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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION

THE UNITED STATES OF AMERICA, *Plaintiff*, v. BERNADETTE MATTHEWS, in her Official Capacity as Executive Director of the State Board of Elections for the State of Illinois, *Defendant*.	Civil Action No. 3:25-cv-3398-CRL-DJQ

MEMORANDUM IN SUPPORT OF COMMON CAUSE, ILLINOIS COALITION FOR IMMIGRANT AND REFUGEE RIGHTS, BRIAN BEALS, PABLO MENDOZA, AND ALEJANDRA L. IBAÑEZ'S MOTION TO INTERVENE AS DEFENDANTS

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INTRODUCTION

The United States seeks to force Illinois 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.

Proposed Intervenors are Common Cause, a non-partisan organization dedicated to grassroots voter engagement in Illinois whose members and whose own work are at risk by the relief the federal government seeks in this case; Illinois Coalition for Immigrant and Refugee Rights ("ICIRR"), a non-partisan, statewide coalition that promotes the full civic, cultural, social, and political participation of immigrants and refugees in Illinois through advocacy, organizing, and voter engagement; and voters who are directly threatened. Proposed Intervenors have a strong interest in preventing the disclosure of Illinois' most sensitive non-public voter data. Common Cause has an interest in protecting the voting and privacy rights of its members and all Illinois voters, and ICIRR has a similar interest in protecting the voting and privacy rights of naturalized citizens whom they help register to vote. The relief the federal government seeks risks discouraging Illinois residents from registering to vote, undermining their work. And the privacy and voting-rights interests of Common Cause's members, of people that ICIRR helps register, and of the individual voter Intervenors 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 and voters 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. Proposed Intervenors' 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. Indeed, in similar cases brought over other states' refusal to turn over sensitive voter information, such organizations were granted intervention. *See* Minute Order, *United States v. Amore*, No. 1:25-cv-00639-MSM-PAS (D.R.I. Jan. 6, 2026); Minute Order, *United States v. Galvin*, 1:25-CV-13816 (D. Mass Jan. 6, 2026), Dkt. No. 30; Order, *United States v. Simon*, No. 25-cv-3761 (D. Minn. Jan. 6, 2026), Dkt. No. 90; Minute Order, *United States v. Weber*, No. 25-cv-09149 (C.D. Cal. Nov. 19, 2025), Dkt. No. 70; Minute Order, *United States v. Oliver*, No. 25-cv-01193 (D.N.M. Dec. 19, 2025), Dkt. No. 25.

Intervention as of right pursuant to Rule 24(a), or in the alternative permissive intervention pursuant to Rule 24(b), should be granted.

BACKGROUND

I. 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 July 28, 2025, DOJ sent a letter to the Executive Director of the Illinois State Board of Elections, Bernadette Matthews ("Director Matthews"), demanding an electronic copy of Illinois' entire statewide voter registration list, including "all fields." Pl.'s Mot. for Order to Compel, Ex. 1, Ltr. from Michael E. Gates to the Hon. Bernadette Matthews dated July 28, 2025, Dkt. No. 5-2 ("July 28 Letter"); Compl. ¶¶ 19–20. The July 28 Letter also propounded several questions

regarding Illinois' voter registration and list maintenance procedures and requested that Illinois provide information about purported "registered voters identified as ineligible to vote" due to being non-citizens or due to a felony conviction. July 28 Letter, Dkt. No. 5-2 at 3–4. DOJ asked Illinois to respond within 14 days. *Id.*

On August 11, 2025, Director Matthews provided a redacted version of the registration list citing privacy provisions under both state and federal law. *See* Compl. ¶ 22. The redacted version excluded social security and driver's license numbers, information of registered voters who are victims of domestic violence, human trafficking, and other similarly protected groups, and telephone numbers and addresses for judges who have requested redaction of personal information. *See* Pl.'s Mot. for Order to Compel, Ex. 3, Letter from Marni M. Malowitz to Harmeet K. Dhillon dated September 2, 2025, Dkt. No. 5-2 at 11 & n.1 ("September 2 Letter").

