 799, 817 (2024) (emphasizing distinction between the definite and indefinite article). This is yet another ground for dismissal.

Setting aside this fatal deficiency, compliance with the NVRA and HAVA cannot be the true basis and purpose for these data requests based on the United States' own more recent statements to States in connection with the requests. Far from ensuring compliance with these laws, the MOU that the federal government proposed to Colorado, *see* Compl. ¶ 24; Neff Email, runs afoul of them, *see* MOU.[3]

The NVRA and HAVA require a state to conduct a "reasonable effort" to remove ineligible voters from the rolls, 52 U.S.C. §§ 20507(a)(4), 21083(a)(4)(A), and the NVRA includes safeguards to protect voters from erroneous removal. But the MOU that the government proposed indicates multiple contemplated violations of those statutory requirements. First, it seeks to place authority to identify supposed ineligible voters in the hands of the federal government, contrary to statutory text, *id*. § 21085 (methods of complying with HAVA "left to the discretion of the State"). MOU at 2, 5. Second, its substantive terms seek to compel states to remove supposedly ineligible voters "within forty-five (45) days," MOU at 5, in a way that would violate multiple protections of the NVRA, 52 U.S.C. § 20507. This now-public MOU shows that the United States' supposed purpose is not in compliance with federal law but aggrandizes authority to a federal

[3] In addition to incorporating the MOU by reference in its Complaint, Compl. ¶ 24, the United States represented in court that it intended for a number of States to sign an MOU as to its requests for state voter files. Hr'g Tr. at 72:21-73:8, *United States v. Weber*, No. 2:25-cv-09149 (C.D. Cal. Dec. 4, 2025). That MOU has since become publicly available.

agency in ways contrary to federal law.

B. Any Records Disclosed Under the CRA Should Be Redacted to Protect the Constitutional Rights of the Voter, so the Requested Relief Must Fail.

Even if disclosure were appropriate, sensitive personal voter information would still be subject to redaction, which is not barred under Title III. Indeed, courts have found that redaction may be required to prevent the disclosure of sensitive personal information that would create an intolerable burden on the constitutional right to vote. The cases interpreting Section 8(i) of the NVRA are instructive, as courts have consistently permitted—and sometimes required—redaction of voters' sensitive personal data before disclosure to protect voter privacy and ensure compliance with federal and state law and the Constitution.

Like the CRA, the NVRA is silent as to how sensitive personal information should be treated during disclosure. *See* 52 U.S.C. § 20703; § 20507(i)(1). Courts must interpret the disclosure provisions in a manner that does not unconstitutionally burden the right to vote. *See Olmos v. Holder*, 780 F.3d 1313, 1320–21 (10th Cir. 2015) ("the canon of constitutional avoidance . . . provides that when a particular construction would raise serious constitutional problems, the court will avoid that construction" (citation omitted)).

Federal courts have consistently struck this balance, interpreting the "all records concerning" language in Section 8(i) to permit—and sometimes require—redaction and the protection of confidential materials. As the First Circuit has noted, "nothing in the text of the NVRA prohibits the appropriate redaction of uniquely or highly sensitive personal information in the Voter File," and such redaction "can further assuage the potential privacy risks implicated by the public release of the Voter File." *Pub. Int. Legal Found.,*

Inc. v. Bellows, 92 F.4th 36, 56 (1st Cir. 2024); *see also Pub. Int. Legal Found., Inc. v. N.C. State Bd. of Elections*, 996 F.3d 257, 266–68 (4th Cir. 2021) (holding that the potential connection to ongoing criminal investigations and the possibility of erroneously labeling a voter as a noncitizen and subjecting them to public harassment warrants maintaining confidentiality). Other courts have consistently recognized that the NVRA does not compel the release of sensitive information otherwise protected by federal or state laws. *See, e.g.*, *N.C. State Bd. of Elections*, 996 F.3d at 264; *Pub. Int. Legal Found., Inc. v. Dahlstrom*, 673 F. Supp. 3d 1004, 1015–16 (D. Alaska 2023); *Pub. Int. Legal Found., Inc. v. Matthews*, 589 F. Supp. 3d 932, 942 (C.D. Ill. 2022), clarified on denial of reconsideration, No. 20-CV-3190, 2022 WL 1174099 (C.D. Ill. Apr. 20, 2022). Colorado provides express protections from disclosure for social security numbers, driver's license numbers, and contact information of participants in the confidential address programs. Colo. Rev. Stat. § 1-2-302; *id.* §§ 24-30-2104, 2108, 2109.

Redaction also may be affirmatively required if the disclosure would "create[] an intolerable burden on [the constitutional right to vote] as protected by the First and Fourteenth Amendments." *Long*, 682 F.3d at 339 (quotation marks and citation omitted). The Fourth Circuit, even while granting access to voter registration applications, affirmed the importance of redacting Social Security numbers, which are "uniquely sensitive and vulnerable to abuse." The court emphasized that the NVRA reflected Congress's view that the right to vote was "fundamental," and that the unredacted release of records risked deterring citizens from registering to vote and thus created an "intolerable burden" on this fundamental right. *Id*. at 334, 339; *cf. In re Coleman*, 208 F. Supp. at 200 (noting, in the

context of a Title III records request, multiple considerations which could be "[s]ignificant," including whether "official records are privileged, or exempt from discovery for any sound reason of public policy," or "that an inspection of these records would be oppressive, or any unlawful invasion of any personal constitutional right"). As such, public disclosure provisions such as those in the NVRA and Title III must be interpreted to avoid this unconstitutional burden. See *Long*, 682 F.3d at 339; *Bellows*, 92 F.4th at 56. The danger of imposing those burdens on Colorado voters and civic groups is present here. *See* Mot. to Intervene, Ex. 3, Decl. of Aly Belknap ¶¶ 6, 10–14; Ex. 4, Decl. of Kyle Giddings ¶¶ 1, 4–5; Ex. 5, Decl. of Dr. Anne R. Keke ¶¶ 6–11.