Three days later, DOJ sent another letter, reiterating its demand for the full electronic voter file. Compl. ¶ 23. DOJ again stated that the production "must contain *all fields*, including the 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." Pl.'s Mot. for Order to Compel, Ex. 2, Letter from Harmeet K. Dhillon to the Hon. Bernadette Matthews dated Aug. 14, 2025, Dkt. No. 5-2 at 7 ("Aug. 14 Letter"). This time, DOJ also cited the Civil Rights Act of 1960 ("CRA") as authority for its request, and noted that the "purpose of the request is to ascertain Illinois's compliance with the list maintenance requirements of the NVRA and HAVA." *Id.* at 8. DOJ dismissed any potential privacy issues on the ground that the CRA prohibits DOJ from sharing the sought-after information directly with the public. *See id.* (citing 52 U.S.C. § 20704).

On September 2, 2025, Director Matthews sent a letter to DOJ refusing to provide an unredacted voter registration list. *See* September 2 Letter. The United States responded by filing

this lawsuit, which is one of at least twenty-four similar suits seeking disclosure of sensitive voter data.[1]

Notably, according to public reporting, DOJ's requests for private, sensitive voter data from Illinois and other states do not appear to relate to list maintenance under the NVRA and HAVA. Rather, they appear to be connected with novel efforts by the United States to construct a national voter database, and to otherwise use untested forms of database matching in order to scrutinize state voter rolls. According to this reporting, DOJ 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 these novel efforts with the federal Department of Homeland Security ("DHS"), according to reported statements from DOJ and DHS. *Id.*; *see also, e.g.*, 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; Sarah Lynch, *US Justice Dept Considers Handing over Voter Roll Data for Criminal Probes, Documents Show*, REUTERS, Sept. 9, 2025, https://www.reuters.com/legal/government/us-justice-dept-considers-handing-over-voter-roll-data-criminal-probes-documents-2025-09-09. One

[1] *See* Press Release, U.S. Dep't of Just., *Justice Department Sues Arizona and Connecticut for Failure to Produce Voter Rolls* (Jan. 6, 2026), https://perma.cc/6QP2-8ZXC; 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.

article extensively quoted a recently-departed lawyer from DOJ's Civil Rights Division describing DOJ's aims in this case and others like it:

> 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 MAGAZINE, Nov. 16, 2025, https://www.nytimes.com/interactive/2025/11/16/magazine/trump-justice-department-staff-attorneys.html.

According to additional public reporting, these efforts are being conducted with the involvement of self-proclaimed "election integrity" advocates within and outside the government who have previously sought to disenfranchise voters and overturn elections.[2] These actors and their associates have previously sought to compel states to engage in aggressive purges of registered voters, and have abused voter data to make mass challenges to disenfranchise 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.

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[2] *See* 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; (reporting that Cleta Mitchell, a private attorney and leader of a national group called the "Election Integrity Network," has, among other things, promoted the use of artificial intelligence to challenge registered voters); *see also* 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); *see also* Andy Kroll & Nick Surgey, *Inside Ziklag, the Secret Organization of Wealthy Christians Trying to Sway the Election and Change the Country*, PROPUBLICA, July 13, 2024, https://www.propublica.org/article/inside-ziklag-secret-christian-charity-2024-election ("Mitchell is promoting a tool called EagleAI, which has claimed to use artificial intelligence to automate and speed up the process of challenging ineligible voters.").

Ct. 2025) (determining that complaint brought by group affiliated with current DHS official Honey, challenging Pennsylvania's voter roll maintenance practices pursuant to the federal Help America Vote Act, was meritless).[3]

Here, DOJ's actions also indicate that it may target specific groups of voters in its use of the requested data. *See also, e.g.*, Jonathan Shorman, *Trump's DOJ offers states 'confidential' deal to wipe voters flagged by feds as ineligible*, STATELINE, Dec. 18, 2025, https://stateline.org/2025/12/18/trumps-doj-offers-states-confidential-deal-to-wipe-voters-flagged-by-feds-as-ineligible/. In its initial July 28 Letter to Director Matthews, and in letters to other states requesting the same private voter data, DOJ requested information about how election officials, among other things, identify and remove duplicate registrations; and verify that registered

[3] *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-ballot-application-challenges-pennsylvania-fair-elections/ (describing mass-challenges and noting connection to Honey and her organization "PA Fair Elections"); *see also* Jeremy Roebuck and Katie Bernard, *'I Can't Think of Anything Less American': Right-Wing Activists' Effort to Nullify Hundreds of Pa. Votes Met with Skepticism*, PHILA. INQUIRER, Nov. 1, 2024, https://www.inquirer.com/politics/election/heather-honey-pa-fair-elections-vote-challenges-pennsylvania-20241101.html (noting sworn testimony regarding PA Fair Elections' involvement in the challenges); Hansi Lo Wang, *Thousands of Pennsylvania Voters Have Had Their Mail Ballot Applications Challenged*, NPR, Nov. 5, 2024, https://www.npr.org/2024/11/04/nx-s1-5178714/pennsylvania-mail-ballot-voter-challenges-trump (same).

voters are not ineligible to vote, such as due to a felony conviction or lack of citizenship.[4] In other states, DOJ also requested information concerning the processing of vote-by-mail applications.[5]

II. Proposed Intervenors

Proposed Intervenor Common Cause is a non-partisan organization committed to, *inter alia*, ensuring that all eligible Illinois voters register to vote and exercise their right of vote at each election. *See* Ex. 2, Decl. of Elizabeth J. Grossman ("Grossman Decl.") ¶¶ 3, 5, 7. Common Cause has over 15,000 members in Illinois. *Id.* ¶ 4. Those members include Illinois voters, whose personal data will be provided to DOJ if the United States prevails in this lawsuit. *Id.* ¶ 9. 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 id.* ¶¶ 7, 9–11, 14. 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 of the registration process, that information will not be abused, their privacy will be respected, and their right to participate will be honored. *See id.* ¶¶ 10, 12, 14–15.

Proposed Intervenor ICIRR is a nonprofit, non-partisan statewide coalition dedicated to

[4] *See, e.g.*, Br. in Supp. of Mot. to Intervene as Defs., Exhibit No. 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, Exhibit 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).

[5] *See id.*

promoting the full and equal civic participation of immigrants and refugees in Illinois. *See* Ex. 3, Decl. of Lawrence Benito ("Benito Decl.") ¶¶ 3, 6. Founded in 1986, ICIRR is a coalition of more than 100 member organizations across Illinois and has long been at the forefront of immigrant civic engagement, including voter registration, voter education, and non-partisan get-out-the-vote efforts, particularly among naturalized citizens. *See id.* ¶¶ 4–8. Through its Democracy Project and related initiatives, ICIRR has registered more than 300,000 eligible voters and assisted over 150,000 individuals in becoming U.S. citizens, while serving immigrant communities in dozens of languages statewide. *Id.* ¶¶ 6–8. ICIRR expends significant resources conducting voter registration, voter protection, and voter assistance efforts, all of which depend on the trust of naturalized citizen voters that their personal information will not be shared with or misused by the federal government. *See id.* ¶¶ 9–17. If Illinois voter information were disclosed to the federal government, that trust would be undermined, deterring eligible voters from registering or voting and forcing ICIRR to divert resources away from its core civic engagement and voter protection work. *Id.* ¶ 15, 17.

Proposed Intervenor Brian Beals is an Illinois resident who was wrongfully convicted and incarcerated for 35 years for a crime he did not commit. *See* Ex. 4, Decl. of Brian Beals ("Beals Decl.") ¶¶ 1, 4. After he was exonerated in 2023, he registered to vote and has voted since then. *See id.* ¶¶ 2, 4. Mr. Beals has devoted his life to civic engagement, education, and community organizing, particularly among communities impacted by incarceration and disenfranchisement. *Id.* ¶¶ 3–7. During and following his incarceration, Mr. Beals served as a Civics Peer Educator through programs administered by the Illinois Department of Corrections, training other incarcerated individuals and delivering dozens of non-partisan presentations on voting rights and civic participation, reaching hundreds of people. *Id.* ¶¶ 5–7. Voting is of profound importance to

Mr. Beals, both personally and professionally, and he works actively to combat disenfranchisement and encourage eligible voters—especially formerly incarcerated individuals—to participate in the democratic process. *Id.* ¶¶ 8–9. Mr. Beals is deeply concerned that Illinois voter data, including his own, may be shared with the federal government, particularly because formerly incarcerated voters already face fear, mistrust, and vulnerability, and such disclosure would deter civic participation and suppress voting in already marginalized communities. *Id.* ¶¶ 10–12.