The same privacy and constitutional concerns warranting redactions under the NVRA apply equally to requests under the CRA. *Cf. Sheetz v. Cnty. of El Dorado*, 601 U.S. 267, 281–82 (2024) (Gorsuch, J., concurring) ("[O]ur Constitution deals in substance, not form. However the government chooses to act, . . . it must follow the same constitutional rules."). And the limited case law considering CRA records requests acknowledge that courts retain the "power and duty to issue protective orders," *Lynd*, 306 F.2d at 230, such as the redaction of sensitive fields that courts have consistently determined are entitled to protection from disclosure.[4]

II. THE UNITED STATES IS NOT ENTITLED TO SUMMARY DISPOSITION AND ITS MOTION TO COMPEL SHOULD BE DENIED.

[4] The United States cites *Crook v. S.C. Election Comm*., No. 2025-CP-40-06539 (S.C. Ct. C.P. Oct. 1, 2025), a non-binding decision which briefly discussed Title III in dicta. Mot. to Compel Br. at 7-8. *Crook* did not address Proposed Intervenors' arguments about the basis-and-purpose requirement or the need to redact sensitive voter information, so carries little persuasive weight.

The Federal Rules of Civil Procedure, with limited exception, "govern the procedure in *all* civil actions and proceedings in the United States district courts." Fed. R. Civ. P. 1 (emphasis added). The Rules contain limited and narrow carveouts to their own application, none of which include the claim under Title III here. *See* Fed. R. Civ. P. 81. Ignoring these standards, the United States makes expansive claims that Title III universally "displaces the Federal Rules of Civil Procedure by creating a 'special statutory proceeding'" where "'[a]ll that is required is a simple statement by the Attorney General'" that "a written demand for Federal election records and papers covered by the statute [was made], explaining that the person against whom an order is sought has failed or refused to make the requested records" available. Mem. in Supp. of United States' Request to Compel Prod. of Recs., Dkt. No. 5 ("Mot. to Compel Br.") at 2; *see also* Compl. ¶¶ 1–4. This is contrary to the Federal Rules, not contemplated by statute, and rests on misreading a single set of non-binding cases decided sixty plus years ago, in a different circuit and a drastically different context, including primarily *Kennedy v. Lynd*, 306 F.2d 222 (5th Cir. 1962). *See* Mot. to Compel Br.; *see also* Compl. ¶¶ 1–4.

The United States briefly acknowledges that "[c]aselaw addressing the CRA in any depth is confined to courts within the Fifth Circuit in the early years following the CRA's enactment. Since then, courts have not had occasion to revisit the issue." Mot. to Compel Br. at 4 n.1. But the United States studiously ignores why that is the case. *Lynd* arose in a specific historical context: the Jim Crow-era Fifth Circuit—which then included Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas.[5] In these states, election officials and

[5] "Federal Judicial Circuits: Fifth Circuit," FEDERAL JUDICIAL CENTER,

others, including judges, notoriously used every possible means to block Black Americans from registering to vote.[6] It was against this backdrop that the Fifth Circuit noted that "the factual foundation for, or the sufficiency of, the Attorney General's 'statement of the basis and the purpose' contained in the written demand is not open to judicial review or ascertainment." *Lynd*, 306 F.2d at 226. In that context, "the factual foundation for" the basis and the purpose of the Attorney General's request was self-evident, and plenary consideration thus not required. *See id.* That court's treatment of the CRA more than sixty years cannot be divorced from its context.[7]

By contrast, here, more than sixty years later, the context of *this* request could not be more different. The United States has invoked the CRA for unprecedented purposes, to make sweeping demands for extensive voter data with no showing or claim of legal deficiencies or violations of rights, while making unprecedented demands for sensitive personal information—amid both the United States' own MOU and extensive reporting suggesting that the stated basis and purpose are pretextual, and that the data at issue is in fact being sought for unlawful ends.[8]

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https://perma.cc/9MSD-EFRB (last visited Dec. 9, 2025).

[6] *See generally*, *e.g.*, Steven F. Lawson, *Black Ballots: Voting Rights in the South, 1944-1969* (1976).

[7] *See also In re Coleman*, 208 F. Supp. 199, 201 (S.D. Miss. 1962) (acknowledging that while "[t]he right of free examination of official records is the rule" under Title III there could be "exception[s]" where "the purpose is speculative, or from idle curiosity").

[8] *See, e.g.*, Devlin Barrett & Nick Corasaniti, *Trump Administration Quietly Seeks to Build National Voter Roll*, N.Y. TIMES (Sept. 9, 2025), https://www.nytimes.com/2025/09/09/us/politics/trump-voter-registration-data.html; Emily Bazelon & Rachel Poser, *The Unraveling of the Justice Department*, N.Y. TIMES MAG. (Nov. 16, 2025), https://www.nytimes.com/interactive/2025/11/16/magazine/trump-justice-department-staff-attorneys.html.

Nothing in Title III insulates the sufficiency of the requirement for a "statement of the basis and the purpose" from standard judicial review. *See* 52 U.S.C. § 20703. Since *Lynd*, the Supreme Court has reaffirmed that "the Federal Rules apply to proceedings to compel the giving of testimony or production of documents in accordance with a subpoena issued by an officer or agency of the United States under any statute of the United States except as otherwise provided by statute or by rules of the district court or by order of the court in the proceedings." *Becker v. United States*, 451 U.S. 1306, 1307–08 (1981) (citation and quotation marks omitted); *see also Powell*, 379 U.S. at 57–58 (holding that IRS Commissioner bears the burden to establish statutory requirements before enforcement of a tax subpoena). Just two years after *Lynd*, the Court held that proceedings to enforce a statute providing the United States with the power to request records in terms materially identical to the CRA were governed by the Federal Rules. *Powell*, 379 U.S. at 57–58 & n.18 (citing 26 U.S.C. § 7604(a)); *compare* 26 U.S.C. § 7604 (a) ("[T]he United States district court for the district in which such person resides or is found shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, records, or other data[.]"), *with* 52 U.S.C. § 20705 ("The United States district court for the district in which a demand is made . . . or in which a record or paper so demanded is located, shall have jurisdiction by appropriate process to compel the production of such record or paper.").

Even in *Lynd*, the court, in explaining its findings, noted that "we are not discussing confidential, private papers and effects. We are, rather dealing with public records which ought ordinarily to be open to legitimate reasonable inspection." 306 F.2d at 231. The

court also noted that the CRA authorizes jurisdiction by "appropriate process" to compel production, which the court had "no doubt" would "include the power and duty to issue protective orders"—such as orders protecting and redacting sensitive information. 52 U.S.C. § 20705; *Lynd*, 306 F.2d at 230. Thus, even in the 1960s, before sensitive personal information such as Social Security Numbers or driver's license numbers were widely collected as part of the voter registration record, and before any federal laws had been passed to protect and constrain access to personal information,[9] the court recognized the distinction between the disclosure of "confidential, private" information and "public records" that would already "ordinarily [] be open to legitimate reasonable inspection," *Lynd*, 306 F.2d at 231, and anticipated that the "duty to issue protective orders" would arise for certain CRA records requests, *id.* at 230.

The unredacted voter file contains "confidential, private" personal identifying information of Colorado voters that would *not* ordinarily be open to reasonable inspection. *Id.* at 231. To argue that the United States is entitled to summary relief and the forced provision of an unprecedented trove of "confidential, private" information, without *any* review of its statutorily required stated basis and purpose, would go even further than *Lynd* did—in a context where, very much unlike there, the basis and purpose are not inarguably clear but appear pretextual. The court presiding over the federal government's similar action in California has already recognized that the United States' motion to

[9] *E.g.*, Privacy Act of 1974, Pub. L. No. 93-579, 88 Stat. 1896 (1974); Driver's Privacy Protection Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796 (1994), codified at 18 U.S.C. § 2721 *et seq.*; E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899 (2002); Federal Information Security Modernization Act of 2014, Pub. L. No. 113-283, 128 Stat. 3073 (2014), codified at 44 U.S.C. §§ 3351 *et seq.* (2014).

compel seeks "to reach the ultimate question in this case regarding the production of records," and "thousands of voters' lives will be impacted by this case." Hr'g Tr. at 5:3–9, *United States v. Weber*, No. 25-cv-09149 (C.D. Cal. Dec. 4, 2025), Dkt. No. 100. It denied the United States' first motion to compel, *id*., and vacated briefing on one filed the following day, ordering that the motion deadlines would be reset "at a later date following a scheduling conference held pursuant to Federal Rule of Civil Procedure 16." Order, *United States v. Weber*, No. 25-cv-09149 (C.D. Cal. Dec. 15, 2025), Dkt. No. 114.

CONCLUSION

The United States' Motion to Compel should be denied and the Complaint dismissed.

Dated: December 19, 2025

Respectfully submitted,

/s/ Theresa J. Lee

Theresa J. Lee
Sophia Lin Lakin*
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004
(212) 549-2500
tlee@aclu.org
slakin@aclu.org

Patricia J. Yan
American Civil Liberties Union Foundation
915 15th Street NW
Washington, DC 20005
(202) 457-0800
pyan@aclu.org

Timothy R. Macdonald, Bar No. 29180
Sara Neel, Bar No. 36904
American Civil Liberties Union of Colorado
303 E. 17th Avenue, Suite 350
Denver, CO 80203
(303) 777-5482
tmacdonald@aclu-co.org
sneel@aclu-co.org

*admission pending

CERTIFICATE OF SERVICE

I hereby certify that on December 19, 2025, a true and correct copy of the foregoing document was served via the Court's ECF system on all counsel of record.

/s/ Theresa J. Lee

Exhibit 2

U.S. Department of Justice

Civil Rights Division

CONFIDENTIAL MEMORANDUM OF UNDERSTANDING

I. PARTIES & POINTS OF CONTACT.

Requester
Federal Agency Name: Civil Rights Division, U.S. Department of Justice
VRL/Data User:
Title:
Address:
Phone:

VRL/Data Provider
State Agency Name:
Custodian:
Title:
Address:
Phone:

The parties to this Memorandum of Understanding ("MOU" or "Agreement") are the Department of Justice, Civil Rights Division ("Justice Department" or "Department"), and the State of Colorado ("You" or "your state").