Proposed Intervenor Pablo Mendoza is an Illinois resident, returning citizen, registered voter, and community organizer who works to support the civic reintegration of formerly incarcerated people. *See* Ex. 5, Decl. of Pablo Mendoza ("Mendoza Decl.") ¶¶ 1, 3–5. After spending more than two decades incarcerated, Mr. Mendoza participated in the Education Justice Project and later cofounded and now codirects Walls Turned Sideways, a Chicago-based organization that provides reentry support, political education, and voter registration assistance to returning residents. *Id.* ¶¶ 3–5. Through this work, Mr. Mendoza helps formerly incarcerated individuals restore their right to vote and understands voting as a critical means of reclaiming political voice. *Id.* ¶ 6. Mr. Mendoza is deeply concerned that the federal government may obtain access to his voter registration data and that of the communities he serves, particularly given the historical targeting of formerly incarcerated people for voter suppression. *Id.* ¶ 7. He seeks to intervene to protect his own voter data and to prevent its misuse in ways that could chill political participation and infringe on constitutional rights. *Id.* ¶¶ 7–8.

Proposed Intervenor Alejandra Ibañez has been an Illinois resident and Illinois registered voter since 1997. *See* Ex. 6, Decl. of Alejandra L. Ibañez ("Ibañez Decl."), ¶¶ 1, 5, 7. Born in Chile in 1973, Ms. Ibañez fled with her family to the United States in 1979 to escape persecution. *Id.* ¶¶ 2–3. Her family initially settled in New Jersey before relocating to Illinois in 1988. *Id.* ¶ 3. Ms.

Ibañez became a naturalized citizen in 1997. *Id.* ¶ 5. The right to vote is extremely important to Ms. Ibañez, and she has regularly voted since she became eligible. *Id.* ¶ 7. Ms. Ibañez does not believe that the federal government should have access to her private voter registration information and fears such data could be used to suppress voting rights by chilling participation among naturalized citizens—whom she believes, based on her own experience and longstanding ties to immigrant communities are especially vulnerable in this political moment. *Id.* ¶¶ 8–9.

ARGUMENT

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

In the Seventh Circuit, a party is entitled to intervene as of right under Federal Rule of Civil Procedure 24(a) upon establishing: "(1) timely application; (2) an interest relating to the subject matter of the action; (3) potential impairment, as a practical matter, of that interest by the disposition of the action; and (4) lack of adequate representation of the interest by the existing parties to the action." *Reich v. ABC/York-Estes Corp.*, 64 F.3d 316, 321 (7th Cir. 1995) (quotation marks and citation omitted). "A motion to intervene as a matter of right . . . should not be dismissed unless it appears to a certainty that the intervenor is not entitled to relief under any set of facts which could be proved under the complaint." *Id.* Because Prospective Intervenors satisfy each of these requirements, intervention should be granted.

A. The Motion to Intervene Is Timely.

Timeliness is determined "from all the circumstances." *Lopez-Aguilar v. Marion Cnty. Sheriff's Dept.*, 924 F.3d 375, 388 (7th Cir. 2019). Relevant factors include the "(1) the length of time the intervenor knew or should have known of his interest in the case; (2) the prejudice caused to the original parties by the delay; (3) the prejudice to the intervenor if the motion is denied; [and] (4) any other unusual circumstances." *Id.* (quotation marks and citation omitted). Ultimately, the test "is essentially one of reasonableness: 'potential intervenors need to be reasonably diligent in

learning of a suit that might affect their rights, and upon so learning they need to act reasonably promptly.'" *Id.* (quoting *Reich*, 64 F.3d at 321). Courts should be reluctant to dismiss a request for intervention as untimely where the proposed intervenor would be "seriously harmed" if intervention is denied. *See id.* at 388–89.

This motion is timely. The suit was filed on December 18, 2025, and, upon learning of it, Proposed Intervenors promptly prepared this motion. *Cf. Reich*, 64 F.3d at 321 (intervention motions deemed timely "because they were filed soon after the potential intervenors learned of the impairment of their respective interests"). Defendants have not yet filed their 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). In the Seventh Circuit, the "interest must be direct, significant, and legally protectable." *Lopez-Aguilar*, 924 F.3d at 391 (quotation marks and citation omitted). While the required interest is "more than the minimum Article III interest," *Flying J, Inc. v. Van Hollen*, 578 F.3d 569, 571 (7th Cir. 2009), the Seventh Circuit has "interpreted 'statements of the Supreme Court as encouraging liberality in the definition of an interest.'" *Lopez-Aguilar*, 924 F.3d at 392 (quoting *Meridian Homes Corp. v. Nicholas W. Prassas & Co.*, 683 F.2d 201, 204 (7th Cir. 1982)).

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. ¶ 28(B). The

Supreme Court has made clear that "disclosure of private information" is an injury "traditionally recognized as providing a basis for lawsuits in American courts." *TransUnion LLC v. Ramirez*, 594 U.S. 413, 425 (2021)—and so Proposed Intervenors have "a direct, significant, and legally protectable" in avoiding its disclosure. *Lopez-Aguilar*, 924 F.3d at 391. Illinois statutes recognize Social Security numbers and driver's license numbers as sensitive personal information and limit their disclosure. 5 ILCS 179/10(b)(1); 815 ILCS 530/5; 10 ILCS 5/1A-25(b); *id.* 1A-25(c). 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 each of the individual voter Proposed Intervenors, to Common Cause's members who are Illinois voters, and to ICIRR's core activity of helping naturalized citizens register to vote. *See* Mendoza Decl. ¶ 7; Beals Decl. ¶ 10; Grossman Decl. ¶ 6; Benito Decl. ¶¶ 9–10; Ibañez Decl. ¶¶ 8–9.

Second, based on the United States' requests to Illinois and other States, the data sought is likely to be used to challenge the registration of certain Illinois voters, including voters with prior felony convictions, voters who are naturalized citizens (whose current citizenship status might not be reflected in databases that have out-of-date information), s*ee supra* 4–6, or impose fear of a challenge or purge thereby chilling voting, and Proposed Intervenors fall within at least some of those categories. *See* Mendoza Decl. ¶¶ 2–3 (Illinois voter with prior felony conviction); Beals Decl. ¶¶ 2, 4 (Illinois voter wrongfully convicted of a felony and since exonerated); Ibañez Decl. ¶¶ 5, 7 (naturalized citizen). 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 and ICIRR as organizations have protectable interests at stake as their core missions will be harmed if the relief that the federal government seeks is granted. Their 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. Grossman Decl. ¶¶ 10, 12; Benito Decl. ¶¶ 9–15. The threat of voter eligibility challenges (such as challengers misinterpreting or misusing voter roll information) will force Common Cause and ICIRR 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. Grossman Decl. ¶ 13; Benito Decl. ¶ 15.

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 similar cases brought over other states' refusal to turn over sensitive voter information, such organizations were granted intervention. *See* Minute Order, *United States v. Amore*, No. 1:25-cv-00639-MSM-PAS (D.R.I. Jan. 6, 2026); Minute Order, *United States v. Galvin*, 1:25-CV-13816 (D. Mass Jan. 6, 2026), Dkt. No. 30; Order, *United States v. Simon*, No. 25-cv-3761 (D. Minn. Jan. 6, 2026), Dkt. No. 90; Minute Order, *United States v. Weber*, No. 25-cv-09149, (C.D. Cal. Nov. 19, 2025), Dkt. No. 70; Minute Order, *United States v. Oliver*, No. 25-cv-01193 (D.N.M. Dec. 19, 2025), Dkt. No. 25.

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 requires a showing that "the applicant is so situated that the

disposition of the action may as a practical matter impair or impede the applicant's ability to protect th[e] interest." *Flying J. Inc.,* 578 F.3d at 572 (quoting Fed. R. Civ. P 24(a)(2)). "[T]he possibility that the would-be intervenor if refused intervention might have an opportunity in the future to litigate his claim" is no bar to intervention. *City of Chicago v. Fed. Emergency Mgmt. Agency*, 660 F.3d 980, 985 (7th Cir. 2011).

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. 5. 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. Indeed, if DOJ is successful in obtaining Proposed Intervenors' private voter data, that "would as a practical matter foreclose rights of the proposed intervenors in a subsequent proceeding." *Judicial Watch, Inc. v. Ill. State Bd. of Elections*, No. 24-cv-1867, 2024 WL 3454706, at *3 (N.D. Ill. July 18, 2024).