II. AUTHORITY.

By this Agreement, the State of Colorado ("You" or "your state") has agreed to, and will, provide an electronic copy of your state's complete statewide Voter Registration List ("VRL" or "VRL/Data") to the Civil Rights Division of the U.S. Department of Justice (at times referred to as the "Department"). The VRL/Data must include, among other fields of data, the voter registrant's full name, date of birth, residential address, his or her state driver's license number or

the last four digits of the registrant's social security number as required under the HAVA to register individuals for federal elections. *See* 52 U.S.C. § 21083(a)(5)(A).

The authorities by which this information is requested by the Department of Justice are:

- National Voter Registration Act of 1993, 52 U.S.C. § 20501, *et seq*.
- Attorney General's authority under Section 11 of the NVRA to bring enforcement actions. See 52 U.S.C. § 20501(a).
- Help America Vote Act of 2002, 52 U.S.C. § 20901, *et seq.*
- Attorney General's authority to enforce the Help America Vote Act under 53 U.S.C. § 21111.
- Attorney General authority to request records pursuant to Title III of the Civil Rights Act of 1960 ("CRA"), codified at 52 U.S.C. § 20701, *et seq*.
- The Privacy Act of 1974, 5 U.S.C. § 552a, as amended.

III. PURPOSE.

A VRL is a Voter Registration List pursuant to the NVRA and HAVA, commonly referred to as "voter roll," compiled by a state – often from information submitted by counties – containing a list of all the state's *eligible* voters. Regardless of the basis for ineligibility, ineligible voters do not appear on a state's VRL when proper list maintenance is performed by states. The Justice Department is requesting your state's VRL to test, analyze, and assess states' VRLs for proper list maintenance and compliance with federal law. In the event the Justice Department's analysis of a VRL results in list maintenance issues, insufficiency, inadequacy, anomalies, or concerns, the Justice Department will notify your state's point of contact of the issues to assist your state with curing.

The purpose of this MOU is to establish the parties' understanding as to the security protections for data transfer and data access by the Department of Justice of the electronic copy of the statewide voter registration list, including all fields requested by the Department of Justice.

IV. TIMING OF AGREEMENT – TIME IS OF ESSENCE.

Although the Justice Department is under no such obligation as a matter of law, because this Agreement is proposed, made, and to be entered into at your state's request as part of your state's transmission of its VRL to the Justice Department, this Agreement is to be fully executed within seven (7) days of the Justice Department presenting this Agreement to you. Both parties agree that no part of this Agreement or execution is intended to, or will, cause delay of the transmission of your state's VRL to the Justice Department for analysis.

V. TIMING OF VRL/DATA TRANSFER.

You agree to transfer an electronic copy of your state's complete statewide VRL/Data to the Civil Rights Division of the U.S. Department of Justice as described in Section III of this Agreement no later than five (5) business days from the execution of this Agreement, which is counted from the last day of the last signatory.

VI. METHOD OF VRL/DATA ACCESS OR TRANSFER.

The VRL will be submitted by your state via the Department of Justice's secure file-sharing system, i.e., Justice Enterprise File Sharing (JEFS"). A separate application to use JEFS must be completed and submitted by your state through the Civil Rights Help Desk. JEFS implements strict access controls to ensure that each user can only access their own files. All files and folders are tied to a specific user, and each user has defined permissions that govern how they may interact with those files (e.g., read, write, or read-only).

Whenever a user attempts to access a file or folder, JEFS validates the request against the assigned permissions to confirm that the user is explicitly authorized. This process guarantees that users can only access files and folders only where they have permission. Users are also limited to the authorized type of interaction with each file or folder. Within the Department of Justice, access to JEFS is restricted to specific roles: Litigation Support, IT staff, and Civil Rights Division staff.

VII. LOCATION OF DATA AND CUSTODIAL RESPONSIBILITY.

The parties mutually agree that the Civil Rights Division (also "Department") will be designated as "Custodian" of the file(s) and will be responsible for the observance of all conditions for use and for establishment and maintenance of security agreements as specified in this agreement to prevent unauthorized use. The information that the Department is collecting will be maintained consistent with the Privacy Act of 1974, 5 U.S.C. § 552a. The full list of routine uses for this collection of information can be found in the Systems of Record Notice ("SORN") titled, JUSTICE/CRT – 001, "Central Civil Rights Division Index File and Associated Records," 68 Fed. Reg. 47610-01, 611 (August 11, 2003); 70 Fed. Reg. 43904-01 (July 29, 2005); and 82 Fed. Reg. 24147-01 (May 25, 2017). It should be noted that the statutes cited for routine use include NVRA, HAVA, and the Civil Rights Act of 1960, and the Justice Department is making our request pursuant to those statutes. The records in the system of records are kept under the authority of 44 U.S.C. § 3101 and in the ordinary course of fulfilling the responsibility assigned to the Civil Rights Division under the provisions of 28 C.F.R. §§ 0.50, 0.51.

VRL/Data storage is similar to the restricted access provided on JEFS and complies with the SORN: Information in computer form is safeguarded and protected in accordance with applicable Department security regulations for systems of records. Only a limited number of staff members who are assigned a specific identification code will be able to use the computer to access

the stored information. However, a section may decide to allow its employees access to the system in order to perform their official duties.

All systems storing the VRL data will comply with all security requirements applicable to Justice Department systems, including but not limited to all Executive Branch system security requirements (e.g., requirements imposed by the Office of Management and Budget [OMB] and National Institute of Standards and Technology [NIST]), Department of Justice IT Security Standards, and Department of Justice Order 2640.2F.

VIII. NVRA/HAVA COMPLIANT VOTER REGISTRATION LIST.

After analysis and assessment of your state's VRL, the Justice Department will securely notify you or your state of any voter list maintenance issues, insufficiencies, inadequacies, deficiencies, anomalies, or concerns, the Justice Department found when testing, assessing, and analyzing your state's VRL for NVRA and HAVA compliance, i.e., that your state's VRL only includes eligible voters.

You agree therefore that within forty-five (45) days of receiving that notice from the Justice Department of any issues, insufficiencies, inadequacies, deficiencies, anomalies, or concerns, your state will clean its VRL/Data by removing ineligible voters and resubmit the updated VRL/Data to the Civil Rights Division of the Justice Department to verify proper list maintenance has occurred by your state pursuant to the NVRA and HAVA.

IX. CONFIDENTIALITY & DEPARTMENT SAFEGUARDS.

Any member of the Justice Department in possession of a VRL/Data will employ reasonable administrative, technical, and physical safeguards designed to protect the security and confidentiality of such data. Compliance with these safeguards will include secure user authentication protocols deploying either: (i) Two-Factor Authentication ("2FA"), which requires users to go through two layers of security before access is granted to the system; or (ii) the

assignment of unique user identifications to each person with computer access plus unique complex passwords, which are not vendor supplied default passwords.

The Department will activate audit logging for the records, files, and data containing the state's VRL/Data in order to identify abnormal use, as well as to track access control, on computers, servers and/or Devices containing the VRL/Data.

For all devices storing records, files, and data containing the VRL/Data: there is (i) up-to-date versions of system security agent software that includes endpoint protection and malware protection and reasonably up-to-date patches and virus definitions, or a version of such software that can still be supported with up-to-date patches and virus definitions, and is set to receive the most current security updates on a regular basis; and (ii) up-to-date operating system security patches designed to maintain the integrity of the personal information.

For all devices storing records, files, and data containing the VRL/Data: there is (i) controlled and locked physical access for the Device; and (ii) the prohibition of the connection of the Device to public or insecure home networks.

There will be no copying of records, files, or data containing the VRL/Data to unencrypted USB drives, CDs, or external storage. In addition, the use of devices outside of moving the records, files, or data to the final stored device location shall be limited.

Any notes, lists, memoranda, indices, compilations prepared or based on an examination of VRL/Data or any other form of information (including electronic forms), that quote from, paraphrase, copy, or disclose the VRL/Data with such specificity that the VRL/Data can be identified, or by reasonable logical extension can be identified will not be shared by the Department. Any summary results, however, may be shared by the Department.

In addition to the Department's enforcement efforts, the Justice Department may use the information you provide for certain routine, or pre-litigation or litigation purposes including:

present VRL/Data to a court, magistrate, or administrative tribunal; a contractor with the Department of Justice who needs access to the VRL/Data information in order to perform duties related to the Department's list maintenance verification procedures. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. § 552a(m).

X. LOSS OR BREACH OF DATA.

If a receiving party discovers any loss of VRL/Data, or a breach of security, including any actual or suspected unauthorized access, relating to VRL/Data, the receiving party shall, at its own expense immediately provide written notice to the producing party of such breach; investigate and make reasonable and timely efforts to remediate the effects of the breach, and provide the producing party with assurances reasonably satisfactory to the producing party that such breach shall not recur; and provide sufficient information about the breach that the producing party can reasonably ascertain the size and scope of the breach. The receiving party agrees to cooperate with the producing party or law enforcement in investigating any such security incident. In any event, the receiving party shall promptly take all necessary and appropriate corrective action to terminate unauthorized access.

XI. DESTRUCTION OF DATA.

The Department will destroy all VRL/Data associated with actual records as soon as the purposes of the list maintenance project have been accomplished and the time required for records retention pursuant to applicable law has passed. When the project is complete and such retention requirements by law expires, the Justice Department will:

1. Destroy all hard copies containing confidential data (e.g., shredding);
2. Archive and store electronic data containing confidential information offline in a secure location; and

3. All other data will be erased or maintained in a secured area.

XII. OTHER PROVISIONS.

A. Conflicts. This MOU constitutes the full MOU on this subject between the Department and your state. Any inconsistency or conflict between or among the provisions of this MOU, will be resolved in the following order of precedence: (1) this MOU and (2) other documents incorporated by reference in this MOU (e.g., transaction charges).

B. Severability. Nothing in this MOU is intended to conflict with current law or regulation or the directives of Department, or the your state. If a term of this MOU is inconsistent with such authority, then that term shall be invalid but, to the extent allowable, the remaining terms and conditions of this MOU shall remain in full force and effect.

C. Assignment. Your state may not assign this MOU, nor may it assign any of its rights or obligations under this MOU. To the extent allowable by law, this MOU shall inure to the benefit of, and be binding upon, any successors to the Justice Department and your state without restriction.

D. Waiver. No waiver by either party of any breach of any provision of this MOU shall constitute a waiver of any other breach. Failure of either party to enforce at any time, or from time to time, any provision of this MOU shall not be construed to be a waiver thereof.

E. Compliance with Other Laws. Nothing in this MOU is intended or should be construed to limit or affect the duties, responsibilities, and rights of the User Agency under the National Voter Registration Act, 52 U.S.C. § 20501 *et seq*., as amended; the Help America Vote Act, 52 U.S.C. § 20901 *et seq*., as amended; the Voting Rights Act, 52 U.S.C. § *10301 et seq.*, as amended; and the Civil Rights Act, 52 U.S.C. § 10101 et seq., as amended.