D. The Board of Elections' Interests Differ from Those of Proposed Intervenors.

The Seventh Circuit "appl[ies] three different standards for showing inadequacy" of representation, depending on the strength of "the relationship between the interests of the existing party and the interests of the party attempting to intervene." *Bost v. Ill. State Bd. of Elections*, 75 F.4th 682, 688 (7th Cir. 2023). Where, as here, "there is no notable relationship between the existing party and the applicant for intervention," the test "is a lenient one." *Id.* "[T]he applicant for intervention need only show that representation of his interest by the existing party *may be* inadequate." *Id.* (quotation marks and citation omitted). That rule applies so long as the would-be intervenor's interests are not "genuinely identical" to the existing party. *Id.* Merely "seek[ing] the

same outcome" is not enough. *Id.*; *see also Driftless Land Area Conservancy v. Huebsch*, 969 F.3d 742, 748 (7th Cir. 2020) (requiring a "discriminating comparison of the absentee's interests and the interests of existing parties" that accounts for the possibility that "interests and objectives overlap in certain respects but are importantly different").

Proposed Intervenors meet this minimal burden here. As a government officer, Director Matthews has a generalized interest in carrying out Illinois State Board of Elections' legal obligations and in minimizing burdens on governmental employees and resources. Director Matthews 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 non-partisan civil rights and civil engagement groups whose sole commitment is to ensuring access to the ballot and individual voters whose own rights are at risk. *Compare Judicial Watch,* 2024 WL 3454706, at *5 ("The State Board has an interest in fulfilling its election obligations as required by the NVRA and Illinois law. Proposed Intervenors seek protection for their discrete set of members' voting rights and have an interest in preventing resource reallocation in doing so." (citations omitted)), *with, e.g.*, Grossman Decl. ¶¶ 5, 13 (describing Common Cause's commitment to "empower[ing] people to make their voices heard in the political process" and its interest in preventing resource reallocation from its capacity to "educate voters and mobilize communities" toward responding to DOJ's activities if it obtains the requested data).

Indeed, there may be arguments and issues that Defendant may not raise that are critical to organizations like Common Cause and ICIRR. 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*, 2024 WL 3454706, at *5 (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").

While Proposed Intervenors' motion rises or falls on its own merit, they bring a different set of perspectives and interests than the other proposed intervenors in this case. Proposed Intervenors here include specific Illinois voters—Mr. Mendoza, Mr. Beals, and Ms. Ibañez—who have unique experiences not reflected by the other proposed intervenors because they fall within several categories of particularly vulnerable voters identified in DOJ's requests to Illinois, such as

voters with felony conviction histories (including one who was exonerated), *see* Mendoza Decl. ¶¶ 2–3, 7–8; Beals Decl. ¶¶ 2, 4, 10, and naturalized citizens, *see* Ibañez Decl. ¶¶ 5, 7. These perspectives are essential to this litigation and to vindicating the rights of Proposed Intervenors.

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. "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); *see, e.g.*, *Sec. Ins. Co. of Hartford v. Schipporeit, Inc.*, 69 F.3d 1377, 1381 (7th Cir. 1995) (intervenor qualified for permissive intervention because the benefits of "efficiency and consistency that result from resolving related issues in a single proceeding" were "considerable" and outweighed prejudice to existing parties). These are the "only required considerations." *Bost*, 75 F.4th at 691.

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 Illinois 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: January 9, 2026

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief contains 5,625 words and therefore complies with the type volume limitation of Civil LR 7.1.

/s/ Kevin Fee
Kevin Fee

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served via the Court's ECF system on all counsel of record on January 9, 2026.

/s/ Kevin Fee
Kevin Fee

E-FILED
Friday, 09 January, 2026 04:28:37 PM
Clerk, U.S. District Court, ILCD

Exhibit 1

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION

THE UNITED STATES OF AMERICA, *Plaintiff*, v. BERNADETTE MATTHEWS, in her Official Capacity as Executive Director of the State Board of Elections for the State of Illinois, *Defendant*.	Civil Action No. 3:25-cv-3398-CRL-DJQ

[PROPOSED] MEMORANDUM OF LAW IN SUPPPORT OF THE MOTION TO DISMISS OF COMMON CAUSE, ILLINOIS COALITION FOR IMMIGRANT AND REFUGEE RIGHTS, BRIAN BEALS, PABLO MENDOZA, AND ALEJANDRA L. IBAÑEZ

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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.