F. Confidentiality of MOU. To the extent allowed by applicable law, this MOU, its contents, and the drafts and communications leading up to the execution of this MOU are deemed

by the parties as "confidential." Any disclosures therefore could be made, if at all, pursuant to applicable laws or court orders requiring such disclosures.

SIGNATURES

VRL/Data Provider
State Agency Name:
Signature: _____ Date of Execution:_____

Authorized Signatory Name Printed:_____

Title: _____

Requester
Federal Agency Name: Civil Rights Division, U.S. Department of Justice

Signature: _____ Date of Execution:_____

Authorized Signatory Name Printed:_____

Title: _____

Exhibit 3

DECLARATION OF ALY BELKNAP

Pursuant to 28 U.S.C. § 1746, I, Aly Belknap, declare as follows:

1. I am over 18 years old and am otherwise competent to testify. I have personal knowledge of the matters in this declaration, and I would testify thereto if I were called as a witness in Court.

2. I live in Colorado, and I am an eligible registered voter. Voting is the most fundamental form of democratic participation, and I am proud to be a Colorado voter. I am the Colorado State Director of Common Cause. I am also a member of Common Cause. I serve as the primary spokesperson and lobbyist for Common Cause in Colorado, working to protect voting rights, promote ethical government, and to hold power accountable. In my role as Colorado State Director, I work with multiple coalitions to advance pro-voter reforms and increase civic engagement, including through events such as National Voter Registration Day.

3. Common Cause is a nonprofit, nonpartisan membership organization incorporated under the laws of the District of Columbia and registered to do business in Colorado. Pursuant to its bylaws, Common Cause is organized and operated as a membership organization and brings this action on behalf of itself and in a representative capacity on behalf of its members.

4. Pursuant to its bylaws, Common Cause has defined who qualifies as a member. Under its definition, a "member" of Common Cause is any individual who, within the past two years, (a) made a financial contribution to the organization; or (b) has taken meaningful action in support of Common Cause's advocacy work. Such meaningful action includes, but is not limited to, signing petitions directed to government officials; participating in letter-writing or phone-banking campaigns; attending town halls, workshops, or rallies organized by Common Cause; or otherwise engaging in activities designed to advance the organization's mission. There are more than 24,813 Colorado Common Cause members.

5. Common Cause's mission is to uphold the core values of American democracy by creating an open, honest, and accountable government that serves the public interest, promotes equal rights, opportunity, and representation for all, and empowers people to make their voices heard in the political process.

6. In Colorado, Common Cause ensures that Coloradan voices are heard in the political process. Common Cause's Colorado members live throughout the state and include registered voters whose personal information is maintained in the statewide voter registration database held by the Colorado Secretary of State. If the Secretary discloses the unredacted voter registration file to DOJ, these members' sensitive personal information—

including driver's license numbers, and portions of social security numbers—would be unlawfully released, causing an invasion of privacy, chilling participation in the electoral process, and undermining confidence in the integrity of Colorado elections.

7. Common Cause believes the right to vote is the cornerstone of a functioning democracy. We are committed to ensuring that every eligible Coloradan can register and cast their ballot. Through our advocacy, in the last two decades Colorado has pioneered a number of pro-voter reforms, including same-day voter registration, automatic voter registration, pre-registration for 15-, 16- and 17-year-olds, and semi-open primaries. Our advocacy has resulted in a number of reforms, including Multilingual Ballot Access for All, signed into law in 2021, and the Colorado Voting Rights Act, signed into law in 2025. These efforts are not just about increasing participation—they are about ensuring that every voice is heard, and every vote is protected.

8. Common Cause has a history of fighting to protect voter privacy Colorado. In 2023 and 2024, we testified against Colorado House Bill 2023-1170 and HB24-1279 respectively, which proposed creating a vetting system wherein a Coloradan's vote would not be counted until they were successfully contacted by a team of vetting workers to confirm they submitted the ballot. Most recently in 2024 with HB25-1193, we have repeatedly testified against bills that propose vote tracking via transparency ledgers that compromise every Coloradan's right to a secret ballot. Colorado Common Cause worked with election administrators to develop, pass and implement Automatic Voter Registration (AVR) at the DMV, collaborating to find solutions to protect privacy for all voters, and specifically for vulnerable voters protected by Colorado's Address Confidentiality Program. In the development of Colorado's Open Records Act, we advocated for the protection of voter privacy with regards to the ability to inspect individual ballots. When then-Vice President Mike Pence and Kansas Secretary of State Kris Kobach formed the Presidential Advisory Commission on Election Integrity, Common Cause was a vocal opponent to the commission's data collection efforts that put voter privacy in jeopardy and failed to provide evidence of widespread voter fraud before its ultimate dissolution.

9. As a nonpartisan democracy reform organization, Common Cause, our volunteers, and coalition allies regularly assist eligible Coloradans in registering to vote through community education and outreach. We recruit, train and deploy nonpartisan election protection poll monitors across the State of Colorado each general and midterm election, and these individuals routinely provide eligible Colorado voters with accurate, nonpartisan information about how to register to vote up to and including on Election Day at a Voter Service Center in their county; these poll monitors show voters along the path of travel to the Voter Service Center, explain ID requirements, and ensure the voter is met by an

election worker ready to assist them to get registered and vote; when lines form, these volunteers ensure voters understand they can remain in line even after the polls close. The voters we help are now part of the state's official voter file, and we consider it our duty to safeguard the trust they place in us and in the democratic process.

10. At public engagement events, we invite Coloradans not only to register but also to verify and update their voter information. As a result, many voters we assist become part of the official statewide voter file. We have a vested interest in protecting the integrity and privacy of that data. Any threat to the security of the voter file, especially one that could result in the misuse of personal information, directly undermines our work, damages public trust, and risks chilling voter participation. We also run targeted communications campaigns, including through social media, to keep Coloradans informed about key election deadlines and updates. These efforts amplify official messages from the Office of the Secretary of State and other election officials, helping ensure voters have accurate, timely information to participate confidently in our democracy.

11. Disclosure of the entire, unredacted Colorado voter file would undermine Common Cause's work and risk harm to our members. Since 2019, Coloradans with felony convictions who are no longer serving a felony sentence of confinement, who meet all other voter eligibility requirements, regain their right to register and vote. In partnership with county clerks offices, the Colorado Secretary of State, and community organizations that specialize in supporting returning citizens, Colorado Common Cause has conducted outreach and education efforts to inform Coloradans about this change to the law, and to build public trust in participation among people with a history in the criminal justice system. In 2024, Colorado Common Cause volunteers placed hundreds of yard signs with nonpartisan information about the right to vote with a felony conviction outside parole offices up and down the Front Range and in communities across the I-25 corridor and Western Slope. We rely on public confidence in the security and integrity of voter data to encourage participation. If voters fear their personal information, like a partial Social Security number or driver's license number, could be misused or exposed, they may avoid registering to vote, decline to update their current voter registration record, or withdraw from civic engagement activities altogether. Such results undermine Common Cause's mission to expand access and participation, especially among historically marginalized communities. Knowing that their personal data could be weaponized to question their eligibility to vote would chill engagement with the democratic process. This is especially true for voters in marginalized communities who already face systemic barriers and distrust government surveillance. Common Cause expends significant resources conducting on-the-ground voter engagement and assistance efforts seeking to register voters, provide nonpartisan education, and engage voters in the democratic process.

12. Disclosure of the full Colorado voter file would facilitate unsubstantiated voter challenges, a concern especially for vulnerable communities. Improper and flawed mass challenge programs disproportionately target voters without stable housing or traditional addresses. Common Cause actively works to register and protect these very same disenfranchised Coloradans. Mass challenges, often filed in bulk by activists, can overwhelm local election officials, divert resources from voter outreach and education, delay or obstruct legitimate registrations and ballot processing. This undermines the infrastructure that Common Cause and our partners rely upon to ensure smooth, inclusive elections. Diverting resources to address these improper activities weakens our capacity to run voter registration drives, educate voters, and mobilize communities. These sorts of challenges also work to revive historical tactics of voter suppression. Private voter challenges have roots in post-Reconstruction laws used to disenfranchise Black voters. Today, they are increasingly used to target voters of color, Indigenous Peoples, young voters, and those who are unhoused or in transient living situations; all of whom Common Cause prioritizes in our voter registration work and lobbying/advocacy supporting the inclusion of their voting rights. If voters' sensitive data is turned over to the federal government and used to promote mass disenfranchisement, Common Cause will be forced to redirect resources to mitigating the disenfranchisement of existing voters and away from its core activities of registering voters and engaging new voters in the democratic process.

13. Common Cause also runs a nonpartisan Election Protection program in Colorado, which provides critical information and assistance to voters around primary and general elections. These include helping voters navigate the vote-by-mail process, encouraging voters to participate, and assisting voters when they experience problems in trying to vote. It is one of the largest nonpartisan voter protection efforts in the state. The success of this program and our ability to effectively identify and respond to issues that hinder voters depend on voters' trust in the election system. When voters fear their personal information could be misused for partisan or punitive reasons, especially under a federal administration known for voter suppression rhetoric and tactics, they may hesitate to accept help from volunteers, avoid reporting issues at the polls, and disengage from the voting process altogether.

14. If Colorado discloses the unredacted voter file, this will work to normalize federal overreach into state-run elections, weakening local control and opening the door to future demands for even more intrusive data. It poses a grave threat to voter privacy and public confidence. This threatens the decentralized structure of U.S. elections, which Common Cause defends as a safeguard against authoritarianism.

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

Executed on the 17th day of December, 2025, in Denver, Colorado.

Aly Belknap

Colorado State Director of Common Cause

Exhibit 4

DECLARATION OF KYLE GIDDINGS

Pursuant to 28 U.S.C. § 1746, I, Kyle Giddings, declare as follows:

1. I am a Colorado resident, born and raised in Arvada, Colorado, and I am an eligible, registered voter in the State of Colorado. Voting matters deeply to me because it is how I advocate for my community. It is my primary tool for standing up for people who are currently and formerly incarcerated in Colorado. Casting a ballot at the local, state, and national levels allows my voice to be heard in the policies and decisions that shape my community's future. Voting is the most powerful way I can influence real and lasting change.

2. I have prior felony convictions that stem from a period in my life marked by addiction and unresolved trauma. During that time, I used drugs as a means of coping, and my decisions reflected the instability and survival instincts associated with severe, untreated mental health challenges. My life today reflects sustained recovery and long-term sobriety. I am a husband, a father, the Deputy Director of a nonprofit 501(c)(3) organization, and a national leader in efforts to expand voting rights for people impacted by the criminal legal system. I have been sober for 11 years. For the almost three years, I have worked at a nonprofit that has expanded ballot access and strengthened legal protections for voting for people incarcerated in Colorado county jails.