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." 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 Illinois' unredacted voter file—which contains sensitive personal information including driver's license numbers and/or Social Security numbers from millions of Illinoisans—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 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 July 28, 2025, DOJ sent a letter to the Executive Director of the Illinois State Board of Elections, Bernadette Matthews ("Director Matthews"), demanding an electronic copy of Illinois' entire statewide voter registration list, including "all fields." Pl.'s Mot. for Order to Compel, Ex. 1, Ltr. from Michael E. Gates to the Hon. Bernadette Matthews dated July 28, 2025, Dkt. No. 5-2 ("July 28 Letter"); Compl. ¶¶ 19–20. The July 28 Letter also propounded several questions regarding Illinois' voter registration and list maintenance procedures and requested that Illinois provide information about purported "registered voters identified as ineligible to vote" due to being non-citizens or due to a felony conviction. July 28 Letter, Dkt. No. 5-2 at 3–4. DOJ asked Illinois to respond within 14 days. *Id.*

On August 11, 2025, Director Matthews provided a redacted version of the registration list citing privacy provisions under both state and federal law. *See* Compl. ¶ 22. The redacted version excluded social security and driver's license numbers, information of registered voters who are victims of domestic violence, human trafficking, and other similarly protected groups, and telephone numbers and addresses for judges who have requested redaction of personal information. *See* Pl.'s Mot. for Order to Compel, Ex. 3, Letter from Marni M. Malowitz to Harmeet K. Dhillon dated September 2, 2025, Dkt. No. 5-2 at 11 & n.1 ("September 2 Letter").

Three days later, DOJ sent another letter, reiterating its demand for the full electronic voter file. Compl. ¶ 23. DOJ again stated that the production "must contain *all fields*, including the 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." Pl.'s Mot. for Order to Compel, Ex.

3, Letter from Harmeet K. Dhillon to the Hon. Bernadette Matthews dated Aug. 14, 2025, Dkt. No. 5-2 at 7 ("Aug. 14 Letter"). This time, DOJ also cited the Civil Rights Act of 1960 ("CRA") as authority for its request, and noted that the "purpose of the request is to ascertain Illinois's compliance with the list maintenance requirements of the NVRA and HAVA." *Id.* at 8. DOJ dismissed any potential privacy issues on the ground that the CRA prohibits DOJ from sharing the sought-after information directly with the public. *See id.* (citing 52 U.S.C. § 20704).

On September 2, 2025, Director Matthews sent a letter to DOJ refusing to provide an unredacted voter registration list. *See* September 2 Letter. The United States responded by filing this lawsuit, which is one of at least twenty-four similar suits seeking disclosure of sensitive voter data.[1] The United States concurrently filed a motion to compel the production of records—namely, "an electronic copy of the Illinois statewide Voter Registration to include each registrant's name, date of birth, address, and as required by HAVA, the last four digits of the registrant's social security number, driver's license/state identification number or the unique HAVA identifier. *See* Mot. to Compel, Dkt. No. 5 at 4.

But DOJ'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 July 28 Letter. According to reporting, federal employees "have been clear that they are interested in a central, federal

[1] *See* Press Release, U.S. Dep't of Just., *Justice Department Sues Arizona and Connecticut for Failure to Produce Voter Rolls* (Jan. 6, 2026), https://perma.cc/6QP2-8ZXC; 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.

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 5–6 & nn. 2–3. In its initial July 28 Letter to Executive Director Matthews, and in letters to other states requesting the same private voter data, DOJ requested information about how election officials, among other things, identify and remove duplicate registrations; and verify that registered voters are not ineligible to

vote, such as due to a felony conviction or lack of citizenship.[2] In other states, DOJ also requested information concerning the processing of vote-by-mail applications.[3]

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. 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. In assessing a motion for failure to state a claim, courts may take judicial notice of matters of public record, orders, items appearing in the record, and exhibits attached to the complaint. *See General Elec. Capital Corp. v. Lease Resolution Corp.*, 128 F.3d 1074, 1080–81 (7th Cir.1997).

ARGUMENT

I. The United States' Demands Exceed the Statutory Authority of the CRA and Are Contrary To Law.

The United States' demand for Illinois' 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

[2] *See, e.g.*, Br. in Supp. of Mot. to Intervene as Defs., Exhibit No. 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, Exhibit 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).

[3] *See id.*

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"); *see also Pa. State Conf. of NAACP Branches v. Sec'y of Commonwealth of Pa.*, 97 F.4th 120, 126 (3d Cir. 2024) (explaining that Congress enacted the CRA to rein in "efforts to deny the right to vote," including "arbitrary registration procedures" to qualify to vote) (cleaned up). 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 Illinois' 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 Illinois voters. Nothing in the CRA prevents the appropriate redaction of the sensitive personal information of voters. Plaintiff, therefore, 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). The July 28 Letter does not mention the CRA at all. *See* July 28 Letter, Dkt. No. 5-2 at 2–5. And the August 14 Letter—which is the first to mention the CRA—likewise includes only a bare allegation that the purpose is to "assess [Illinois'] compliance with the statewide [voter registration list] maintenance provisions of the [NVRA]." August 14 Letter, Dkt. No. 5-2 at 7. Neither the Complaint nor the letters allege adequate evidence of anomalies or anything amiss with Illinois' list maintenance.