3. In 2024, I helped craft and lead the coalition that passed Senate Bill 24-072, *Voting for Confined Eligible Electors*. This law requires every county jail in Colorado to hold an in-person voting event to ensure that all eligible confined voters have a meaningful opportunity to cast a ballot. Colorado became the first state since the 1974 United States Supreme Court decision in *O'Brien v. Skinner* to affirm the spirit of that ruling by creating ballot access for people who are pretrial or otherwise eligible to vote while incarcerated in county jails. The impact of this law was significant. In 2022, only 231 people cast a ballot from a county jail. After the passage of SB24-072, that number increased to more than 2,300 voters—an increase of approximately 895 percent.

4. I am concerned about the federal government having access to my private voter registration information beyond what Colorado law permits to be shared. In my view, the federal government is overreaching its authority. Colorado law protects the privacy of my voter information, and requests that exceed what the state is authorized to disclose are unnecessary. In my work assisting people involved in the criminal legal system with accessing the ballot, I regularly encounter individuals who are understandably wary of the electoral system and hesitant to share personal information. I spend substantial time educating voters about the legal protections Colorado has in place to safeguard their personal information and their involvement with the criminal legal system. Federal access to voter data beyond what Colorado law requires would undermine this trust and directly interfere with these efforts.

5. I seek to join this lawsuit as an individual who deeply values voter privacy and understands its importance to voter confidence. Protecting the personal information

connected to voter registration is essential to ensuring that individuals are not discouraged from voting or targeted because of the information they provide in order to participate in our democracy. I believe people with past convictions are more at risk of being targeted by this Administration. I know that there are formerly incarcerated people who, despite their voting rights having been restored, will either not register to vote or not vote if the federal government has access to their voter registration information.

6. I am a United States citizen, over the age of eighteen, competent to testify, and have personal knowledge of the facts stated in this declaration.

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

Executed on the 18th day of December, 2025, in Denver, Colorado.

Kyle Giddings
Chair of the Colorado Common Cause Advisory Board

Exhibit 5

Declaration of Dr. Anne R. Keke

Pursuant to 28 U.S.C. § 1746, I, Anne R. Keke, hereby declare as follows:

1. I have personal knowledge of the matters set forth in this declaration, and if called as a witness in court, I would testify truthfully and competently to the facts stated herein.

2. I am forty-five (45) years old and am otherwise competent to testify.

3. I reside in Aurora, Colorado with my family.

4. I am an educator by trade.

5. I am originally from Côte d'Ivoire. I came to the United States in November 2001, when I was approximately twenty-one years old. I moved directly to Colorado, made it my home, and have never lived anywhere else since. I am proud to call myself a Coloradan.

6. I made the deliberate decision to become a naturalized citizen so that I could vote and fully participate in civic life. I believe deeply in the democratic process and in civic engagement. I see the opportunities this country offers, and I truly believe that the American Dream is very much alive.

7. I became a naturalized citizen in 2008. I was enthusiastic and proud to take that step. I still vividly remember the feeling I had as I was sworn in as a new citizen. I remember the excitement of holding my first blue passport as if it were yesterday.

8. After becoming a naturalized citizen, I registered to vote in Colorado and am still a registered Colorado voter today. I cast my first vote in the 2020 election, and I remember feeling deeply excited and honored as I did so.

9. I am concerned that the current Presidential administration may attempt to suppress the votes of people like me. I understand that officials have publicly discussed the idea of de-naturalizing citizens. While I want to exercise my rights as a citizen, I worry that some individuals in power do not share my views about the equal rights of naturalized citizens.

10. When I learned that the Department of Justice requested voter records from the State of Colorado, including sensitive personal data, I became concerned about how that information might be used. I believe that recently naturalized citizens like me may be particularly vulnerable to false allegations of illegal voting.

11. I care deeply about the privacy of my personal information and about the integrity of our electoral system. I believe the electoral process should be welcoming to every eligible voter and that voters should not be intimidated from exercising their rights. I also believe that eligible voters should not be improperly removed from voter registration lists.

12. I feel strongly that the modern United States is built on immigrants, who deserve to feel that they belong—both as part of this country and as part of the solution. Naturalized citizens are individuals who have consciously chosen to live here, and for whom the right to cast a ballot is especially meaningful. Many naturalized citizens have deep faith in the American system and deserve a full and fair opportunity to participate in civic life through voting.

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

Executed December 19th 2025, in Aurora, Colorado

Anne Keke

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:25-cv-03967-PAB

UNITED STATES OF AMERICA,
Plaintiff

v.

JENA GRISWOLD, in her Official Capacity as Secretary of State for the State of Colorado,
Defendant.

[PROPOSED] ORDER

On December 19, 2025, Proposed Intervenors Common Cause, Kyle Giddings, and Dr. Anne Keke, moved to intervene in this matter. Having considered Proposed Intervenors' motion along with the materials filed in support thereof, as well as any opposition thereto, the Court finds good cause to grant the motion. The requirements of Rule 24(a) are met in that the motion was timely filed; the Proposed Intervenors have substantial interests in the case, including their interests in privacy and the unencumbered right to vote; the Proposed Intervenors' interests could be affected or impaired by the disposition of the case; and Proposed Intervenors may not be adequately represented by the existing parties. Moreover, the Court would, in the alternative, grant permissive intervention under Rule 24(b) because the motion is timely and these Proposed Intervenors' participation will aid in the effective airing of issues and the ultimate disposition of the case.

Accordingly, it is hereby **ORDERED** that the Motion is **GRANTED**.

It is further **ORDERED** that Proposed Intervenors' Motion to Dismiss, attached as Exhibit 1 to their Motion to Intervene, is to be entered on the Docket.

IT IS SO ORDERED on this _____ day of _____, 2025.

_____

United States District Court Judge