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 Illinois 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), § 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 Illinois' voter list at a single point in time, that would not amount to Illinois 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 Illinois' NVRA list maintenance compliance, *see* July 28 Letter, Dkt. No. 5-2 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* 3–5. 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. The United States has recently sought for a number of States to sign a now-public memorandum of understanding ("MOU") in connection with its requests for statewide voter files. *See* Ex. 7, U.S. Dep't of Just., Civ. Div., Confidential Mem. of Understanding ("MOU"); *see also* Ex. 8, December 4 Transcript Excerpts from *United States v. Weber*, No. 25-cv-09149, at 72–73, 90 (DOJ attorney discussing MOU). Far from indicating a purpose of ensuring compliance with the NVRA and HAVA, this MOU runs directly afoul of those statutes.[4]

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 agency in ways contrary to federal law.

[4] This Court can take judicial notice of the MOU as a government document produced by DOJ. *See, e.g.*, *Denius v. Dunlap*, 330 F.3d 919, 926 (7th Cir. 2003); *see also Bova v. U.S. Bank, N.A.*, 446 F. Supp. 2d 926, 930 n.2 (S.D. Ill. 2006) (collecting cases where courts took judicial notice of public records and government records).

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 United States v. Orona-Ibarra*, 831 F.3d 867, 876 (7th Cir. 2016) (applying "[t]he well-established canon of constitutional avoidance," which instructs that "'[w]here a statute is susceptible of two constructions, by one of which grave and doubtful constitutional questions arise and by the other of which such questions are avoided, our duty is to adopt the latter'" (quoting *Jones v. United States*, 529 U.S. 848, 857 (2000))).

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). Indeed, a court in this district previously recognized that the NVRA does not compel the release of sensitive information otherwise protected by federal or state laws. *See 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). Other courts have consistently reached the same conclusion. *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). Illinois provides express protections from disclosure for social security numbers, driver's license numbers, and contact information of participants in the confidential address programs. *See* 750 ILCS 61/11; *see also* 5 ILCS 179/10(b)(1); 815 ILCS 530/5; 10 ILCS 5/1A-25(b), (c).

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." *See, e.g., Project Vote/Voting for Am., Inc. v. Long*, 682 F.3d 331, 339 (4th Cir. 2012) (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." *Id.* 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 Illinois voters and civic groups is present here. *See* Mot. to Intervene, Ex. 2, Decl. of Elizabeth J. Grossman ¶¶ 12–15; Ex. 3, Decl. of Lawrence Benito ¶¶ 10–17; Ex. 4, Decl. of Brian Beals ¶¶ 8–12; Ex. 5, Decl. of Pablo Mendoza ¶ 7; Ex. 6, Decl. of Alejandra L. Ibañez ¶¶ 8–9.

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.[5]

II. The United States Is Not Entitled To Summary Disposition and Its Motion To Compel Should Be Denied.

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

[5] 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 16–17. *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.

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 6 (quoting *Kennedy v. Lynd*, 306 F.2d 222, 225–226 (5th Cir. 1962)); *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 5 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.[6] In these states, election officials and others, including judges, notoriously used every possible means to block Black Americans from registering to vote.[7] 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

[6] "Federal Judicial Circuits: Fifth Circuit," FEDERAL JUDICIAL CENTER, https://perma.cc/9MSD-EFRB (last visited Dec. 9, 2025).

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

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.[8]

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.[9]

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

[8] *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").

[9] *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.

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,[10] 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

[10] *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).

certain CRA records requests, *id.* at 230.

The unredacted voter file contains "confidential, private" personal identifying information of Illinois 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 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

For all these reasons, the United States' Motion to Compel should be denied and the Complaint dismissed.

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Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief contains 5,692 words and therefore complies with the type volume limitation of Civil LR 7.1.

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I hereby certify that a true and correct copy of the foregoing document was served via the Court's ECF system on all counsel of record on January 9, 2026.

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